

# **LSC Greenbook**

**Analysis of the Enacted Budget**

**Ohio Public Defender Commission**

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## **ATTACHMENT:**

Budget Spreadsheet By Line Item

# Ohio Public Defender Commission

- Shifting to more non-GRF funding sources
- County reimbursement rate expected to be about 35%
- Civil Legal Aid revenues decline

## OVERVIEW

### Duties and Responsibilities

The Ohio Public Defender Commission, which was created effective January 13, 1976, pursuant to Am. Sub. H.B. 164 of the 111th General Assembly, provides, supervises, and coordinates legal representation for persons who cannot afford to hire an attorney to represent that person in criminal court. Arguably, from a fiscal perspective, the Commission's most significant role is as administrator of the subsidy program that partially reimburses counties for indigent defense expenditures related to the operation of local public defender offices or the use of appointed counsel.

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

### Appropriation Overview

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

Table 1. Agency Appropriations by Fund Group, FY 2010-FY 2011					
Fund Group	FY 2009*	FY 2010	% change, FY 2009-FY 2010	FY 2011	% change, FY 2010-FY 2011
General Revenue	\$33,603,069	\$20,794,297	-38.1%	\$16,770,040	-19.4%
General Services	\$1,470,657	\$1,539,726	4.7%	\$1,579,264	2.6%
Federal Special Revenue	\$326,580	\$202,347	-38.0%	\$212,303	4.92%
State Special Revenue	\$29,791,320	\$68,829,449	131.0%	\$79,309,677	15.2%
<b>TOTALS</b>	<b>\$65,191,626</b>	<b>\$91,365,819</b>	<b>40.2%</b>	<b>\$97,871,284</b>	<b>7.1%</b>

\*Actual expenditures in FY 2009.

To support the Commission's services and activities, the budget provides FY 2010 appropriations in the amount of \$91.4 million, which is an increase of \$26.2 million, or 40.2%, from the total FY 2009 expenditures of \$65.2 million. The

FY 2011 appropriation totals \$97.9 million, or 7.1%, above the FY 2010 appropriation. The notable storyline here is the intention to accelerate moving financial support for the Commission's operations and county indigent defense reimbursement program away from the GRF and toward non-GRF resources, in particular moneys appropriated from accounts in the State Special Services Fund Group

### **County Indigent Defense Services Delivery Systems**

In meeting the right to counsel obligations in criminal matters, each county has the option of:

- Establishing a county public defender system.
- Establishing a joint county public defender system.
- Adopting a schedule to pay private appointed counsel.
- Contracting with the state public defender.
- Contracting with a nonprofit corporation.

The board of county commissioners in each county determines the method of providing indigent defense services. Currently, each of the state's 88 counties primarily uses one of four methods as follows: court-appointed counsel (40 counties), county public defenders (28 counties), contract with the state's Office of the Ohio Public Defender (11 counties), or contract with nonprofit corporations (9 counties).

### **Transition to Non-GRF Revenue Sources**

The single major initiative for the Ohio Public Defender Commission in the FY 2010-FY 2011 biennial budget is to begin the process of transitioning away from reliance on GRF moneys and toward non-GRF generated revenue streams.

Over the previous two biennial budgets, the Commission's reliance on GRF funding to pay for indigent defense legal services was quite clear, and stood at about 89% of its annual criminal legal services budget. The Commission has also faced, in recent years, several rounds of reductions in their GRF funding for indigent defense services. Several years ago, the Commission began to seek various non-GRF sources of funding as a way of replacing reductions in its GRF appropriations. Accordingly, the budget cuts key GRF line items used by the Commission, cuts that are predicated on significant offsetting increases in non-GRF funding.

### **New Revenue Enhancement Mechanisms**

The budget for the FY 2010-FY 2011 biennium creates several new non-GRF revenue-generating mechanisms to be used by the Public Defender Commission to offset a reduction in GRF appropriations, and, to the extent possible, improve the process of reimbursing counties for the provision of indigent defense services. These

additional revenues are to be deposited in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0).

