

State of Missouri Public Defender Commission



Fiscal Year 2010 Annual Report

Assuring the Public Defense

The Right to Counsel and the State Public Defender System in Missouri

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[Http://www.publicdefender.mo.gov](http://www.publicdefender.mo.gov)

October 1, 2010



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M E M O R A N D U M

TO: Governor Nixon
Chief Justice William Ray Price
Members of the Supreme Court
Members of the General Assembly
Presiding Judges

FROM: J. Marty Robinson, Director
Members of the State Public Defender Commission

DATE: October 1, 2010

RE: Fiscal Year 2010 Annual Report

On behalf of Missouri's State Public Defender System, we present to you this Annual Report for the fiscal year ended June 30, 2010.

Herein you will find a wealth of information and statistics regarding the FY10 operations of the State Public Defender. A timeline of our major efforts since 2005, and a summary of our fiscal year 2012 budget request, also show where we've been and where we need to be. Our journey begins now.

Attorney turnover, a historic challenge for Missouri's Public Defender System, has been lower in recent years. This cannot be attributed to improved working conditions for Missouri's Public Defenders. Simply put, caseloads of Missouri's defenders remain too high and salaries remain too low. Our improved retention seems directly related to the poor economic conditions in general. As the economy and legal job market improves we expect our turnover to worsen.

This past year cases assigned to our Trial Division were up, 1.85% from FY09. We must give credit where credit is due because it could have been much higher. We acknowledge the efforts of Missouri's media, judiciary, and private Bar. For several years the press has covered the long-standing issue of Missouri's Public Defender caseloads. This historic problem was exacerbated earlier this decade as caseloads rose without addition of any new public defenders. The media's coverage in turn leads to more judicious appointments of the PD by many judges; which, in turn, lead to more private Bar involvement in indigent defense. A volunteer program in Greene County, whereby private lawyers took on representation in probation revocation cases, is an outstanding example of the private Bar's willingness to help. Such efforts cannot however be relied upon as a permanent fix.

For the past decade, every year, Missouri's Public Defender System has requested the resources needed to handle its caseload. This year is no exception.

Over the past ten years, very few have suggested Missouri's Public Defender System does not need additional resources. Most agree that by any measure MSPD is woefully under-resourced. Yet, resources have not been forthcoming. Consistently, the reason proffered has been, in these tough economic times, the resources simply did not exist. The direction given to MSPD was to 'think outside the box', rather than simply asking for resources that do not exist. We complied.

In 2005, the Missouri Bar formed a task force to study and report on the State Public Defender. This led to a 2006 Interim Committee assigned by the Missouri Senate, to take testimony and report on the state of Missouri's Public Defender System. This was followed by a 2007 Committee assigned by the Missouri Supreme Court, to study and report on a proposed Court Rule, limiting Public Defender caseloads. In turn, a 2008 State Administrative Rule (18 CSR) by the State Public Defender Commission, limiting public defender caseloads was adopted. Finally, in 2009, the Missouri Legislature overwhelmingly passed the now-vetoed SB37, which would have also codified the limiting of PD caseloads. The veto message, with which we agree, was that the problem is actually one of resources. By the end of 2009, the Missouri Supreme Court had ruled the State Public Defender could not turn down "categories" of cases if overloaded. Instead, if all other efforts have proven unsuccessful the only option remaining is for the offices to decline all new cases rather than attempt to triage the cases coming in based on the seriousness of the charge. This began in July, 2010, and is currently the subject of further litigation before the Supreme Court of Missouri.

We've been 'outside the box', only to return to the obvious, the State Public Defender must have additional resources if it is to provide meaning representation in all its cases assigned.

For fiscal year 2012 the Missouri State Public Defender System is requesting the resources it needs to meet the mission it is constitutionally and statutorily mandated to accomplish. Despite slight improvements in overall caseload, and temporary improvement in retention, Missouri's Public Defenders are far under-resourced. The problem cannot be corrected with outside-the-box remedies. They have been attempted, and rejected. The fix is resources and the time is now.

Mission Statement

The mission of the Missouri State Public Defender System is to provide high quality, zealous advocacy for indigent people who are accused of crime in the State of Missouri.

The lawyers, administrative staff, and support staff of the Public Defender System will ensure that this advocacy is not comprised.

To provide this uncompromised advocacy, the Missouri State Defender System will supply each client with a high-quality, competent, ardent defense team at every stage of the process in which public defenders are necessary.

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THE POWER OF ONE

- 1 **SECRETARY** FOR EVERY 1,343 CASES
- 1 **INVESTIGATOR** FOR EVERY 1,586 CASES
- 1 **LEGAL ASSISTANT** FOR EVERY 1,914 CASES
- 1 **PARALEGAL** FOR EVERY 16,179 CASES

*FY2011 MSPD STATEWIDE TRIAL DIVISION AVERAGES

320

AVERAGE HOURS PER YEAR
EACH MSPD ATTORNEY SPENDS ON
ADMINISTRATIVE TASKS DUE TO
SHORTAGE OF SUPPORT STAFF

*MSPD TIME-KEEPING STUDY, 2008

4 HOURS

Attorney time deemed necessary to
effectively represent a client on the average
misdemeanor or probation violation case.*

*Missouri Modified NAC Caseload Standards
Adopted by Public Defender Commission

12 MINUTES

Average amount of time public defenders
actually **have** to consult with clients before
their probation violation hearings.*

*MSPD TIME-KEEPING STUDY, 2008

84,616 CASES IN FY 2010

Over **TWO MILLION MILES** per year
DRIVEN BY MO DEFENDERS

368 lawyers strong and

125 lawyers short

of Department of Justice National advisory
Committee's Recommendations for Public
Defender Caseloads

Missouri ranks **14th**

In the nation in number of
Prisoners incarcerated

49th

(Mo = \$5.20; National Average = \$12.09)

In per capita expenditures on
indigent defense

Per Department of Justice

34 trial offices

570 employees

10 full time supervisors

\$376 Average FY2010
Cost per Case



35,106 FELONIES

24,768 misdemeanors

20,147 PROBATION VIOLATIONS

2,393 JUVENILE CASES

930 appeals

1,141 post-conviction cases

FY2010

ABA Ten Principles of a Public Defense Delivery System

How does the Missouri State Public Defender System measure up?

A	1. The public defense function, including the selection, funding, and payment of defense counsel is independent.
F	2. When the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.
C-	3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment as soon as feasible after client's arrest, detention, or request for counsel.
D	4. Defense counsel is provided sufficient time and a confidential space within which to meet with the client.
F	5. Defense counsel's workload is controlled to permit the rendering of quality representation.
C+	6. Defense counsel's ability, training, and experience match the complexity of the case.
B	7. The same attorney continuously represents the client until completion of the case.
?	8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.
A	9. Defense counsel is provided with and required to attend continuing legal education.
C	10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.

CASELOAD CRISIS: A SYSTEM OPERATING IN TRIAGE

"If there aren't enough public defenders, the system cannot wait, and jail time cannot be threatened or imposed. The solution to this problem is relatively simple: either increase the public defender's funding or tell the public defender who to defend and who not to defend within the limits of their funding."

-- *Chief Justice William Ray Price, State of the Judiciary Speech, 2010*

"There is a serious public safety aspect of the public defender crisis as well. The federal constitution guarantees defendants both speedy trials and competent legal counsel. The inadequate number of public defenders, however, puts in question the state's ability to meet either of these requirements. In short, if not corrected, defendants potentially could be set free without going to trial." -- *Chief Justice Laura Stith, State of the Judiciary Speech, 2009*

"When I spoke earlier of the challenge of attracting and retaining good public servants, those words echo all too loudly in light of the crisis facing our public defender system. . . . No system of justice can be effective without adequate legal representation for criminal defendants." -- *Chief Justice Michael Wolff, State of the Judiciary Speech, 2006*

For me, this is an issue of personal importance and national conscience. As a judge, I saw firsthand how ill-equipped and unprepared defense counsel distort the entire system.

Ours is an adversarial system of justice - it requires lawyers on both sides who effectively represent their client's interests. . . . When defense counsel are handicapped by lack of training, time, and resources . . . we rightfully begin to doubt the process and we start to question the results. We start to wonder: Is justice being done? Is justice being served?

--*Eric Holder, United States Attorney General, November, 2009*

In 1989, then-Governor John Ashcroft took Missouri's public defender system statewide, creating new offices and adding enough full-time public defenders to assume responsibility for all of Missouri's indigent defendants. That was the last year MSPD was actually staffed to fully meet the caseload assigned.

For the next ten years, both caseload and staffing increased in a steady rise, but not at the same rate. Caseload growth outpaced staffing increases and the disparity between the two grew as the years went by. After the turn of the millennium, staffing flat-lined altogether and caseload continued to climb to a peak of almost 89,000 cases in FY04.

Since the high water mark of FY04, caseload growth has leveled out somewhat, not because there are fewer indigent criminal cases, but because it had become obvious that Missouri's public defenders are drowning and courts and bar leaders in some areas have begun individually making efforts to off-load some cases from the public defender plate. Their efforts have prevented the situation from worsening still further, but have not in any way relieved the critical case overload that still exists.

"The more cases public defenders must take, the slower the wheels of justice turn, the more likely that serious mistakes will occur, the more likely that those mistakes will result in verdicts being overturned and the more likely that at some point the state's judges will step in and correctly interpret the Constitution to require adequate representation for criminal defendants . . ."

-- *Warrensburg Daily Star Journal Editorial, July 30, 2009*

MISSOURI PUBLIC DEFENDER CASELOAD RELIEF EFFORTS TIMELINE

The following timeline sets forth the variety of efforts undertaken to address the public defender caseload crisis above and beyond annual requests to the governor & legislature for more attorneys.

2005 MO Bar Task Force on the Public Defender was created in response to years of increasing caseload and turnover rates with no corresponding increase in staff

Chaired by incoming MO Bar President, Doug Copeland, and made up of state and local bar leaders, judges, legislators, prosecuting attorneys, public defender commissioners, and members of the private bar, both criminal and civil. The Task force hired The Spangenberg Group to do an outside assessment of the Public Defender System. Concluded that MO PD funding was the lowest *per capita* expenditure of all statewide public defender systems and described the system as 'struggling to survive' with attorneys 'practicing triage' in violation of ethical and constitutional requirements.

2006 MO Personnel Advisory Board report shows MO PD salaries approx 35% lower than comparable positions in surrounding states.

In response to attorney turnover rates in the 20% range, the Senate Budget Chair asked the State Office of Administration's Personnel Advisory Board to conduct a comparative study of MO public defender salaries. They surveyed 33 states, as well as local prosecuting attorney's offices & other law enforcement positions and their report resulted in repositioning adjustment' salary increases of 4-8% for Assistant Public Defender positions. However, as of 2010, Missouri's public defenders still have not attained the 2006 average public defender salaries of surrounding state noted in the PAB report.

ABA Ethics Advisory Opinion on Public Defender Caseload Issued

ABA Ethics Opinion 06-441 clarified that public defenders enjoy no exemption from the duty of every attorney not to take on more cases that s/he can effectively handle and are subject to disciplinary actions for failure to comply with this obligation. Sara Rittman, MO Legal Ethics Counsel, testified before the Senate Appropriations Committee that MO Rules of Professional Responsibility impose the same ethical duties and limitations on public defenders as the ABA Advisory Opinion.

MO Bar Volunteer Attorney Program Instituted

MO Bar offered free CLE to attorneys who would volunteer to take minor traffic matters for the overloaded public defender offices. A little over 100 attorney volunteers stepped forward statewide to take a case or two each.

Senate Interim Committee on the Public Defender

Chaired by Sen. Jack Goodman and made up of Sens. Mike Gibbons, LuAnn Ridgeway, Chuck Graham, and Joan Bray. The committee held hearings in the Fall of 2006, taking testimony from Robert Spangenberg re the study conducted above, defenders, private bar members, bar leaders, judges and academics on the state of public defense in MO. Issued report in January, 2007 recommending reductions in caseload and increases in both attorney and support staff.

MISSOURI PUBLIC DEFENDER CASELOAD RELIEF EFFORTS TIMELINE

2007 \$1.15M to contract case overload was added to PD budget by legislature.

At average cost of \$1500 per case to contract, this covered the cost of contracting approx 750 of MSPD's 85,000 cases. No new FTE were a possibility due to the then-governor's prohibition on increasing the number of state employees.

Exploration of Court Operating Rule to Limit Public Defender Appointments

A draft operating rule was developed, in consultation with Justices Laura Stith and Michael Wolff, to limit appointment of public defenders who were already carrying excessive caseloads. The Supreme Court sought input on the proposed rule from the judges, both via an advisory committee and a group discussion at the judicial college. Most agreed that, in theory, there had to be some ceiling to the caseloads public defenders could carry, but could not agree on what that cap should be or who should decide it, and as a group exhibited strong opposition to the idea of a court operating rule on the issue. Justices Stith and Wolff then suggested to MSPD leadership that the responsibility for determining case overload for public defender offices more rightly rested with the Public Defender Commission and not through Supreme Court operating rule.

2008 SB 767 filed by Sen. Jack Goodman

Missouri Senate Bill 767 clarified that the Public Defender Commission had both the authority and the obligation to set maximum caseload standards for public defender offices. It also moved court cost money from several funds unrelated to the operation of the court system to the public defender, and prohibited the appointment of public defenders to probation revocation and non-capital post-conviction cases, two areas in which appointment of counsel is not constitutionally required. The court costs transfer and probation revocation provisions were dropped in committee. The revised bill passed in the Senate and House Judiciary Committee, but never reached the House Floor.

Western District Court of Appeals rules public defenders enjoy no immunity from malpractice liability lawsuits by virtue of being state employees.

Costa v. Allen, 2008 WL 34735 (Mo.W.D.)

PD Commission Enacts Administrative Rule re Excessive Caseload: 18 CSR 10-4.010

The Public Defender Commission took the advice of the Supreme Court and enacted an administrative rule. It established a protocol for determining the maximum allowable caseload for each office – comparing the number of hours required to handle the cases coming in the door against the attorney hours available to handle those cases -- and authorized the director to place an office on limited availability once it had exceeded that maximum for three consecutive months. The rule became effective July 31, 2008 and MSPD began placing offices on limited availability in the fall of 2008.

MISSOURI PUBLIC DEFENDER CASELOAD RELIEF EFFORTS TIMELINE

2008 continued

Springfield Metropolitan Bar Association Initiates Volunteer Attorney Project

The Springfield Public Defender office was placed on limited availability under the Commission's administrative rule due to its excessive caseload. Springfield Metro Bar developed a program to cover all probation revocations in 31st Circuit and had approximately 80 volunteers taking appointments as part of the program.

2009 MO Legislature Adopts – and Governor Vetoes – Caseload Limit Legislation

Senate Bill 37, sponsored by Senator Jack Goodman, once again attempted to statutorily clarify that the Public Defender Commission had the authority to establish and enforce caseload limits for public defender offices. Under the legislation, cases in excess of those maximum caseload limits would go on a waiting list for public defender services to be prioritized by the courts. SB 37 was voted Do Pass unanimously out of every committee in both the Senate and House, approved unanimously by the Senate, and approved in the House by a vote of 139 – 16. The governor vetoed the legislation. His veto message said that he did not believe SB 37 would fix the caseload crisis and that he was committed to getting the justice system the resources it needed instead. *May, 2009*

Legislature Authorizes Conversion of Contracting Funds to Hire 12 New Attorneys

The Governor and Legislature concur that hiring more public defenders is more cost-effective than contracting case overload to the private bar and authorize MSPD to convert a little over \$800,000 of the \$1.15 million previously provided for hiring contract counsel to hire 12 new lawyers, reducing MSPD's attorney shortage from 176 to 164. Also, for first time in 20 years, MSPD receives full funding for its payroll rather than relying on a certain amount of vacancy savings to make payroll. Legislature also allocates \$2 million in Federal Stimulus funds for contracting case overload. The Governor withholds all but \$500,000 of those funds due to falling state revenues.

Second Mo Bar Study Completed

The MO Bar Foundation hired George Mason University & The Spangenberg Group to conduct a follow-up study of the Missouri Public Defender System in the hopes of developing an objective Missouri-specific public defender caseload standard that could be used to determine staffing needs. The study was completed, but was unable to determine a Missouri-specific caseload standard because Missouri's public defenders are spending an inordinate percentage of their time doing non-lawyer, administrative tasks due to the critical shortage of support staff in their offices and their models, rendering their method of determining how many cases an attorney should be able to handle invalid as applied to Missouri's Defenders. *November, 2009*

U.S. Attorney General Cites Missouri as Example of a Broken Indigent Defense System

Eric Holder, the U.S. Attorney General, in a speech at the Justice Legacy Awards Dinner in Washington, D.C., discussed the problems plaguing indigent defense systems around the country. In that speech, he specifically mentioned Missouri as an example of an indigent defense system in crisis. *November, 2009*

MISSOURI PUBLIC DEFENDER CASELOAD RELIEF EFFORTS TIMELINE

2009—Continued

Mo Supreme Court Rules Public Defenders Can Refuse Cases, but Not by Category

In State ex rel. Mo Public Defender Commission, et al. v. The Honorable Kenneth Pratte, the Missouri Supreme Court held that public defenders cannot identify certain categories of cases to turn away due to case overload, but— if efforts to reduce caseload through informal cooperation with the courts and prosecuting attorneys are not successful — their proper remedy is to ‘make the office unavailable for any appointments until the caseload falls below the commission’s standard’ in order to
December, 2009

2010 MSPD receives \$250,000 in additional funds to hire support staff

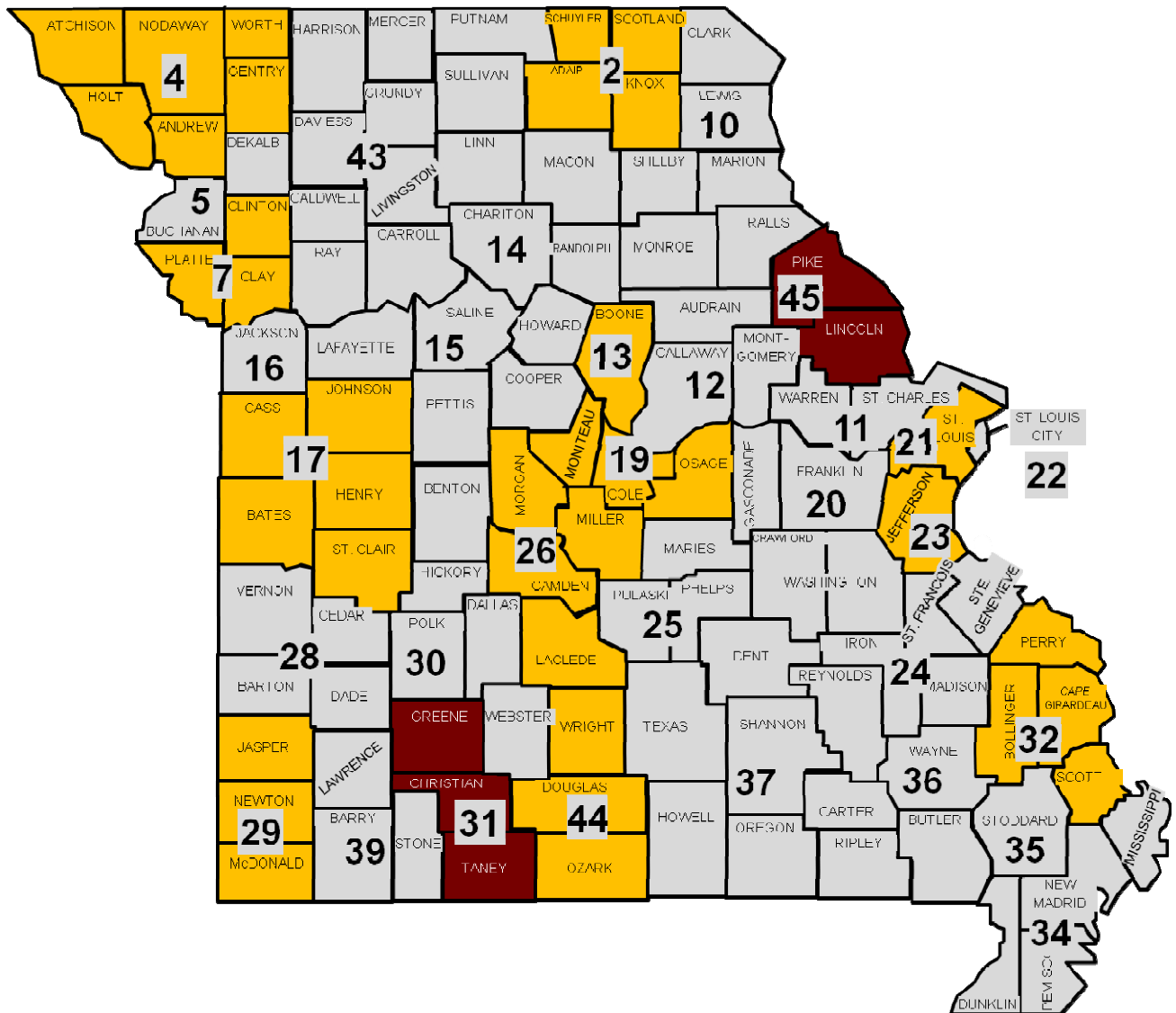
The Governor initially recommended \$2 million in new funds for MSPD to utilize in the best way possible to address its caseload crisis. Falling state revenues led to the legislature reducing that recommendation to \$500,000 and the Governor then withholding all but \$250,000. Given the critical shortage of support staff that requires the public defender attorneys to spend up to 13% of their time doing tasks that should be done by support staff personnel, the Public Defender Commission determined that the best use of the funds would be to hire 8.5 more support staff.

Notice of Impending Defender Unavailability Given to 22 Judicial Circuits

As of June, 2010, the Director of the State Public Defender System has given notice to 22 Judicial Circuits, covering 43 counties, that the 14 Public Defender Offices serving their courts are at risk of having to close their doors to additional cases unless steps can be taken to drastically reduce the numbers of cases in need of indigent defense services. In response, some courts have begun appointing private attorneys to handle juvenile cases. Others have increased pre-screening of probation violation reports, only referring those at actual risk of revocation to the public defender. A number of prosecuting attorneys have begun waiving jail time on traffic and some misdemeanor offenses to eliminate the constitutional trigger for a right to appointment of counsel. These efforts have reduced caseload in a number of areas, but none sufficiently to bring the public defender office within its maximum allowable caseload as set by the Public Defender Commission. As a result, MSPD is moving forward with full certification of unavailability in a number of areas around the state. Under the applicable administrative regulation, a certified defender office will take up to its maximum monthly caseload and then close its doors to any new cases for the rest of that month. What happens to the indigent defendants left without counsel in this scenario, will be up to the courts to determine.

First Public Defender Offices are closed to new cases – July, 2010

In July, 2010 both the Springfield and Troy Defender Offices were certified as exceeding maximum caseloads and placed on limited availability for acceptance of new cases. Under the certification, each office will accept new cases on a first come, first served basis until the maximum capacity of the office has been reached for the month. At that point, the office will no longer accept any new incoming cases for the remainder of the month.



State Public Defender District Offices

Pending Certification

June 30, 2010



Certified & Placed on Limited
Availability effective July 22, 2010



“In every criminal prosecution, the accused shall enjoy the right to the assistance of counsel for his defence. ”

U.S. Constitution
Amendment VI



**That in criminal prosecutions, the accused shall have the right to appear and defend, in person and by counsel . . .
MO Constitution
Article I, Section 18(a)**

Services Provided

“You have the right to an attorney. If you cannot afford an attorney, one will be appointed for you.”

Most Americans are familiar with the above litany from watching television crime shows. It is repeated to every arrestee in the country, in real life as well as on Hollywood sets, to inform those being arrested of their constitutionally guaranteed right to counsel. For the indigent defendants of Missouri, that counsel will come from the Missouri Public Defender System

What is the Missouri Public Defender System?

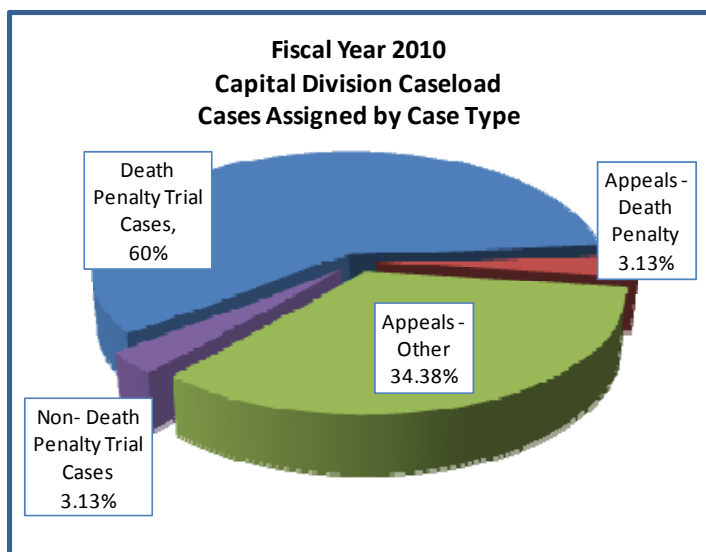
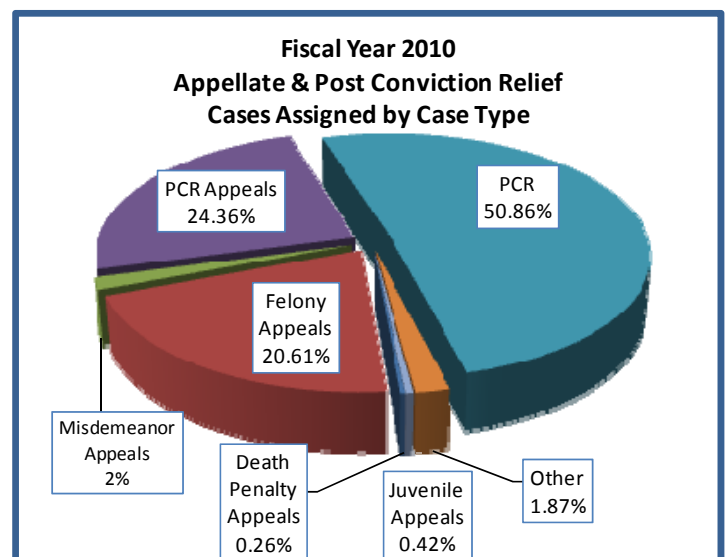
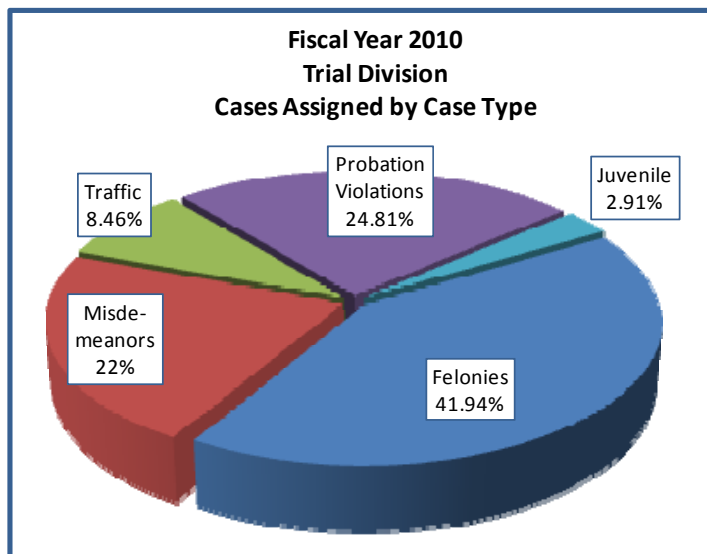
The Missouri State Public Defender System [MSPD] is a statewide system, providing direct representation to over 98% of the indigent defendants accused of state crimes in Missouri’s trial, appellate, and Supreme courts. It is an independent department of state government, located within, but not supervised by, the judicial branch. Instead, it is governed by a seven-member Public Defender Commission, each of whom is appointed by the governor. Commissioners serve staggered six year terms and no more than four may be of the same political party. The Director of the Missouri State Public Defender System, J. Marty Robinson, is appointed by the Public Defender Commission.

Who qualifies for a public defender?

The Public Defender Commission sets the indigency guidelines, which are used to determine who is eligible for public defender services. Currently, those guidelines match the Federal Poverty Guidelines. Strictly applied, that would mean an individual making only \$11,000 a year would not qualify for a public defender. According to recent reports, Missouri ranks 50th out of 50 states in income eligibility standards for public defender services, leaving a wide gap of ineligible defendants who in reality still lack the means to retain private counsel in the market. The guidelines, however, do allow for the taking into consideration of all of the defendant’s particular circumstances affecting his/her ability to hire counsel, so things like the seriousness of the charge may impact that decision and defendants have the right to appeal MSPD’s denial of their application to the court for an independent review of their eligibility. If the court finds they are unable to afford private counsel, the court can overrule the public defender denial.

Who works for MSPD?

MSPD employs **570 employees, 368.50 of them attorneys.** It needs a minimum of 125 more attorneys to provide representation in the over 84,000 cases that landed on their desks during FY10. All attorneys are licensed to practice law in Missouri and are full-time public defenders, prohibited from practicing law other than on behalf of clients of MSPD. They are divided into a Trial Division, a Capital Division, and an Appellate/Post-Conviction Division, each of which is described in greater detail on pp. 21, 72 and 74 respectively. The non-attorney staff includes investigators, paralegals, legal assistants and clerks. A central operations staff provides IT, Fiscal, HR, and contracting services for the 44 district offices located around the state.



Missouri State Public Defender System													
Cases Assigned by Case Type													
	Murder 1st	Other Homicide	Felony	Murder + Felony	Misdemeanor	Juvenile	PCR	Other	Probation	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

Public Defender Staffing Challenges

Attorneys: The Missouri Public Defender Commission has developed a protocol for determining the maximum allowable caseload for each of its defender offices. This is not as simple as selecting one magic number -- 150, 200, or 250 cases per attorney per year -- as the standard for all. Obviously much more work is required in a murder case than in a misdemeanor case, so some sort of weighting of the different case types based upon seriousness and complexity must be included in any determination of what is a reasonable attorney workload.

The weights chosen by the Public Defender Commission and built into its Maximum Allowable Caseload Protocol, set out on p. 82, are based upon the number of hours it would typically take a qualified attorney to handle a case of that type if the case were being handled in accordance with all professional, ethical, and constitutional expectations. It is worth noting that these case weights do NOT necessarily reflect the number of hours Missouri's public defenders are *currently* able to put into these cases, which is exactly the problem the caseload protocol is attempting to address.

To fully staff the Missouri Public Defender System to handle the FY10 caseload in compliance with the caseload standard built into the Commission's Maximum Allowable Caseload protocol would require 125 more attorneys -- 106 more trial attorneys and 19 more appellate / post-conviction attorneys.

Support Staff: The 2006 American Bar Association's ethical advisory opinion reiterating that public defenders have an ethical obligation not to take an excessive caseload, also discusses factors for consideration in determining what a reasonable public defender caseload would be. One of the factors set out and discussed in that opinion was the sufficiency of support staff to assist the attorneys with their workload. The higher the support staff to attorney ratio, the more cases the attorney can handle effectively. The lower that ratio, the fewer cases that attorney is able to handle. This is an area in which MSPD is failing.

An internal workload study conducted by MSPD in 2006 indicated that our attorneys are spending over 13% of their time -- approximately 320 hours per year per attorney -- doing tasks that should be handled by support staff. Unfortunately, there is such a shortage of support staff and no money with which to pay overtime, that the attorneys who already lack sufficient time to keep up with their cases are now also required to spend time at the copier, make file runs, answer the phones, and do their own case investigation.

The ABA opinion recommended a *minimum* support staff to attorney ratio of 1 support staff for every 3 attorneys. A recent survey by the Missouri Office of Prosecution Services showed that most prosecutor's offices have 1 support staff person for every 1 or 2 attorneys, while some have significantly more support staff than attorneys, a ratio in accordance with the practice of most private law firms. The bottom line is that the more that can be off-loaded to support staff, the more the lawyers are able to leverage their time to do those things only lawyers can do. And the fewer support staff available, the more time the lawyers must spend doing tasks that take away from their time to be lawyers.

In the Fall of 2006, a Senate Interim Committee, appointed by then-President Pro Tem Michael Gibbons and chaired by Senator Jack Goodman, conducted a number of hearings on the state of Missouri's Public Defender system. Among the recommendations included in that committee's ultimate report was funding to increase the system's support staff:

“Time constraints due to large caseloads allow very little time for public defenders to perform their own clerical and office tasks while adequately completing the legal aspects of their job. An increase in support staff would allow public defenders to dedicate more time to performing legal research, communicating with clients, and to generally be more prepared in the performance of their duties. The Committee finds that an increase in funding for support staff is a priority. “ -- *Report of the Senate Interim Committee on the Missouri State Public Defender System, January 2007*

In the Spring, 2010 legislative session, MSPD was allocated its first support staff increase since in over fifteen years. Effective July 1, 2010, an authorized increase of up to 15 additional support staff positions went into effect, though at the time of publication, the Governor has withheld one-half of that increased funding allotment.

Any increase in the numbers of MSPD support staff is a step in the right direction, but as the charts below indicate, the system still has a long way to go to even reach the ballpark of reasonable support staff to attorney ratios.

