



THE RIGHT TO COUNSEL

**MISSOURI STATE
PUBLIC DEFENDER**

2022 Annual Report

STATE OF MISSOURI
PUBLIC DEFENDER COMMISSION





MISSOURI STATE PUBLIC DEFENDER COMMISSION
1000 WEST NIFONG – BUILDING 7 – COLUMBIA, MO 65203
573-777-9977

To: Governor Michael L. Parson
Chief Justice Paul C. Wilson
Members of the General Assembly

Date: October 1, 2022

Dear Governor Parson and Chief Justice Wilson:

Attached is the Annual Report of the Missouri State Public Defender (MSPD) for fiscal year 2022. As Chair of the Public Defender Commission it is my obligation to provide this report to the Governor and Chief Justice, as well as to the members of the General Assembly.

Once again, I join with the other members of the Commission to thank the Legislature and the Governor for their support of Missouri State Public Defender. In the past two years the Legislature has approved and the Governor has authorized fifty-seven additional attorneys and twenty-four additional support staff. The funding for these additional eighty-one full time employees has allowed MSPD to eliminate the waitlist that was the subject of the *David v. Missouri* lawsuit. Hopefully, this year we will see a conclusion to that litigation.

Unfortunately, MSPD has experienced the same struggle as many State departments in recruitment and retention this past year. MSPD has initiated new efforts to recruit attorneys and staff and is hopeful that those efforts will be productive as we move forward. The salary increases authorized this year were welcomed by all of our staff members and will assist in both our recruitment and retention efforts. The Commission appreciates any and all efforts to further increase state salaries and knows that pay increases will only further improve our ability to fully staff MSPD.

It is my pleasure to provide you with this Annual Report documenting the excellent work done by Missouri State Public Defender.

Sincerely,

Charles E. Atwell
Chair, Missouri State Public Defender Commission

PUBLIC DEFENDER COMMISSION

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DEMOCRAT • KANSAS CITY

LARRY H. FERRELL • VICE-CHAIR • LAWYER MEMBER
REPUBLICAN • CAPE GIRARDEAU

GARY B. FUHR • SECRETARY • PUBLIC MEMBER
REPUBLICAN • IMPERIAL

GLORIA C. RENO • LAWYER MEMBER
DEMOCRAT • UNIVERSITY CITY

ROY RICHTER • LAWYER MEMBER
REPUBLICAN • OZARK

RODNEY SCHAD • PUBLIC MEMBER
REPUBLICAN • VERSAILLES

MARY FOX • DIRECTOR
COLUMBIA • EX-OFFICIO MEMBER

The governing body of Missouri State Public Defender is a Commission appointed by the Governor. The term of office of each commissioner is six years or until a successor is selected. Commissioners may succeed themselves. The Public Defender Commission is responsible for the hiring of the State Public Defender Director. They review the budget request prepared by the Director and provide support of the request before the Legislature. They make any rules needed for the administration of the State Public Defender.

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MESSAGE FROM THE DIRECTOR

MARY FOX

Missouri has been a leader in acknowledging public defender case capacity issues and in working to adequately resource indigent defense. Sixteen states have followed Missouri's lead by conducting studies to address their state's need for adequate resources for constitutional indigent defense. This year, National Public Defense Workload Standards, a joint report of the American Bar Association Standing Committee on Legal Aid and Indigent Defense, the National Center for State Courts, the Rand Corporation and Lawyer Hanlon, will be released. The report uses the best methodology to provide guidance on reasonable caseload capacity for public defender systems.

The FY 2022 increase of attorneys for MSPD's trial offices should have moved Missouri much closer to the mark for constitutional caseloads. Unfortunately, that increase in staffing authority coincided with the phenomena known as The Great Resignation. In FY 2022 MSPD was able to hire sixty-six new attorneys. That hiring success was offset by the departure of over seventy attorneys. Attorneys leaving MSPD typically leave behind over one hundred open cases, resulting in over 7,000 cases that were reassigned in system or contracted out to special contract public defenders. The addition of those cases to caseloads already over capacity resulted in even more departures, both from in system positions and contract counsel positions.

The provision of sufficient resources to allow attorneys to work within caseload capacities is the first step towards meeting the national standards. Resources alone, however, will not resolve the problem. Changes are needed to remove incarceration as a sentencing option and collateral consequences for traffic and other low-level offenses. Without the possibility of incarceration, a case would not be eligible for MSPD representation; and without punitive collateral consequences the accused will not face barriers to a productive life.

Finally, an acknowledgement of the importance of public defense work is essential to recruitment and retention of committed attorneys willing to care for the poor accused. Negative attacks on current or former public defenders running for judicial or legislative positions, based solely on their representation of an accused person, is unjustified and damaging to the integrity of the criminal legal system. MSPD attorneys are skilled practitioners who lead the criminal defense bar in trial and appellate practice. MSPD attorneys and support staff recognize the humanity of their clients and work to eliminate injustices and disparities in the criminal legal system. Our work is honorable, fundamental and essential to the fulfillment of the Sixth Amendment promise of effective representation for the poor. I am honored every day to work alongside these dedicated members of MSPD.

***"In all criminal prosecutions, the accused shall enjoy the right...
to have the assistance of counsel for his defense."***

**U.S. Constitution, Amendment VI
December 15, 1791**

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WHO WE ARE & WHAT WE DO

What is Missouri State Public Defender?

Missouri State Public Defender (MSPD) is a statewide system that provides legal representation to poor people who are accused or convicted of state crimes or juvenile delinquency offenses in Missouri's trial and appellate courts. MSPD 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 six-year terms and no more than four may be of the same political party. At least four of the Commissioners are required to be attorneys. The Director of the State Public Defender, Mary Fox, and Deputy Director and General Counsel, Greg Mermelstein, are appointed by the Public Defender Commission.

Who qualifies for a public defender?

A person is eligible for public defender services if they are poor and are charged with an offense that is eligible for legal representation at public expense. The determination of whether a person is eligible for legal services is made by MSPD and is based on Federal Poverty Guidelines and other factors. If MSPD determines a person is not eligible, the applicant may appeal that decision to the Court.

Who works for MSPD?

MSPD is divided into nine divisions: a Trial Division, an Appellate/Post-Conviction Division, a Capital Division, a Commitment Defense Team, a Children's Defense Team, a Training Division, a Case Contracting Division, a Parole Revocation Defense Team, and an Operations Division. The operations staff provides centralized information technology support, fiscal, and human resources services to the 47 offices located around the state.

OUR MISSION

The mission of Missouri State Public Defender 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 will ensure that this advocacy is not compromised. To provide this uncompromised advocacy, the 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.

TRIAL DIVISION

At its peak, the pandemic resulted in a sixteen percent reduction in cases initiated by Missouri State Public Defender (MSPD) for fiscal year 2021 (July, 2020 to June, 2021) as compared to fiscal year 2019 (the last year of data before the pandemic.) During this same period, a more robust application process was implemented to ensure that state public defender services were being used only by those applicants who were indigent under MSPD guidelines. The actual impact of both the pandemic and the new application process is yet to be determined. Initiated cases increased in fiscal year 2022 (July, 2021 to June, 2022) by 4,392 cases. That increase is a year over year increase of just over 8.4 percent. This increase would seem to indicate that the pandemic decrease in filings by prosecutors has ended.

With the increase in case filings and the return to in person courts around the State, MSPD's Trial Division has seen a corresponding increase in the number of jury trials. 222 jury trials were tried by public defender attorneys in fiscal year 2022. This was a 60 percent increase over fiscal year 2021, although a significant decrease from pre-pandemic years. Public defender attorneys were not just trying more cases this year, but obtaining defense verdicts as well. Outright acquittals were obtained in 22 percent of the tried cases. Juries also returned verdicts of lesser charges in a significant number of cases. The combination of those verdicts resulted in a positive outcome for the client in 51.35 percent of those jury trials. In addition to those positive outcomes for MSPD clients, public defender attorneys obtained dismissal of the charges in 8,366 cases in fiscal year 2022.

Trials throughout the state demonstrate difficulties MSPD clients face. Current statutes prohibit the use of self-defense as a defense to a charge of felony murder. Felony

murder may be charged if a person dies in the course of the commission of another felony. The possibly unintended result of that law is that a person with a twenty-year-old conviction for carrying a concealed weapon, which is no longer a crime in Missouri, cannot carry a gun. So, if that person rightfully uses a gun in self-defense they can be charged with felony murder and the jury cannot consider whether the shooting was justified.

MSPD attorneys conducted jury trials in 58 counties in FY 2022

Barton • Boone • Buchanan • Butler • Callaway
Camden • Cape Girardeau • Cass • Cedar
Christian • City of St. Louis • Clay • Cole
Cooper • Crawford • Dade • Daviess
Dunklin • Greene • Howell • Iron • Jackson
Jasper • Jefferson • Laclede • Lafayette
Lawrence • Lincoln • Linn • Macon • Maries
Marion • McDonald • Mercer • Mississippi
Montgomery • New Madrid • Newton • Oregon
Pettis • Phelps • Platte • Polk • Pulaski • Ray
Saline • Scott • Shannon • Shelby • St. Charles
St. Francois • St. Genevieve • St. Louis
Stoddard • Taney • Texas • Warren • Wayne

Many MSPD clients waited years for the jury trial to which they were entitled, and spent that wait in jail, despite not having been convicted of any crime. Pretrial incarceration too often drives MSPD clients, who are poor and often unable to post money bonds, to wait for their trial in jail. The eventual acquittals in 22 percent of MSPD cases is not limited to clients who have been released on bond. As a result of covid delays and clogged court dockets, some MSPD clients waited over three years to have their day in court, and that day in court resulted in outright acquittal of all charges. The accused does not receive any compensation for that time lost from their family, community and employment. Too often MSPD

clients lose custody of their children, their employment and their home as a result of pretrial incarceration.

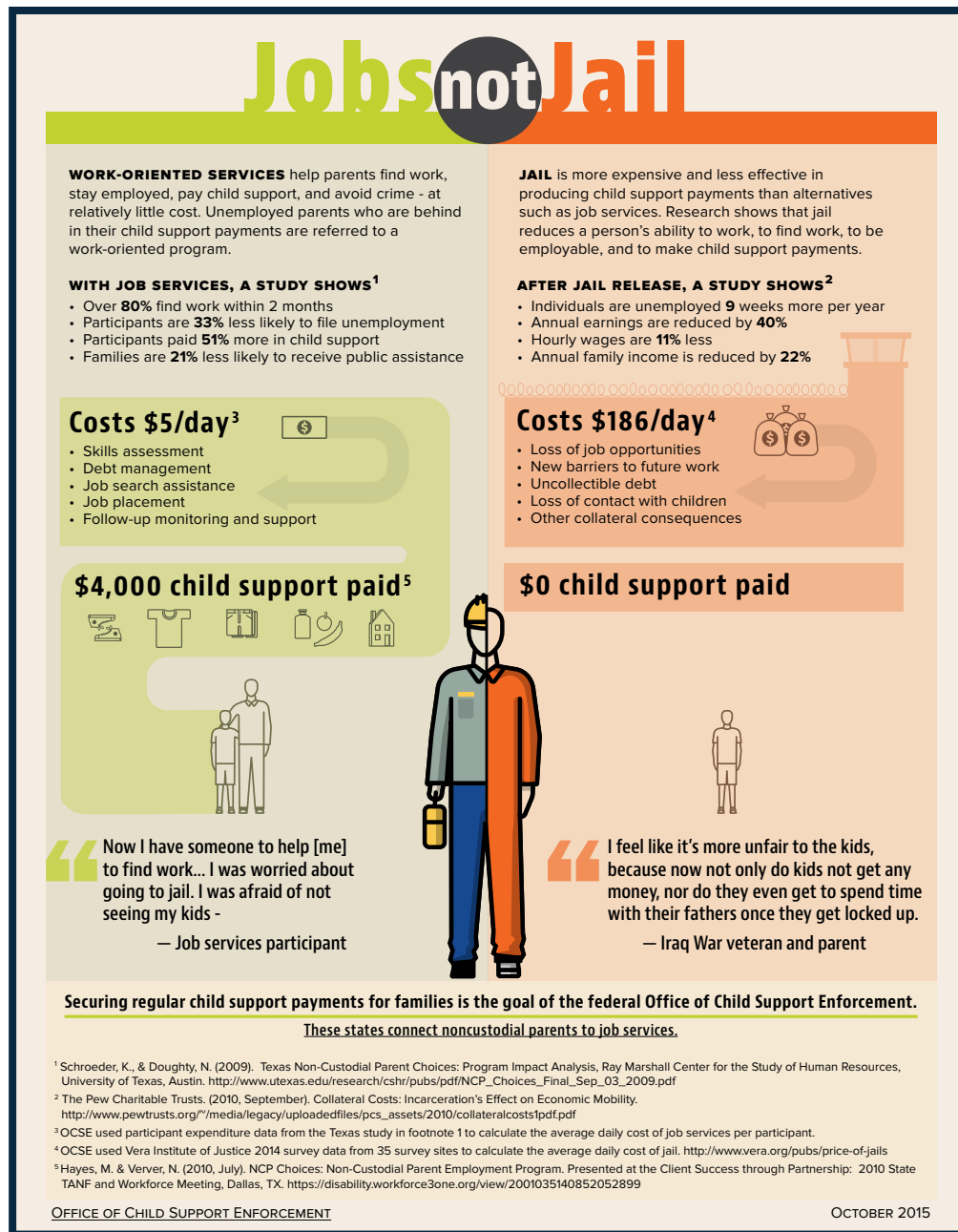
The other consequence of pretrial incarceration of the poor is accused persons who are innocent of the charges against them plead guilty in return for their release from incarceration. Prosecutors often offer a sentence equivalent to the pretrial incarceration time period or probation in return for a plea of guilty. Confined accused, aware of the lengthy trial delays to obtain their day in court, often make the Hobson's choice of a plea of guilty rather than remaining confined and awaiting their day in court. [The danger of pretrial incarceration was brought to national attention after Kalief Browder was jailed for years in New York without a trial.](#) Once released, after all charges had been dismissed,

TRIAL DIVISION — CONTINUED

the trauma of the pretrial incarceration resulted in Browder taking his own life. Despite national attention to this problem, the practice continues today.

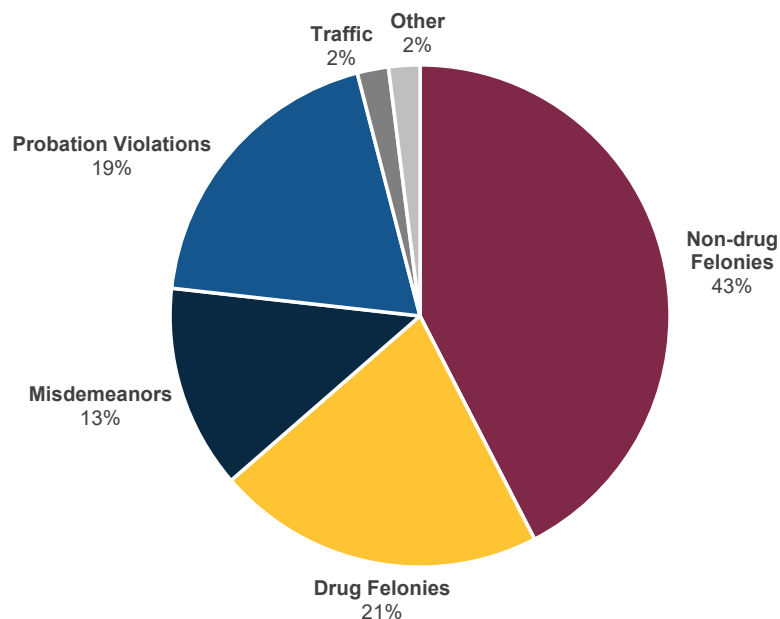
The increase in attorney staffing provided by the legislature and Governor has increased MSPD's ability to provide an attorney to every indigent applicant charged with an eligible offense. These additional positions helped to eliminate waitlists for MSPD representation around the State. The changes in the employment landscape postpandemic have created difficulties in recruiting and retaining attorneys. MSPD is working to address this issue through increased hiring efforts including the retention of a Recruitment Coordinator, and the creation of a Missouri Justice Fellowship program for rural Missouri.

MSPD continues to advocate for the end to the criminalization of nonviolent actions such as driving while revoked and failure to pay child support. In fiscal year 2022 the Trial Division resolved 734 cases of driving while revoked and 557 cases of criminal non-support. While civil remedies exist to address these issues, criminal punishment results in a cycle of justice system involvement and the removal of the person as a productive member of their community. [A study of reasons for nonpayment of child support has found that the inability to pay is the primary reason for the failure to make a payment.](#) "Contrary to the stereotype of the 'deadbeat parent' almost all noncustodial parents who fail to pay child support are poor. They have unstable employment and low earnings."



TRIAL DIVISION — CONTINUED

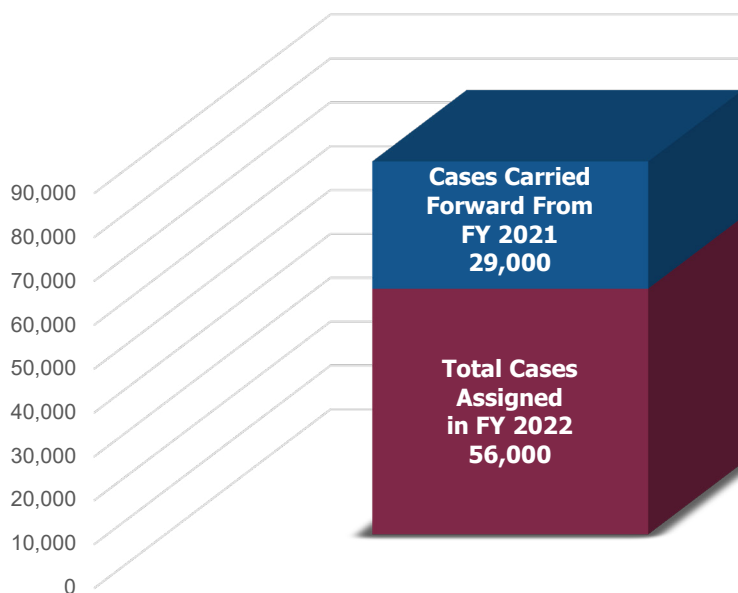
Fiscal Year 2022 MSPD Cases by Type



Over 60 percent of the cases handled in the trial offices are felony charges. All felony charges carry the possibility of punishment in the Missouri Department of Corrections. Twenty-one percent of the trial cases (included in that felony category) are charges that are based on the possession or sale of controlled substances.