The mechanisms to generate these additional non-GRF revenues:

- Increase, to \$30 for a felony offense and \$20 for a misdemeanor offense other than a traffic offense that is not a moving violation, the additional court cost traditionally used for public defender support;
- Impose a \$10 additional court cost for a traffic offense that is neither a moving violation nor a parking violation;
- Increase the general driver license reinstatement fee (from \$30 to \$40);
- Increase the reinstatement fee for a financial responsibility violation from \$75 to \$100 for a first violation, from \$250 to \$300 for a second violation, and from \$500 to \$600 for a third violation;
- Increase, from \$15 to \$25, the reinstatement fee for a person who commits a specified traffic offense, motor vehicle equipment offense, or motor vehicle crime that is a misdemeanor, other than a minor misdemeanor, and whose license is forfeited for failing to appear in court to answer the charge or pay the fine; and
- Establish a surcharge of \$25 to be paid when a person posts bail and retained for deposit in the state treasury if the person is convicted, pleads guilty, or forfeits bail.

Relative to the moneys deposited in the state treasury to the credit of Fund 5DY0 and their statutorily mandated purpose, the budget:

- Requires the amounts of the fee, court cost, and surcharge increases described in the immediately preceding dot points be deposited in the state treasury to the credit of Fund 5DY0;
- Requires the Office of the Ohio Public Defender to disburse at least 90% of the money in the fund not less than once per year to reimburse counties for the costs of public defender systems; and
- Authorizes the Office of the Ohio Public Defender to use up to 10% of the money in the fund to support the operations of the Office.

Table 2 below provides a breakdown of the estimated non-GRF revenues to be generated both pursuant to current law and the recently enacted fee, court cost, and surcharge increases.

<b>Table 2. Indigent Defense Support Fund Revenue Estimates, FYs 2010-2011</b>					
Non-GRF Revenue Source	Annual Revenue Estimate	FY 2010*		FY 2011*	
		State Share	County Share	State Share	County Share
Mandatory OVI Fine	\$5,000,000	\$300,000	\$2,700,000	\$400,000	\$3,600,000
Moving Violation Court Cost	\$3,700,000	\$222,000	\$1,998,000	\$296,000	\$2,664,000
State Court Costs	\$36,900,000	\$2,214,000	\$19,926,000	\$2,952,000	\$26,568,000
Financial Responsibility Reinstatement Fee	\$4,500,000	\$270,000	\$2,430,000	\$360,000	\$3,240,000
General Driver's License Reinstatement Fee	\$850,000	\$51,000	\$459,000	\$68,000	\$612,000
License Reinstatement Fee (Class F Suspension)	\$500,000	\$30,000	\$270,000	\$40,000	\$360,000
Bail Surcharge	No estimate	No estimate	No estimate	No estimate	No estimate
<b>TOTALS</b>	<b>\$51,450,000</b>	<b>\$3,087,000</b>	<b>\$27,783,000</b>	<b>\$4,116,000</b>	<b>\$37,044,000</b>

\*Revenue estimates for FYs 2010 and 2011 are based on the assumption of a collection rate of 60% and 80%, respectively.

## Staffing Levels

Table 3 below summarizes the number of staff that the Commission paid, or will pay, on the last pay period of FYs 2004 through 2011. Two facets of this data can be highlighted. First, the Commission has reduced its number of staff in order to cut expenditures and stay within available appropriations. Second, it appears that the budget will permit the Commission to more or less maintain its FY 2009 staffing level.

<b>Table 3. Commission Staffing Levels,* FYs 2004-2011</b>								
Activity	2004	2005	2006	2007	2008	2009	2010**	2011**
State Legal Defense	74.5	71.5	71.5	77.0	74.5	70.0	69.5	69.5
County Indigent Defense	27.5	27.5	27.5	29.0	28.0	28.0	28.0	28.0
Program Management	22.0	22.0	22.0	20.5	23.5	21.5	20.5	20.5
<b>TOTALS</b>	<b>124.0</b>	<b>121.0</b>	<b>121.0</b>	<b>126.5</b>	<b>126.0</b>	<b>119.5</b>	<b>118.0</b>	<b>118.0</b>

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

\*\*FYs 2010 and 2011 are estimates.