Current Staffing - September 2010								
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

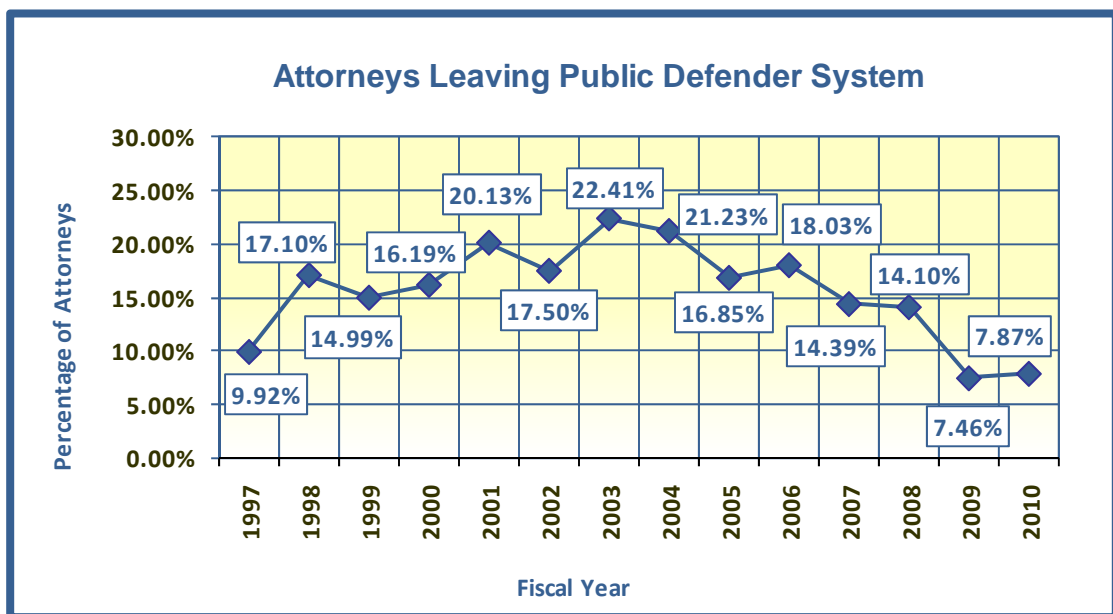
Current Ratios of Support Staff to Attorney Positions						
	Paralegals	Secretary	Investigators	Legal Assistants	Mitigation Specialists	
Trial	63.00	5.25	6.18	7.41	NA	
Appellate	24.33	3.84	6.64	0.00	12.17	
Capital	0.00	4.25	4.25	0.00	4.25	
Totals	56.69	5.00	6.09	8.67	52.64	1.93
Attorneys	368.50					
	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	1.93 Attorneys to Every Support Staff

Public Defender Salary Information

Providing effective assistance of counsel in each case demands a well-trained, highly experienced corps of dedicated attorneys and support staff. The 2005 Spangenberg Report found that MSPD had experienced the equivalent of 100% attorney turnover over the first five years of this decade." In Fiscal Year 2007, repositioning adjustment increases were given to MSPD attorneys to try to stem the flow, but the problem is far from solved. Staggering student debt loans (\$60,000—\$200,000) make it impossible for even those called to public interest employment to work for MSPD, make their loan payments, and provide for themselves and their families.

In March of 2006, the Personnel Advisory Board of the Office of Administration reviewed the salaries of the Missouri Assistant Public Defenders. Their summary stated: "The minimum of the pay range for the Missouri Assistant Public Defender II is—14% behind the minimum for employees in similar jobs in other states. The midpoint is—18% behind and the maximum is - 23% behind. The average pay is about - 35% behind that of an Assistant Public Defender in other states apparently because employees do not advance within the pay range.

Following the repositioning salary adjustments of 2007, MSPD's attorney turnover did drop several significant percentage points though still among the highest turnover classifications in state government. The recession of 2008-2009 was actually much more effective in reducing attorney turnover, with a drop all the way down to almost 7.00% Law firms stopped hiring and senior attorneys on the verge of setting up their own private practice put plans on hold, given the state of the economy. The combination has given MSPD a temporary reprieve from the revolving door. However, it is only temporary. The underlying factors that have perennially cause such high attorney turnover have not been resolved -- Missouri's public defenders still struggle with staggering student loan debt and still are paid less than what their counterparts in adjoining states were receiving almost four years ago. Caseloads are still overwhelming and lawyers still enjoy no immunity from either civil liability or disciplinary action for their failures to handle that caseload effectively, no matter how impossible that task might be. There is no doubt that as soon as the economy improves, the revolving door will once again begin to spin.



FISCAL YEAR 2011 - POSITION CLASSIFICATION CODE, RANGE & SALARY

Effective July 1, 2010

0015 - TEMPORARY EMPLOYEE

Hourly - Regular	\$ 8.00 - \$15.00/hour
Hourly - Law Clerks	\$ 10.00/hour

0200 - CLERICAL

	<u>Range & Step</u>	<u>Semi- Monthly</u>	<u>Annual</u>
0050 - General Services Worker	(08C)	\$ 863.50	\$20,724
0102 - Clerk II	(08C)	\$ 863.50	\$20,724
0103 - Clerk III	(12D)	\$ 991.50	\$23,796
0104 - Clerk IV	(15D)	\$1081.00	\$25,944
0105 - Clerk III - Legal Assistant	(12D)	\$ 991.50	\$23,796
0106 - Clerk IV - Legal Assistant	(15D)	\$1081.00	\$25,944
0152 - Account Clerk II	(12D)	\$ 991.50	\$23,796
0202 - Clerk Typist II	(09C)	\$ 890.50	\$21,372
0203 - Clerk Typist III	(12D)	\$ 991.50	\$23,796
0209 - FY2011 Clerk III - Legal Asst	(12D)	\$ 991.50	\$23,796
0230 - Executive Assistant	EXEMPT		
0250 - Office Management Specialist I	(15D)	\$1081.00	\$25,944
0251 - Office Management Specialist II	(18D)	\$1191.50	\$28,596
0450 - Human Resources Clerk	(15D)	\$1081.00	\$25,944

0270 - COMPUTER INFORMATION SPECIALIST

0277 - Computer Info Tech Trainee	(18D)	\$1191.50	\$28,596
0271 - Computer Info Tech I	(22E)	\$1392.50	\$33,420
0272 - Computer Info Tech II	(25E)	\$1554.00	\$37,296
0273 - Computer Info Tech III	(28E)	\$1738.00	\$41,712
0281 - Computer Info Tech Supvr I	(30F)	\$1916.00	\$45,984
0282 - Computer Info Tech Supvr II	(33H)	\$2220.50	\$53,292
0291 - Computer Info Tech Spec I	(30F)	\$1916.00	\$45,984
0292 - Computer Info Tech Spec II	(33H)	\$2220.50	\$53,292
0293 - Computer Info Tech Spec III	(34H)	\$2314.50	\$55,548

0300 - INVESTIGATOR

0301 - Investigator I	(18D)	\$1191.50	\$28,596
0302 - Investigator II	(23E)	\$1443.50	\$34,644
0303 - Investigator III	(25E)	\$1554.00	\$37,296
0309 - FY2011 Investigator I	(18D)	\$1191.50	\$28,596

0325 - PARALEGAL

0325 - Paralegal I	(18D)	\$1191.50	\$28,596
0326 - Paralegal II	(23E)	\$1443.50	\$34,644

0350 - MITIGATION SPECIALIST

0371 - Mitigation Specialist I	(23E)	\$1443.50	\$34,644
0372 - Mitigation Specialist II	(25E)	\$1554.00	\$37,296

0375 - LAW CLERK

0375 - Law Clerk - pending bar results	(18D)	\$1191.50	\$28,596
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0400 - ASST. PUBLIC DEFENDER

0400 - APD I	(24G)	\$1554.00	\$37,296
0402 - APD II	(27J)	\$1842.50	\$44,220
0403 - APD III	(30J)	\$2046.00	\$49,104
0404 - APD IV	(36H)	\$2513.50	\$60,324
0408 - Asst. District Defender	(38H)	\$2736.50	\$65,676

0460 - DISTRICT DEFENDER

0460 - District Defender	(39H)	\$2855.00	\$68,520
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0550 - DIVISION DIRECTOR

0550 - Division Director	EXEMPT		
0560 - General Counsel	EXEMPT		

0560 - PROGRAM TECHNICIAN

0260 - Accounting Technician I	(18D)	\$1191.50	\$28,596
0261 - Accounting Technician II	(23E)	\$1443.50	\$34,644
0461 - Human Resources Technician I	(18D)	\$1191.50	\$28,596
0462 - Human Resources Technician II	(23E)	\$1443.50	\$34,644
0463 - Human Resources Technician III	(28E)	\$1738.00	\$41,712
0472 - Training Technician II	(25E)	\$1554.00	\$37,296
0473 - Training Technician III	(28E)	\$1738.00	\$41,712
0481 - Purchasing/Inventory Specialist I	(18D)	\$1191.50	\$28,596
0482 - Purchasing/Inventory Specialist II	(23E)	\$1443.50	\$34,644

0570 - PROGRAM MANAGER

0028 - Information Technology Mgr.	EXEMPT		
0040 - Support Services Coord. I	(23E)	\$1443.50	\$34,644
0041 - Support Services Coord. II	(25E)	\$1554.00	\$37,296
0055 - Transfer Attorney	(36H)	\$2513.50	\$60,324
0060 - Human Resources Director	EXEMPT		
0065 - Comptroller	EXEMPT		

0600 - STATE PUBLIC DEFENDER DIRECTOR

0600 - Director	EXEMPT		
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ATTORNEY DIFFERENTIALS

Appellate Death Penalty -	\$ 500.00	\$12,000
Capital PCR -	\$ 500.00	\$12,000
Capital Lead -	\$ 500.00	\$12,000
Capital Associate -	\$ 250.00	\$ 6,000
Commitment Defense -	\$ 250.00	\$ 6,000
Division Director Capital -	\$ 250.00	\$ 6,000

RECRUITMENT RATES*

(K.C., ST. CHARLES AND ST. LOUIS CITY/COUNTY)			
Clerk Typist II	(09J)	\$ 991.50	\$23,796

*Employees hired at the recruitment rate are only eligible for a 1-step increase after 6 months of successful employment.

NOTES

Bold, underlined codes and titles - SAM II
All other codes and titles - Internal

EXEMPT = unclassified position

Updated 07/12/2010

Public Defender Appropriations

General Revenue: MSPD funding is almost entirely from state general revenue. It comes in three appropriations:

Personal Service: Used to pay the salaries of all MSPD employees.

Expense & Equipment: Used to pay the overhead costs of operations, such as office supplies and equipment, employee travel expenses, and rent and utilities for the statewide offices.

Extraordinary Expenses: Used to pay the cost of contracting cases out to private counsel and litigation expenses on both MSPD cases and those cases contracted out to private counsel. Litigation expenses include the cost of experts, depositions, transcripts, exhibits, independent testing of evidence, etc..

Legal Defense and Defender Fund: This appropriation is not money given to MSPD but the authorization to spend money collected by MSPD up to the ceiling of the appropriation. The collections associated with the fund are the result of Section 600.090 RSMo, which requires public defenders to assess liens against the clients receiving public defender service. Payments made on those liens are deposited into the Legal Defense and Defender Fund and used to fund all public defender training as well as pay for such miscellaneous expenditures as computer lines, WestLaw, bar dues for the system's 368 attorneys, etc. In FY10, MSPD collected \$1.6 million through lien repayments.

The personal service component of the LDDF appropriation also authorizes MSPD to pay the salaries of two employees, the system's Director of Training and the Training Assistant, out of the lien moneys collected rather than through the general revenue personal service appropriation.

Debt Offset Escrow Fund: This again, is not an appropriation of actual money, but an authorization for MSPD to collect funds through the Department of Revenue's debt offset program. Under this program, taxpayers due a refund of state income tax who owe a debt to the state may have their refund intercepted and used to pay down the debt instead. MSPD participates in this program to collect payments on the liens described above. The money collected through this program is not in addition to the LDDF collections, but a subset thereof.

Grants: Another 'permission' appropriation, rather than actual money appropriation, this authorizes MSPD to collect up to \$125,000 in grants from the federal government or other sources. The last time MSPD collected a federal grant was in the mid-1990's to help begin an Alternative Sentencing Program of social workers to develop client-specific sentencing plans as a way to reduce recidivism. That program proved successful and was picked up and funded by the state after the federal grant expired. Unfortunately, the growing caseload crisis and attorney shortage this past decade required MSPD to dismantle the program in fiscal year 2008 in order to turn the social worker FTE into more attorney positions.

Actual Funding: In all, in FY10, MSPD expended a total of \$36.1 million from the combination of general revenue (\$34.2M) and actual collections under the LDDF program (\$1.4M).

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 12**95TH GENERAL ASSEMBLY****Fiscal Year 2010**

Section 12.400. To the Office of the State Public Defender	<u>Appropriated</u>	<u>Released</u>	<u>Expended</u>
For the purpose of funding the State Public Defender System			
Personal Service and/or Expense and Equipment	\$31,649,041	\$31,649,041	\$31,649,040
For payment of expenses as provided by Chapter 600, RSMo, associated with the defense of violent crimes and/or the contracting of criminal representation with entities outside of the Missouri Public Defender System	<u>\$2,558,059</u>	<u>\$2,558,059</u>	<u>\$2,558,056</u>
Provided that not more than 20% flexibility is allowed between Chapter 600 expenses and Personal Service and/or Expense and Equipment.			
From General Revenue Fund	<u>\$34,207,100</u>	<u>\$34,207,100</u>	<u>\$34,207,096</u>
Federal Stimulus Money – For contracting of court representation with entities outside of the State Public Defender	<u>\$2,000,000</u>	<u>\$500,000</u>	<u>\$499,890</u>
For expenses authorized by the Public Defender Commission as provided by Section 600.090, RSMo			
Personal Service	\$129,507		
Expense and Equipment	<u>\$2,850,756</u>		
Note: Release = Collected			
From Legal Defense and Defender Fund -	<u>\$2,980,263</u>	<u>\$1,660,502</u>	<u>\$1,413,988</u>
For refunds set-off against debts as required by RSMo 143.786, From Debt Offset Escrow Fund [Funds LDDF appropriation above]	<u>[\$350,000E]</u>	<u>[\$1,350,000]</u>	<u>[\$1,110,660]</u>
For all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Office of the State Public Defender			
From Federal Funds	<u>\$125,000</u>	<u>\$0</u>	<u>\$0</u>
Total (Not to exceed 572.13 F.T.E.).	<u>\$39,312,363</u>	<u>\$36,367,602</u>	<u>\$36,120,974</u>

The direct cost, on average, of all cases disposed by the State Public Defender (including Death Penalty Representation in Fiscal Year 2010 was \$376. The Trial Division Average was \$ 295.17

Fiscal Year 2010 Trial Division Average Cost Per Case						
District	Location	Total Costs	FY10 Cases	Average Cost Per	FY10 Cases	Average Cost Per
#		For District	Assigned	Assignment	Disposed	Disposition
2	Kirksville	\$215,481	608	\$354.41	588	\$366.47
4	Maryville	\$220,279	671	\$328.28	645	\$341.52
5	St. Joseph	\$556,748	2,245	\$247.99	2,308	\$241.23
7	Liberty	\$873,209	3,071	\$284.34	2,864	\$304.89
10	Hannibal	\$400,902	1,441	\$278.21	1,435	\$279.37
11	St. Charles	\$525,956	1,999	\$263.11	1,959	\$268.48
12	Fulton	\$472,371	1,548	\$305.15	1,604	\$294.50
13	Columbia	\$956,061	4,552	\$210.03	4,363	\$219.13
14	Moberly	\$484,795	1,517	\$319.57	1,455	\$333.19
15	Sedalia	\$491,688	1,890	\$260.15	1,768	\$278.10
16	Kansas City	\$2,728,888	6,978	\$391.07	6,865	\$397.51
17	Harrisonville	\$656,816	2,643	\$248.51	2,623	\$250.41
19	Jefferson City	\$481,011	2,285	\$210.51	2,112	\$227.75
20	Union	\$456,755	1,611	\$283.52	1,621	\$281.77
21	St. Louis County	\$1,283,485	4,386	\$292.63	4,093	\$313.58
22	St. Louis City	\$2,247,243	5,904	\$380.63	5,456	\$411.88
23	Hillsboro	\$419,379	1,707	\$245.68	1,692	\$247.86
24	Farmington	\$678,597	2,220	\$305.67	2,176	\$311.86
25	Rolla	\$814,247	3,771	\$215.92	3,570	\$228.08
26	Lebanon	\$527,226	1,999	\$263.74	1,860	\$283.45
28	Nevada	\$390,745	1,524	\$256.39	1,463	\$267.08
29	Carthage	\$1,272,723	4,014	\$317.07	3,953	\$321.96
30	Bolivar	\$492,636	1,710	\$288.09	1,544	\$319.06
31	Springfield	\$1,506,453	4,812	\$313.06	4,829	\$311.96
32	Jackson	\$873,229	3,242	\$269.35	2,949	\$296.11
34	Caruthersville	\$322,725	1,049	\$307.65	1,063	\$303.60
35	Kennett	\$400,062	1,361	\$293.95	1,285	\$311.33
36	Poplar Bluff	\$492,022	2,128	\$231.21	1,951	\$252.19
37	West Plains	\$396,315	1,380	\$287.18	1,369	\$289.49
39	Monett	\$676,169	2,008	\$336.74	1,846	\$366.29
43	Chillicothe	\$744,415	2,186	\$340.54	2,023	\$367.98
44	Ava	\$334,177	971	\$344.16	964	\$346.66
45	Troy	\$393,556	1,462	\$269.19	1,420	\$277.15
	Trial Division	\$23,876,800	\$80,893	\$295.17	\$77,716	\$307.23

Fiscal Year 2010 Commitment Defense Unit Average Cost Per Case						
District	Location	Total Costs	FY10 Cases	Average Cost Per	FY10 Cases	Average Cost Per
#		For District	Assigned	Assignment	Disposed	Disposition
71	Civil Commitment Unit	\$411,014	21	\$19,572.08	25	\$16,440.55

Fiscal Year 2010 Appellate Division Average Cost Per Case						
District	Location	Total Costs	FY10 Cases	Average Cost Per	FY10 Cases	Average Cost Per
#		For District	Assigned	Assignment	Disposed	Disposition
50	Columbia Appellate	\$759,210	361	\$2,103.08	375	\$2,024.56
51	St. Louis Appellate	\$580,814	403	\$1,441.23	405	\$1,434.11
52	Kansas City Appellate	\$385,173	207	\$1,860.74	188	\$2,048.79
67	Appellate/PCR Central A	\$731,898	394	\$1,857.61	355	\$2,061.68
68	Appellate/PCR Eastern B	\$402,103	378	\$1,063.76	339	\$1,186.14
69	Appellate/PCR Western B	\$243,668	178	\$1,368.92	173	\$1,408.49
	Appellate Division	\$3,102,866	1,921	\$1,615	1,835	\$1,691

Fiscal Year 2010 Capital Division Average Cost Per Case						
District	Location	Total Costs	FY10 Cases	Average Cost Per	FY10 Cases	Average Cost Per
#		For District	Assigned	Assignment	Disposed	Disposition
53	Columbia Capital	\$1,080,758	9	\$120,084.17	7	\$154,393.93
54	St. Louis Capital	\$1,303,514	12	\$108,626.16	5	\$260,702.78
55	Kansas City Capital	\$645,336	11	\$58,666.93	8	\$80,667.02
		\$3,029,608	32	\$94,675.24	20	\$151,480.38

Public Defender Trial Division

MSPD's Trial Division handles 95.6% of the cases that make up the system's caseload. They handle every type of state criminal case in which the law includes a possible jail sentence among the penalty options for the court to consider, from traffic offenses up to and including non-capital murder cases, as well as civil commitment proceedings under the sexually violent predator statutes and petitions for release from the Department of Mental Health, both of which are discussed further below.

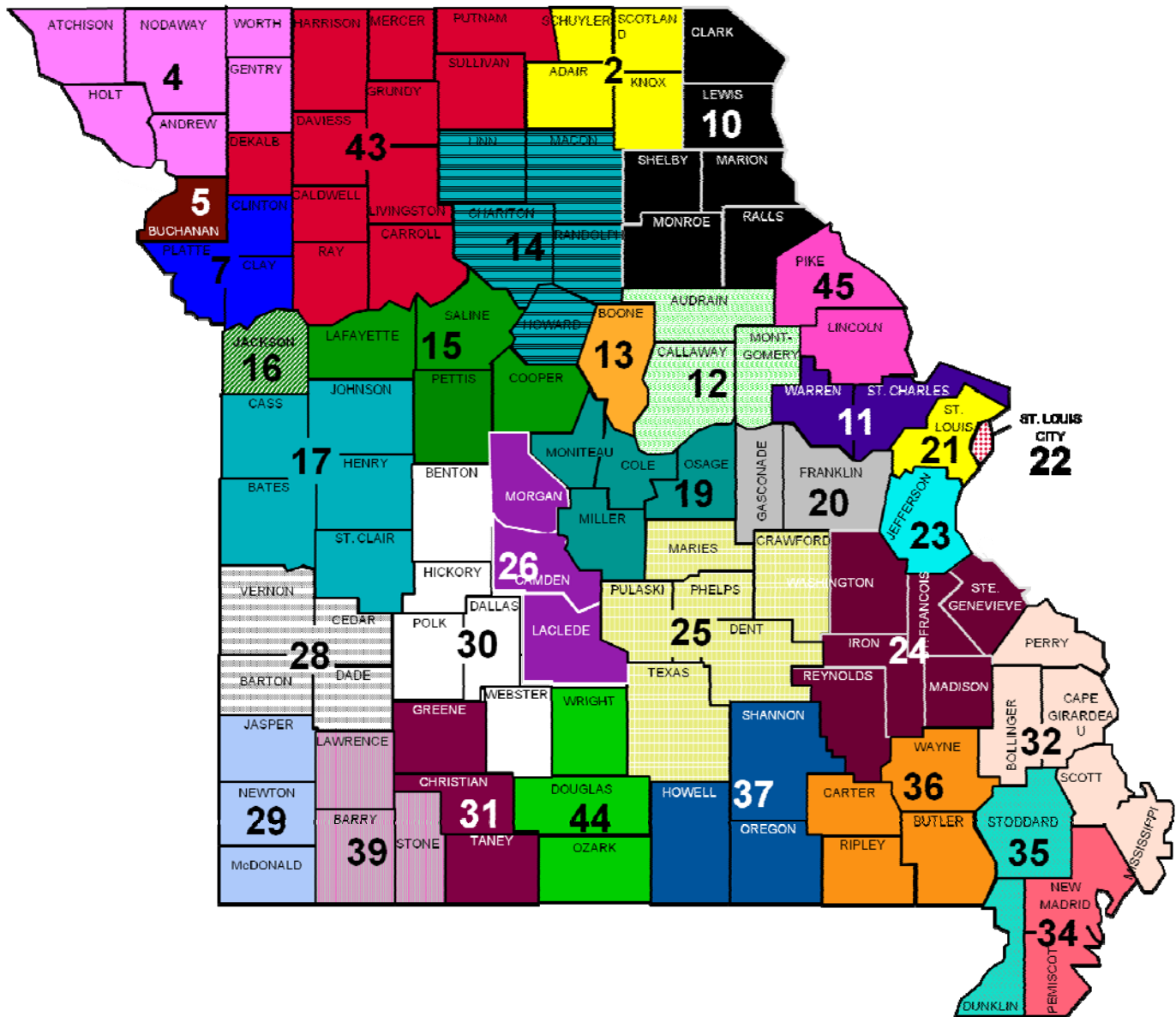
The division consists of 34 district trial offices, as well as the Civil Commitment Defense Unit [CDU]. These are the trial lawyers, the ones Missouri's indigent defendants first turn to upon being arrested and charged with a crime. The lawyers usually enter on their cases at or soon after a defendant's first appearance in associate circuit court after an arrest and will continue representing the defendant through the entire associate and circuit court process – up to and including the plea or trial and, if convicted, the sentencing hearing.

Their practice includes:

- bond hearings for those defendants who are confined pre-trial and seeking release, which can include verifying a place to stay, finding a sponsor the court is likely to trust, verifying an employer will take them back to work, etc;
- preliminary hearings;
- tracking down and reviewing all of the state's discovery – police reports, lab reports, witness statements, hospital records, etc.;
- interviewing or deposing the key state's witnesses;
- locating and interviewing potential defense witnesses;
- tracking down records and evidence that may be help establish the defendant's innocence;
- visiting crime scenes to see if the real thing matches up with what witnesses described;
- reviewing the results and original notes and data from forensic tests conducted by the state, determining whether an independent analysis by an expert is warranted, and if so, finding that expert and arranging for the testing of the evidence
- making initial assessments of the defendant's ability to understand the legal proceedings and, when the defendant exhibits developmental or mental disabilities, arranging for an expert to evaluate the defendant to make that determination;
- researching the law applicable to the defendant's case and litigating motions where it appears the defendant has not been properly charged, the law has not been followed, or the state is seeking to put on evidence of questionable admissibility or reliability;
- negotiating plea agreements with the prosecutor, as well as locating and advocating for sentencing options that could effectively address the problems that got the defendant into trouble in the first place and reduce the likelihood of recidivism; or
- if the case is one that goes to a trial, conducting that trial, before either a judge or jury, as well as all the court appearances a defendant will be required to make as his case progresses through the criminal justice system.

As the above list indicates, however, their appearances in court on behalf of a defendant are a small portion of the work public defenders must do on a case. When they have too many cases, some of these steps are skipped. The state's evidence is taken at face value and assumed by all to be accurate. Mistakes fall through the cracks, uncaught and uncorrected. Individual defendants and justice as a whole suffer as a result.

Public Defender Trial Division District Map



COUNTY VS CIRCUIT SYSTEMS

Missouri's 34 trial offices provide defense representation to indigent defendants in all of Missouri's 114 counties plus the City of St. Louis. Some of the urban offices serve only one county, but most of the offices serving rural counties are responsible for several counties. The office with the largest geographic spread is District 43, located in Chillicothe, which serves eleven counties. Most are in the three to five county range.

It is important to note that the geographic areas covered by defender offices do not necessarily coincide with Missouri's judicial circuits, even though the district numbers assigned to each office will be the same as that of one of the judicial circuits the office serves. One office may serve two of three counties in a particular judicial circuit and another county that is located in a differing judicial circuit.

The location and jurisdiction of each defender office is established by the Public Defender Commission.

MISSOURI STATE PUBLIC DEFENDER SYSTEM
Trial Division Offices

Area 2 -- Adair, Knox, Schuyler, Scotland Counties

Kevin Locke, District Defender
705 E. LaHarpe, Suite C
Kirksville, MO 63501
660-785-2445 FAX: 660-785-2449

**Area 4 -- Andrew, Atchison, Gentry, Holt,
Nodaway, Worth Counties**

Michelle Davidson, District Defender
Northside Mall
115 East Fourth Street, Suite 5
Maryville, MO 64468
660-582-3545 FAX: 660-562-3398

Area 5 -- Buchanan County

Sue Rinne, District Defender
120 South 5th Street, 2nd Floor
St. Joseph, MO 64501
816-387-2026 FAX: 816-387-2786

Area 7 -- Clay, Clinton, Platte Counties

Anthony Cardarella, District Defender
234 West Shrader
Liberty, Missouri 64068
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MISSOURI STATE PUBLIC DEFENDER SYSTEM
Trial Division Offices

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MISSOURI STATE PUBLIC DEFENDER SYSTEM
Trial Division Offices

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Cases Handled by the Trial Division

FELONY OFFENSES: As the pie chart on page 11 shows, 42% of the Trial Division caseload in FY10 was made up of felony offenses. These are charges which carry penitentiary time, ranging from one to four years of imprisonment for the lowest level felonies up to life in prison without the possibility of probation or parole for the most serious offenses.

MISDEMEANOR OFFENSES: Misdemeanor offenses are those which still carry jail time as a possible sentence, but with a cap of one year with the time to be served in the county jail rather than the state's penitentiary for the highest level of misdemeanor offenses.

JUVENILE CASES: Missouri's juvenile courts have jurisdiction over anyone under the age of 17 who commits an offense that would be a crime if that person were an adult, as well as over so-called 'status offenses', such as truancy or incorrigibility, which apply only to juveniles. An increasing number of Missouri courts are appointing private attorneys to handle these cases for juveniles who cannot hire their own attorneys, but a number of counties, particularly in the urban areas with more significant juvenile caseloads, continue to rely on the public defender to provide defense representation to these children.

PROBATION VIOLATION CASES: These are cases in which the defendant has already been through the court system on an underlying charge and placed on probation. The new case arises from the allegation that the defendant has in some way violated the conditions of his/her probation. Violations can arise from new criminal behavior, whether or not any criminal charges were filed; so an arrest without any subsequent charge can be grounds for a probation violation. A defendant may also face a violation proceeding for what are known as technical violations, which are violations of conditions put in place at the time of the probation. These can include such things as failing a drug test, failure to report to the probation officer as instructed, failure to complete an ordered treatment or education program, etc.

FAQ: Why does MSPD count probation violations as separate cases when the courts and prosecutors do not?

It is the practice of Missouri's prosecutors and courts to hold open the original case out of which probation arose, for the duration of the probationary period. As a result, they then treat probation violations as simply another proceeding within the original case.

By contrast, it is the practice of MSPD and the defense bar as a whole to close out a case once the defendant is placed on probation. Neither group of defense attorneys, private or public, is willing or able to commit to continuing to represent, counsel, or maintain contact with that client over the course of his / her probation (which on a felony case can last up to five years) as would be ethically required of them as defense counsel if they maintained these as open cases for the duration of the probationary period.

If a probation violation is later filed, private defense attorneys will expect a separate retainer in order to represent the defendant on that probation violation. This is why MSPD sees many probation violation cases in which the defendant had private counsel on the underlying charge, but cannot come up with the additional money to pay the private attorney to handle the new probation violation matter. MSPD on the other hand, is seldom in a position to re-assign to the defendant the same attorney who handled the underlying charge in his case, which means a whole new attorney-client relationship must be established just as in any other new case.

The evidence of violation is gathered and reported to the court and prosecutor by the probation officer. The review of that evidence, investigation of its accuracy, the review of the law that applies to the circumstances of this revocation proceeding and the investigation into and presentation to the judge of other sentencing alternatives in lieu of revocation is the obligation of defense counsel. If done correctly, this is very comparable to the work that is required in any other criminal case and therefore MSPD counts it as a case in its own right.

Interestingly enough, when the Springfield Metropolitan Bar Association's volunteer lawyer program took on the responsibility for probation violation cases in Greene County for a year (See Caseload Relief Efforts Timeline, on p. 6), the President of that Bar Association noted that the private attorneys were donating an average of five to six hours per case to provide defense representation in those probation violations -- a figure that is right on target with the five hour weight MSPD had independently assigned to probation violation cases under its caseload protocol.

