

State of Missouri Public Defender Commission



Fiscal Year 2011 Annual Report

Assuring the Public Defense

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

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Dan Gralike, Deputy Director

Kathleen Lear, Comptroller

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

October 1, 2011



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Cathy R. Kelly
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M E M O R A N D U M

TO: Governor Nixon
Chief Justice Richard B. Teitelman
Members of the Supreme Court
Members of the General Assembly
Presiding Judges

FROM: Cathy R. Kelly, Director
State Public Defender Commission

DATE: October 1, 2011

RE: Fiscal Year 2011 Annual Report

Enclosed is the Annual Report of the Missouri State Public Defender System for FY2011. The facts and figures in this report document our continued inability to meet the state's constitutional obligations to provide effective assistance of counsel to Missouri's indigent accused. Sadly, this is not news to anyone with a passing familiarity with Missouri's criminal justice system. It is easy to all stand and pledge allegiance to 'Justice for All.' Delivering on that pledge is much harder, and Missouri has a long way to go to get there.

This crisis in Missouri's Indigent Defense System has been raised by three Chief Justices of the Missouri Supreme Court. It has been documented by the Missouri Bar and the subject of legislative committee investigations. It has been the focus of a national symposium of legal scholars at the University of Missouri Law School and the topic of editorials in all the major newspapers of the state. Our state has been held up by the Attorney General of the United States as an example of a broken indigent defense system and our failings have been discussed in both the New York Times, and USA Today. The issue has been debated, discussed, and acknowledged by both sides of the aisle on the floors of both the Missouri House and Senate and in gubernatorial press conferences.

There have been steps in the right direction the last few years – 12 additional lawyers in 2009, 15 more support staff in 2010. Still, MSPD remains almost 70 lawyers short of what is needed to handle last year's caseload and is upside down on its lawyer to support staff ratios. The problem is not

an abstract one. Its story is not told in statistics or pie charts, but in shortcuts that lead to wrongful convictions, incarcerations for weeks or even months with no access to counsel, attorney disciplinary proceedings and malpractice lawsuits with the state of Missouri on the hook. Triage has replaced justice in Missouri's courts. The breaking point is no longer coming. It is here.

As I write this, eight district public defender offices, serving 33 Missouri counties, have been certified to begin turning away cases due their chronic overload. All but a handful of other district public defender offices are equally overloaded, but new certifications are temporarily on hold pending the resolution of litigation pending in the Missouri Supreme Court. The Constitution of both the United States and the State of Missouri are very clear: Each of us is guaranteed the assistance of counsel in our defense if the state should seek to take away our liberty; and, as everyone who watches television knows, 'If you cannot afford to hire an attorney, one will be appointed for you.' But what happens when there's no one to appoint? Missouri is about to find out.

¹ Chief Justice William Ray Price, *State of the Judiciary Speech, February 3, 2010*: "The first problem is how we are going to try all the people we arrest. We already have discussed the financial stress under which the court system is operating. But our public defenders and prosecutors are also stressed to the point of breaking. . . . The United States Constitution also requires timely trials of criminal cases. 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. At present, you only allow the public defender to determine eligibility by indigency. That means only the poorest offenders will qualify, regardless of the severity of the crime. I would suggest that the most serious charges be targeted, and that the least serious charges be those for which jail time cannot be sought, if we cannot adequately fund the public defender's office. This is simple common sense. Spend our money where it counts."

Chief Justice Laura Stith, *State of the Judiciary Speech, January 28, 2009*: "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. The United States Supreme Court has said that it is presumptively prejudicial for a criminal defendant in state courts to have to wait more than eight months for trial where the delay was caused by the prosecutor. But, just two weeks ago the United States Supreme Court heard an appeal suggesting that it is also the state's fault if gross underfunding causes public defenders to ask for continuances. Victims' advocates have expressed very understandable concern this could result in vast numbers of criminals being set free because their public defenders were unable to take them to trial soon enough. Missouri does not want to find itself in the position of other states, such as Indiana, Montana and Washington, that were faced with the possibility of releasing prisoners or lawsuits from the ACLU if they did not fix their public defender crises. It also does not want to be like Louisiana, where the legislature had to seek a bailout from Congress for the public defender program to avoid releasing hundreds of prisoners."

Chief Justice Michael Wolff, *State of the Judiciary Speech, January 25, 2006*: "We further pledge to work with the public defender system in whatever way possible toward the attraction and retention of employees and toward the alleviation of its ever-increasing caseload. 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. Often the test of a system of justice is not how it treats our best citizens, but how it treats those who appear to be our worst. No system of justice can be effective without adequate legal representation for criminal defendants. It is in the interests of all of us – even if it were not a constitutional requirement – that those whom the state deprives of liberty or life are guilty in fact and law of the crimes they are charged with committing. This goes to the legitimacy of the rule of law."

ⁱⁱ Report of the Missouri Bar Task Force on the Public Defender, 2005

ⁱⁱⁱ Report of the Missouri Senate Interim Committee on the Public Defender, 2007

^{iv} University of Missouri School of Law 2010 Symposium: *Broke and Broken: Can We Fix Our State Indigent Defense System?*

^v “*Justice in Missouri Requires State Officials to Act,*” Springfield News-Leader, February 17, 2011; “*Public Defender Overload Eludes Viable Solutions,*” Jefferson City News Tribune, July 27, 2010; “*Improving Public Defender System is Predicament for Missouri,*” Columbia Missourian, March 18, 2010; “*In Defense of Public Defenders,*” St. Louis American, December 17, 2009; “*An Indefensible System,*” Kansas City Star, December 14, 2009; “*It Won’t Fix Itself,*” Nevada Daily Mail, December 12, 2009; “*Fixing Missouri’s State Public Defender System Isn’t Optional,*” St. Louis Post-Dispatch, November 25, 2009; “*Public Defender System in Crisis,*” Sedalia News-Journal, November 11, 2009; “*Our Opinion: Public Defender Crisis Ignored,*” Jefferson City News-Tribune, October 30, 2009; “*State Must Pay Heed to Public Defenders,*” Warrensburg Daily-Star Journal, July 30, 2009; “*Action Needed to Ease Burden on Public Defenders,*” Jefferson City News-Tribune, September 30, 2008; “*Missouri Needs More Public Defenders,*” Kansas City Voices, November 17, 2008; “*State Ducks Its Duties,*” Kansas City Star, August 4, 2008; “*Justice on the Cheap*” St. Louis Post-Dispatch, April 30, 2008; “*Imperiling Justice,*” Southeast Missourian, March 7, 2007; “*Lack of Public Defenders a Disgrace,*” Springfield News Leader, August 8, 2006; “*A System in Crisis,*” St. Joseph News-Press, March 23, 2006; “*A Justice Crisis,*” Southeast Missourian, February 26, 2006.

^{vi} Speech by U.S. Attorney General, Eric Holder, at the Brennan Center’s Justice Legacy Awards Dinner, New York City, November 16, 2009. U.S. Department of Justice PRNewsWire.

^{vi} “*Budget Woes Hit Defense Lawyers for the Indigent,*” New York Times, September 10, 2010; “*Citing Workload, Public Lawyers Reject New Cases,*” New York Times, November 12, 2008; “*Across U.S., Public Defenders Refusing Cases,*” USA Today, September 20, 2008. “*Missouri Public Defenders May be Forced to Stop Accepting New Clients,*” USA Today, February 27, 2007.

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.

CHANGE OF MSPD LEADERSHIP

FY2011 saw a change of leadership in Missouri's State Public Defender System. Director J. Marty Robinson retired on February 28, 2011, after serving 16 years at the helm of the organization. Director Robinson received his law degree from the University of Missouri – Kansas City School of Law in 1982. He served four years with the United States Army JAG Corps as Trial Defense Counsel in Aberdeen, Maryland. Upon discharge from active duty, he joined the Missouri Public Defender System as an Assistant Public Defender in the Rolla Trial Office. He eventually became the District Public Defender for that office, overseeing the provision of indigent defense services in Crawford, Dent, Maries, Phelps, Pulaski, and Texas counties. In 1995, he was selected by the Public Defender Commission to serve as the Director of the Missouri State Public Defender Commission. His 16 years of service in that position make him the longest-serving State Public Defender in the system's history.



*J. Marty Robinson
Retiring Director*



*Cathy R. Kelly
New Director*

The Public Defender Commission selected Cathy R. (Cat) Kelly to replace Mr. Robinson. Director Kelly received her law degree from the Washington University School of Law in St. Louis, MO in 1983. Upon graduation, she joined the St. Louis City Circuit Attorney's Office as an assistant prosecutor. A year later, she joined the St. Louis City Public Defender Office. She eventually served as both the District Defender of that office and as Regional Defender, supervising the provision of indigent defense services in St. Louis, St. Charles, Warren, Lincoln, Pike, Jefferson, Franklin, and Gasconade Counties. In 1995, Director Robinson named Ms. Kelly as the Director of Training for the state system, a position she held until 2006 when the Public Defender Commission appointed her Deputy Director. Ms. Kelly was sworn into her new position by Chief Justice William Ray Price the afternoon of February 28, 2011 and assumed the helm of the Missouri State Public Defender as of March 1.

Daniel J. Gralike received his law degree from St. Louis University School of Law in 1983 and joined the St. Louis County Trial Public Defender Office that same year. He later left the Public Defender System for a few years in private practice, then joined the Columbia Capital Defender Office as Lead Trial Counsel in 1991. In 1993, he was named the District Defender for that office, overseeing the provision of indigent criminal defense services in capital cases throughout central Missouri. A year later, Mr. Gralike was selected by the Public Defender Commission to serve as Deputy Director, a position he has now held for over 16 years.



*Daniel Gralike
Deputy Director*

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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.
D	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.
C	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?

1989 was the last year MSPD was actually staffed to fully meet the caseload assigned. That was the year 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.

Throughout the 1990's, both caseload and staffing increased but not at the same rate. Caseload growth consistently 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, while 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 the Senate and was voted out by the 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 one-year initiative to cover all probation revocations in the 31st Circuit and had approximately 80 volunteers taking appointments as part of the program. The program expired in 2009.

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 as hoped. *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 turn away certain categories of cases 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 ensure its lawyers are not taking on more cases than they can ethically handle.

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 6-7 more support staff.

Notice of Impending Defender Unavailability Given to 22 Judicial Circuits

As of the end of FY2010, the Director of the State Public Defender System had 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 began appointing private attorneys to handle juvenile cases. Others increased pre-screening of probation violation reports, only referring those at actual risk of revocation to the public defender. A number of prosecuting attorneys agreed to waive jail time on traffic and some misdemeanor offenses to eliminate the constitutional trigger for a right to appointment of counsel. These efforts 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.

First Public Defender Offices Close to New Cases

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.

MISSOURI PUBLIC DEFENDER CASELOAD RELIEF EFFORTS TIMELINE

2010—Continued

MO Supreme Court Appoints Special Master for Hearing on MSPD Caseload Protocol

A judge in Christian County appointed the public defender to take a new client after the office had closed to new cases for the month due to already having exceeded their maximum caseload protocol for the month's intake. MSPD challenged the appointment as in violation of the state regulation and a writ was taken to the Missouri Supreme Court. The Court appointed a Special Master to take additional evidence on the reasonableness and accuracy of the Caseload Protocol established by the Commission. The Special Master's hearing was held in November, 2010.

2011 MSPD Receives an Additional \$250,000 to Hire Support Staff

The Governor restored the \$250,000 in FY10 appropriated funds that had been withheld back into MSPD's core budget for FY2011, allowing MSPD to hire another 7 support staff personnel, for a total of 15 new Support Staff FTE over the last two years -- the first increase in MSPD Support Staff numbers in fifteen years.

Caseload Writ Remains Pending in front of Missouri Supreme Court

The Special Master's report was submitted to the Missouri Supreme Court and briefs submitted by both sides. As of this writing, oral argument in the case has not yet been set.

Office Closures to New Cases Largely On Hold Pending Outcome of Writ Litigation

Eight defender offices, serving 23 counties, have been certified under the MO State Regulation as exceeding their maximum allowable caseloads, and are attempting to refuse cases in excess of their maximum monthly intake under the regulation. Court reactions vary around the state, but in most jurisdictions the courts have indicated they are going to continue appointing the public defender despite their having already reached their caseload maximum, until the Supreme Court rules on the caseload writ. Eight additional offices, serving 33 additional counties, have been given notice they are at risk of certification but those are likewise on hold waiting for the Supreme Court ruling in the caseload writ.

“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, Cathy R. Kelly, is appointed by the Public Defender Commission.

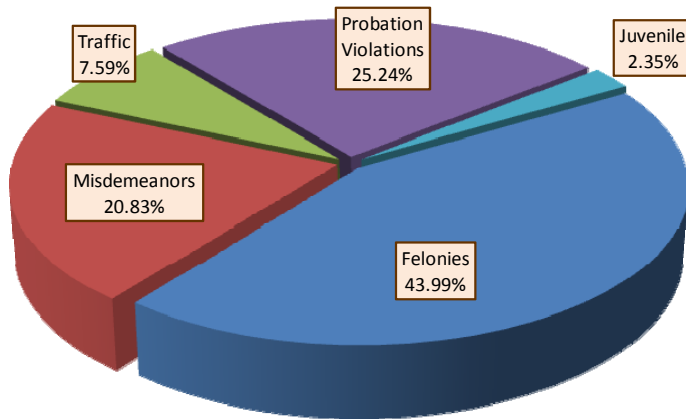
Who qualifies for a public defender?

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. 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.

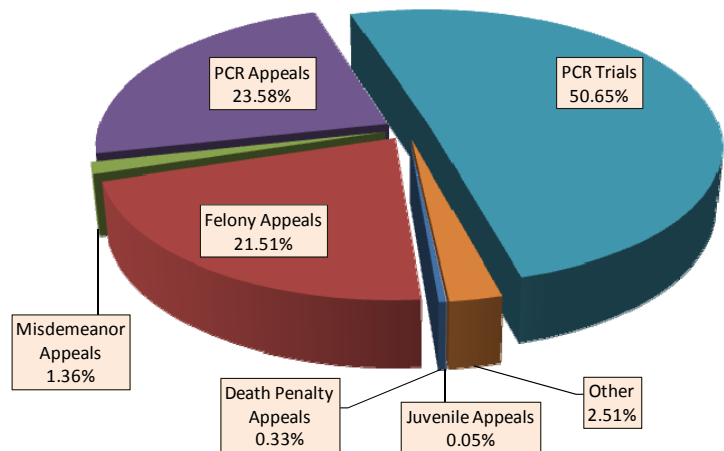
Who works for MSPD?

MSPD employs 585 employees, 376 of whom are attorneys. All attorneys employed by MSPD are prohibited from practicing law other than on behalf of clients of MSPD. The department is divided into a Trial Division, an Appellate/Post-Conviction Division and a Capital Division, each of which is described in greater detail on pp. 21, 69 and 75, respectively. The non-attorney district office staff is made up of investigators, capital mitigation specialists, paralegals, legal assistants and clerks. An operations staff provides centralized information technology support, fiscal, and human resources services for the 44 district offices located around the state, as well as managing MSPD’s contracting of cases to private counsel.

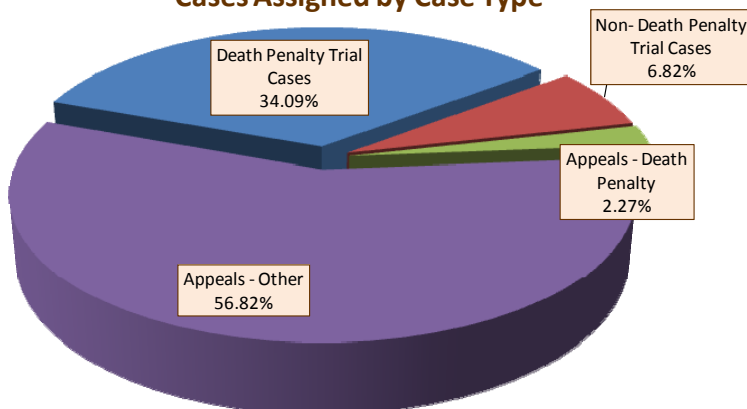
**Fiscal Year 2011
Trial Division
Cases Assigned by Case Type**



**Fiscal Year 2011
Appellate & Post Conviction Relief
Cases Assigned by Case Type**



**Fiscal Year 2011
Capital Division Caseload
Cases Assigned by Case Type**



Missouri State Public Defender System													
Cases Assigned by Case Type													
	Murder 1st	Other Homicide	Felony	Murder + Felony	Misdemeanor	Juvenile	PCR	Other	Probation Violation	Appeals	Total Opened	Total Closed	Closed to Open Ratio
FY11	148	149	35,753	36,050	22,767	1,893	1,088	119	20,066	913	82,896	80,137	0.9667
FY10	161	164	34,781	35,106	24,768	2,393	1,141	131	20,147	930	84,616	81,346	0.9614
FY09	121	180	33,226	33,527	25,181	2,513	1,264	181	19,518	898	83,082	81,704	0.9834
FY08	158	154	34,766	35,078	26,098	2,715	1,061	182	19,555	716	85,405	85,116	0.9966
FY07	174	161	35,109	35,444	27,816	3,380	828	129	19,157	743	87,497	85,133	0.9730
FY06	138	146	35,339	35,623	28,227	3,676	838	46	19,412	710	88,532	83,260	0.9405
FY05	156	124	33,282	33,562	28,931	3,881	937	120	20,012	688	88,131	87,180	0.9892
FY04	154	140	34,422	34,716	28,018	4,258	807	98	20,263	756	88,916	86,356	0.9712
FY03	195	114	35,425	35,734	25,807	4,147	806	103	18,479	832	85,908	81,059	0.9436
FY02	163	132	33,183	33,478	25,147	3,918	802	64	18,047	750	82,206	77,165	0.9387
FY01	182	125	29,934	30,241	22,903	4,488	711	82	17,663	698	76,786	73,438	0.9564
FY00	147	109	28,019	28,275	24,119	4,998	763	76	16,768	739	75,738	69,591	0.9188
FY99	182	108	28,892	29,182	23,721	4,629	797	112	14,488	809	73,738	74,570	1.0113
FY98	196	87	31,591	31,874	24,676	4,270	674	138	14,141	689	76,462	74,495	0.9743
FY97	169	79	29,663	29,911	21,912	4,075	513	156	13,437	839	70,843	67,870	0.9580
FY96	175	88	30,198	30,461	23,069	3,612	707	178	11,444	1,038	70,509	70,664	1.0022
FY95	256	109	27,688	28,053	17,696	3,916	719	165	9,362	1,138	61,049	61,710	1.0108
FY94	255	152	25,338	25,745	17,852	3,374	682	201	8,225	1,017	57,096	52,453	0.9187
FY93	301	136	24,402	24,839	15,883	3,146	766	249	7,301	872	53,056	52,363	0.9869
FY92	282	37	25,458	25,777	19,974	3,372	1,129	167	5,321	569	56,309	55,651	0.9883
FY91	193	63	21,304	21,560	13,941	2,713	588	169	5,051	820	44,842	49,038	1.0936
FY90	227	109	23,336	23,672	14,627	3,300	732	369	5,834	1,094	49,628	46,425	0.9355
FY89	193	149	20,838	21,180	12,902	3,298	1,342	418	5,074	1,243	45,457	42,532	0.9357
FY88	202	161	20,640	21,003	12,427	3,455	1,006	470	4,475	920	43,756	40,117	0.9168
FY87	199	145	19,254	19,598	11,736	3,564	755	443	4,308	728	41,132	37,081	0.9015
FY86	166	175	17,042	17,383	10,602	3,328	612	611	3,815	608	36,959	34,491	0.9332
FY85	152	172	15,397	15,721	9,126	3,500	543	522	3,293	632	33,337	32,410	0.9722
FY84	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. 101, 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 FY11 caseload in compliance with the caseload standard built into the Commission's Maximum Allowable Caseload protocol would require 66 more attorneys and another \$3.5 million to cover the cost of contracting all conflict cases out to the private bar.

Support Staff: The 2006 American Bar Association's ethical advisory opinion reiterating that public defenders have the same ethical obligations as any private attorney to turn away cases above the number in which they can provide effective assistance of counsel, 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 administrative, non-case-related tasks. Many of these are tasks that should be handled by support staff.

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 they have attorneys, a ratio more 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 better 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 standing at the copier, making file runs, etc., 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 FY2011, MSPD was allocated its first support staff increase since in over fifteen years -- an increase of 15 additional support staff positions. 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 minimally reasonable support staff to attorney ratios.

Trial and Appellate Divisions					9/2/2011
	Paralegal	Investigator	Legal Assistant	Secretary	Mitigation Specialist
Current Staff	6.50	55.50	36.00	67.50	3.00
Ratio of Support Staff to Attorney Staff of 348.50	1 for Every 53+ Attorneys	1 for Every 6+ Attorneys	1 for Every 9.5 Attorneys	1 for Every 5+ Attorneys	1 for Every 116 Attorneys
Ratio of Support Staff To Caseload - 80,702 Trial & Appellate Division Cases	1 for Every 12,416 Cases	1 for Every 1,454 Cases	1 for Every 2,242 Cases	1 for Every 1,196 Cases	1 for Every 26,901 Cases
	Not Requesting				Not Requesting

Trial and Appellate Divisions			
	Investigator	Legal Assistant	Secretary
Appropriate Staffing for 348.50 Attorneys	116.00	116.00	116.00
Current Staff	55.50	36.00	67.50
Need	60.50	80.00	48.50

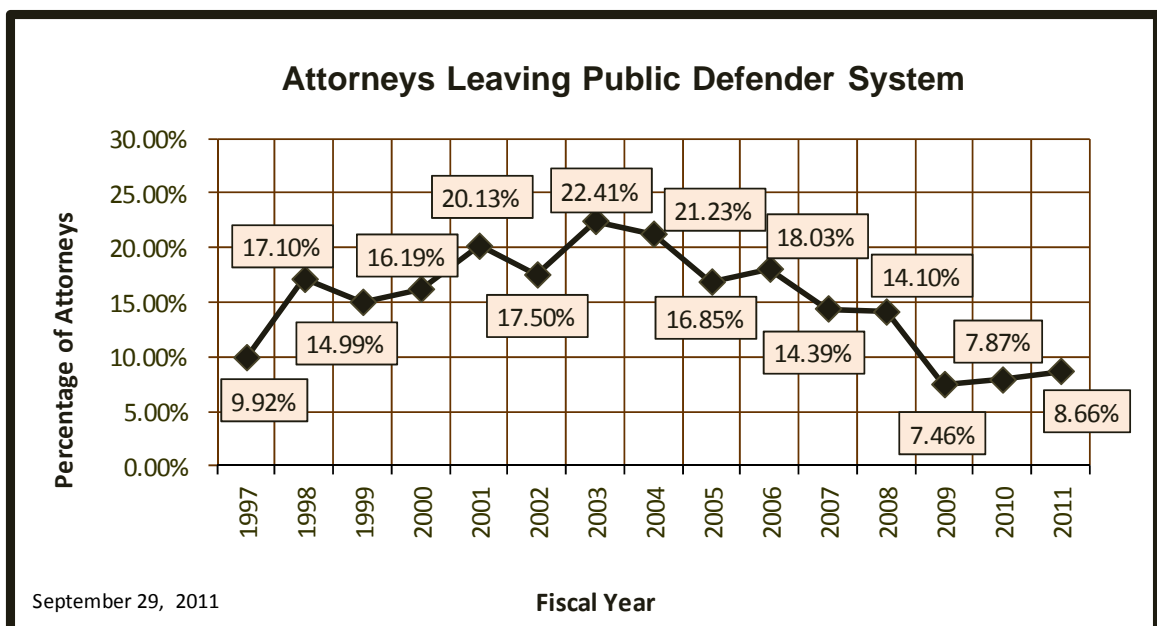
Public Defender Salary Information

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 from 2000 to 2005.

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.

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 very difficult, if not impossible, and provide for themselves and their families.

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.



FY2012 - POSITION CLASSIFICATION CODE, RANGE & SALARY

Effective July 1, 2011

0015 - TEMPORARY EMPLOYEE

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

0200 - CLERICAL

	Range & Step	Semi- Monthly	Annual
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
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

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 - Operations 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

Public Defender Appropriations

General Revenue: Missouri State Public Defender (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 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 370 attorneys, etc. In FY11, MSPD collected \$1.6 million through lien repayments.

The personal service component of the LDDF appropriation 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 state'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 order to turn the social worker FTE into more attorney positions.

Actual Funding: In all, in FY11, MSPD received a total of \$36.05 million from the combination of general revenue (\$34.45M) and actual collections under the LDDF program (\$1.6M).

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2012

95TH GENERAL ASSEMBLY

Fiscal Year 2011

Section 12.400. To the Office of the State Public Defender	Originally Appropriated	Released/ Available	Expended
For the purpose of funding the State Public Defender System			
Personal Service and/or Expense and Equipment	\$32,149,041	\$31,609,041	\$31,609,034
Note: The Appropriated Amount includes all of the \$500,000 increase of which only \$250,000 was released			
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>\$2,848,059</u>	<u>\$2,848,059</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>\$34,707,100</u>	<u>\$34,457,100</u>	<u>\$34,457,093</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>\$1,600,293</u>	<u>\$1,773,789</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>[\$1,225,000]</u>	<u>[\$1,061,854]</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>\$1,643</u>	<u>\$1,643</u>
Total (Not to exceed 572.13 F.T.E.).	<u>\$37,812,363</u>	<u>\$36,059,036</u>	<u>\$36,232,525</u>

The direct cost, on average of all cases disposed by the State Public Defender (including Death Penalty Representation) in Fiscal Year 2011 was \$383.17. The Trial Division Average was \$307.11.

Fiscal Year 2011 Trial Division Average Cost Per Case						
District	Location	Total Costs For District	FY11 Cases Assigned	Cost Per Assignment	FY11 Cases Disposed	Cost Per Disposition
2	Kirksville	\$200,977	696	\$288.76	636	\$316.00
4	Maryville	\$214,862	732	\$293.53	721	\$298.01
5	St. Joseph	\$552,123	2,265	\$243.76	2,177	\$253.62
7	Liberty	\$869,295	2,929	\$296.79	2,902	\$299.55
10	Hannibal	\$399,568	1,325	\$301.56	1,357	\$294.45
11	St. Charles	\$534,668	2,019	\$264.82	2,028	\$263.64
12	Fulton	\$453,892	1,500	\$302.59	1,464	\$310.04
13	Columbia	\$935,843	4104	\$228.03	3,951	\$236.86
14	Moberly	\$486,051	1506	\$322.74	1,541	\$315.41
15	Sedalia	\$485,242	1,963	\$247.19	1,895	\$256.06
16	Kansas City	\$2,643,501	6,433	\$410.93	6,278	\$421.07
17	Harrisonville	\$629,651	2,291	\$274.84	2,233	\$281.98
19	Jefferson City	\$490,718	2,686	\$182.69	2,422	\$202.61
20	Union	\$418,322	1,722	\$242.93	1,656	\$252.61
21	St. Louis County	\$1,382,396	4,958	\$278.82	4,454	\$310.37
22	St. Louis City	\$2,215,792	6,085	\$364.14	5,506	\$402.43
23	Hillsboro	\$413,204	1,285	\$321.56	1,360	\$303.83
24	Farmington	\$723,671	2,751	\$263.06	2,492	\$290.40
25	Rolla	\$834,879	3,541	\$235.77	3,205	\$260.49
26	Lebanon	\$492,691	1,876	\$262.63	1,792	\$274.94
28	Nevada	\$400,700	1,472	\$272.21	1,498	\$267.49
29	Carthage	\$1,207,589	3,153	\$383.00	3,243	\$372.37
30	Bolivar	\$461,940	1,582	\$292.00	1,506	\$306.73
31	Springfield	\$1,457,639	5,067	\$287.67	4,822	\$302.29
32	Jackson	\$882,515	3,096	\$285.05	3,019	\$292.32
34	Caruthersville	\$343,537	1,103	\$311.46	1,059	\$324.40
35	Kennett	\$380,605	1,213	\$313.77	1,239	\$307.19
36	Poplar Bluff	\$458,411	2,035	\$225.26	1,995	\$229.78
37	West Plains	\$366,936	1,242	\$295.44	1,276	\$287.57
39	Monett	\$612,737	2,010	\$304.84	1,918	\$319.47
43	Chillicothe	\$716,315	2,088	\$343.06	2,101	\$340.94
44	Ava	\$305,304	911	\$335.13	978	\$312.17
45	Troy	\$425,162	1,251	\$339.86	1,459	\$291.41
	Trial Division	\$23,396,735	78,890	\$296.57	76,183	\$307.11

Fiscal Year 2011 Commitment Defense Unit Average Cost Per Case						
District	Location	Total Costs For District	FY11 Cases Assigned	Cost Per Assignment	FY11 Cases	Cost Per Disposition
71	Civil Commitment Unit	\$314,827	43	\$7,321.56	30	\$10,494.24

Fiscal Year 2011 Appellate Division Average Cost Per Case						
District	Location	Total Costs For District	FY11 Cases Assigned	Cost Per Assignment	FY11 Cases Disposed	Cost Per Disposition
50	Columbia Appellate	\$738,942	361	\$2,046.93	371	\$1,991.76
51	St. Louis Appellate	\$602,967	405	\$1,488.81	393	\$1,534.27
52	Kansas City Appellate	\$366,558	186	\$1,970.74	221	\$1,658.63
67	Appellate/PCR Central A	\$769,838	351	\$2,193.27	346	\$2,224.97
68	Appellate/PCR Eastern B	\$419,191	354	\$1,184.15	307	\$1,365.44
69	Appellate/PCR Western B	\$276,198	179	\$1,543.01	179	\$1,543.01
		\$3,173,694	1,836	\$1,728.59	1,817	\$1,746.67

Fiscal Year 2011 Capital Division Cost Per Case						
District	Location	Total Costs For District	FY11 Cases Assigned	Cost Per Assignment	FY11 Cases Disposed	Cost Per Disposition
53	Columbia Capital	\$1,123,492	10	\$112,349.24	6	\$187,248.74
54	St. Louis Capital	\$1,267,778	12	\$105,648.19	9	\$140,864.25
55	Kansas City Capital	\$631,272	22	\$28,694.20	9	\$70,141.37
		\$3,022,543	44	\$68,694.16	24	\$125,939.29
Note: In Fiscal Year 2011, the Capital Division provided representation in Non-Death Appeals: District 53 - 3; District 54 - 5; District 55-17.						

Public Defender Trial Division

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. The division consists of 34 district trial offices, as well as the Civil Commitment Defense Unit [CDU]. Between them, they handle 95.22% of the cases that make up the system's caseload.

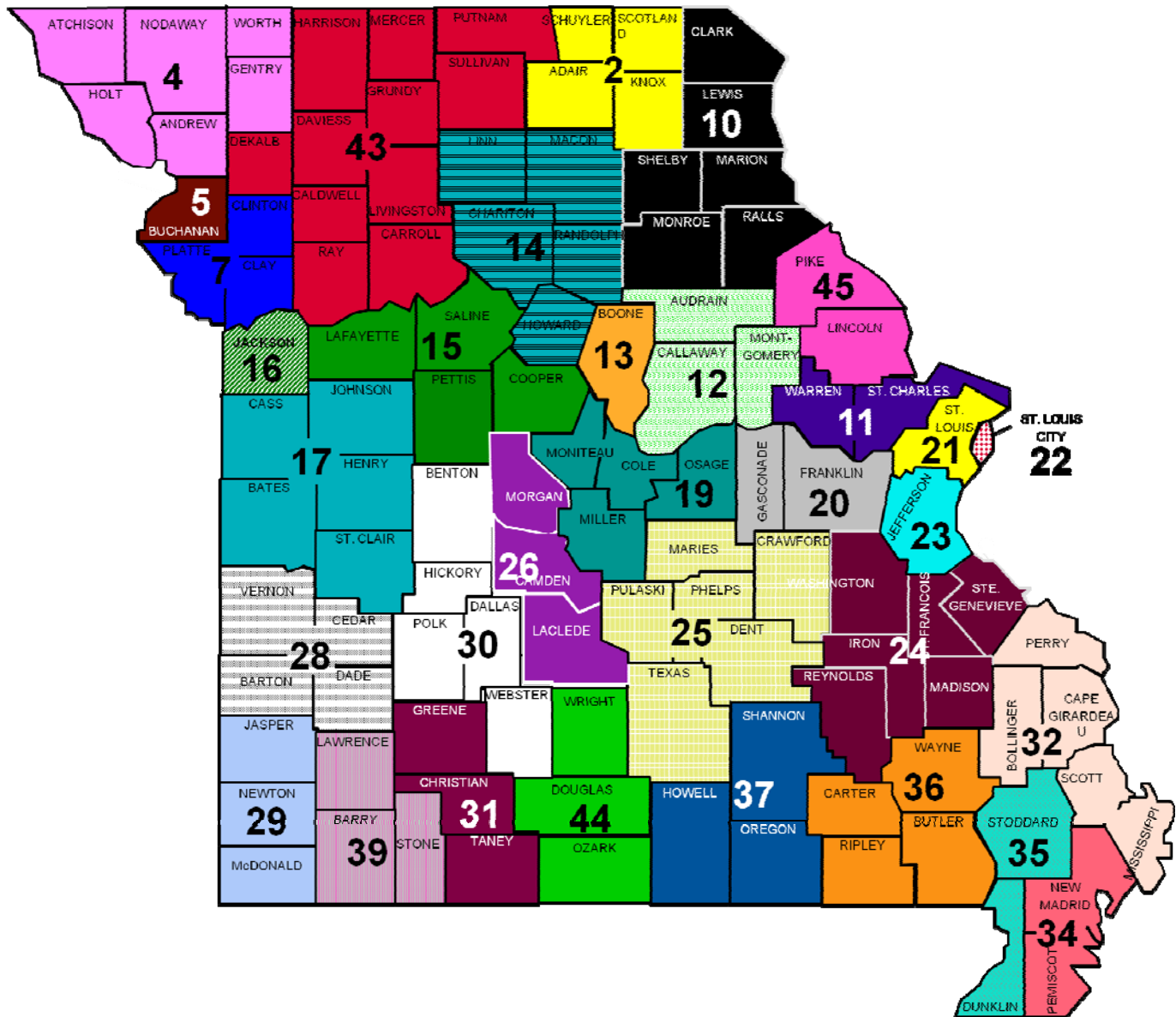
MSPD's Trial Division attorneys handle every type of state criminal case in which the law includes a possible jail sentence among the penalty options for the court to consider -- from traffic offenses, conservation, and 'Minor in Possession of Alcohol' offenses up to and including non-capital murder cases. (Capital Murder cases are handled by the MSPD Capital Division.) The Trial Division also handles 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.