Missouri State Public Defender tracks both assigned and disposed cases for each fiscal year. Many cases take more than a year from assignment to disposition and many more do not fall neatly within a single fiscal year. No assistant public defender starts the fiscal year with an empty file drawer. At the start of FY 2022, MSPD's Trial Division public defenders had over 29,000 cases pending. During the fiscal year another 56,000 cases were initiated in the Trial Division.

Trial Division Workload



PUBLIC DEFENDERS ACHIEVE SUCCESS AT SUPREME COURT OF MISSOURI

Missouri State Public Defender (MSPD) celebrated the success of three Supreme Court of Missouri case rulings. Each case involved witnesses testifying via two-way live video with MSPD public defenders arguing for the right of their clients to confront their accusers with in-person confrontation, guaranteed by the U.S. and Missouri Constitutions.

The U.S. Sixth Amendment Confrontation Clause states, “[i]n all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him.” The Missouri Constitution states, “in criminal prosecutions the accused shall have the right...to meet the witnesses against him face to face.” The Supreme Court of Missouri reversed rulings by circuit courts permitting video testimony and remanded the cases for further proceedings.

For Nina McDonnell, the MSPD Assistant Public Defender who argued one of the cases, winning at the Supreme Court of Missouri feels momentous. McDonnell has only been an attorney for three years, and counts this ruling as her second win at the Supreme Court of Missouri.

“It was surreal. It still is surreal,” McDonnell said. “In my wildest dreams, I did not expect a unanimous opinion, nor did I expect the Court to follow our suggestion to completely limit *Craig* to its facts. This sort of case—one with an unsettled issue of both

federal and state constitutional law—is the type of case I dreamed of when I was in law school. To be arguing it and winning it after just three years of practice? That is just very special. It goes to show that the experience new attorneys can get working for MSPD is unparalleled to any other criminal defense firm.”

McDonnell was driven to pursue a career in public defending after experiencing the criminal justice system as a defendant at a younger age. She says she was grateful to have a public defender represent her at the time, and sees the work she does as a way to “pay it forward.”



Photo of Nina McDonnell by Sarah Johnson

In explaining the importance of her role in this particular case she argued, McDonnell described the significance of protecting a client’s decision in choosing what right they relinquish—the right to a speedy trial or their right to face-to-face confrontation.

“I think when we get rulings like this that put some decision-making and autonomy back to our clients, it’s a good thing,” McDonnell said. “Our clients already feel as though they have no power or control over the situation. So, to be able to go to them and say, ‘Look, you have a choice here,’ that’s a powerful tool. Not only in them being a part of the case, but also in my relationship-building. I think you can’t overstate how important that is.”

SUCCESS AT SUPREME COURT — CONTINUED

Jeff Esparza, an MSPD Appellate Defender for the Children's Defense Team, argued the other two cases. Esparza said both cases involved children who faced, "very serious accusations." While satisfied with the Supreme Court of Missouri rulings, Esparza explained each decision is a "logical extension of our already existing rights."

"If you're going to put a child in a cage, or any human, the impersonal and dehumanizing aspects of remote communication aren't a substitute for determining people's real credibility, for getting to the truth, which is what a lot of this is," Esparza emphasized. "It [two-way live video testimony] is not a substitute for humanity."

Esparza reflects on the challenges his clients face. He describes representing children forced to live in environments plagued with "homelessness, mental illness, trauma in the home, and violence everywhere." He said he can feel the heartbreak of each kid he represents, but also finds his clients to be "inspiring, happy-go-lucky, friendly, and fun to be around. I mean, they are kids!" Despite the workload and emotional stress of public defending work, Esparza smiles as he describes office camaraderie, the satisfaction experienced when friends and colleagues make differences for clients, the feeling of community in his office, and professional opportunities as motivating factors to stay in the public defender system. "It's the wild west of the legal world. It's the opportunity to



Photo of Jeff Esparza by Josie McKellips

shape the law at the State and Federal level. It's the flexibility in being able to develop legal strategy," Esparza said. He appreciates the integration of trial and appellate work on his team and being able to get involved with trial cases at the ground level as an appellate attorney, where creating the right record makes a significant difference in so many appeals.

"Plus, it's just fun," Esparza added. "I like trying cases. I like being on my feet, and cross-examining witnesses. I like the banter in court. I like telling 'dad jokes' to court staff."

McDonnell reiterates how much she values the opportunities she's had through public defending work, and doesn't think she would be

working such critical cases without her role at MSPD.

"MSPD is a place where you are allowed to learn," McDonnell explained. "We're really big on pushing the boundaries of what we do, and of the law. I just don't think you can get that anywhere else—the idea that you can have major constitutional or statutory issues come before you, go all the way up, and make really great case law, is just something you can't get anywhere else."

COLLATERAL CONSEQUENCES OF A FELONY CONVICTION

The consequences of a criminal record—such as experiencing poverty, being unhoused, lacking formal employment or education—often also mirror the pre-conditions of someone becoming arrested and/or incarcerated; in other words, these factors and experiences can serve as both the impetus for and consequence of someone landing in the criminal legal system. Therefore, for many MSPD clients, their lives pre-incarceration inform how their lives may proceed post-incarceration, often in a manner that exacerbates the risk factors that increase the likelihood of further criminal legal system involvement. This perpetuates the cycle of poverty and incarceration for thousands of Missourians every year, with state and federal laws cutting off a slew of opportunities and experiences for Missourians with criminal records. And these consequences do not only affect the person with an arrest history or criminal record, but their family and community members, too; collateral consequences wind up levying intergenerational consequences, as parents with criminal records are unable to access social supports or participate in various aspects of social and political life that would otherwise mitigate the odds of their children experiencing poverty, family separation, interpersonal violence, and criminal legal system involvement.

COMPROMISED ECONOMIC/FINANCIAL WELL-BEING

A felony criminal record renders someone ineligible for many poverty-alleviation programs and social supports. For example, Missouri pauses Social Security Disability and Supplemental Security Income payments during an incarceration period that exceeds 30 days; if the incarceration period exceeds a year, then the state terminates them, which results in the individual having to navigate the re-application process following their release.

Economic-related collateral consequences also include being ineligible for various loans, such as loans related to housing/property and business/entrepreneurial endeavors.

Lastly, the fees related to criminal legal system involvement—such as fees related to representation, digital monitoring services, and restitution—result in insurmountable legal system debt. Ironically, an inability to pay off certain legal system debts can result in someone's re-incarceration.

LIMITED EMPLOYMENT OPPORTUNITIES

9 in 10 employers screen for an applicant's criminal history during the job application process, which often results in applicants with criminal records being passed over for stable, secure jobs. Indeed, people with criminal records are overrepresented in the unemployed population: For example, nearly two-thirds of unemployed men in their 30s have a criminal record. An inability to find employment feeds into the other collateral consequences (e.g., financial well-being, housing insecurity, family separation) discussed throughout this document.

Additionally, having a felony criminal record makes someone ineligible for various industries, such as in the education system, banking, health care, and government. License restrictions for people with felony criminal records also create barriers to employment as individuals are ineligible to obtain the certificates/licenses they may require in certain industries, such as trucking and transportation.

LIMITED EDUCATIONAL OPPORTUNITIES

Having a felony criminal record bars prospective students of higher education from accessing various scholarships, loans, and other forms of educational financial assistance. In particular, the eligibility criteria hone in on two clusters of criminal records: those related to drugs and substance use, and those related to fraud, dishonesty, misrepresentation, and money-laundering.

Further, Missouri has zero protections against discrimination for those with criminal records during the college admissions process. Both public and private universities in Missouri can deny admission to any applicant and cite the applicant's criminal history as a valid reason for doing so.

HOUSING INSECURITY

Public housing authorities (PHAs) often deny housing to applicants with criminal records and arrest histories—despite the federal government's urging for PHAs to look beyond those in order to make affordable housing more accessible for a group with otherwise limited options for housing. Indeed, people with criminal records are ten times more likely than the general population to experi-

CONSEQUENCES OF A FELONY — CONTINUED

ence homelessness, in large part due to restrictive criteria imposed by housing agencies and landlords concerning tenancy eligibility.

Eligibility for residency in government-operated homes (such as for veterans), long-term care facilities, and senior living facilities often excludes those with criminal records, especially ones that concern drug offenses and sex offenses.

Landlords and housing agencies often require that all occupants submit to a background screening; this can have the indirect result of families separating so that members without criminal records are able to secure housing that they would otherwise be barred from due to another family member's criminal history. Some families may also avoid disclosing if someone in the home has a criminal record, which can result in the entire family facing eviction if the landlord finds out.

LIMITED CIVIC RIGHTS

A felony permanently bars someone from being able to sit on any jury in Missouri.

SPECIAL NOTES

Drug-specific collateral consequences: Drug-convictions paradoxically make it harder for someone who may have a substance use disorder to access treatment/recovery services. Additionally, due to the War on Drugs, there are many legal restrictions that apply primarily to drug convictions. For example, Missouri is one of only seven states that outright bans Temporary Assistance for Needy Families (TANF) for individuals with certain drug convictions. Missouri also has a modified ban on Supplemental Assistance Nutrition Program (SNAP) for people with felony drug convictions: Only individuals with three or fewer drug-related felony convictions are eligible for SNAP.

The role of race in the collateral consequences of a criminal record: Given that the United States has not merely a mass incarceration issue, but a mass incarceration of disproportionately Black, Indigenous, and other People of Color issue, there are racial implications concerning the collateral consequences of a criminal record. Disparities in arrest and sentencing practices result in Black and Brown

individuals having increased contact with the criminal legal system and receiving harsher sentences than white individuals. Given the above mentioned collateral consequences of a felony criminal record, it is unsurprising how the criminal legal system plays a role in widening the wealth and income gap between communities of color and white communities as communities of color are shut out from opportunities that would secure their financial, educational, social, and medical well-being. Black and Brown individuals wind up bearing the brunt of discriminatory policies and attitudes toward those with criminal records

The undercurrent of trauma: People with trauma histories are overrepresented in the incarcerated population and amongst those with criminal records. Incarceration itself is a traumatic event that causes additional harm with little to no adequate mental health supports in jails and prisons to help people. This can result in people resuming activities and coping mechanisms that increase the risk of recidivism (or even death) following their release from prison.

FURTHER READING

National Inventory of Collateral Consequences of Conviction

A search engine for collateral consequences by jurisdiction

Link: tinyurl.com/collateral-consequences

Collateral Consequences Resource Center

A nonprofit that provides news, resources, and restoration of rights information

Link: tinyurl.com/cc-resource-center

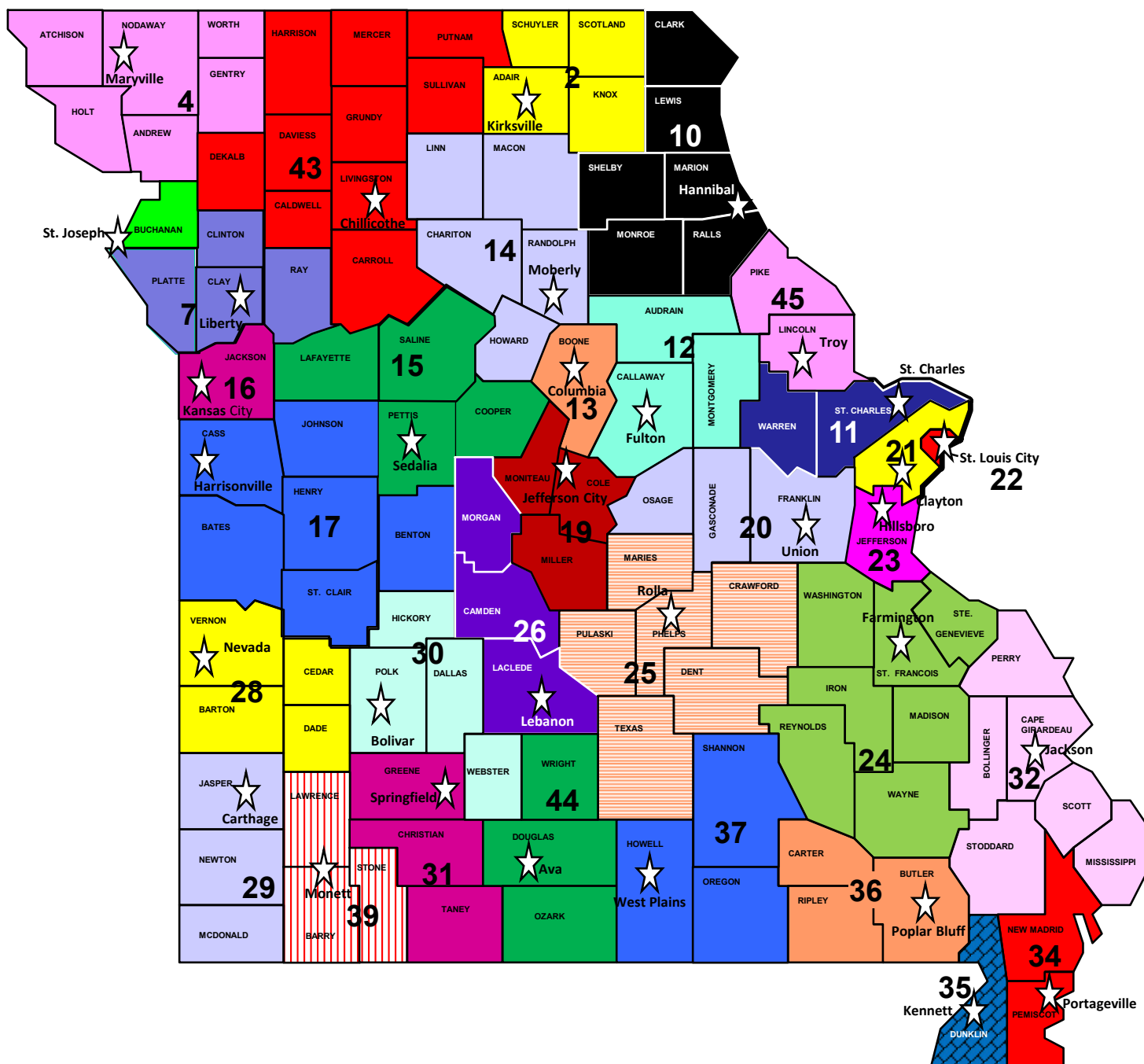
Prison Policy Initiative: Collateral Consequences

An overview of collateral consequences and further reading recommendations for specific reports on how formerly incarcerated people face challenges in housing, unemployment, voting, driving, and many other areas

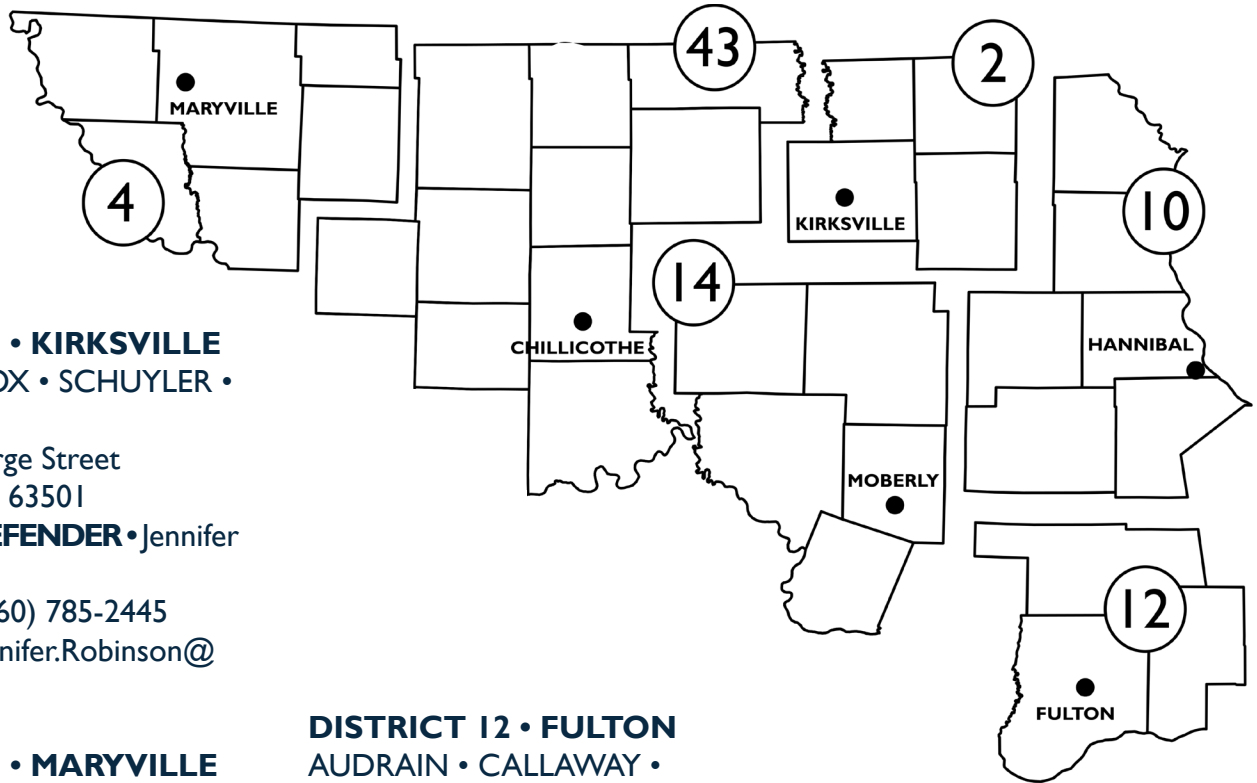
Link: tinyurl.com/pp-initiative

TRIAL DIVISION DISTRICT MAP

Thirty-three trial offices serve MSPD clients charged with felonies, misdemeanors and probation violations throughout the state. Each office is located in a space provided to MSPD by the served counties. Six of the offices serve only one county. Sixteen of the offices serve counties in multiple court circuits. The remaining eleven offices serve multiple counties in one circuit.