Fiscal Year 2010 - Trial Division - Cases by Case Type			
Case Type	Description	Opened Cases	Closed Cases
10	Murder - Death Penalty	3	2
15	Murder - 1st Degree	132	123
20	Other Homicide	153	160
30D	A - B Felony Drug	3,260	3,082
30F	A - B Felony Other	3,615	3,365
30X	A - B Felony Sex	689	705
35D	C - D Felony Drug	5,324	5,293
35F	C - D Felony Other	20,353	19,472
35X	C - D Felony Sex	364	350
45M	Misdemeanor	17,688	17,053
45T	Misd. - Traffic	6,841	6,884
50N	Juvenile Non-violent	1,339	1,253
50S	Juvenile Status	258	264
50V	Juvenile Violent	753	747
60	552 Release Petitions	33	30
65F	Probation Violation - Felony	14,171	13,310
65M	Probation Violation - Misd.	5,877	5,588
75	Special Writ	4	4
82	Appeal - Other	2	1
99	Unknown	<u>34</u>	<u>30</u>
		80,893	77,716

Fiscal Year 2010
Trial Division Assigned Cases
By Charge Code

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
001.000	Probation Violation	20,048						20,048		20,048
001.100	Juvenile	276					276			276
001.110	Juvenile Injurious Behavior	39					39			39
001.115	Juvenile Review Hearing	53					53			53
001.120	Juvenile PV Only	215					215			215
001.125	Juvenile Status	41					41			41
001.130	Juvenile Misdemeanor	153			3		150			153
001.135	Juvenile Felony C-D (Cert.)	15					15			15
001.140	Juvenile Felony A-B (Cert.)	27					27			27
001.145	Juvenile Felony C-D	361		1			360			361
001.150	Juvenile Felony A-B	77	1				76			77
001.155	Juvenile Murder 1st/2nd (Cert.)	5					5			5
001.160	Juvenile Homicide (Cert)	0								0
001.165	Juvenile Homicide	0								0
043.170	Failure to stop for Hwy Patrol	2			2					2
064.295	Zoning Violations	0								0
070.441	Violating Rules/Regulations of Rapid Transit	0								0
115.631	Election Offense Class I	1		1						1
142.432	No Specialty Fuel License	0								0
142.830	Operating as Interstate Motor Fuel user	0								0
143.221	Failure to Pay Withholding	2		2						2
143.911	Attempting to evade or defeat income tax	1		1						1
143.931	Failure to file MO tax return	1		1						1
143.941	False statement of tax return	0								0
144.080	Fail to collect sales tax, file return and pay taxes	3			3					3
144.083	Retail Sales w/o a license	0								0
144.480	Failure to pay state sales tax	7	2	4	1					7
167.031	Compulsory school attendance	32			32					32
167.061	Educational neglect	0								0
190.308	Misuse of 911 phone service	22			22					22
191.677	Risk of infecting another w/HIV	8	8							8
191.905	Abuse of a Person Receiving Health Care	1		1						1
192.490	Violation of a law or regulation, Misdemeanor	0								0
194.410	Disturbing human burial site	0								0
194.425	Abandonment of a corpse	1	1							1
195.130	Maintaining a public nuisance	35		35						35
195.202	Drug Possession	5,945	14	4,565	1,297	7	62			5,945
195.203	Possession Under 35 Grams	208			207		1			208
195.204	Fraudulent attempt to obtain cont. sub.	147	1	146						147
195.211	Distribution/delivery/manufacture	2,891	2,752	129	2		7		1	2,891
195.212	Unlawful distribution to minor	15	15							15
195.213	Unlawful purchase or transport with a minor	2	2							2
195.214	Dist. drugs within 1000 ft of a school	148	141	2			5			148
195.217	Distribute/Deliver drugs in/near a Park	3	3							3
195.218	Dist. drugs within 1000 ft of public housing	36	34	1			1			36
195.219	Unlawful Endangerment of Property	0								0
195.222	Drug trafficking First Degree	47	44	2			1			47
195.223	Drug trafficking Second Degree	222	215	6			1			222
195.226	Furnishing materials for producing cont. sub.	9		9						9
195.233	Use of drug paraphernalia	735	7	52	661	2	13			735
195.235	Delivery or manufacture of drug paraphernalia	8	1	7						8
195.241	Possession of an imitation drug	5			2		3			5

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
195.242	Delivery or manufacture of an imitation drug	45	5	40						45
195.246	Possession of ephedrine	122	1	121						122
195.252	Fail to Keep Records of Controlled Substance	0								0
195.254	Delivery by manufacturer or distributor	0								0
195.291	Persistent drug offender	0								0
195.410	Possession of chemicals for meth.	4		4						4
195.417	Over the Counter sale of Meth Precursor	154		1	153					154
195.420	Creation of a controlled substance	260	3	257						260
196.015	Viol. of regs. for manufacture of food, drugs, cosmetics	1			1					1
198.015	Operating Residential Care Facility w/o License	0								0
198.097	Misappropriation of Funds of Elderly	0								0
198.158	Misuse of Medicaid Money in Operating Nursing Hm	0								0
205.967	Unlawfully obtaining Public Assistance	1		1						1
210.104	Failure to Provide Child Safety Restraint	0								0
210.165	Filing a False Report of Child Abuse or Neglect	1			1					1
211.031	Exclusive jurisdiction of juvenile court	22					22			22
211.431	17 years of age or older violates provision of 211	0								0
214.131	Vandalizing Private Cemetery	0								0
217.360	Possession of cont. substance/weapon-corr. facility	85	17	63	5					85
217.365	Possession of contraband in penal Institution	0								0
217.385	Committing Violence	68	61	7						68
217.490	Multi-State Agreement on Detainers	0								0
221.111	Delivering/possessing prohibited articles in jail	90	15	43	31				1	90
221.353	Damage to jail property	62		62						62
229.479	Possession for sale or collection plants from Co.	0								0
252.040	Pursuing/taking wildlife	57			57					57
252.045	Operation of MV on conservation property	3			3					3
252.060	Failure to Display a Fishing License	1			1					1
252.230	Violation of the State Wildlife Statues Law	1			1					1
260.212	Criminal disposition of solid waste	3		3						3
260.270	Unlawful disposal of tires by burning	0								0
269.020	Failure to dispose of dead animal carcass	0								0
273.329	Operating Animal Shelter w/o a license	0								0
287.128	Workers compensation fraud	7		1	6					7
288.380	Illegal unemployment compensation	0								0
301.020	Failure to register	206		2	10	194				206
301.130	Failure to display valid plates	117			1	116				117
301.140	Displaying plates of another	53			3	50				53
301.142	Fraudulent application of handicapped plate/hangtag	0								0
301.190	Certificate of ownership	0								0
301.210	Sell/Purchase Mtr Veh or Trailer	0								0
301.218	Conducting Salvage Business w/o License	2			2					2
301.277	Failure to register non-resident vehicle	0								0
301.320	Displaying another states plates	7				7				7
301.330	Fail to display name/address, wt. on commercial MV	1				1				1
301.390	Sale of vehicle with altered VIN	8		8						8
301.400	Removing/defacing manufacturer numbers	0								0
301.420	False Statement on Registration Application	0								0
301.560	Inappropriate Vessel Trailer Plates	0								0
301.705	Operating ATV on Private Property	0								0
301.707	Failure to register an all-terrain vehicle	0								0
302.020	Operating MV without a valid license	525		88	34	402	1			525
302.025	Financial responsibility while operating vehicle	0								0
320.111	Manufacture, sale, ship fireworks w/o permit	1			1					1
302.175	Failure to Comply with Restricted Driver's License	2				2				2
302.178	Failure to comply with immediate license	0								0

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
302.200	Operating MV w/out new license after revoked	14				14				14
302.210	Purchase of vehicle without receiving full title	0								0
302.220	Possession of altered driver's license	5			2	3				5
302.230	Making false stmt to obtain driver's license	2				2				2
302.233	Committing Fraud to Obtain Driver's license	0								0
302.260	Unlicensed person operating motor vehicle	6			2	4				6
302.304	Oper MV Whil Rev/Susp., no Ignition Interlock Device	1			1					1
302.321	Driving while suspended or revoked	5,291		670	402	4,218	1			5,291
302.340	Prohibited Use of a License	0								0
302.725	Driving w/o commercial driver's license	1				1				1
302.727	Driving Commercial Vehicle while Disqualified	5			1	4				5
302.780	Driving commercial vehicle under influence	0								0
303.024	Failure to provide evidence of insurance	3		1		2				3
303.025	Operating MV w/out financial responsibility	454			31	423				454
303.041	Failure to maintain financial responsibility	0								0
303.178	Knowingly Displaying Invalid Liability Insurance	0								0
303.330	Refusal to surrender drivers lic/reg. when suspended/rev.	0								0
303.370	Driving while revoked or suspended for 303.025	101			13	88				101
304.000	Traffic	51			4	47				51
304.010	Speeding	275			8	267				275
304.011	Maintain Speed < 40 mph on Interstate	0								0
304.012	Careless and imprudent driving	265			15	249	1			265
304.013	Operating ATV's illegally	7				7				7
304.015	Failure to drive on right side of the road	212			8	204				212
304.016	Violation of passing regulation	10				10				10
304.017	Following too closely	17			2	15				17
304.019	Failure to signal	28			1	27				28
304.022	Failure to yield to emergency vehicle	42				42				42
304.035	Failure to stop at Railroad Crossing	1				1				1
304.050	Failure to stop for a school bus	1				1				1
304.130	Exceed Posted Speed Limit - 1st Class County	3				3				3
304.180	Gross Weight Exceed 80,000 lbs	0								0
304.220	Weight Limit Violation	0								0
304.271	Failure to stop at stop sign	10			1	9				10
304.281	Failure to stop at signal or crosswalk	12				12				12
304.301	Failure to Stop For Flashing Red Signal	0								0
304.311	Enter/travel in lane over which a red signal was shown	1				1				1
304.341	Turns at intersection violation penalty	1				1				1
304.351	Failure to yield right-of-way	49			3	46				49
304.665	Juvenile in bed of truck	0								0
306.110	Operating a Watercraft While Intoxicated	4			1	3				4
306.111	Neg. operation vessel/intoxicated/manslaughter	2				2				2
306.125	Failure to Exercise Degree of Care of Watercraft	2			1	1				2
307.010	Failed to Cover or Secure Vehicle Load	0								0
307.040	Failure to display stop & turn signals on trailer	0								0
307.045	Faulty headlights	5			1	4				5
307.070	Failure to dim lights w/in 500 ft oncoming vehicle	0								0
307.075	Failure to equip trailer with tail lights	0								0
307.165	Failed to Equip Passenger Veh w/ 2 sets of belts	0								0
307.170	Operating vehicle with excessive noise	0								0
307.172	Operated Vehicle w/o proper bumpers	0								0
307.173	Vision reducing material applied to windows	14			1	13				14
307.175	Sirens and Flashing Lights Emergency Use	1				1				1
307.178	Seat belt violation	0								0
307.179	Failure to secure child < 8 y/o in car seat	25			2	23				25
307.182	Driver Failed to Restrain Child in Booster	0								0

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
307.198	Operating ATV on Highway w/o Head/Tail Lamps	1				1				1
307.365	Performed improper/incomplete veh inspection	1			1					1
307.400	Operating commercial vehicle without service	1				1				1
311.050	Sale of Intoxicating Liquor w/o a License	0								0
311.310	Supplying liquor to a minor	47			46	1				47
311.320	Misrepresentation of Age by Minor	0								0
311.325	Being Visibly Intoxicated	335		2	318	13	2			335
311.325(1)	Possession of liquor by a minor	94			91	1	2			94
311.328	Altering operator's license or ID card	2			1	1				2
311.329	Possessing altered operator's license or ID card	1			1					1
311.550	Sale of liquor without a license	0								0
311.880	Sale of alcohol to minor	1			1					1
312.405	Misrepresentation of age by minor to obtain beer	0								0
312.407	Possess of non-intoxicating liquor by minor	0								0
313.380	Possession of Device Violate 313.800-313.850	1		1						1
313.813	Trespassing on a Gambling Boat	1			1					1
313.817	Presenting false ID to enter gaming est.	5			5					5
313.830	Cheating a gambling game	1		1						1
320.151	Sale of Fireworks to a minor	0								0
324.635	Knowingly Falsifying Fingerprints	0								0
335.086	Use of Fraudulent Credentials	0								0
338.195	Violation of Pharmacy Law by non-licensed person	0								0
367.045	Failure to repay pawnbroker	0								0
375.991	Fraudulent Act	2		2						2
378.385	Commit perjury while receiving public assistance	0								0
389.653	Trespass on railroad property	0								0
390.063	Operating Motor Vehicle w/ Defective Equipment	0								0
407.020	Unlawful merchandising practices	7		7						7
407.536	Odometer fraud	1		1						1
407.933	Possession of cigarettes by a minor	0								0
409.501	Securities Fraud	0								0
429.014	Lien Fraud - Over \$500	1		1						1
454.440	Failing to complete an information statement	4			4					4
455.085	Violation of a protective order	683	3	46	634					683
455.538	Violation of an order of child protection	12			12					12
468.350	As owner operator/auth another to op	0								0
476.110	Criminal contempt of court	3			3					3
542.400	Illegal wire tapping	0								0
544.665	Failure to appear	49	4	26	16		3			49
548.131	Fugitive from justice	25	1	21	1				2	25
548.141	Fugitive from Out of State	111	31	79					1	111
556.021	Failed to stop for law enforcement officer	1				1				1
557.035	Hate crime	0								0
557.036	Persistent offender	0								0
558.016	Persistent misdemeanor offender	0								0
562.036	Possessing controlled substance w/intent to dist.	0								0
564.011	Attempt to commit an offense	149	38	92	11		8			149
564.016	Conspiracy	38	14	23			1			38
565.020	Murder 1st FA	141	136				3		2	141
565.021	Murder 2nd FA	146	144				1		1	146
565.023	Voluntary manslaughter	0								0
565.024	Involuntary manslaughter	41	27	12			2			41
565.050	Assault 1st	487	471	4	2		7		3	487
565.060	Assault 2nd	650	13	601	3		32		1	650
565.070	Assault 3rd	1,382		7	1,251	1	122		1	1,382
565.072	Domestic Assault 1st	169	165	3					1	169

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
565.073	Domestic Assault 2nd	1,314	19	1,289	5		1			1,314
565.074	Domestic Assault 3rd	1,893	1	53	1,831	2	6			1,893
565.075	Assault on school property	34	1	6			27			34
565.081	Assault law enforcement officer 1st	46	42	2					2	46
565.082	Assault law enforcement officer 2nd	188	42	138	5	1	2			188
565.083	Assault law enforcement officer 3rd	218	1	1	205	2	9			218
565.084	Tampering with a judicial officer	17		17						17
565.085	Crime of endangering a corrections employee	24		23	1					24
565.090	Harassment	221		12	206		3			221
565.092	Aggravated harassment	0								0
565.100	Tampering with evidence	0								0
565.110	Kidnapping	48	47				1			48
565.115	Child Kidnapping	0								0
565.120	Felonious restraint	34		32			2			34
565.130	False imprisonment	5			5					5
565.150	Interfering with Custody	11		5	6					11
565.153	Parental Kidnapping	11	2	9						11
565.156	Child abduction	7		7						7
565.165	Assisting in child abduction or kidnapping	0								0
565.180	Elder abuse - 1st degree	7	7							7
565.182	Elder abuse - 2nd degree	1	1							1
565.184	Elder abuse - 3rd degree	9			9					9
565.214	Abuse of a Vulnerable Person - 3rd degree	1			1					1
565.225	Aggravated stalking	80		58	22					80
565.252	Invasion of Privacy 1st	0								0
565.253	Invasion of Privacy 2nd	6		2	3		1			6
566.030	Rape	144	131	5			8			144
566.032	Statutory rape 1st	126	122	2			2			126
566.034	Statutory rape 2nd	119	7	112						119
566.040	Sexual assault 1st	36		34			1		1	36
566.050	Sexual assault 2nd	0								0
566.060	Sodomy	56	52	2			2			56
566.062	Statutory sodomy 1st	236	215	5			14		2	236
566.064	Statutory sodomy 2nd	34	1	32			1			34
566.067	Child molestation 1st	167	149	6			12			167
566.068	Child molestation 2nd	54		3	49		2			54
566.070	Deviate sexual assault 1st	27		16			11			27
566.080	Deviate sexual assault 2nd	0								0
566.083	Sexual misconduct involving a child	32		29			3			32
566.090	Sexual misconduct 1st	54		4	30		20			54
566.093	Sexual misconduct 2nd	62			58		4			62
566.095	Sexual misconduct 3rd	12			10		2			12
566.100	Sexual abuse 1st	8	1	4			3			8
566.110	Sexual abuse 2nd	0								0
566.111	Unlawful Sex w/ an Animal	0								0
566.120	Sexual abuse 3rd	0								0
566.130	Indecent exposure	0								0
566.145	Sexual Contact w/ inmate	1		1						1
566.147	Establish residence w/in 1000 ft of child care	14		14						14
566.149	Offender of 566.149 loitering 500 ft of School	11			11					11
566.150	Sex offndr present/loiter w/in 500 ft of park w/ playground/pool	2		2						2
566.151	Attempted Enticement of a Child	24	13	11						24
566.212	Sexual Trafficking of a Child	0								0
566.625	Failure to register as a sex offender	2		1	1					2
567.020	Prostitution	20			20					20
567.030	Patronizing prostitution	3			3					3

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
567.050	Promoting prostitution 1st	1	1							1
567.060	Promoting prostitution 2nd	2		2						2
567.070	Promoting prostitution 3rd	4		4						4
568.010	Bigamy	2			2					2
568.020	Incest	20		7			13			20
568.030	Abandonment of a child 1st	1	1							1
568.032	Abandonment of a child 2nd	0								0
568.040	Criminal nonsupport	3,237	1	2,063	1,172	1				3,237
568.045	Endangering welfare of a child 1st Dgr	292	6	286						292
568.050	Endangering welfare of a child	279	1	6	269	2	1			279
568.052	Leaving child <10 yrs. unattended in MV causing collision	1			1					1
568.060	Abuse of a child	173	16	156					1	173
568.070	Unlawful transactions with a child	2			2					2
568.080	Using a child in a sexual performance	0								0
568.090	Promoting sexual performance by a child	5		4			1			5
568.110	Processor failure to report	0								0
568.175	Trafficking/Children	0								0
568.175	Trafficking in children	0								0
569.020	Robbery 1st	790	743	10			32		5	790
569.025	Pharmacy robbery 1st	3	3							3
569.030	Robbery 2nd	367	311	16			38		2	367
569.035	Pharmacy Robbery 2nd degree	0								0
569.040	Arson 1st	49	45	2			1		1	49
569.050	Arson 2nd	67	1	61			4		1	67
569.055	Knowingly burning or exploding	22		18			4			22
569.060	Reckless burning or exploding	4			4					4
569.065	Negligent burning or exploding	0								0
569.070	Catastrophe	0								0
569.080	Tampering 1st	1,330	1	1,266	2		59		2	1,330
569.085	Unlawful endangerment of property	0								0
569.090	Tampering 2nd	150		11	129		10			150
569.095	Tampering with intellectual property	1		1						1
569.097	Tampering with computer equipment	0								0
569.099	Tampering with computer users	0								0
569.100	Property damage 1st	274		254	1		19			274
569.120	Property damage 2nd	408			368	1	39			408
569.140	Trespass 1st	441		1	430	1	9			441
569.150	Trespass 2nd	12		1	11					12
569.155	Trespass of a school bus	1			1					1
569.160	Burglary 1st	999	917	48	1		33			999
569.170	Burglary 2nd	2,971	9	2,822	1		137		2	2,971
569.180	Possession of burglar's tools	14		14						14
570.030	Stealing	4,874	76	2,836	1,818	1	139		4	4,874
570.030.4	Theft of anhydrous ammonia	11	10	1						11
570.033	Stealing animals	9		9						9
570.040	Stealing 3rd Offense	46		39	7					46
570.055	Steal wire/electrical transformer or other device/pipe	5		5						5
570.080	Receiving stolen property	790	1	518	257	1	11		2	790
570.085	Alteration or removal of item numbers	0								0
570.090	Forgery	1,741		1,736	1		4			1,741
570.100	Possession of a forgery instrumentality	1		1						1
570.103	Counterfeiting 1000 or more	6		4	2					6
570.110	Issuing a false instrument or certificate	0								0
570.120	Passing bad check	2,821		1,225	1,593	3				2,821
570.125	Fraudulent stop payment on an instrument	16		6	10					16
570.130	Fraudulent use of a credit device	284		132	144		8			284

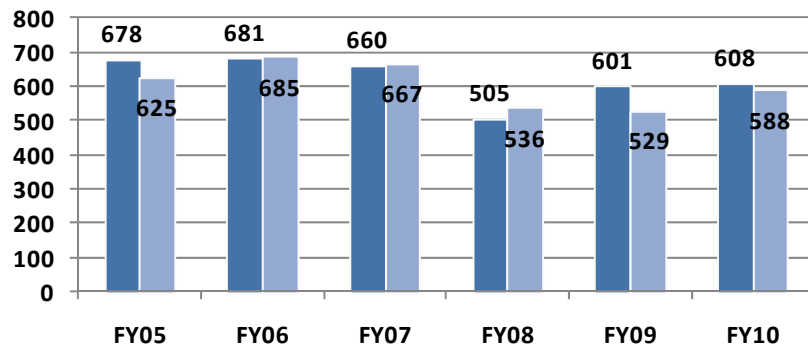
Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
570.135	Fraudulent procurement of a creditdebit device	1			1					1
570.140	Deceptive business practices	0								0
570.145	Financial exploitation of elderly or disabled	28	17	11						28
570.150	Commercial bribery	0								0
570.155	Sports bribery	0								0
570.160	False advertising	0								0
570.180	Defrauding secured creditors	5		5						5
570.190	Telephone service fraud	0								0
570.210	Library theft	4			4					4
570.217	Misapplication of funds of financial institution	0								0
570.220	Check kiting	4		4						4
570.223	Identity Theft	52	8	21	23					52
570.224	Trafficking in Stolen Identities	13	13							13
570.230	Selling unauthorized recordings	0								0
570.300	Theft of cable television service	0								0
571.015	Armed criminal action	84	77	7						84
571.020	Possess/transport/sale of certain weapons	59	1	37	19		2			59
571.030	Unlawful use of weapons	803	50	701	16		35		1	803
571.045	Defacing firearm	1			1					1
571.050	Possession of a defaced firearm	6		1	4		1			6
571.060	Unlawful transfer of weapons	1		1						1
571.070	Possession of a concealable firearm	249		247			2			249
571.080	Transfer of concealable firearms w/out permit	5					5			5
571.090	Permit to acquire concealable weapons	0								0
571.150	Use or possession of metal-penetrating bullet	0								0
572.020	Gambling	0								0
572.030	Promoting Gambling	0								0
572.050	Possession of gambling records 1st	0								0
572.060	Possession of gambling records 2nd	0								0
572.070	Possession of a gambling device	0								0
572.080	Lottery offenses	0								0
573.020	Promoting obscenity 1st	0								0
573.023	Sexual Exploitation of a Minor	6	3	2			1			6
573.025	Promoting Child Pornography 1st	5	5							5
573.030	Promoting Pornography 2nd	0								0
573.035	Promoting child pornography 2nd	4	1	1			2			4
573.037	Possession of child pornography	46	26	18			2			46
573.040	Furnishing pornographic material to a minor	6			6					6
573.060	Public display of explicit sexual material	0								0
573.065	Coercing acceptance of obscene materials	0								0
574.010	Peace disturbance	168	2		148		18			168
574.020	Private peace disturbance	2			1		1			2
574.040	Unlawful assembly	0								0
574.050	Rioting	1			1					1
574.060	Refusal to disperse	0								0
574.070	Promoting civil disorder 1st	0								0
574.075	Drunkenness or drinking in prohibited places	9			9					9
574.085	Burial desecration - Institutional Vandalism	2			1		1			2
574.090	Ethnic intimidation 1st	0								0
574.093	Ethnic intimidation 2nd	0								0
574.105	Money Laundering	0								0
574.115	Making a terrorist threat	17		17						17
575.020	Concealing an offense	2		2						2
575.030	Hindering prosecution	51		33	18					51
575.040	Perjury	2		2						2
575.050	False affidavit	3			3					3

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
575.060	False declarations	15			15					15
575.080	False reports	80		1	77		2			80
575.090	False bomb report	6		5			1			6
575.100	Tampering with physical evidence	24		14	10					24
575.110	Tampering with public records	1			1					1
575.120	False impersonation	9			9					9
575.145	Failed to Obey Sheriff's Deputy	11			11					11
575.150	Resisting, Interference w/Arrest	807	1	384	409	1	12			807
575.160	Interference w/Legal Process	1			1					1
575.190	Refusal to ID as a witness	2			2					2
575.195	Escape from commitment	1		1						1
575.200	Escape/attempt escape from custody	38	2	27	9					38
575.205	Tampering w/ electronic monitoring equip.	3		3						3
575.210	Escape/attempt escape from confinement	23	3	18			2			23
575.220	Failure to return to confinement	10		2	8					10
575.230	Aiding escape of a prisoner	6	6							6
575.240	Permitting escape	0								0
575.250	Disturbing judicial proceeding	0								0
575.260	Tampering with judicial process	5		5						5
575.270	Tampering with a witness	76	1	61	14					76
575.280	Official acceding to corruption	0								0
575.290	Improper communication	0								0
575.300	Juror misconduct	0								0
575.310	Misconduct in selecting or summoning juror	0								0
575.320	Misconduct in administration of justice	0								0
575.350	Killing or Disabling a Police Animal	0								0
576.010	Bribery of a public servant	5		4	1					5
576.020	Public servant acceding to corruption	0								0
576.030	Obstructing government operations	10			10					10
576.040	Official misconduct	0								0
576.050	Misuse of official information	0								0
576.070	Treason	0								0
577.005	Vehicular manslaughter	0								0
577.010	Driving while intoxicated	3,720	244	976	2,248	252				3,720
577.012	Driving w/excessive blood alcohol content	14			11	3				14
577.017	Consuming alcoholic beverages in moving MV	0								0
577.023	Driving while intoxicated 2nd, 3rd	2			2					2
577.051	Failure to furnish M.U.L.E. records	0								0
577.060	Leaving scene of motor vehicle accident	415		215	176	23	1			415
577.070	Littering	39		2	37					39
577.073	Littering in state parks	0								0
577.075	Release of Anhydrous Ammonia	4	4							4
577.076	Littering with carcasses	0								0
577.080	Abandoning motor vehicle	0								0
577.100	Abandonment of airtight containers	1			1					1
577.110	Operating MV while under 16 years of age	0								0
577.150	Corrupting or diverting water supply	0								0
577.155	Prohibition of waste disposal wells	0								0
577.600	Failure to use ordered ignition interlock device	5			3	2				5
577.612	Tampering w/ ignition interlock device	0								0
577.625	Distribution/Possess. of Prescription-Sch. Grounds	5			3		2			5
577.628	Poss of prescribed med on public or private school prop.	2			1		1			2
578.009	Animal neglect	17			17					17
578.012	Animal abuse	115		15	99		1			115
578.025	Dog fighting	2		1	1					2
578.027	Dog baiting	0								0

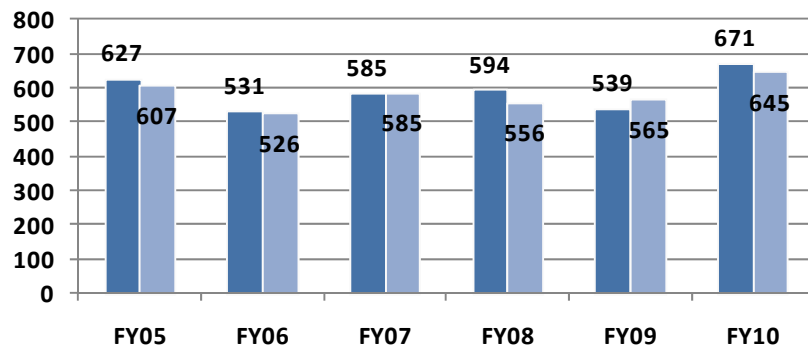
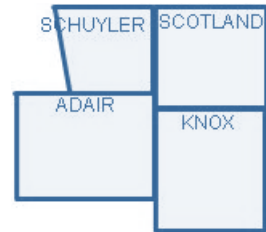
Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
578.029	Knowingly/Intentionally Release an Animal	0								0
578.050	Bull baiting and cockfighting	0								0
578.150	Failure to return rented personal property	164		112	52					164
578.151	Interfere w/ Lawful Hunt	0								0
578.154	Possession of Anhydrous Ammonia	14		14						14
578.250	Inhaling/ inducing others to inhale fumes	13			13					13
578.255	Induce or possess w/intent to induce intoxication	11			11					11
578.260	Possess/purchase solvents to aid others	1			1					1
578.265	Sell or Transfer Solvents	0								0
578.305	Assault w/ intent to hijack bus	0								0
578.365	Hazing	0								0
578.377	Unlawful receipt of food stamps	1		1						1
578.379	Unlawful conversion of food stamps	0								0
578.381	Unlawful transfer of food stamps	0								0
578.395	Ticket scalping	0								0
578.416	Crop Loss	0								0
578.423	Knowingly participating in street gang activity	0								0
578.425	Promoting or assisting gang conduct	0								0
578.433	Maintaining public nuisance	0								0
578.445	Possession tools to break into vending mach	0								0
589.400	Registration of certain offenders with chief law	40		37	3					40
589.414	Failure to register as a sex offender	29		29						29
589.425	Failure to register penalty, subsequent	241	1	235	5					241
589.426	Fail to comply w/Halloween restrictions-sex offenders	17		1	16					17
632.480	Sexually Violent Predator	1							1	1
701.050	Fail to provide notice for inspection of sewage disp. sys.	1			1					1
999.999	Witness Only	32							32	32

Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

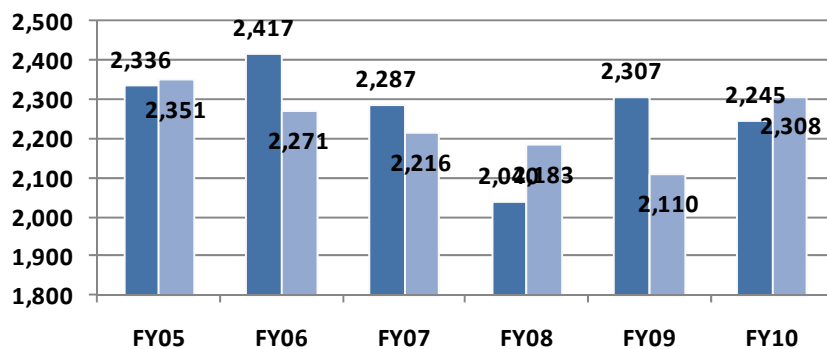
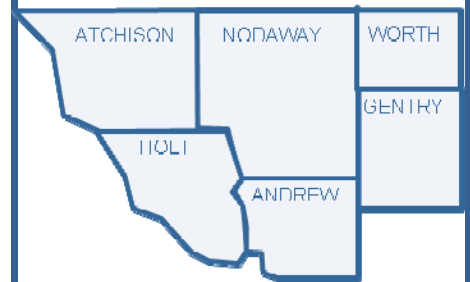
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District 2—Kirksville



District 4—Maryville

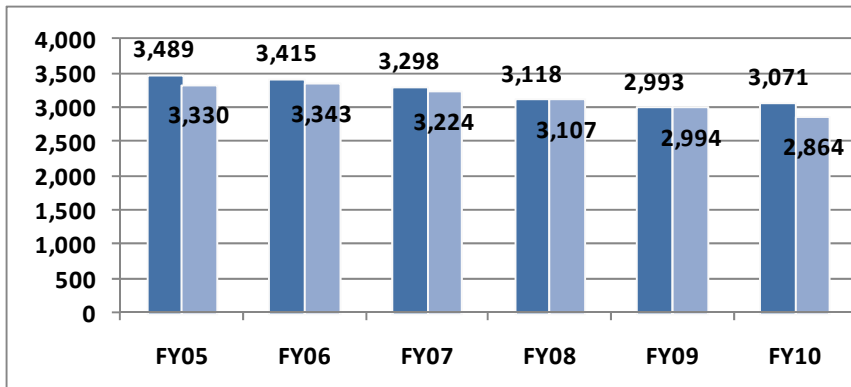


District 4—St. Joseph

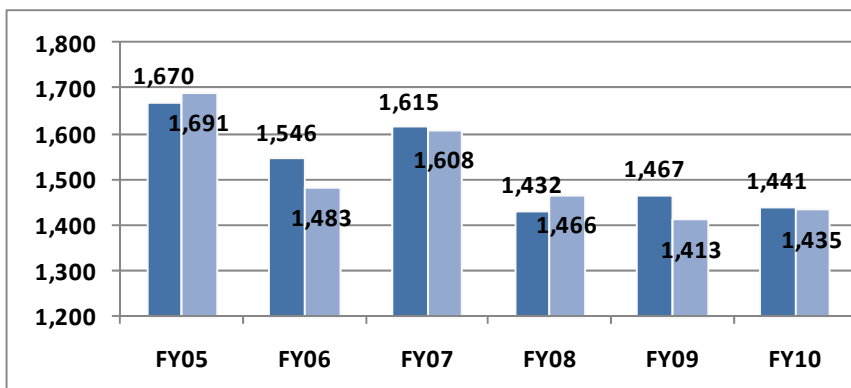
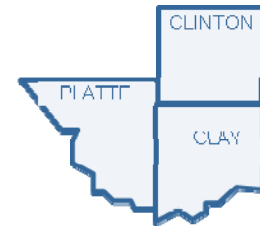


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

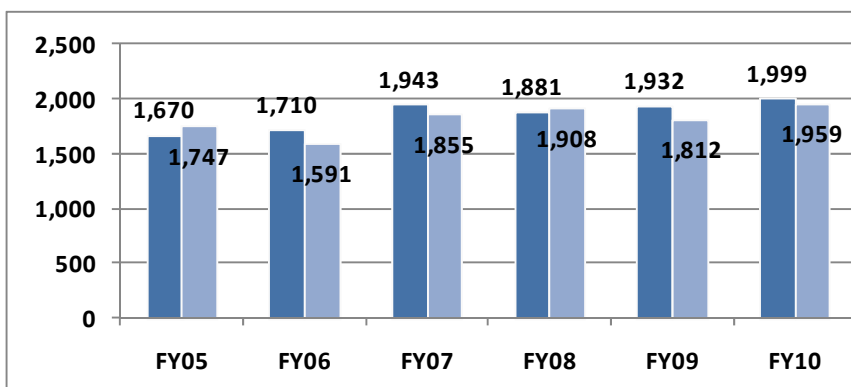
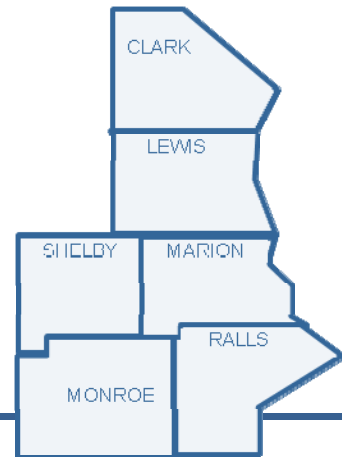
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District 5—Liberty