An MSPD Trial Division Attorney's practice will generally include:

- 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 help establish the defendant's innocence;
- visiting crime scenes or re-enacting a described crime 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 who doesn't work for the state 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 litigating for sentencing options that could effectively address the problems that resulted in the defendant getting 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;
- and of course meeting with and advising the client, and perhaps the client's family members if the client requests it, throughout each of the above processes.

As the above list indicates, an attorney's appearance in court on behalf of a defendant is a very small portion of the work they must do on a case. When they have too many cases, some of these steps are skipped or fall by the way side. The state's evidence is taken at face value, assumed by all to be accurate and mistakes fall through the cracks, uncaught and uncorrected. The result is that individual defendants and justice as a whole suffer.

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 offices cover three to five counties.

The geographic areas covered by defender offices do not coincide with Missouri's judicial circuits, even though the district numbers assigned to each office will often be the same as that of one of the judicial circuits the office serves. For example, one public defender office may serve only two of the three counties in a particular judicial circuit, while also providing service in two counties from an adjoining 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
905 E. George
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
816-792-5394 FAX: 816-792-8267

Area 10 -- Clark, Lewis, Marion, Monroe, Ralls, Shelby Counties

Todd Schulze, District Defender
201 North Third Street
Hannibal, MO 63401
573-248-2430 FAX: 573-248-2432

Area 11 -- St. Charles, Warren Counties

Richard Scheibe, District Defender
300 N. Second Street, Suite 264
St. Charles, MO 63301
636-949-7300 FAX: 636-949-7301

Area 12 -- Audrain, Callaway, Montgomery Counties

Justin Carver, District Defender
500 Market Street
Fulton, MO 65251
573-592-4155 FAX: 573-642-9528

Area 13 -- Boone County

David Wallis, District Defender
601 E. Walnut
Columbia, MO 65201
573-882-9701 FAX: 573-882-9147

Area 14 -- Chariton, Howard, Linn, Macon, Randolph Counties

Ray Legg, District Defender
3029 County Road 1325
Moberly, MO 65270
660-263-7665 FAX: 660-263-2479

Area 15 -- Cooper, Lafayette, Pettis, Saline Counties

Kathleen Brown, District Defender
110 S. Limit
Sedalia, MO 65301
660-530-5550 FAX: 660-530-5545

Area 16 -- Jackson County

Ruth Petsch, District Defender
Oak Tower, 20th Floor
324 E. 11th Street
Kansas City, MO 64106-2417
816-889-2099 FAX: 816-889-2999

MISSOURI STATE PUBLIC DEFENDER SYSTEM

Trial Division Offices

Area 17 -- Bates, Cass, Henry, Johnson, St. Clair Counties

Jeffrey Martin, District Defender
502 Westchester Avenue
Harrisonville, MO 64701
816-380-3160 FAX: 816-380-7844

Area 19 -- Cole, Miller, Moniteau, Osage Counties

Jan King, District Defender
210 Adams Street
Jefferson City, MO 65101
573-526-3266 FAX: 573-526-1115

Area 20 -- Franklin, Gasconade Counties

Lisa Preddy, District Defender
300 East Main Street
Union, MO 63084
636-583-5197 FAX: 636-583-1740

Area 21 -- St. Louis County

Stephen Reynolds, District Defender
100 S. Central, 2nd Floor
Clayton, MO 63105
314-615-4778 FAX: 314-615-0128

Area 22 -- St. Louis City

Mary Fox, District Defender
Mel Carnahan Courthouse
1114 Market Street, Suite 602
St. Louis, MO 63101
314-340-7625 FAX: 314-340-7595

Area 23 -- Jefferson County

Val Held, District Defender
P.O. Box 156
300 Main Street
Hillsboro, Missouri 63050
636-789-5254 FAX: 636-789-5267

Area 24 -- Iron, Madison, Reynolds, St. Francois, Ste. Genevieve, Washington Counties

Wayne Williams, District Defender
Liberty Hall Professional Building
400 N. Washington Street, Suite #232
Farmington, MO 63640
573-218-7080 FAX: 573-218-7082

Area 25 -- Crawford, Dent, Maries, Phelps, Pulaski, Texas Counties

Donna Holden, District Defender
901 North Pine, Suite 200
Rolla, MO 65401
573-368-2260 FAX: 573-364-7976

Area 26 -- Camden, Laclede, Morgan Counties

Karie Comstock, District Defender
288 Harwood
Lebanon, MO 65536
417-532-6886 FAX: 417-532-6894

Area 28 -- Barton, Cedar, Dade, Vernon Counties

Joe Zuzul, District Defender
329 C North Barrett
Nevada, MO 64772
417-448-1140 FAX: 417-448-1143

Area 29 -- Jasper, McDonald, Newton Counties

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

MISSOURI STATE PUBLIC DEFENDER SYSTEM

Trial Division Offices

Area 30 -- Benton, Dallas, Hickory, Polk, Webster Counties

Dewayne Perry, District Defender
1901 South Wommack, Suite B
Bolivar, Missouri 65613
417-777-8544 FAX: 417-777-3082

Area 31 -- Christian, Greene, Taney Counties

Rodney Hackathorn, District Defender
630 North Robberson
Springfield, MO 65806
417-895-6740 FAX: 417-895-6780

Area 32 -- Bollinger, Cape Girardeau, Mississippi, Perry, Scott Counties

Christopher Davis, District Defender
215 North High Street
Jackson, MO 63755
573-243-3949 FAX: 573-243-1613

Area 34 -- New Madrid, Pemiscot Counties

Brandon Sanchez, District Defender
407 Walker Avenue
Caruthersville, MO 63830
573-333-4066 FAX: 573-333-0756

Area 35 -- Dunklin, Stoddard Counties

Catherine Rice, District Defender
P.O. Box 648
101 S. Main
Kennett, MO 63857
573-888-0604 FAX: 573-888-0614

Area 36 -- Butler, Carter, Ripley, Wayne Counties

Steven Lynxwiler, District Defender
2323 North Main
Poplar Bluff, MO 63901
573-840-9775 FAX: 573-840-9773

Area 37 -- Howell, Oregon, Shannon Counties

Donna Anthony, District Defender
1314 Webster Street
West Plains, MO 65775
417-257-7224 FAX: 417-257-7692

Area 39 -- Barry, Lawrence, Stone Counties

Pamela Musgrave, District Defender
P.O. Box 685
305 Dairy
Monett, MO 65708-0685
417-235-8828 FAX: 417-235-5140

Area 43 -- Caldwell, Carroll, Daviess, DeKalb, Grundy, Harrison, Livingston, Mercer, Putnam, Ray, Sullivan Counties

Kelly Miller, District Defender
500 Youssef
Chillicothe, MO 64601
660-646-3343 FAX: 660-646-4228

Area 44 -- Douglas, Ozark, Wright Counties

Kevin Babcock District Defender
P.O. Box 951
404 East Washington Street
Ava, MO 65608
417-683-5418 FAX: 417-683-5820

Area 45 -- Lincoln, Pike Counties

Tom Crocco, District Defender
240 West College
Troy, MO 63379
636-528-5084 FAX: 636-528-5086

Cases Handled by the Trial Division

FELONY OFFENSES: As the pie chart below shows, 44% of the Trial Division caseload in FY11 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 carry jail time as a possible sentence, but to be served in the county jail rather than the state's penitentiary. The maximum sentence on the highest level misdemeanor offenses is one year incarceration.

JUVENILE CASES: Missouri's juvenile courts have jurisdiction over anyone under the age of 17 who is accused of committing an offense that would be a crime if that person were an adult. They also have jurisdiction over various 'status offenses' – things that apply only to juveniles and not to adults. Examples of these would be Truancy and Incurability. Some Missouri courts appoint private attorneys for juveniles who cannot hire their own attorneys, but a number of counties, particularly those 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?

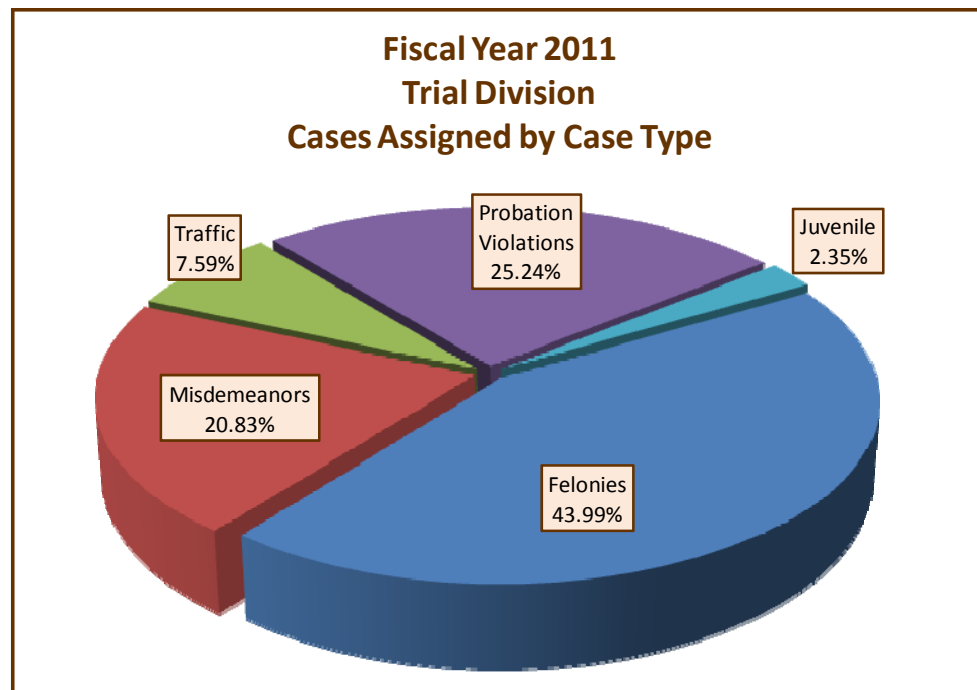
It is the practice of Missouri's prosecutors and courts to hold open the original case out of which probation arose, for the duration of the probationary period. As a result, they then treat probation violations as simply another proceeding within the original case.

By contrast, it is the practice of MSPD and the defense bar as 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 generally expect a separate retainer in order to represent the defendant on that probation violation. This is why MSPD winds up with many probation violation cases in which the defendant had private counsel on the underlying charge. The defendant cannot come up with the additional money to pay the private attorney to handle the new probation violation matter. By the same token, MSPD is seldom in a position to re-assign to the defendant the same attorney who handled the underlying charge in his case. In either situation, therefore, a 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. 3), 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 2011
- Trial Division -
Cases by Case Type**

Case Type	Description	Opened Cases	Closed Cases
10	Murder - Death Penalty	2	3
15	Murder - 1st Degree	132	113
20	Other Homicide	132	149
30D	A - B Felony Drug	3,064	3,063
30F	A - B Felony Other	3,776	3,582
30X	A - B Felony Sex	665	655
35D	C - D Felony Drug	5,512	5,372
35F	C - D Felony Other	21,065	20,067
35X	C - D Felony Sex	327	315
45M	Misdemeanor (other than Traffic)	16,417	16,039
45T	Misd. - Traffic (RSMo. 301-307)	5,980	5,852
50N	Juvenile Non-violent (all other)	1,144	1,113
50S	Juvenile Status	127	135
50V	Juvenile Violent	583	589
60	552 Release Petitions	27	34
65F	Probation Violation - Felony	14,725	13,888
65M	Probation Violation - Misd.	5,171	5,172
75	Special Writ	1	1
82	Appeal - Other	2	3
99	Unknown	38	38
		78,890	76,183

Fiscal Year 2011
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	19,896						19,896		19,896
001.100	Juvenile	235					233		2	235
001.110	Juvenile Injurious Behavior	38					37		1	38
001.115	Juvenile Review Hearing	30					30			30
001.120	Juvenile PV Only	205					205			205
001.125	Juvenile Status	46					45		1	46
001.130	Juvenile Misdemeanor	112			2		110			112
001.135	Juvenile Felony C-D (Cert.)	2		1			1			2
001.140	Juvenile Felony A-B (Cert.)	10					10			10
001.145	Juvenile Felony C-D	251		2			249			251
001.150	Juvenile Felony A-B	93					93			93
001.155	Juvenile Murder 1st/2nd (Cert.)	1					1			1
001.160	Juvenile Homicide (Cert)	0								0
001.165	Juvenile Homicide	0								0
043.170	Failure to stop for Hwy Patrol	1			1					1
43.170	Willfully resist/oppose a member of Hwy. Patrol	1			1					1
064.295	Zoning Violations	2			2					2
070.441	Violating Rules/Regulations of Rapid Transit	2			2					2
115.631	Election Offense Class I	0								0
142.432	No Specialty Fuel License	2			2					2
142.830	Operating as Interstate Motor Fuel user	0								0
143.221	Failure to Pay Withholding	0								0
143.911	Attempting to evade or defeat income tax	1		1						1
143.931	Failure to file MO tax return	0								0
143.941	False statement of tax return	2		1	1					2
144.080	Fail to collect sales tax, file return and pay taxes	1		1						1
144.083	Retail Sales w/o a license	0								0
144.480	Failure to pay state sales tax	1	1							1
167.031	Compulsory school attendance	31			31					31
167.061	Educational neglect	0								0
190.308	Misuse of 911 phone service	28			28					28
191.677	Risk of infecting another w/HIV	7	7							7
191.905	Abuse of a Person Receiving Health Care	1		1						1
192.300	Person, firm, corp. or assoc. violating any County ordinances	4			4					4
192.490	Violation of a law or regulation, Misdemeanor	0								0
194.410	Disturbing human burial site	1		1						1
194.425	Abandonment of a corpse	4		4						4
195.130	Maintaining a public nuisance	42		42						42
195.202	Drug Possession	5,953	21	4,726	1,173	2	31			5,953
195.203	Possession Under 35 Grams	258		2	253	1	2			258
195.204	Fraudulent attempt to obtain cont. sub.	111		111						111
195.211	Distribution/delivery/manufacture	2,769	2,599	165			5			2,769
195.212	Unlawful distribution to minor	9	9							9
195.213	Unlawful purchase or transport with a minor	0								0
195.214	Dist. drugs within 1000 ft of a school	117	111	1			5			117
195.217	Distribute/Deliver drugs in/near a Park	1	1							1
195.218	Dist. drugs within 1000 ft of public housing	36	36							36
195.219	Unlawful Endangerment of Property	0								0
195.222	Drug trafficking First Degree	50	49	1						50
195.223	Drug trafficking Second Degree	202	195	2	2		3			202
195.226	Furnishing materials for producing cont. sub.	18		18						18
195.233	Use of drug paraphernalia	683	4	61	611	3	4			683
195.235	Delivery or manufacture of drug paraphernalia	7		7						7

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
195.241	Possession of an imitation drug	7			7					7
195.242	Delivery or manufacture of an imitation drug	40	3	37						40
195.246	Possession of ephedrine	132	1	131						132
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	2	2							2
195.410	Possession of chemicals for meth.	3		2	1					3
195.417	Over the Counter sale of Meth Precursor	47			47					47
195.420	Creation of a controlled substance	209	2	207						209
196.015	Viol. of regs. for manufacture of food, drugs, cosmetics	0								0
198.015	Operating Residential Care Facility w/o License	0								0
198.097	Misappropriation of Funds of Elderly	4		4						4
198.158	Misuse of Medicaid Money in Operating Nursing Hm	0								0
205.967	Unlawfully obtaining Public Assistance	2		2						2
209.202	Intentionally cause injury/death of service dog	2			2					2
210.104	Failure to Provide Child Safety Restraint	0								0
210.165	Filing a False Report of Child Abuse or Neglect	0								0
211.031	Exclusive jurisdiction of juvenile court	20					20			20
211.431	17 years of age or older violates provision of 211	0								0
214.131	Vandalizing Private Cemetery	0								0
217.075	Violating Regulations for Records Maintained by DOR	1			1					1
217.360	Possession of cont. substance/weapon-DOR facility	127	41	77	9					127
217.365	Possession of contraband in penal Institution	2	1		1					2
217.385	Committing Violence	81	75	6						81
217.490	Multi-State Agreement on Detainers	0								0
221.111	Delivering/possessing prohibited articles in jail	157	20	77	59				1	157
221.353	Damage to jail property	65		64	1					65
229.150	Willfully obstruct/damag/change location of public road	2			2					2
229.479	Possession for sale or collection plants from Co.	0								0
252.040	Pursuing/taking wildlife	61			61					61
252.045	Operation of MV on conservation property	1			1					1
252.060	Failure to Display a Fishing License	0								0
252.190	Possession of Illegal Wildlife	1			1					1
252.230	Violation of the State Wildlife Statues Law	2			2					2
260.212	Criminal disposition of solid waste	0								0
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	3		2	1					3
288.380	Illegal unemployment compensation	0								0
301.020	Failure to register	173			15	158				173
301.130	Failure to display valid plates	71		1	5	65				71
301.140	Displaying plates of another	35				35				35
301.142	Fraudulent application of handicapped plate/hangtag	0								0
301.218	Conducting Salvage Business w/o License	0								0
301.277	Failure to register non-resident vehicle	0								0
301.320	Displaying another states plates	3				3				3
301.330	Fail to display name/address, wt. on commercial MV	0								0
301.390	Sale of vehicle with altered VIN	2		2						2
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	538		112	57	369				538
302.025	Financial responsibility while operating vehicle	0								0
302.175	Failure to Comply with Restricted Driver's License	1				1				1

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	13			2	11				13
302.210	Purchase of vehicle without receiving full title	0								0
302.220	Possession of altered driver's license	7			1	6				7
302.230	Making false stmt to obtain driver's license	0								0
302.233	Committing Fraud to Obtain Driver's license	0								0
302.260	Unlicensed person operating motor vehicle	5				5				5
302.304	Oper MV Whil Rev/Susp., no Ignition Interlock Device	2				2				2
302.321	Driving while suspended or revoked	4,971	4	831	397	3,739				4,971
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	3				3				3
302.780	Driving commercial vehicle under influence	0								0
303.024	Failure to provide evidence of insurance	3		1	1	1				3
303.025	Operating MV w/out financial responsibility	395		1	34	360				395
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	72			7	65				72
304.000	Traffic	6				6				6
304.010	Speeding	186			16	170				186
304.011	Maintain Speed < 40 mph on Interstate	4				4				4
304.012	Careless and imprudent driving	247		1	23	223				247
304.013	Operating ATV's illegally	6				6				6
304.015	Failure to drive on right side of the road	153		1	8	144				153
304.016	Violation of passing regulation	9			4	5				9
304.017	Following too closely	13			1	12				13
304.019	Failure to signal	17			2	15				17
304.022	Failure to yield to emergency vehicle	35			2	33				35
304.035	Failure to stop at Railroad Crossing	0								0
304.050	Failure to stop for a school bus	1				1				1
304.130	Exceed Posted Speed Limit - 1st Class County	9				9				9
304.180	Gross Weight Exceed 80,000 lbs	1				1				1
304.220	Weight Limit Violation	0								0
304.271	Failure to stop at stop sign	6				6				6
304.281	Failure to stop at signal or crosswalk	11			1	10				11
304.301	Failure to Stop For Flashing Red Signal	1				1				1
304.311	Enter/travel in lane over which a red signal was shown	0								0
304.341	Turns at intersection violation penalty	9				9				9
304.351	Failure to yield right-of-way	43			3	40				43
304.665	Juvenile in bed of truck	0								0
304.820	Person 21 years old or less driving while texting	1				1				1
306.110	Operating a Watercraft While Intoxicated	1			1					1
306.111	Neg. operation vessel/intoxicated/manslaughter	5		1		4				5
306.125	Failure to Exercise Degree of Care of Watercraft	0								0
307.010	Failed to Cover or Secure Vehicle Load	4				4				4
307.045	Faulty headlights	1				1				1
307.165	Failed to Equip Passenger Veh w/ 2 sets of belts	0								0
307.175	Sirens and Flashing Lights Emergency Use	0								0
307.179	Failure to secure child < 8 y/o in car seat	27			5	22				27
307.182	Driver Failed to Restrain Child in Booster	0								0
307.198	Operating ATV on Highway w/o Head/Tail Lamps	0								0
307.365	Performed improper/incomplete veh inspection	0								0
311.050	Sale of Intoxicating Liquor w/o a License	0								0
311.310	Supplying liquor to a minor	38			37	1				38
311.320	Misrepresentation of Age by Minor	1			1					1
311.325	Being Visibly Intoxicated	306			297	6	3			306
311.325(1)	Possession of liquor by a minor	0								0
311.328	Altering operator's license or ID card	1				1				1

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
311.329	Possessing altered operator's license or ID card	0								0
311.550	Sale of liquor without a license	0								0
311.880	Sale of alcohol to minor	0								0
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	0								0
313.813	Trespassing on a Gambling Boat	2			2					2
313.817	Presenting false ID to enter gaming est.	8			8					8
313.830	Cheating a gambling game	1		1						1
320.111	Manufacture, sale, ship fireworks w/o permit	0								0
320.151	Sale of Fireworks to a minor	1			1					1
324.520	Fraudulently misrepresent oneself as parent (re: tattoo)	1			1					1
324.522	Tattooing Without Required License	1			1					1
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	1		1						1
375.991	Fraudulent Act	4		4						4
378.385	Commit perjury while receiving public assistance	0								0
389.653	Trespass on railroad property	2			2					2
390.063	Operating Motor Vehicle w/ Defective Equipment	0								0
407.020	Unlawful merchandising practices	0								0
407.536	Odometer fraud	1		1						1
409.5-505	False/misleading statement or omission in official record	1	1							1
409.501	Securities Fraud	0								0
429.014	Lien Fraud - Over \$500	0								0
454.440	Failing to complete an information statement	8			8					8
455.085	Violation of a protective order	627	1	47	579					627
455.538	Violation of an order of child protection	27			27					27
468.350	As owner operator/auth another to op	0								0
476.110	Criminal contempt of court	1			1					1
542.400	Illegal wire tapping	0								0
544.665	Failure to appear	34		22	10		2			34
548.131	Fugitive from justice	23	1	19	3					23
548.141	Fugitive from Out of State	140	34	106						140
556.021	Failed to stop for law enforcement officer	1			1					1
557.035	Hate crime	4		4						4
557.036	Persistent offender	0								0
558.016	Persistent misdemeanor offender	0								0
562.036	Possessing controlled substance w/intent to dist.	3	2	1						3
564.011	Attempt to commit an offense	158	39	99	4		16			158
564.016	Conspiracy	27	4	22			1			27
565.020	Murder 1st FA	142	137				3		2	142
565.021	Murder 2nd FA	154	143				10		1	154
565.023	Voluntary manslaughter	3	3							3
565.024	Involuntary manslaughter	36	14	22						36
565.050	Assault 1st	513	497	3			10		3	513
565.060	Assault 2nd	629	8	586	2		32		1	629
565.070	Assault 3rd	1,183		11	1,090	1	80		1	1,183
565.072	Domestic Assault 1st	152	151	1						152
565.073	Domestic Assault 2nd	1,363	20	1,337	6					1,363
565.074	Domestic Assault 3rd	2,031		72	1,950	2	7			2,031
565.075	Assault on school property	26		7			19			26
565.081	Assault law enforcement officer 1st	64	58	2			3		1	64
565.082	Assault law enforcement officer 2nd	241	52	186			3			241
565.083	Assault law enforcement officer 3rd	261		1	244	2	14			261
565.084	Tampering with a judicial officer	15		15						15

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
565.085	Crime of endangering a corrections employee	18	1	17						18
565.090	Harassment	223		17	204		2			223
565.092	Aggravated harassment	1			1					1
565.100	Tampering with evidence	0								0
565.110	Kidnapping	70	69	1						70
565.115	Child Kidnapping	6	6							6
565.120	Felonious restraint	41	1	38			2			41
565.130	False imprisonment	15			15					15
565.150	Interfering with Custody	13		3	10					13
565.153	Parental Kidnapping	10		10						10
565.156	Child abduction	7		7						7
565.165	Assisting in child abduction or kidnapping	2			2					2
565.180	Elder abuse - 1st degree	3	3							3
565.182	Elder abuse - 2nd degree	6	6							6
565.184	Elder abuse - 3rd degree	10			9	1				10
565.210	Abuse of a vulnerable person 1st degree	1	1							1
565.214	Abuse of a Vulnerable Person - 3rd degree	1			1					1
565.225	Aggravated stalking	95		70	25					95
565.252	Invasion of Privacy 1st	0								0
565.253	Invasion of Privacy 2nd	7		6	1					7
566.030	Rape	131	120	2			5		4	131
566.032	Statutory rape 1st	138	130	3			5			138
566.034	Statutory rape 2nd	88	1	86			1			88
566.040	Sexual assault 1st	20		15			5			20
566.050	Sexual assault 2nd	0								0
566.060	Sodomy	54	52				1		1	54
566.062	Statutory sodomy 1st	223	207	4			12			223
566.064	Statutory sodomy 2nd	45	2	43						45
566.067	Child molestation 1st	123	115	2			6			123
566.068	Child molestation 2nd	49		4	45					49
566.070	Deviate sexual assault 1st	39		22			17			39
566.080	Deviate sexual assault 2nd	0								0
566.083	Sexual misconduct involving a child	48		42			6			48
566.090	Sexual misconduct 1st	62		6	36		20			62
566.093	Sexual misconduct 2nd	40			38		2			40
566.095	Sexual misconduct 3rd	12			11		1			12
566.100	Sexual abuse 1st	11		11						11
566.110	Sexual abuse 2nd	1		1						1
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	9		8	1					9
566.149	Offender of 566.149 loitering 500 ft of School	3			3					3
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	23	15	8						23
566.212	Sexual Trafficking of a Child	3	3							3
566.625	Failure to register as a sex offender	1		1						1
567.020	Prostitution	8	1		7					8
567.030	Patronizing prostitution	2			2					2
567.050	Promoting prostitution 1st	1	1							1
567.060	Promoting prostitution 2nd	1		1						1
567.070	Promoting prostitution 3rd	1		1						1
568.010	Bigamy	1			1					1
568.020	Incest	7		5			2			7
568.030	Abandonment of a child 1st	1	1							1
568.032	Abandonment of a child 2nd	0								0

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
568.040	Criminal nonsupport	2,692		1,813	879					2,692
568.045	Endangering welfare of a child 1st Dgr	285	4	277	2		1		1	285
568.050	Endangering welfare of a child	297		12	282	2	1			297
568.052	Leaving child <10 yrs. unattended in MV causing collision	0								0
568.060	Abuse of a child	146	7	139						146
568.070	Unlawful transactions with a child	2		1	1					2
568.080	Using a child in a sexual performance	2	1	1						2
568.090	Promoting sexual performance by a child	1		1						1
568.110	Processor failure to report	0								0
568.175	Trafficking in children	0								0
568.175	Trafficking/Children	0								0
569.020	Robbery 1st	789	769	1			19			789
569.025	Pharmacy robbery 1st	10	10							10
569.030	Robbery 2nd	401	349	21			31			401
569.035	Pharmacy Robbery 2nd degree	1	1							1
569.040	Arson 1st	53	45	3			3		2	53
569.050	Arson 2nd	58	1	53	1		3			58
569.055	Knowingly burning or exploding	38		31			5		2	38
569.060	Reckless burning or exploding	4			4					4
569.065	Negligent burning or exploding	2			1		1			2
569.070	Catastrophe	0								0
569.080	Tampering 1st	1,426	5	1,372	4		43		2	1,426
569.085	Unlawful endangerment of property	0								0
569.090	Tampering 2nd	209		16	186	1	6			209
569.095	Tampering with intellectual property	0								0
569.097	Tampering with computer equipment	0								0
569.099	Tampering with computer users	0								0
569.100	Property damage 1st	283		268			15			283
569.120	Property damage 2nd	346		1	327		18			346
569.140	Trespass 1st	472		3	463	1	5			472
569.150	Trespass 2nd	18	1		14		1		2	18
569.155	Trespass of a school bus	0								0
569.160	Burglary 1st	991	905	50			35		1	991
569.170	Burglary 2nd	3,082	18	2,961	3		100			3,082
569.180	Possession of burglar's tools	30		30						30
570.030	Stealing	5,116	70	2,992	1,943	5	106			5,116
570.030.4	Theft of anhydrous ammonia	4	4							4
570.033	Stealing animals	5		5						5
570.040	Stealing 3rd Offense	195		195						195
570.055	Steal wire/electrical transformer or other device/pipe	30		30						30
570.080	Receiving stolen property	827	1	588	212		26			827
570.085	Alteration or removal of item numbers	1		1						1
570.090	Forgery	1,566	2	1,563	1					1,566
570.100	Possession of a forgery instrumentality	3		3						3
570.103	Counterfeiting 1000 or more	6		2	4					6
570.110	Issuing a false instrument or certificate	0								0
570.120	Passing bad check	2,242	2	1,012	1,226	2				2,242
570.125	Fraudulent stop payment on an instrument	9		3	6					9
570.130	Fraudulent use of a credit device	256		115	140		1			256
570.135	Fraudulent procurement of a creditdebit device	0								0
570.140	Deceptive business practices	1			1					1
570.145	Financial exploitation of elderly or disabled	46	26	20						46
570.150	Commercial bribery	0								0
570.155	Sports bribery	0								0
570.160	False advertising	0								0
570.180	Defrauding secured creditors	6		6						6
570.190	Telephone service fraud	0								0

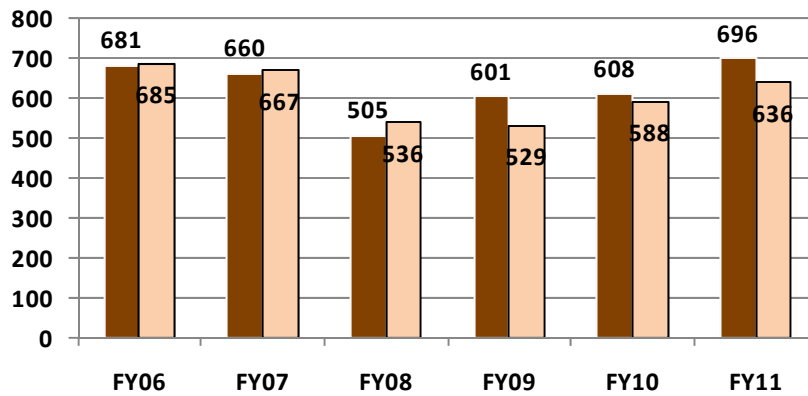
Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
570.210	Library theft	2			2					2
570.217	Misapplication of funds of financial institution	0								0
570.220	Check kiting	1		1						1
570.223	Identity Theft	64	8	31	25					64
570.224	Trafficking in Stolen Identities	24	24							24
570.230	Selling unauthorized recordings	0								0
570.300	Theft of cable television service	0								0
571.015	Armed criminal action	52	47	3			1		1	52
571.020	Possess/transport/sale of certain weapons	79		52	27					79
571.030	Unlawful use of weapons	844	56	736	9		41		2	844
571.045	Defacing firearm	1		1						1
571.050	Possession of a defaced firearm	4			4					4
571.060	Unlawful transfer of weapons	0								0
571.070	Possession of a concealable firearm	306	1	305						306
571.072	Unlawful possession of an explosive weapon	1		1						1
571.080	Transfer of concealable firearms w/out permit	0								0
571.090	Permit to acquire concealable weapons	0								0
571.150	Use or possession of metal-penetrating bullet	0								0
572.020	Gambling	1			1					1
572.030	Promoting Gambling	2		2						2
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	1		1						1
573.023	Sexual Exploitation of a Minor	4	4							4
573.025	Promoting Child Pornography 1st	10	10							10
573.030	Promoting Pornography 2nd	0								0
573.035	Promoting child pornography 2nd	1		1						1
573.037	Possession of child pornography	43	21	19			3			43
573.040	Furnishing pornographic material to a minor	10			10					10
573.060	Public display of explicit sexual material	0								0
573.065	Coercing acceptance of obscene materials	0								0
574.010	Peace disturbance	139			138		1			139
574.020	Private peace disturbance	8			8					8
574.040	Unlawful assembly	0								0
574.050	Rioting	0								0
574.060	Refusal to disperse	0								0
574.070	Promoting civil disorder 1st	0								0
574.075	Drunkenness or drinking in prohibited places	10			10					10
574.085	Burial desecration - Institutional Vandalism	1		1						1
574.090	Ethnic intimidation 1st	0								0
574.093	Ethnic intimidation 2nd	0								0
574.105	Money Laundering	1	1							1
574.115	Making a terrorist threat	24		23	1					24
575.020	Concealing an offense	0								0
575.030	Hindering prosecution	83		66	17					83
575.040	Perjury	7		7						7
575.050	False affidavit	3			3					3
575.060	False declarations	8			8					8
575.080	False reports	73			70		3			73
575.090	False bomb report	2		2						2
575.100	Tampering with physical evidence	21		15	6					21
575.110	Tampering with public records	0								0
575.120	False impersonation	3			3					3
575.145	Failed to Obey Sheriff's Deputy	3			3					3
575.150	Resisting, Interference w/Arrest	901		455	438	1	7			901

Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
575.159	Aiding a sexual offender	2		2						2
575.160	Interference w/Legal Process	0								0
575.190	Refusal to ID as a witness	2			2					2
575.195	Escape from commitment	3		3						3
575.200	Escape/attempt escape from custody	29		24	5					29
575.205	Tampering w/ electronic monitoring equip.	3		3						3
575.210	Escape/attempt escape from confinement	25	2	23						25
575.220	Failure to return to confinement	16		6	10					16
575.230	Aiding escape of a prisoner	4	4							4
575.240	Permitting escape	0								0
575.250	Disturbing judicial proceeding	1			1					1
575.260	Tampering with judicial process	0								0
575.270	Tampering with a witness	73		61	12					73
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	3		3						3
576.020	Public servant acceding to corruption	0								0
576.030	Obstructing government operations	1			1					1
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	3,643	290	1,039	1,972	342				3,643
577.012	Driving w/excessive blood alcohol content	4			4					4
577.023	Driving while intoxicated 2nd, 3rd	10		9	1					10
577.051	Failure to furnish M.U.L.E. records	0								0
577.060	Leaving scene of motor vehicle accident	340		176	135	27	2			340
577.070	Littering	29			29					29
577.073	Littering in state parks	1			1					1
577.075	Release of Anhydrous Ammonia	0								0
577.076	Littering with carcasses	2			2					2
577.080	Abandoning motor vehicle	0								0
577.100	Abandonment of airtight containers	0								0
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	7			5	2				7
577.612	Tampering w/ ignition interlock device	0								0
577.625	Distribution/Possess. of Prescription-Sch. Grounds	0								0
577.628	Poss of prescribed med on public or private school prop.	2			1		1			2
578.009	Animal neglect	10			10					10
578.012	Animal abuse	84		7	76		1			84
578.024	Owner's dog bites (2nd or more) - resulting in injury	1			1					1
578.025	Dog fighting	4		4						4
578.027	Dog baiting	0								0
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	235		185	50					235
578.151	Interfere w/ Lawful Hunt	0								0
578.154	Possession of Anhydrous Ammonia	2		2						2
578.250	Inhaling/ inducing others to inhale fumes	22		3	19					22
578.255	Induce or possess w/intent to induce intoxication	4			4					4
578.260	Possess/purchase solvents to aid others	1			1					1

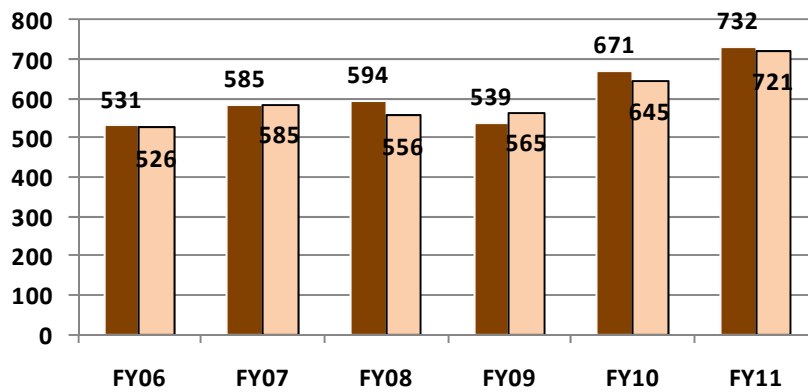
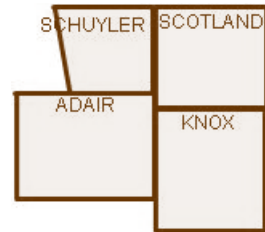
Charge Code	Description	Total	A-B Felonies	C-D Felonies	40 Misd.	45 Traffic	50 Juv	65 PV	Other	Total
578.265	Sell or Transfer Solvents	0								0
578.305	Assault w/ intent to hijack bus	1		1						1
578.305	Assault w/ intent to hijack bus	0								0
578.365	Hazing	0								0
578.377	Unlawful receipt of 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	42		41	1					42
589.414	Failure to register as a sex offender	24		23	1					24
589.425	Failure to register penalty, subsequent	265		259	6					265
589.426	Fail to comply w/Halloween restrictions-sex offenders	1			1					1
632.480	Sexually Violent Predator	0								0
701.050	Fail to provide notice for inspection of sewage disp. sys.	0								0
888.888	Person of Interest	5							5	5
999.999	Witness Only	33		1					32	33

Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

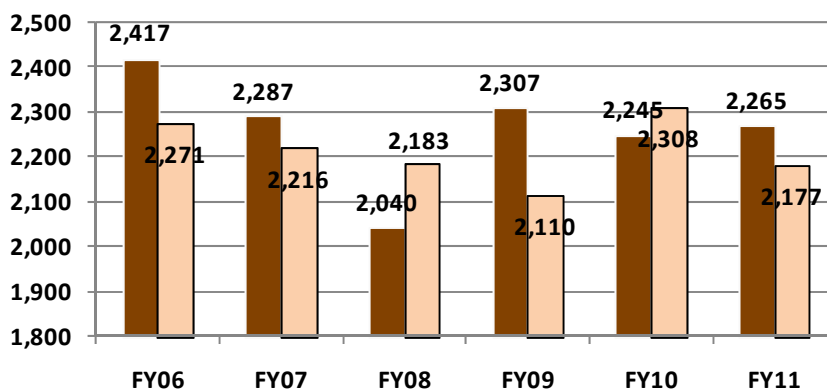
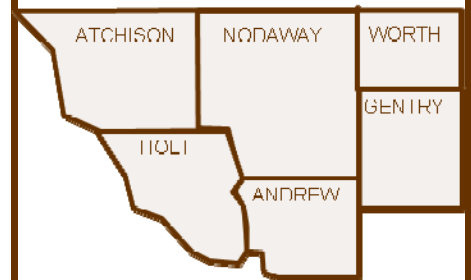
Opened
 Closed



District 2—Kirksville



District 4—Maryville

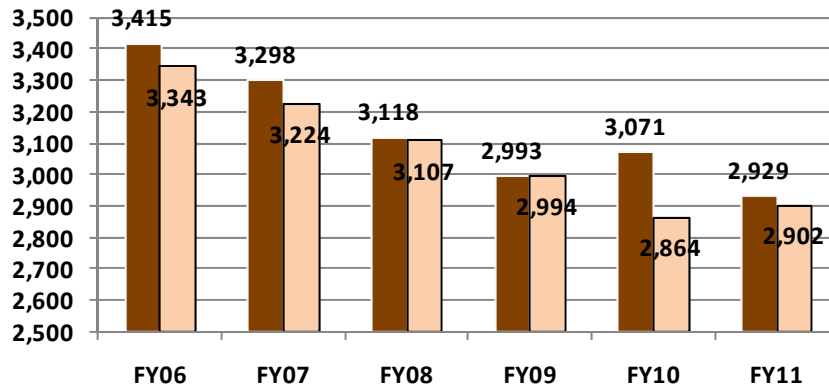


District 5—St. Joseph

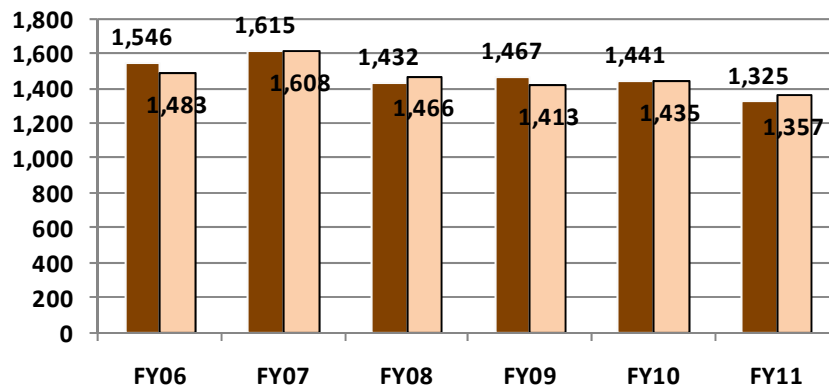
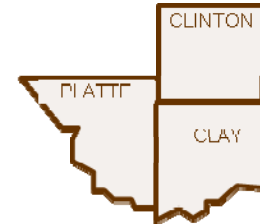


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

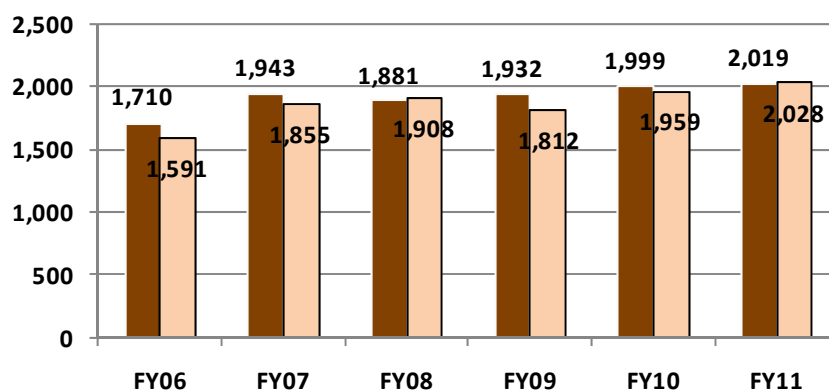
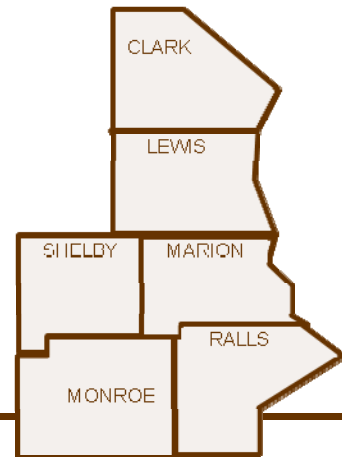
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District 7—Liberty



District 10—Hannibal

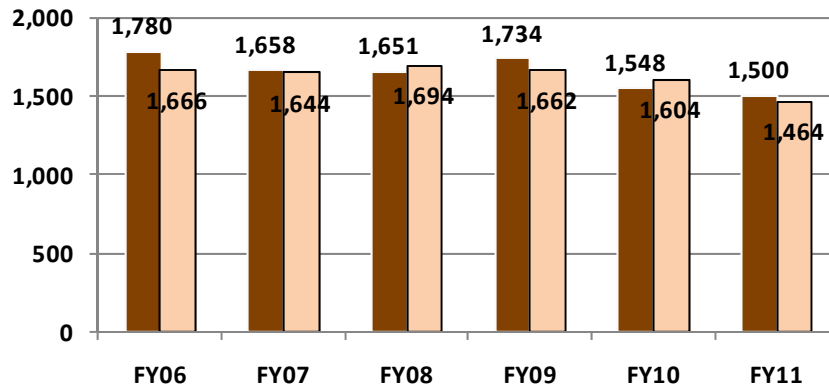


District 11—St. Charles

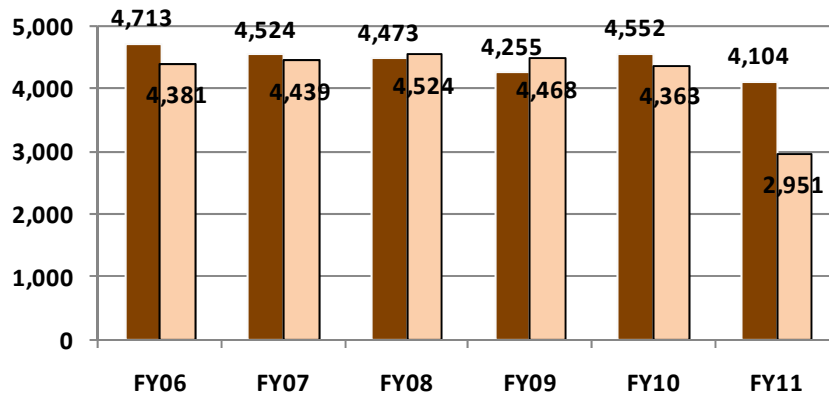
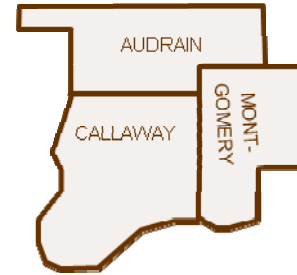


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

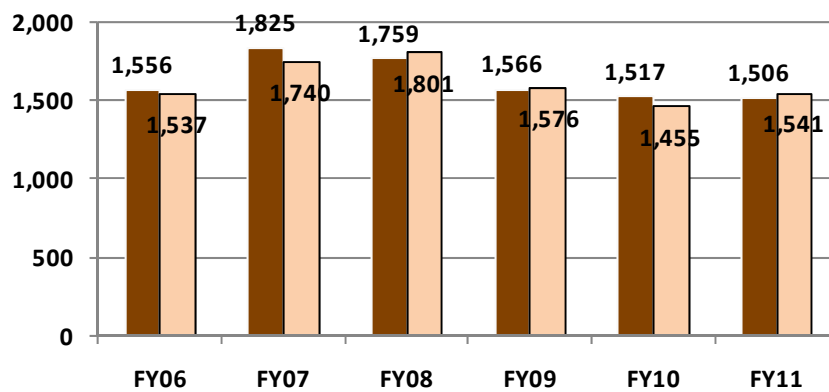
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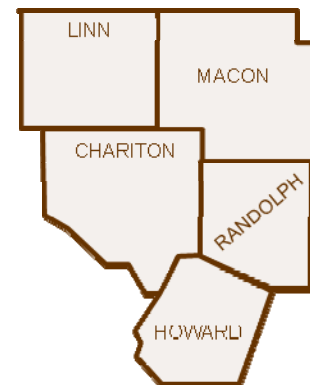
District 12—Fulton



District 13—Columbia

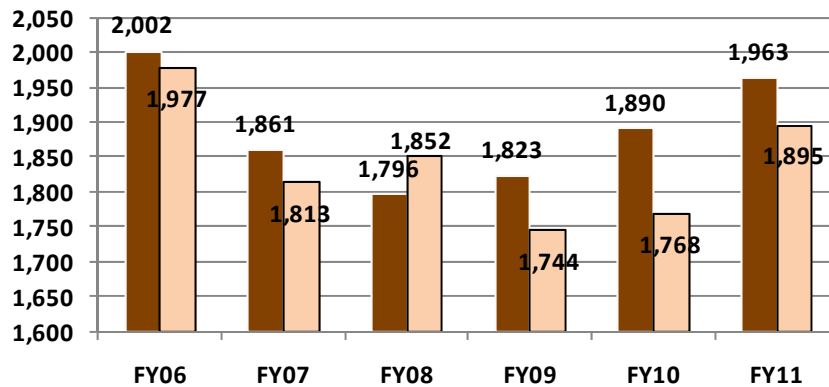


District 14—Moberly

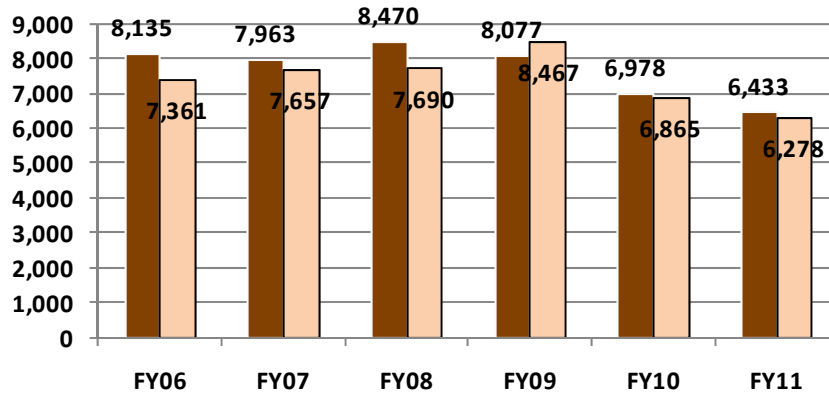
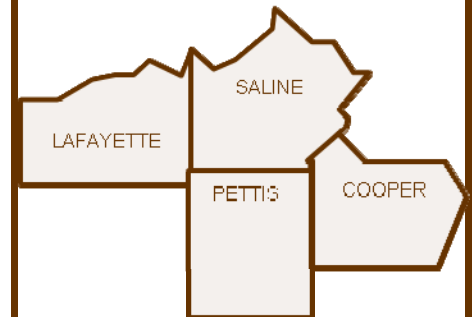


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

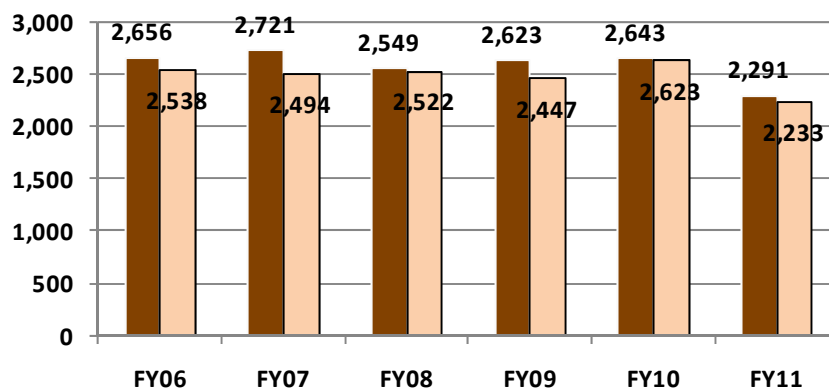
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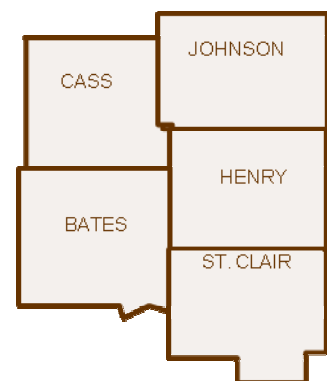
District 15—Sedalia



District 16—Kansas City

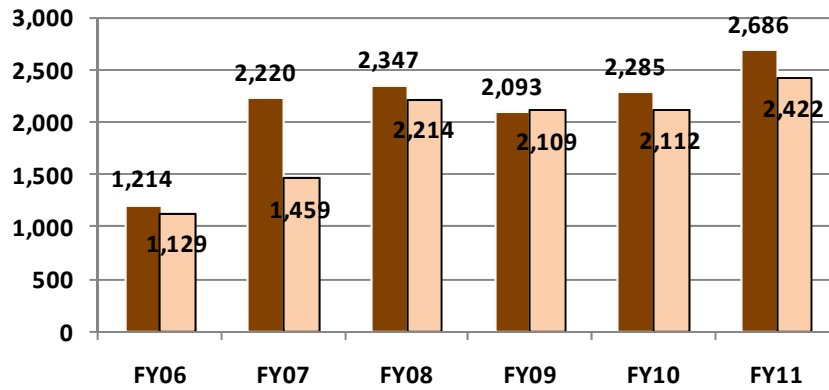


District 17—Harrisonville

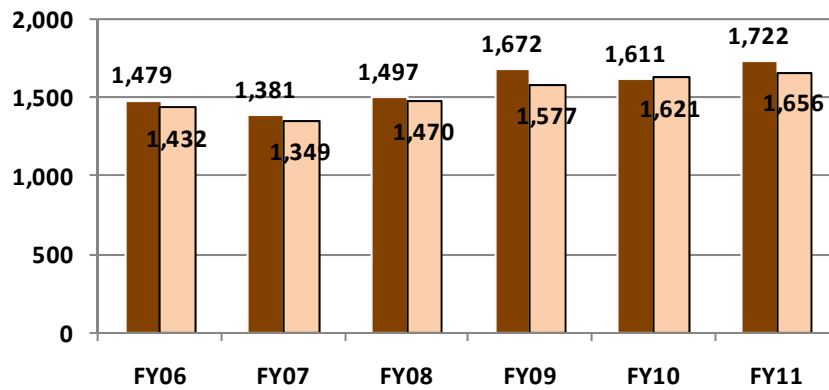
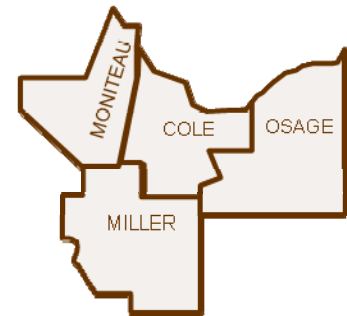


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

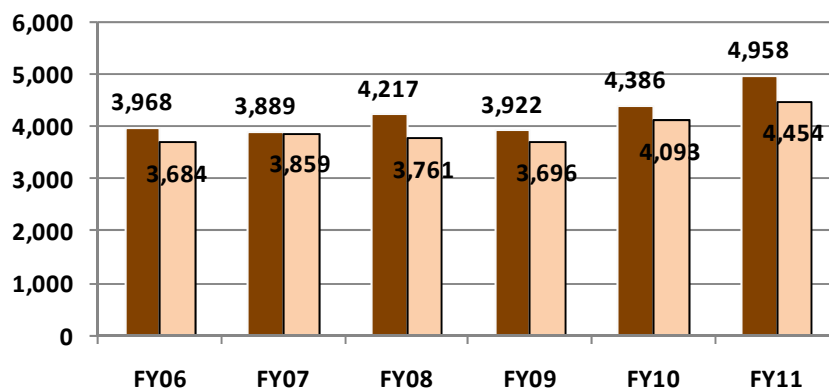
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District 19—Jefferson City



District 20—Union

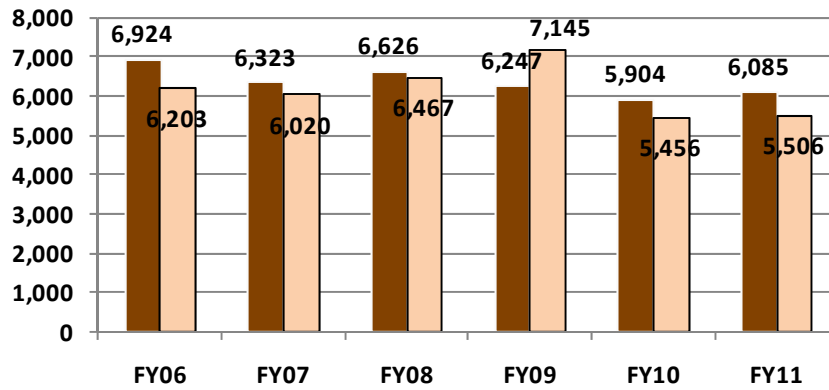


District 21—St. Louis County

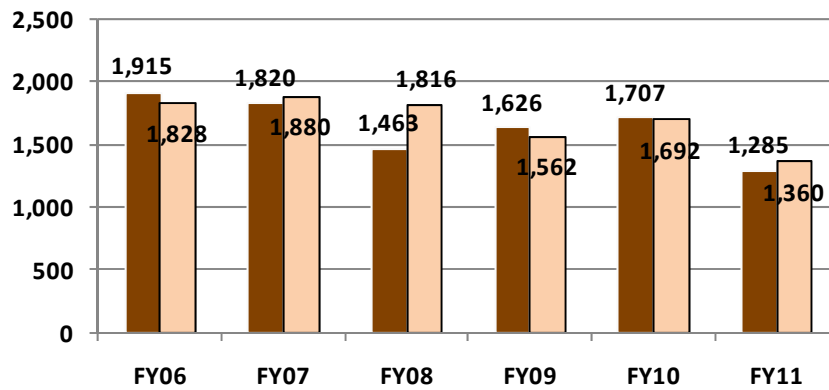


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

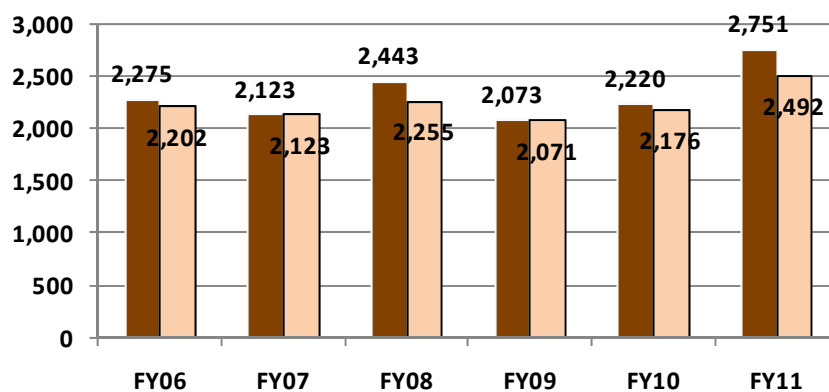
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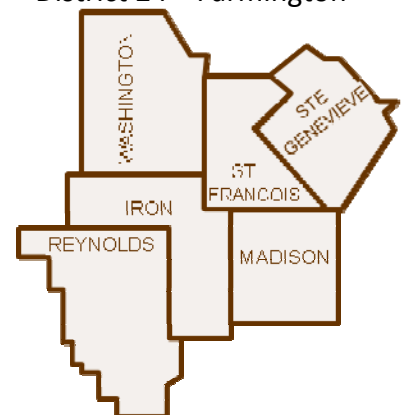
District 22—St. Louis City



District 23—Hillsboro

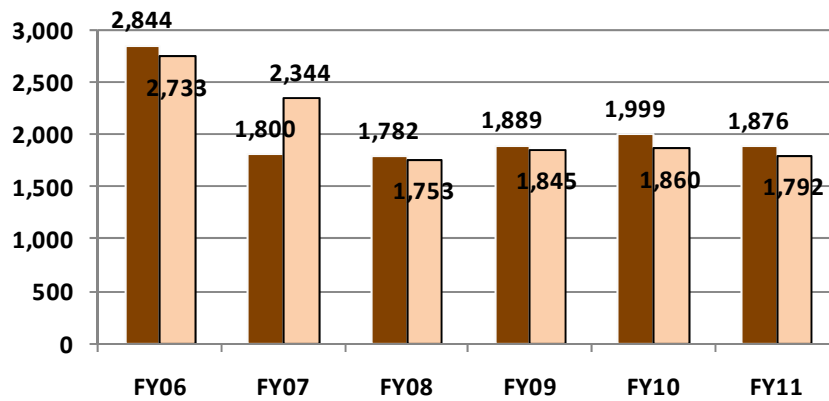
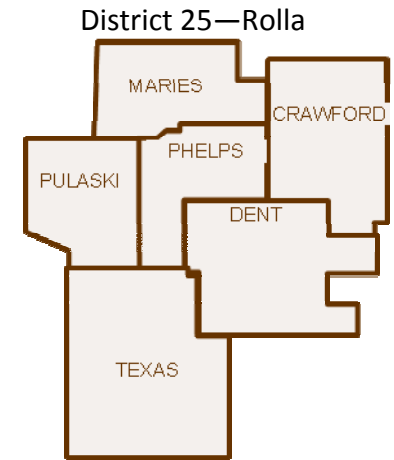
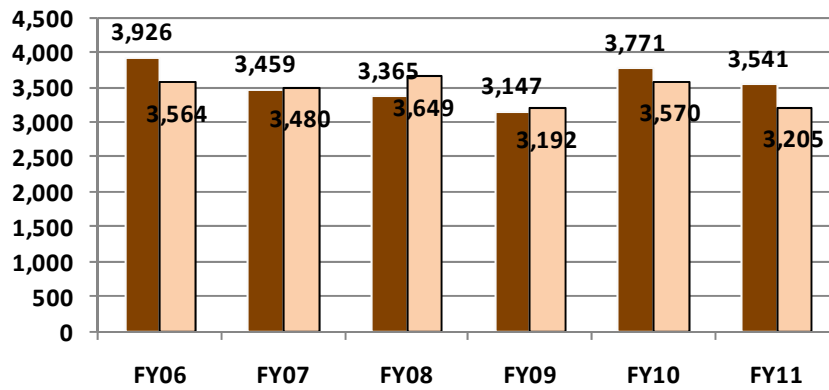


District 24—Farmington

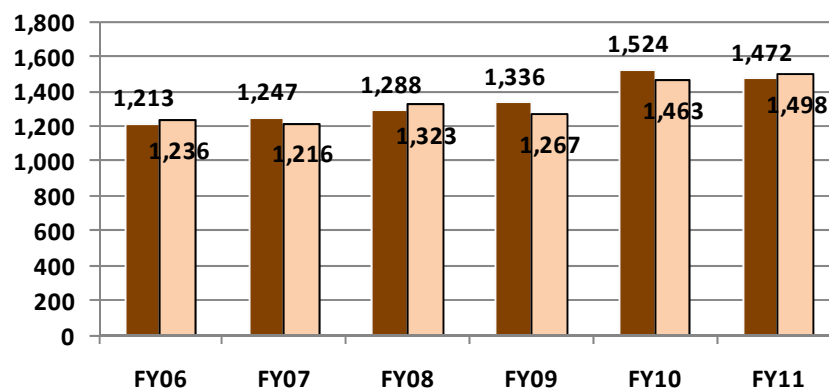
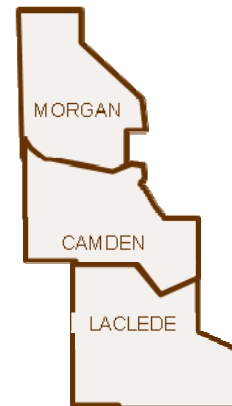


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

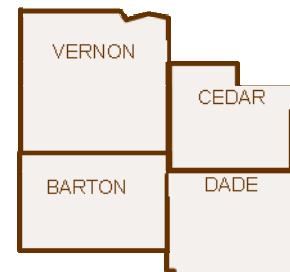
Opened
 Closed



District 26—Lebanon

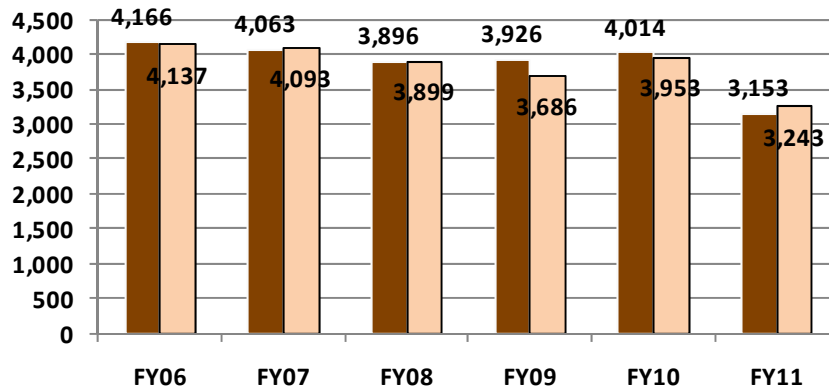


District 28—Nevada

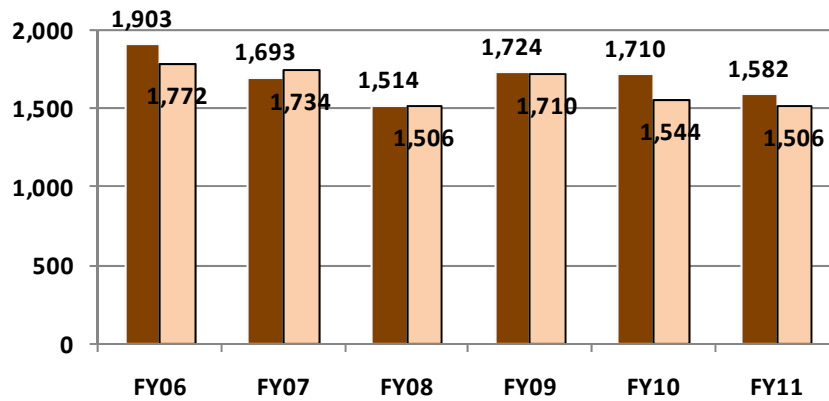
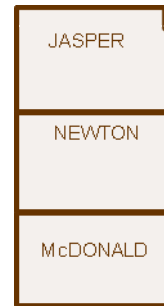


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

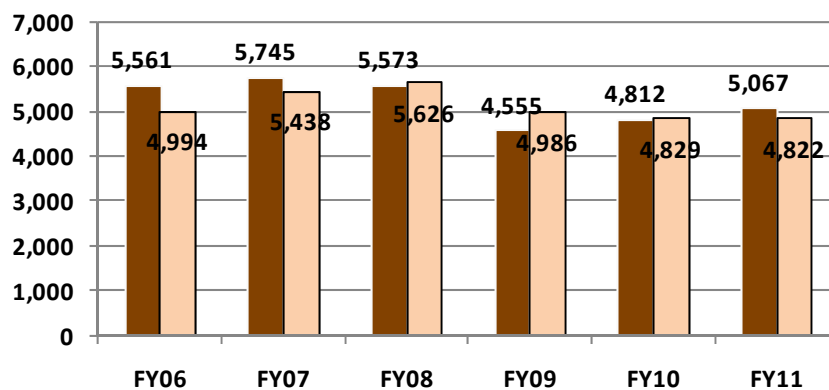
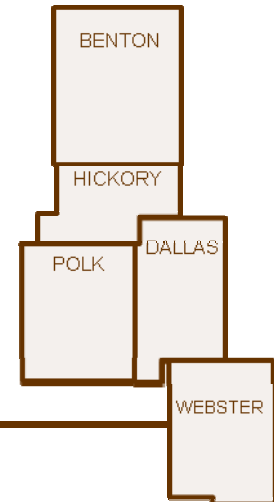
Opened
 Closed



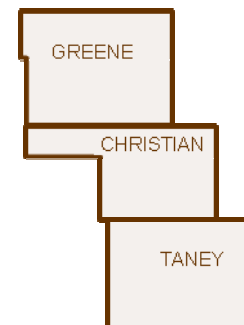
District 29—Carthage



District 30—Bolivar

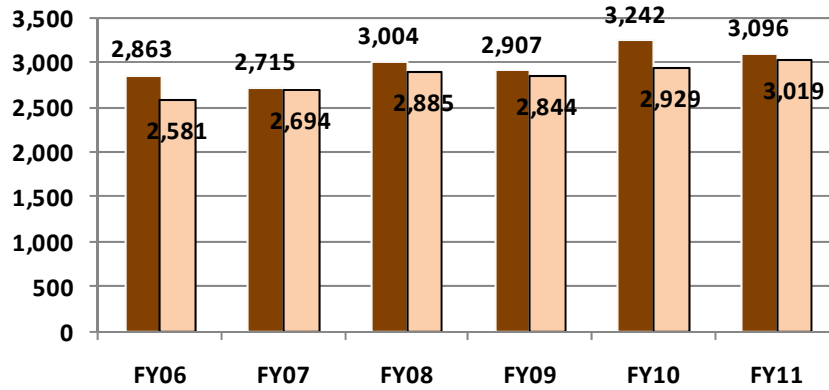


District 31—Springfield

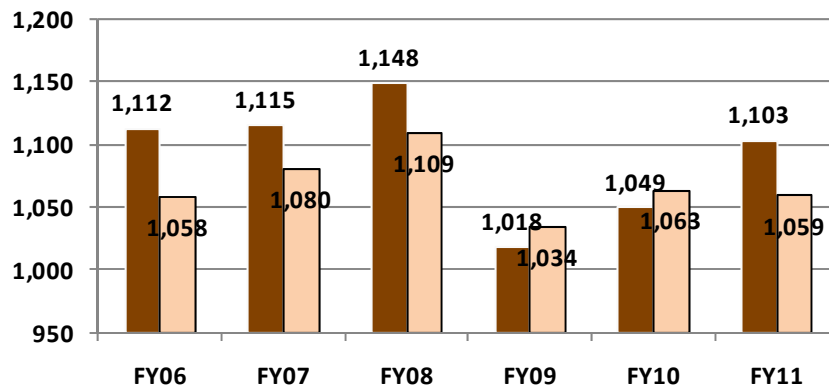
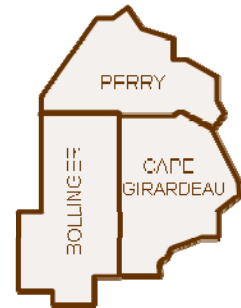