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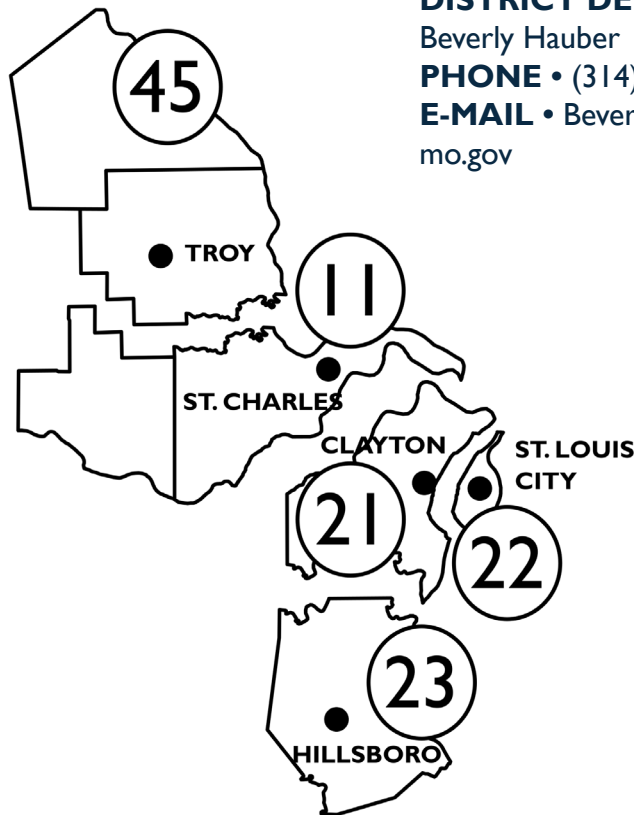
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EASTERN MISSOURI



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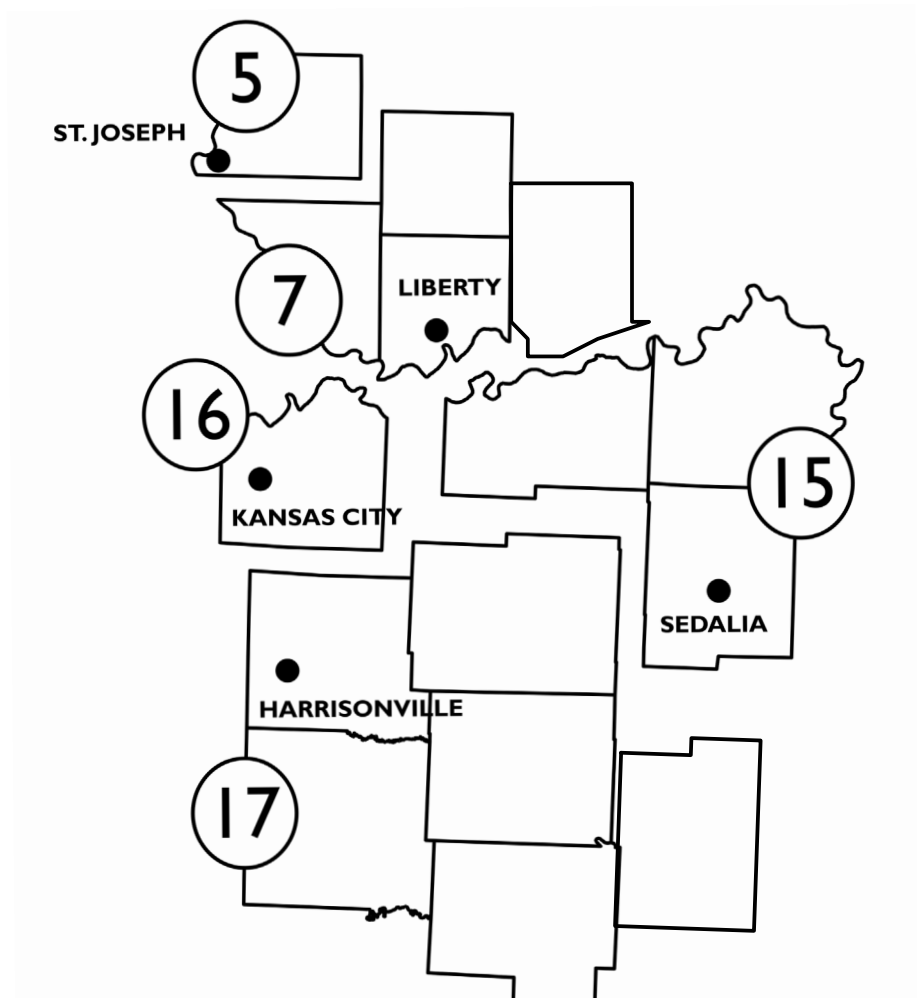
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CAMDEN • LACLEDE •

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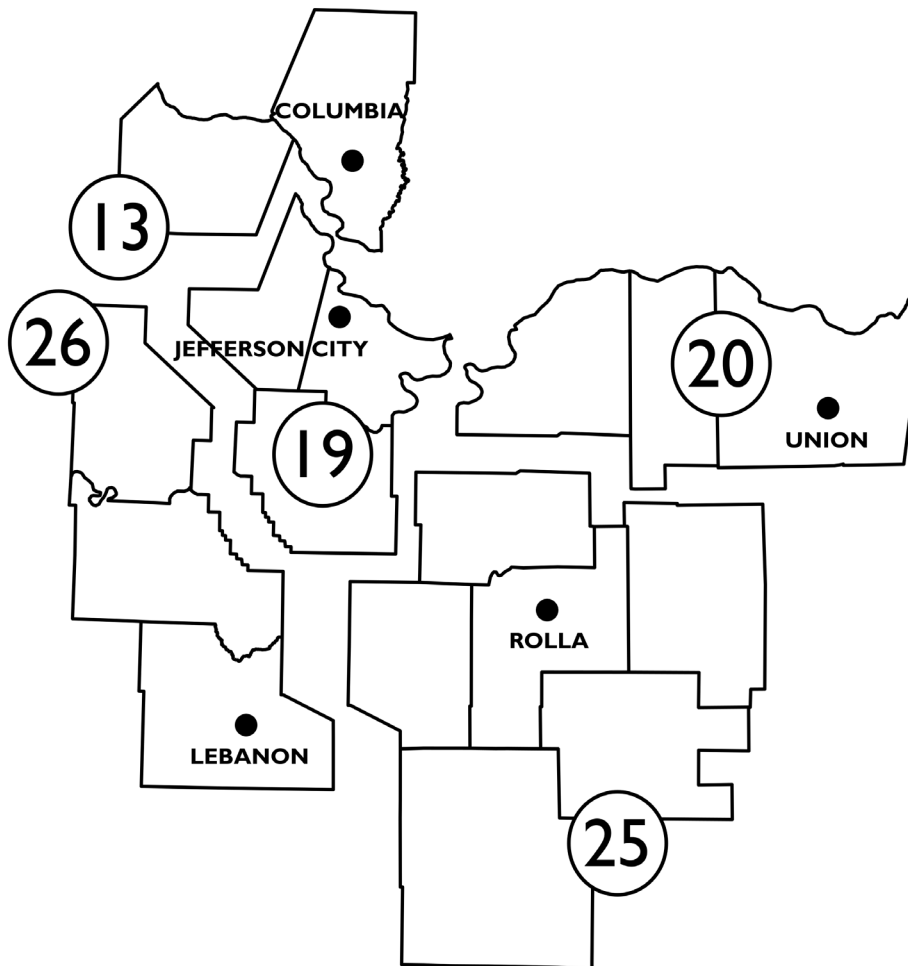
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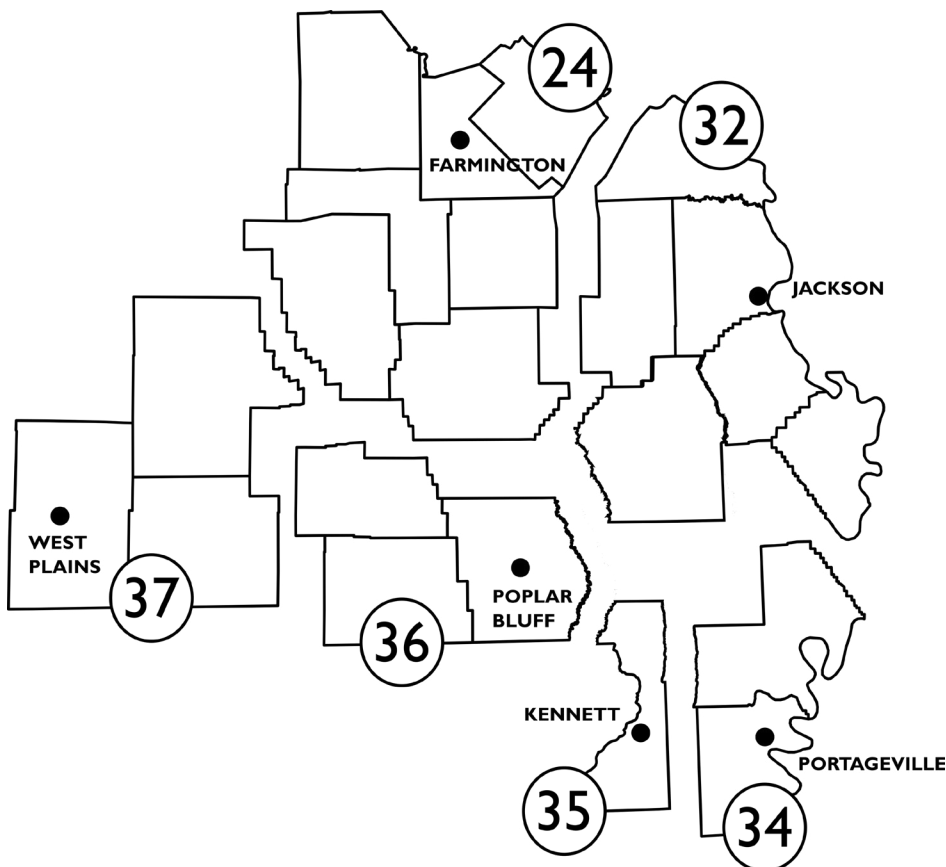
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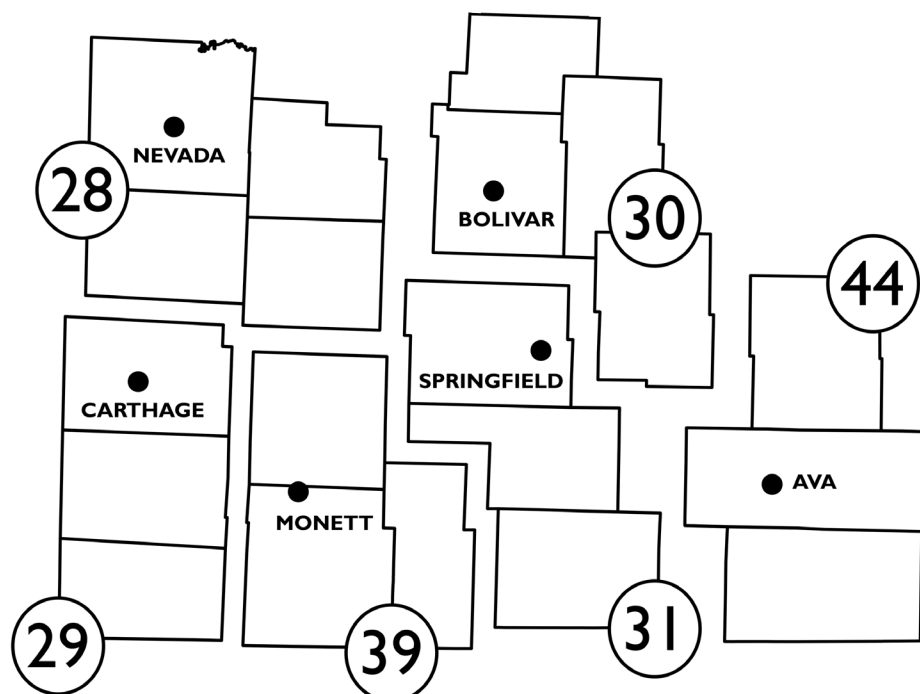
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Welborn

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SPECIALTY PRACTICES

In addition to the Trial Division, Missouri State Public Defender also provides legal services to indigent persons through five specialty practice divisions: Appellate/Post-Conviction Relief Division, Capital Defense Teams, Commitment Defense Unit, Children's Defense Team, and the newly formed Parole Revocation Defense Team.

These offices are located in Kansas City, Columbia and the City of St. Louis.

Kansas City Plex 920 Main Street, Suite 500 Kansas City, Missouri 64105 (816) 889-7699	St. Louis Plex 1010 Market Street St. Louis, Missouri 63101 (314) 340-7662	Columbia Plex 1000 West Nifong, Bldg 7 Columbia, MO 65203 (573) 777-9977
Tom Jacquinot District Defender Western Capital	Stephen Reynolds District Defender Eastern Capital	Amy Bartholow District Defender Central Capital
Damien de Loyola District Defender Western Appellate/Post-Conviction	Gwenda R. Robinson District Defender Eastern Appellate/Post-Conviction	Ellen Flottman District Defender Central Appellate
Rosemary Percival District Defender Western Appellate/Post-Conviction	Kristina Olson District Defender Eastern Appellate/Post-Conviction	Art Allen District Defender Central Post-Conviction
Walter Stokely District Defender Kansas City Children's Defense Team	Sarah Johnson District Defender St. Louis Children's Defense Team	
	Amy Clay District Defender Commitment Defense Unit	
	Stacey Lannert District Defender Parole Revocation Defense Team	

APPELLATE/POST-CONVICTION RELIEF DIVISION

APPELLATE

Appellate attorneys are wordsmiths, creatively and persuasively advocating for our clients' rights after conviction, protecting us all from overreach by the criminal justice system. Appellate attorneys review trial transcripts, speak with clients, and look for avenues in which to challenge error that occurred during trials. After writing briefs and utilizing precedent to advocate for their client's position, appellate attorneys argue in front of our Court of Appeals and Supreme Court, hoping to persuade the court to review the trial court case.

Claims of error may include violation(s) of the Fourth Amendment prohibition against unreasonable searches and seizures; the Fifth Amendment rights to due process of law, freedom from self-incrimination, and freedom from double jeopardy; the Sixth Amendment rights to effective assistance of counsel and a fair trial; and the Eighth Amendment prohibition against cruel and unusual punishment. It is these constitutional and statutory rights that our appellate attorneys vigorously seek to protect.

Missouri State Public Defender has six offices that handle appellate cases: two offices in Kansas City, two in Columbia, and two in St. Louis. Five of these offices handle both appeals and post-conviction rights cases. Appeals can be heard in one of the three Courts of Appeal districts: Southern, Eastern, or Western, as well as the Supreme Court.

Since we reported last year, the appellate attorneys of Missouri State Public Defender won new trials for three clients who were not able to properly present a case of self-defense, a client who was not permitted to confront an expert witness, and a client whose backpack was searched

without a warrant. Our attorneys prevented a client from having to improperly register as a sex offender, and prevented the State from putting a man in prison in Missouri who had already served his entire sentence in California. Our attorneys convinced the Court of Appeals that a client was improperly convicted of felony resisting arrest, when he had in reality only committed a misdemeanor. Several clients were awarded new trials when they had been forced to represent themselves rather than having access to coun-



MSPD colleagues work together in a smaller group during the Post-Conviction Relief workshop hosted in the Training Center in 2021

sel. When the Appellate Division is on the job, criminal trials in the State of Missouri remain fair to all.

POST-CONVICTION RELIEF

Missouri Supreme Court Rules 24.035 and 29.15 provide every person convicted of a felony in Missouri with the opportunity to challenge the lawfulness of their convictions and sentences and also provide the right to an attorney to represent them in that challenge. The attorneys in the Postconviction Offices of the Missouri State Public Defend-

APPELLATE/POST-CONVICTION RELIEF — CONTINUED

er system primarily represent people in these Rule 24.035 and 29.15 postconviction cases.

Whether our postconviction clients want to prove their innocence or challenge a few months of missing jail credit, one of the guiding beliefs for our Postconviction Offices is the principle recognized by the Supreme Court in *Missouri v. Frye*, 566 U.S. 134, 147 (2012), that “any amount of additional jail time has Sixth Amendment significance.” Our postconviction attorneys work to guarantee that every client, case, and problem receives the time and attention it deserves and that no conviction or sentence remains intact when it is the product of a violation of our clients’ rights. Working under short and mandatory deadlines, our postconviction attorneys review everything that occurred in the underlying criminal cases to ensure our clients’ rights are protected. This past year, our postconviction attorneys secured relief for a number of clients. Some cases were as simple as getting judgments amended to accurately reflect what occurred in court or in one case working with the Department of Corrections to remove a mistaken dangerous offender finding that would have required the client to serve 85% of his sentence before parole eligibility. Other cases involved negotiations with prosecutors, including one that resulted in the reduction of a 110-year sentence to 20 years, another that involved a cooperation agreement for our client to assist in a related prosecution in exchange for our client having his offense reduced from a felony to a misdemeanor, and still another where the client’s sentence was reduced from 4 years to 2 years in consideration of jail credit the client was not receiving. Other cases involved situations where prosecutors breached plea agreements. In one, a prosecutor breached the plea agreement by recommending a sentence in excess of the agreed upon amount. At resentencing, and in light of the correct recommendation from the prosecutor, the client’s sentence was reduced from 15 to 8 years. Attorneys also have obtained new trials for clients based on claims of ineffective assistance of trial counsel, such as the failure to investigate and call a witness that would have supported a defense for a client convicted of murder in the first degree. Finally, our postconviction attorneys have also been able to vacate a number of guilty pleas to allow our clients to exercise their right to a jury trial and put the State’s allegations to the test.