District 10—Hannibal

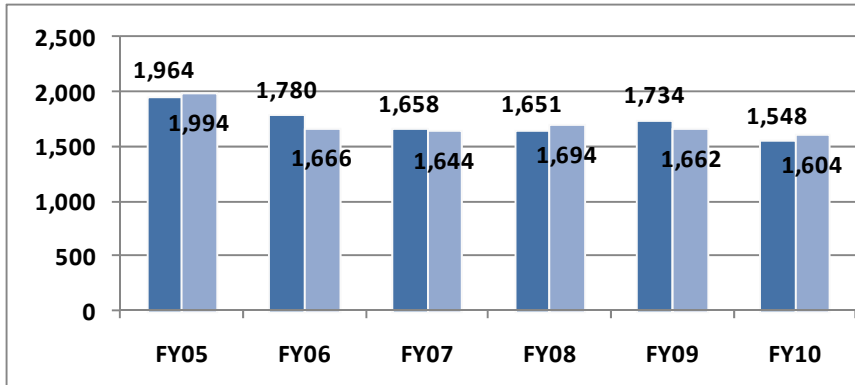


District 11—St. Charles

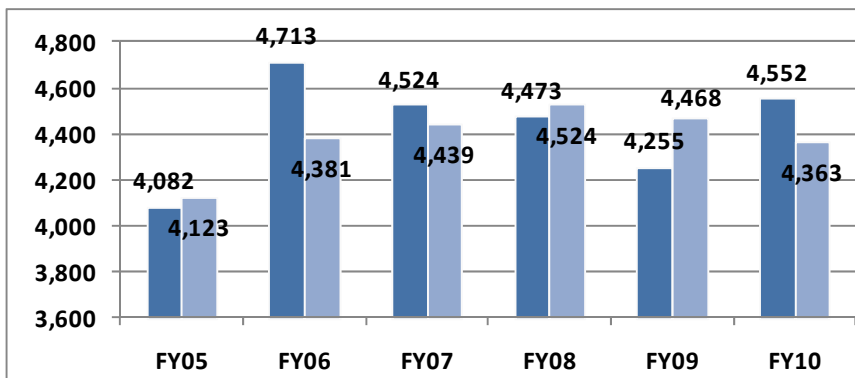
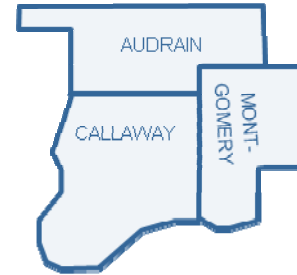


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

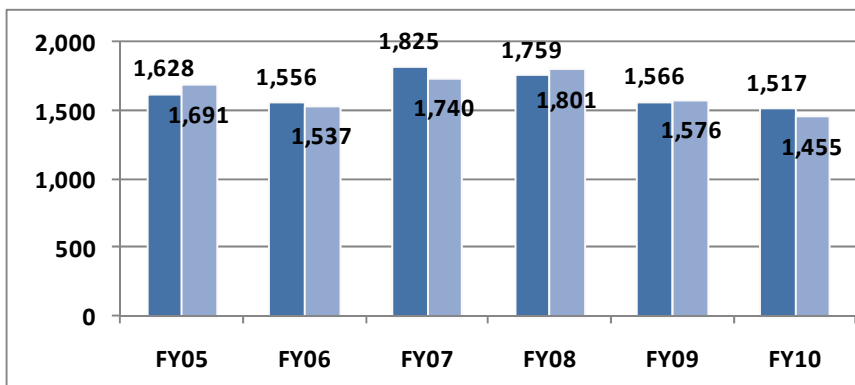
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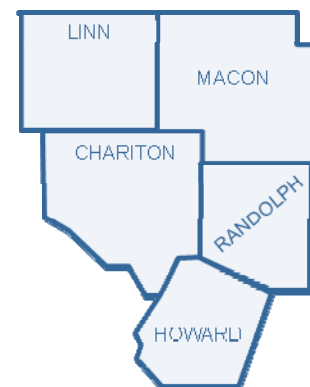
District 12—Fulton



District 13—Columbia

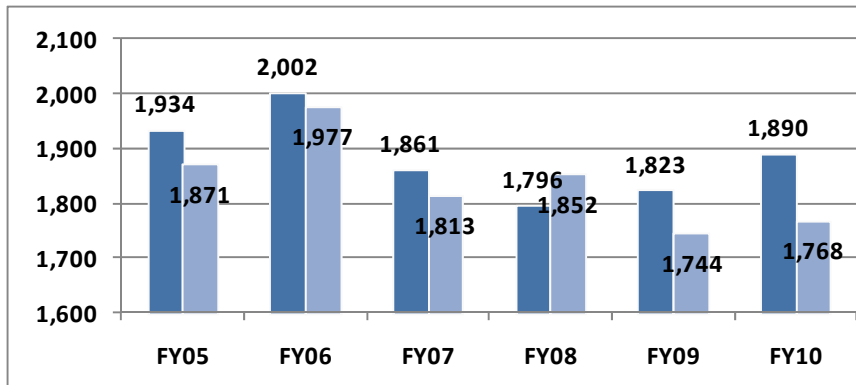


District 14—Moberly

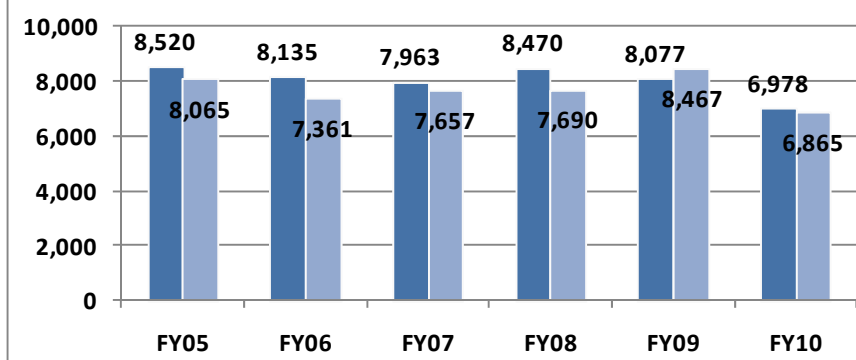
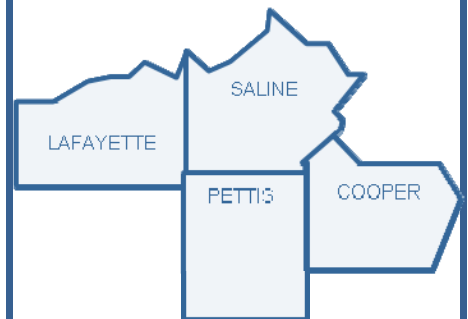


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

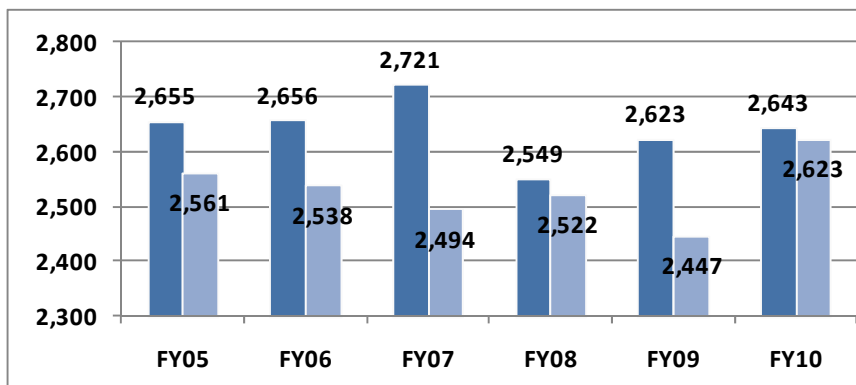
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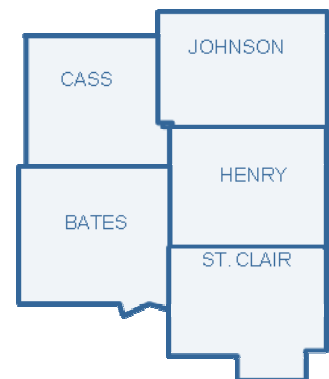
District 15—Sedalia



District 16—Kansas City

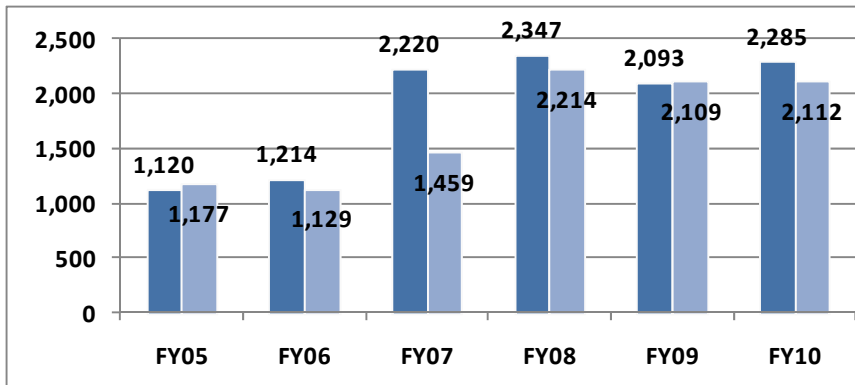


District 17—Harrisonville

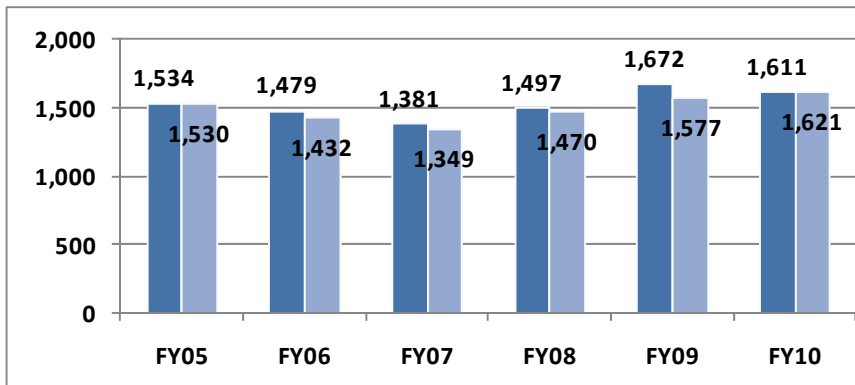
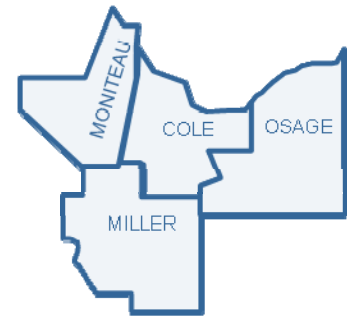


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

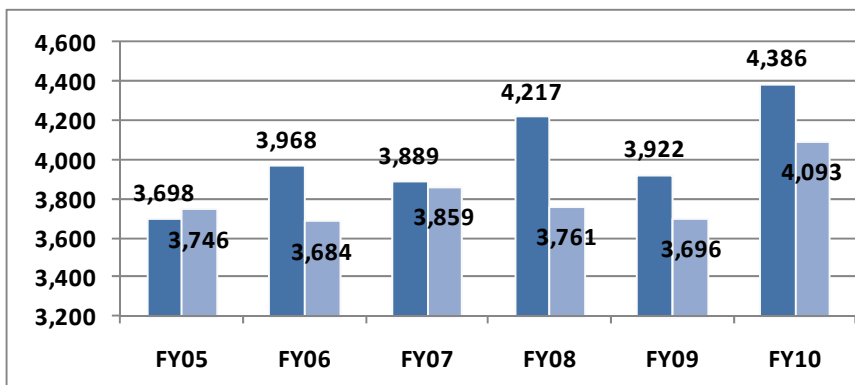
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District 19—Jefferson City



District 20—Union

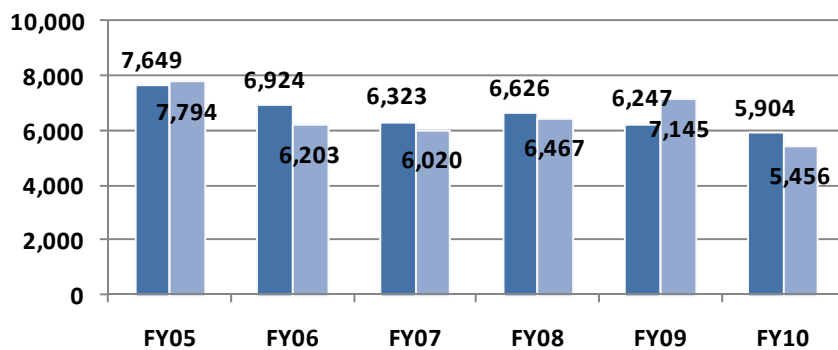


District 21—St. Louis County

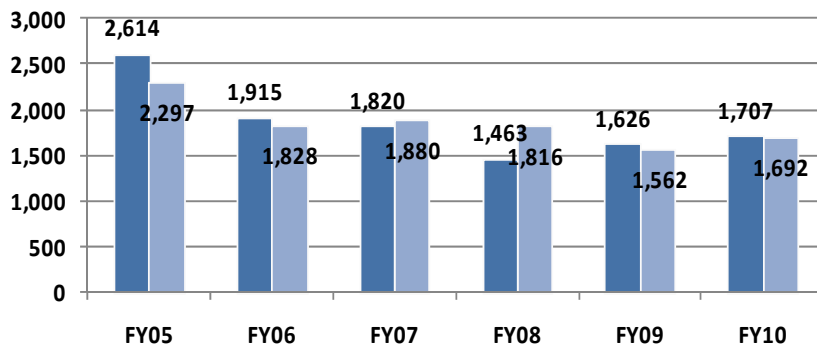


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

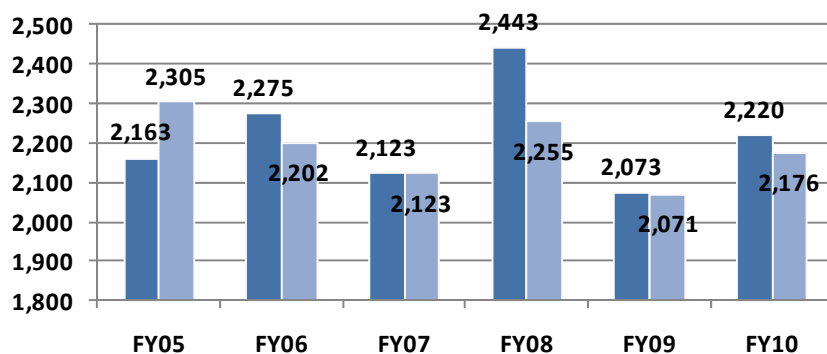
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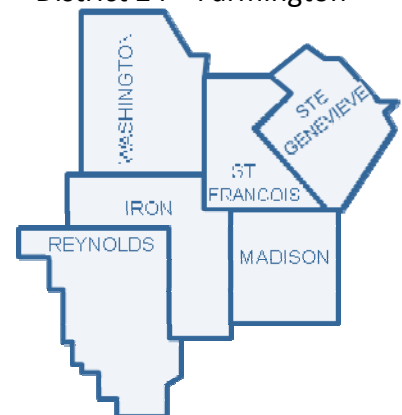
District 22—St. Louis City



District 23—Hillsboro

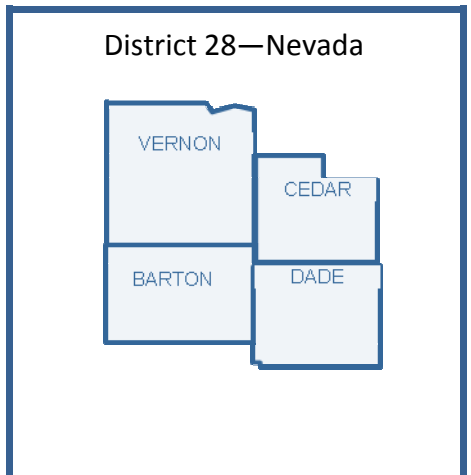
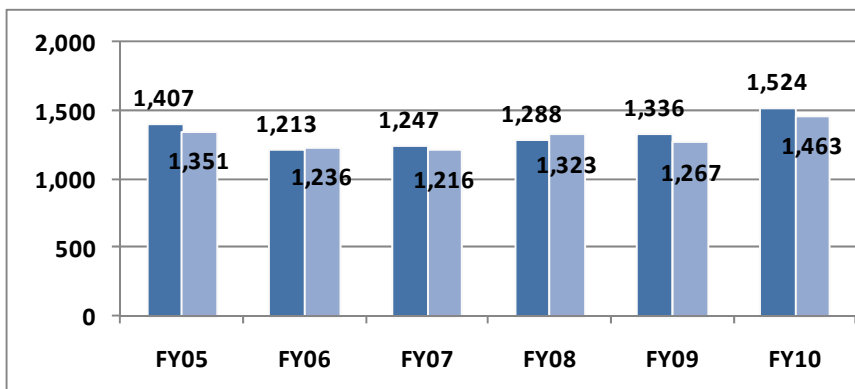
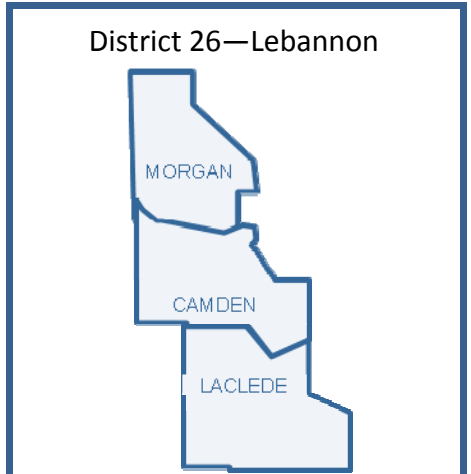
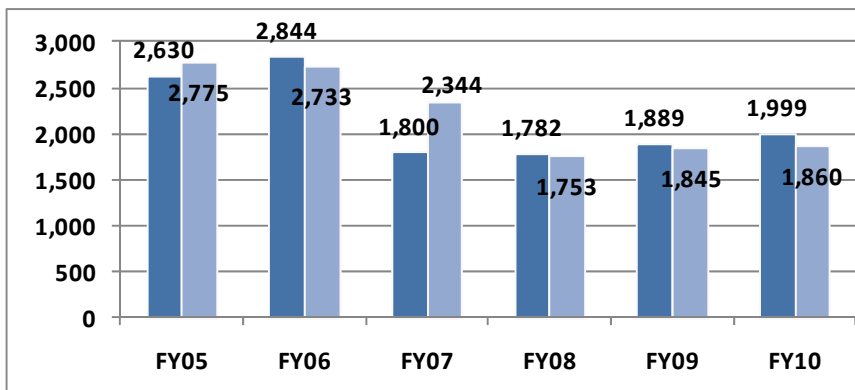
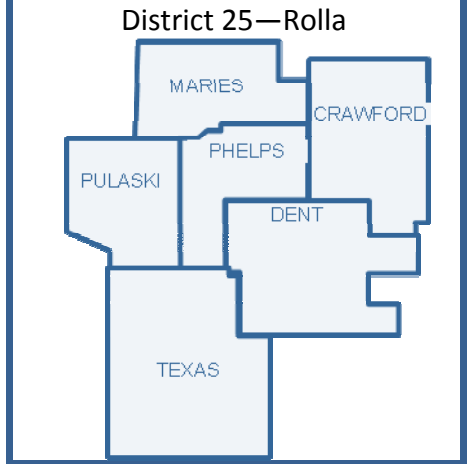
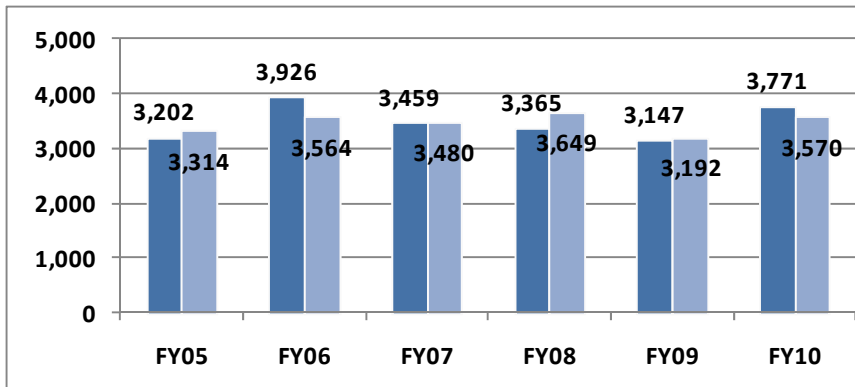


District 24—Farmington



Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

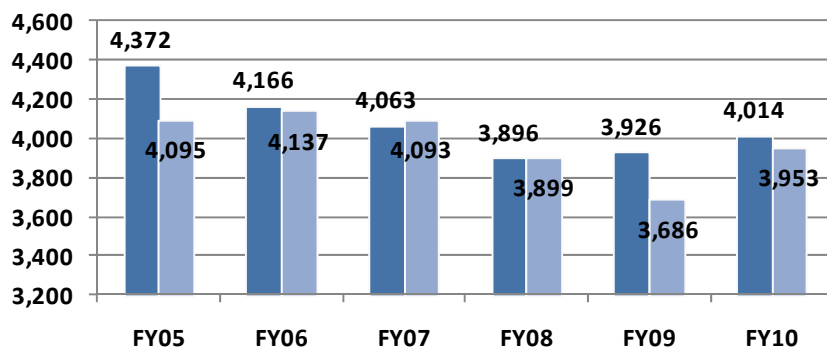
Opened
 Closed



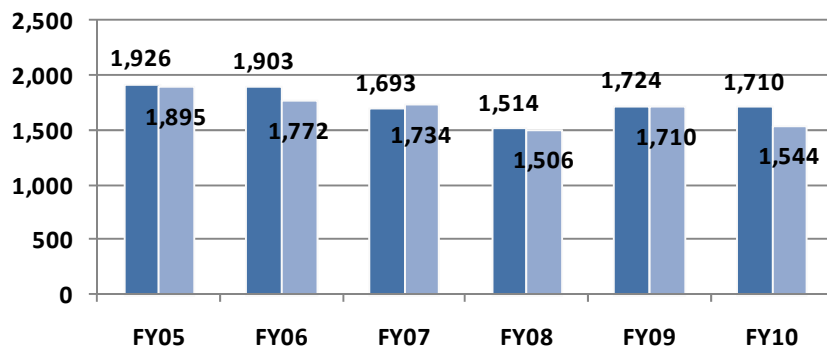
Cases Opened and Closed – By District

Fiscal Year 2005 to Fiscal Year 2010

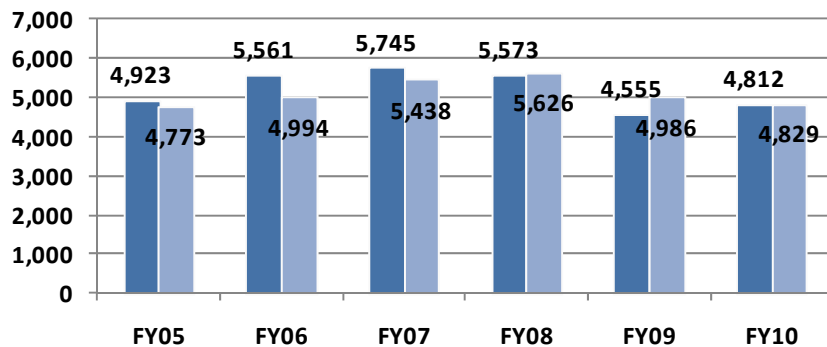
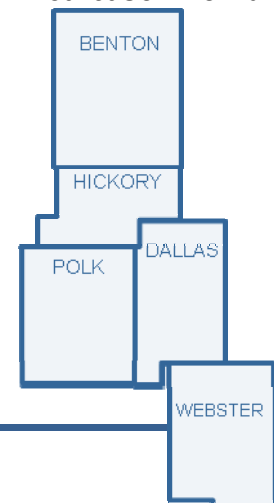
Opened
 Closed



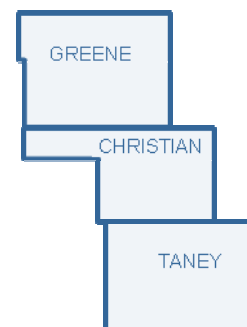
District 29—Carthage



District 30—Bolivar

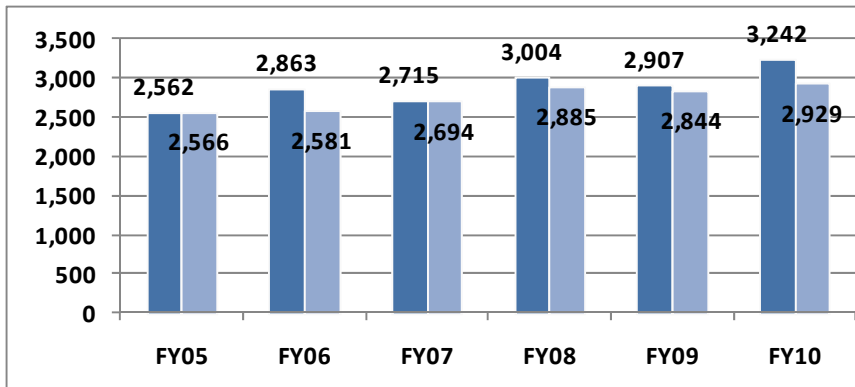


District 31—Springfield

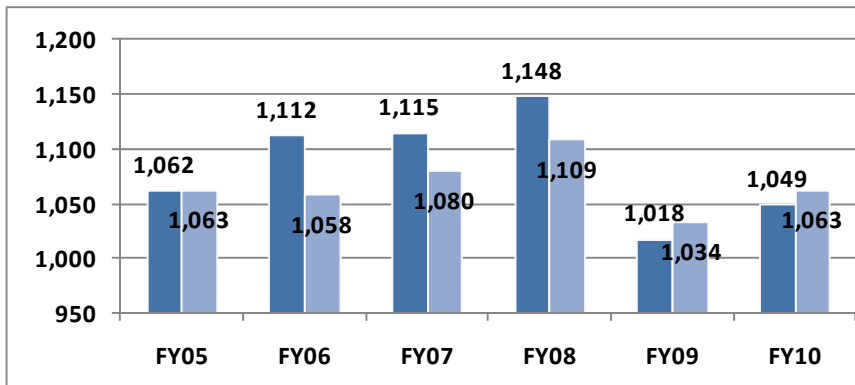
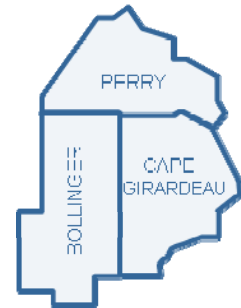


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

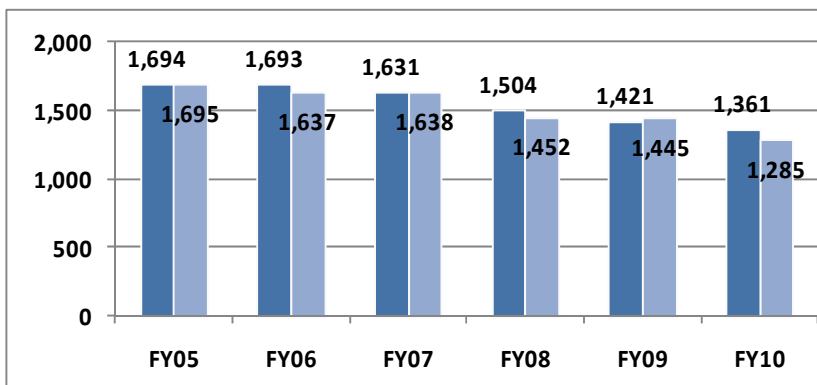
Opened
 Closed



District 32—Cape Girardeau



District 34—Caruthersville

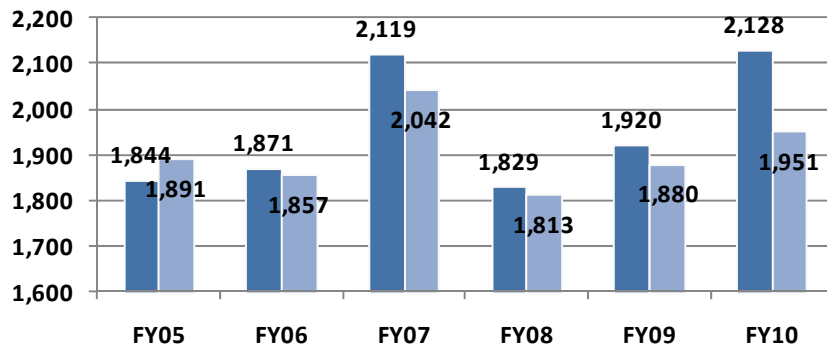


District 35—Kennett

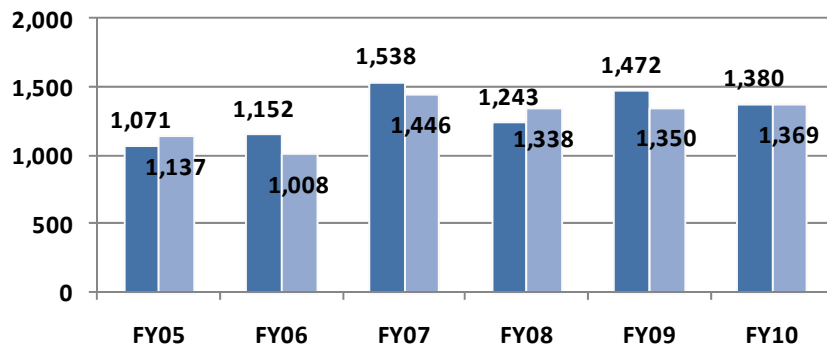
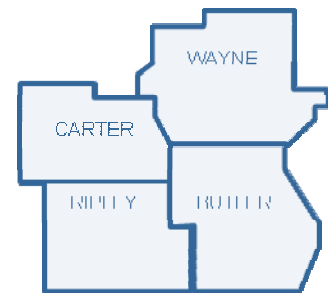


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

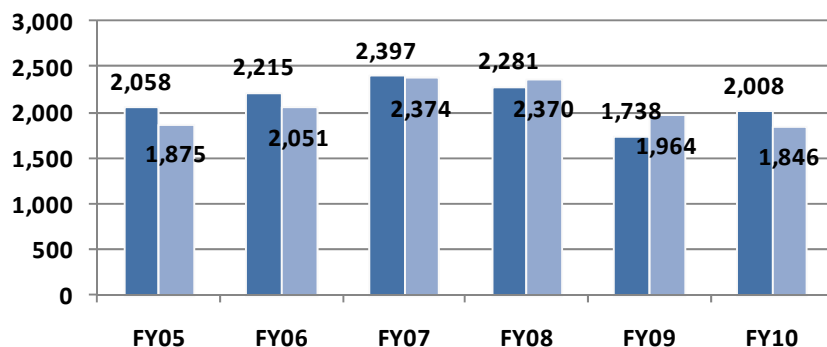
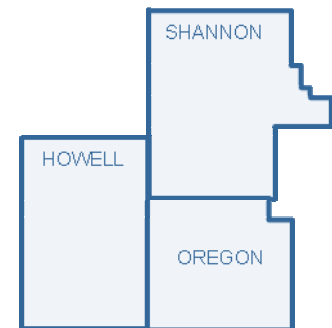
Opened
 Closed



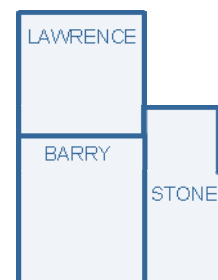
District 36—Poplar Bluff



District 37—West Plains

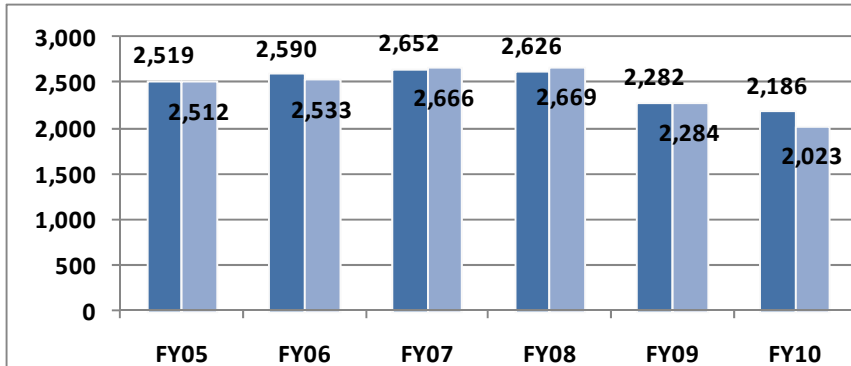


District 39—Monett

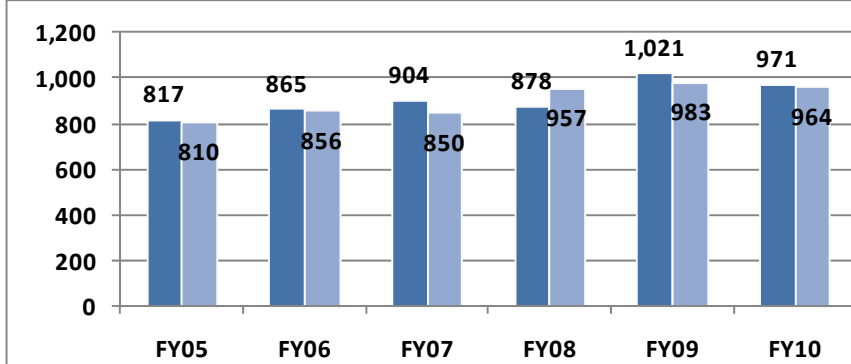
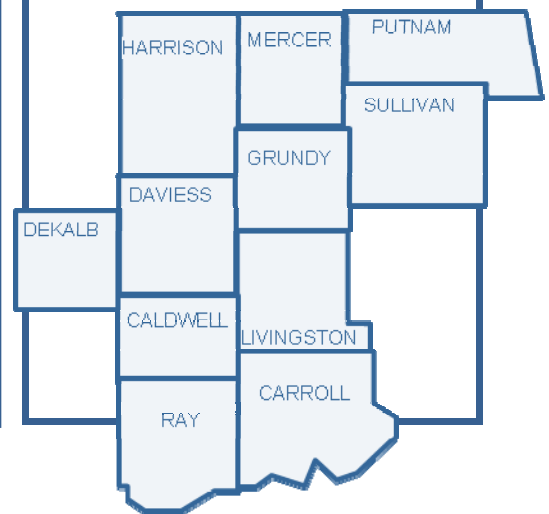


Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

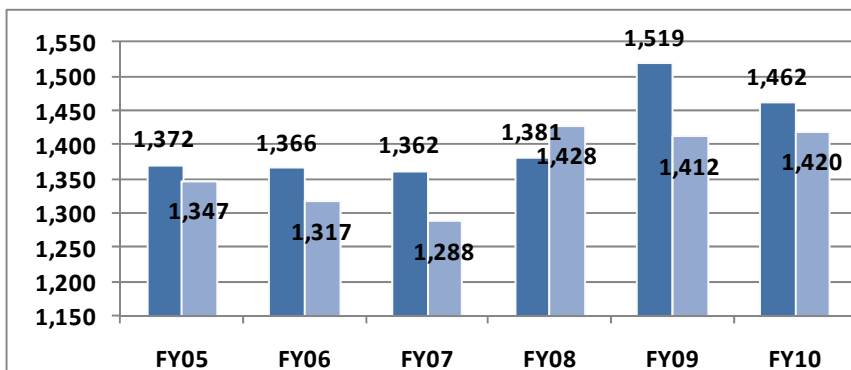
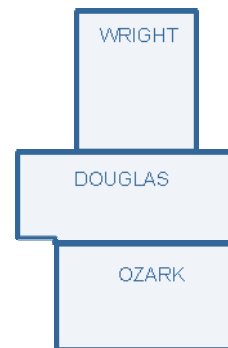
Opened
 Closed



District 43—Chillicothe



District 44—Ava



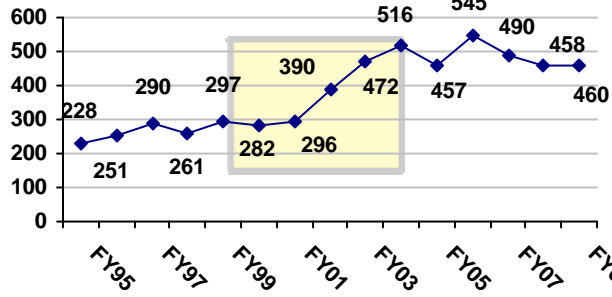
District 45—Troy



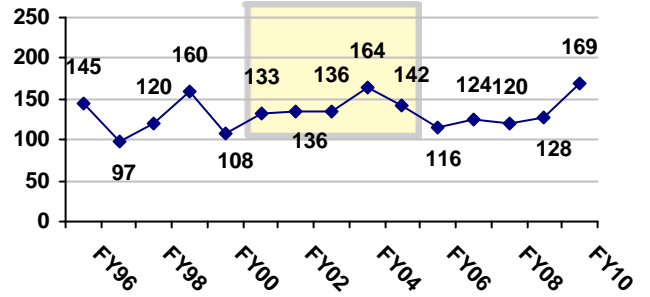
Fiscal Year 2010 Trial Division Opened and Closed by County								
County	Opened	Closed	County	Opened	Closed	County	Opened	Closed
ADAIR	539	547	GREENE	2975	3041	OZARK	216	213
ANDREW	177	169	GRUNDY	224	200	PEMISCOT	544	563
ATCHISON	83	82	HARRISON	139	145	PERRY	281	248
AUDRAIN	609	629	HENRY	530	509	PETTIS	601	599
BARRY	510	470	HICKORY	163	161	PHELPS	1,729	1,619
BARTON	257	265	HOLT	64	77	PIKE	320	292
BATES	380	394	HOWARD	150	157	PLATTE	819	725
BENTON	328	291	HOWELL	965	910	POLK	514	434
BOLLINGER	100	94	IRON	223	227	PULASKI	592	560
BOONE	4,548	4,362	JACKSON	7137	6982	PUTNAM	90	59
BUCHANAN	2,300	2,369	JASPER	2840	2774	RALLS	148	164
BUTLER	1,379	1,236	JEFFERSON	1748	1736	RANDOLPH	721	696
CALDWELL	229	225	JOHNSON	631	703	RAY	365	352
CALLAWAY	670	697	KNOX	42	27	REYNOLDS	78	58
CAMDEN	634	614	LACLEDE	834	752	RIPLEY	331	295
CAPE GIRARDEAU	1,447	1,304	LAFAYETTE	690	652	SALINE	348	319
CARROLL	172	150	LAWRENCE	603	557	SCHUYLER	63	46
CARTER	141	148	LEWIS	125	111	SCOTLAND	44	42
CASS	945	859	LINCOLN	1179	1158	SCOTT	841	807
CEDAR	327	313	LINN	205	207	SHANNON	302	289
CHARITON	90	94	LIVINGSTON	495	443	SHELBY	138	150
CHRISTIAN	831	820	MACON	242	206	ST. CHARLES	1,482	1,476
CLARK	125	127	MADISON	185	190	ST. CLAIR	160	145
CLAY	1,655	1,619	MARIES	117	125	ST. FRANCOIS	1,005	1,060
CLINTON	292	271	MARION	833	803	ST. LOUIS CITY	5,915	5,415
COLE	1,677	1,564	MCDONALD	411	413	ST. LOUIS COUNTY	4,164	3,912
COOPER	239	195	MERCER	83	91	STE. GENEVIEVE	243	230
CRAWFORD	676	639	MILLER	430	388	STODDARD	584	555
DADE	124	122	MISSISSIPPI	486	479	STONE	538	495
DALLAS	272	242	MONITEAU	99	90	SULLIVAN	105	105
DAVIESS	194	174	MONROE	96	99	TANEY	1,069	1,054
DEKALB	187	168	MONTGOMERY	279	280	TEXAS	434	452
DENT	416	328	MORGAN	395	376	VERNON	887	841
DOUGLAS	276	264	NEW MADRID	460	452	WARREN	493	483
DUNKLIN	849	786	NEWTON	961	932	WASHINGTON	447	404
FRANKLIN	1,440	1,444	NODAWAY	191	166	WAYNE	372	334
GASCONADE	204	237	OREGON	154	159	WEBSTER	543	482
GENTRY	78	69	OSAGE	82	71	WORTH	24	22
						WRIGHT	477	490
							80,893	77,715

15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

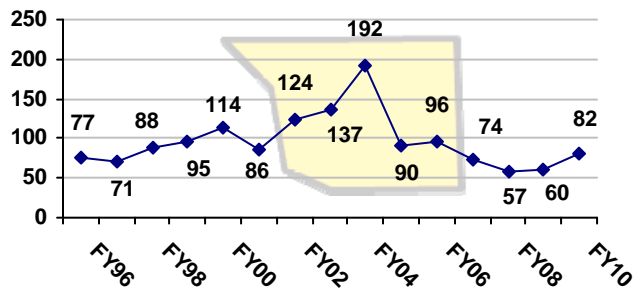
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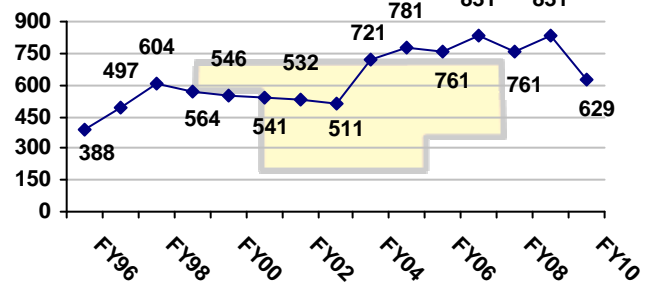
ANDREW



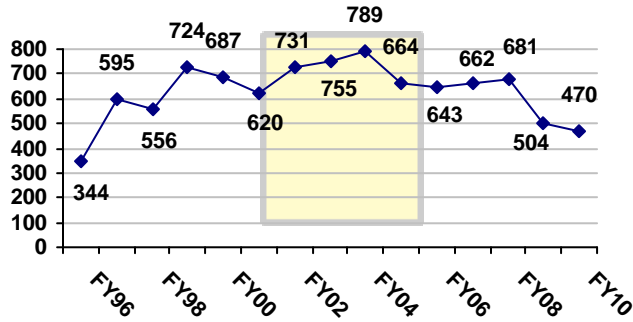
ATCHINSON



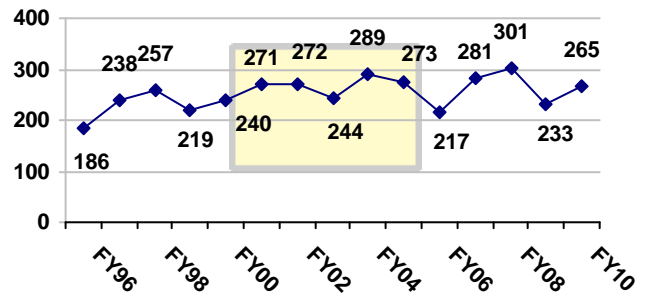
AUDRAIN



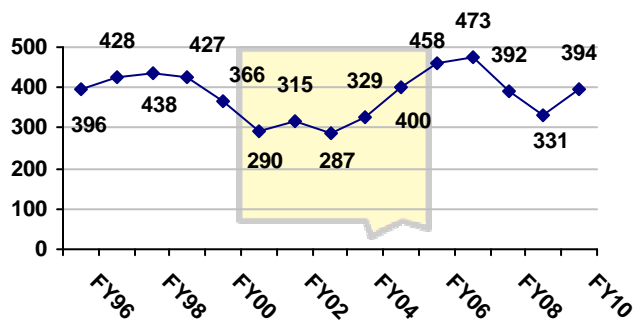
BARRY



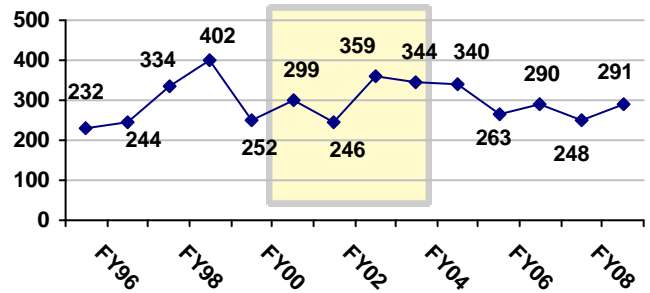
BARTON



BATES

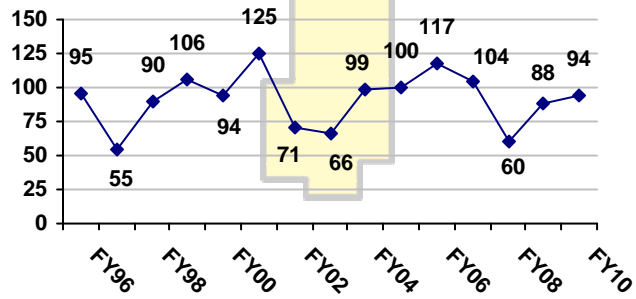


BENTON

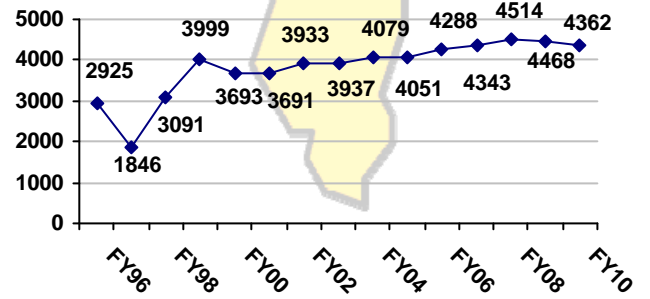


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

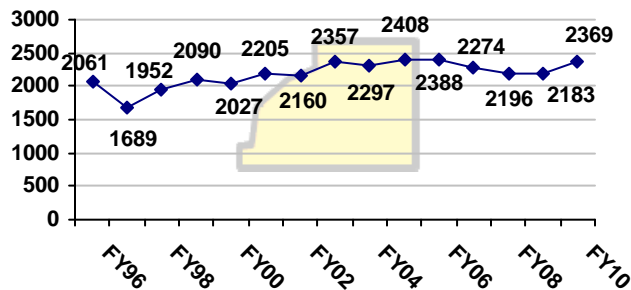
BOLLINGER



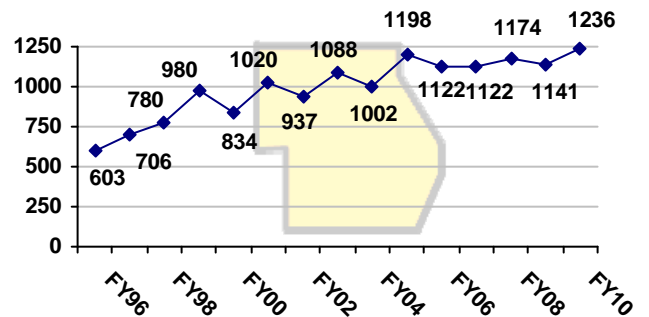
BOONE



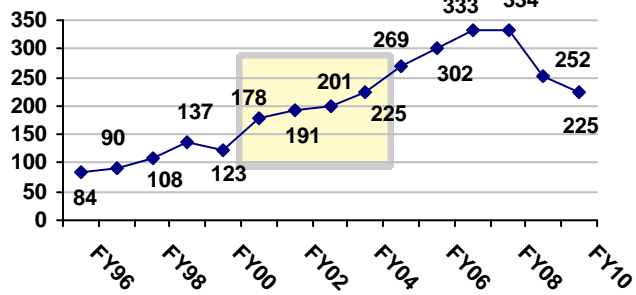
BUCHANAN



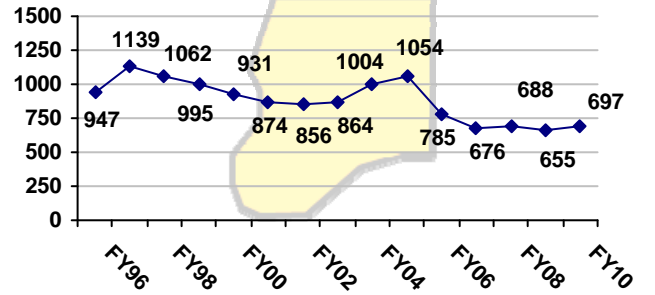
BUTLER



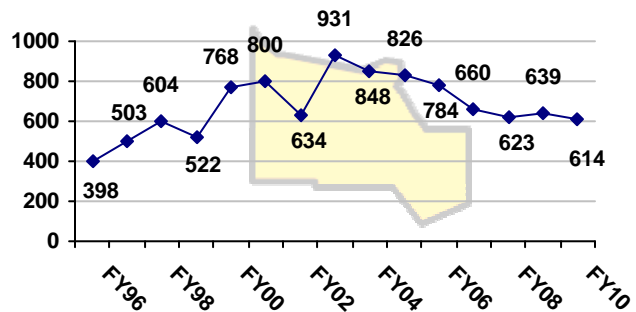
CALDWELL



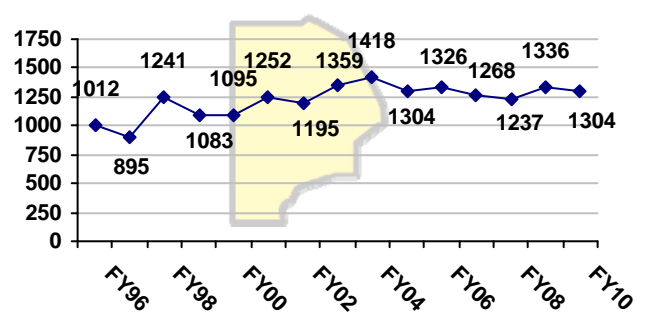
CALLAWAY



CAMDEN

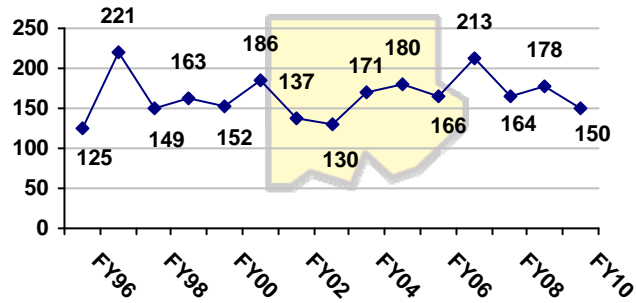


CAPE GIRARDEAU

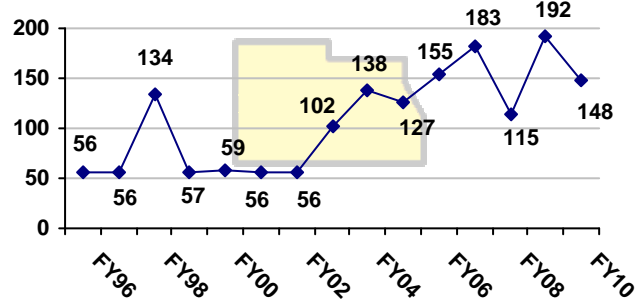


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

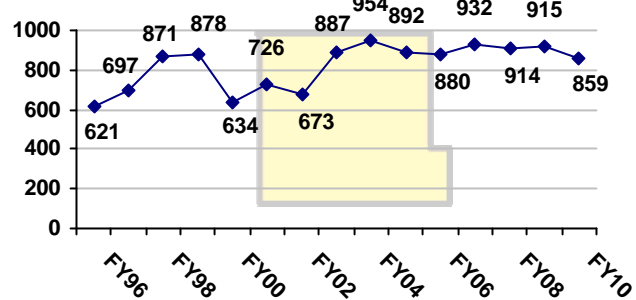
CARROLL



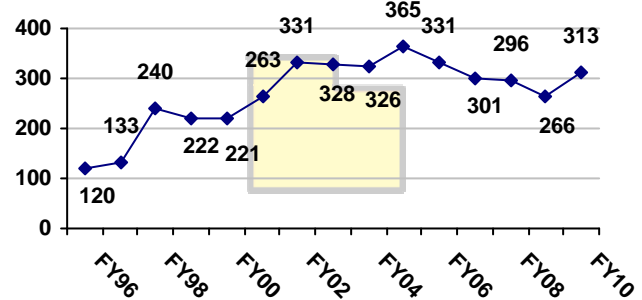
CARTER



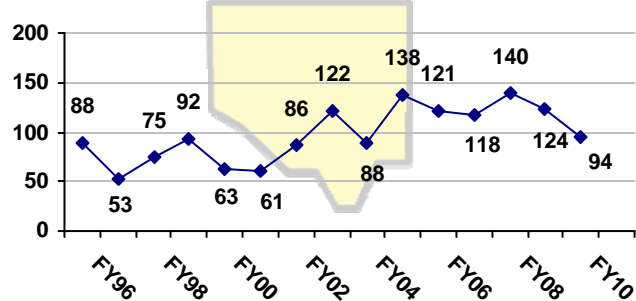
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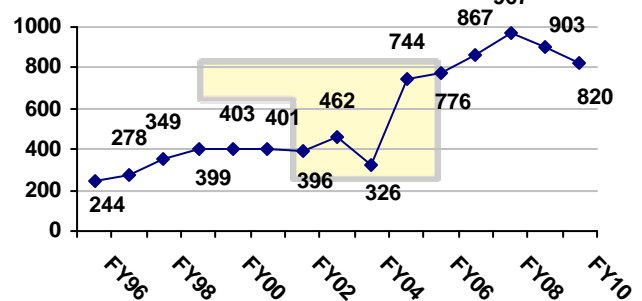
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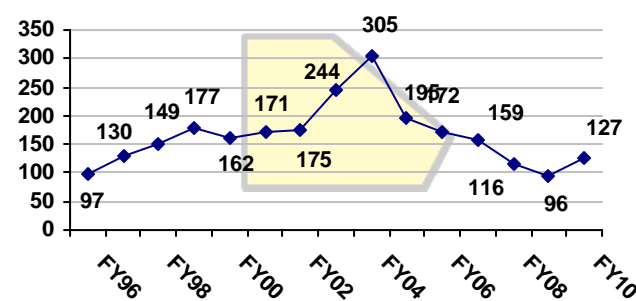
CHARITON



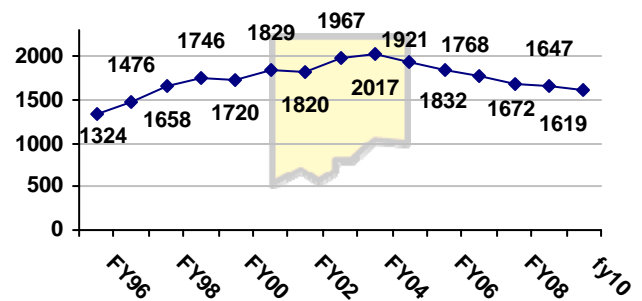
CHRISTIAN



CLARK

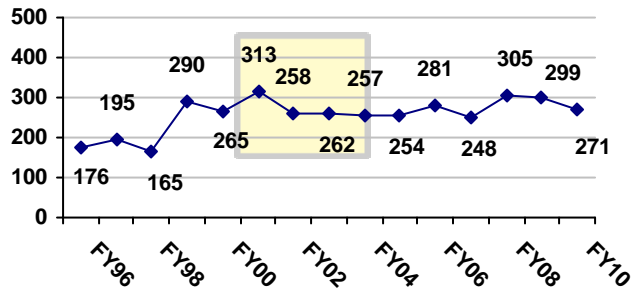


CLAY

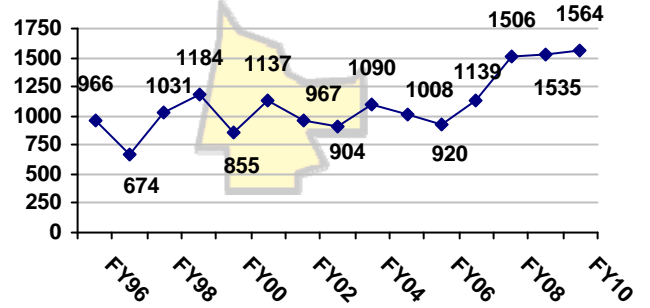


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

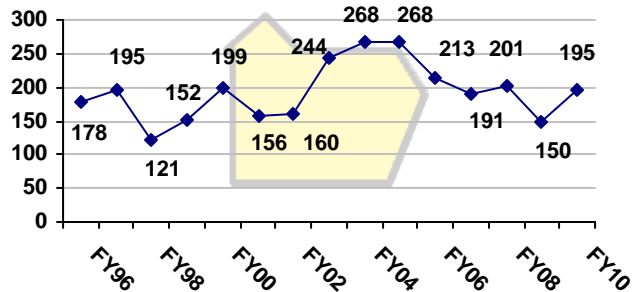
CLINTON



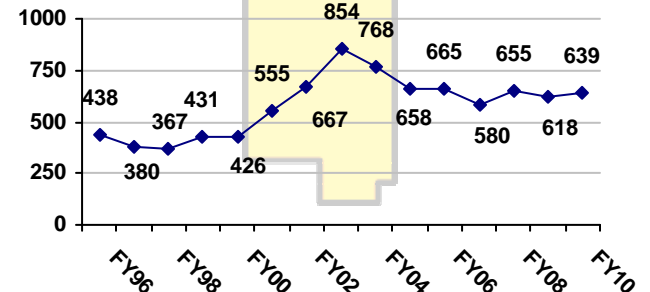
COLE



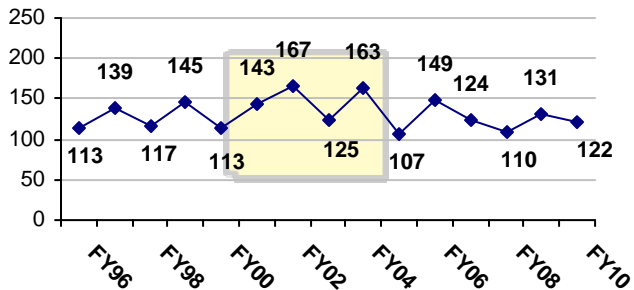
COOPER



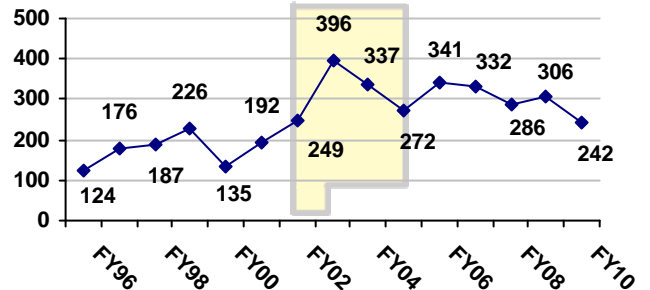
CRAWFORD



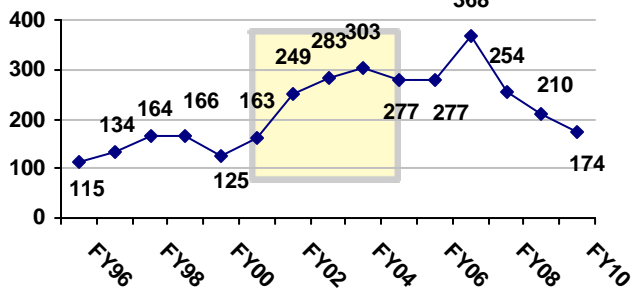
DADE



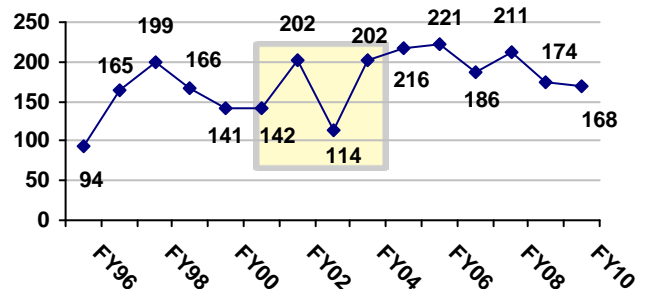
DALLAS



DAVIESS

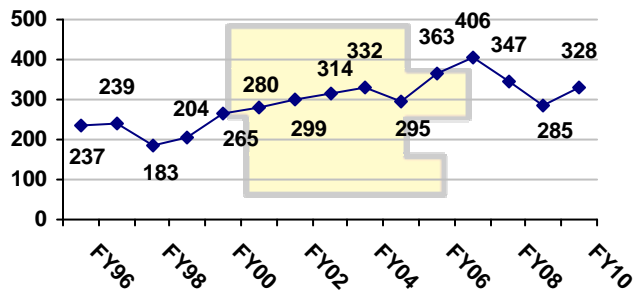


DEKALB

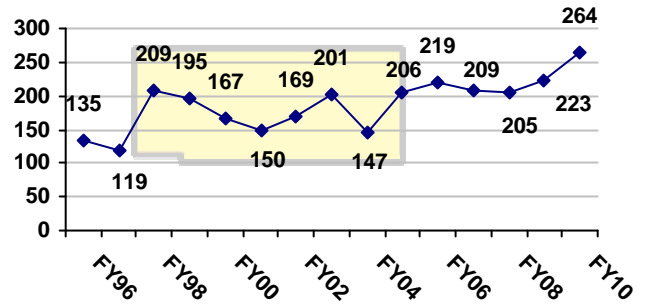


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

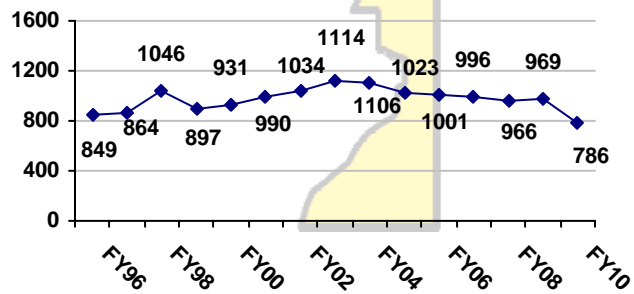
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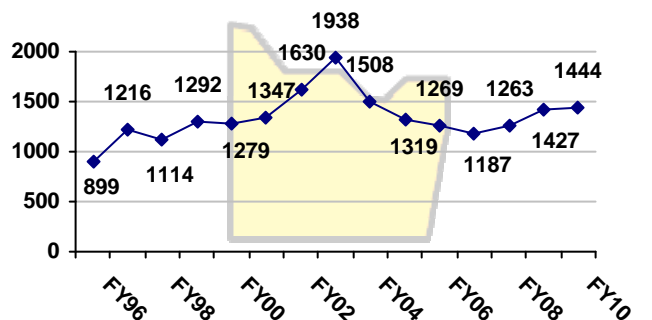
DOUGLAS