## ANALYSIS OF ENACTED BUDGET

### Introduction

This section provides an analysis of the funding provided by the budget for each appropriated line item in the Ohio Public Defender Commission's FY 2010-FY 2011 biennial budget. In this analysis, the Commission's line items are grouped into four major categories reflecting the focus of its services and activities. For each category, a table is provided listing the appropriation in each fiscal year of the biennium. Following the table, a narrative describes how the appropriation is used and any changes affecting the appropriation that are also enacted in the budget. The four categories used in this analysis are as follows:

1. State Legal Defense Services;
2. County-Level Indigent Defense;
3. Ohio Legal Assistance Foundation; and
4. Program Management.

To aid the reader in finding each line item in the analysis, the following Table 4 shows the category in which it has been placed, listing the line items generally in order within their respective fund groups and funds. This is the same order the line items appear in the budget bill.

<b>Table 4. Categorization of the Commission's Appropriation Line Items for Analysis of Enacted Budget</b>		
<b>Fund</b>	<b>ALI and Name</b>	<b>Category</b>
<b>General Revenue Fund Group</b>		
GRF 019321	Public Defender Administration	4: Program Management
GRF 019401	State Legal Defense Services	1: State Legal Defense Services
GRF 019403	Multi-County: State Share	2: County-Level Indigent Defense
GRF 019404	Trumbull County – State Share	2: County-Level Indigent Defense
GRF 019405	Training Account	2: County-Level Indigent Defense
GRF 019501	County Reimbursement	2: County-Level Indigent Defense
<b>General Services Fund Group</b>		
1010 019602	Inmate Legal Assistance	1: State Legal Defense Services
4070 109604	County Representation	1: State Legal Defense Services
4080 019605	Client Payments	4: Program Management
5CX0 019617	Civil Case Filing Fee	4: Program Management
<b>Federal Special Revenue Fund Group</b>		
3S80 019608	Federal Representation	1: State Legal Defense Services
<b>State Special Revenue Fund Group</b>		
4C70 019601	Multi-County: County Share	2: County-Level Indigent Defense
4X70 019610	Trumbull County – County Share	2: County-Level Indigent Defense
574 019606	Civil Legal Aid	3: Ohio Legal Assistance Foundation
5DY0 019618	Indigent Defense Support – County Share	2: County-Level Indigent Defense
5DY0 019619	Indigent Defense Support – State Share	4: Program Management



## Category 1: State Legal Defense Services

This category of appropriations encapsulates the line items that the Commission uses to pay for the provision of legal representation to indigent adults, juveniles, and incarcerated individuals in all courts when the U.S. Constitution requires representation, or when it is requested by the court, the county or joint county public defender, or an inmate. Most legal matters in which the state provides direct representation involve appeals or death penalty cases. Indigent defense for most other cases is provided by local public defenders.

The FY 2010 and FY 2011 GRF appropriations for the State Legal Defense Services category are 23.2% and 39.1% less, respectively, than actual FY 2009 GRF expenditures of \$5,696,513. This funding reduction is part of a larger transition that moves the coverage of certain Commission operating expenses away from the GRF and toward a greater reliance on non-GRF revenue sources. This loss in GRF appropriations is essentially replaced by revenues deposited in the non-GRF Indigent Defense Support Fund (Fund 5DY0) and appropriated to line item 019619, Indigent Defense Support – State Share, which was created to support operations of the Commission. The moneys appropriated from Fund 5DY0 should be sufficient to maintain the FY 2009 level of State Legal Defense Services.

Table 5 below shows the line items that are used to fund this category of services and activities, as well as the enacted funding levels. It is followed by a narrative describing the specific types of services and activities grouped under the State Legal Defense Services category, and then a discussion of the purpose of each appropriated line item and how the FY 2010 and FY 2011 appropriations will be allocated.