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

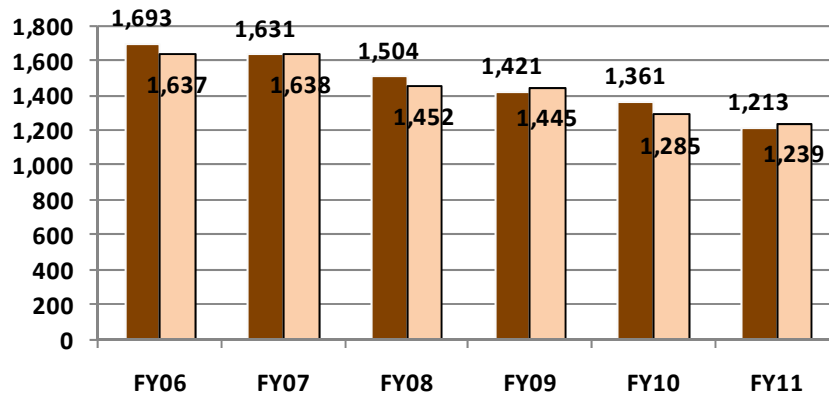
Opened
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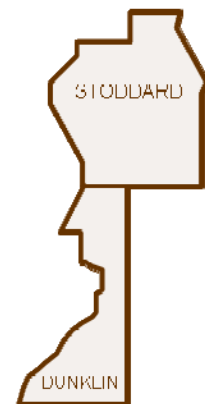
District 32—Jackson



District 34—Caruthersville

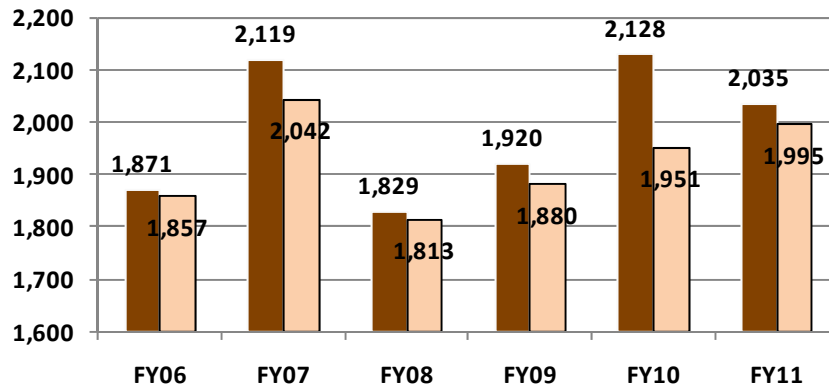


District 35—Kennett

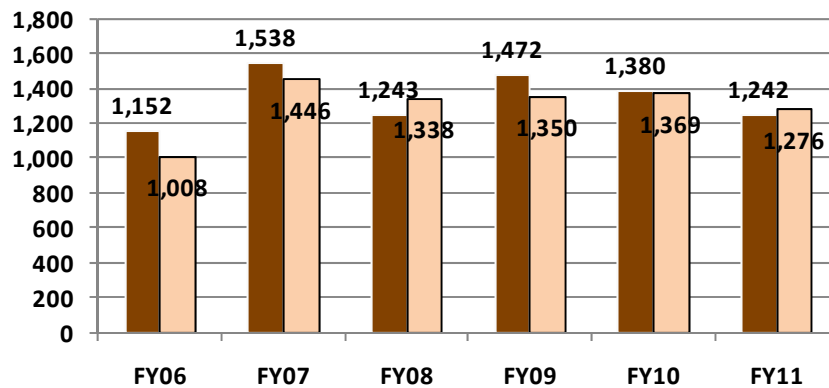
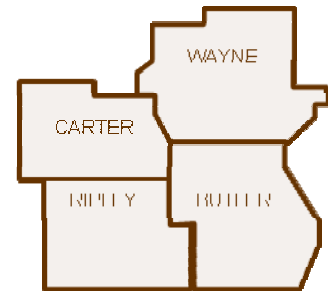


Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

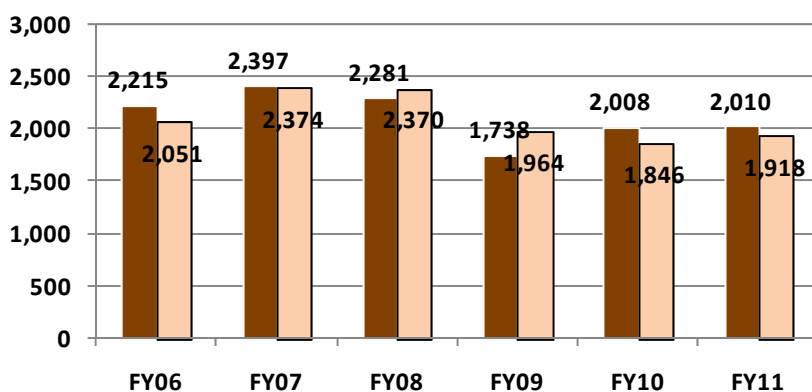
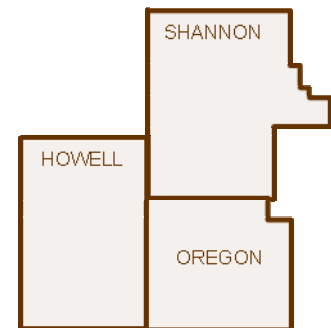
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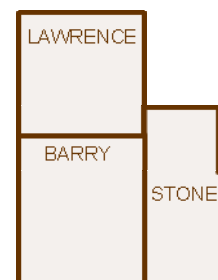
District 36—Poplar Bluff



District 37—West Plains

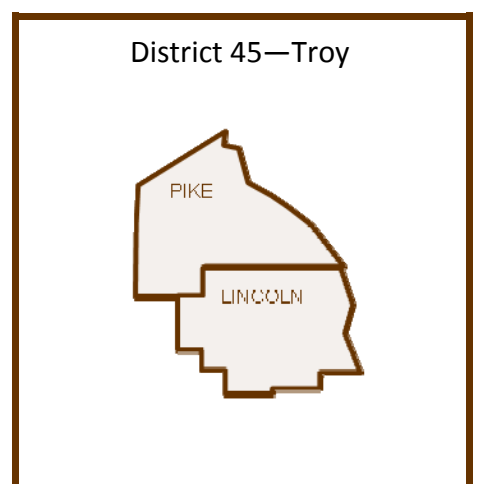
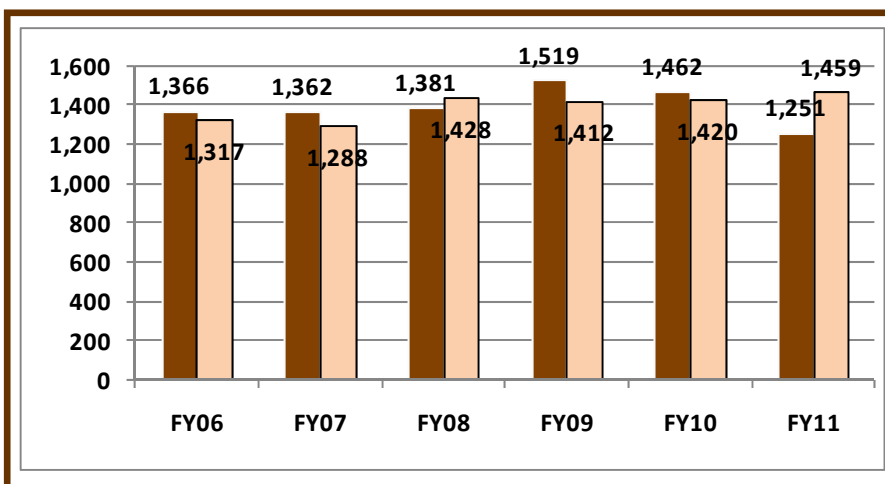
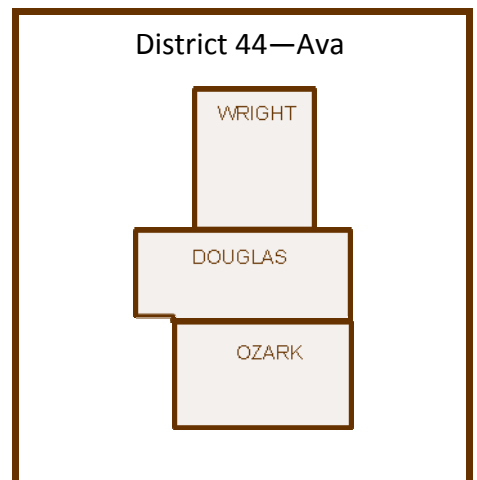
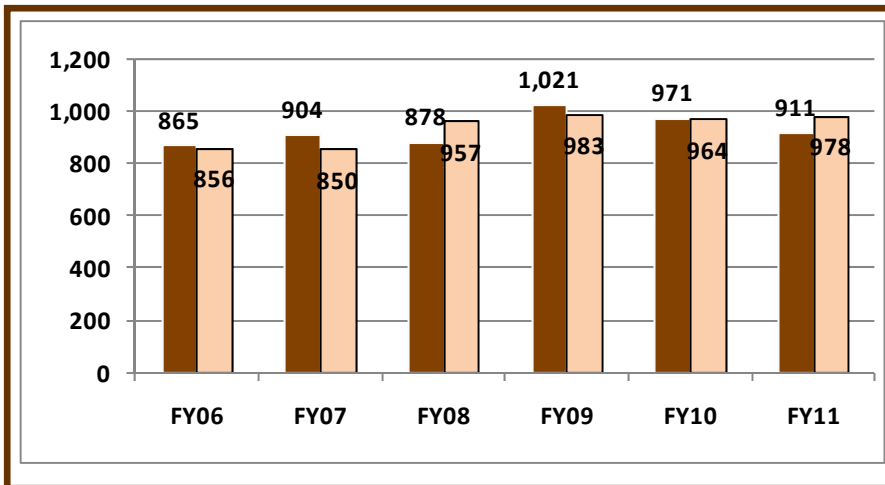
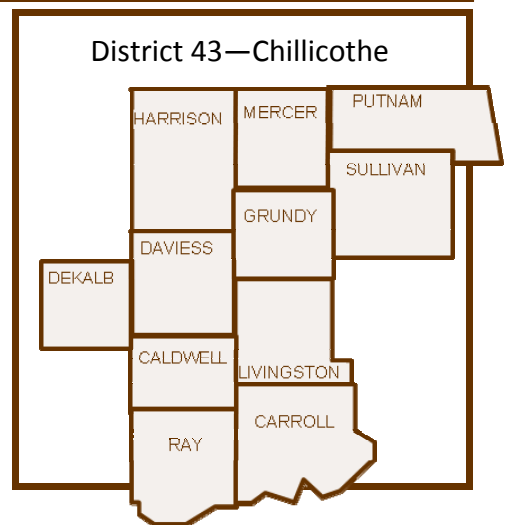
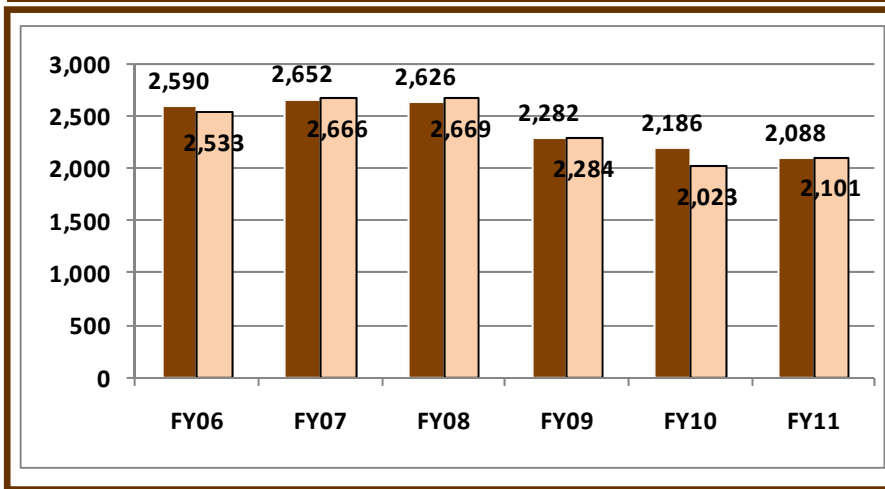


District 39—Monett



Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

Opened
 Closed

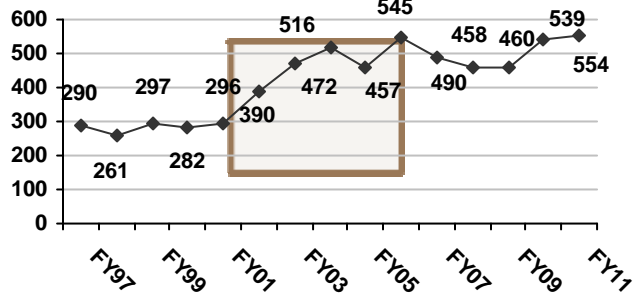


Fiscal Year 2011
Trial Division
Opened and Closed by County

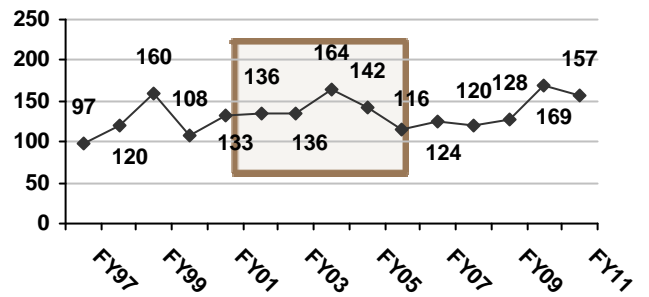
County	Opened	Closed	County	Opened	Closed	County	Opened	Closed
ADAIR	554	538	GREENE	3,020	2,960	OZARK	196	187
ANDREW	157	170	GRUNDY	217	218	PEMISCOT	570	565
ATCHISON	79	86	HARRISON	124	114	PERRY	248	255
AUDRAIN	504	536	HENRY	397	404	PETTIS	763	693
BARRY	557	524	HICKORY	152	155	PHELPS	1,172	1,169
BARTON	188	210	HOLT	67	61	PIKE	294	309
BATES	371	322	HOWARD	128	115	PLATTE	775	779
BENTON	388	355	HOWELL	865	908	POLK	525	510
BOLLINGER	110	108	IRON	259	261	PULASKI	751	594
BOONE	4,111	3,962	JACKSON	6,564	6,423	PUTNAM	115	114
BUCHANAN	2,316	2,218	JASPER COUNTY	2,129	2,257	RALLS	139	127
BUTLER	1,307	1,354	JEFFERSON	1,291	1,347	RANDOLPH	642	675
CALDWELL	191	202	JOHNSON	507	507	RAY	343	316
CALLAWAY	750	648	KNOX	54	37	REYNOLDS	71	77
CAMDEN	689	593	LACLEDE	729	727	RIPLEY	303	256
CAPE GIRARDEAU	1,271	1,234	LAFAYETTE	543	571	SALINE	358	315
CARROLL	156	170	LAWRENCE	662	604	SCHUYLER	51	54
CARTER	113	109	LEWIS	114	122	SCOTLAND	52	45
CASS	843	884	LINCOLN	995	1,179	SCOTT	849	809
CEDAR	386	327	LINN	324	303	SHANNON	245	284
CHARITON	114	110	LIVINGSTON	481	524	SHELBY	83	86
CHRISTIAN	822	765	MACON	278	278	ST. CHARLES	1,580	1,552
CLARK	155	148	MADISON	171	163	ST. CLAIR	158	134
CLAY	1,574	1,532	MARIES	90	80	ST. FRANCOIS	1,296	1,132
CLINTON	344	299	MARION	737	792	ST. LOUIS CITY	6,031	5,453
COLE	1,940	1,773	MCDONALD	332	328	ST. LOUIS COUNTY	4,731	4,328
COOPER	306	310	MERCER	76	77	STE. GENEVIEVE	317	284
CRAWFORD	746	669	MILLER	401	391	STODDARD	473	479
DADE	124	130	MISSISSIPPI	566	545	STONE	507	508
DALLAS	204	190	MONITEAU	146	128	SULLIVAN	122	115
DAVIESS	171	165	MONROE	127	127	TANEY	1,303	1,112
DEKALB	172	180	MONTGOMERY	280	293	TEXAS	453	428
DENT	531	472	MORGAN	350	345	VERNON	864	894
DOUGLAS	276	316	NEW MADRID	456	428	WARREN	425	443
DUNKLIN	825	835	NEWTON	797	797	WASHINGTON	574	504
FRANKLIN	1,546	1,465	NODAWAY	298	277	WAYNE	426	372
GASCONADE	275	234	OREGON	173	161	WEBSTER	444	450
GENTRY	62	61	OSAGE	77	78	WORTH	19	27
						WRIGHT	417	460
							78,890	76,183