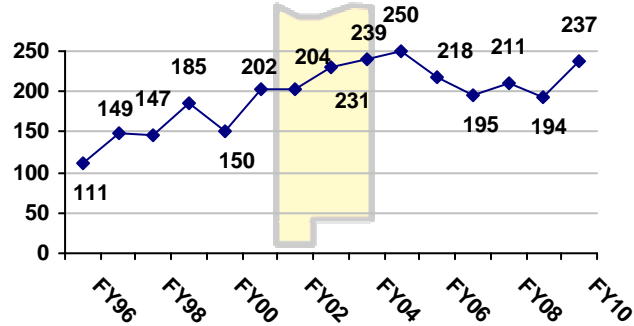
DUNKLIN



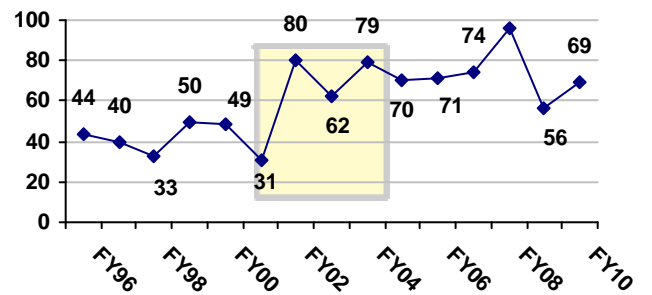
FRANKLIN



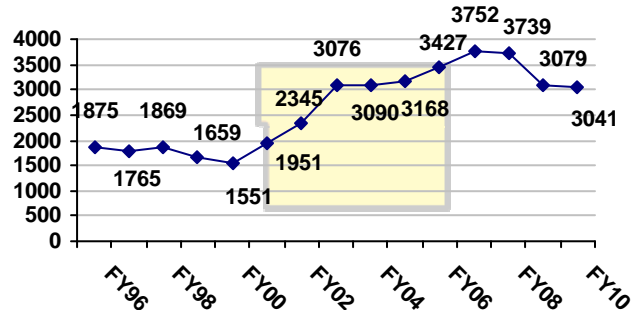
GASCONADE



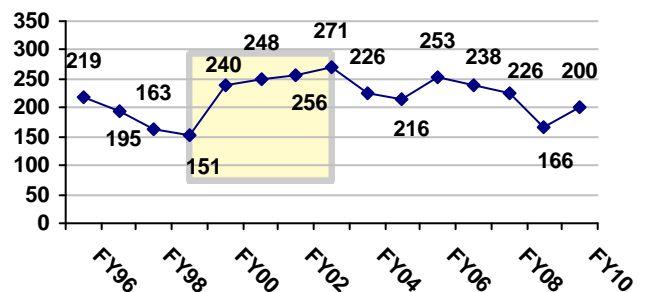
GENTRY



GREENE

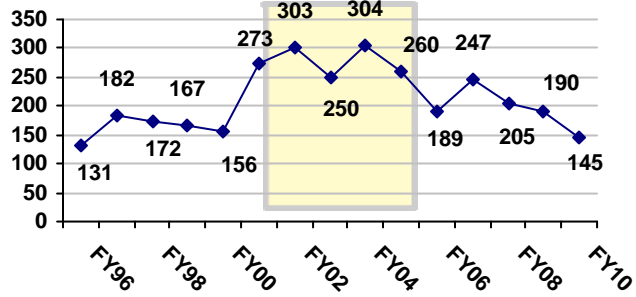


GRUNDY

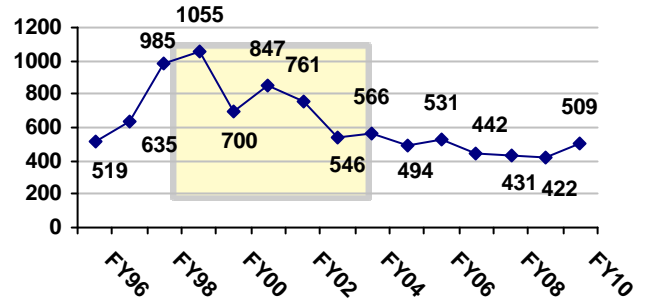


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

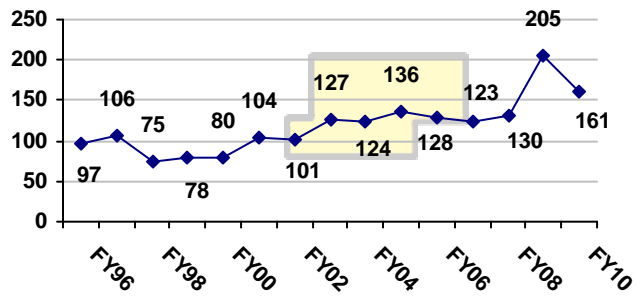
HARRISON



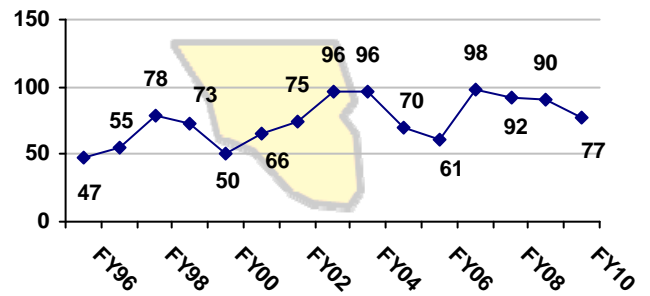
HENRY



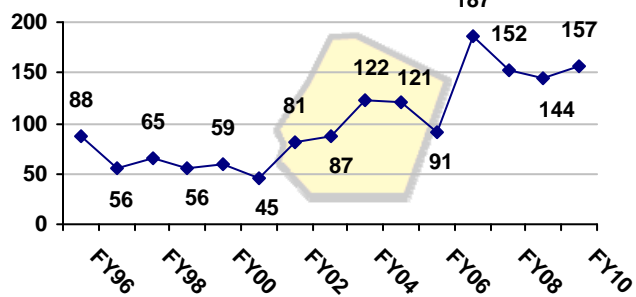
HICKORY



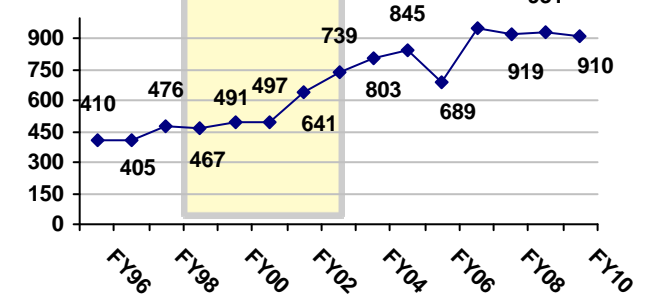
HOLT



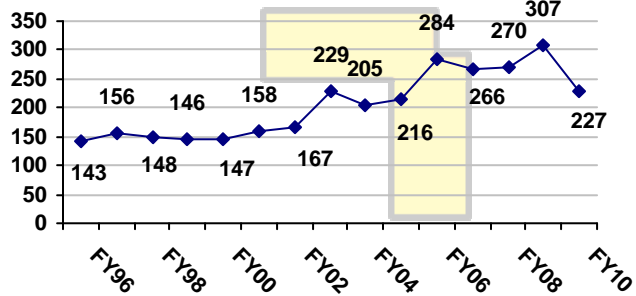
HOWARD



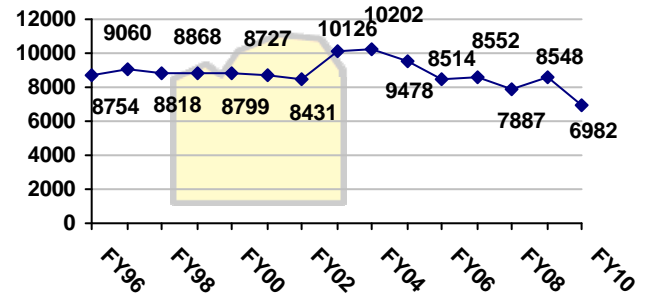
HOWELL



IRON

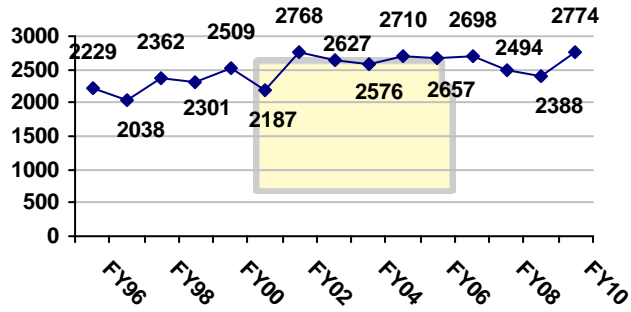


JACKSON

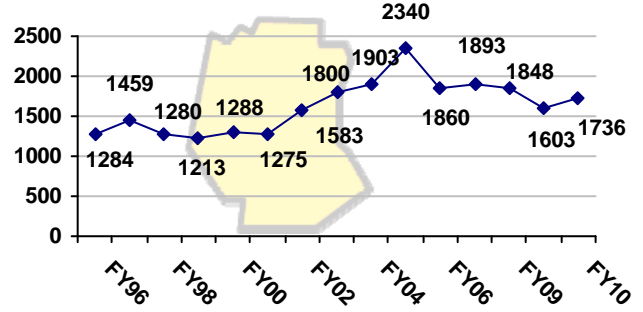


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

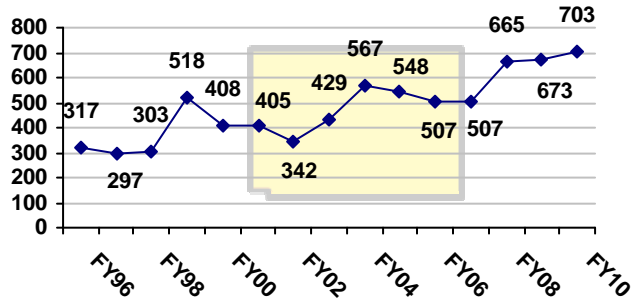
JASPER



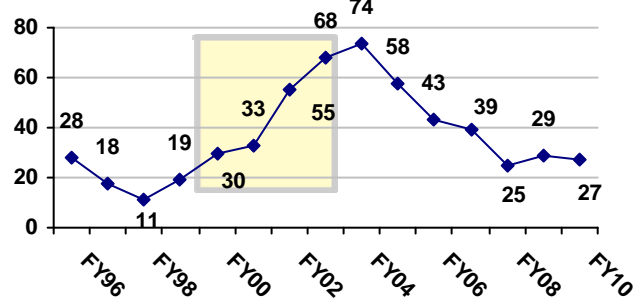
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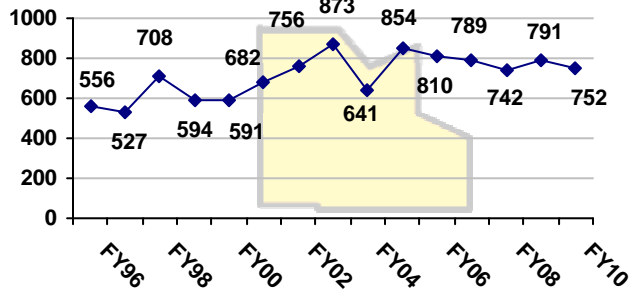
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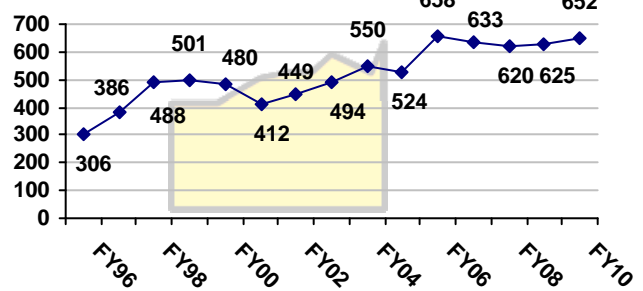
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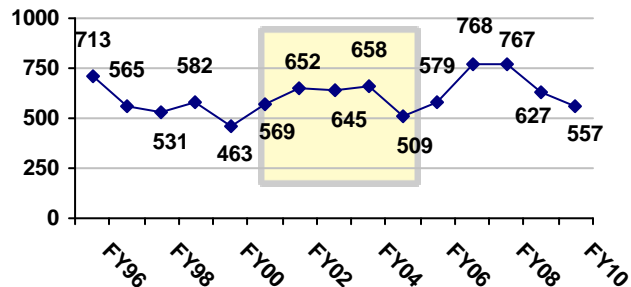
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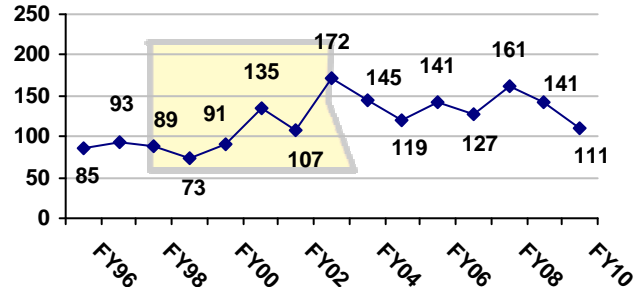
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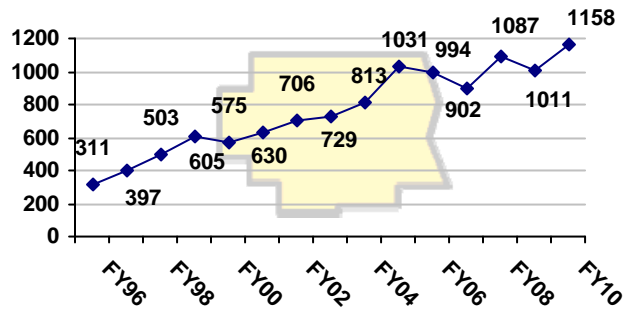


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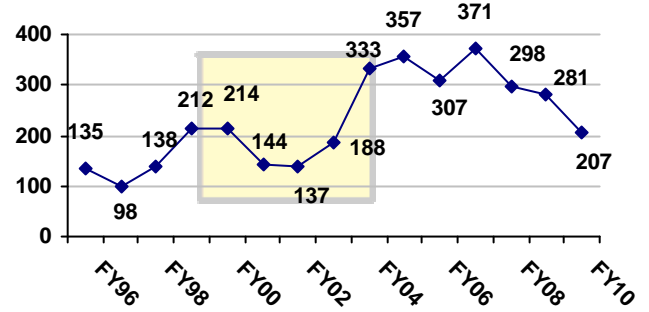


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

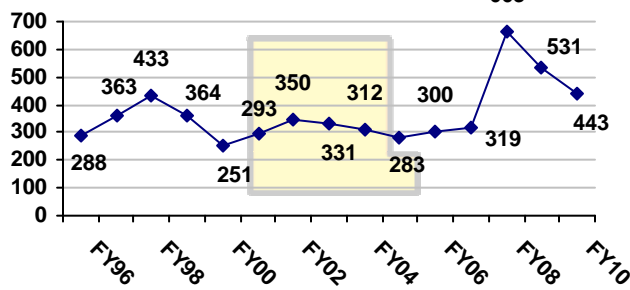
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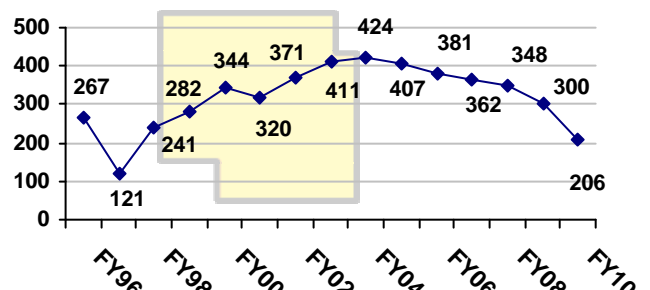
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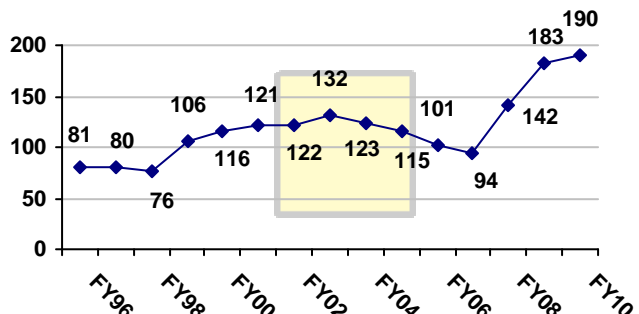
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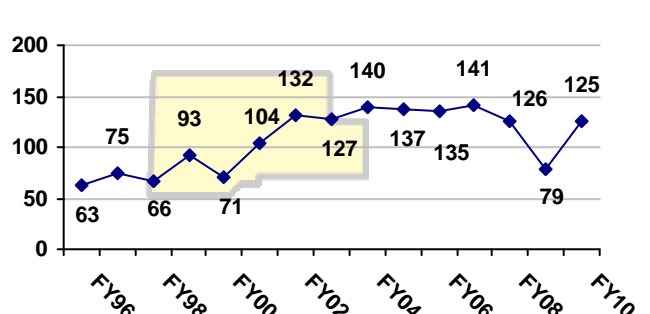
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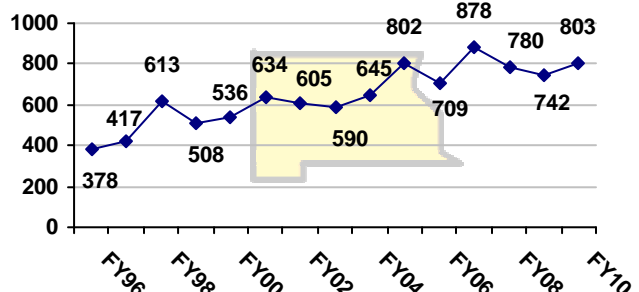
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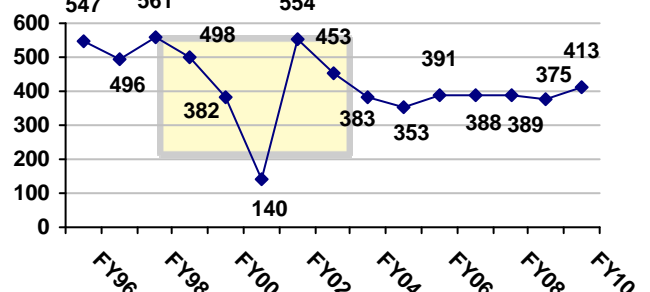
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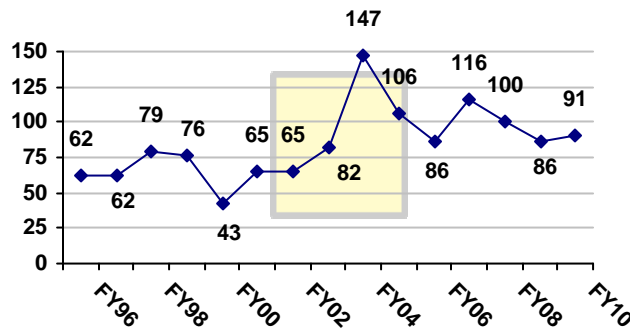


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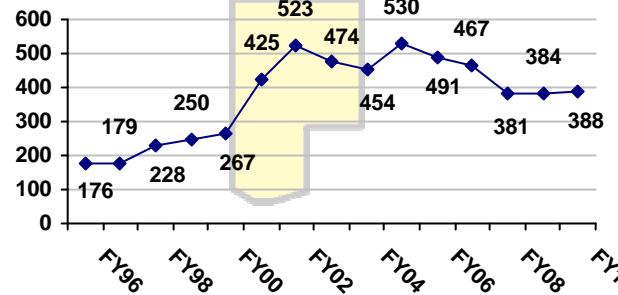


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

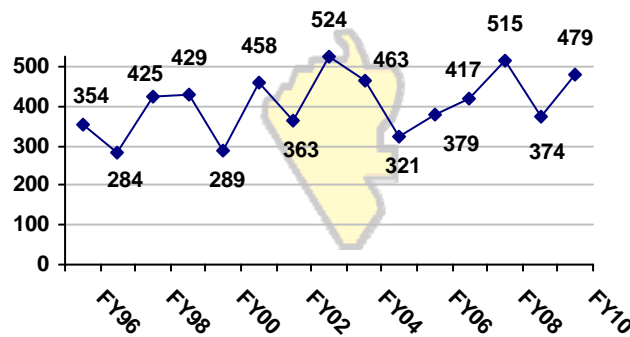
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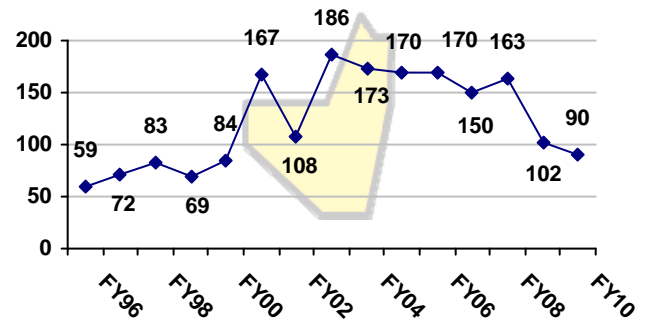
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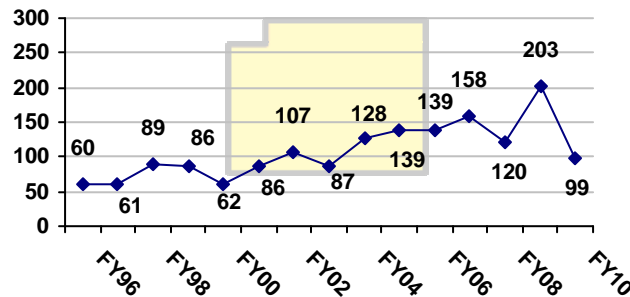
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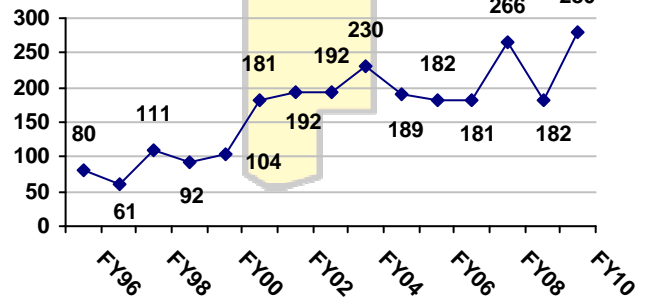
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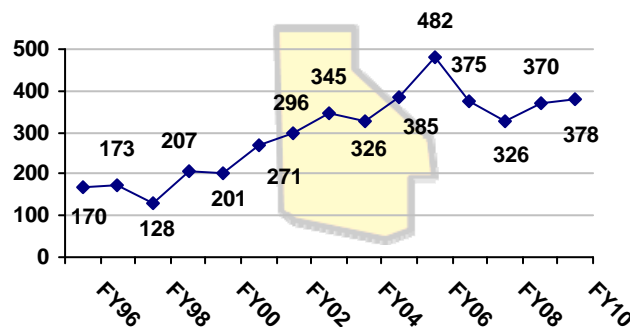
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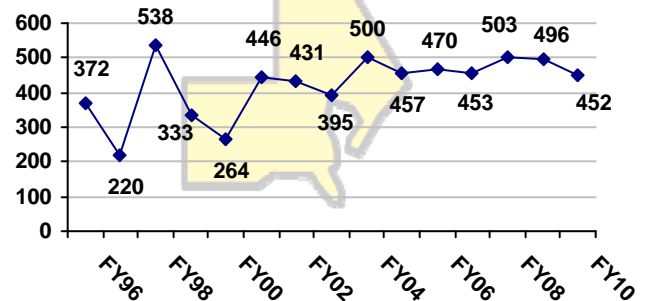
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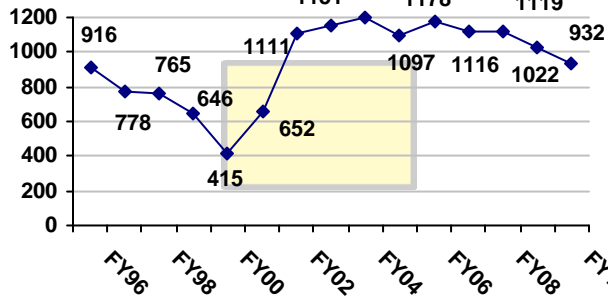


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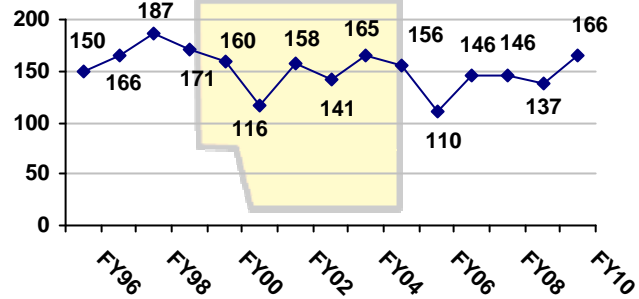


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

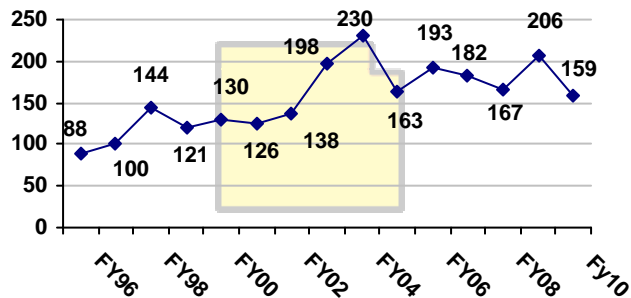
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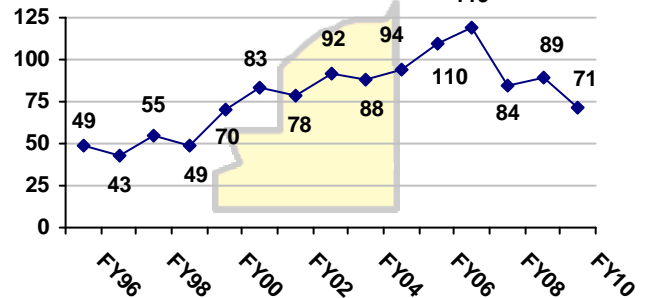
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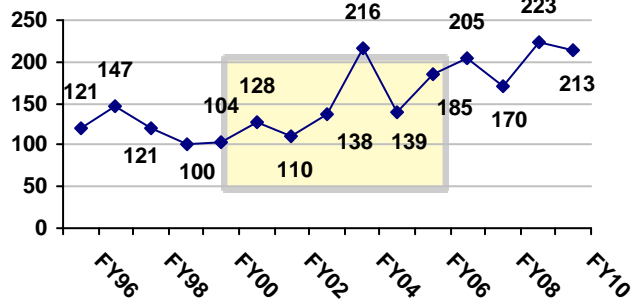
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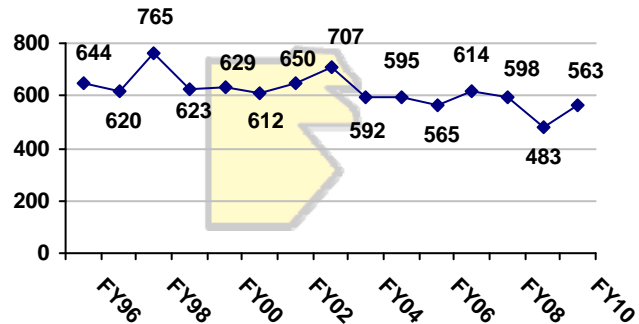
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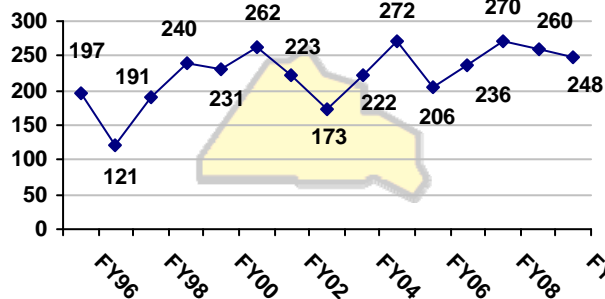
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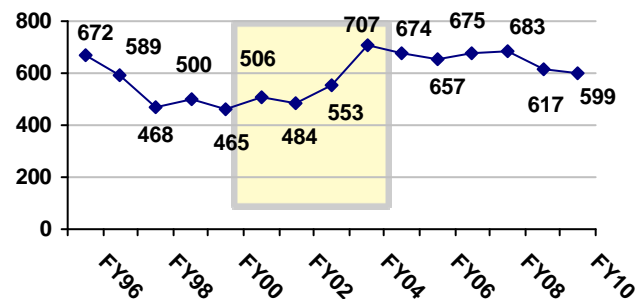
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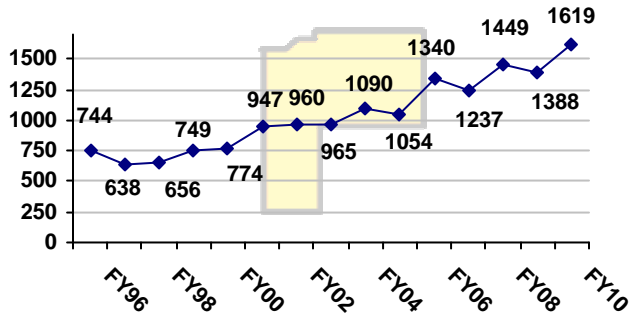


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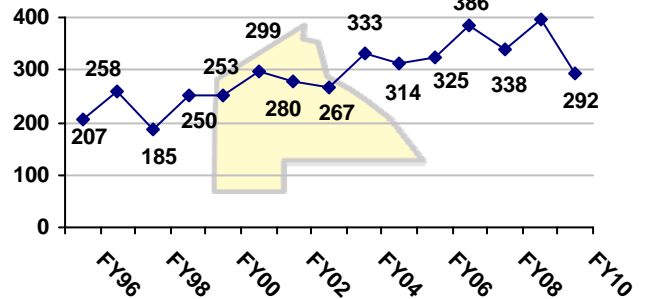


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

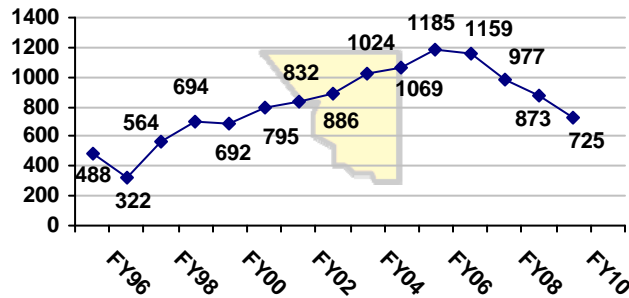
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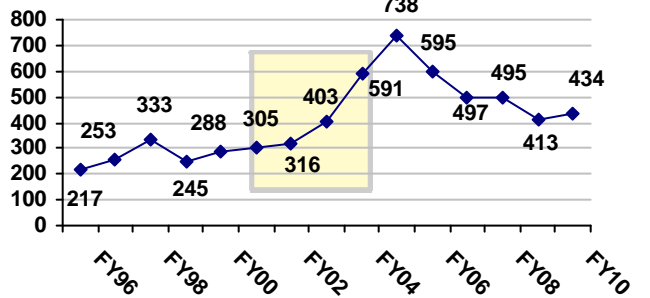
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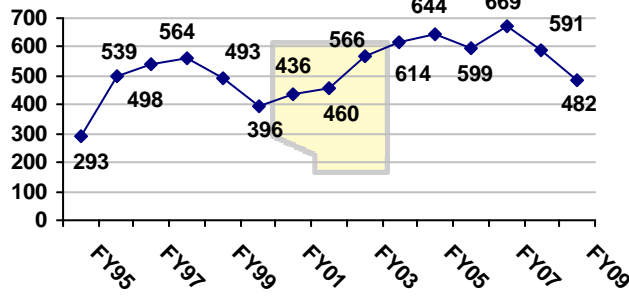
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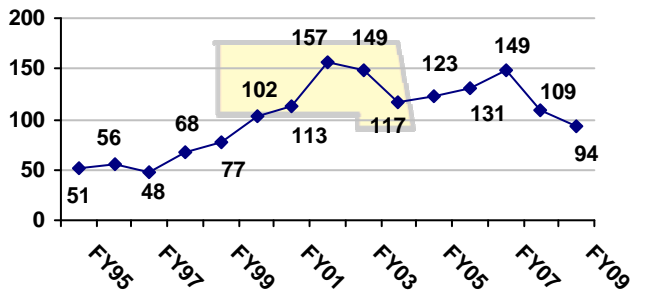
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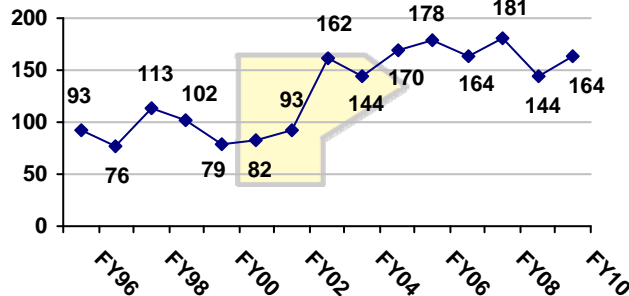
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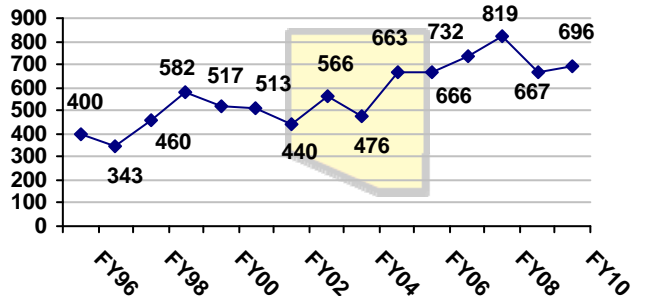
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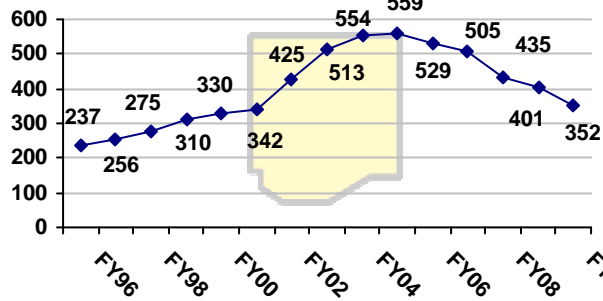


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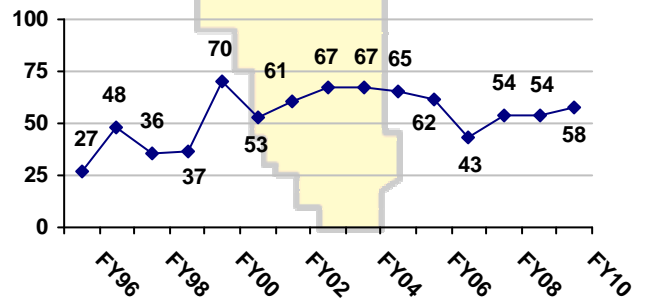


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

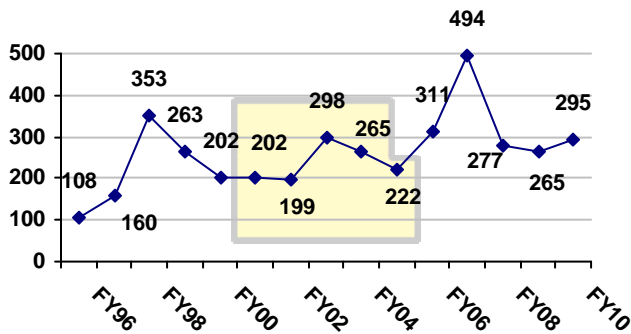
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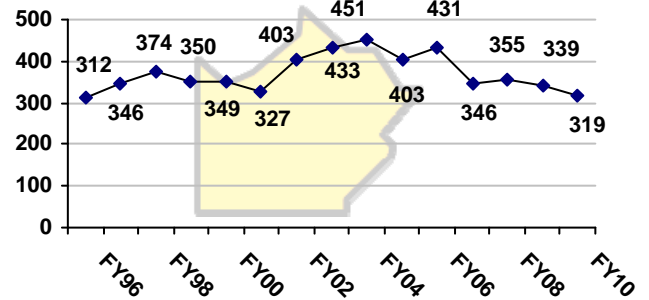
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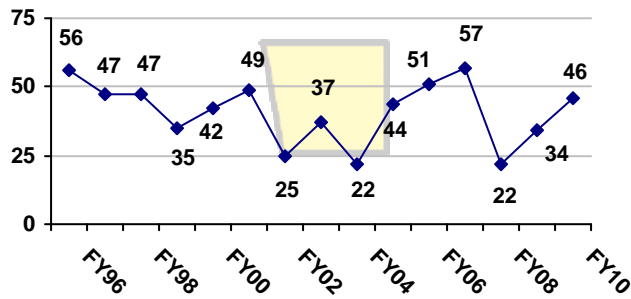
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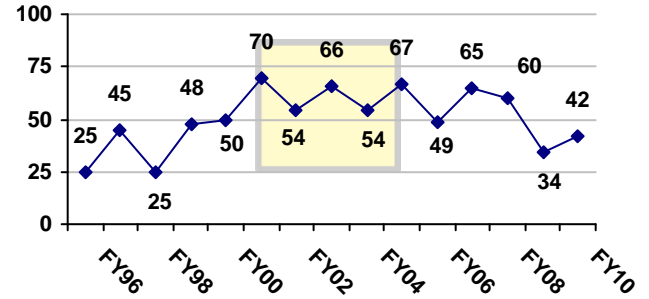
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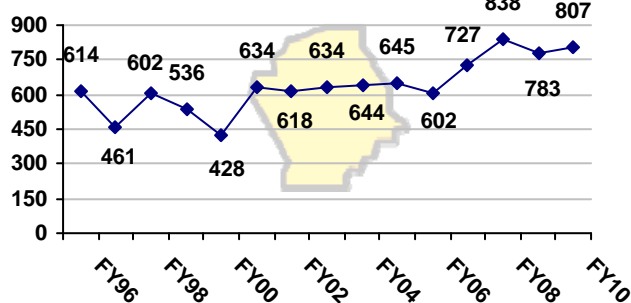
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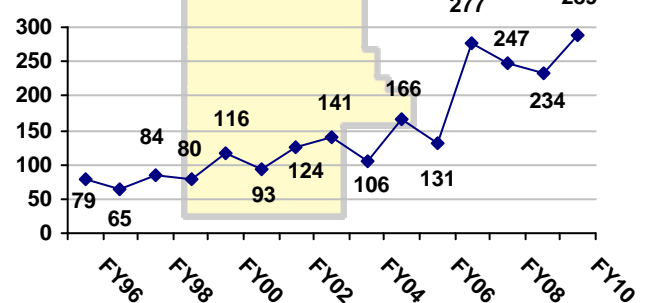
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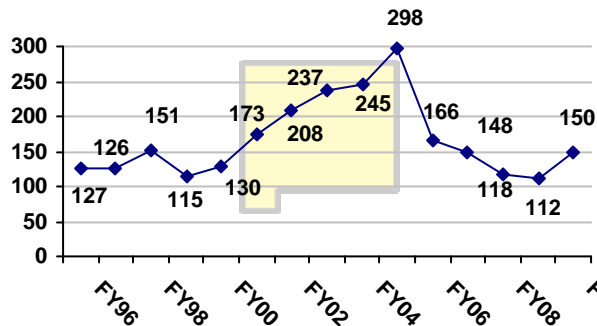