FISCAL YEAR 2022 VICTORIES

EASTERN DISTRICT OPINIONS

- SELF DEFENSE
- ADMISSIBILITY OF EVIDENCE
- CONFRONTATION

SOUTHERN DISTRICT OPINIONS

- SEX OFFENDER REGISTRATION
- ORAL PRONOUNCEMENT OF SENTENCE

WESTERN DISTRICT OPINIONS

- SENTENCE CORRECTION
- 120 DAY SHOCK PROBATION RELEASE
- INSTRUCTION REQUIREMENT
- OUT OF STATE INCARCERATION
- FARETTA HEARINGS
- CONFRONTATION
- PROOF OF ORDINANCE VIOLATION
- FAILURE TO APPEAR AT JUVENILE HEARING

SUPREME COURT OPINIONS

- OUT OF STATE PRIOR CONVICTIONS
- CASTLE DOCTRINE
- HEARSAY
- DANGEROUS OFFENSE
- DEFENSE COUNSEL NOTIFICATION
- SELF DEFENSE
- CONFRONTATION

CAPITAL DEFENSE TEAMS

Because very few people can afford the high costs associated with a death penalty defense, most death penalty cases in Missouri are handled by MSPD's capital division. Missouri has three capital offices, located in Kansas City, Columbia, and Saint Louis.

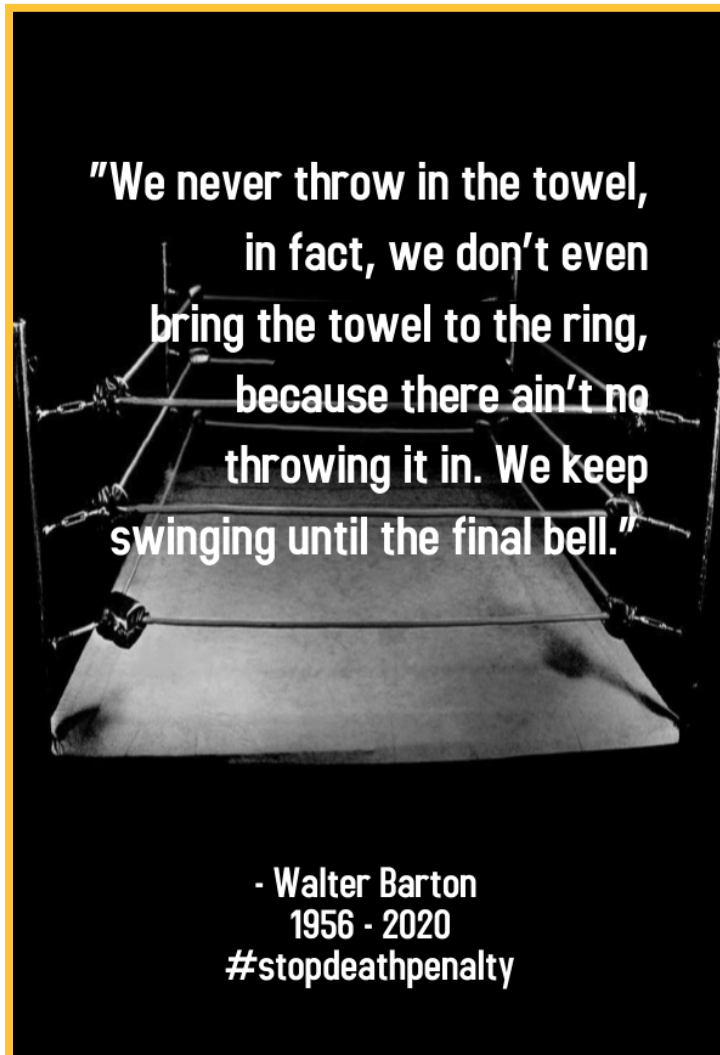
These three offices have attorneys that are "death qualified", meaning they have received specialized training in capital defense. The teams also include mitigation specialists, investigators, and support staff. Each team of attorneys representing an individual who is facing the death penalty must have two qualified attorneys, a mitigation specialist, investigator, and support staff.

As the American Bar Association guidelines point out, *"The quality of counsel's 'guiding hand' in modern capital cases is crucial to ensuring a reliable determination of guilt and the imposition of an appropriate sentence. Today, it is universally accepted that the responsibilities of defense counsel in a death penalty case are uniquely demanding, both in the knowledge that counsel must possess and in the skills he or she must master. At every stage of a capital case, counsel must be aware of specialized and frequently changing legal principles, scientific developments, and psychological concerns. Counsel must be able to develop and implement advocacy strategies applying existing rules in the pressure-filled environment of high-stakes, complex litigation, as well as anticipate changes in the law that might eventually result in the appellate reversal of an unfavorable judgment."*

Missouri's capital attorneys and staff take on this daunting and complex responsibility in representing individuals fac-

ing the death penalty.

SUPPORT FOR CAPITAL PUNISHMENT IS AT AN ALL TIME LOW



Based upon analysis by the Gallup poll survey in 2021-2022, fewer people have endorsed the moral acceptability of capital punishment in the last three years than at any other time in the 21-year history of the Gallup survey, and belief in the morality of the death penalty is 16 percentage points lower than at its peak in 2006, when 71% said the death penalty was morally acceptable.

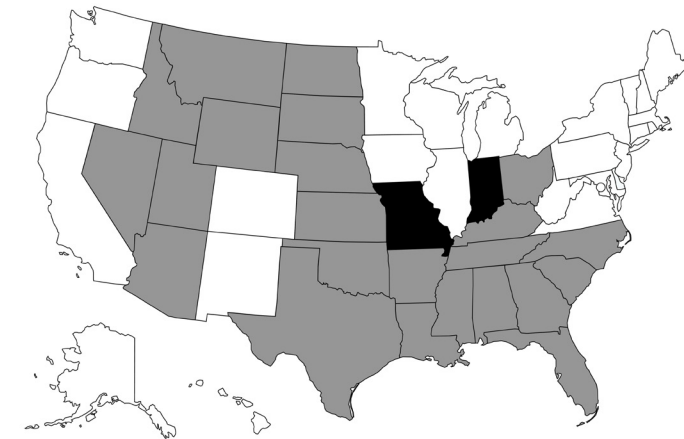
This year, in the Missouri Legislature, two bills were prefiled by Rep. Shamed Dogan (R) and Sen. Bill White (R) to remove the death penalty as an option for the court to declare as punishment in cases where the jury cannot decide or agree upon the punishment. Additionally, Representatives Tony Lovasco (R) and Sara Unsicker (D) filed bills to repeal the death penalty in Missouri, leaving life without parole as the highest possible sentence for first degree murder.

Bills filed in Florida, Georgia, Kansas, Kentucky, Ohio, South Dakota, Tennessee, Utah, and Wyoming signal a movement by many states to abolish the death penalty, or where there is no strict prohibition, to prohibit the death penalty as applied individuals who have intellectual or severe mental illness.

Short of ending the death penalty, a range of policy changes could help stress the gravity of the decision to seek the death penalty and discourage the decision in border-

CAPITAL DEFENSE TEAMS — CONTINUED

THE DEATH PENALTY IN 2022



DEATH PENALTY WITH JUDICIAL OVERRIDE
 NO DEATH PENALTY OR GUBERNATORIAL MORATORIUM
 DEATH PENALTY WITHOUT JUDICIAL OVERRIDE

line cases. One element of Missouri's death penalty is clearly an outlier: only Missouri and Indiana allow a judge to impose the death penalty after a jury fails to reach a unanimous verdict sentencing that person to death. By increasing the likelihood of a death sentence, this unusual feature may encourage costly capital litigation. More comprehensively, policymakers could consider measures to bring Missouri's procedures around the death penalty into line with best practices, as outlined in the ABA's 2012 "Missouri Death Penalty Assessment Report." Among other recommendations, the report suggested more narrowly defining the aggravating circumstances that qualify a homicide case for capital punishment.

While the U.S. Supreme Court has ruled that the death penalty is only appropriate for a "narrow category" of murders, the ABA concluded that many of the 17 aggravating circumstances in Missouri law "are so broadly drafted as to qualify virtually any intentional homicide as a death penalty case." Further constraining the cases in which the death penalty can be applied could both reduce the frequency of these expensive cases and bring Missouri's death penalty procedures more closely into line with this precedent.

SELECTED COST STUDIES

Oklahoma (2017)

Death Penalty Review Commission

Death penalty cases are **3.2 times** as expensive as comparable non-death penalty cases. Defense costs are **9.8 times** as expensive.

Oregon (2016)

Lewis and Clark Law School

Death penalty cases are **1.7 times** as expensive as comparable non-death penalty cases, excluding costs from prosecutors and the courts.

Indiana (2015)

Legislative Services Agency

Death penalty cases are **4.3 times** as expensive as cases seeking life without parole. When a death penalty case is resolved by a plea deal it is still **2.3 times** as expensive.

FURTHER READING

State Studies on Monetary Costs

Death Penalty Information Center

Link: tinyurl.com/state-costs

Missouri Assessment on the Death Penalty

American Bar Association

Link: tinyurl.com/ABA-Missouri

The Impact of Race, Gender, and Geography on Missouri Executions

University of North Carolina

Link: tinyurl.com/Missouri-executions

Missouri's Death Penalty in 2020: The Year in Review

Missourians for Alternatives to the Death Penalty

Link: tinyurl.com/Missouri-Year

COMMITMENT DEFENSE UNIT

People convicted of sex offenses in the state of Missouri can be held indefinitely by the state after the completion of their sentence, provided that a court can be convinced they are “sexually violent predators” (SVP). Almost all the people committed through the Sex Offender Rehabilitation and Treatment Services (SORTS) programs are represented by public defenders. These cases are unusually open-ended: the people committed to SORTS will be held until they successfully petition for their release. Each committed person’s annual review creates a new occasion for potential legal controversy—and will continue to do so as long as they remain in the system. These technical, highly specialized cases constitute a permanent claim on the resources of the courts and on Missouri State Public Defender.

The Commitment Defense Unit (CDU) of Missouri Public Defender represents individuals alleged to be sexually violent predators in trials and release request hearings throughout the state of Missouri. Additionally, the Commitment Defense Unit (CDU) represents clients in the Department of Mental Health requesting release. This means that CDU represents clients seeking conditional or unconditional release from SORTS programs as well as from Not Guilty by Reason of Mental Disease or Defect related confinement.

The people committed to SORTS have been found guilty of serious crimes, and policy-makers are understandably wary of even a small risk of recidivism. In a context of limited resources, however, this concern should be weighed against the good the resources currently spent on SORTS could do if spent on other programs—including other programs designed to reduce the risk of sex crimes. That is one of the conclusions reached by a 2011 U.S. Department of Justice-funded paper examining the results of New Jersey’s SVP program:

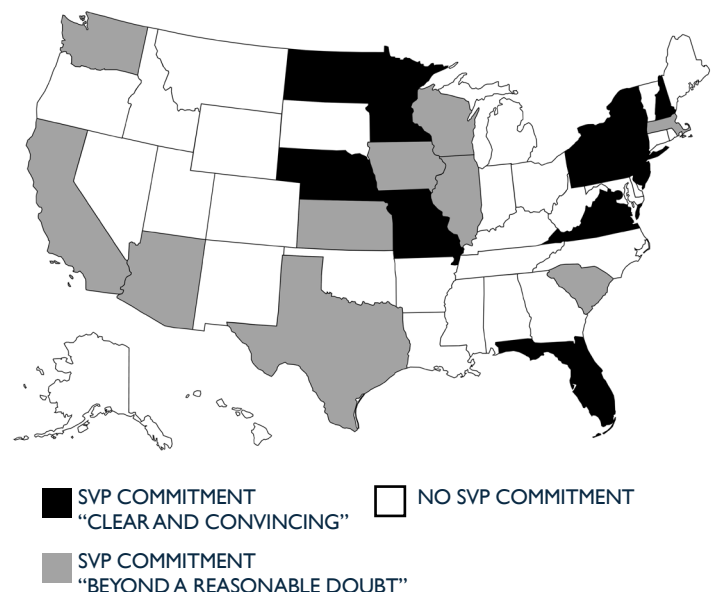
“[E]ven among this group of elevated-risk offenders (those highly considered for SVP commitment) detected rates of sexual recidivism are still relatively low. Given the exceptionally high cost of SVP commitment and the fact that most new sexual offenses are not committed by known offenders, policymakers should reevaluate the balance between resources dedicated to estimated crime prevention associated with SVP commitment and that of primary prevention strategies.”

In light of newer research, Missouri’s Department of

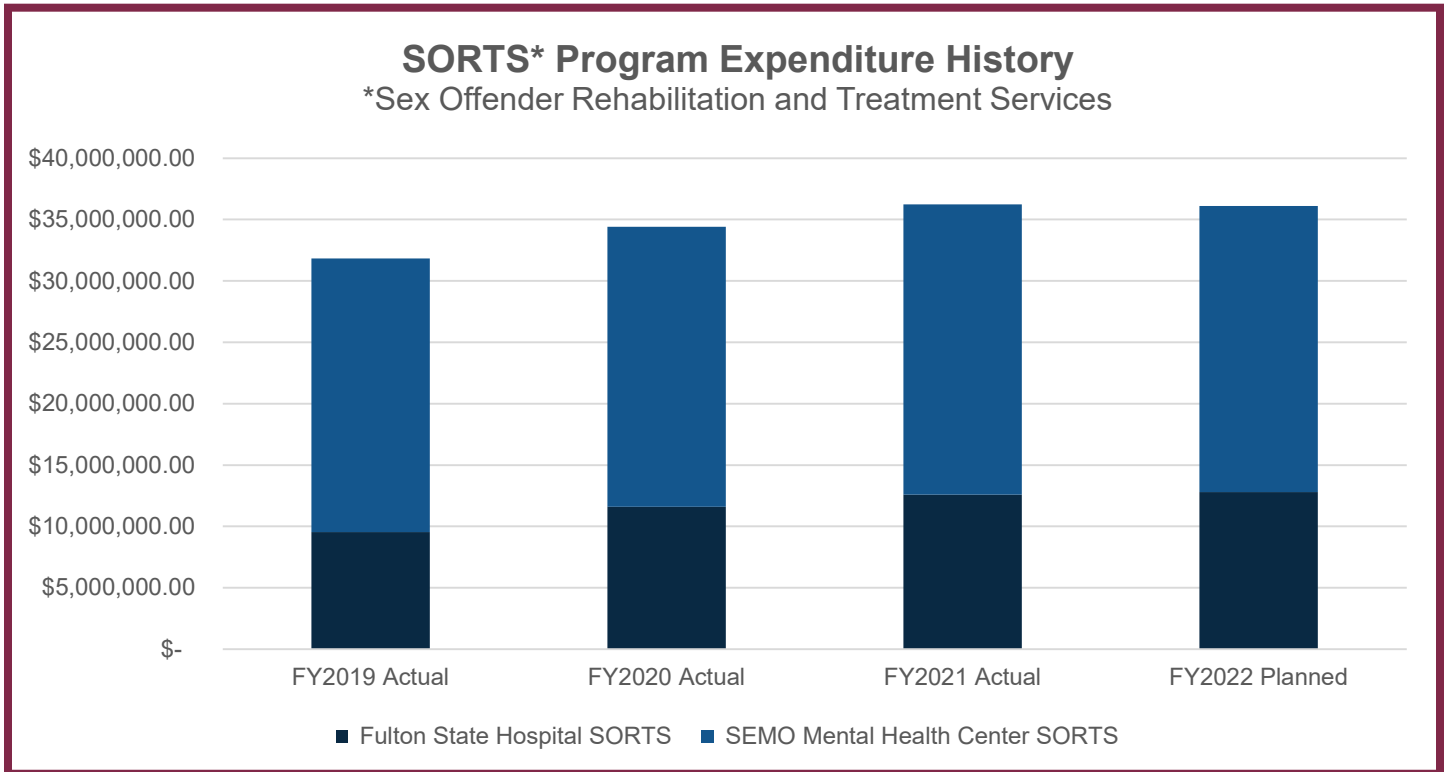
Mental Health has recommended more petitions than in any previous fiscal year. This has resulted in a 200% increase in conditional releases over prior years. While commitment numbers have essentially remained the same, the progress towards a more Constitutional version of the commitment scheme is emerging. The idea that high cost SVP commitment is the only way to manage this population is becoming outdated and obsolete, as the progress over the last fiscal year, as well as emerging research in the field, has shown.

Changes to Missouri’s SVP law short of the elimination of civil commitment could involve raising the standard for committing an individual or extending their commitment, allowing the state to concentrate its resources on the cases where the threat of recidivism is most extreme, raising the standard of proof to beyond a reasonable doubt, and procedural changes that encourage deference to the department of Mental Health recommendations.