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

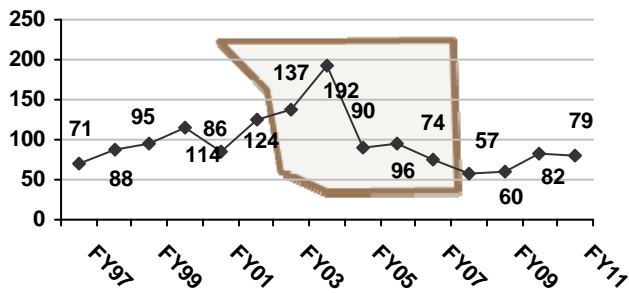
ADAIR



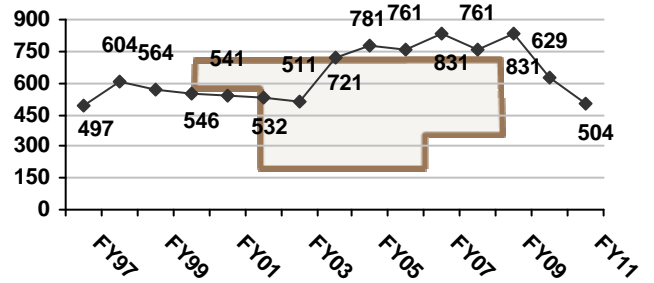
ANDREW



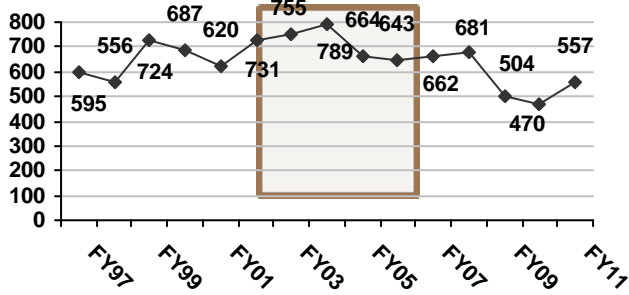
ATCHINSON



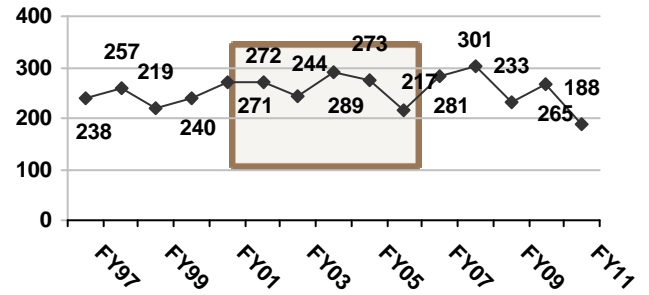
AUDRAIN



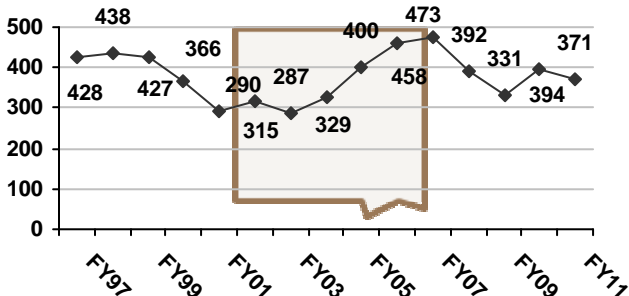
BARRY



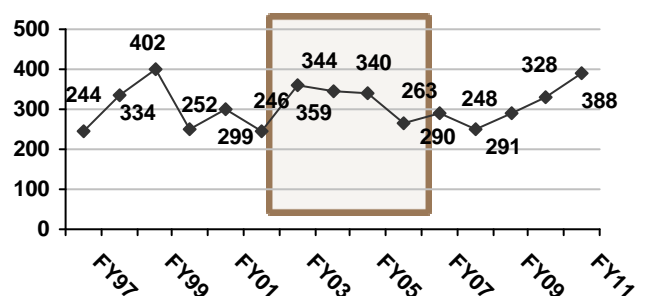
BARTON



BATES

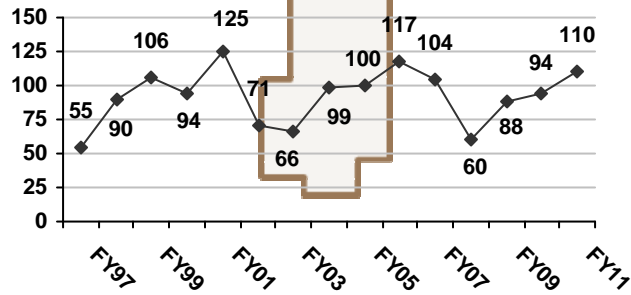


BENTON

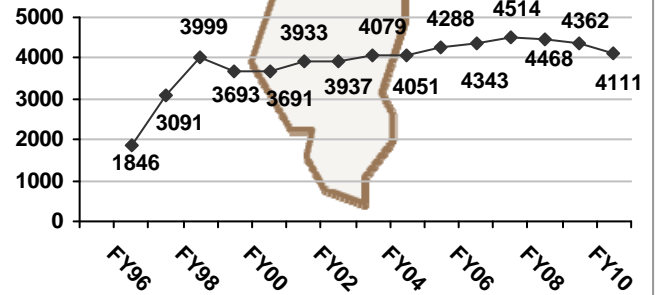


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

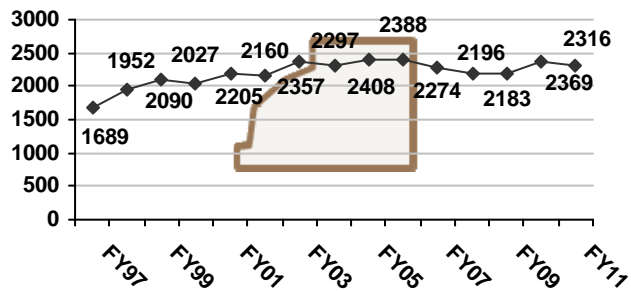
BOLLINGER



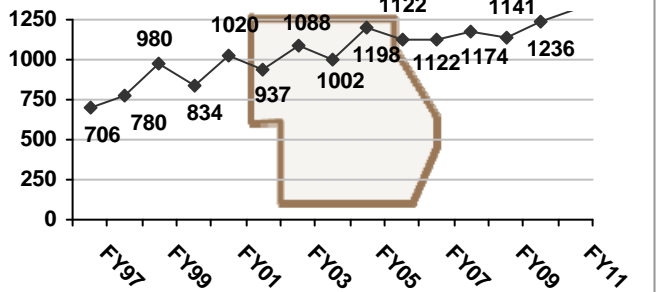
BOONE



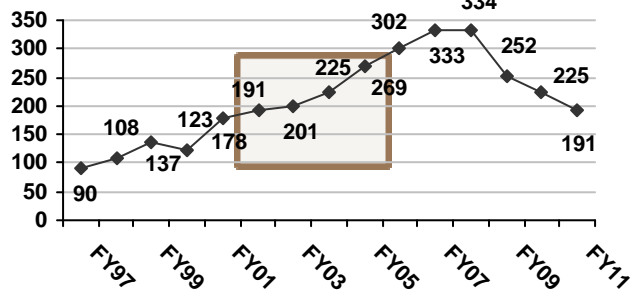
BUCHANAN



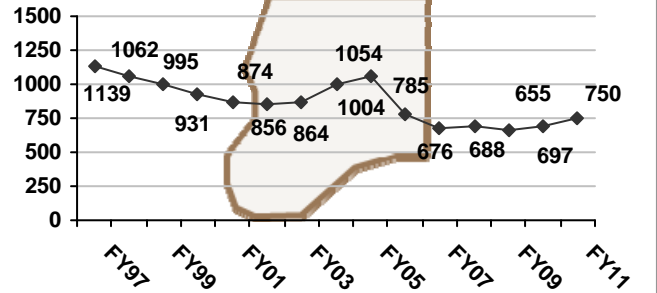
BUTLER



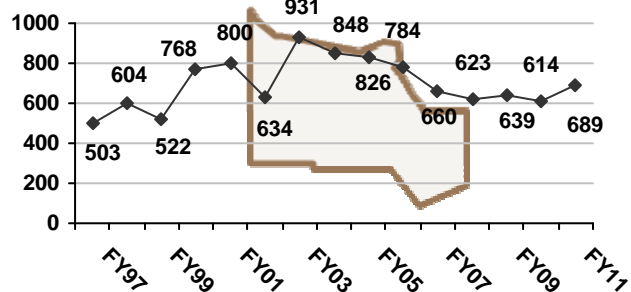
CALDWELL



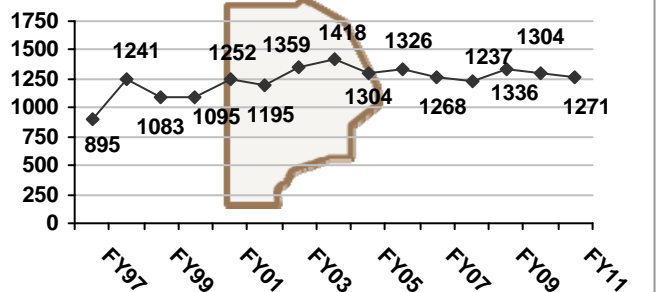
CALLAWAY



CAMDEN

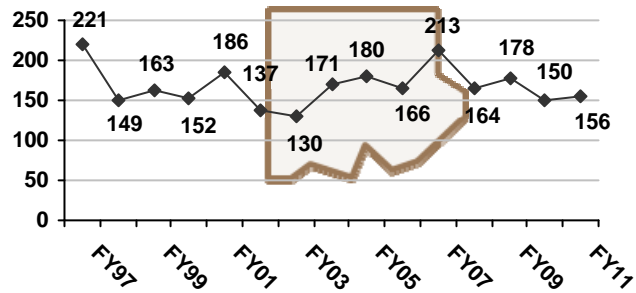


CAPE GIRARDEAU

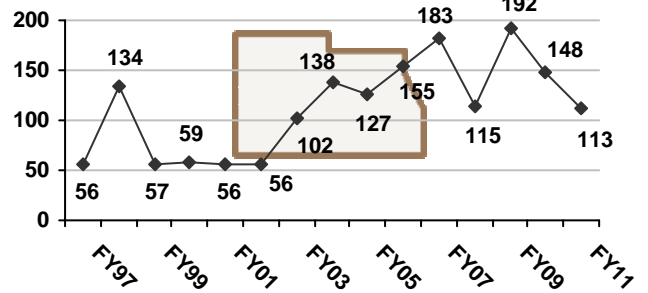


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

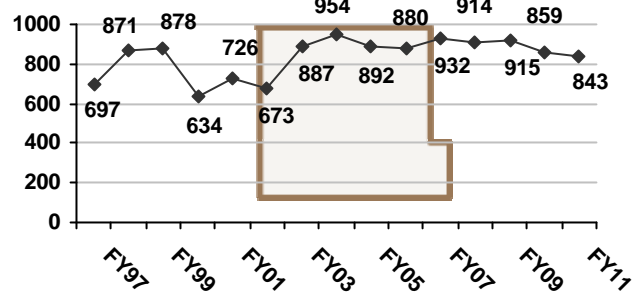
CARROLL



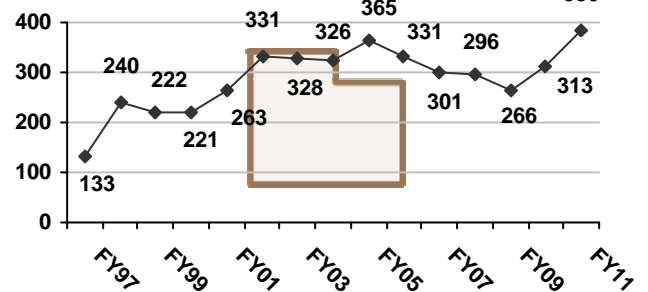
CARTER



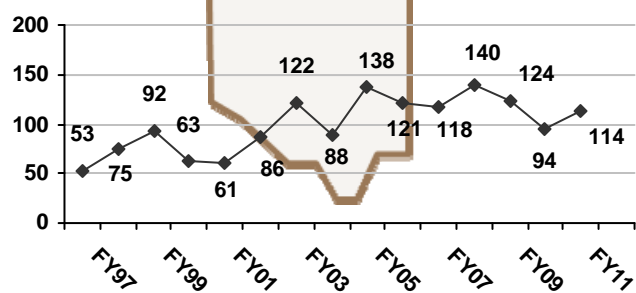
CASS



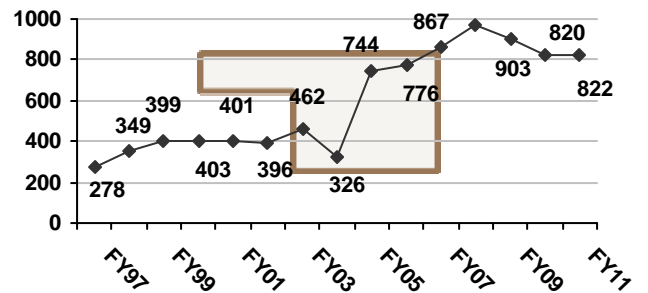
CEDAR



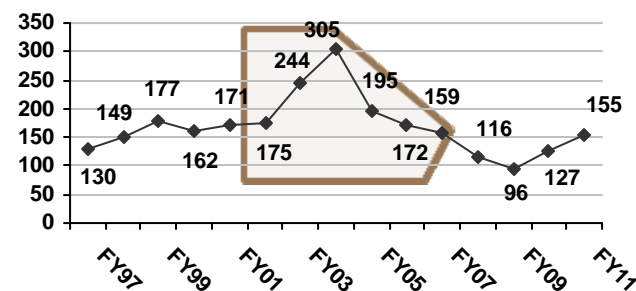
CHARITON



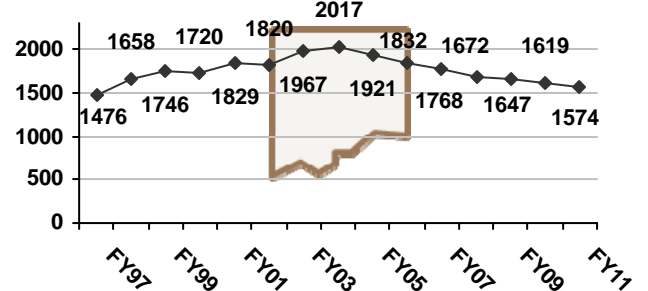
CHRISTIAN



CLARK

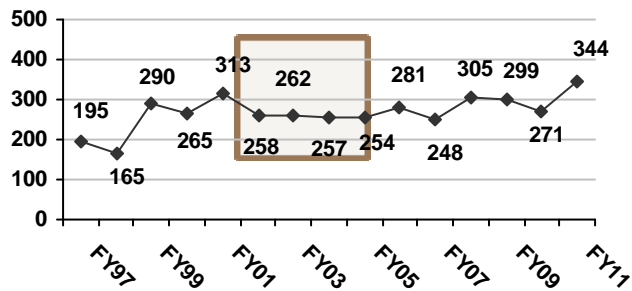


CLAY

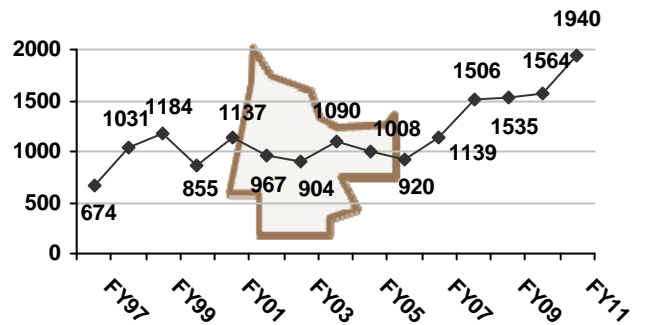


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

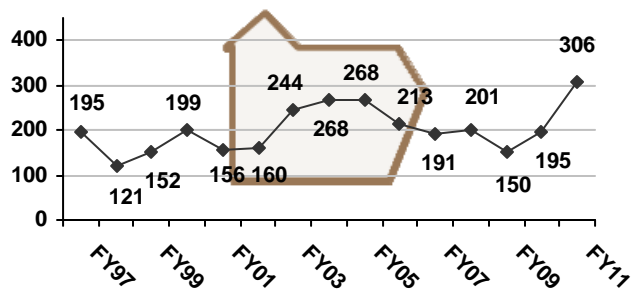
CLINTON



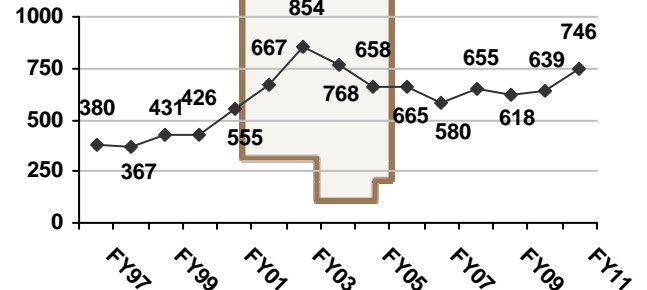
COLE



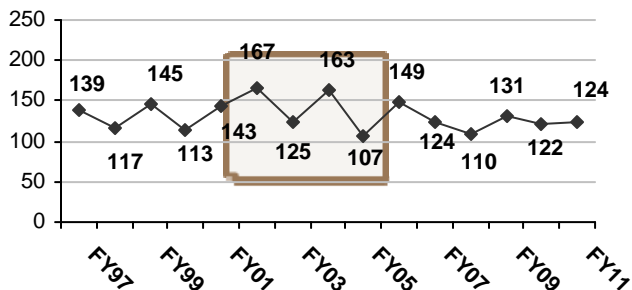
COOPER



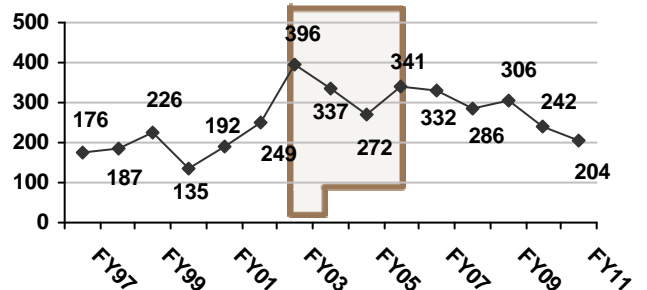
CRAWFORD



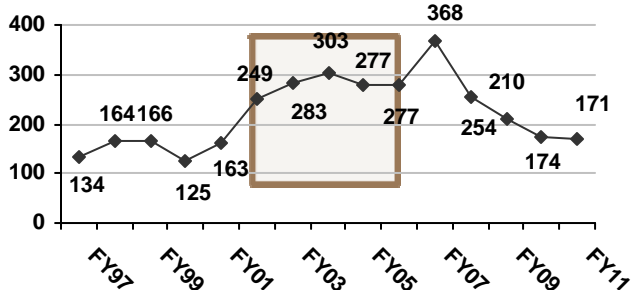
DADE



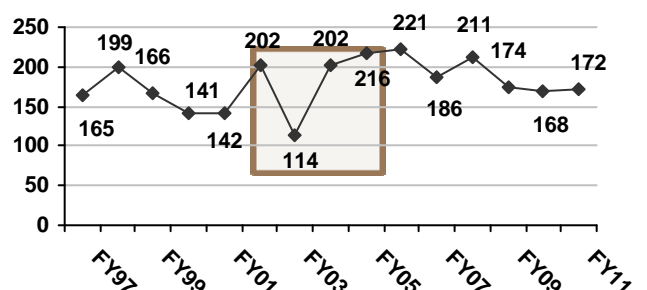
DALLAS



DAVIESS

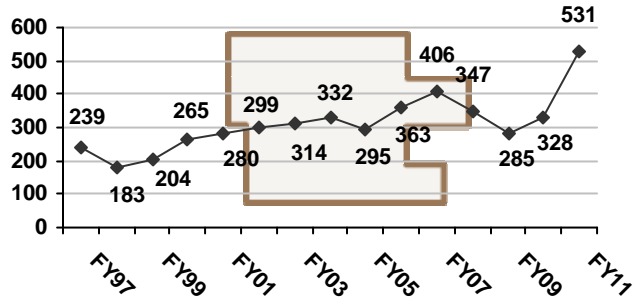


DEKALB

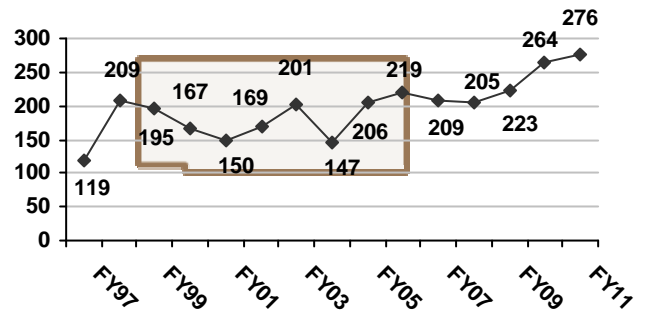


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

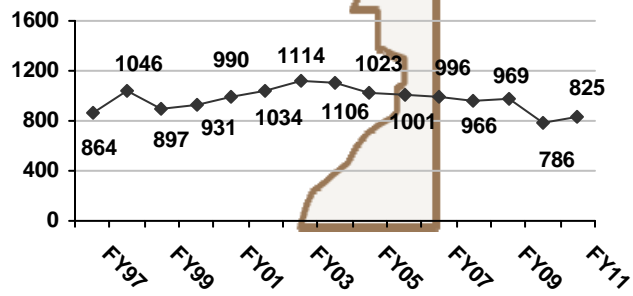
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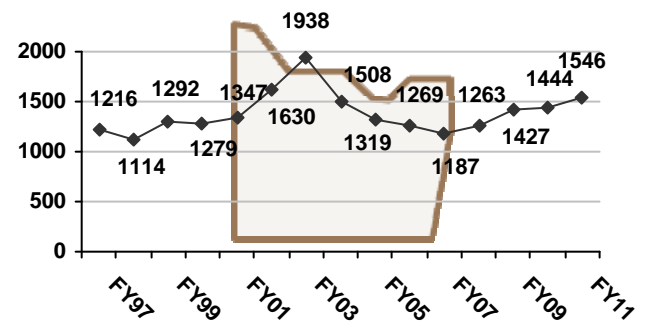
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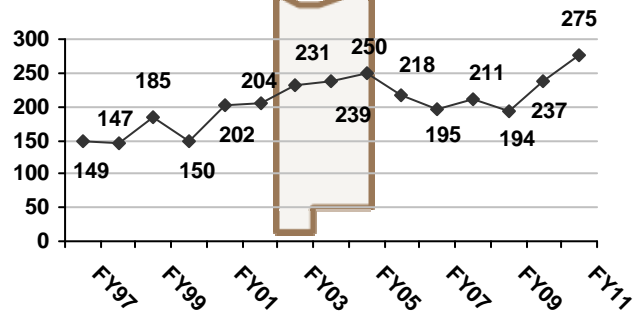
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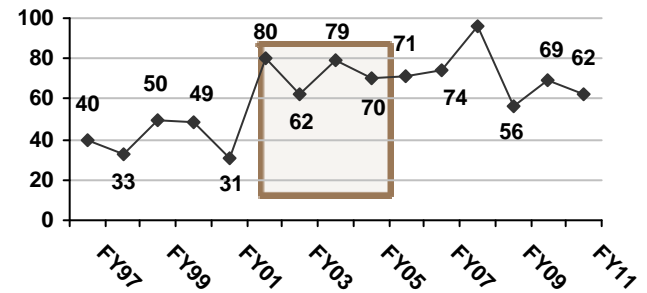
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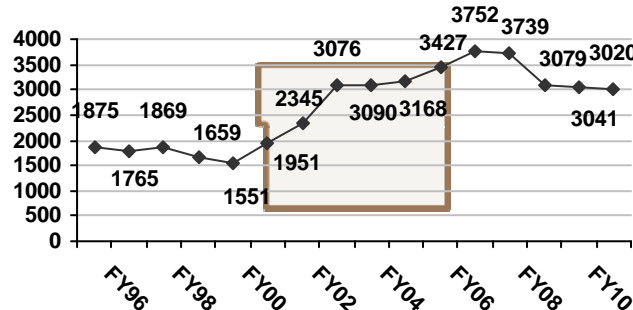
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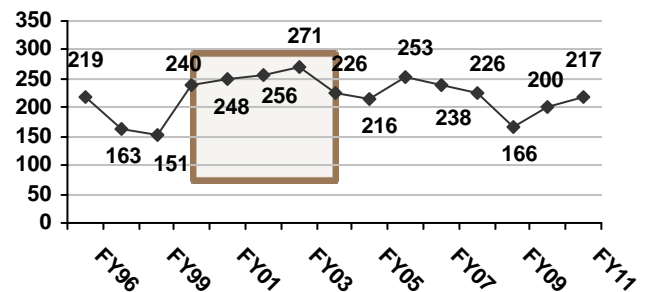
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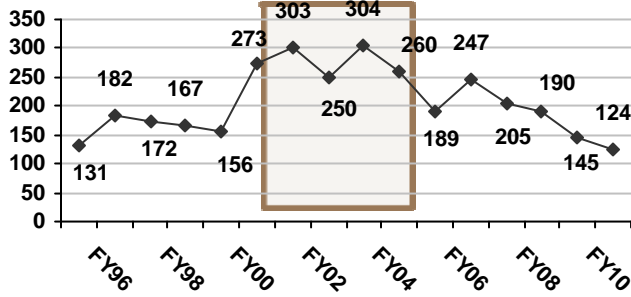


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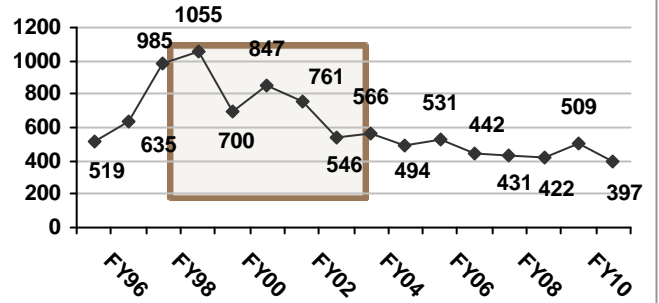


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

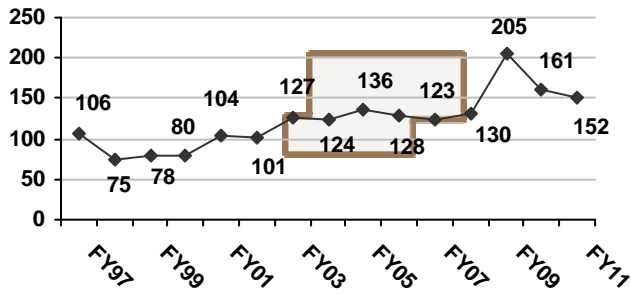
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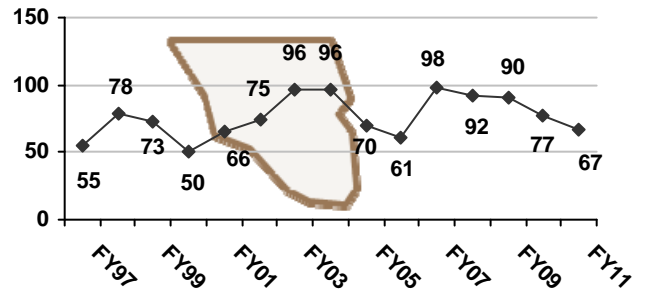
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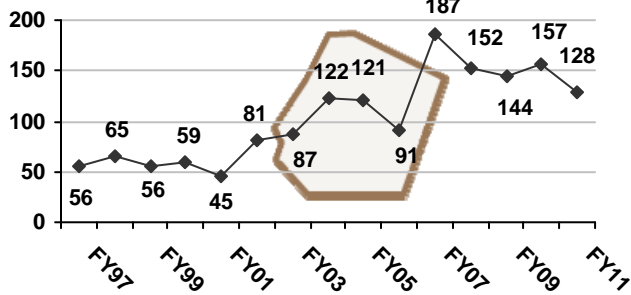
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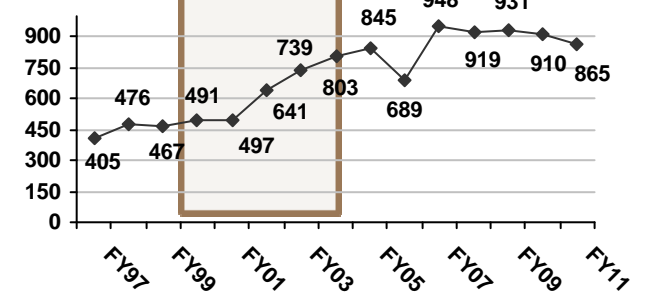
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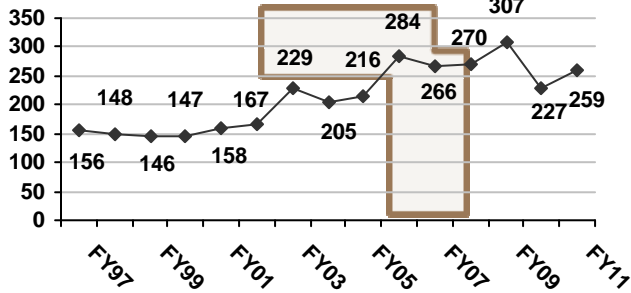
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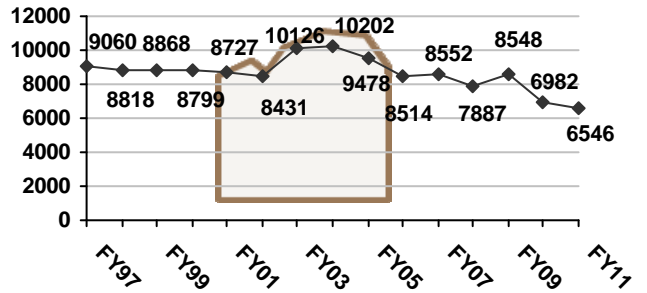
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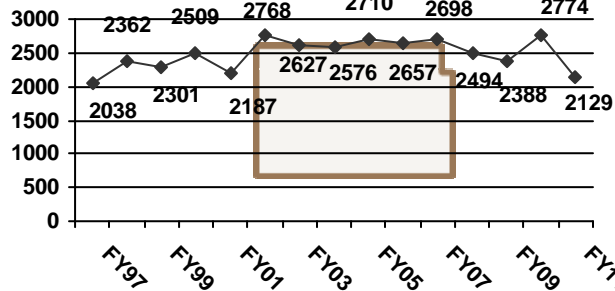


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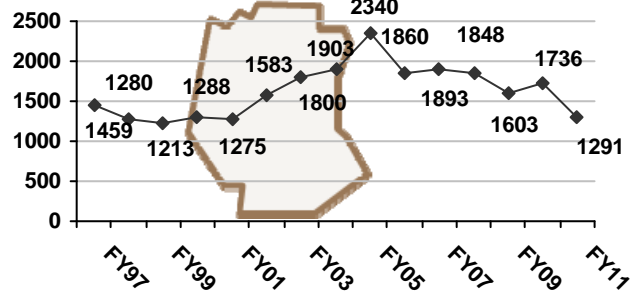


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

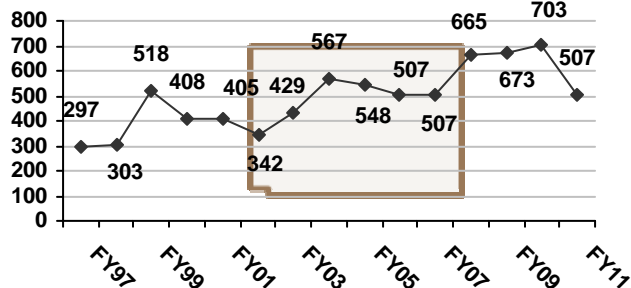
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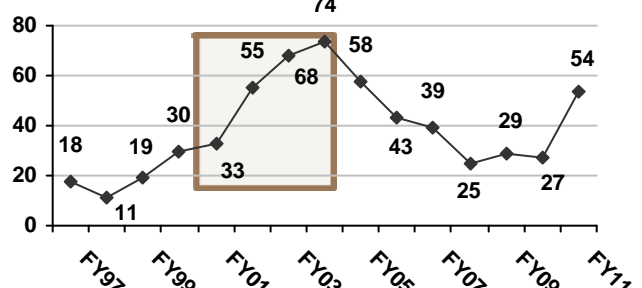
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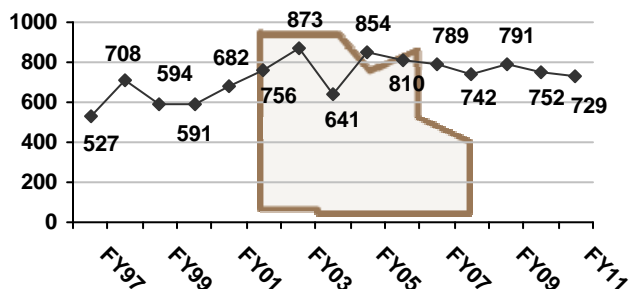
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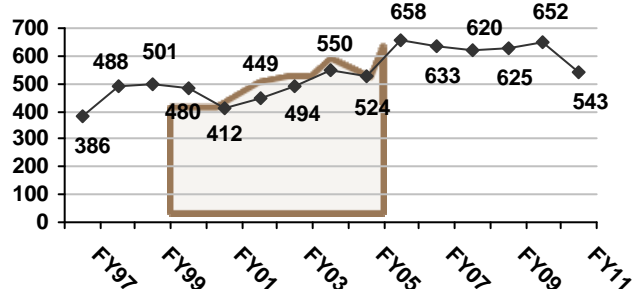
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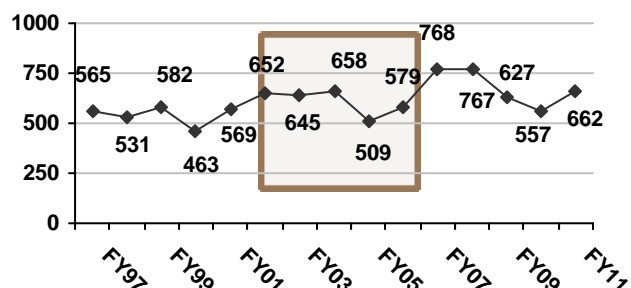
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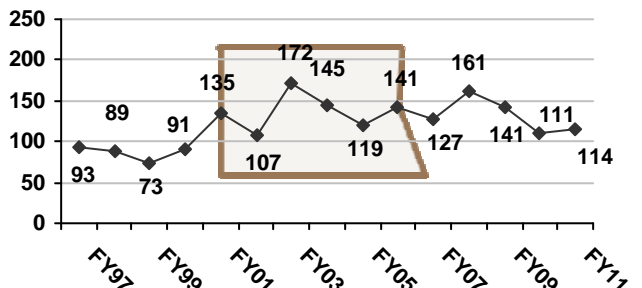
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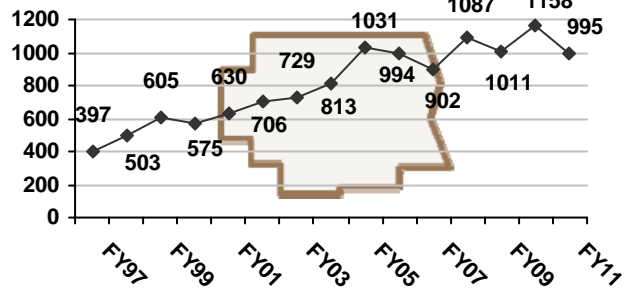


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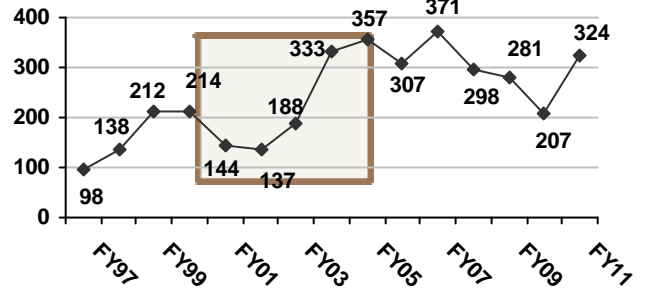


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

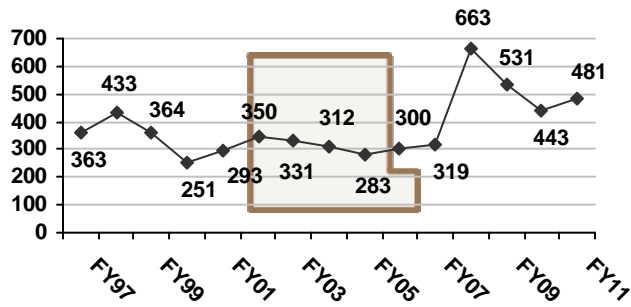
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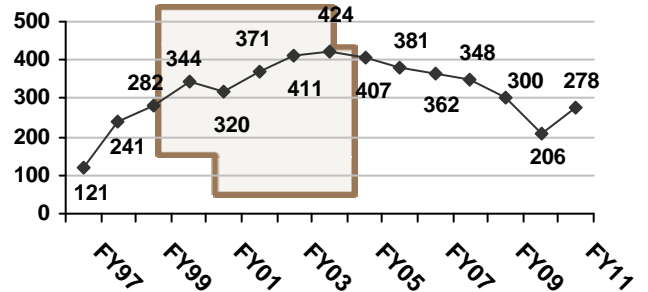
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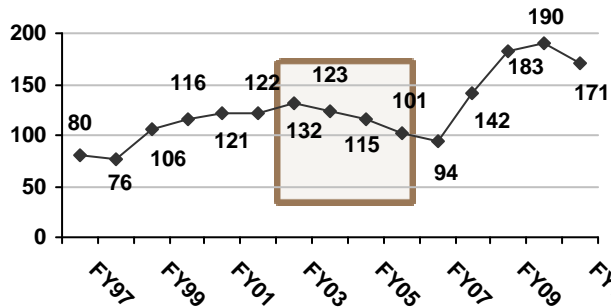
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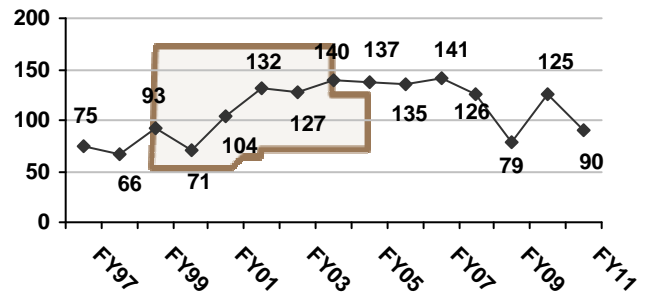
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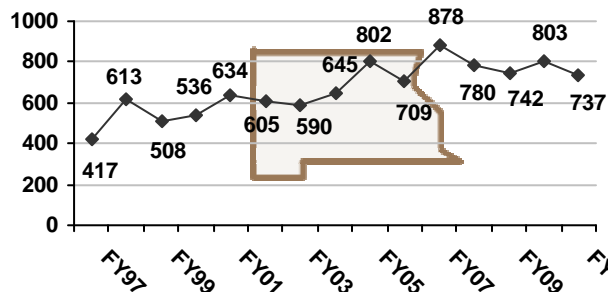
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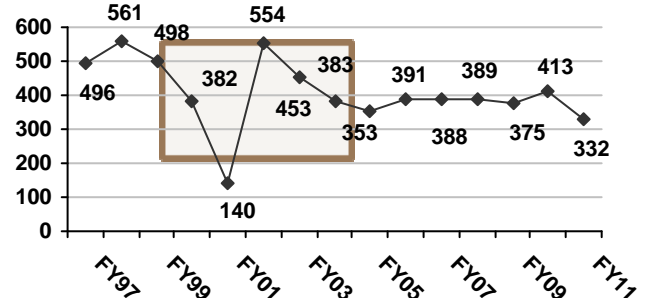
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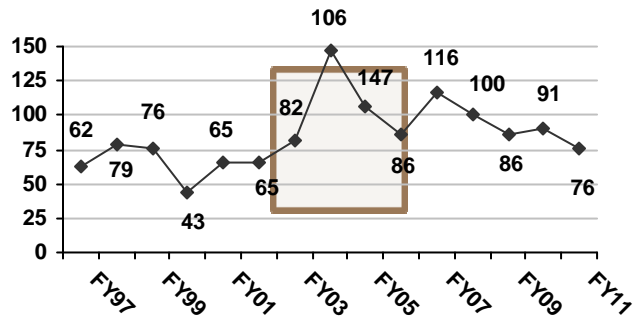


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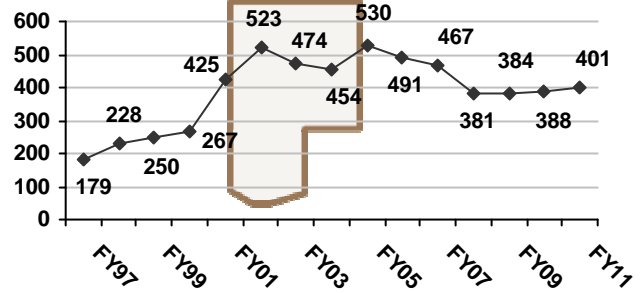


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

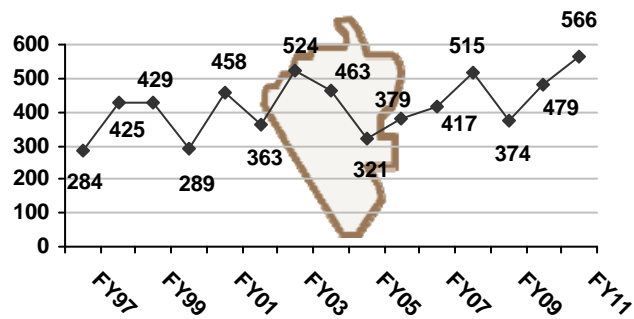
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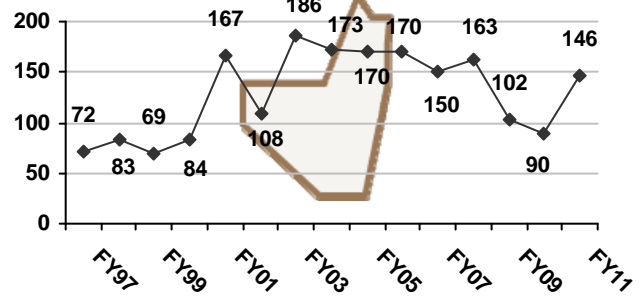
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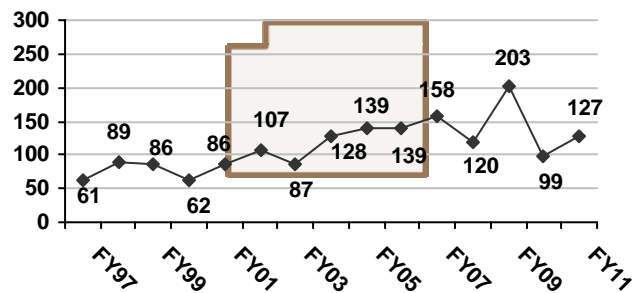
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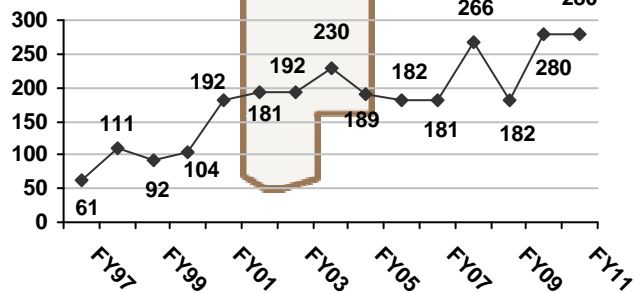
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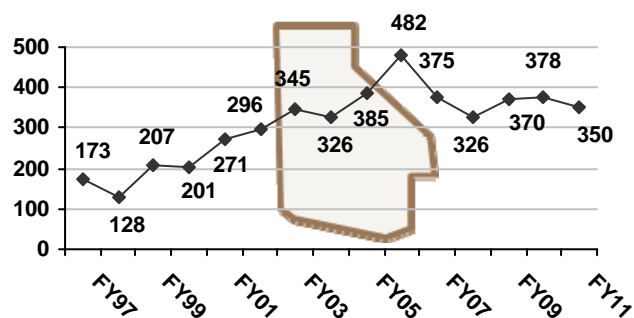
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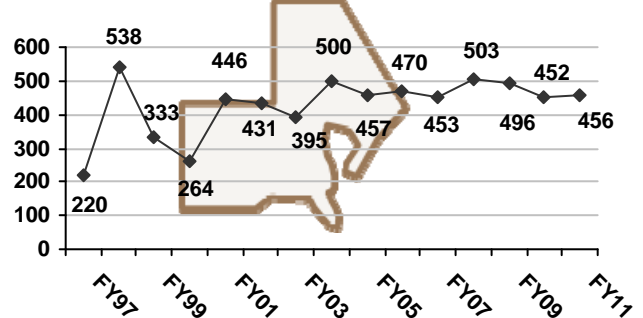
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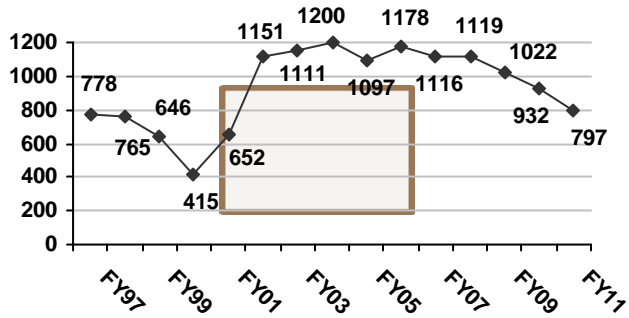


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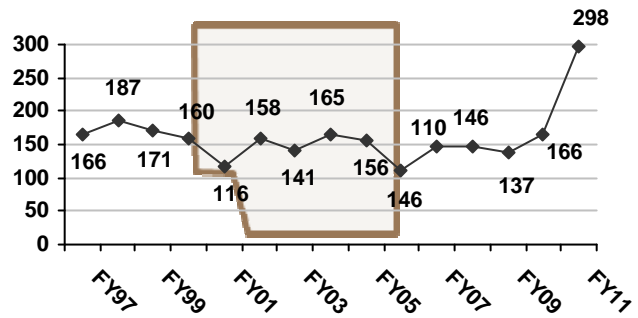


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

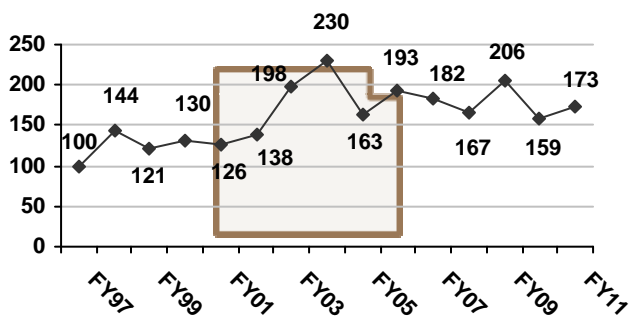
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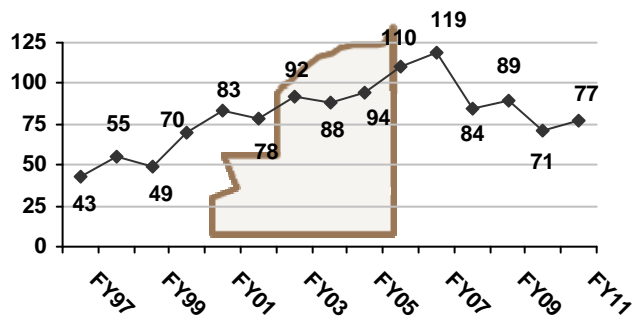
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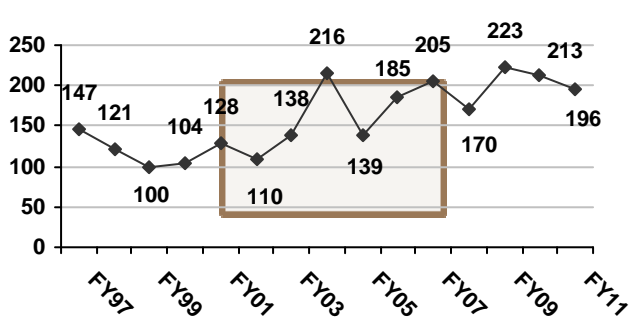
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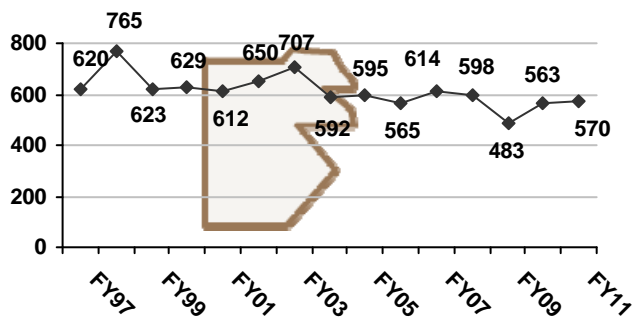
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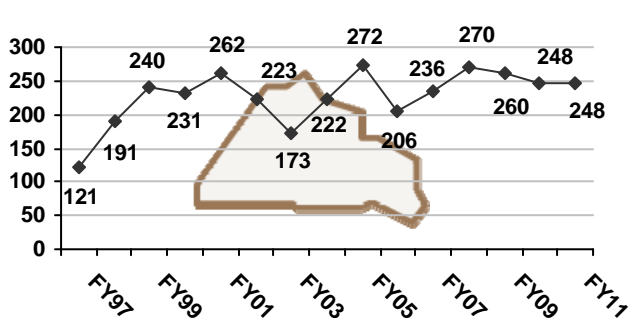
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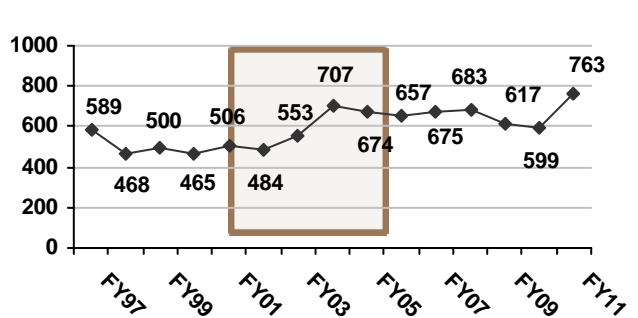
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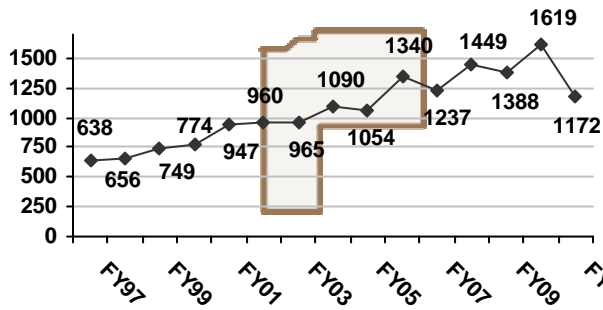