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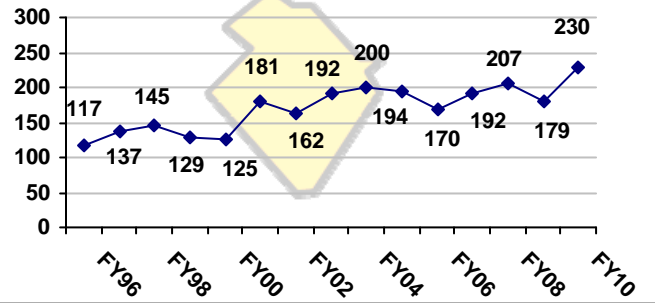


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

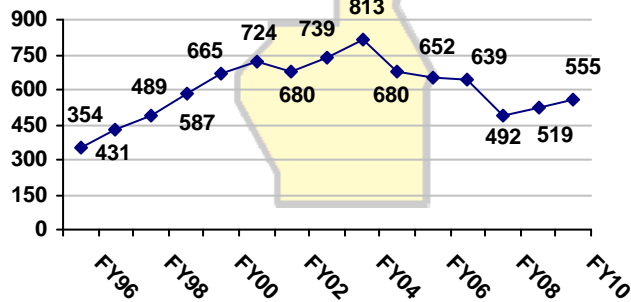
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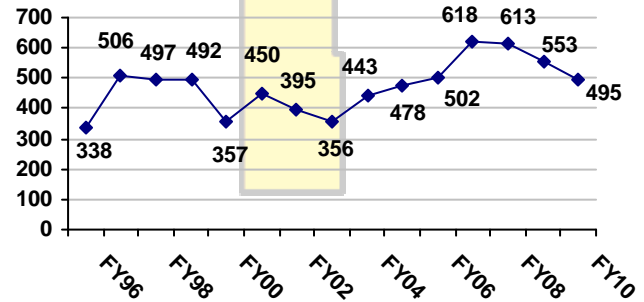
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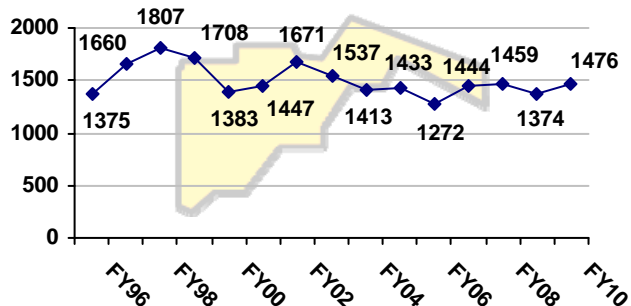
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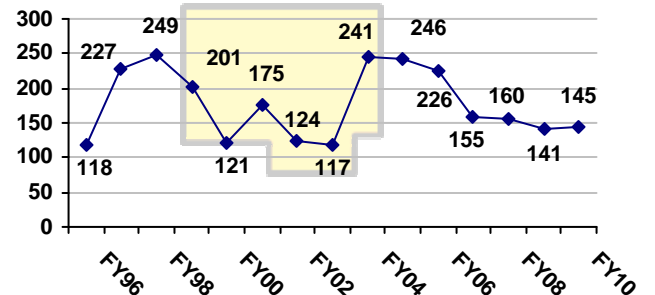
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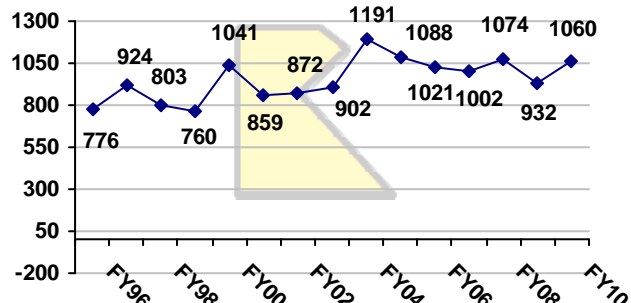
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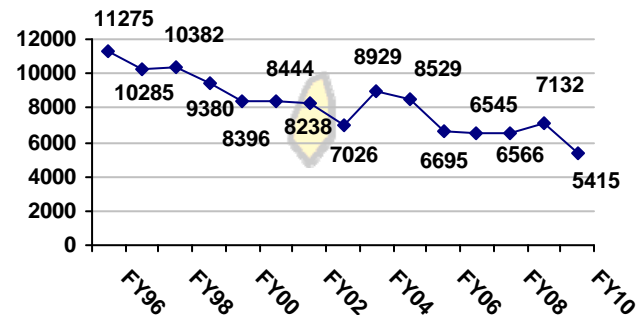
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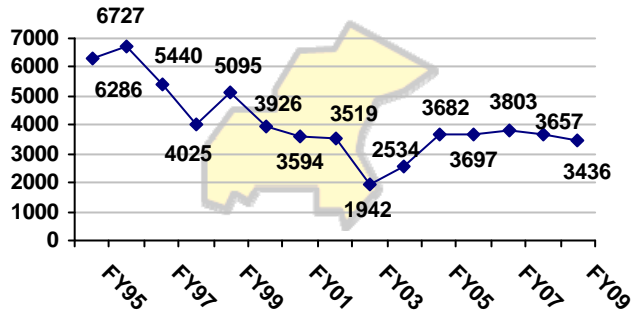


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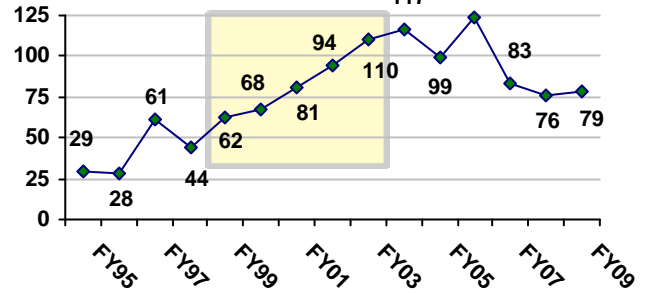


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

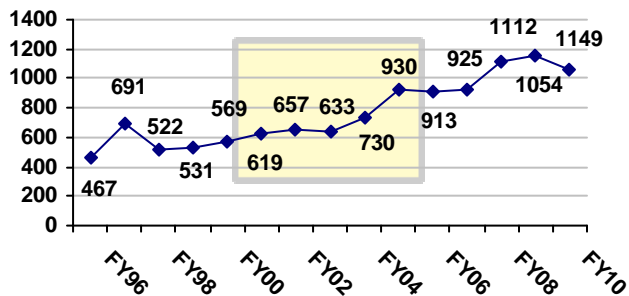
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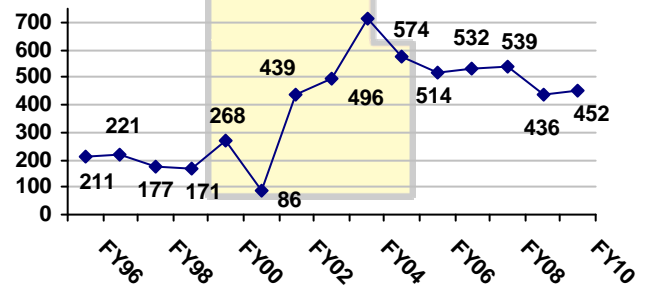
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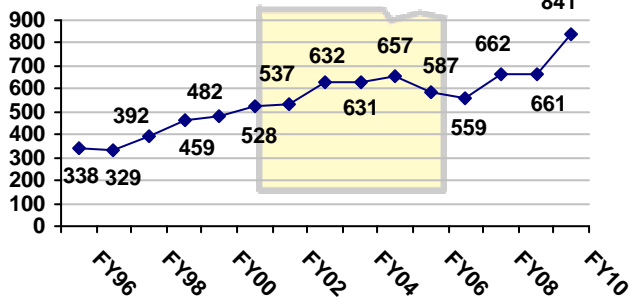
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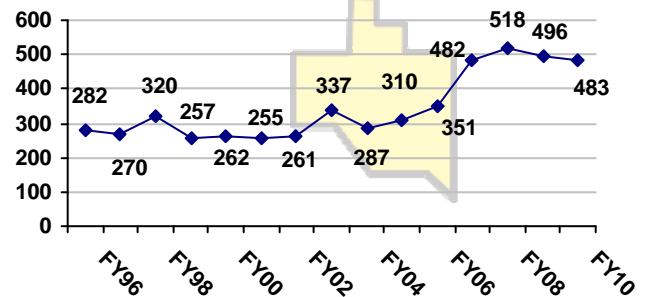
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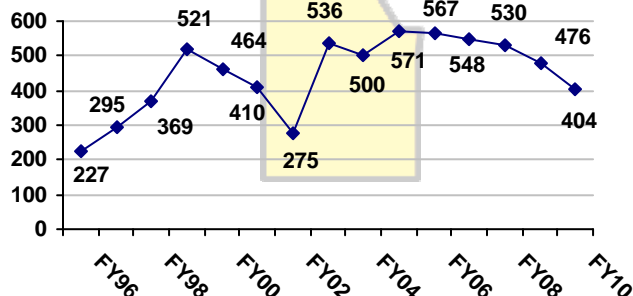
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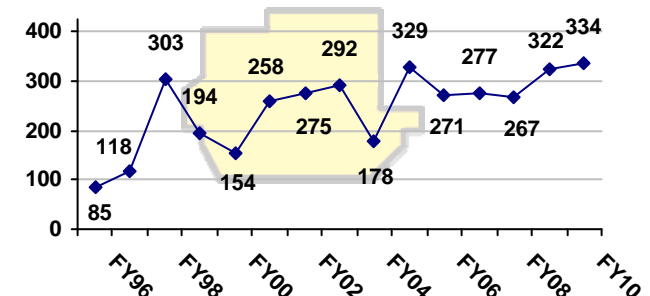
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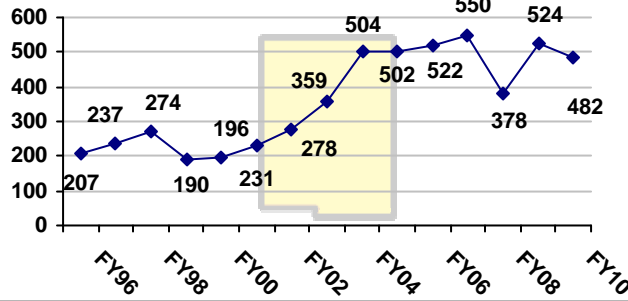


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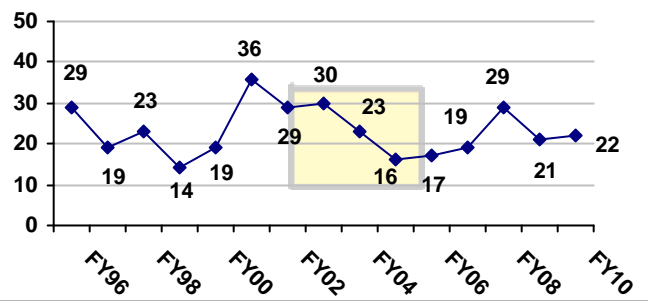


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

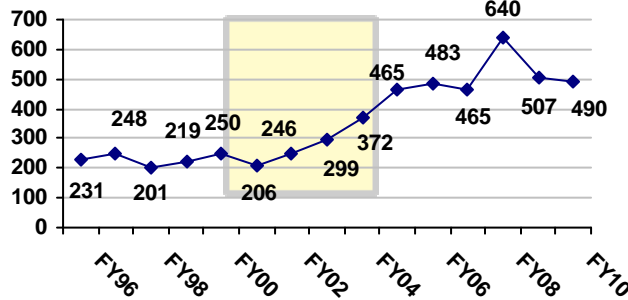
WEBSTER



WORTH



WRIGHT



FY2010 - Trial Division Closed Cases By Disposition Type		
	Description	# of Cases
01	Withdrawn	5,521
02	Dismissed/Withdrawn	10,597
03	NGRI	16
04	Guilty Plea	36,265
05	Court Trial	347
06	Jury Trial	355
10	Juvenile Hearing	1,195
11	Certification Hearing	44
12	Juvenile Informal Disposition	258
16	PCR: Hearing	1
20	Chapter 552	26
25	Probation Violation Hearing	17,036
30	Preliminary Writ Granted	0
32	Preliminary Writ Denied	2
35	Appeal Decision	3
41	Conflict Transfer	3,423
42	Conflict Assignment	955
43	Contract Assignment	661
50	Capias Warrant > than 1 year	838
00	Unknown	<u>173</u>
	Total Trial Division Closed Cases	77,716

Other Trial Division Caseloads

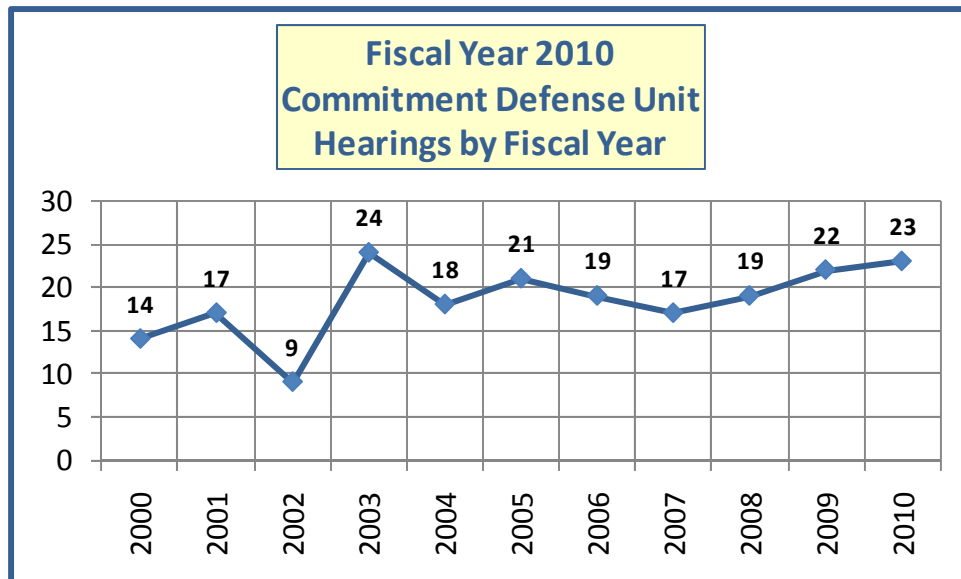
PETITIONS FOR RELEASE

One type of civil commitment in which public defenders are involved are those following a finding of Not Guilty by Reason of Insanity [NGRI]. A defendant found to be NGRI is automatically committed to the Department of Mental Health for treatment. Petitions for Release are the requests by those so committed to now be released from the Department of Mental Health. Some who have already been released from the mental institution on a conditional release are asking to be unconditionally released, free of the ongoing supervision and conditions of the Department of Mental Health. The question in both such petitions is whether the defendant's mental illness is sufficiently under control that he or she no longer poses a threat to themselves or to others. Unlike the SVP commitments discussed below, these petitions are litigated before a judge, rather than a jury.

Commitment Defense Unit

MSPD's Civil Commitment Defense Unit was created in Fiscal Year 2003 in response to Missouri's adoption of new 'Sexually Violent Predator' civil commitment laws. After a person who has been convicted of certain sexual offenses has completed his prison sentence, the state may seek to have him adjudicated as a 'sexually violent predator' and have him civilly committed to the state's Sex Offender Rehabilitation and Treatment Services institution in Farmington, MO. The public defenders working in MSPD's Civil Commitment Defense Unit [CDU] provide defense representation to these defendants during both their initial commitment proceedings and thereafter, at a to determine whether he or she remains a danger to the community or is eligible for release. Unlike the Petitions for Release following NGRI commitments, the review of SVP continued commitment includes a right to a jury trial.

At the time this program was created, MSPD received two additional attorneys to handle the anticipated increase in workload from these new commitment proceedings. Today, MSPD has had to pull three more lawyers from the overloaded Trial Division to help handle the growing CDU caseload.



Fiscal Year 2010 Commitment Defense Unit Caseload Statistics	
Opened in FY2010	# of Cases
Petitions for Commitment	21
Petitions for Release	<u>1</u>
Total Opened for 2010	22
Closed in FY2010	
Commitment Cases	
Guilty Pleas	0
Jury Trials	17
Bench Trials	6
Dismissal	1
Contract	2
Release Petition (Guilty Pleas)	1
Release Petition (Withdrawn)	<u>2</u>
Total Closed for 2010	29

MISSOURI STATE PUBLIC DEFENDER SYSTEM

Commitment Defense Unit

Roscoe Miller, District Defender
 115 Lincoln Street
 Carthage, MO 64836
 417-359-8489 FAX: 417-359-8490

Jeffrey Griffin, Attorney
 Randy Schlegel, Attorney
 920 Main Street, Suite 500
 Kansas City, MO 64105
 816-889-7699 Fax: 816-889-2001

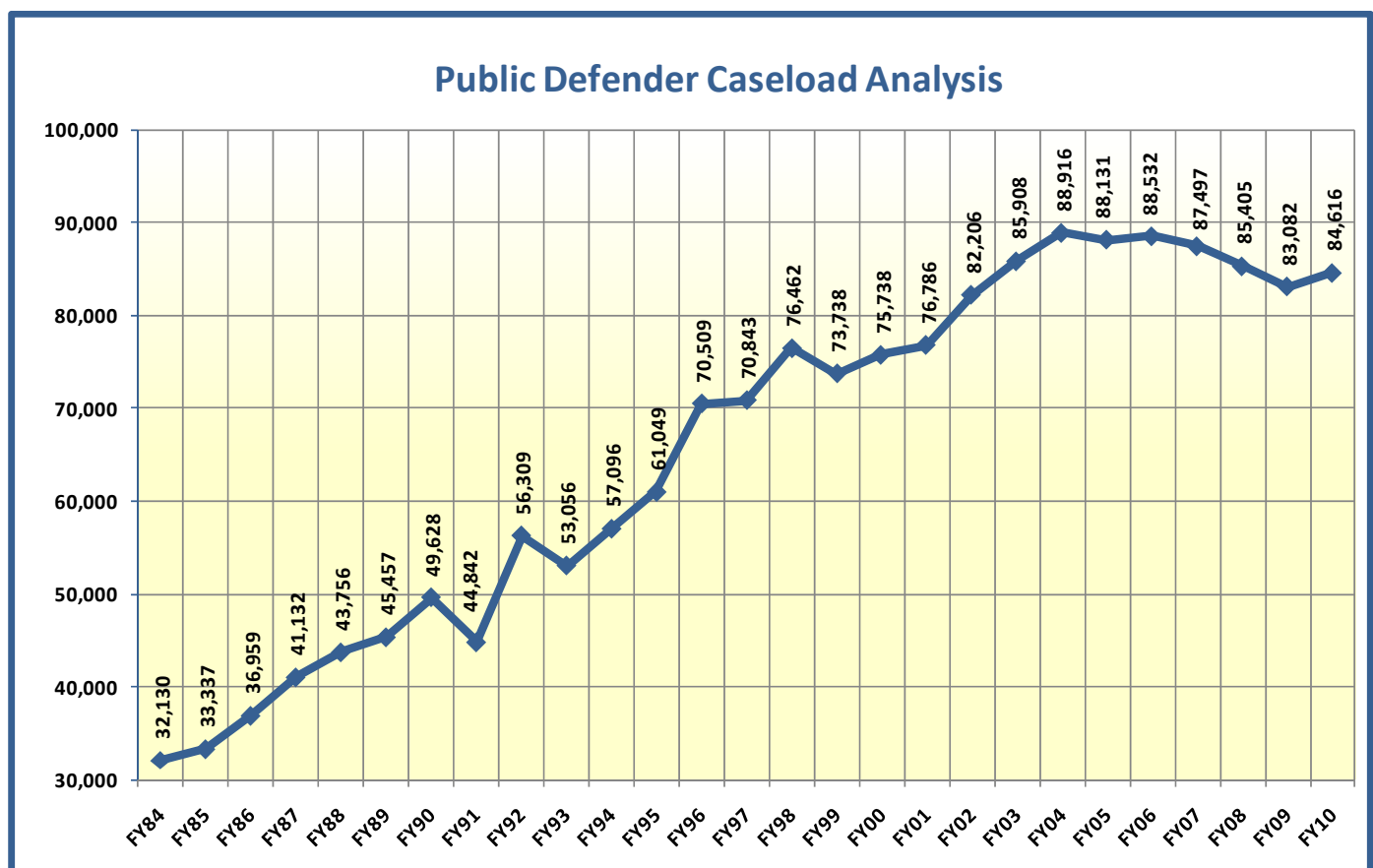
Vacant, Attorney
 100 South Central, 2nd Floor
 Clayton, MO 63105
 314-615-4778 FAX: 314-615-0128

IS CASELOAD DROPPING FOR MISSOURI DEFENDERS?

A look at the chart of MSPD's caseload from 1984 to the present shows a leveling out in caseload growth over the last several years, in contrast to the steady upwards growth of the preceding twenty years. Unfortunately, this is not due to a reduction in the number of people needing public defenders, but a direct and problematic result of the case overload under which public defenders struggle.

A comparison of this caseload graph with the timeline of efforts to address the crisis in Missouri's indigent defense system (see p. 4) shows that the 'leveling off' directly corresponds with the growing awareness of, and attempts to address, the case overload facing Missouri's public defenders.

Periodic volunteer lawyer initiatives by state and local bar associations have pulled some cases from the public defender caseload. Still more cases are being handled without appointment of counsel at all. Some of these are being directed into diversion programs, which result in a dismissal of all charges if some condition, such as payment of restitution is met. Many of the minor traffic cases are being continued without appointment of counsel to see if the defendant can get his license reinstated by the Department of Revenue, after which the case is dismissed or reduced to a non-jail time offense that does not trigger the constitutional right to counsel. All of these options arguably work well for the defendants, as well as offer some caseload relief to the public defender. Of greater concern are the increasing numbers of misdemeanor defendants who are being encouraged to waive their right to counsel in return for an offer of probation, usually without an opportunity to consult with an attorney even about that decision in their circumstances. While the practice is helping to reduce public defender caseloads in some areas, it raises its own constitutional concerns and should not be looked at as a long term solution.



Public Defender Appellate/PCR Division

MSPD's Appellate/PCR Division consists of six offices, with two offices located in St. Louis, two in Columbia, and two in Kansas City. In St. Louis and Kansas City, both offices do both appeals and PCR's and handle conflict cases for one another. Having a second office down the hall avoids having to transfer conflict cases to an attorney on the other side of the state. In Columbia, one office handles exclusively appeals and the other office handles exclusively post-conviction cases.

Appeals: Direct appeals are the first step in seeking to set aside or overturn a conviction after a trial. The process involves asking the Court of Appeals and /or the Missouri Supreme Court, to review and grant relief because of mistakes made by the trial court. The work of attorneys on these cases includes reviewing for error the trial transcript, the trial court file, all the legal documents, and evidence introduced in the case; and then presenting to the appellate courts, through written briefs and oral argument, the errors that were made in the lower court and the law supporting relief. MSPD's appellate attorneys handle cases in the Eastern, Western, and Southern Courts of Appeal and both the Missouri and U.S. Supreme Court.

Post-conviction Cases: Post-Conviction cases (or PCR's) are collateral attacks on a conviction after the appellate process has been exhausted, and can include challenges to the legitimacy of the appellate process in a case as well as of the trial court proceedings. Unlike an appeal, which can only follow a trial, a PCR can also be filed after a guilty plea. These proceedings are conducted in the circuit courts in all 114 counties across the state + the City of St. Louis and include capital as well as non-capital cases.

In a post-conviction case, the focus is on constitutional violations that could not be corrected at the appellate level. E.g., if an attorney fails to object at the right time at a trial, the trial court's mistake is not preserved for appeal and the appellate court will usually not review it. However, through a PCR proceeding, a court can examine the attorney's failure to make the right objection and the likelihood the defendant would have gotten relief on appeal had the attorney done it correctly. If the court in the PCR hearing finds that, but for the attorney's ineffectiveness, the defendant likely would have had a different result, relief may be granted.

Attorneys handling PCR cases must do much of the same work as their appellate counterparts -- reviewing the trial transcript, the trial court file, all the legal documents, and evidence introduced in the case; but instead of then writing briefs and doing oral arguments for the appellate court, they draft motions to set aside the conviction and conduct evidentiary hearings at the circuit court level. To prepare for these, the PCR attorneys must figure out what the trial attorney should have done, but didn't, and then do it themselves. This can include a fair amount of case re-investigation, such as locating and presenting witnesses the trial attorney failed to locate or present, presenting the testimony of an expert the trial attorney failed to obtain, or putting on new evidence of innocence that was never provided by the state prior to trial. If a post-conviction claim is denied at the lower court level, there is a right to an appeal of that denial.

Private Attorney Cases: In addition to the direct appeals and post-conviction matters arising out of cases initially handled at the trial level by public defenders, our Appellate/PCR attorneys get many cases from the private bar. It is frequently the case that the money to pay counsel has run out by the time a trial is complete and the appellate and post-conviction processes therefore fall back to the public defender.

MISSOURI STATE PUBLIC DEFENDER SYSTEM

Appellate Division

Appellate Central District 50

Ellen Flottman, District Defender
Woodrail Centre
1000 West Nifong—Building 7, Suite 100
Columbia, MO 65203
573-882-9855 FAX: 573-882-4793

PCR Central District 69

Steve Harris, District Defender
Woodrail Centre
1000 West Nifong—Building 7, Suite 100
Columbia, MO 65203
573-882-9855 FAX: 573-882-9468

Appellate/PCR Eastern District 51 (A)

Scott Thompson, District Defender
1010 Market Street—Suite 1100
St. Louis, MO 63103
314-340-7662 FAX: 314-340-7685

Appellate/PCR Eastern District 68 (B)

Renee Robinson, District Defender
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St. Louis, MO 63103
314-340-7662 FAX: 314-421-7685

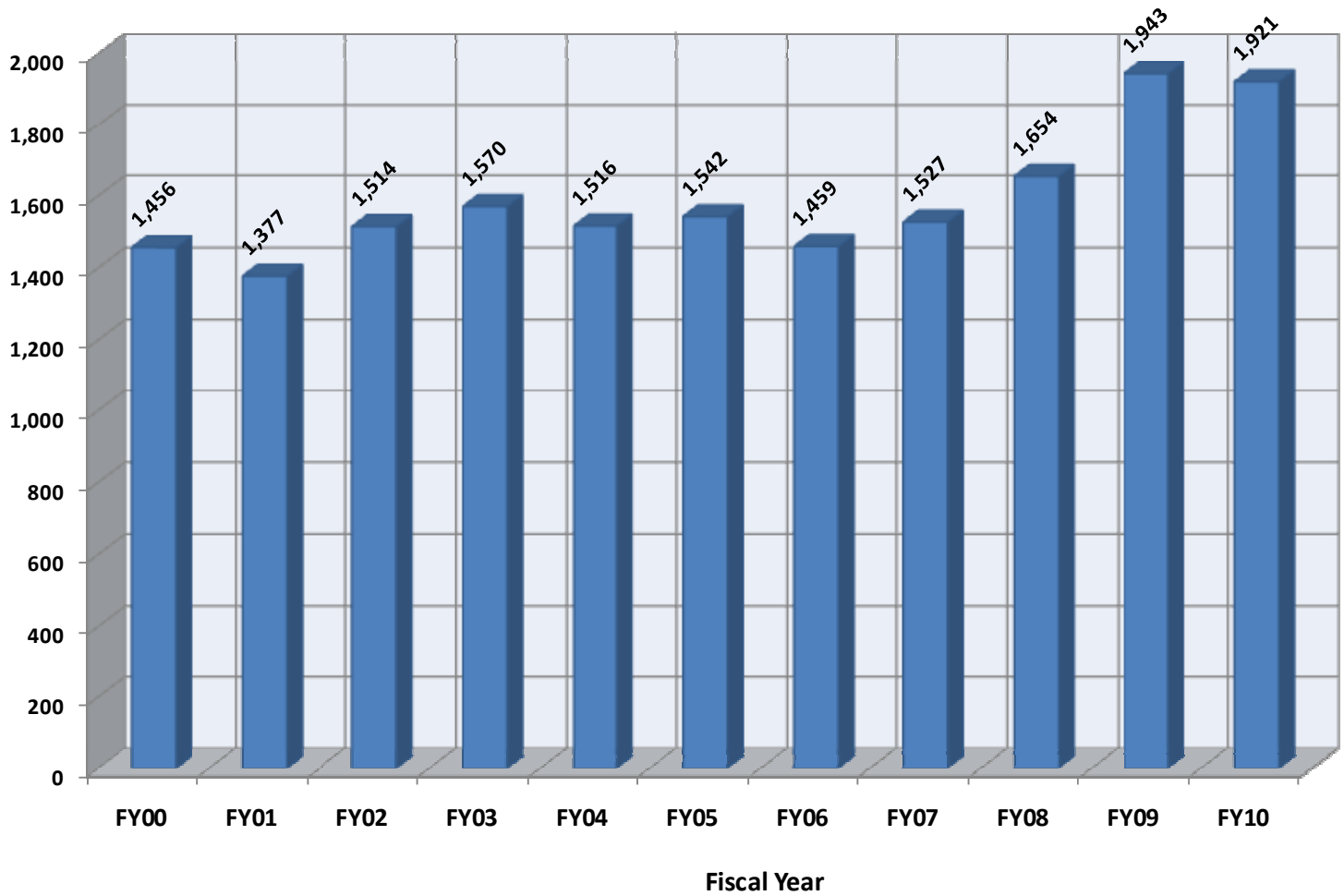
Appellate/PCR Western District 52 (A)

Susan Hogan, District Defender
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Kansas City, MO 64105
816-889-7699 Fax: 816-889-2001

Appellate/PCR Western District 69 (B)

Ruth Sanders, District Defender
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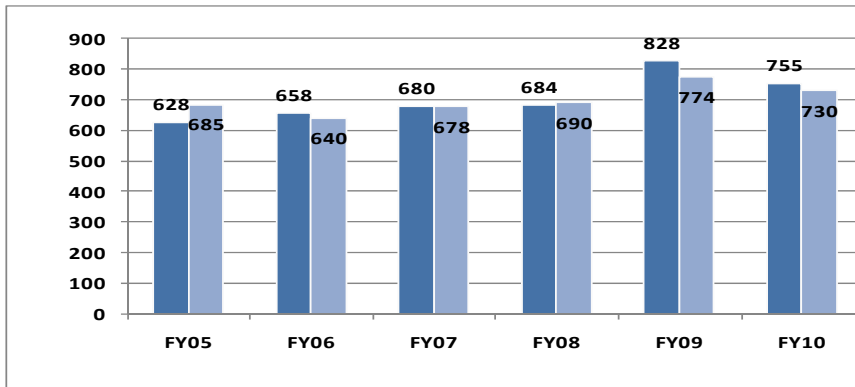
Appellate & Post Conviction Relief Cases - Opened Fiscal Year 2010