<b>Table 5. Appropriations for State Legal Defense Services</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2010</b>	<b>FY 2011</b>
<b>General Revenue Fund (GRF)</b>				
GRF	019401	State Legal Defense Services	\$4,377,500	\$3,471,400
<b>General Revenue Fund Subtotal</b>			<b>\$4,377,500</b>	<b>\$3,471,400</b>
<b>General Services Fund (GSF) Group</b>				
1010	019602	Inmate Legal Assistance	\$0	\$0
4070	019604	County Representation	\$196,650	\$207,143
<b>General Services Fund Group Subtotal</b>			<b>\$196,650</b>	<b>\$207,143</b>
<b>Federal Special Revenue Fund (FED) Group</b>				
3S80	019608	Federal Representation	\$202,347	\$212,303
<b>Federal Special Revenue Fund Group Subtotal</b>			<b>\$202,347</b>	<b>\$212,303</b>
<b>Total Funding: State Legal Defense Services</b>			<b>\$4,776,497</b>	<b>\$3,890,846</b>

The specific types of services and activities grouped under the State Legal Defense Services category are described in more detail below.

- ***Appeals and Postconviction Representation.*** This is a program with the purpose of providing legal representation in state and federal courts to indigent persons who have been tried, found guilty, and claim they are unlawfully incarcerated. Claims of unlawful incarceration of indigent persons are reviewed to determine whether their claims have arguable merit. If arguable merit is present, attorney staff may litigate the claim in the appropriate court.
- ***Death Penalty Representation.*** This is a program with the purpose of providing competent legal counsel to indigent persons under the sentence of death (Ohio's death row inmates on direct appeal, state postconviction, federal habeas corpus, and clemency appeals), as well as legal assistance, criminal investigation and mitigation, and trial services to private appointed attorneys in such cases. This program also supports training seminars on death penalty law to help ensure that the state bar meets requirements imposed under Ohio Supreme Court Superintendence Rule 20.
- ***Intake and Prison Services.*** This program consists of three units: (1) Intake, which fields calls, handles routine questions, and receives initial requests for legal representation, (2) Records Management, which opens new case files, gathers relevant documents, delivers the files to supervisors for attorney assignment, and generates statistical reports, and (3) Prison Legal Services, which provides legal advice to inmates at the three reception centers in Ohio's prison system. Incoming inmates receive an orientation, information regarding their legal rights, and an opportunity to speak with an attorney regarding their case. The program also provides representation in select parole revocation matters.
- ***Juvenile Legal Assistance.*** This is a program the purpose of which is to provide legal assistance and representation to juveniles who have been committed to the Department of Youth Services (DYS). Additional activities include gathering general information for the juvenile, correcting sentencing errors, filing motions in juvenile court, and representing juveniles on appeal. The program also coordinates and provides training to defense attorneys who handle juvenile work and provides legislative advocacy on right to counsel issues and other substantive issues involving children in the juvenile justice system.
- ***Legal Resource Center.*** This program supports the Commission's Law Library, which is maintained pursuant to section 120.04(B)(1) of the Revised Code requiring it to maintain an office equipped with a library of adequate

- **Trial Services.** This is a program the purpose of which is to provide direct representation and assistance to local counsel in trial level cases to indigent defendants throughout Ohio. Given that only three staff attorneys are available, representation is provided in a limited number of cases. Generally, the only times this program provides representation is when there are no local attorneys qualified to provide representation in a case. This typically involves serious capital cases.
- **Investigation Services.** This is a program the purpose of which is to provide both criminal and mitigation investigation services for Commission staff attorneys on trial and appellate level death penalty and nondeath penalty cases on behalf of indigent defendants in both adult and juvenile courts in Ohio. The program also provides criminal and mitigation investigation services for county public defender attorneys and court appointed attorneys on death penalty and nondeath penalty cases on behalf of indigent defendants.

The immediately following narrative discusses the purpose of each appropriated line item for State Legal Defense Services.

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

This GRF line item contains the bulk of the money appropriated for the purpose of funding the payroll, maintenance, and equipment costs associated with State Legal Defense Services. For this line item in FY 2010, the budget appropriates \$4,377,500, which is \$1,319,013, or 23.2%, less than the total FY 2009 expenditure of \$5,696,513. The FY 2011 appropriation is \$3,471,400, which is 20.7% less than the FY 2010 appropriation and 39.1% less than the total FY 2009 expenditures.