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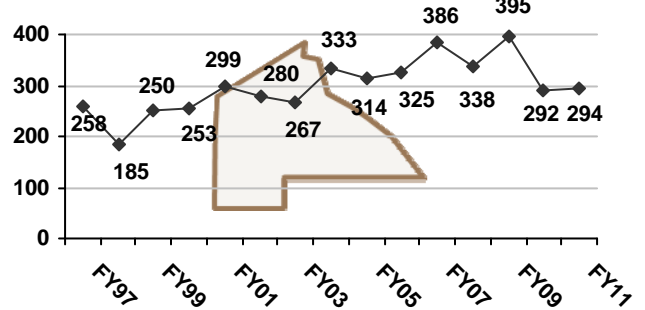


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

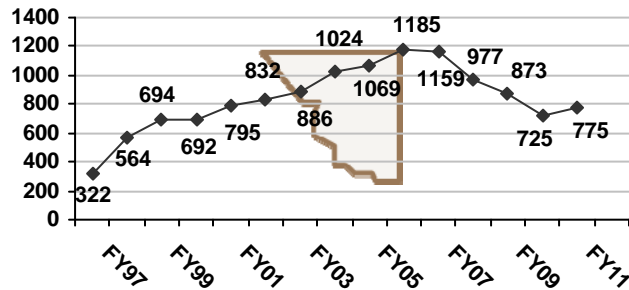
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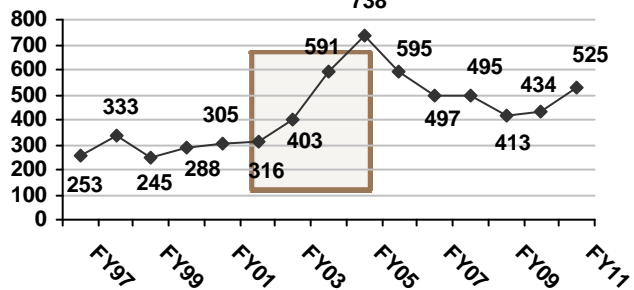
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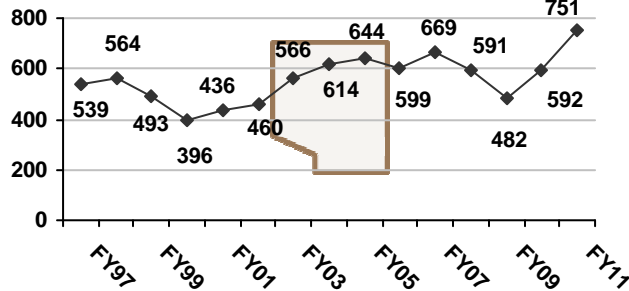
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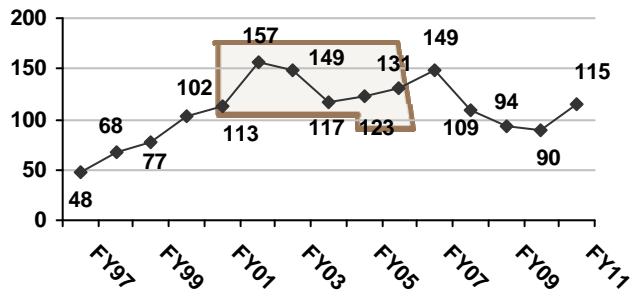
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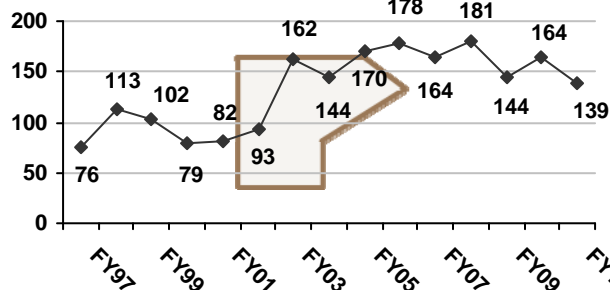
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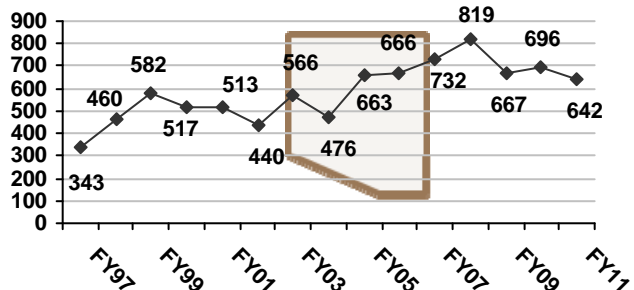
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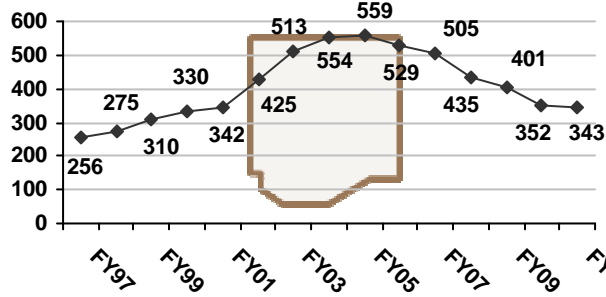


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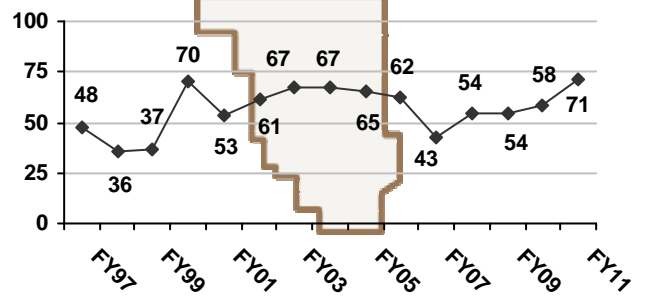


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

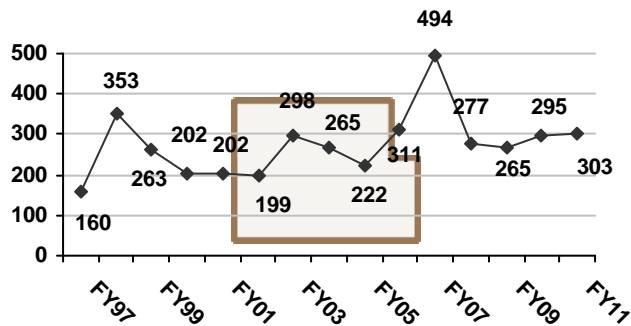
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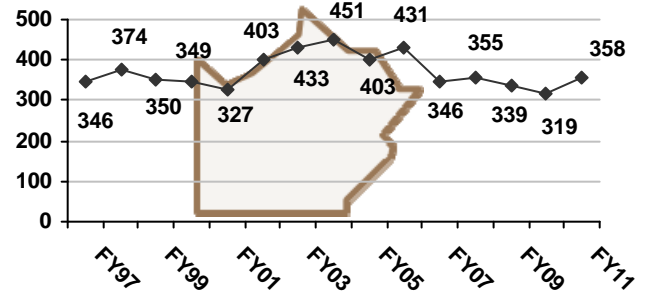
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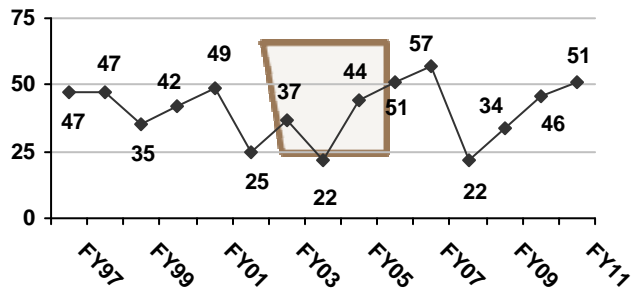
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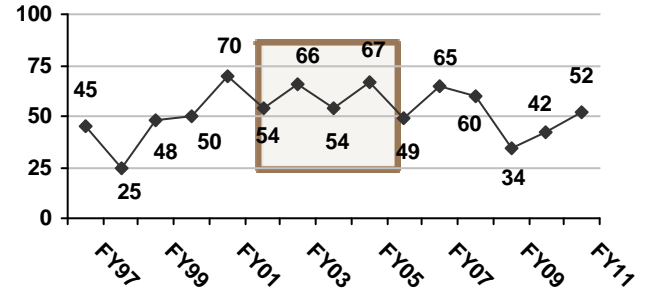
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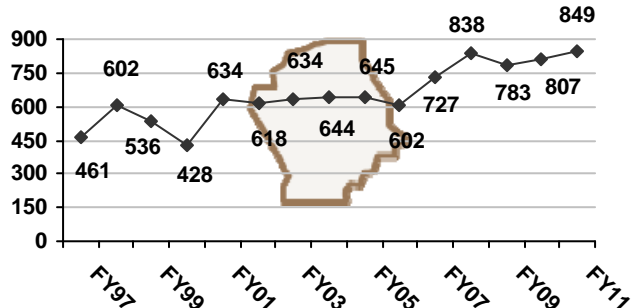
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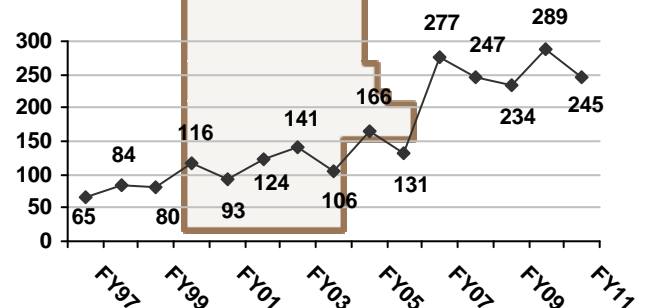
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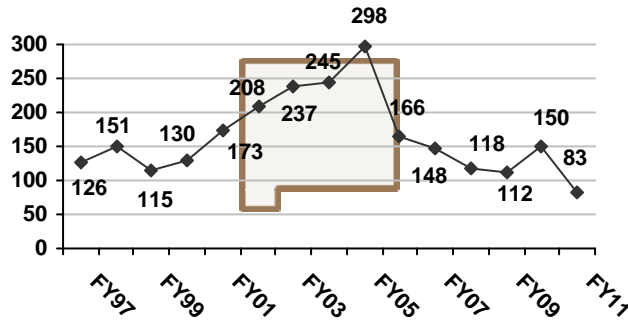


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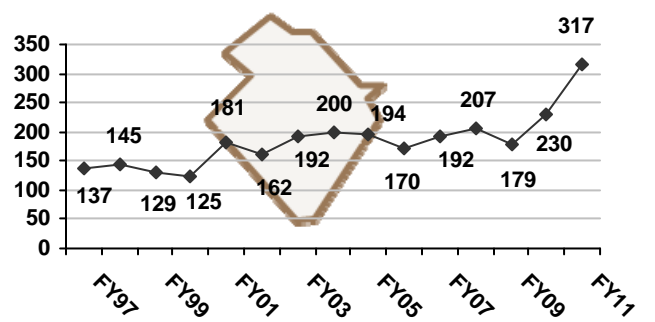


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

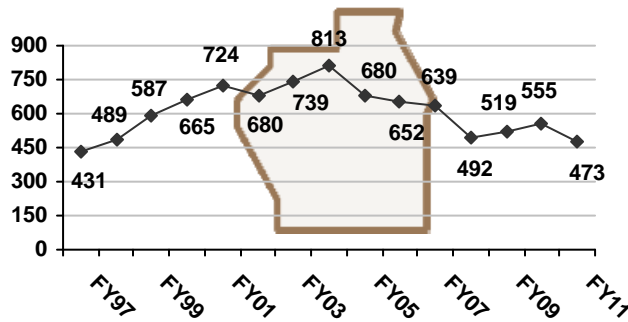
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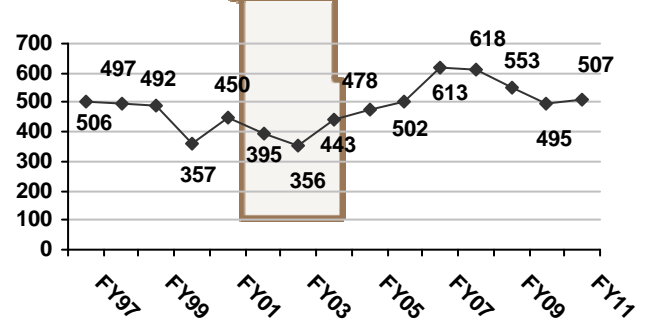
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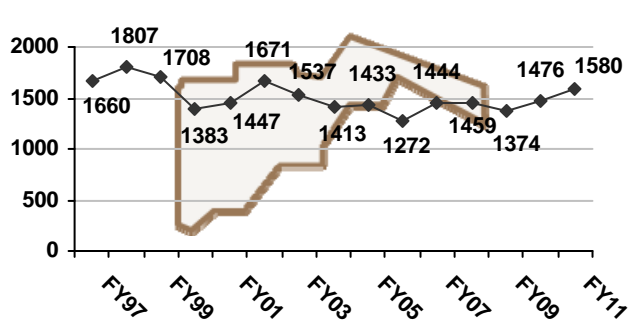
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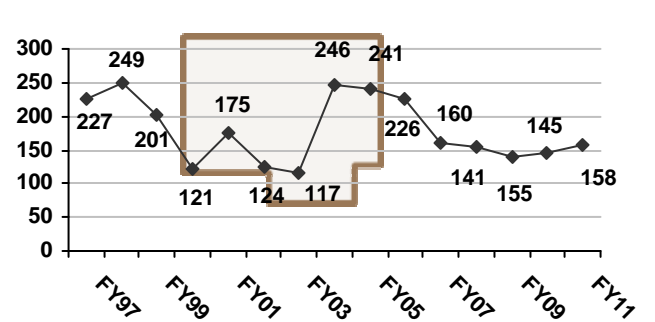
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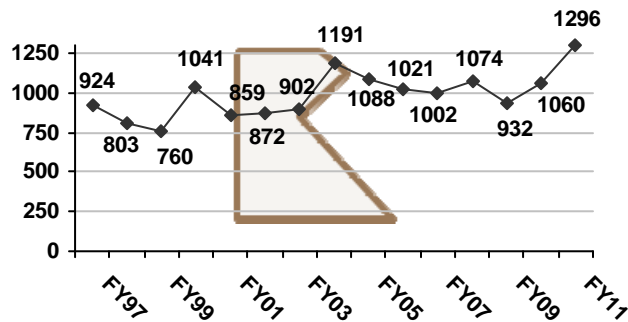
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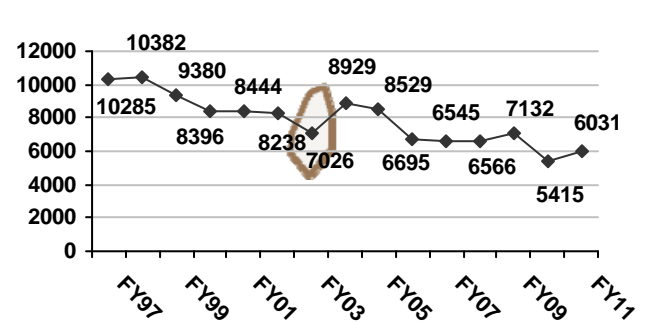
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ST. FRANCOIS

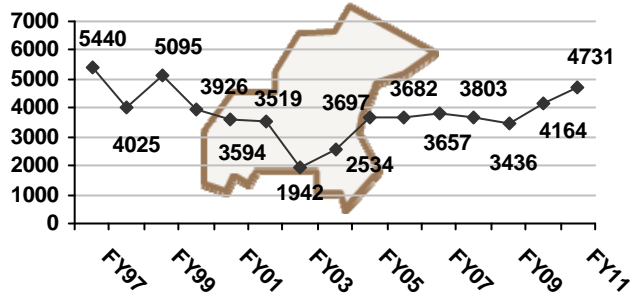


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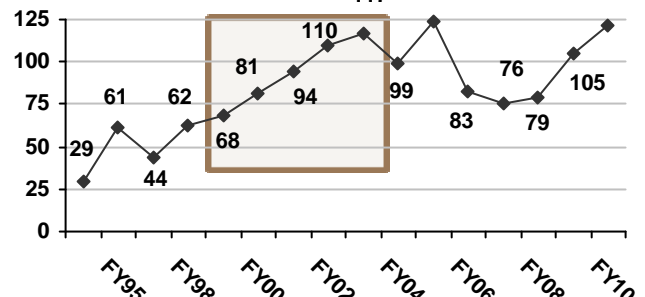


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

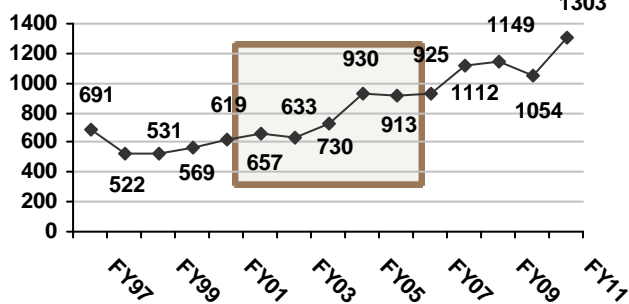
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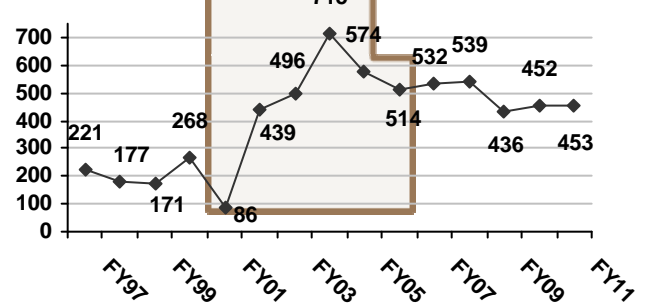
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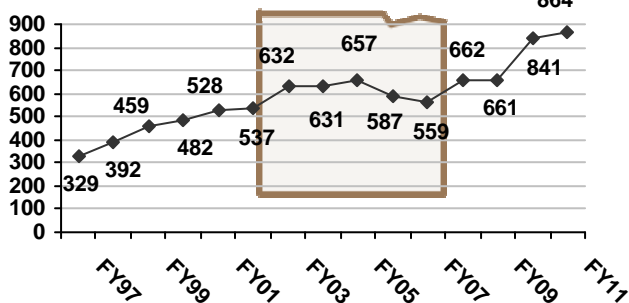
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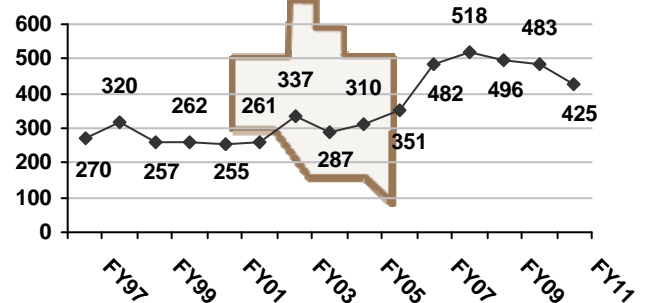
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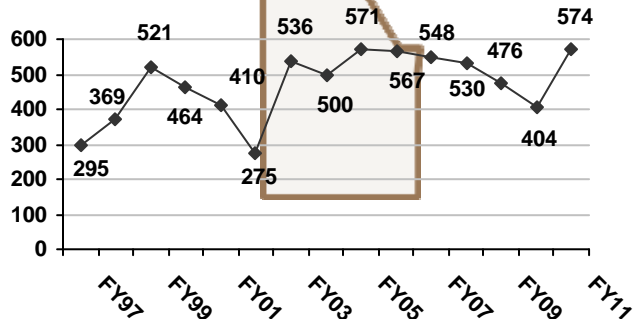
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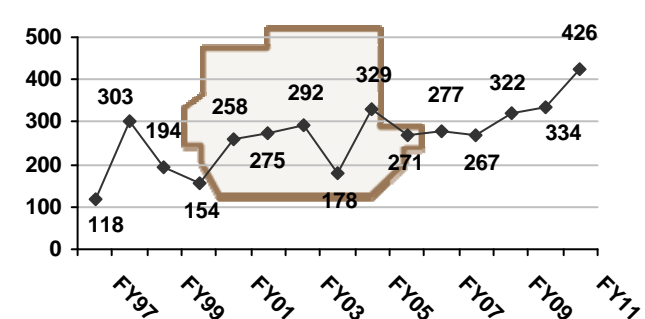
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WASHINGTON

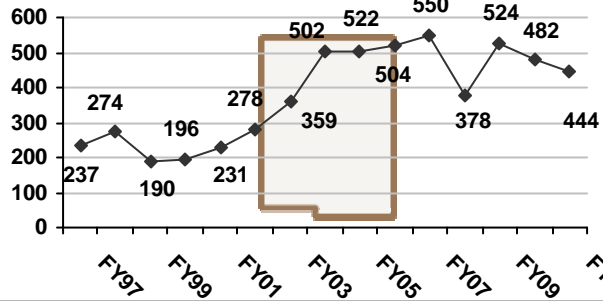


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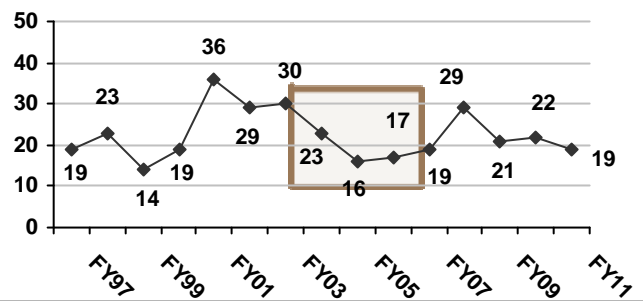


15 YEAR COMPARISON—TRIAL DIVISION CASELOAD— CLOSED CASES BY COUNTY

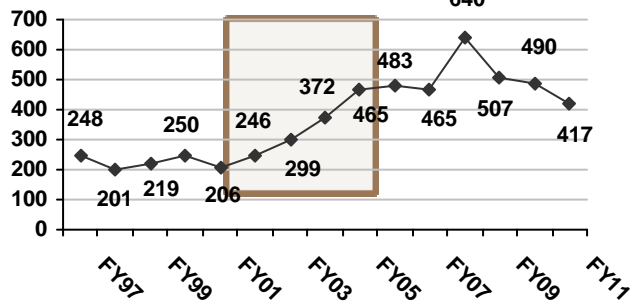
WEBSTER



WORTH



WRIGHT



FY2011 - Trial Division Closed Cases By Disposition Type		
	Description	# of Cases
01	Withdrawal: Before Adjudication	5,809
02	Dismissed: Not Adjudicated	10,110
03	NGRI	21
04	Guilty Plea	34,140
05	Court Trial	341
06	Jury Trial	345
10	Juvenile Hearing	897
11	Certification Hearing	54
12	Juvenile: Informal Disposition	227
20	552 Determination	25
25	Probation Violation Determination	16,946
32	Writ: Prelim. Writ Denied	1
35	Appellate Disposition	4
41	Conflict: Transfer to designated PD Ofc	4,322
42	Conflict: Transferred for assignment	1,218
43	Contract Case: Transferred for assignment	739
44	Certification Assigned to PC	1
50	Capias Warrant Over 1 Year	780
00	Unknown	203
	Total Trial Division Closed Cases	76,183

Other Trial Division Caseloads

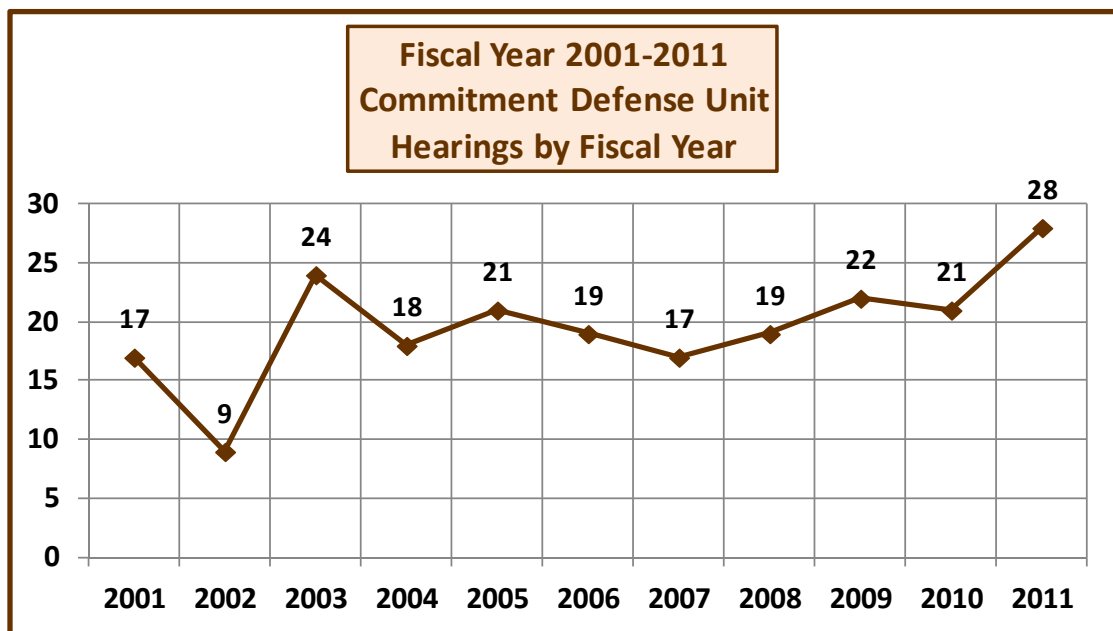
PETITIONS FOR RELEASE

Another type of civil commitment in which public defender is 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 issue 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 above, these petitions are litigated before a judge, rather than a jury.

Commitment Defense Unit

MSPD's Civil Commitment Defense Unit was created 2003 in response to Missouri's adoption of new 'Sexually Violent Predator' civil commitment laws. After a person 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. The public defenders working in MSPD's Civil Commitment Defense Unit [CDU] provide defense representation to these defendants during both their initial commitment hearing and jury trial and thereafter, at a new jury trial every year for each inmate to determine whether he or she remains a danger to the community.

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 2011 Commitment Defense Unit Caseload Statistics	
Opened in FY2011	# of Cases
Petitions for Commitment	15
Petitions for Release	28
Total Opened for 2011	43
Closed in FY2011	
Guilty Pleas	1
Jury Trials	13
Bench Trials	5
Dismissal	2
Unknown	5
Conflict: Assigned to Private Counsel	1
Release Petition (Withdrawn)	3
Total Closed for 2011	30

MISSOURI STATE PUBLIC DEFENDER SYSTEM

Commitment Defense Unit

Jeff Stephens, District Defender
 920 Main Street, Suite 500
 Kansas City, MO 64105
 816-889-7699 FAX: 816-889-2001

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

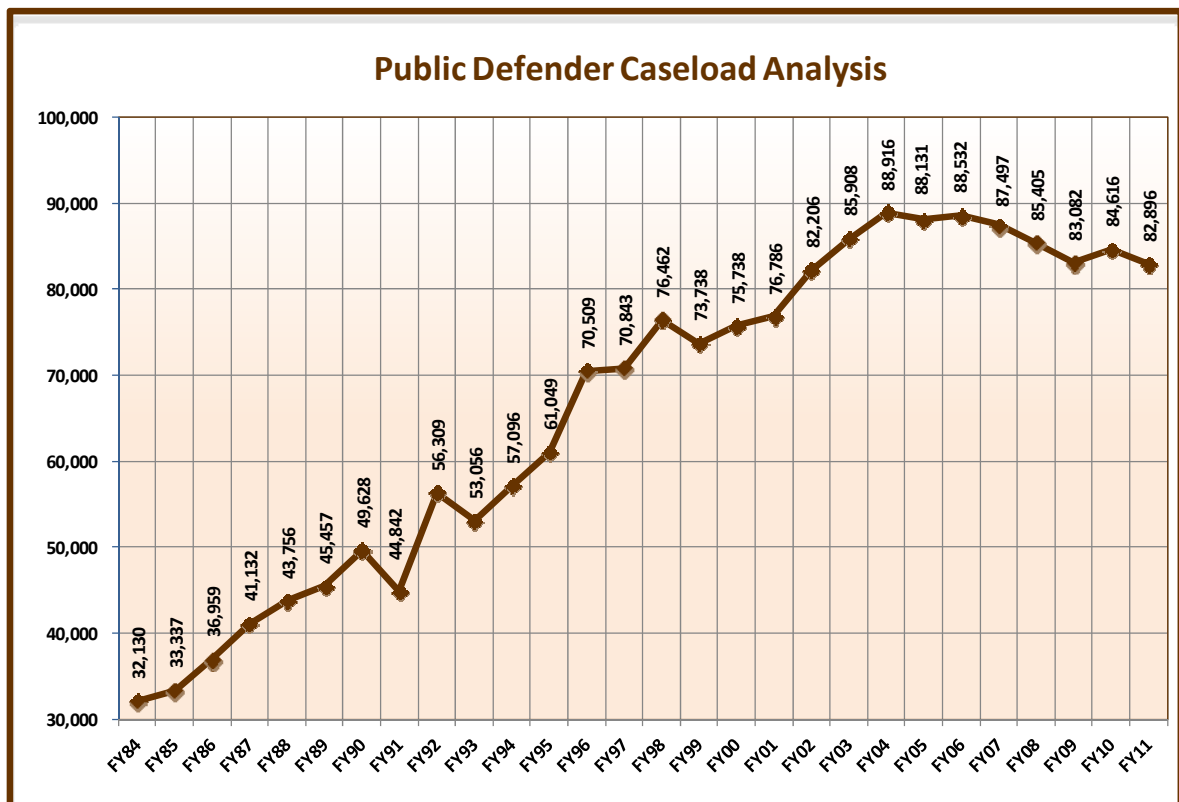
Charles Banks
 1000 West Nifont—Building 7, Suite 100
 Columbia, MO 65203
 573-882-9855 FAX: 573-884-5306

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. 3) 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 about the numerous collateral consequences that can attach to such guilty pleas or about the wisdom of a guilty plea 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 attorneys review the trial transcript, the trial court file, all the legal documents, and evidence introduced in the case and then present 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 in 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
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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
1010 Market Street—Suite 1100
St. Louis, MO 63103
314-340-7662 FAX: 314-421-7685

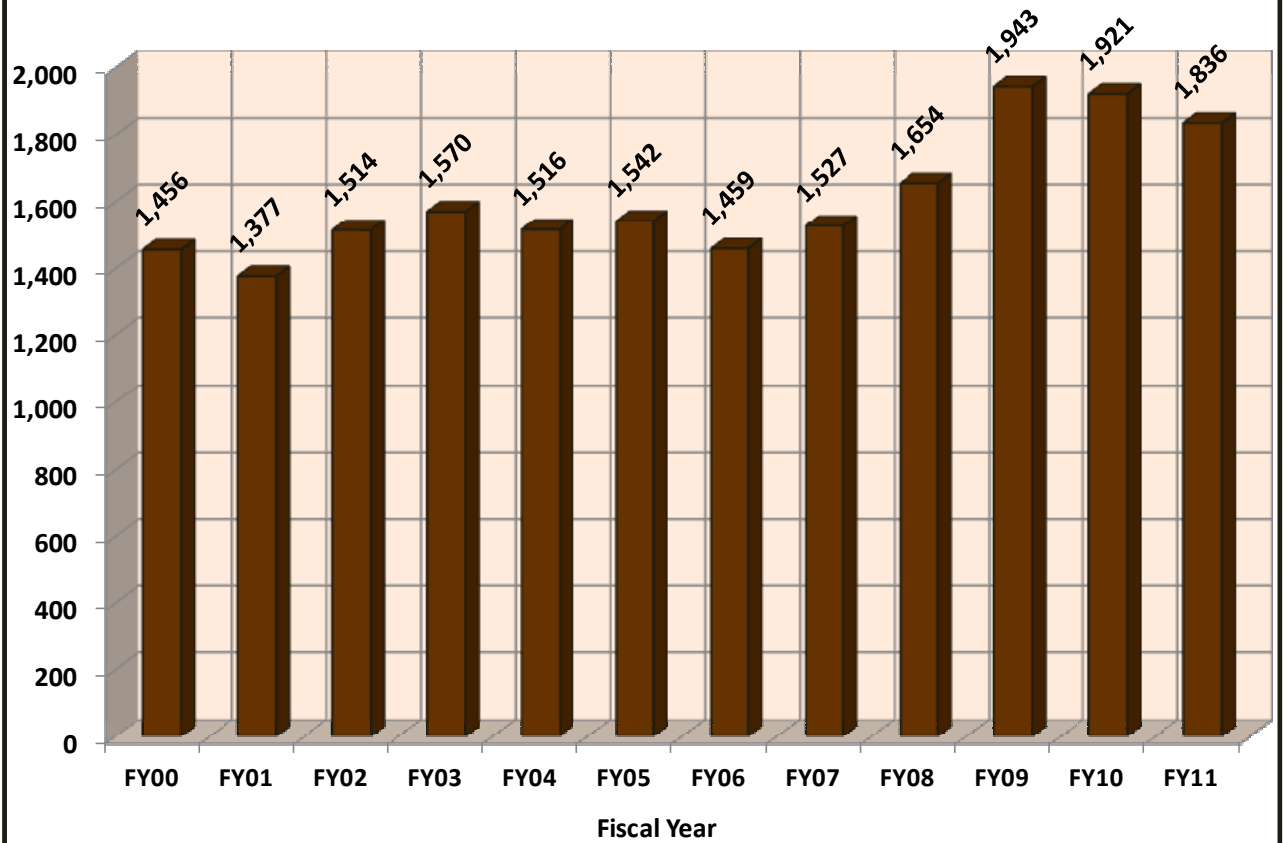
Appellate/PCR Western District 52 (A)