STATES WITH SVP COMMITMENT AND STANDARDS OF PROOF 2022

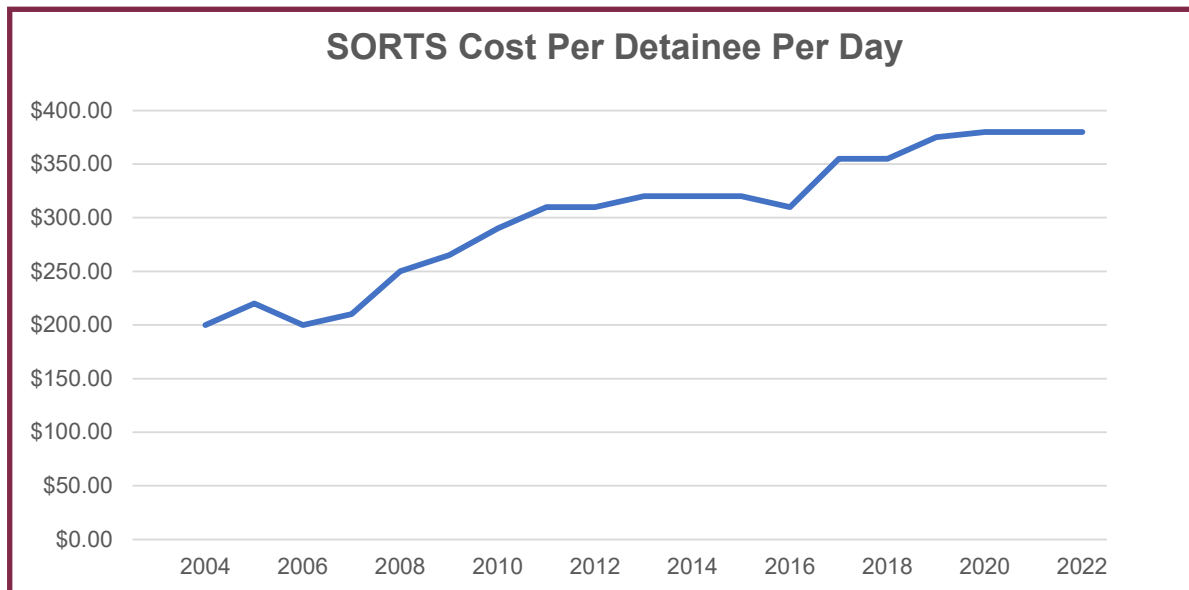


COMMITMENT DEFENSE UNIT— CONTINUED

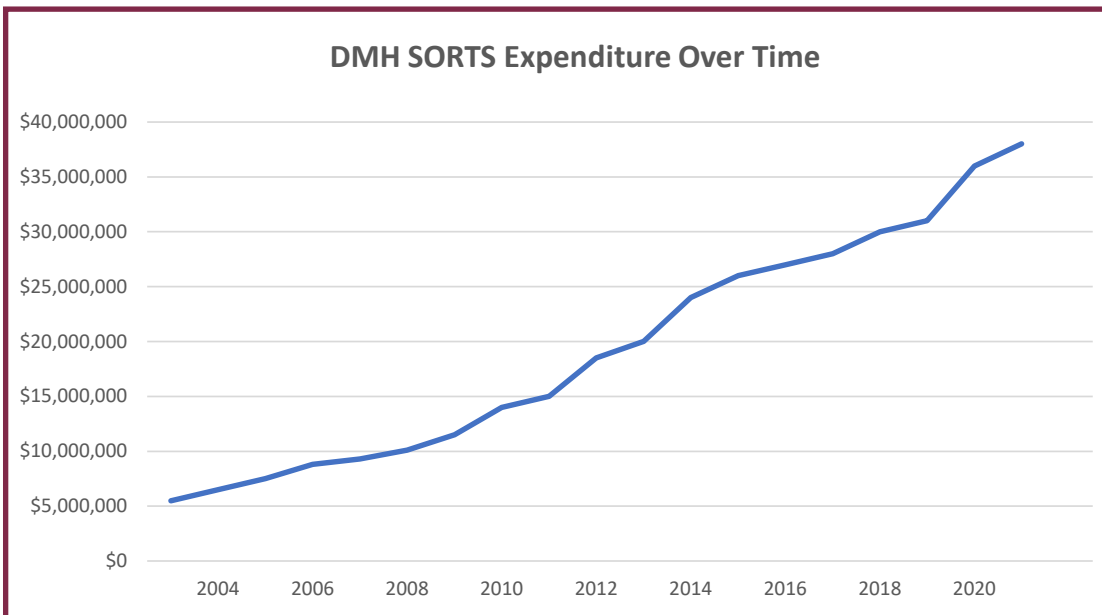
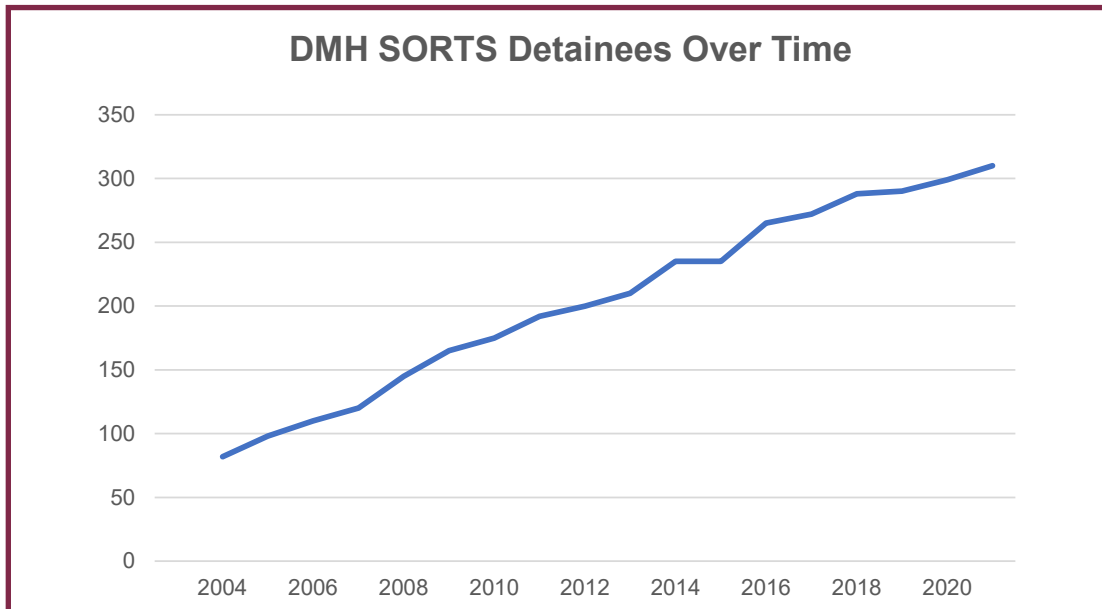


Data from Missouri Department of Mental Health

“New probate court commitments to the Department of Mental Health’s Sex Offender Rehabilitation and Treatment Services program (SORTS) are estimated to grow by 15 individuals each year and substantially outpace conditional releases to the community. As a result of these increases it is expected that physical space for additional commitments will be exhausted in the near future necessitating new construction.” (MO Department of Mental Health 2022 Budget Program Description).



COMMITMENT DEFENSE UNIT— CONTINUED



FURTHER READING

Applying Collaborative Justice to Sexually Violent Predator Civil Commitment

Journal of the American Academy of Psychiatry and Law

Link: tinyurl.com/collaborative-justice

Civil Commitment of People Convicted of Sex Offenses in the United States

UCLA School of Law Williams Institute

Link: tinyurl.com/civil-commitment-statutes

CHILDREN'S DEFENSE TEAM

The Children's Defense Team celebrates its third year as a specialized unit within Missouri State Public Defender. The Children's Defense Team (CDT) is a group of 17 individuals (lawyers, appellate attorney, social workers, investigators and staff) who provide representation to children charged with delinquency offenses in juvenile court, children who have been certified to stand trial as an adult, and cases in which the State is seeking a Life Without the Possibility of Parole (LWOPP) sentence for a child under the age of 18. Since opening its doors, Children's Defense Team staff and attorneys have worked with over 1,000 children charged in Missouri's delinquency system.



This year, the Children's Defense Team had incredible appellate victories in the Eastern and Western District Court of Appeals, as well as the Missouri Supreme Court. The Children's Defense Team brought appellate actions in several cases involving juvenile court and secured ten appellate victories in calendar year 2022 alone.

The Court of Appeals continues to recognize the underpinnings of the seminal U.S. Supreme Court case of *In re Gault*, by finding that certain enumerated rights within the Bill of Rights apply to juvenile proceedings. These rights include the right to notice of charges, right to counsel, right of confrontation and cross-examination, and privilege against

self-incrimination.

Additionally, the Children's Defense Team has provided rigorous defense to children who stand accused in delinquency proceedings, convincing judges and juries that they have the capacity to grow and change, and should be provided rehabilitative opportunities.

In April and in June, the Children's Defense Teams and youth specialists from various MSPD trial offices throughout the state came together to collaborate and educate themselves on the specialized practice of youth representation. From brainstorming specific cases to on-your-feet training, MSPD continues to recognize that specialized representation of children is a necessity.

Feedback from participants included sentiments like this one:

"REALLY HELPFUL! I'm always hoping for this type of hands-on litigation practice tips & feel like I learned a lot!"

Finally, in 2021, a national organization focused on youth rights, the Gault Center, agreed to help with a collaborative effort between the Missouri Juvenile Justice Association, and the Missouri State Public Defender to promote support, technical assistance, and training for contract counsel representing children in delinquency proceedings. This collaboration is geared toward improving representation of children throughout the State of Missouri.



Youth Defenders from Texas (second from left and center), Gault Center staff (left and second from right) and Sarah Johnson, MSPD Children's Defense Team (right) at Youth in Court Training in June 2022

PAROLE REVOCATION DEFENSE TEAM

The Inaugural Year

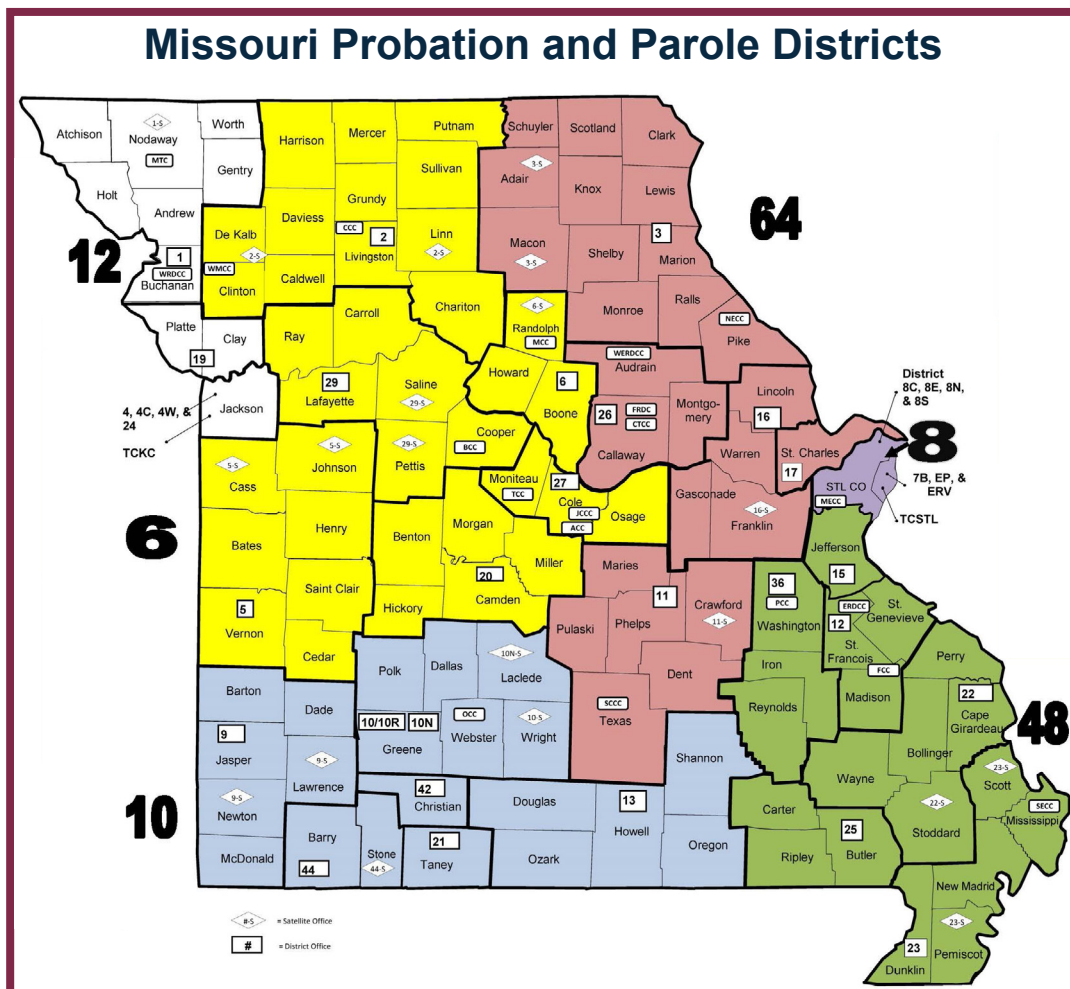
The Parole Revocation Defense Team (PRDT) was created in June of 2021. PRDT operates with four staff attorneys and one support service coordinator. One attorney is based in Kansas City and the other three are based in St. Louis. PRDT represents alleged parole violators throughout the revocation process.

The second stage is a final revocation hearing before the Missouri Board of Probation and Parole at a correctional center.

PRDT handles parole revocation proceedings throughout the state of Missouri. In their inaugural year between June

15, 2021 and June 15, 2022 PRDT was involved in 162 hearing actions. PRDT handled 96 preliminary hearing actions and 66 revocation hearing actions. Final revocation hearings are held at one of four diagnostic centers: Fulton Reception and Diagnostic Center, Eastern Reception and Diagnostic Center, Women's Eastern Reception and Diagnostic Center, and Western Reception and Diagnostic Center. Adjacent is a map, based on Missouri Probation and Parole Districts, detailing hearing locations.

This inaugural year has been filled with gathering information, creating standard procedures, navigating logistical landscapes, and determining best practices. On a final note, the recidivism rate for represented parolees released after representation and then returning to the Department of Corrections on a new violation stands at only one PRDT represented parolee returning.



Missouri is one of a handful of states providing representation to indigent parolees. Other identified states are: New York, Connecticut, Maryland, Illinois, and Nevada. The Federal Government and Washington D.C. also provide representation to parolees.

There are two distinct stages to parole revocation proceedings. The first stage is a preliminary hearing conducted at or near the place of arrest. This hearing seeks a probable cause determination regarding the alleged violations.

FURTHER READING

Missouri's parole revocation defense team among first in country

Missouri Independent

Link: tinyurl.com/among-first-in-country

CASE CONTRACTING

From last year's report, this message is still relevant and important: Special Public Defenders fulfill a very important role in all Missouri counties, providing contract attorneys to indigent defendants who need conflict-free representation. Additionally, contract attorneys provide relief to counties facing a high volume of cases and a shortage of MSPD counsel due to unfilled vacancies. To maintain and recruit additional skilled contract attorneys, an increase in contract fees is greatly needed. Contract fees are very low compared to private fees. In some areas of the state, it is difficult to recruit contract counsel, resulting in contract counsel sometimes traveling ninety miles one-way to cover a docket no one else is available to cover. Experience has shown that over time, the Special Public Defenders covering multiple circuits with great travel distances "burn out" and remove themselves from our panel completely. An increase in fees per case is likely to assist recruiting more attorneys for all areas of the state and reducing travel distances in typically difficult-to-assign counties.

In the last five years, the number of cases MSPD contracts to private counsel has increased from 16% (10,266 of 63,731) to 21.5% (12,161 of 56,550) of the cases MSPD opens per fiscal year. During that same time, the number of contract attorneys with open cases has decreased from 398 to 288. Attorneys are continually leaving and joining our panel. We currently have 181 attorneys active on our panel, but 52 of

those are "out of the rotation" meaning they have paused their assignments temporarily for anywhere from one to five months for a variety of reasons (vacation, busy private practice, upcoming trials, etc).



Kirksville District Defender Kevin Locke (from left), Contract Defender of the Year 2020 & 2021 Wallace "Wally" Trosen, and Case Contracting Division Director Maggie Johnston



Chillicothe District Defender Kelly Miller (from left), Carol Seidel, Contract Defender of the Year 2020 & 2021 Allan Seidel, and Case Contracting Division Director Maggie Johnston

The primary purpose of the Case Contracting division is to provide conflict-free counsel all over the state when clients in an office have cases that are related in such a way that representing both clients creates an ethical conflict of interest. It is essential that we maintain contract counsel to provide conflict-free representation in all areas of the state. Some areas are more challenging to find contract counsel than others. In some areas of the state, our contract attorneys are spread very thin, traveling great distances to cover many counties of need where there are few contract counsel available.

Unfilled attorney positions cause case overload for attorneys in our trial division, with attorneys handling much higher case loads than is optimal due to coworkers leaving the office and difficulties replacing them. MSPD looks to Case Contracting to provide caseload relief to such offices, but decreasing numbers of contract counsel—particularly in the same areas where attorney vacancies are going unfilled—limits the help Case Contracting can provide to overloaded MSPD offices.

We are struggling with balancing competing interests: giving caseload relief to offices by contracting cases; contract attorney shortages leading to inability to provide caseload relief in certain areas; potentially overloading our available contract attorneys by sending them more client assignments than they are capable of

CASE CONTRACTING — CONTINUED

handling effectively.

An experiment born of necessity in FY21 carried over into FY22 with success. MSPD now has contract counsel covering dockets and handling cases that would otherwise be handled by an MSPD office. In Carter, Bollinger, and Shannon counties, MSPD has contracts with private attorneys to provide coverage at all dockets and to handle cases opened in that county through final disposition (with the exception of homicides and sex offenses, which contract counsel has the option of representing for the usual per-case fee). After successful trial periods, the Carter and Bollinger contracts in FY22 were re-bid and secured for FY23&24. The Shannon County contract expires in October 2022, and a fourth contract in Texas County is in place through November 2022, with contract counsel sharing docket coverage and splitting case assignments with the Rolla MSPD office.

FY22 saw its first exclusively-contract-defender training in the MSPD training complex. Over 100 contract defenders received two days of free CLE to fulfill their annual CLE requirements. One attendee said about the training:

“I found the whole program to be informative and useful. There was a lot of thought and planning that went into this training program and it showed. This was one of the best training seminars I have attended.”

Contract Defenders of the Year for 2020 (Wallace “Wally” Trosen) and 2021 (Allan Seidel) were honored at a lunch-time award ceremony. 2021 was the fourth year we’ve given out this award, which honors the commitment of one of our outstanding contract counsel to serving the indigent defendants of Missouri through their contract work for MSPD. In addition to choosing one contract defender of the year, we also send handwritten thank you notes and an MSPD “coin” to a select group of attorneys for their work that year as contract counsel. We honored 10 attorneys with thank you notes/coins for 2021.