The practical effect of this reduction in GRF appropriations will not compromise the FY 2009 level of State Legal Defense Services. Instead, as noted, the reduction in GRF funding for these services and activities is part of the transition away from GRF funding and toward greater reliance on non-GRF revenue sources. The GRF reductions made to this line item are essentially replaced by non-GRF revenues deposited in the Indigent Defense Support Fund (Fund 5DY0) and appropriated to line item 019619, Indigent Defense Support – State Share.

#### **Inmate Legal Assistance (GSF line item 019602)**

This GSF line item has funded an inmate legal assistance program at the state's Marion Correctional Institution since 1991. The budget makes no appropriations for this line item, as the program has been eliminated.

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

This GSF line item contains payments for legal representation, and investigation or mitigation services provided to counties under certain circumstances. The use of these moneys is statutorily restricted to be used by the State Public Defender to provide legal representation for indigent persons, or to provide investigation or mitigation services. The budget provides the line item with appropriations for FYs 2010 and 2011 of \$196,650 and \$207,143, respectively.

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

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

The budget provides the Commission's originally requested appropriation for this line item in each of FYs 2010 and 2011: \$202,347 and \$212,303, respectively. These appropriations are lower than the line item's actual FY 2009 expenditures, which totaled \$326,580. This reduction in appropriations can be explained by the presence of two Ohio-based Capital Habeas Units (CHU) established by the federal court system. These CHUs provide legal representation to indigent defendants in federal habeas corpus proceedings in cases where the State Public Defender may have been appointed to provide the same services. Since the federal government can assume more of the work in these cases, the Commission will not likely seek federal reimbursement at the same level as FY 2009.

## Category 2: County-Level Indigent Defense

This category of appropriations encapsulates the line items that the Commission uses to provide, facilitate, and improve the delivery of criminal defense services to indigent persons accused of crimes handled by common pleas, municipal, and county courts. With this portion of its budget, the Commission partially subsidizes counties for the cost of providing counsel to indigent persons in criminal and juvenile matters pursuant to the requirements of sections 120.18, 120.28, and 120.33 through 120.35 of the Revised Code. The Revised Code stipulates that the Commission reimburse counties 50% of the costs of operating their local indigent defense systems, unless the legislature appropriates less funding than needed to reimburse at 50%, in which case each county receives a reduced, but equal share.

These services and activities also include establishing standards (including indigence), guidelines, and maximum fees for state reimbursement of county-level indigent defense services, and monitoring county compliance with those standards.

The total GRF appropriations for County-Level Indigent Defense (\$28.3 million over the FY 2010-FY 2011 biennium) reflect reductions in the amount of GRF appropriated for the purpose of distributing county reimbursement payments. The total GRF amount that was distributed for this purpose during the immediately preceding FY 2008-FY 2009 biennium was \$57.5 million, which means \$29.2 million less in GRF funding appropriated for FYs 2010 and 2011 combined. That GRF funding reduction is more than replaced by the addition of nearly \$65 million in new non-GRF funding, which will permit the Commission to increase the county reimbursement rate from about 25% in FY 2009 to around 35.0% in FY 2010 and 36.5% in FY 2011. Taking the reimbursement rate up to 50% would require additional funding of approximately \$18.1 million in FY 2010 and \$14.0 million in FY 2011.

Table 6 below shows the line items that are used to fund this category of services and activities, as well as the funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how the FY 2010 and FY 2011 appropriations will be allocated.