Susan Hogan, District Defender
920 Main Street, Suite 500
Kansas City, MO 64105
816-889-7699 Fax: 816-889-2001

Appellate/PCR Western District 69 (B)

Ruth Sanders, District Defender
920 Main Street, Suite 500
Kansas City, MO 64105
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Appellate & Post Conviction Relief Cases - Opened Fiscal Year 2000 - 2011

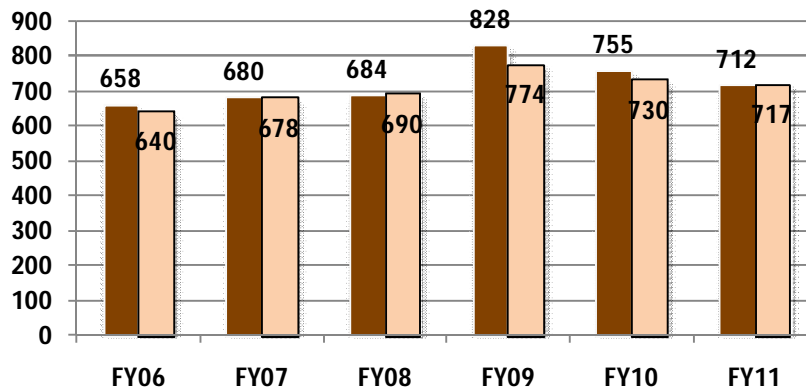


Fiscal Year 2011
APPELLATE DIVISION CASELOAD
Cases Opened and Closed

	Central Columbia		Eastern St. Louis		Western Kansas City		Totals
	Area 50	Area 67	Area 51	Area 68	Area 52	Area 69	
Death Penalty							
Opened	3	2	0	0	1	0	6
Closed	2	1	0	0	2	0	5
Felony Appeal							
Opened	216	0	62	58	31	28	395
Closed	228	0	58	46	49	31	412
Misdemeanor Appeal							
Opened	17	0	3	4	0	1	25
Closed	17	0	1	2	0	6	26
Juvenile Appeal							
Opened	0	0	0	0	1	0	1
Closed	2	0	0	0	1	0	3
PCR Appeals							
Opened	97	42	113	94	44	43	433
Closed	92	41	122	96	49	29	429
PCR Trials							
Opened	0	298	226	195	106	105	930
Closed	0	295	210	162	119	113	899
Other (DNA, 29.07, 29.13, Rule 87, State's Appeals, 29.27, Writs, CDUs, etc)							
Opened	28	9	1	3	3	2	46
Closed	30	9	2	1	1	0	43
Appellate Division							
Opened	361	351	405	354	186	179	1,836
Closed	371	346	393	307	221	179	1,817
Totals							
Opened	712		759		365		1,836
Closed	717		700		400		1,817
	Central Columbia		Eastern St. Louis		Western Kansas City		

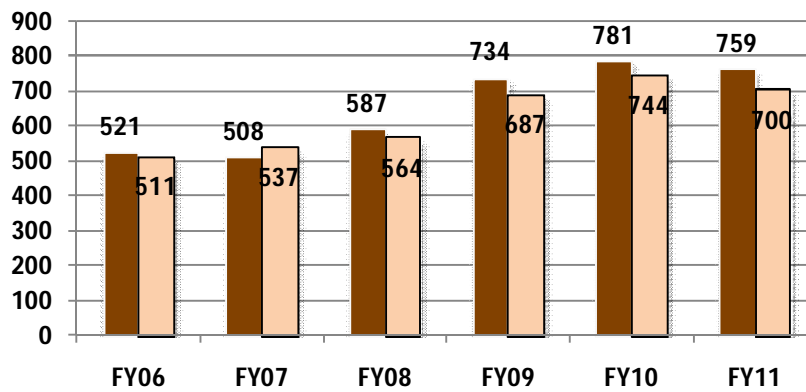
Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

Opened Closed



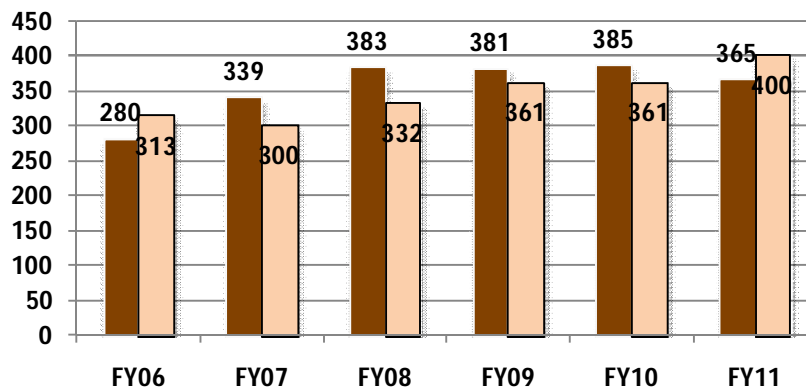
Districts 50 & 67
- Columbia -

Appellate and Post-Conviction
Relief



Districts 51 & 68
- St. Louis -

Appellate and Post-Conviction
Relief



Districts 52 & 69
- Kansas City -

Appellate and Post-Conviction
Relief

FY2011 Appellate Cases Disposed By Disposition Code							
Code	Description	District 50	District 51	District 52	District 67	District 68	District 69
43	Contract Case (Transferred for Assignment)	17	24	16	81	11	12
42	Conflict (Transferred for Assignment)	2	4	5	3	5	3
41	Conflict (Transfer to Public Defender Office)	9	4	7	6	3	7
37	Guilty Plea Vacated	2	2	1	5	1	1
36	Reversed for Sufficiency/Client Discharged	1	0	1	0	1	0
35	Reversed - Findings of Fact/Conclusions of Law	2	1	1	0	0	0
34	Reversed for New Trial	0	0	1	1	0	1
33	Reversed & Remanded for Sentencing Relief	0	4	4	5	3	5
32	Reversed & Remanded for Resentencing	3	1	2	0	0	0
31	Reversed & Remanded for PCR Hearing	3	2	0	1	0	0
30	Reversed & Remanded for New Trial	6	1	2	4	1	1
21	Denied Without Hearing	1	68	3	34	56	4
20	Denied After Hearing	0	37	34	75	27	35
12	Summary Affirmance	159	145	61	36	110	0
11	Affirmed in part/Reversed & Remanded in Part	8	1	0	0	3	0
10	Affirmed After Opinion	94	12	14	1	19	47
03	Dismissed by Court	6	10	8	27	9	8
02	Voluntary Dismissal	30	64	47	52	52	44
01	Withdraw	23	11	8	13	5	11
00	Unknown	5	2	6	2	1	0
	Totals	371	393	221	346	307	179

Code 43 Breakdown:

Area 50=15 Direct Appeals & 2 Misdemeanor Appeals
Area 51=12 Remote County 24.035 PCRs & (12) 29.15 PCRs
Area 52=5 Direct Appeals & 11 Remote County 24.035 PCRs
Area 67=80 Remote County 24.035 PCRs & (1) 29.15 PCR
Area 68=9 Remote County 24.035 PCRs & (2) 29.15 PCRs
Area 69=3 Direct Appeals & 9 Remote County 24.035 PCRs

Public Defender Capital Division

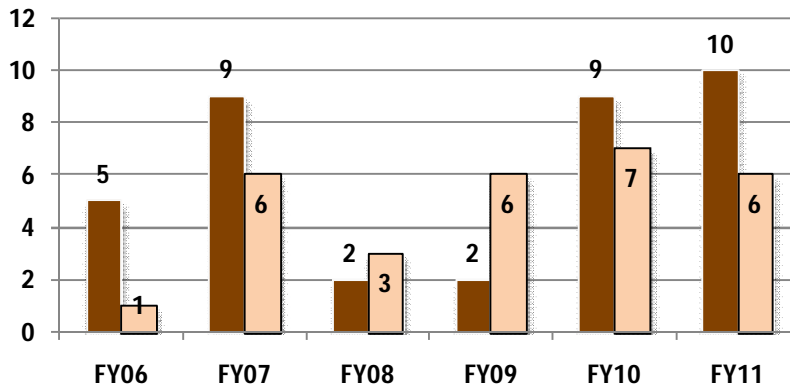
MSPD's Capital Division provides defense representation in Murder First Degree cases in which the state is seeking the death penalty. They also handle direct appeals in cases in which a sentence of death has been imposed. If their caseloads permit, they may occasionally also take on a non-capital murder 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, an investigator, and a mitigation specialist are assigned to each case.

Fiscal Year 2011 CAPITAL DIVISION Caseload			
	Opened	Closed	Current
Central Office - Columbia			
Death Penalty Trial Cases	5	1	13
Appeals - Death Penalty	1	2	1
Appeals Other	1	2	1
Non- Death Penalty Trial Cases	3	1	7
Totals	10	6	22
Eastern Office - St. Louis City			
Death Penalty Trial Cases	6	5	18
Appeals - Death Penalty	1	1	1
Appeals Other	0	0	1
Non- Death Penalty Trial Cases	5	3	6
Totals	12	9	26
Western Office - Kansas City			
Death Penalty Trial Cases	4	2	6
Appeals - Death Penalty	1	0	1
Appeals - Other	0	0	1
Non- Death Penalty Trial Cases	17	7	18
Totals	22	9	26
Total Capital Division			
Death Penalty Trial Cases	15	8	37
Appeals - Death Penalty	3	3	3
Appeals - Other	1	2	3
Non- Death Penalty Trial Cases	25	11	31
Division Totals	44	24	74

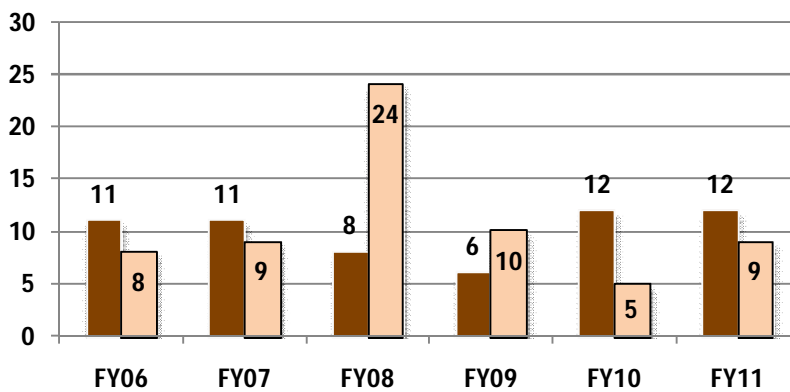
Cases Opened and Closed – By District Fiscal Year 2006 to Fiscal Year 2011

Opened Closed



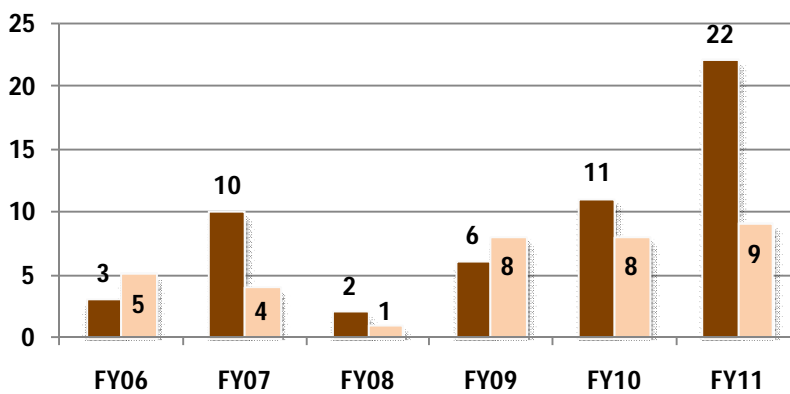
District 53
- Columbia -

Capital



Districts 54
- St. Louis -

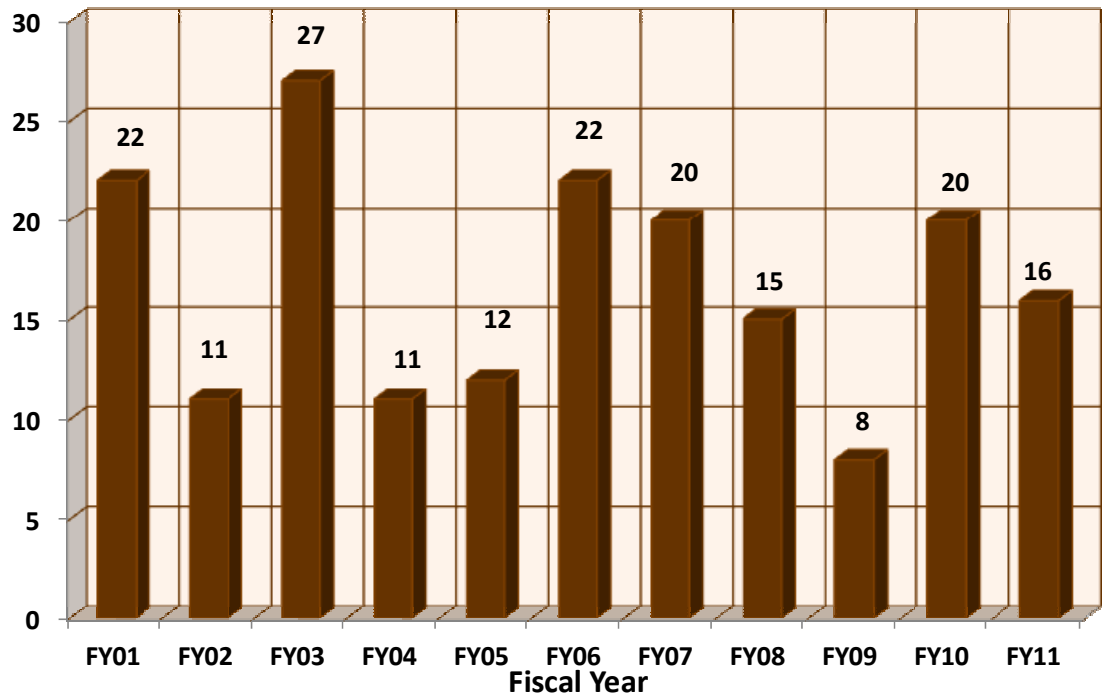
Capital



Districts 55
- Kansas City -

Capital

New Death Penalty Capital Cases



MISSOURI STATE PUBLIC DEFENDER SYSTEM

Capital Division

Central District

Janice Zembles, District Defender
Woodrail Centre
1000 West Nifong—Building 7, Suite 100
Columbia, MO 65203
573-882-9855 FAX: 573-884-4921

Eastern District

Robert Wolfrum, District Defender
1010 Market Street—Suite 1100
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314-340-7662 FAX: 314-340-7666

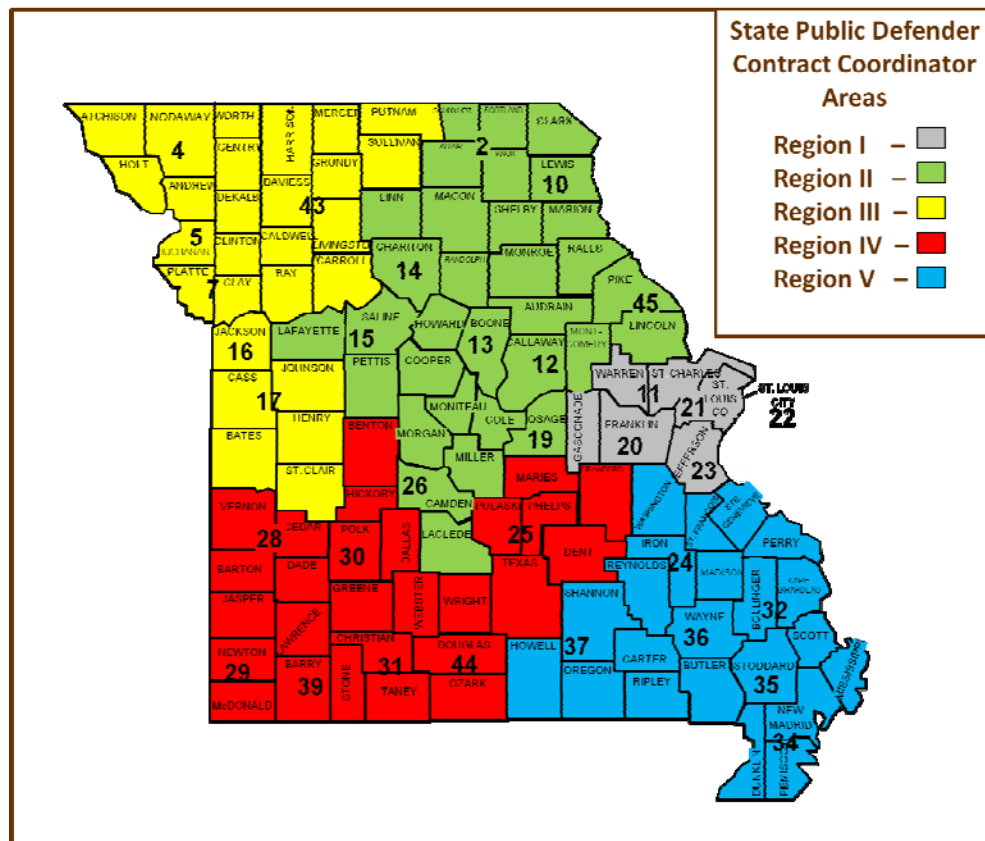
Western District

Thomas Jacquinet, District Defender
920 Main Street, Suite 500
Kansas City, MO 64105
816-889-7699 Fax: 816-889-2001

Public Defender Contract & Conflict Assignments

Administration of Contracting:

Beginning in Fiscal Year 2011, MSPD contracted with four experienced private criminal defense attorneys to administer the case contracting function within designated regions, as shown in the map below. The MSPD Deputy Director administers the contracting of cases in the Northwest Region of the state, as well as overseeing the work of the Contract Coordinators and the contracting function as a whole.



Each Contract Coordinator is responsible for recruiting and qualifying private attorneys within their designated regions to serve as MSPD Panel Attorneys – private criminal defense attorneys who accept cases on contract for MSPD. As cases to be contracted are identified, they are forwarded to the appropriate Contract Coordinator, who assigns the case to an appropriately-qualified attorney from the pool of Panel Attorneys for a particular county. By spreading among five people, the responsibility that was previously handled by only one, MSPD has significantly reduced the amount of time it is taking to get private attorneys assigned to contract cases without adding any additional administrative staff.

Types of Cases Contracted

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 is most often 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 the conflict is because the victim is a friend or family member of someone in the office. Under the Rules of Professional Responsibility governing attorney practice, lawyers are not permitted to accept representation in cases that present a conflict of interest. As a result, these cases must go elsewhere.

The majority of conflict cases are just assigned to a different, geographically close public defender office. Sometimes, however, there are not enough nearby offices to go around, as is often the in cases involving multiple co-defendants. Often, it is neither feasible or efficient to assign conflicts to another defender office which necessitates an attorney traveling to another county for just one case or to see one client. In still other situations, the office that would normally be assigned a conflict case is especially short-staffed or overloaded and unable to take on the additional cases. In these 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. One attempt to address this critical problem has been through the contracting of some of the case overload in especially critical jurisdictions out to the private bar.

Fee Schedule for Contracting

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 FY11 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 Deputy Director prior to being incurred.

In FY11, MSPD contracted out less than 2% of its total caseload to the private bar, despite an overload of 27%, simply because there were not funds to contract out anymore. 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 fund twelve new assistant public defenders and the contracting of case overload was cut back accordingly.

Missouri State Public Defender Private Counsel Fee Schedule		
Case Type	Description	Contract Rates
15	Murder 1st Degree	\$10,000
20	Other Homicide	\$6,000
30D	AB Felony Drug	\$750
30F	AB Felony Other	\$1,500
30X	AB Felony Sex	\$2,000
35D	CD Felony Drug	\$750
35F	CD Felony Other	\$750
35X	CD Felony Sex	\$1,500
45M	Misdemeanor	\$375
45T	Misdemeanor - Traffic	\$375
50N	Juvenile - Non Violent	\$500
50S	Juvenile - Status	\$500
50V	Juvenile - Violent	\$750
65F	Probation Violation - Felony	\$375
65M	Probation Violation - Misd	\$375
110F	Direct Appeals - Felony	\$3,750
110S	Direct Appeal - Misdemeanor	\$500
124A	Rule 24.035 Appeal	\$500
124M	Rule 24.035 Motion	\$500
129A	Rule 29.15 Appeal	\$3,750
129M	Rule 29.15 Motion	\$500

*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 FY11, MSPD spent just over \$1.5 million to contract out 2,083 cases, at an average cost per case of \$728.61..

FISCAL YEAR 2011
NUMBER OF CASES TO PRIVATE COUNSEL
BY DISTRICT AND COUNTY

	District #	Total	District Totals		District #	Total	District Totals
ADAIR	02	21		CRAWFORD	25	14	
KNOX	02	2		DENT	25	28	
SCHUYLER	02	2		MARIES	25	2	
			25	PHELPS	25	29	
ANDREW	04	9		PULASKI	25	12	
ATCHISON	04	5		TEXAS	25	1	
HOLT	04	1					86
NODAWAY	04	18		CAMDEN	26	25	
WORTH	04	3		LACLEDE	26	6	
			36	MORGAN	26	3	
BUCHANAN	05	44					34
			44	BARTON	28	2	
CLAY	07	20		CEDAR	28	2	
CLINTON	07	1		DADE	28	5	
PLATTE	07	20		VERNON	28	36	
			41				45
CLARK	10	3		JASPER	29	50	
LEWIS	10	8		MCDONALD	29	11	
MARION	10	26		NEWTON	29	8	
MONROE	10	1					69
RALLS	10	6		BENTON	30	12	
SHELBY	10	1		DALLAS	30	8	
			45	HICKORY	30	3	
ST. CHARLES	11	1		POLK	30	41	
WARREN	11	3		WEBSTER	30	49	
			4				113
AUDRAIN	12	17		CHRISTIAN	31	17	
CALLAWAY	12	19		GREENE	31	106	
MONTGOMERY	12	7		TANEY	31	66	
			43				189
BOONE	13	119		BOLLINGER	32	3	
			119	CAPE GIRARDEAU	32	9	
CHARITON	14	1		MISSISSIPPI	32	13	
HOWARD	14	1		PERRY	32	2	
LINN	14	7		SCOTT	32	79	
MACON	14	8					106
RANDOLPH	14	26		NEW MADRID	34	10	
			43	PEMISCOT	34	7	
COOPER	15	53					17
LAFAYETTE	15	24		DUNKLIN	35	16	
PETTIS	15	39		STODDARD	35	18	
SALINE	15	9					34
			125	BUTLER	36	35	
JACKSON	16	92		CARTER	36	1	
			92	RIPLEY	36	2	
BATES	17	4		WAYNE	36	20	
CASS	17	11					58
HENRY	17	5		HOWELL	37	36	
JOHNSON	17	20		OREGON	37	1	
ST. CLAIR	17	1		SHANNON	37	6	
			41				43
COLE	19	36		BARRY	39	20	
OSAGE	19	1		LAWRENCE	39	33	
			37	STONE	39	33	
FRANKLIN	20	7					86
GASCONADE	20	26		CALDWELL	43	2	
			33	DAVIESS	43	7	
ST. LOUIS COUNTY	21	96		DEKALB	43	4	
			96	GRUNDY	43	5	
ST. LOUIS CITY	22	23		LIVINGSTON	43	8	
			23	MERCER	43	3	
JEFFERSON	23	11		PUTNAM	43	14	
			11	RAY	43	3	
IRON	24	6		SULLIVAN	43	2	
MADISON	24	2					48
REYNOLDS	24	1		DOUGLAS	44	10	
ST. FRANCOIS	24	20		OZARK	44	7	
STE. GENEVIEVE	24	13		WRIGHT	44	18	
WASHINGTON	24	12					35
			54	LINCOLN	45	15	
				PIKE	45	7	
							22
						1897	1897

Fiscal Year 2011 CONFLICT and CONTRACT ASSIGNMENTS - By Case Type -				
Code	Case Type Description	# of Conflict Cases Contracte	# of Overload Cases Contracte	Total
110F	Direct Appeal - Felony	25		25
110S	Direct Appeal - Misd.	2		2
124A	Rule 24.035 Appeal	1		1
124M	Rule 24.035 Motion	108	14	122
129A	Rule 29.15 Appeal	6		6
129M	Rule 29.15 Motion	30		30
15	Murder 1 - NDP	6	1	7
20	Other Homicide	7		7
30D	A - B Felony Drug	207	28	235
30F	A - B Felony Other	112	51	163
30X	A - B Felony Sex	10	3	13
35D	C - D Felony Drug	157	52	209
35F	C - D Felony Other	506	208	714
35X	C - D Felony Sex	5	1	6
45M	Misdemeanor (other than Traffic)	258	32	290
45T	Misd. - Traffic (RSMo. 301-307)	37	3	40
50N	Juvenile Non-violent (all other)	23	1	24
50V	Juvenile Violent (crimes against persons)	14	1	15
61	Sexual Predator Hearing	1		1
65F	Probation Violation - Felony	115	7	122
65M	Probation Violation - Misd.	46	2	48
99	None	2	1	3
		1678	405	
	Total Private Counsel Conflict & Contract Assignments			2083

Fiscal Year 2013 Legislative Budget Request

CASELOAD RELIEF OPTION 1: A FULLY STAFFED PUBLIC	Contracts	\$3,451,500
DEFENDER SYSTEM WITH ALL (AND ONLY) CONFLICT CASES	FY2013 Staffing	<u>\$2,113,161</u>
CONTRACTED TO THE PRIVATE BAR	Total FY2013 Decision Item	\$5,564,661

This option presumes that (1) all conflict cases are contracted out to the private bar rather than sent to another nearby defender office; (2) current contract fee amounts to private counsel remain flat; (3) caseload, and the percentage of cases that present conflicts, remain relatively flat; and (4) the personnel increases needed to handle the remaining caseload are phased-in over a three year period.

Contracting Conflict Cases Cost:	\$3.4 million
FY13 Personnel Costs using 3 year phase-in:	<u>\$2.1 million</u>
Total FY13 Decision Item Cost:	\$5.5 million

Contracting All Conflict Cases: Crime is increasingly a social activity, with multiple defendants facing companion charges and pointing fingers at one another. In those circumstances, the local defender office can only represent one of the codefendants in a given case. The others must go elsewhere, either to another defender office or out to private counsel on a contract for representation. Historically, MSPD has sent the first co-defendant to another defender office and has only contracted second, third, (or more) co-defendants out to private counsel. However, this handling of conflict cases in-house is not a cost-effective approach. These cases pull lawyers out of their primary jurisdictions and require them to drive significant distances to other counties to appear for court, conduct investigations, witness interviews and depositions, visit their clients in that county jail, etc. It is not uncommon for each trip to eat up close to a day of the attorney's time to deal with one or two cases. In the long run, it is much more cost-effective and more efficient to contract all conflict cases out to attorneys in the private bar and allow the local offices to concentrate on effectively representing the cases that arise within the counties they are designed to serve.

At present, MSPD uses the fee schedule at right for cases contracted out to private counsel. Litigation expenses (the cost of transcripts, investigation, experts, or depositions) are not included in these fees but are approved on a case-by-case basis. These costs would be incurred by MSPD whether the case was being handled internally or by private counsel.

Given the assumptions set out, the cost of contracting out all conflict cases to private counsel would run a little under \$4.7 million. Since we already spend just over \$1.2 million contracting out some of these cases (those with multiple co-defendants), the new money needed to move all conflict cases out of the public defender system to contract counsel would be \$3.45 million, as shown .

Missouri State Public Defender Private Counsel Fee Schedule		
Case Type	Description	Contract Rates
15	Murder 1st Degree	\$10,000
20	Other Homicide	\$6,000
30D	AB Felony Drug	\$750
30F	AB Felony Other	\$1,500
30X	AB Felony Sex	\$2,000
35D	CD Felony Drug	\$750
35F	CD Felony Other	\$750
35X	CD Felony Sex	\$1,500
45M	Misdemeanor	\$375
45T	Misdemeanor - Traffic	\$375
50N	Juvenile - Non Violent	\$500
50S	Juvenile - Status	\$500
50V	Juvenile - Violent	\$750
65F	Probation Violation - Felony	\$375
65M	Probation Violation - Misd	\$375
110F	Direct Appeals - Felony	\$3,750
110S	Direct Appeal - Misdemeanor	\$500
124A	Rule 24.035 Appeal	\$500
124M	Rule 24.035 Motion	\$500
129A	Rule 29.15 Appeal	\$3,750
129M	Rule 29.15 Motion	\$500

FY2011 ASSIGNED CASES - Trial & Appellate Division Assigned & Contract Counsel Does Not include Capital or CDU					
Case Type	Description	Conflicts Currently Handled by MSPD 41's	Conflicts Currently Contracted to Private Counsel 42's	Contract Rates	Cost of Contracts
15	Murder 1st Degree	14	6	\$10,000	\$200,000
20	Other Homicide	18	7	\$6,000	\$150,000
30D	AB Felony Drug	407	207	\$750	\$460,500
30F	AB Felony Other	456	112	\$1,500	\$852,000
30X	AB Felony Sex	27	10	\$2,000	\$74,000
35D	CD Felony Drug	461	157	\$750	\$463,500
35F	CD Felony Other	1,490	506	\$750	\$1,497,000
35X	CD Felony Sex	9	5	\$1,500	\$21,000
45M	Misdemeanor	717	258	\$375	\$365,625
45T	Misdemeanor - Traffic	121	37	\$375	\$59,250
50N	Juvenile - Non Violent	89	23	\$500	\$56,000
50S	Juvenile - Status	3		\$500	\$1,500
50V	Juvenile - Violent	41	14	\$750	\$41,250
65F	Probation Violation - Felony	303	115	\$375	\$156,750
65M	Probation Violation - Misd	71	46	\$375	\$43,875
110F	Direct Appeals - Felony	8	25	\$3,750	\$123,750
110S	Direct Appeal - Misdemeanor		2	\$500	\$1,000
124A	Rule 24.035 Appeal	6	1	\$500	\$3,500
124M	Rule 24.035 Motion	8	108	\$500	\$58,000
129A	Rule 29.15 Appeal	2	6	\$3,750	\$30,000
129M	Rule 29.15 Motion	6	30	\$500	\$18,000
	Totals	4,257	1,675		\$4,676,500
		Fiscal Year 2012 Contract Budget			\$1,225,000
Additional Appropriation Required to Contract Out All Conflicts - First and Second Levels					\$3,451,500
ALL TRIAL & APPELLATE CONFLICTS (41'S AND 42'S) TO PRIVATE COUNSEL					

Attorney Staff Needed to Handle Remaining Caseload: Removing all conflict cases helps to reduce the public defender case overload, but it does not eliminate it. Assuming no increase in caseload, we would still be 66 lawyers short of what is necessary to avoid having to turn cases away. This number is determined by applying the Public Defender Commission's Maximum Allowable Workload Protocol, set out in the Appendix to the caseload that would remain after the conflicts have all been pulled out and contracted to private attorneys:

Fiscal Year 2011 Trial & Appellate Option I - Assign All Conflicts to Private Counsel MSPD to Retain all Overload Cases <small>Does Not include Capital or CDU</small>						
Case Type		FY11 Trial & Appellate Division Cases	Adjusted for FY11 Withdrawn & Contracted Conflicts	Total Trial & Appellate Adjusted Caseload	Hours Required for Case Type	FY11 NAC Modified Required Hours
15	Murder 1st Degree	134	(58)	76	173	13,148
20	Other Homicide	132	(66)	66	173	11,418
30D	AB Felony Drug	3,064	(1,436)	1,628	14	22,792
30F	AB Felony Other	3,776	(1,522)	2,254	14	31,556
30X	AB Felony Sex	665	(171)	494	31	15,314
35D	CD Felony Drug	5,512	(1,645)	3,867	14	54,138
35F	CD Felony Other	21,065	(5,402)	15,663	14	219,282
35X	CD Felony Sex	327	(64)	263	31	8,153
45M	Misdemeanor	16,455	(2,520)	13,935	5	69,675
45T	Misdemeanor - Traffic	5,980	(628)	5,352	5	26,760
50N	Juvenile - Non Violent	1,144	(249)	895	10	8,950
50S	Juvenile - Status	127	(10)	117	10	1,170
50V	Juvenile - Violent	583	(129)	454	10	4,540
60	552 Release Petitions	27	(5)	22	14	308
65F	Probation Violation - Felony	14,725	(1,451)	13,274	5	66,370
65M	Probation Violation - Misd	5,171	(410)	4,761	5	23,805
75	Special Writ	1		1	83	83
110F	Direct Appeals - Felony	399	(63)	336	83	27,888
110I	Direct Appeal - Interlocutory	6		6	83	498
110J	Direct Appeal - Juvenile	3		3	83	249
110S	Direct Appeal - Misdemeanor	25	(6)	19	83	1,577
124A	Rule 24.035 Appeal	241	(18)	223	21	4,683
124M	Rule 24.035 Motion	649	(148)	501	21	10,521
129A	Rule 29.15 Appeal	194	(13)	181	62	11,222
129M	Rule 29.15 Motion	295	(55)	240	62	14,880
150T	Trial Level Resentencing	2		2	21	42
	Totals	80,702	(16,069)	64,633		
					Case Hours	649,022
2340.00	Standard Work Hours (45 hrs. *52 wks)				Travel Hours	33,650
-65.80	Attorney Sick Leave				Management Hours	37,908
-216.00	Holidays and Annual Leave				Total Workload Hours	720,580
-320.50	Non Case Related Hours (13.7%)					
1737.70	Available Attorney Case Hours				Protocol	415
	Number of Current Trial Division and Appellate Division Attorneys					349
	ALL CONFLICTS TO PRIVATE COUNSEL				Need	66

Support Staff: Every law practice management expert will tell you that lawyer time needs to be leveraged by utilizing support staff for everything that can be done by a non-lawyer and freeing up the lawyer to do those things that only a lawyer can do. Some of those tasks are best done by a legal assistant or a paralegal, others by a clerk, and still others by an investigator. But the goal is always to preserve the more expensive lawyer's time for those things that require a law license and utilize the less-expensive support staff personnel for everything else. For this reason, in most private law firms you will find significantly more support staff in a law office than you'll find attorneys. According to a survey conducted by the Office of Missouri Prosecution Services, Missouri's prosecuting attorney's office, average 1-2 support staff for every 1 attorney, excluding any investigative staff. For purposes of this new decision item, we are requesting – one clerical person, one legal assistant, and one investigator for every three new attorneys. That would mean 22 investigators, 22 legal assistants, and 22 clerical personnel to accompany the 66 additional attorneys necessary to handle the remaining caseload after all conflict cases have been contracted out of the system.