Panel attorneys are paid an initial retainer fee for each case assignment in accordance with the contract fee schedule below:

Jury Trial: \$1,500 for the first day and \$750 for each additional day, partial days prorated

Bench Trial: \$750/day, partial days prorated

Juvenile Certification Hearing where the Deputy Juvenile Officer recommended the child be prosecuted in adult court: \$750/day, partial days prorated (effective for hearings on or after 7/1/20)

Case Type	Contract Guideline
Murder 1st Degree	\$10,000
Sexual Predator Hearing	\$4,000
Sexual Predator Trial	\$8,000
Other Homicide	\$6,000
AB Felony Drug	\$1,500
AB Felony Other	\$750
AB Felony Sex	\$2,000
CDE Felony Drug	\$750
CDE Felony Other	\$750
CDE Felony Sex	\$1,500
Misdemeanor	\$375
Probation Violation	\$375
Juvenile Murder 1st Degree	\$2,000
Juvenile Other Homicide	\$1,500
Juvenile AB Felony Drug	\$500
Juvenile AB Felony Other	\$750
Juvenile AB Felony Sex	\$1,250
Juvenile CDE Felony Drug	\$500
Juvenile CDE Felony Other	\$500
Juvenile CDE Felony Sex	\$1,000
Juvenile Misdemeanor	\$375
Juvenile Status	\$375
Juvenile Motion to Modify Supervision Violation Only	\$375
PCR Rule 24.035 Motion	\$500
PCR Rule 24.035 Evidentiary Hearing	\$250
PCR Rule 24.035 Appeal	\$500
PCR Rule 29.15 Motion	\$1,000
PCR Rule 29.15 Evidentiary Hearing	\$500
PCR Rule 29.15 Appeal	\$1,875
Direct Appeal	\$3,750

TRAINING DIVISION

TRAINING DIVISION MISSION

Our training department works to ensure that all MSPD employees have access to the knowledge and skills necessary to fill their roles as integral parts of the MSPD defense team and to provide high quality representation to our clients. Our goal is to improve the quality of representation and fight for justice.

MSPD'S TRAINING CENTER IS A GAME CHANGER

In 2021, MSPD opened a training center at Woodrail Centre in Columbia. This facility has provided meeting space for MSPD's training programs and other MSPD events. The center's largest room holds up to 110 guests, has 7 dedicated breakout rooms and a kitchen. Providing training on-site saves costs—meeting space, audio visual services, parking, food and beverage. As a result, we are doing much more training with less money.

From July 1, 2021 to June 30, 2022, we hosted 25 training events at the center. We provided 291.3 hours of CLE at these events. 34.6 of those hours were Ethics CLE and 21.9 were anti-bias CLE. We provided a hybrid virtual option at several of our in-person programs. In addition, we also provided 20.4 hours of virtual training, 8.8 of those hours being Ethics and Anti-Bias CLE. Many employees like the convenience of learning at their desk after a busy

morning in court. Developing a blend of in-person and virtual programs helps us serve all our employees.

When you add it all up, our training department nearly doubled the number of continuing legal education hours provided this past year from the previous year, a whopping total of 311.7 hours up from 162.4 hours provided in 2020-2021.

WHAT THE EMPLOYEES ARE SAYING

Our MSPD training department solicits feedback on all its training. Our evaluations have been good. One investigator commented about a session at New Defender Workshop:

"This was the best session of the whole week. As an investigator, I so appreciate the way Beverly urges attorneys to communicate and work closely with investigators and to treat us with respect. It really is ultimately helpful for the clients. Just a great presentation."

Another employee offered:

"I really liked being able to go to the crime scene and look at the evidence to better understand what we should be looking for when we visit a crime scene."



New Defender Workshop in 2021 at MSPD's Training Center in Columbia

TRAINING — CONTINUED

Someone else loved hearing from returning citizens and hearing what it is like to be in prison, saying, ***“This was amazing. I wish it would have been longer.”*** Another said, ***“the realness behind it made it so good.”*** Keeping the client front and central is critical to the work we do and how we train.

At our Trial Skills Workshops, new attorneys get to practice their skills. They are grateful for the experienced attorneys sharing their time and expertise:

“The group leaders I sat with all week were fantastic. They were supportive while also giving constructive and meaningful feedback to the participants.”

Another attorney noted the benefits of practicing in front of jurors:

“I think the Voir Dire is the most beneficial segment of the week. You can brainstorm and workshop the other skills, but only during Trial Skills can one really do a mock jury selection.”

At our new Preservation Workshop, appellate and trial attorneys teamed up to teach other attorneys how to object, litigate motions and preserve issues for review on appeal. It was a great success and many people asked us to make it a recurring and mandatory program for all attorneys. One participant provided this feedback:

“A GREAT training conference. I got a lot out of it and it energized me to fight for our clients and gave me more confidence as a trial attorney.”

EXPANDING OUR REACH

In March of 2022, we had our first Contract Defender Training for our contract attorneys who represent our public defender clients whose original public defender faces a conflict of interest. This 2-day training program provided 15.4 hours of free CLE, including 3.2 hours of Ethics and 1 hour of Anti-bias CLE.

We also partnered with Missouri Association of Criminal Defense Lawyers to provide two training programs at our Training Center. MSPD worked with National Association for Public Defense (NAPD) and National Legal Aid and Defender Association (NLADA) to plan and deliver train-



A small group collaborates during the Trial Skills Workshop in 2021

ing nationally. Finally, we worked with St. Louis University School of Law to train our public defenders and mitigation specialists on sentencing mitigation.

While working with others to deliver quality training is our goal, we recognize that we cannot always meet all our employees' training needs with our in-house programs. Accordingly, we looked to the Missouri Bar for their specialized DWI training, to the National Association for Criminal Defense Lawyers for specialized training and to other organizations who provide specialized training for capital defenders, children's defense teams, and those needing advanced defense advocacy skills. Combining our in-house and out-side programs, we participated in a total of 62 programs this past year.

MAKING TRAINING RESOURCES ACCESSIBLE AND EFFECTIVE

Working with MSPD's IT department, our training department rolled out our training portal for all our employees to access our training resources. This portal allows defenders to access training materials in an efficient way from their work station or when they are working remotely at home, traveling or in a courtroom. It features a global search function, which makes finding training resources easy. Employees can access videos, powerpoint presentations, handouts, and sample motions and pleadings. They are able to click on MSPD's training calendar and register for upcoming programs. In the six months we've been online, we've edited and uploaded 120 training videos that MSPD has produced.

As MSPD looks ahead to Fiscal Year 2023, we hope to build on the success we've had this past year. We are grateful for the opportunity to help our employees successfully represent our clients. We hope to create a community of defenders proud to provide excellent representation and to continue to fight for justice.

AWARDS & RECOGNITION



IN MEMORY OF CHARLES HOSKINS

DEFENDER OF DISTINCTION

Charles Hoskins is this year's recipient of Missouri State Public Defender's Defender of Distinction award. Unfortunately, Charles is not able to accept this honor in person. He died on December 15, 2021 in Midlothian, VA. He had traveled to meet with a witness for a case in the interest of saving his client's life. Instead Charles' wife of 20 years, Jessica, will accept the award on behalf of Charles' two children, Lizzie and Ben. Charles was a lifelong Public Defender. He began his career at the Eastern Capital office of the Public Defender as a summer intern while a student at St. Louis University School of Law. Little did he know he would end his career at that same office.

Graduating law school in 1994, Charles' Public Defender career started in the Rolla Trial office, where he soon became District Defender. In the 25th and 42nd Judicial Circuits, Charles was well known for his fierce defense of his clients, and for being the best dressed attorney in the courtroom. Charles believed in the mission of the Public Defender. He threw the depth of his knowledge, his nimble mind, his deep compassion, and his righteous belief in the Constitution behind every client he had the honor to represent.

Charles' accomplishments range from acquittals at jury trial, to winning motion practice, to creative sentencing advocacy. But his pride in representing his clients went beyond the traditional courtroom. In one case, a former client, a military veteran, died penniless and alone. With the help of a local judge and prosecutor, Charles arranged for funds to be available for the man to have a proper funeral with military honors.

In 2004, Charles stepped down from management to take a position in the Union Trial office. His purpose was to work closer to the family home in Washington, MO, to be nearby for school plays, baseball and volleyball games, and evenings with his family. His dearest loves were his family, history, and his work as a Public Defender.

Charles would have been tremendously honored to receive this award during his lifetime. Like so many talented attorneys, Charles lived with doubts and an anxiety that he could be doing more for his clients. This award would have been an affirmation that he was truly making a difference. As it is, the difference he made is evidenced by the depth of feeling poured out by co-workers, judges, prosecutors and even clients who were privileged to work with him, and the many young attorneys he mentored and encouraged. To know Charles was to admire his dedication to his clients, to marvel at the depth and breadth of his knowledge, and to laugh, cringe, and then laugh some more at his unique wit.

Charles is not here to offer an encouraging word to young lawyers. But he would not mind leaving the task in the hands of Abraham Lincoln...*"It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion."*

AWARDS & RECOGNITION — CONTINUED

EXCELLENCE AWARD

Nike Franklin-McMurry is the Excellence Award Winner. Nike is the Administrative Assistant and the “heart and soul” of Area 52’s Appellate office. Nike joined MSPD in 2006 and has been with Area 52 since 2008. According to her colleagues in the office, “Nike goes above and beyond with everything. She treats our clients with respect and a welcoming attitude, she knows more about appellate/civil procedure than I do, and she catches our mistakes before we make them.” Congratulations Nike!



DAVID J. DIXON APPELLATE ADVOCACY AWARD



Kathryn (Kate) Merwald is this year’s recipient of The David J. Dixon Appellate Advocacy Award. Kate grew up in Lenexa, Kansas. She graduated from Saint Louis University with honors with a bachelor’s degree in English and a minor in political science. She then attended New York University School of Law. Immediately following law school, Kate worked as a felony trial public defender for the Knox County Public Defender’s Law Office in Knoxville, Tennessee. Kate next worked as a staff attorney for New Mexico Legal Aid in Santa Fe, eventually becoming the managing attorney for New Mexico Legal Aid’s Northern Offices and the Statewide Housing Law Unit. Kate joined the Missouri State Public Defender System in January 2020, and is a Senior Public Defender in Area 69, one of the appellate-postconviction offices in Kansas City.

Reflecting on what drives her to do this work, Kate said “I feel passionate about advocating for the humanity of my clients within our imperfect system, while discussing and arguing the law to support the rights and values that protect everyone.” The David J. Dixon Appellate Advocacy Award was created by The Missouri Bar Foundation to recognize outstanding achievement in appellate practice by young lawyer members of The Missouri Bar. The award is named after the late Judge Dixon, whose tenacity, professionalism and judicial skills epitomize outstanding appellate practice.

OFFICE OF THE YEAR

The Carthage Trial Office is the 2022 Office of the Year. Led by District Defender Darren Wallace and Deputy District Defender Kathie Byrnes, Area 29 is a rock of stability in southwest Missouri. Darren has been with MSPD for 28 years and Kathie for 24. Together they have led the defense for MSPD clients in the 29th Circuit and 40th Circuit. With seventeen attorneys and eight support staff the office handles between 2,000 and 3,000 cases a year. Last year they obtained dismissals in over forty percent of the cases they closed. Congratulations Area 29!



APPROPRIATIONS

General Revenue: Missouri State Public Defender (MSPD) funding is almost entirely from state general revenue funds. It comes in these 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.

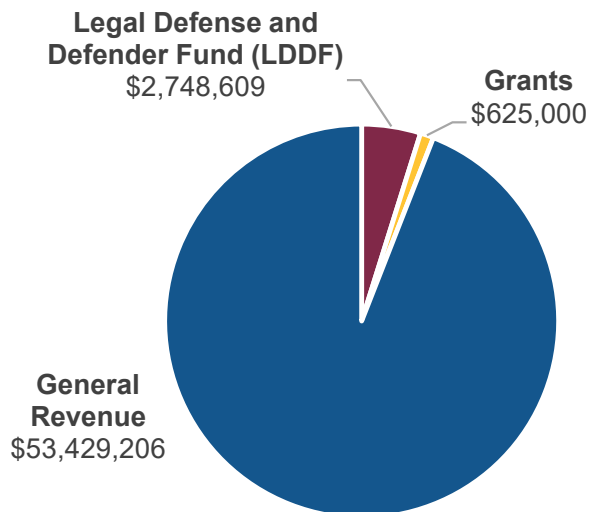
Litigation and Contracting Expenses: Used to pay the cost of contracting cases out to private counsel and litigation expenses on both MSPD cases and those cases contracted out to private counsel. Litigation expenses include the cost of experts, depositions, transcripts, exhibits, independent testing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

Legal Defense and Defender Fund (LDDF): This appropriation is not actual funds given to MSPD but the authorization to spend money collected by MSPD up to the ceiling of the appropriation. The collections associated with this fund are the result of Section 600.090 RSMo., which requires public defenders to collect fees from clients receiving public defender service. Fees 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 attorneys, etc. In Fiscal Year 2022, MSPD collected \$1.94 million through client payments.

The personal service component of the LDDF appropriation authorizes MSPD to pay the salaries of two employees in the system's training department out of the moneys collected rather than through the general revenue personal service appropriation.

Debt Offset Escrow Fund: This 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

Fiscal Year 2022 MSPD Funding



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 fees 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 \$625,000 in grants from the federal government or other sources.

Actual Funding: In FY22, MSPD received a total of \$53.43 million of general revenue funds and the authority to spend up to \$2.75 million of LDDF Collections. (Actual collections were \$2,748,609.00)

FURTHER READING

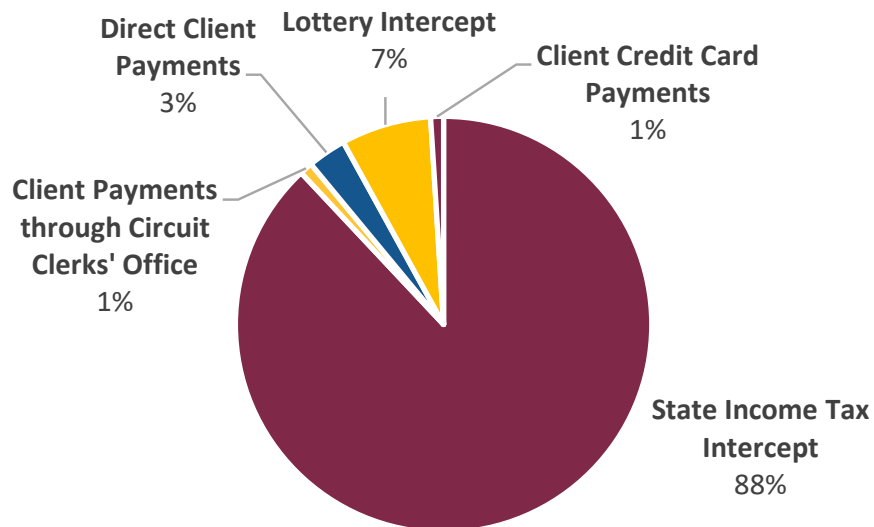
Missouri public defenders in 'much better place' after years of budget stress, director says

St. Louis Post-Dispatch

Link: tinyurl.com/much-better-place

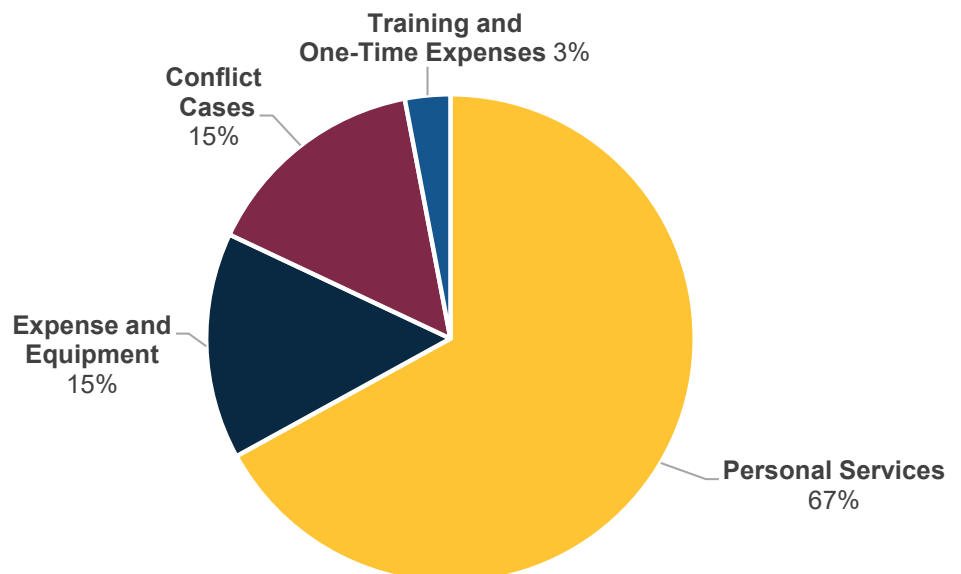
APPROPRIATIONS — CONTINUED

Fiscal Year 2022 MSPD Revenue Sources



MSPD is required by RSMo. 600.090 to collect fees from public defender clients for the indigent defense services provided to them. The fees are generally collected through two revenue streams. Approximately 88% of collections comes through State income tax refund intercepts by the Department of Revenue. The remainder is generally collected by courts who collect payments of the Public Defender fees along with court costs at the close of a case, intercepts from State lottery winnings, and payments directly from the client.

Fiscal Year 2022 MSPD Expenditures



This graph is a breakdown of MSPD FY 22 expenditures by expense category. MSPD's biggest expenditure is paying the salary of all employees, (Personal Services, 67%) followed by Expense and Equipment at 15%, Conflict Cases at 15%, and Training and One-Time Expenses at 3%.