**Table 6. Appropriations for County-Level Indigent Defense**

Fund	ALI and Name	FY 2010	FY 2011
<b>General Revenue Fund (GRF)</b>			
GRF	019403 Multi-County: State Share	\$1,308,201	\$1,456,835
GRF	019404 Trumbull County – State Share	\$430,217	\$467,727
GRF	019405 Training Account	\$50,000	\$50,000
GRF	019501 County Representation	\$13,855,879	\$10,711,478
<b>General Revenue Fund Subtotal</b>		<b>\$15,644,297</b>	<b>\$12,686,040</b>
<b>State Special Revenue (SSR) Fund Group</b>			
4C70	019601 Multi-County: County Share	\$2,227,056	\$2,384,210
4X70	019610 Trumbull County – County Share	\$732,393	\$765,467
5DY0	019618 Indigent Defense Support – County Share	\$27,783,000	\$37,044,000
<b>State Special Revenue Fund Group Subtotal</b>		<b>\$30,742,449</b>	<b>\$40,193,677</b>
<b>Total Funding: County-Level Indigent Defense</b>		<b>\$46,386,746</b>	<b>\$52,879,717</b>

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

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

The \$50,000 appropriation in each of FYs 2010 and 2011 represent a 43.2% increase over the line item's actual FY 2009 expenditures of \$34,909. In previous years, the appropriations in this line item have been cut, and the Commission, in response, was forced to reduce training opportunities. In FYs 2010 and 2011, the Commission's goal is to re-establish previous levels of training, and ultimately provide training sessions to every attorney appointed to criminal cases. The budget should enable the Commission to provide training seminars to about 328 attorneys. All of the amounts appropriated in each fiscal year will be used to pay companies to deliver pro bono training.

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

This GRF line item has been used to reimburse counties for up to 50% of their indigent defense expenditures on both noncapital and capital cases. If the available appropriations are insufficient to reimburse 50% of the indigent defense expenditures for noncapital and capital cases, then the reimbursement percentage for each of the public defender offices and appointed counsel systems is reduced equally.

The line item's appropriation in the budget for FY 2010 is \$13,855,879, which is \$11,801,037, or 46.0%, less than the actual FY 2009 expenditure of \$25,656,916. The line

item's FY 2011 appropriation is \$10,711,478, which is 22.7% less than the FY 2010 appropriation and 58.3% less than the actual FY 2009 expenditure. As noted, these reductions are part of an overall strategy to transition support for the Commission's services and activities away from GRF funding and toward greater reliance on non-GRF revenue sources.

**Branch Offices (GRF line items 019403/019404; SSR line items 019601/019610)**

This set of GRF and SSR line items pay for the expenses associated with operating branch offices. Under the Branch Offices Program, the State Public Defender provides local indigent defense services as an alternative to traditional appointed counsel or county public defender offices. The Commission currently operates two such offices, referred to as the Trumbull County Branch Office and the Multi-County Branch Office. These state public defender-operated offices are authorized under section 120.04(C)(7) of the Revised Code.

Although the branch office systems operate as an alternative to traditional public defender offices and appointed counsel systems, these operations are still affected by changes in state funding just like the direct reimbursement systems. The FY 2010-FY 2011 biennial appropriation for the GRF state share of the branch office system is around \$2.0 million, or 85.2%, greater than the total GRF amount that was distributed for this purpose during the immediately preceding FY 2008-FY 2009 biennium. This increase is designed to keep the reimbursement rates for the branch offices equal to the higher reimbursement rates expected for the other counties that are reimbursed from line items 019501, County Reimbursement, and 019618, Indigent Defense Support – County Share. These counties are expected to receive much higher reimbursement rates, at or exceeding 35% over the next two fiscal years. Since the branch offices are funded with different line items, the budget has adjusted the state share of the branch office appropriations to keep the reimbursement rates equal across all counties.

For FY 2009, the branch office system handled approximately 21,260 cases at a cost of about \$3.9 million. The branch office system is projected to handle 22,320 and 23,440 cases in FYs 2010 and 2011, respectively.

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

*Multi-County Branch Office.* This office provides local indigent defense services to ten counties in the southern and southeastern part of Ohio. The ten counties are Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington, with public defender offices located in Athens, Ross, and Washington counties. The Multi-County Branch Office was established in January 1991. The appropriation for this

branch office (GRF line item 019403 and SSR line item 019601) totals in the range of \$3.5 million to \$3.8 million annually.