Three-year Phase-in = \$2.1 Million in FY13: In recognition of the realities of the current economic state, as well as the logistical challenges involved in both hiring and finding facilities to accommodate such a large staffing increase in one fell swoop, this budget proposes a three-year phase-in of the staffing increase associated with this option. This reduces the cost of the personnel portion of this decision item from a total of \$6.5 million down to just \$2.1 million for FY13 as illustrated in the cost breakdown table.

**Protocol Trial and Appellate Divisions
Assuming All Conflicts to Private Counsel**

	Protocol	
COST BREAKDOWN	Protocol	3 YEAR PHASE-IN FY2013 NEW DECISION ITEM
Personal Service		
Assistant Public Defender III - Range 30 \$49,104	66.00 \$3,240,864	22.00 \$1,080,288
Investigators - Range 23 \$34,644	22.00 \$762,168	7.00 \$242,508
Legal Assistants - Range 15 \$25,944	22.00 \$570,768	7.00 \$181,608
Secretaries - Range 12 \$23,796	22.00 <u>\$523,512</u>	7.00 <u>\$166,572</u>
	132.00	43.00
Total Personal Service	\$5,097,312	\$1,670,976
Expense & Equipment		
One-time Purchases		
Attorney Package \$2,950	69.00 \$203,550	22.00 \$64,900
Investigator Package \$2,875	23.00 \$66,125	7.00 \$20,125
Legal Assistant Package \$2,875	23.00 \$66,125	7.00 \$20,125
Secretary Package \$9,105	23.00 <u>\$209,415</u>	7.00 <u>\$63,735</u>
Total One-Time Purchases	\$545,215	\$168,885
On-Going Costs		
Attorneys \$6,600	69.00 \$455,400	22.00 \$145,200
Investigator \$9,275	23.00 \$213,325	7.00 \$64,925
Legal Assistant \$4,775	23.00 \$109,825	7.00 \$33,425
Secretary \$4,250	23.00 <u>\$97,750</u>	7.00 <u>\$29,750</u>
Total Personnel Related On-Going Costs	<u>\$876,300</u>	<u>\$273,300</u>
Total Expense and Equipment	<u>\$1,421,515</u>	<u>\$442,185</u>
Total Decision Item Request	\$6,518,827	\$2,113,161

**CASELOAD RELIEF OPTION 2: CONTRACT ALL PUBLIC
DEFENDER CASE OVERLOAD OUT TO THE PRIVATE BAR**

Fiscal Year 2013	
Contracts	\$13,052,625
Fiscal Year 2012	
Supplemental	\$3,263,156

This option presumes that (1) Missouri's public defender system current attorney staffing, caseload, and contract fee schedule all remain unchanged, (2) that MSPD continues its current practice of contracting out second, third, and more co-defendant cases to private counsel, and (3) that MSPD *also* contracts out the remainder of its excess caseload to private counsel.

Cost to contract MSPD's excess caseload: **\$13,052,625**

The Missouri Public Defender Commission has established a Maximum Allowable Workload for each public defender office using a protocol built from national caseload standards and utilizing factors recommended by the American Bar Association. It is designed to strike a balance between the number of hours needed to *effectively* and *constitutionally* handle the cases coming in the door of a defender office and the number of attorney hours available within that office to handle those cases. The protocol is included in the appendix.

Application of the Maximum Allowable Workload protocol to MSPD's most recent caseload numbers shows that we are currently staffed to effectively handle just 73% of the cases in need of public defenders in Missouri's justice system. If MSPD's attorney staffing is to remain unchanged, as is assumed under this option, then 27% of its caseload would need to be contracted out to private counsel, as compared to the not quite 2% of its caseload that it is currently contracting out to private counsel.

Hours Needed for Current Caseload			729,788.00	100.00%
Available Attorney Hours		1737.70		
Number of Trial & Appellate Attorneys		<u>348.50</u>		
Total Attorney Hours Available		605,588.45		
Travel Hours				
Trial Division				
1,460,122 Miles /45 Miles Per Hour	32,447.24			
Appellate Division				
54,142 Miles / 45 Miles Per Hour	<u>1,203.16</u>			
Total Travel Hours		33,650.40		
Management Hours				
Trial Division Staff				
279 Attorneys + 158 Staff * 1.5 Hours Per Week	34,086.00			
* 52 Weeks				
Appellate Division Staff				
30.5 Attorneys + 18.5 Staff * 1.5 Hours Per Week	<u>3,822.00</u>			
* 52 Weeks				
Total Management Hours		37,908.00		
Hours Available for Case Work			534,030.05	73.18%
Hours That Must be Contracted			195,757.95	26.82%

As shown in the following chart, the total NAC Modified Case Hours for Fiscal Year 2011 was 729,788 case related hours.

FY2011 ASSIGNED CASES - Trial & Appellate Division Caseload, Adjusted for Withdrawals and Sending Office Conflict							
Does Not include Capital or CDU							
Case Type		FY11 Trial & Appellate Division Cases	Adjusted for FY11 Withdrawn	FY11 1st Level Conflicts 41 - Sending Office	Total Trial & Appellate Adjusted Caseload All Cases	Hours Required for Case Type	FY11 NAC Modified Required Hours
15	Murder 1st Degree	134	(24)	(14)	96	173	16,608
20	Other Homicide	132	(23)	(18)	91	173	15,743
30D	AB Felony Drug	3,064	(415)	(407)	2,242	14	31,388
30F	AB Felony Other	3,776	(498)	(456)	2,822	14	39,508
30X	AB Felony Sex	665	(107)	(27)	531	31	16,461
35D	CD Felony Drug	5,512	(566)	(461)	4,485	14	62,790
35F	CD Felony Other	21,065	(1,916)	(1,490)	17,659	14	247,226
35X	CD Felony Sex	327	(41)	(9)	277	31	8,587
45M	Misdemeanor	16,455	(828)	(717)	14,910	5	74,550
45T	Misdemeanor - Traffic	5,980	(349)	(121)	5,510	5	27,550
50N	Juvenile - Non Violent	1,144	(48)	(89)	1,007	10	10,070
50S	Juvenile - Status	127	(4)	(3)	120	10	1,200
50V	Juvenile - Violent	583	(33)	(41)	509	10	5,090
60	552 Release Petitions	27	(5)		22	14	308
65F	Probation Violation - Felony	14,725	(730)	(303)	13,692	5	68,460
65M	Probation Violation - Misd	5,171	(222)	(71)	4,878	5	24,390
75	Special Writ	1			1	83	83
99	None				0	5	0
110F	Direct Appeals - Felony	399	(22)	(8)	369	83	30,627
110I	Direct Appeal - Interlocutory	6			6	83	498
110J	Direct Appeal - Juvenile	3			3	83	249
110S	Direct Appeal - Misdemeanor	25	(4)		21	83	1,743
124A	Rule 24.035 Appeal	241	(5)	(6)	230	21	4,830
124M	Rule 24.035 Motion	649	(24)	(8)	617	21	12,957
129A	Rule 29.15 Appeal	194	(3)	(2)	189	62	11,718
129M	Rule 29.15 Motion	295	(13)	(6)	276	62	17,112
150T	Trial Level Resentencing	2			2	21	42
	Totals	80,702	(5,880)	(4,257)			
						Case Hours	729,788

The chart on the next page applies that 27% to MSPD's current (FY11) caseload as a means of estimating the costs associated with this option for addressing the MSPD case overload. Cases are contracted out beginning with the simplest, least expensive cases to contract first (e.g. traffic, misdemeanor, juvenile status offenses) and continuing on through increasingly complex cases until the 27% line is reached. As shown in the chart below, this results in an estimated increase in MSPD's contracting cases of \$13,052,625.

FY2011 ASSIGNED CASES - Trial & Appellate Division Caseload, Adjusted for Withdrawals, 2nd Level Conflicts and Contracted Cases Does Not include Capital or CDU Holds Public Defender Staff Constant and Contracts out Overload Hours									
Case Type		FY11 Trial & Appellate Division Cases	Adjusted for FY11 Withdrawn	FY11 1st Level Conflicts 41 - Office Giving Up Conflict	Total Trial & Appellate Adjusted Caseload All Cases	Hours Required for Case Type	FY11 NAC Modified Required Hours	Contract Rates	Amount of \$'s Needed to Contract
45T	Misdemeanor - Traffic	5,980	(349)	(121)	5,510	5	27,550	\$375	\$2,066,250
50S	Juvenile - Status	127	(4)	(3)	120	10	1,200	\$500	\$60,000
50N	Juvenile - Non Violent	1,144	(48)	(89)	1,007	10	10,070	\$500	\$503,500
45M	Misdemeanor	16,455	(828)	(717)	14,910	5	74,550	\$375	\$5,591,250
65M	Probation Violation - Misd	5,171	(222)	(71)	4,878	5	24,390	\$375	\$1,829,250
110S	Direct Appeal - Misdemeanor	25	(4)		21	83	1,743	\$500	\$10,500
65F	Probation Violation - Felony	14,725	(730)	(303)	11,245	5	56,225	\$375	\$4,216,875
							195,728		\$14,277,625
65F	Probation Violation - Felony				2,447	5	12,235		
124M	Rule 24.035 Motion	649	(24)	(8)	617	21	12,957		
124A	Rule 24.035 Appeal	241	(5)	(6)	230	21	4,830		
35D	CD Felony Drug	5,512	(566)	(461)	4,485	14	62,790		
35F	CD Felony Other	21,065	(1,916)	(1,490)	17,659	14	247,226		
15	Murder 1st Degree	134	(24)	(14)	96	173	16,608		
20	Other Homicide	132	(23)	(18)	91	173	15,743		
30D	AB Felony Drug	3,064	(415)	(407)	2,242	14	31,388		
30F	AB Felony Other	3,776	(498)	(456)	2,822	14	39,508		
30X	AB Felony Sex	665	(107)	(27)	531	31	16,461		
35X	CD Felony Sex	327	(41)	(9)	277	31	8,587		
50V	Juvenile - Violent	583	(33)	(41)	509	10	5,090		
60	552 Release Petitions	27	(5)		22	14	308		
75	Special Writ	1			1	83	83		
110F	Direct Appeals - Felony	399	(22)	(8)	369	83	30,627		
110I	Direct Appeal - Interlocutory	6			6	83	498		
110J	Direct Appeal - Juvenile	3			3	83	249		
129A	Rule 29.15 Appeal	194	(3)	(2)	189	62	11,718		
129M	Rule 29.15 Motion	295	(13)	(6)	276	62	17,112		
150T	Trial Level Resentencing	2			2	21	42		
							534,060		
	Totals	80,702	(5,880)	(4,257)	70,570		729,788.00		\$ 14,277,625
							Fiscal Year 2012 Current Budget		\$ 1,225,000
			Additional Appropriation Require for Contracts - Assuming Attorney Staffing Stays the Same						\$ 13,052,625

Missouri's Public Defenders do not have sufficient lawyers to handle the cases in need of their services. Under the U.S. Constitution, if there are no lawyers to assign to these cases, prosecution of the cases cannot proceed. Currently, MSPD has the staffing to adequately handle only 73% of the indigent defense caseload in Missouri. The supplemental funding requested is necessary to contract the remaining caseload out to private attorneys to ensure that these cases are allowed to proceed through the criminal justice system in a timely and constitutional manner.

FY2011 ASSIGNED CASES - Trial & Appellate Division Caseload, Adjusted for Withdrawals, 2nd Level Conflicts and Contracted Cases Does Not include Capital or CDU Holds Public Defender Staff Constant and Contracts out Overload Hours				
Case Type		Total Trial & Appellate Adjusted Caseload All Cases	Contract Rates	Amount of \$'s Needed to Contract
45T	Misdemeanor - Traffic	5,510	\$375	\$2,066,250
50S	Juvenile - Status	120	\$500	\$60,000
50N	Juvenile - Non Violent	1,007	\$500	\$503,500
45M	Misdemeanor	14,910	\$375	\$5,591,250
65M	Probation Violation - Misd	4,878	\$375	\$1,829,250
110S	Direct Appeal - Misdemeanor	21	\$500	\$10,500
65F	Probation Violation - Felony	11,245	\$375	<u>\$4,216,875</u>
			Annual Cost	\$14,277,625
			Fiscal Year 2012 Current Budget	<u>\$1,225,000</u>
				\$13,052,625
			Supplemental Request For April 1, 2012 to June 30, 2012 - 3 Months	\$3,263,156

Two *caveats* to this approach are worth noting, however:

First, this option depends on the availability and willingness of qualified private criminal defense attorneys to begin taking significant quantities of public defender cases at rates below what is usually charged in the market for similar cases. Our experience has been that many attorneys are willing to take a *few* cases at that rate, out of personal interest in gaining experience or out of a desire to help out what they know to be a struggling, seriously overloaded public defender system. There is a tipping point, however, where the time involved in doing too many such cases becomes prohibitively costly given the low fees that accompany them. We do not know where that tipping point is, but need to be aware that once we reach it, this model is likely to cost significantly more than our initial estimates.

Second, the use of flat fee schedules such as MSPD currently uses in contracting indigent defense cases is *widely* criticized by watchers of indigent defense around the country and has been the issue in a number of law suits claiming such low rates violate an indigent defendant's Sixth Amendment right to counsel just as much as an overloaded public defender does. The criticism and litigation has focused on the pressure such a flat fee schedule places on a private counsel to move the case quickly for the least amount of time. The longer the case drags on and the more work that goes into it, the more money the attorney is actually *losing* on the case – providing an economic hardship to those who are conscientious and a strong *disincentive* to quality representation. MSPD does modify its flat fee schedule somewhat to permit a *per diem* increase for cases taken to jury trial, but most jurisdictions that rely on private counsel to provide a significant portion of the state's indigent defense representation pay an hourly contract rate rather than a flat fee based on case type. Even the State of Missouri utilizes an hourly rate in lieu of flat fee in other areas of law involving the payment of outside counsel by the state. For example, Section 536.085(4) of the Revised Statutes of Missouri, sets \$75 per hour as the rate generally paid by the state for outside counsel in administrative and agency proceedings, "unless the court determines that a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." As a result, it would probably be wisest NOT to presume that a widespread increase in the numbers of cases to private counsel could be accomplished with no change in MSPD's current flat fee schedule.

Social Workers for Local Public Defender Offices**\$2,168,042**

This new decision item is closely tied to the initiative of the Pew Institute to reduce recidivism and corrections costs. From the mid-1990's into the last decade, MSPD had a handful of "Alternative Sentencing Specialists" – i.e., social workers -- with a proven track record of reduced recidivism for those defendants with whom they worked. The program was dismantled in order to turn their FTE into attorney positions because of the skyrocketing caseload and a staffing line that had remained flat for almost a decade.

We do know, however, that social workers are a cost-effective way of reducing recidivism and lowering corrections costs. If those dual goals are a priority for this year's legislative session, adding social workers to the public defender trial offices is a proven way of doing that.

Social workers assess the individualized factors contributing to a defendant's presence in the justice system and develop client-specific sentencing proposals that address those factors by drawing upon community resources – third-party mentors, faith-based organizations, drug and mental health treatment options, etc. Unlike the post-plea sentencing reports prepared by probation officers (in only 15% of the cases according to Pew's research), this information is available to defenders and prosecutors as they *develop* plea agreements, as well as to the court prior to imposing a sentence, where the greatest impact on diverting appropriate people from prison can be made.

This decision item would place one Licensed Clinical Social Worker in each of the Trial Division Offices. Larger offices would have 2 and the St. Louis City and Kansas City offices would each have 4.

Licensed Clinical Social Workers	
COST BREAKDOWN	Social Workers FY2013 NEW DECISION ITEM
Personal Service	
Licensed Clinical Social Workers - Range 24 \$35,952	46.00 <u>\$1,653,792</u>
Total Personal Service	<u>\$1,653,792</u>
Expense & Equipment	
One-time Purchases	
Social Worker Package \$2,875	46.00 <u>\$132,250</u>
Total One-Time Purchases	<u>\$132,250</u>
On-Going Costs	
Social Worker \$4,775	80.00 <u>\$382,000</u>
Total Personnel Related On-Going Costs	<u>\$382,000</u>
Total Expense and Equipment	<u>\$514,250</u>
Total Decision Item Request	<u>\$2,168,042</u>

Specialized Attorneys**\$948,288**

ATTORNEY SPECIALISTS: Overloaded trial lawyers simply do not have the time to become the subject-matter experts they need to be to effectively and accurately litigate such complex areas of criminal law as DNA, mental health issues, and the ever increasing use of forensic evidence. This is doubly true for the complicated maze of immigration consequences that accompany many criminal case outcomes and which lawyers are now required to both know and accurately advise their clients about under the recent U.S. Supreme Court case of *Padilla v Kentucky*.

Ineffective assistance of counsel in these areas is among the most frequent causes of wrongful convictions and/or case reversals. This decision item proposes the creation of a handful of attorney specialists in these areas to assist local trial offices faced with these issues in a specific case, much as the Attorney General sends a capital litigation specialist in to assist local prosecutors who lack such expertise themselves. Ideally, all of Missouri's public defenders would be trained to address such issues as they arise in their cases, but the ideal is simply not possible given the caseloads under which the attorneys are now laboring. This proposal is one way of addressing that concern

Specialized Attorneys	
COST BREAKDOWN	SPECIALIZED ATTORNEYS FY2013 NEW DECISION ITEM
Personal Service	
Assistant Public Defender IV - Range 36 \$60,325 + \$250 Per Pay Period \$66,324	12.00 <u>\$795,888</u>
Total Personal Service	<u>\$795,888</u>
Expense & Equipment	
One-time Purchases	
Attorney Package \$2,950	12.00 <u>\$35,400</u>
Total One-Time Purchases	<u>\$35,400</u>
On-Going Costs	
Specialized Attorney \$9,750	12.00 <u>\$117,000</u>
Total Personnel Related On-Going Costs	<u>\$117,000</u>
Total Expense and Equipment	<u>\$152,400</u>
Total Decision Item Request	\$948,288

Closing the Historical Gap:**\$3,781,649****Support Staff Needed for Existing Attorney Staff and Existing Caseload**

This new decision item includes the number of support staff needed to accompany the requested new attorney staff in that decision item, but does nothing to address the abysmal spread that currently exists between MSPD's existing attorneys and the number of support staff available to assist them in their work. This decision item is an attempt to correct that deficiency.

Every law practice management expert will tell you that lawyer time needs to be leveraged as much as possible by utilizing support staff for everything that can be done by a non-lawyer and freeing up the lawyer to do those things that only a lawyer can do. Some of those tasks are best done by a legal assistant or a paralegal, others by a clerk, and still others by an investigator. But the goal is always to preserve the more expensive lawyer's time for those things that require a law license and utilize the less-expensive support staff personnel for everything else. For this reason, you will generally find many more support staff in a private law firm than you'll find attorneys. . A survey by the Missouri Office of Prosecution Services showed that even in Missouri's prosecuting attorney's offices, you'll find an average of 1-2 support staff for every 1 attorney. It is the economic model that makes the most sense

By comparison, in Missouri's public defender's offices, you will find one legal assistant for every 10 lawyers, one clerical staff for every 5 lawyers, and one paralegal for every 54 lawyers. One investigator is responsible for the caseload of six attorneys. Even more disturbing are the numbers as compared to the numbers of cases those staff are responsible for helping the attorney work up.

Trial and Appellate Divisions					9/2/2011
	Paralegal	Investigator	Legal Assistant	Secretary	Mitigation Specialis
Current Staff	6.50	55.50	36.00	67.50	3.00
Ratio of Support Staff to Attorney Staff of 348.50	1 for Every 53+ Attorneys	1 for Every 6+ Attorneys	1 for Every 9.5 Attorneys	1 for Every 5+ Attorneys	1 for Every 116 Attorneys
Ratio of Support Staff To Caseload - 80,702 Trial & Appellate Division Cases	1 for Every 12,416 Cases	1 for Every 1,454 Cases	1 for Every 2,242 Cases	1 for Every 1,196 Cases	1 for Every 26,901 Cases
	Not Requesting				Not Requesting

Federal wage & hour restrictions prevent MSPD's support staff from working overtime without providing them time and a half compensation, which MSPD does not have to pay. "Work them harder" is therefore not an option. The result is that Missouri's public defenders not only struggle to handle many more cases than any lawyer can effectively do, we are also using up precious attorney time having those public defenders perform non-attorney tasks because there is no one else to do them.

The Senator who chaired the 2006 Senate Interim Committee on the Public Defender, noted his frustrations when, as a former Assistant Prosecuting Attorney, he and the court had to wait while the public defender attorney went to the clerk's office to personally copy the charging documents from the court files for the cases on that morning's docket because there was no support staff personnel available to do that task before the attorney went to court. This is typical throughout the state. It is ex-

tremely inefficient and expensive. For purposes of this budget, we are requesting one clerical person, one legal assistant, and one investigator for every three attorneys.

Trial and Appellate Divisions			
	Investigator	Legal Assistant	Secretary
Appropriate Staffing for 348.50 Attorneys	116.00	116.00	116.00
Current Staff	55.50	36.00	67.50
Need	60.50	80.00	48.50

Three-year Phase-in = \$2.4 Million in FY13: In recognition of the realities of the current economic state, as well as the logistical challenges involved in both hiring and finding facilities to accommodate such a large staffing increase in one fell swoop, this budget proposes a three-year phase-in of the staffing increase associated with this decision item. This reduces the cost of this decision item from a total of \$7.3 million down to \$2.4million for FY13 as illustrated in the cost breakdown table.

Current Support Staff Adjustment		
Current Staff Adjustment	CATCH-UP	3 Year Phase -In
COST BREAKDOWN	Total Costs	FY2013 NEW DECISION ITEM
Personal Service		
Investigators - Range 23 \$34,644	61.00 \$2,113,284	20.00 \$692,880
Legal Assistants - Range 15 \$25,944	80.00 \$2,075,520	27.00 \$700,488
Secretaries - Range 12 \$23,796	49.00 <u>\$1,166,004</u>	16.00 <u>\$380,736</u>
Total Personal Service	190.00 \$5,354,808	63.00 \$1,774,104
Expense & Equipment		
One-time Purchases		
Investigator Package \$2,875	61.00 \$175,375	20.00 \$57,500
Legal Assistant Package \$2,875	80.00 \$230,000	27.00 \$77,625
Secretary Package \$9,105	49.00 <u>\$446,145</u>	16.00 <u>\$145,680</u>
Total One-Time Purchases	\$851,520	\$280,805
On-Going Costs		
Investigator \$9,275	61.00 \$565,775	20.00 \$185,500
Legal Assistant \$4,775	80.00 \$382,000	27.00 \$128,925
Secretary \$4,250	49.00 <u>\$208,250</u>	16.00 <u>\$68,000</u>
Total Personnel Related On-Going Costs	<u>\$1,156,025</u>	<u>\$382,425</u>
Total Expense and Equipment	<u>\$2,007,545</u>	<u>\$663,230</u>
Total Decision Item Request	\$7,362,353	\$2,437,334

Office Space Requirements

\$2,151,511

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.

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, termite and spider infestations. Such unsuitable and difficult working conditions undoubtedly contribute to our turnover, as well as to reduced productivity, yet MSPD's hands are tied.

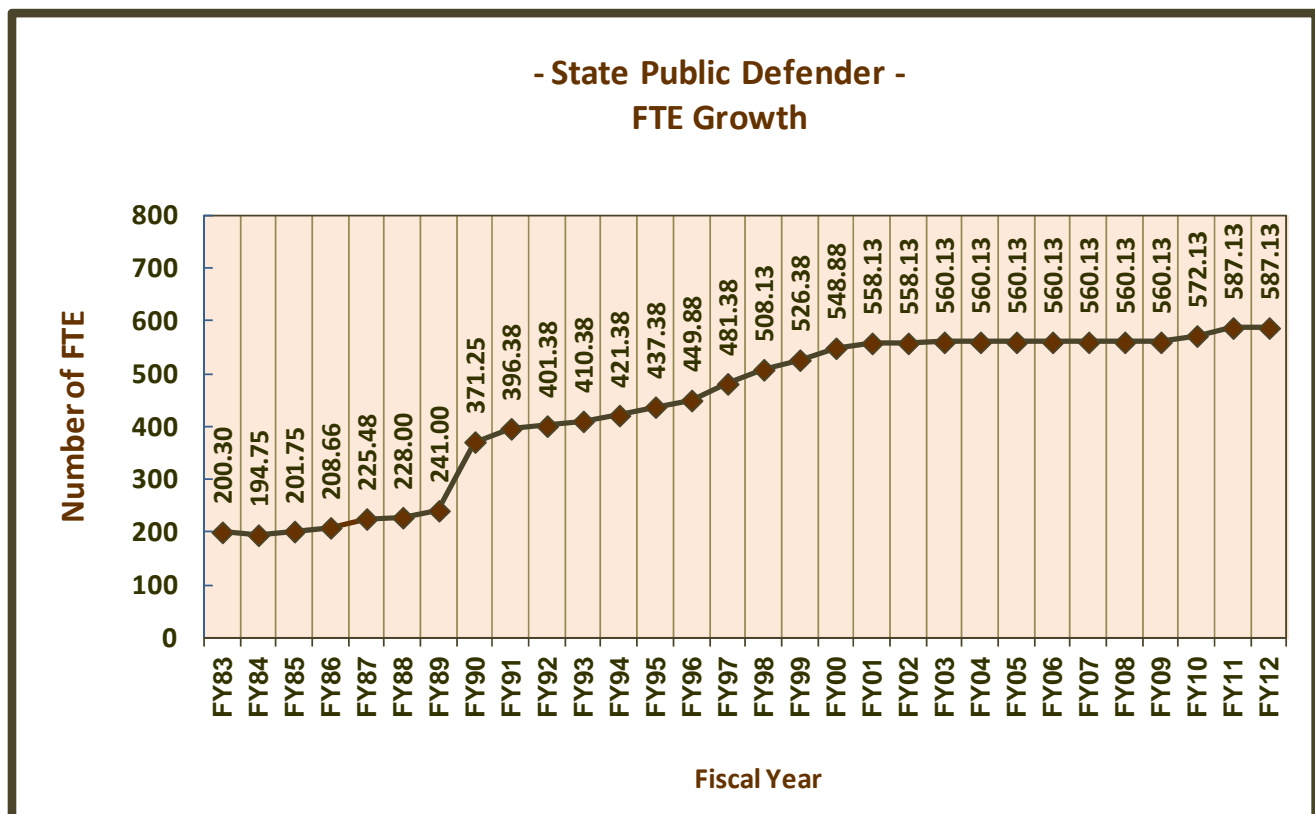
The State Public Defender is not interested in securing fancy, luxurious offices. Its interest is to have facilities adequate to ensure efficient, effective use of personnel and other resources appropriated to the Department.

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.



Cost of Renting Office Space for All Local Public Defender Offices
Revised September 7, 2011

Office	Est. Sq. Ft	Total Rent	Estimated Utilities	Janitor/ Trash	Total Cost	Comment
Kirksville	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 06/15/2012
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	\$36,000		\$3,600	\$39,600	Counties Lease - Expires 01/31/2018
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	\$18,600	\$4,650	\$3,600	\$26,850	Counties Lease-Expires 06/30/2018
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 12/31/2016
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	\$2,627,259	\$84,456	\$95,560	\$2,807,275	
	Less: Current Agency Payments				\$655,764	
		Total Implementation Costs			\$2,151,511	

APPENDIX

MSPD Protocol for Determining Maximum Allowable Workload: The protocol used to set maximum allowable workloads for each office compares the estimated number of attorney hours needed to effectively handle each case coming into the office to the number of attorney hours *available* in that office for handling cases. Obviously, it takes more time for an attorney to handle a murder than a misdemeanor case, so different case types are assigned different ‘weights.’

Determining Case Weights: The case weights utilized in MSPD’s workload protocol were developed by utilizing the NAC Public Defender Caseload Standards described above, modified in a few instances where there was no NAC standard for a particular case type (e.g. post-conviction or probation revocation cases) and to account for known local practice variations (e.g. sex offenses are not separated out in the NAC standards but are known to be significantly more time consuming than other non-sex felonies, so are assigned a higher weight). The anticipated number of attorneys hours assigned to each case type is set out below:

Determining Attorney Hours Available for Handling Cases: The other side of the equation is determining how many hours the attorneys in a given office have available to for handling cases. The protocol assumes a 45 hour work week. In reality, many defenders work significantly more than 45 hours a week, as do most attorneys. However, as state employees, defenders are not compensated for any-

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

thing above 40 hours per week and, in fact, many defenders hold second, non-law jobs, in order to make their law school student loan payments on a public defender salary. Given those realities, the Commission chose to utilize a 45 hour work week for purposes of the protocol or a maximum of 2340 hours per year.

All of those hours are not available for working on cases, however. Lawyers are required to attend at least 15 hours of continuing legal education per year in order to maintain their licenses. The State of Missouri grants them a certain number of holidays and a set amount of annual leave each year, which

MSPD is bound to honor. While again, many attorneys wind up working those holidays and forfeiting unused annual leave, the Commission cannot *require* that, so those amounts must be deducted from the total number of attorney hours per year. The same is true of sick leave. The likelihood that any particular attorney will be out on sick leave for any given length of time is fairly slim in a given year, but in an organization of 377 lawyers, history proves that a fairly regular number of attorney hours will in fact be used up in sick or Family and Medical Leave and therefore not available for work on cases. The Commission’s protocol addresses this fact by deducting an average of attorney sick leave used in the previous year from the number of annual attorney available for work on cases.

The American Bar Association Ethics Advisory Opinion cited above notes that time taken away from case preparation by other non-case-related duties must be taken into consideration in any reasonable maximum workload standard. An internal time-tracking study conducted by MSPD in which the attorneys were required to track their time in fifteen-minute increments revealed that about 13.7% of the attorney time was used up in non-case-specific tasks. Some of these are necessary administrative things, such as attending office meetings, filling out time sheets & expense reports, second-chairing newer lawyers in their offices on their cases or just answering their questions. Others are directly related to the shortage of support staff – clerical staff, legal assistants, paralegals, and investigators – discussed in Decision Item No. _____. This shortage results in lawyers spending time on non-lawyer tasks --doing intake & taking indigency applications, copying court files and police reports, making mail runs, and even covering the phones when the office’s lone secretary leaves for lunch or takes a day of annual leave. This is time not available for work on cases and therefore must be deducted from the total hours available for case work.

The deductions described above result in a system-wide average of 1737.7 hours per lawyer per year that are available for actually working on cases. Multiply that number by the number of lawyers in a given office and you have the system’s “Available Attorney Case Hours” shown in the various protocol charts throughout this budget.

Attorney Case Hours			
2340.00	Standard Work Hours (45 hours * 52 weeks)		
-65.80	Attorney Sick Leave		
-216.00	Holidays and Annual Leave		
<u>-320.50</u>	Non Case Related Hours (13.7%)		
1737.70	Available Attorney Case Hours		

However, there are unique circumstances within particular offices that also impact how many attorneys are available in that office which must be taken into consideration. E.g. offices that serve multiple counties suck up what defenders have dubbed ‘windshield time’ – the time spent by the attorneys driving to and from court in other counties, to and from jails and crime scenes and witness interviews in those counties, unlike those offices which only serve one county and often only have to walk across the street or downstairs to make a court appearance or visit a client in jail. In recognition of these realities,

the Commission's protocol calculates the average 'drive time' of the previous year for each district office, a figure based upon the actual miles driven each month by the attorneys in that particular office as reported on monthly expense reports. In the protocol application charts depicted within this budget, those travel hours for each district office are added together into a collective pool of "Travel Hours" for the whole system and added to the number of total caseload hours as part of the determination of the Total Workload Hours for which staffing is needed. When the protocol is applied to a particular District Office to determine that office's maximum allowable workload, only those travel hours applicable to that particular office are utilized.

The same is true with the Management Hours category shown on the protocol charts in this budget. In most offices, the District Public Defender or managing attorney of the office serves a dual role – supervising the office and also carrying a caseload. In those circumstances, the District Defender is counted as 'an attorney' for the purpose of calculating the office's (or system's) total available attorney hours, but in reality only a portion of the District Defender's time is available for case work. The remainder is used up with his or her supervisory responsibilities -- supervision of the office procedures and employees, mentoring, in-office training, performance reviews, approval of bills and expense reports, monitoring of the office's budget, serving as the office liaison to the courts and county commissioners, addressing performance concerns, ensuring compliance with applicable federal employment laws, etc. The amount of management time involved is of course greater in offices with larger staffs to be supervised and less in the very smallest offices. In recognition of this range, the Commission's protocol presumes a set amount of management / supervisory time per employee per month and deducts that from the pool of available attorney hours for work on cases. In the charts in this budget, the management hours needed within each Trial and Appellate District office are pooled together into a single statewide figure and added to the total Case Hours in order to accurately determine the Total Workload Hours for which staffing is needed. When the protocol is applied to a particular office to determine whether it has reached or exceeded its maximum allowable caseload, only the management hours pertinent to that particular office are deducted.

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