APPROPRIATIONS — CONTINUED

HOUSE BILL NO 3012 [TRULY AGREED TO AND FINALLY PASSED]

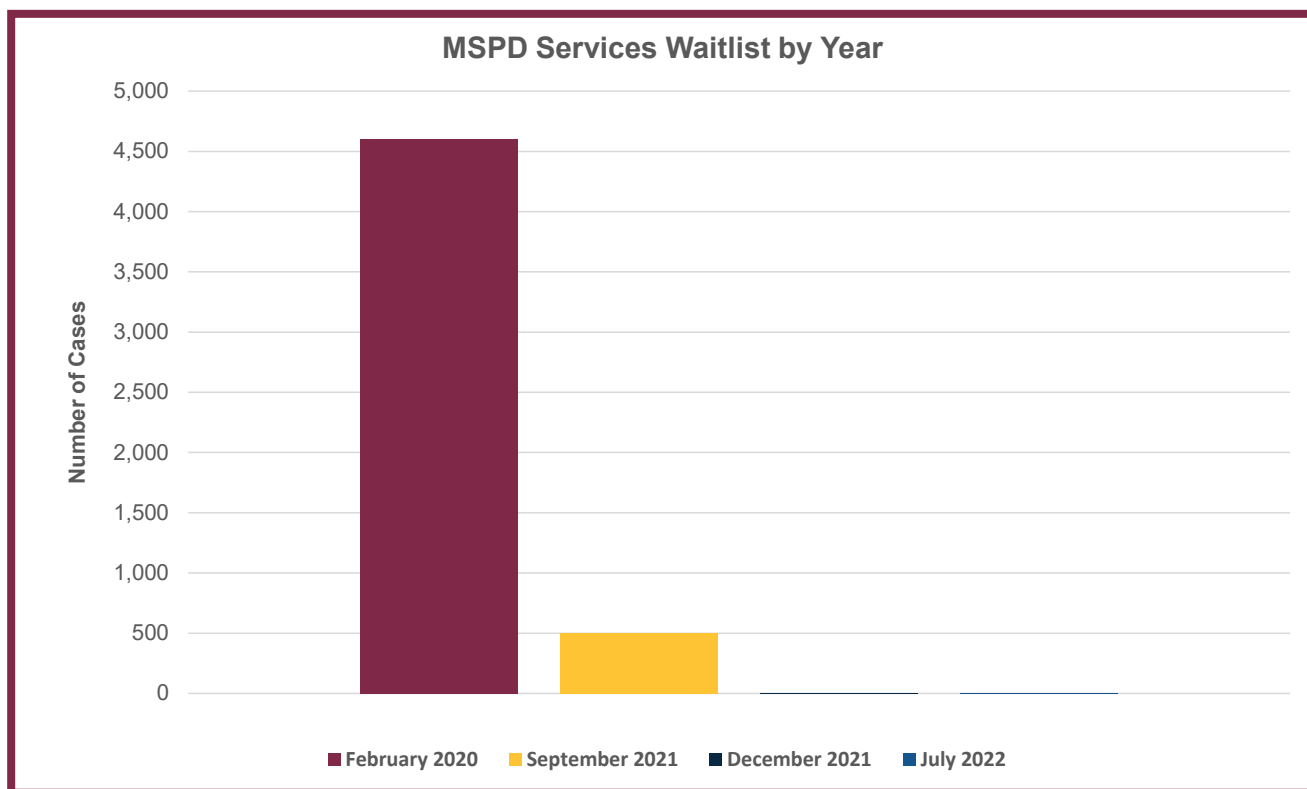
CCS FOR SCS FOR HCS FOR HB 12 101ST GENERAL ASSEMBLY SIGNED BY GOVERNOR – NO VETOES

2	Section 12.400. To the Office of the State Public Defender	
3	For funding the State Public Defender System	
3	Personal Service and/or Expense and Equipment.....	\$52,490,152
4	For payment of expenses as provided by Chapter 600, RSMo, associated	
5	with the defense of violent crimes and/or the contracting of	
6	criminal representation with entities outside of the Missouri	
7	Public Defender System.....	4,721,071
8	From General Revenue Fund (0101).....	57,21,223
9	For expenses authorized by the Public Defender Commission as	
10	provided by Section 600.090, RSMo	
11	Personal Service.....	151,670
12	Expense and Equipment.....	3,367,506
13	From Legal Defense and Defender Fund (0670).....	3,519,176
14	For refunds set-off against debts as required by Section 143.786, RSMo	
15	From Debt Offset Escrow Fund (0753).....	2,450,000
16	For all grants and contributions of funds from the federal government or	
17	from any other source which may be deposited in the State	
18	Treasury for the use of the Office of the State Public Defender	
19	From Office of State Public Defender—Federal Fund (0112).....	1,125,00
20	Total (Not to exceed 696.13 F.T.E.).....	\$64,305,399

DAVID V. MISSOURI ACLU WAITLIST LITIGATION

In February of 2020 the ACLU filed a class action lawsuit against Missouri State Public Defender and the State of Missouri alleging that the placement of qualified applicants for MSPD services on waitlists was unconstitutional. The lawsuit claimed that the waitlists, created in an effort to shield public defenders from violating their ethical duties by taking on too many cases, violated indigent defendants' right to counsel, due process and equal rights guaranteed to all criminal defendants. In February 2020, there were approximately 4,600 applicants' cases for public defender

services on waitlists awaiting the assignment of counsel. By September, 2021 that number was reduced to under 500 cases. With the legislative appropriation to hire fifty-three new attorneys for the MSPD Trial Division Offices, the waitlist was eliminated in December 2021 and as of the conclusion of the fiscal year remains eliminated. MSPD has requested that the lawsuit against MSPD and the State of Missouri be dismissed by the Court. A ruling on that request is pending.



FURTHER READING

ACLU of Missouri applauds the Missouri Legislature for effort to uphold constitutional obligation to fund the public defender system
ACLU Missouri
 Link: tinyurl.com/aclu-applauds

No more waiting list for Missouri public defender system services
Missourinet
 Link: tinyurl.com/no-more-waiting-list

PUBLIC SERVICE AND COMMUNITY TIES

LEBANON PUBLIC DEFENDER TO CAREER

Melissa Bradley served in the Navy for 15 years before going to law school and beginning a career serving as a public defender for Missouri State Public Defender (MSPD) in October of 2020. Bradley values and enjoys public service. She credits the Navy with the educational opportunity to get a law degree and works in the Lebanon office, which serves Camden, Laclede, and Morgan counties.

Working for MSPD as a public defender is Bradley's first job as an attorney. When asked about favorite parts of her role, she immediately mentioned liking the work itself. After that, she described how important connecting and collaborating with colleagues in her office has been.

"I have a lot of support here from peers, day or night," Bradley said. "Whenever there is an issue, I can call any one of them. It doesn't matter if it's on the clock or off the clock...We all work our cases; you don't just close up shop at 5:00 and you're done. It's never like that. But if I'm having some kind of issue, I can call any one of them, talk to them, meet up with them. It's always an open exchange of information and time amongst each other, which is nice. I don't think everybody has that, in a law office especially."

Although Bradley feels a strong sense of support in her office, she admits starting in October of 2020 was tough. At the time, her office was facing a high number of cases to be delegated amidst a shortage of personnel after attorneys transferred or retired, and there were backups in court due to COVID-19. Bradley recalls the struggle of not being able to communicate with colleagues in-person.

"One of the big reasons I came to Missouri State Public Defender was the ability to work with other lawyers, [and] learn from other lawyers," Bradley said. "So, not having somebody right there for a while due to COVID[-19] was stressful...The systems that are normally in place weren't there. It was a rough start. I knew right off the bat I loved it, but I wasn't sure I had enough in me to tackle it. But I've learned, and I'm doing fine."

The Lebanon office has additional attorneys now, and without the delays in court, Bradley says there is more time for

each individual case, more time with clients, and finds her caseload to be much more manageable. However, there are still client obstacles to work through. Bradley talked about the challenges of serving people in poverty and the particular hardships indigent clients face.

"You have to be able to recognize when your client needs some extra help," Bradley explained. "In a way, their thinking is [about] what they need to live more than how to get through their legal case. Where am I going to sleep tonight? Am I going to be able to not do drugs tonight?

Where am I going to eat? There is a storm coming—and it's cold. We need to be able to recognize these things, and recognize that these are people who sometimes need more than legal help. Not everybody agrees with that mentality, but I do feel like [an ability to meet basic needs] impacts their case, the way they handle their case, and the way they want to proceed through the legal system."

Bradley sees the benefit of supporting clients through a holistic approach. She encourages other attorneys to become involved in the community they serve and know local resources, like inpatient and outpatient facilities. She's found the support staff in her office to be helpful in connecting her to local resources and finds she is forming her own community relationships after two years in

Lebanon.

Bradley also continues to build relationships with the people she works with. She notes the camaraderie among attorneys in the Lebanon office, and talked about the activities outside of work they've experienced together: game nights, barbeques, painting at a local studio, and recently, trivia.

"Everybody here, for lack of a better word, is unique," Bradley said. "Everyone has their own views, and everyone is completely different. But we do enjoy each other's differences very much...Lately, we've been going to trivia night at the local coffee shop. Most of the time, there are two public defender teams and most of the time, we take first and second [place]. Every public defender is absolutely fine losing to anyone else in the room, except the other public defenders."



Photo of Melissa Bradley by Matt Palmer

DIVERSITY, EQUITY AND INCLUSION

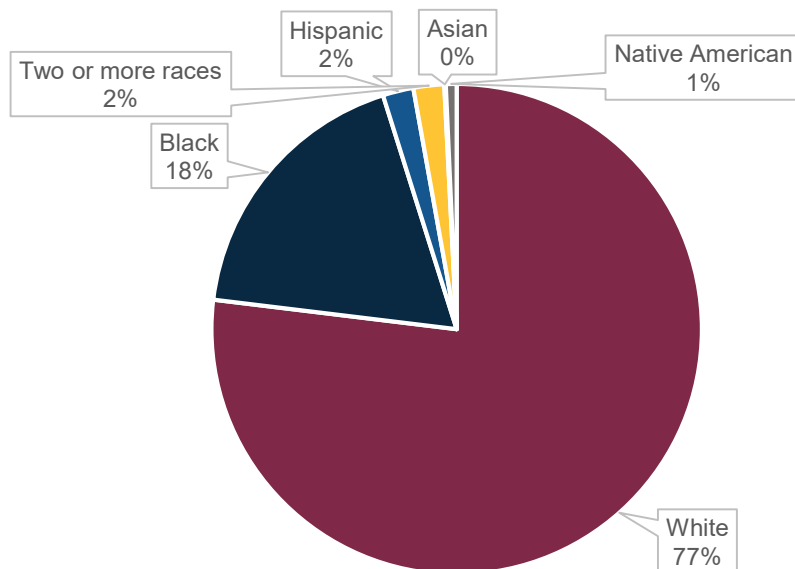
Missouri State Public Defender values diversity, equity and inclusion. Our DEI Committee, DEI Director and five employee resource groups support our employees in the system and strengthen our client outcomes. Employee resource groups (ERGs) are started and developed by employees and sponsored by a member of senior leadership. Currently, our resource groups are BIPOC (Black, Indigenous and people of color) Defenders, Women in Law and Leadership, Neurodiverse Defenders, LGBTQ+ (Lesbian, Gay, Bisexual, Transgender and Queer plus) Defenders, and Parent and Caregiver Defenders. Groups meet periodically throughout the year to build community and camaraderie across the state.

In May of 2022, MSPD hosted its First Annual Employee Resource Group Summit (ERG Summit) in Columbia, Missouri where each employee resource group developed

a mission statement and began planning for next year. Employee Resource Groups (ERGs) enjoyed fellowship and work on issues affecting each ERG community and reported out to our Directors. Additionally, during the ERG Summit, participants met with Chief Judge Wilson at the Missouri Supreme Court and toured the law library that holds the original Dred Scott pleadings.

During the summer of 2022, we hosted a Social Justice Vista for eight weeks through AmeriCorps, who worked on developing racial equity research in the areas of traffic stops and jail populations. Findings from this work revealed several disparities throughout the state regarding jails and traffic stops. Additionally, we have used the data we have collected from our representation of clients in the criminal legal system to show disparities in correlation with the reported census population.

FY 22 MSPD Initiated Caseload Percentage by Race

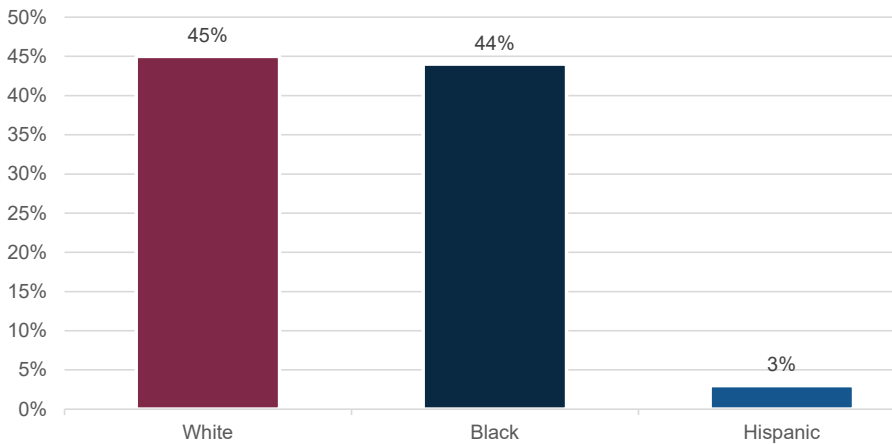


The Missouri Public Defender System caseload data by race collected for FY 22 gives an overall picture of the racial diversity of the clients we serve. The data shows that 18% of our caseload is comprised of Black people and 77% of our caseload is comprised of white people. U.S. Census 2020 data shows us that the white population in Missouri is 82.6% and the Black population is 11.8%. Our case numbers reflect the disparity in the amount of cases versus the population percentage by race. The typical Missouri public defender client is likely to be a poor white person, although poor Black clients are overrepresented compared to their percentage of the population due to several factors including implicit and explicit bias.

DIVERSITY, EQUITY AND INCLUSION — CONTINUED

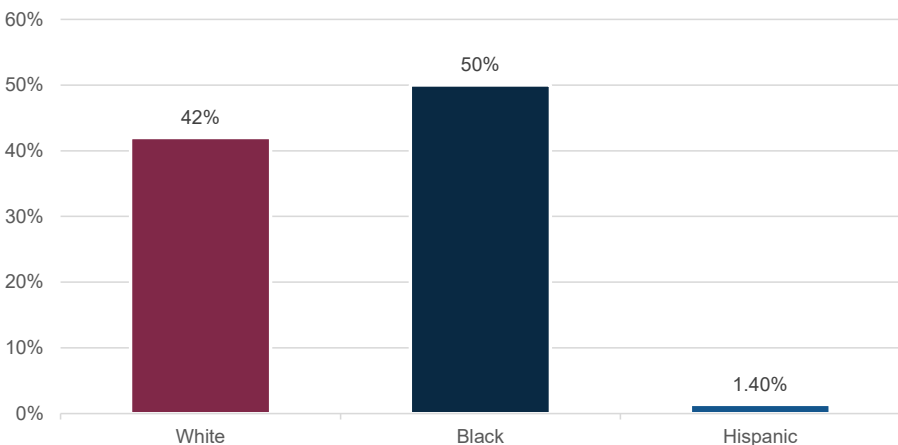
The data is significantly more disparate in different counties throughout Missouri reflected in the following graphs. Reported is the racial composition of Jackson County, Lafayette County, St. Louis County, Greene County as well as Boone County and Cooper Counties for white, Black and Hispanic clients we initiated cases for. Please note: Although we track further racial group data, we chose to show the three largest racial groups we represent in the following graphs for the purpose of this report. The following four graphs are based on MSPD client self-identification. Not all MSPD clients self-identify their race.

FY 22 Initiated Caseload by Race:
Area 16 Jackson County and Lafayette County



As reflected in the graph to the left for Area 16 that represents Jackson County and Lafayette Counties, 44% of our cases opened during FY 22 were for Black people and 45% were for white people, when the 2020 U.S. Census data reports that the white population is 70.1% , the Black population is 23.4% and the Hispanic population is 9.7% for Jackson County, respectively. The white population for Lafayette County is 93.3% and the Black population is 2.2%, and the Hispanic population is 3.5%.

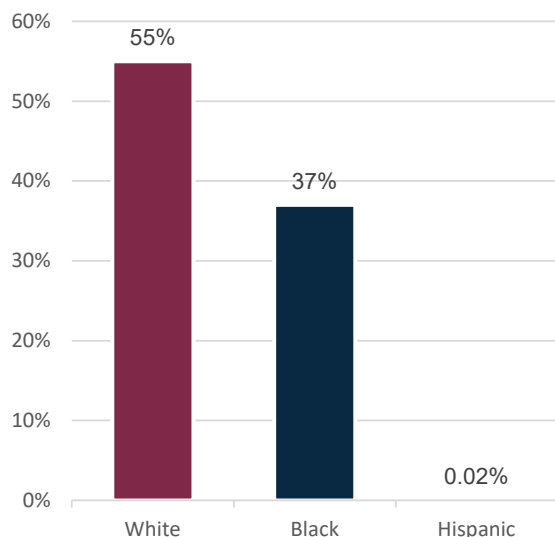
FY 22 Initiated Caseload by Race:
Area 21 St. Louis County



As reflected to the right, in St. Louis County, 50% of people we opened cases for were for Black people, and 42% were for white people when the 2020 U.S. Census data reports that the white population for St. Louis County is 67.4% , the Black population is 25.1% and the Hispanic population is 3.1%.

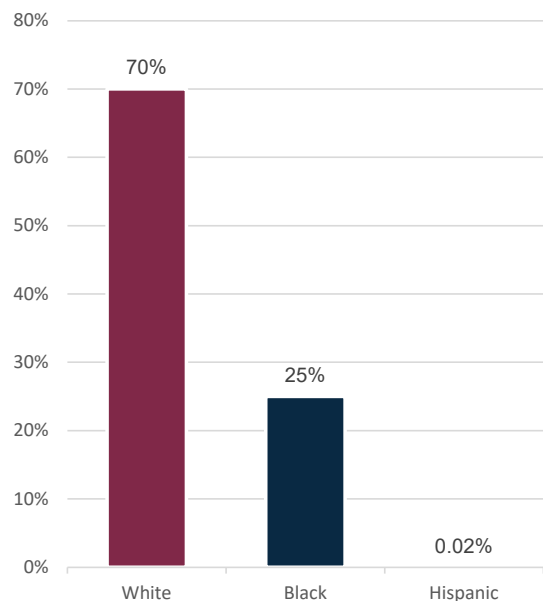
DIVERSITY, EQUITY AND INCLUSION — CONTINUED

**FY 22 Initiated Caseload by Race:
Area 13 Boone and Cooper Counties**



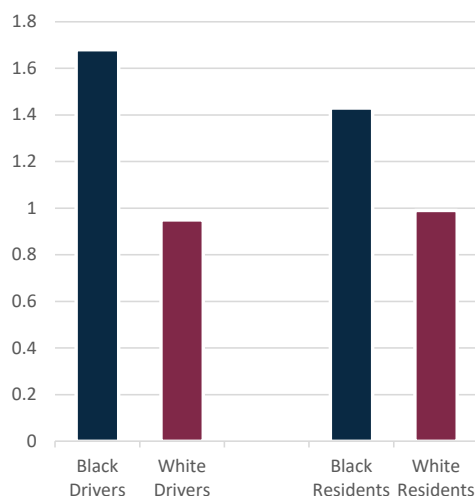
U.S. Census data reports that the white population for Boone County is 81%, the Black population is 10% and the Hispanic population is 3.7%. U.S. Census data reports that the white population for Cooper County is 89.9%, the Black population is 6.1% and the Hispanic population is 4.2%.