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

This SSR line item, which draws its appropriation from the Indigent Defense Support Fund (Fund 5DY0), is used as part of the Commission's county reimbursement system. The FY 2010 appropriation for this line item is \$27,783,000, which reflects the best estimate, by Commission staff, of the non-GRF revenues likely to be collected from the mix of fines, fees, and court costs that feed Fund 5DY0. The FY 2010 appropriation is based on the expectation of a 60% total collection rate. The FY 2011 appropriation is \$37,044,000, and is based on the expectation of an 80% collection rate.

The biennial appropriation for this line item, when combined with the nearly \$25 million in biennial funding for indigent defense reimbursement appropriated to GRF line item 019501, County Reimbursement, provides a substantial increase in funding for County-Level Indigent Defense. The combined GRF and non-GRF appropriation for county indigent defense reimbursement totals \$41.6 million in FY 2010, and \$47.8 million in FY 2011 (GRF line item 019501 + SSR line item 019618). The overall reimbursement rates will increase from about 25% in FY 2009 to around 35% in FY 2010 and 36.5% in FY 2011.



### Category 3: Ohio Legal Assistance Foundation

This category of appropriations is exclusively to support operations of the Ohio Legal Assistance Foundation (OLAF), which is a nonprofit entity, created by statute, and charged with administering state funds for Ohio's legal aid societies. The Foundation, established by Am. Sub. H.B. 152 of the 120th General Assembly, effective July 1993, develops financial support and solicits financial contributions for use in providing assistance to Ohio's legal aid societies. Moneys from dedicated funding sources, including, but not limited to, the interest earned on certain trust and real estate escrow accounts, are deposited to the credit of the Legal Aid Fund (Fund 5740) and are then passed through the Commission to the Foundation. The Foundation then administers payments to nonprofit legal aid societies that provide legal representation to indigent persons in civil cases. These payments are distributed to legal aid societies throughout the state pursuant to a statutory formula based on poverty population. Every county is served by one or more legal aid societies.

Table 7 below shows the appropriation for the lone line item that is used for civil legal aid purposes. It is followed by a narrative noting recent changes in the line item's revenue stream.

<b>Table 7. Appropriation for the Ohio Legal Assistance Foundation</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2010</b>	<b>FY 2011</b>
<b>State Special Revenue (SSR) Fund Group</b>				
5740	019606	Civil Legal Aid	\$35,000,000	\$35,000,000
<b>Total Funding: Ohio Legal Assistance Foundation</b>			<b>\$35,000,000</b>	<b>\$35,000,000</b>

#### **Civil Legal Aid (SSR line item 019606)**

The budget does not fully fund the Commission's requested annual appropriation levels for this SSR line item, the purpose of which is to support the state's legal aid societies. The Commission requested \$40.0 million in each of FYs 2010 and 2011, but the enacted appropriation is \$35.0 million in each fiscal year. The revenue received from certain interest bearing trust and real estate escrow accounts is very sensitive to fluctuations in interest rates. In recent years, the federal funds rate, which affects these accounts, has been steadily decreasing. In June 2006, the federal funds rate was 5.25%, and by the end of calendar year 2008 had dropped to about 2%. Since these accounts are currently generating less revenue, the FYs 2010 and 2011 appropriations were reduced accordingly.

## Category 4: Program Management

This category encompasses the services and activities performed by the Commission's Administrative Division, which provides the necessary services common to most state agencies, including fiscal and accounting, personnel and training, computer information systems, purchasing, fleet management, and delivery. In addition, the Administrative Division also provides services specifically mandated by Chapter 120. of the Revised Code, including: collecting reimbursement from the counties for legal services provided by the Ohio Public Defender, processing reimbursement to the counties for indigent defense programs, and producing educational seminars and conferences.

This category's GRF appropriations for FYs 2010 and 2011 are less than its actual FY 2009 GRF expenditures by 36.9% and 50.0%, respectively. This funding reduction is part of a larger transition that moves the payment of certain Commission operating expenses away from the GRF and toward a greater reliance on non-GRF revenue sources. This loss in GRF appropriations is largely replaced by revenues deposited in the non-GRF Indigent Defense Support Fund (Fund 5DY0) and appropriated to line item 019619, Indigent Defense Support – State Share, which was created to support operations of the Commission. The moneys appropriated from Fund 5DY0 should be sufficient to maintain the FY 2009 level of program management services and activities.