Fiscal Year 2010 APPELLATE DIVISION CASELOAD Cases Opened and Closed							
	Central Columbia		Eastern St. Louis		Western Kansas City		Totals
	Area 50	Area 67	Area 51	Area 68	Area 52	Area 69	
Death Penalty							
Opened	2	1	1	0	1	0	5
Closed	2	1	0	0	0	0	3
Felony Appeal							
Opened	225	0	58	54	32	27	396
Closed	245	0	57	51	32	31	416
Misdemeanor Appeal							
Opened	20	0	1	3	0	7	31
Closed	23	0	0	3	0	2	28
Juvenile Appeal							
Opened	3	0	0	0	3	2	8
Closed	2	0	0	0	4	2	8
PCR Appeals							
Opened	91	47	127	123	49	31	468
Closed	83	47	98	75	29	27	359
PCR							
Opened	0	340	213	195	119	110	977
Closed	0	303	245	206	115	109	978
Other (DNA, 29.07, 29.13, Rule 87, State's Appeals, 29.27, Writs, CDUs, etc)							
Opened	20	6	3	3	3	1	36
Closed	20	4	5	4	8	2	43
Appellate Division Totals							
Opened	361	394	403	378	207	178	1,921
Closed	375	355	405	339	188	173	1,835
Totals							
Opened	755		781		385		1,921
Closed	730		744		361		1,835
	Central Columbia		Eastern St. Louis		Western Kansas City		

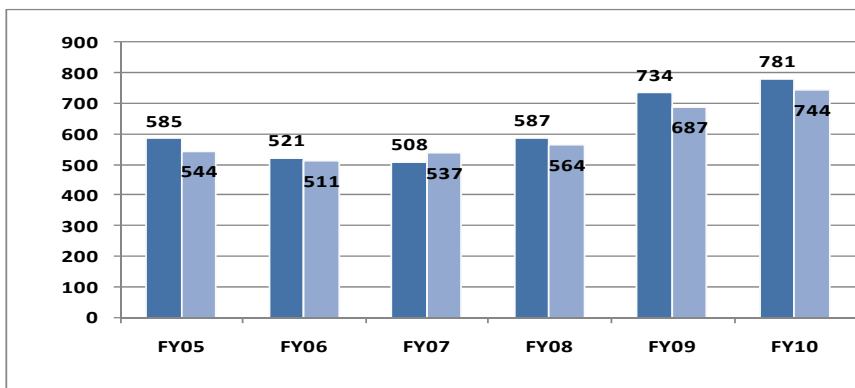
Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

Opened
 Closed



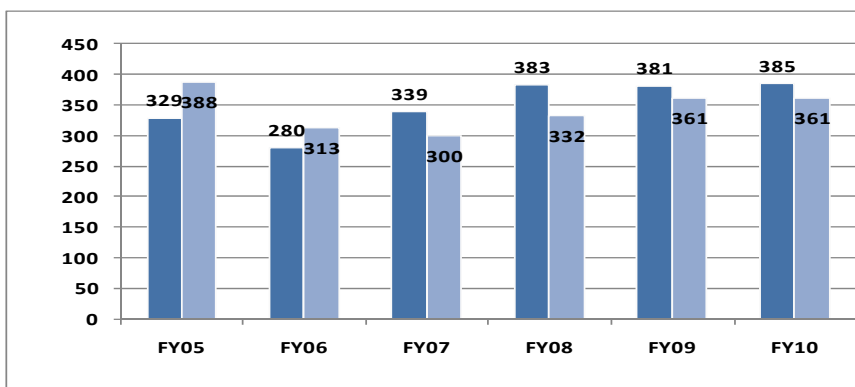
Districts 50 & 67
- Columbia—

Appellate and Post-Conviction
Relief



Districts 51 & 68
—St. Louis—

Appellate and Post-Conviction
Relief



District 52 & 69
—Kansas City—

Appellate and
Post-Conviction Relief

FY2010
Appellate Cases Disposed
By Disposition Code

Disposition Code		District 50	District 51	District 52	District 67	District 68	District 69	Total
43	Contract Case	6	15	28	96	27	15	187
42	Conflict (Transferred for Assignment)	0	8	1	2	4	1	16
41	Conflict (Transfer to Public Defender Office)	5	4	2	5	3	10	29
37	Guilty Plea Vacated	1	3	3	4	2	1	14
36	Reversed for Sufficiency/ Client Discharged	6	1	0	1	1	0	9
35	Reversed - Findings of Fact/ Conclusions of Law	4	0	0	0	0	0	4
34	Reversed for New Trial	1	0	0	0	0	0	1
33	Reversed & Remanded for Sentencing Relief	1	1	5	8	8	5	28
32	Reversed & Remanded for Resentencing	4	2	1	0	0	0	7
31	Reversed & Remanded for PCR Hearing	2	1	1	0	0	1	5
30	Reversed & Remanded for New Trial	6	1	0	3	0	1	11
21	Denied Without Hearing	0	90	9	24	76	6	205
20	Denied After Hearing	0	36	34	77	33	20	200
12	Summary Affirmance	168	126	32	26	89	0	441
11	Affirmed in part/ Reversed & Remanded in Part	5	4	2	0	3	0	14
10	Affirmed After Opinion	99	10	9	17	12	42	189
03	Dismissed by Court	12	32	10	28	15	4	101
02	Voluntary Dismissal	33	56	39	49	56	54	287
01	Withdraw	19	12	8	13	10	10	72
00	Unknown	3	3	4	2	0	3	15
	Totals	375	405	188	355	339	173	1,835

Public Defender Capital Division

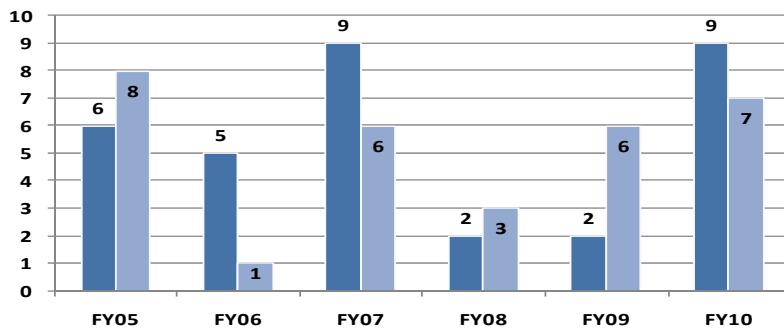
MSPD's Capital Division provides defense representation in Murder First Degree cases in which the state is seeking the death penalty. They also handle direct appeals in cases in which a sentence of death has been imposed, and may, when their own caseloads permit, occasionally take on a non-capital murder case from an overloaded trial office.

The division consists of three offices, one in St. Louis, one in Columbia, and one in Kansas City. Attorneys handling capital cases are limited to no more than six open capital cases at a time and two attorneys are assigned to each case.

Fiscal Year 2010 CAPITAL DIVISION Caseload			
	Opened	Closed	Current
Central Office - Columbia -			
Death Penalty Trial Cases	7	4	11
Appeals - Death Penalty	1	1	2
Appeals Other	0	0	3
Non- Death Penalty Trial Cases	1	2	2
Totals	9	7	18
Eastern Office - St. Louis City -			
Death Penalty Trial Cases	9	4	15
Appeals - Death Penalty	0	1	2
Appeals Other	3	0	4
Non- Death Penalty Trial Cases	0	0	1
Totals	12	5	22
Western Office - Kansas City -			
Death Penalty Trial Cases	3	1	5
Appeals - Death Penalty	0	4	0
Appeals - Other	8	2	9
Non- Death Penalty Trial Cases	0	1	0
Totals	11	8	14
Total Capital Division			
Death Penalty Trial Cases	19	9	31
Appeals - Death Penalty	1	6	4
Appeals - Other	11	2	16
Non- Death Penalty Trial Cases	1	3	3
Totals	32	20	54

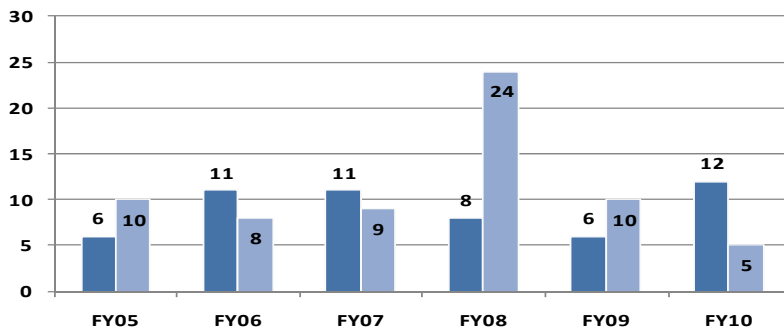
Cases Opened and Closed – By District Fiscal Year 2005 to Fiscal Year 2010

Opened
 Closed



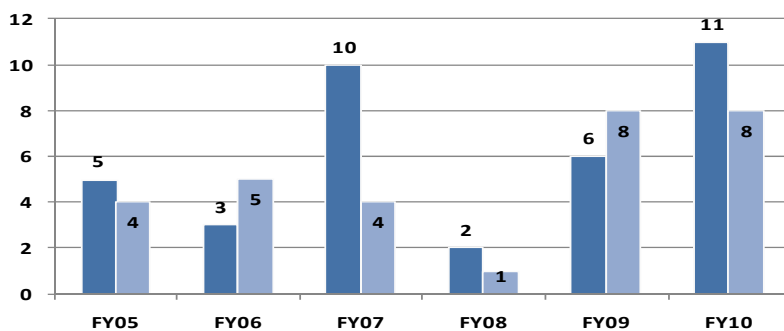
Districts 53
- Columbia—

Capital



Districts 54
- St. Louis—

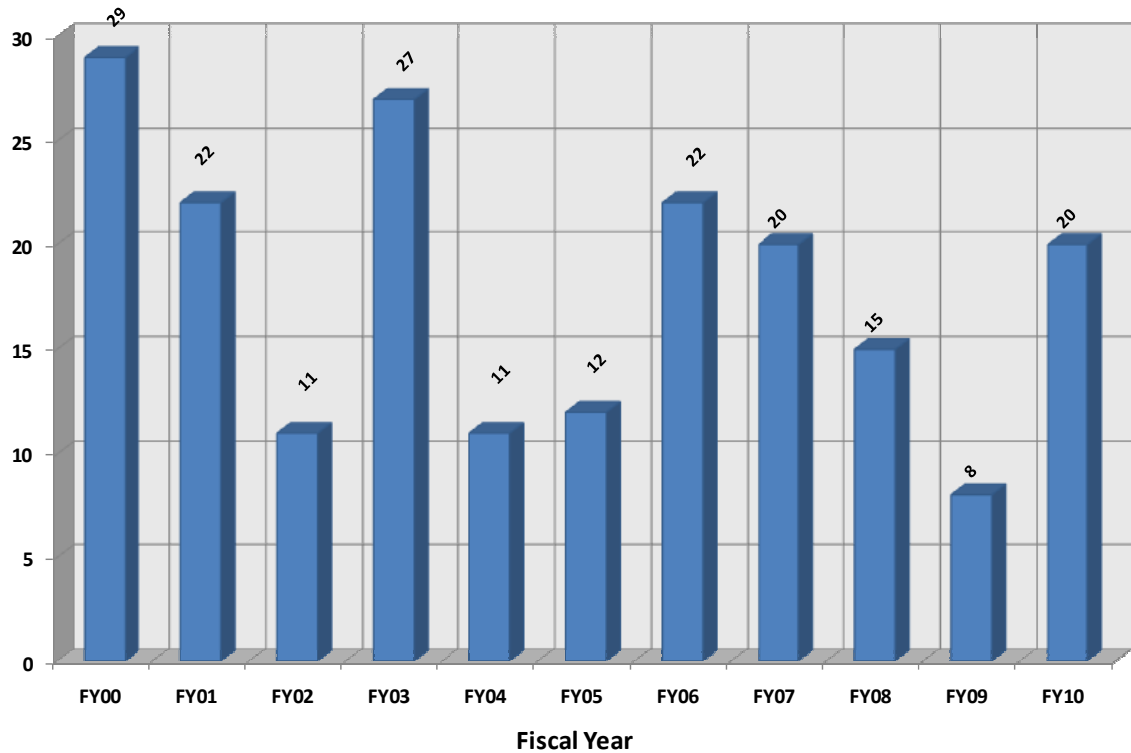
Capital



Districts 55
- Kansas City—

Capital

New Death Penalty Capital Cases



MISSOURI STATE PUBLIC DEFENDER SYSTEM

Capital Division

Central District

Janice Zembles, District Defender
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Western District

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Public Defender Contract & Conflict Assignments

MSPD contracts out two kinds of cases; 1) those which are a conflict for the local public defender office to handle; and 2) caseload relief contracts. The contracting process is the same for both. Only the reasons for the contracting differ:

Conflicts Cases: Conflict cases are those in which the lawyers or staff of the local public defender office have a conflict of interest in representing the defendant. This could be because the office already represents a co-defendant with opposing interests or may have previously represented the person who is now the victim or a key witness in this new case. Occasionally they are personal conflicts because the victim is a friend or family member of someone in the office. Under the Rules of Professional Responsibility that govern all attorney practice, lawyers are not permitted to accept representation in cases that present a conflict of interest. That means these cases must go elsewhere.

The majority of conflict cases are just assigned to another public defender office to provide conflict-free representation. Sometimes, however, there are not enough nearby offices to go around, as is often the case in cases involving multiple co-defendants. Often, it is not feasible or efficient to assign conflicts to a nearby defender office, which necessitates an attorney traveling to another county for just one case or to see one client. In those situations, the conflict cases are contracted out to private counsel.

Caseload Relief Contracts: As has already been described, MSPD is suffering from a system-wide caseload crisis. Among legislative efforts to provide relief in a time when additional staffing wasn't an option, has been some additional funding to contract out cases to the private bar. These can be contracted out as single cases or in 'bundles' of cases – a contract under which a private attorney would agree to take a set number of a certain type of cases – e.g. ten C or D felonies -- over the next few months.

MSPD utilizes a modified flat fee rate for contract cases. This is a base fee corresponding to the type of case, with provisions for additional payment if the case should go to trial. The base fee may also be negotiated upward if the case is a particularly complex one or has special circumstances that may require work above and beyond the norm for its case type or if we are unable to locate a qualified attorney who will take the case at the rate on the schedule, as does sometimes happen. The typical contract fee schedule used by MSPD in Fiscal Year 2010 is below.

Litigation expenses (expert witness fees and travel costs, depositions, transcripts, case investigation, etc) are not included in the attorney's fee. Those types of expenditures are approved separately and must each be submitted to MSPD for approval by MSPD's General Counsel prior to being incurred.

Case Type	Contract Guideline*
Murder first degree	\$10,000
Other homicide	\$6,000
Felony Class A/B - Drugs	\$750
Felony Class A/B - Other	\$1,500
Felony Class A/B - Sex	\$2,000
Felony Class C/D- Drugs	\$750
Felony Class C/D - Other	\$750
Felony Class C/D - Sex	\$1,500
Misdemeanor	\$375
Juvenile – Nonviolent offense	\$500
Juvenile – Violent offense	\$750
Probation Violation	\$375

* MSPD will pay an additional compensation in cases resolved by trial:

July Trial - \$1,500 for the first day and \$750 for each additional day, partial days prorated.

Bench Trial - \$750/day prorated.

In FY10, MSPD contracted out less than 2% of its total caseload to the private bar, despite an overload closer to 30%. We simply don't have the funds to contract out any more cases. In FY07 and FY08, MSPD was given \$1.15 million to contract out case overload to private counsel, but in FY09, that amount was reduced to pay for twelve new assistant public defenders and the contracting of case overload was cut back accordingly.

Fiscal Year 2010
Number of Cases to Private Counsel
By District - By County

	District #	Total	District Totals		District #	Total	District Totals
Adair	2	21		Crawford	25	10	
Schuyler	2	2		Dent	25	21	
Scotland	2	4		Maries	25	6	
			27	Phelps	25	23	
Andrew	4	18		Pulaski	25	8	
Atchison	4	2		Texas	25	14	
Gentry	4	2					82
Holt	4	12		Camden	26	42	
Nodaway	4	27		Laclede	26	5	
Worth	4	0					47
			61	Barton	28	12	
Buchanan	5	53		Cedar	28	4	
			53	Dade	28	1	
Clay	7	38		Vernon	28	13	
Platte	7	20					30
			58	Jasper	29	124	
Clark	10	20		Mcdonald	29	7	
Lewis	10	16		Newton	29	10	
Marion	10	1					141
Monroe	10	2		Benton	30	3	
Shelby	10	4		Dallas	30	3	
			43	Polk	30	2	
St. Charles	11	3		Webster	30	6	
Warren	11	7					14
			10	Christian	31	41	
Audrain	12	38		Greene	31	133	
Callaway	12	41		Taney	31	125	
Montgomery	12	6					299
			85	Cape Girardeau	32	16	
Boone	13	200		Mississippi	32	18	
			200	Scott	32	112	
Chariton	14	0					146
Howard	14	7		New Madrid	34	8	
Linn	14	1		Pemiscot	34	9	
Macon	14	3					17
Randolph	14	85		Dunklin	35	18	
			96	Stoddard	35	15	
Cooper	15	42					33
Johnson	15	61		Butler	36	13	
Lafayette	15	13		Carter	36	1	
Pettis	15	67		Ripley	36	9	
Saline	15	11		Wayne	36	3	
			194				26
Jackson	16	172		Howell	37	24	
			172	Oregon	37	1	
Bates	17	7		Shannon	37	1	
Cass	17	8					26
Henry	17	7		Barry	39	0	
St. Clair	17	6		Lawrence	39	22	
			28	Stone	39	8	
Cole	19	21					30
Miller	19	2		Caldwell	43	1	
Osage	19	1		Carroll	43	3	
			24	Daviess	43	2	
Franklin	20	2		Dekalb	43	3	
Gasconade	20	14		Grundy	43	10	
			16	Harrison	43	1	
St. Louis County	21	36		Livingston	43	7	
			36	Putnam	43	7	
St. Louis City	22	165		Ray	43	6	
			165	Sullivan	43	2	
Jefferson	23	24					42
			24	Douglas	44	0	
Iron	24	11		Ozark	44	11	
Madison	24	13		Wright	44	11	
Reynolds	24	2					22
St. Francois	24	23		Lincoln	45	22	
Ste. Genevieve	24	3		Pike	45	2	
Washington	24	7					24
			59			2,330	2,330

**Fiscal Year 2010
CONFLICT and CONTRACT
ASSIGNMENTS
- By Case Type -**

Code	Description	# of Conflict Cases Contracted	# of Case Overload Cases Contracted	Total
10	Murder – Death Penalty			
15	Murder – 1 st Degree	9	1	10
20	Other Homicide	10		10
30	A-B Felony	256	144	400
35	C-D Felony	406	367	773
40	Misdemeanor	146	93	239
52	Juvenile	42	1	43
54	Post Conviction Relief – Rule 24	106	37	143
59	Post Conviction Relief – Rule 29	16		16
60	Chapter 552			0
62	Sexual Predator	2		2
65	Probation Violation	83	16	99
80	29.15 Appeal			0
82	Direct Appeal	15		15
		1,091	659	1,750
	Total Private Counsel Conflict & Contract Assignments		1,750	1,750

Fiscal Year 2012 Legislative Budget Request

Caseload Crisis—Trial Division	FY 2011 Supplemental Request—	\$1,371,810
	Cost to Continue FY2011 Supplemental Decision Item—	\$4,064,940
	FY2012 New Decision Item—	\$4,420,515

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.

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.

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.

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:

NAC CASELOAD STANDARDS	
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.]*

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

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.

MSPD MODIFIED NAC HOURS PER CASE TYPE	
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 protocol.

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 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:

2340.00	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
1,740.88	AVERAGE AVAILABLE HOURS PER ATTORNEY PER YEAR

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) (District Defender + 15 Assistant Public Defenders)
1,794.00	Management hours required (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.

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.

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
-320.50	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

Trial Division Protocol				
	Protocol	FY2011 Supplemental Start Date= April 1, 2011	FY2012 Cost to Continue FY2011 Supplemental	FY2012 New Decision Item
Cost Breakdown				
Personal Service				
Assistant Public Defender III - Range 30	106.00	26.00	26.00	26.00
\$49,104	\$5,205,024	\$319,176	\$1,276,704	\$1,276,704
Investigators - Range 23	35.00	8.00	8.00	8.00
\$34,644	\$1,212,540	\$69,288	\$277,152	\$277,152
Secretaries - Range 12	35.00	8.00	8.00	8.00
\$23,796	\$832,860	\$47,592	\$190,368	\$190,368
Legal Assistants - Range 15	35.00	8.00	8.00	8.00
\$25,944	<u>\$908,040</u>	<u>\$51,888</u>	<u>\$207,552</u>	<u>\$207,552</u>
	211.00	50.00	50.00	50.00
Total Personal Service	\$8,158,464	\$487,944	\$1,951,776	\$1,951,776
Expense & Equipment				
One-time Purchases				
Attorney Package	106.00	26.00		26.00
\$2,950	\$312,700	\$76,700		\$76,700
Investigator Package	35.00	8.00		8.00
\$2,875	\$100,625	\$23,000		\$23,000
Legal Assistant Package	35.00	8.00		8.00
\$2,875	\$100,625	\$23,000		\$23,000
Secretary Package	35.00	8.00		8.00
\$9,105	<u>\$318,675</u>	<u>\$72,840</u>		<u>\$72,840</u>
Total One-Time Purchases	\$832,625	\$195,540		\$195,540
On-Going Costs				
Attorneys	106.00	26.00	26.00	26.00
\$7,850	\$832,100	\$51,025	\$204,100	\$204,100
Investigator	35.00	8.00	8.00	8.00
\$7,525	\$263,375	\$15,050	\$60,200	\$60,200
Legal Assistant	35.00	8.00	8.00	8.00
\$5,875	\$205,625	\$11,750	\$47,000	\$47,000
Secretary	35.00	8.00	8.00	8.00
\$2,350	<u>\$82,250</u>	<u>\$4,700</u>	<u>\$18,800</u>	<u>\$18,800</u>
Total Personnel Related On-Going Costs	\$1,383,350	\$82,525	\$330,100	\$330,100
	\$2,215,975	\$278,065	\$330,100	\$525,640
Total Expense and Equipment				
Total Decision Item Request	\$10,374,439	\$766,009	\$2,281,876	\$2,477,416

Caseload Crisis—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.

For a complete description of the Caseload Crisis Protocol, adopted by the State Public Defender Commission, please review the narrative for the Trial Division decision item.

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>
Total Number of Cases	1,921	211		
	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 FOUR YEAR PHASE IN

Due to the severe nature of this decision item and the costs involved to resolve the total public defender caseload crisis, the Missouri State Public Defender is requesting that the funding to alleviate the crisis be phased in over a four year period. Additional funding of the Missouri State Public Defender Protocol will be requested in future years and will be based on current caseloads at the time of the request.

Appellate Division Protocol

	Protocol	FY2011 Supplemental Start Date= April 1, 2011	FY2012 Cost to Continue FY2011 Supplemental	FY2012 New Decision Item
<u>Cost Breakdown</u>				
Personal Service				
Assistant Public Defender III - Range 30	19.50	5.00	5.00	5.00
\$49,104	\$957,528	\$61,380	\$245,520	\$245,520
Investigators - Range 23	6.50	1.50	1.50	1.50
\$34,644	\$225,186	\$12,992	\$51,966	\$51,966
Secretaries - Range 12	6.50	1.50	1.50	1.50
\$23,796	\$154,674	\$8,924	\$35,694	\$35,694
Legal Assistants - Range 15	6.50	1.50	1.50	1.50
\$25,944	<u>\$168,636</u>	<u>\$9,729</u>	<u>\$38,916</u>	<u>\$38,916</u>
	39.00	9.50	9.50	9.50
Total Personal Service	\$1,506,024	\$93,024	\$372,096	\$372,096
Expense & Equipment				
One-time Purchases				
Attorney Package	20.00	5.00		5.00
\$2,950	\$59,000	\$14,750		\$14,750
Investigator Package	7.00	2.00		2.00
\$2,875	\$20,125	\$5,750		\$5,750
Legal Assistant Package	7.00	2.00		2.00
\$2,875	\$20,125	\$5,750		\$5,750
Secretary Package	7.00	2.00		2.00
\$9,105	<u>\$63,735</u>	<u>\$18,210</u>		<u>\$18,210</u>
Total One-Time Purchases	\$162,985	\$44,460		\$44,460
On-Going Costs				
Attorneys	19.50	5.00	1.50	1.50
\$9,750	\$190,125	\$12,188	\$14,625	\$14,625
Investigator	6.50	1.50	1.50	1.50
\$9,425	\$61,263	\$3,534	\$14,138	\$14,138
Legal Assistant	6.50	1.50	1.50	1.50
\$7,775	\$50,538	\$2,916	\$11,663	\$11,663
Secretary	6.50	1.50	1.50	1.50
\$4,250	<u>\$27,625</u>	<u>\$1,594</u>	<u>\$6,375</u>	<u>\$6,375</u>
Total Personnel Related On-Going Costs	\$329,550	\$20,231	\$46,800	\$46,800
	\$492,535	\$64,691	\$46,800	\$91,260
Total Expense and Equipment				
Total Decision Item Request	\$1,998,559	\$157,715	\$418,896	\$463,356

Appropriate Staffing of Local Public Defender Offices**\$7,348,833**

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.

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	1.93 Attorneys to Every Support Staff

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.

Support Staff Requirements

Cost Breakdown

Personal Service

49.00	Secretarys at Range 12	\$23,796	\$1,166,004
62.75	Investigators at Range 23 E	\$34,644	\$2,173,911
80.50	Legal Assistants at Range 15	\$25,944	<u>\$2,088,492</u>
	Total Personal Service		\$5,428,407

Expense & Equipment

One-time Purchases

63	Investigator Package	\$2,875	\$181,125
81	Legal Assistant Package	\$2,875	\$232,875
49	Secretary Package	\$9,105	<u>\$446,145</u>
	Total One-Time Purchases		\$860,145

On-Going Costs

62.75	Investigator	\$7,525	\$472,194
80.50	Legal Assistant	\$5,875	\$472,938
49.00	Secretary	\$2,350	<u>\$115,150</u>
	Total Personnel Related On-Going Costs		\$1,060,281

Total Expense and Equipment \$1,920,426

Total Decision Item Request \$7,348,833

Office Space Requirements**\$2,196,118**

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.

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 county liabilities for public defender office space. MSPD tried to invoke this at one point in the past, but was asked by the then gubernatorial administration to forego the remedy because of the hostility being caused between the state and the counties as a result of the intercept.
- ♦ Receiving an eviction notice because six counties refused to pay, between them, a total increase of \$48.67 per month imposed by the landlord. To prevent the eviction, MSPD agreed to pay the difference. This office has now been relocated.
- ♦ 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.

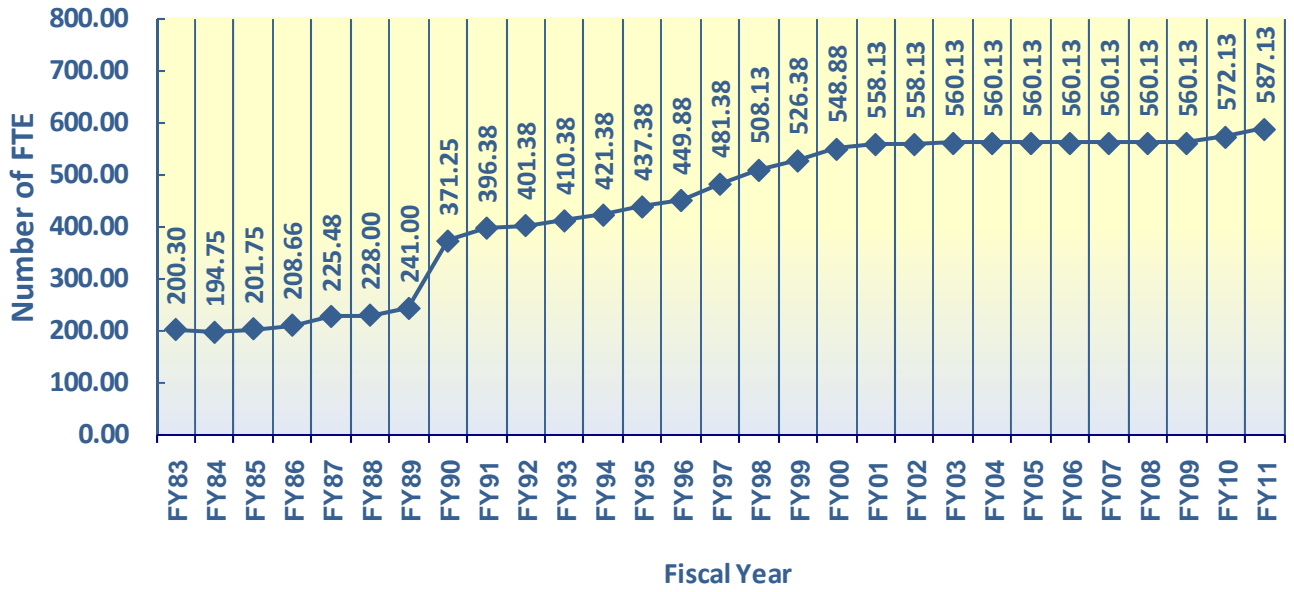
In summary, the current statutory scheme requires counties to cooperate with each other, and with this Department, to provide office space for a Department of State Government. They do so under the threat of prisoner per diem interceptions. It is a formula for conflict between the State Public Defender 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.

- State Public Defender - FTE Growth



Cost of Renting Office Space for All Local Public Defender Offices
Revised August 20, 2010

Office	Est. Sq. Ft	Total Rent	Estimated Utilities	Janitor/ Trash	Total Cost	Comment
Kirkville	2,060	\$14,400	Inclusive	\$1,800	\$16,200	Counties Lease - Expires 05/31/2017
Maryville	2,060	\$10,350	Inclusive	\$1,200	\$11,550	Counties Lease - Expires 12/31/2013
St. Joseph	5,400	\$32,600	Inclusive	County	\$32,600	County Lease - Expires 06/15/2015
Liberty	5,100	\$53,115			\$53,115	In County Owned Space
Hannibal	2,625	\$35,700	Inclusive	\$2,700	\$38,400	Counties Lease - Expires 12/31/2014
St. Charles	3,675	\$45,000			\$45,000	In Courthouse
Fulton	3,440	\$26,400		\$1,800	\$28,200	Counties Lease - Expires 12/31/2011
Columbia	6,085	\$65,775		\$3,600	\$69,375	In County Owned Space - Inadequate
Moberly	2,800	\$30,000	Inclusive	\$3,600	\$33,600	Counties Lease - Expires 12/31/2017
Sedalia	3,675	\$38,500	Inclusive	\$3,000	\$41,500	Counties Lease - Lease Expired
Kansas City	14,575	\$250,000	Inclusive	\$0	\$250,000	County Lease - Lease Expired 12/31/2009
Harrisonville	4,500	\$66,915		\$4,420	\$71,335	Counties Lease - Expires 08/31/2017
Jefferson City	3,750	\$42,200			\$42,200	In County Owned Space
Union	3,225	\$40,325	Inclusive	\$3,600	\$43,925	In County Owned Space
St. Louis County	8,815	\$185,000	Inclusive	\$0	\$185,000	In Courthouse
St. Louis City	13,125	\$280,000	Inclusive	\$37,440	\$317,440	In Carnahan Courthouse
Hillsboro	3,345	\$41,250	\$0	\$0	\$41,250	In Courthouse
Farmington	4,641	\$45,625		\$3,000	\$48,625	Counties Lease - Expired 06/30/2010
Rolla	7,084	\$61,200		\$3,600	\$64,800	Counties Lease - Expires 01/31/2011
Lebanon	4,100	\$28,800	\$7,200	\$2,700	\$38,700	Counties Lease - Expires 12/31/2014
Nevada	3,000	\$24,840	Inclusive	\$1,500	\$26,340	Counties Lease - Expires 12/31/2011
Carthage	6,700	\$120,750			\$120,750	In County Owned Space -Inadequate
Bolivar	3,500	\$34,125	\$8,531	\$3,600	\$46,256	Counties Lease-Inadequate-Expires 06/11
Springfield	7,450	\$117,950	Inclusive	\$4,800	\$122,750	Counties Lease - Expires 06/30/2012
Jackson	5,377	\$60,750			\$60,750	In County Owned Space
Caruthersville	3,103	\$31,775	Inclusive	\$1,200	\$32,975	Counties Lease - Expired 06/30/95
Kennett	1,777	\$32,175	\$8,044	\$1,200	\$41,419	In County Owned Space
Poplar Bluff	4,480	\$43,500	\$18,000	\$3,600	\$65,100	Counties/State Lease Expires 01/31/2016
West Plains	4,800	\$13,800	Inclusive	\$1,500	\$15,300	Counties Lease - Expires 12/31/2010
Monett	4,300	\$46,250	\$11,563	\$1,680	\$59,493	Counties Lease - Expired 09/30/09
Chillicothe	4,500	\$30,000	Inclusive	\$2,100	\$32,100	Counties Lease - Expires 12/31/2017
Ava	4,560	\$28,500		\$1,920	\$30,420	Counties Lease - Expires 05/31/2015
Troy	3,225	\$34,650			\$34,650	In County Owned Space
Columbia Defenderplex	22,450	\$305,000	\$35,000	\$0	\$340,000	State Public Defender Pays
St. Louis Defenderplex	15,959	\$216,114	Inclusive	\$0	\$216,114	State Public Defender Pays
KC Defenderplex	8,765	<u>\$134,650</u>	Inclusive	\$0	\$134,650	State Public Defender Pays
	208,026	\$2,667,984	\$88,338	\$95,560	\$2,851,882	
	Less: Current Agency Payments				\$655,764	
		Total Implementation Costs			\$2,196,118	

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