**FY 22 Initiated Caseload by Race:
Greene County**



In the graph to the right, out of all cases MSPD opened in Greene County, 25% of them were for Black people despite the 2020 U.S. Census data reports that the Black population in Greene County is 3.5%. Further, the white population for Greene County is 90.1% and only 70% of cases opened in Greene County were for white people.

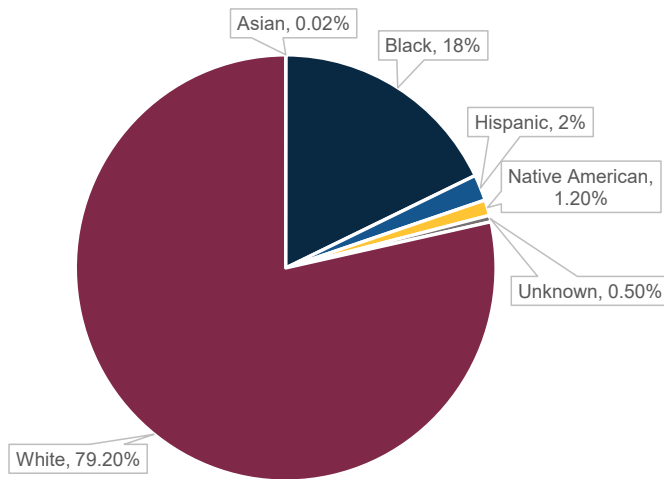
Attorney General Report Disparity Index



The Missouri Attorney General's Office releases an annual [traffic stops report](#) and the disparities reflected in that report are shown in the chart to the left. According to the report, Black drivers have a disparity index of 1.68 which means Black drivers are 68% more likely to be stopped by law enforcement than other drivers in Missouri. The Attorney General's Office added an additional category to distinguish Missouri drivers who are stopped and reside within their local Missouri community versus those who are not residents of the local community. That distinction does provide more clarity but indicates that Black residents of their local community are still 43% more likely to be stopped than other residents.

DIVERSITY, EQUITY AND INCLUSION — CONTINUED

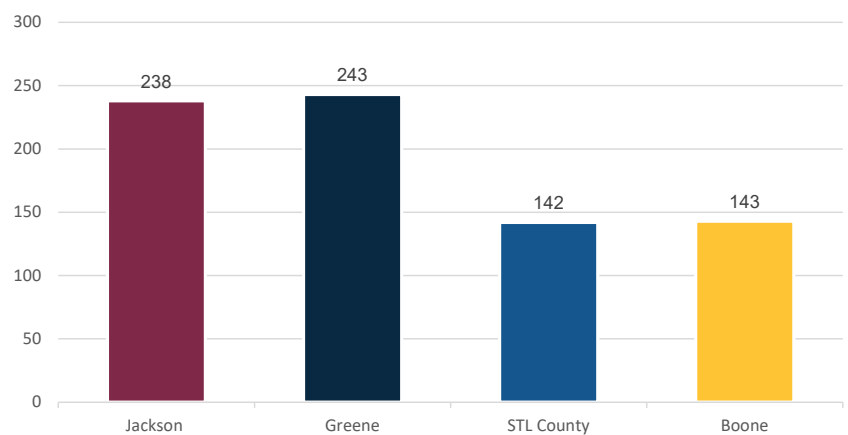
**FY 21 Missouri Department of Corrections
Admissions by Race**



The Missouri Department of Corrections publishes an annual report that produces data reflecting what the racial make up of Missouri prisons is and what counties are sending the most people to prison annually. The data from the Offender Profile Report FY2021 is reported in the chart to the left and below.

The data among these state agencies reflects what is occurring in our courts and communities and its impact on diversity, equity and inclusion within the criminal legal system. The public defender uses data to help ensure our clients receive zealous investigations and presentations of their defenses, as well as effective mitigation for sentencing which includes raising bias and socioeconomic inequities that impact our clients' lives.

FY 21 Top Four Counties for DOC Admissions



“Not everything that is faced can be changed, but nothing can be changed until it is faced.”

James Baldwin, acclaimed and influential American novelist, playwright, poet, and civil rights activist during the twentieth century

RECRUITMENT

This fiscal year, Missouri State Public Defender (MSPD) launched the Missouri Justice Fellowship Program, with our first Fellowship class beginning in August. This opportunity is a two-year criminal defense fellowship opportunity with an emphasis on social justice and making a meaningful impact on criminal justice in Missouri.

The August 2022 Fellowship class will receive two weeks of hands-on, intensive trial training with ongoing training and CLE (continuing legal education) opportunities throughout the fellowship. Fellows will learn all aspects of litigation, from arraignment through disposition, whether that be plea or trial.

Fellows will be placed in underserved communities throughout Missouri to bring about change, making the criminal justice system more fair for everyone. During their two-year term, Fellows will manage their own caseload, gain hands-on trial experience, and have additional training and networking opportunities throughout Missouri.

In addition to the Missouri Justice Fellowship Program, MSPD continues to recruit and hire attorneys for our early hire program. This program is ideal for candidates who are ready to pursue a career in public defense work, and newly hired attorneys and bar candidates are placed in offices throughout the state.

About working for MSPD so far, a recent early hire public defender out of the Clayton office said, ***“Two weeks was all it took for me to realize that I made the best choice when I decided to join MSPD. The whole office works as a team and the more experienced attorneys are always available to answer my questions. This kind of support is necessary for new attorneys to be able to successfully navigate our imperfect criminal justice system.”***

MSPD has expanded recruitment efforts nationally this fiscal year. Our organization continues to conduct on-campus interviews with regional law schools, as well as participate in various job fairs and panels. In addition, MSPD also began resume collection and networking with a number of law schools beyond the Midwest. We are continuing to seek opportunities to expand our reach and recruit exceptional talent to join our mission of zealous representation for the clients we serve.

In efforts to increase hiring and diversity initiatives, MSPD connected with these out-of-state law schools for resume collection, interviewing, and networking opportunities:

CITY UNIVERSITY OF NEW YORK
COLUMBIA UNIVERSITY
CORNELL UNIVERSITY
CREIGHTON UNIVERSITY
DRAKE UNIVERSITY
FLORIDA A&M UNIVERSITY*
GEORGE WASHINGTON UNIVERSITY
GEORGETOWN UNIVERSITY
HARVARD UNIVERSITY
HOWARD UNIVERSITY*
MISSISSIPPI COLLEGE
NEW YORK UNIVERSITY
NORTH CAROLINA CENTRAL UNIVERSITY*
NORTHEASTERN UNIVERSITY
OKLAHOMA CITY UNIVERSITY
PEPPERDINE UNIVERSITY
SOUTHERN UNIVERSITY*
TEXAS SOUTHERN UNIVERSITY*
TULANE UNIVERSITY
TULSA UNIVERSITY
UNIVERSITY OF ALABAMA
UNIVERSITY OF ARKANSAS – FAYETTEVILLE
UNIVERSITY OF ARKANSAS – LITTLE ROCK
UNIVERSITY OF CHICAGO
UNIVERSITY OF DISTRICT OF COLUMBIA*
UNIVERSITY OF IOWA
UNIVERSITY OF KANSAS
UNIVERSITY OF KENTUCKY
UNIVERSITY OF MEMPHIS
UNIVERSITY OF MISSISSIPPI
UNIVERSITY OF NEBRASKA
UNIVERSITY OF NORTH CAROLINA
UNIVERSITY OF OKLAHOMA
UNIVERSITY OF TENNESSEE
VANDERBILT UNIVERSITY
WASHBURN UNIVERSITY
YALE UNIVERSITY

* HISTORICALLY BLACK COLLEGE AND UNIVERSITY (HBCU)

FURTHER READING

Messenger: New fellowship could ease public defender shortage in rural Missouri

St. Louis Post-Dispatch

Link: tinyurl.com/new-fellowship

Missouri public defenders set to hire 53 attorneys with extra funds in state budget

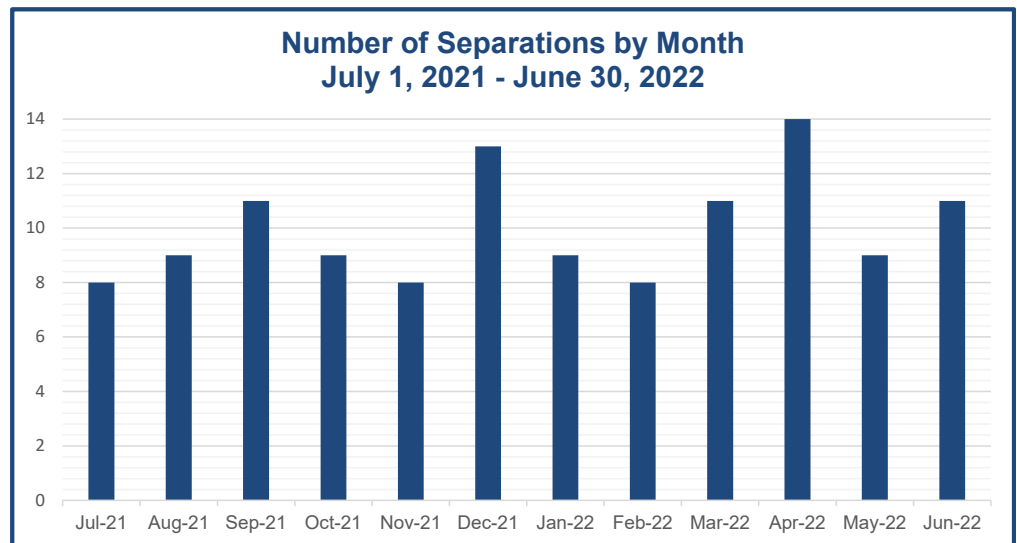
Missouri Independent

Link: tinyurl.com/hire-53-attorneys

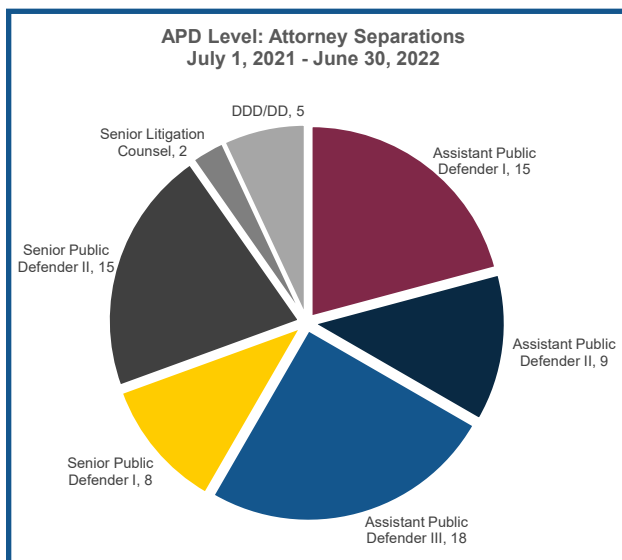
RETENTION

MSPD has actively increased recruitment efforts this year but the Great Resignation following the pandemic has impacted staff retention. Overall MSPD experienced 20% turnover during fiscal year 2022.

Month	# All Staff Separations
Jul-21	8
Aug-21	9
Sep-21	11
Oct-2021	9
Nov-21	8
Dec-21	13
Jan-22	9
Feb-22	8
Mar-22	11
Apr-22	14
May-22	9
Jun-22	11
FY Total	120



Attorney retention is vital to ensure continuity in service to MSPD clients and reduce the backlog of cases through the court system. For Fiscal Year 2022, 33% of attorney turnover was from attorneys with less than 3 years experience. The turnover costs associated with replacing attorneys is significant when factoring in the training expenses and productivity loss to local offices.



APD Level	Total # Employed	# of Atty Separations	% of Atty Separations
Assistant Public Defender I	55	15	27.7%
Assistant Public Defender II	84	9	10.71%
Assistant Public Defender III	55	18	32.73%
Senior Public Defender I	46	8	17.39%
Senior Public Defender II	72	15	20.83%
Senior Litigation Counsel	12	2	16.67%
Deputy District Defender (DDD)/ District Defender (DD)	62	5	8.06%
Totals	386	72	18.65%

FUNDING PROJECTS THROUGH GRANTS

MSPD is pursuing outside funding sources to assist with addressing the needs of Public Defender clients and creating a holistic defense approach to achieve the best possible outcomes for our clients. Significant evidence has shown that holistic approaches contribute to better client outcomes, reduced recidivism, and improved public safety.

In a [2018 study of the Bronx Defender's holistic defense model](#), it was found that those with holistic lawyers were less likely to be detained pretrial, less likely to receive custodial sentences, and more likely to receive shorter sentences than defendants with traditional representation. Clients had a greater likelihood of being granted release on recognizance and were less likely to be detained pretrial. The study found that holistic representation reduces the likelihood of a prison sentence by 16% and the expected sentence length by 24%. These efforts also have been repeatedly [shown to increase client satisfaction with representation in the Bronx](#). In 10 years of study, holistic representation in the Bronx reduced custodial sentences by nearly 1.1 million days, saving an estimated \$165 million on inmate housing costs alone.

Similar results have been found in a [2020 analysis of the Santa Barbara County, California Public Defense office's holistic practice](#). There, clients with holistic representation were 15.3% more likely to have charges dismissed and 15.7% less likely to plead guilty to original charges than those with traditional representation. Over 18 months in Santa Barbara county, holistic defense clients were sentenced to approximately 1,500 fewer days of incarceration

than their traditional defense counterparts, saving approximately \$250,000 in incarceration costs.

MSPD has conferred with both organizations and hopes to replicate these results in Missouri, with the support of multiple outside funding opportunities and partnerships.



MSPD CONCLUDES ITS FIRST YEAR AS AN AMERICORPS GRANT RECIPIENT

An AmeriCorps VISTA grant created the opportunity for MSPD to analyze and evaluate its applicant intake and eligibility process. Two AmeriCorps VISTA members working closely with MSPD's Client Intake & Eligibility Coordinator, identified general intake/indigency determination issues and methods of improvement and successfully lead the

development, implementation & training for employees whose responsibilities include indigence determinations. The first year of the AmeriCorps VISTA grant concluded in January 2022. An internal audit of the program's success carried out Nov. 2021 revealed that 28 of 33 trial offices improved the overall accuracy of eligibility determinations and reported increased compliance with Chapter 600.042 and Title 18 CSR 10-3.010 (Guidelines for the Determination of Indigence). The majority of those determining indigence reported greater confidence in the accuracy and reliability of eligibility determinations they made, showcasing the effects of improved resource development and training regarding eligibility determinations. Additionally, the comprehensive research of AmeriCorps VISTA members into the cost of private counsel in Missouri, the eligibility guidelines of Missouri public benefits, and the eligibility guidelines of outside public defender organizations helped to inform and

FUNDING THROUGH GRANTS — CONTINUED

develop new guidelines of determining indigence – ultimately streamlining client intake procedures with little to no expected impact on the composition of MSPD's client base.

The AmeriCorps VISTA grant has been renewed and expanded for a second year, in which MSPD has repurposed the grant to contribute to holistic efforts. MSPD Resource Development VISTAs will focus on developing the foundation for a statewide holistic effort by identifying and creating resources to facilitate the connection of MSPD clients to services in their local communities that will help address the underlying factors that contribute to involvement with the criminal legal system.

AmeriCorps VISTA is a national service program designed to alleviate poverty. VISTA members perform indirect service, which means they help build capacity of organizations to deliver valuable direct services. Program sponsors must be able to direct the project, supervise the AmeriCorps VISTA members, and provide the necessary administrative support to complete the goals and objectives of the project.

MSPD RECEIVES AMERICORPS SUMMER ASSOCIATE

MSPD was awarded an AmeriCorps VISTA Summer Associate as part of the ongoing AmeriCorps VISTA grant. The Summer Associate worked with MSPD's Diversity & Inclusion Director to gain an understanding of the effects of racially biased pretextual stops and develop a campaign to bring further awareness and propose alternatives to pretextual stops. The AmeriCorps VISTA Summer Associate program offers individuals the

opportunity to serve in an existing VISTA project for eight, nine, or ten weeks during the summer.

MSPD AWARDED AMERICORPS MISSOURI GRANT IN JUNE 2022

MSPD was awarded an AmeriCorps Missouri grant to place five full-time AmeriCorps members in each of five MSPD trial offices, serving 17 predominately rural Missouri counties, located in St. Joseph, Fulton, Farmington, Lebanon, and West Plains. AmeriCorps members will work as Holistic Advocates to directly assist clients in addressing their extralegal needs. They will establish connections with community partners, work with attorneys to evaluate the needs of clients, and work directly with clients to facilitate their progression with community programs and ensure needs are effectively being addressed.



AmeriCorps State/National Grants engage AmeriCorps members in providing direct service to address unmet community needs. Members also help to recruit community volunteers to expand the reach and effectiveness of the organization they serve. The program is funded in part by the Missouri Community Service Commission and AmeriCorps.

MISSOURI FOUNDATION FOR HEALTH

MSPD has been invited to submit a full grant proposal to Missouri Foundation for Health. Monies awarded will be used to support MSPD's

Holistic Defense Services Program.



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