Table 8 below shows the line items that are used to fund this category of services and activities, as well as the funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how its FY 2010 and FY 2011 appropriations will be allocated.

<b>Table 8. Appropriations for Program Management</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2010</b>	<b>FY 2011</b>
<b>General Revenue Fund (GRF)</b>				
GRF	019321	Public Defender Administration	\$772,500	\$612,600
<b>General Revenue Fund Subtotal</b>			<b>\$772,500</b>	<b>\$612,600</b>
<b>General Services Fund (GSF) Group</b>				
4080	019605	Client Payments	\$600,000	\$600,000
5CX0	019617	Civil Case Filing Fee	\$743,076	\$772,121
<b>General Services Fund Group Subtotal</b>			<b>\$1,343,076</b>	<b>\$1,372,121</b>
<b>State Special Revenue (SSR) Fund Group</b>				
5DY0	019619	Indigent Defense Support – State Share	\$3,087,000	\$4,116,000
<b>State Special Revenue Fund Group Subtotal</b>			<b>\$3,087,000</b>	<b>\$4,116,000</b>
<b>Total Funding: Program Management</b>			<b>\$5,202,576</b>	<b>\$6,100,721</b>

**Public Defender Administration (GRF line item 019321)**

The GRF line item provides funding for the Administrative Division's payroll, maintenance, and equipment costs associated with delivering agency support services, including, but not limited to, fiscal and accounting, human resources, computer information systems, general office services (purchasing, inventory, records management, fleet management, and delivery), library maintenance, and county reimbursement collections and payments.

The line item's appropriation for FY 2010 is \$722,500, which is \$451,840, or 36.9%, less than the actual FY 2009 expenditures of \$1,224,340. The line item's FY 2011 appropriation is \$612,600, which is 20.7% less than the FY 2010 appropriation and 50.0% less than FY 2009 expenditures. As noted, the reduction in GRF funding will be offset by tapping into moneys appropriated to SSR line item 019619, Indigent Defense Support – State Share.

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

This GSF line item draws its appropriation from payments collected from certain defendants and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee. These moneys may only be used to: (1) appoint assistant state public defenders and to provide other personnel, equipment, and facilities necessary for the Commission's operation, (2) reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems, and (3) provide assistance to counties in the operation of county indigent defense systems. The budget provides an appropriation of \$600,000 in each of FYs 2010 and 2011.

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

The GSF line item is supported by certain locally collected filing fees that are deposited in the state treasury for the purpose of appointing assistant public defenders and for providing other personnel, equipment, and facilities necessary for operation of the Ohio Public Defender Commission. The budget provides the Commission requested appropriation for this line item in each of FYs 2010 and 2011: \$743,076 and \$772,121, respectively.

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

This SSR line item, which draws its appropriations from the Indigent Defense Support Fund (Fund 5DY0), will be used to support Commission operating expenses. The budget provides appropriations of \$3,087,000 and \$4,116,000 in FYs 2010 and 2011, respectively. This particular appropriation offsets cuts made to GRF line item 019321, Public Defender Administration, which is part of the overall process of transitioning this agency from GRF to non-GRF funding.

**FY 2010 - 2011 Final Appropriation Amounts**

**All Fund Groups**

<i>Line Item Detail by Agency</i>			<i>FY 2008</i>	<i>FY 2009</i>	<i>FY 2010 Appropriations</i>	<i>% Change FY09 - FY10</i>	<i>FY 2011 Appropriations</i>	<i>% Change FY10 - FY11</i>
<b>Report For: Main Operating Appropriations Bill</b>			<b>Version: Enacted</b>					
<b>PUB Ohio Public Defender Commission</b>								
GRF	019321	Public Defender Administration	\$ 1,252,281	\$ 1,224,340	\$ 772,500	-36.90%	\$ 612,600	-20.70%
GRF	019401	State Legal Defense Services	\$ 5,838,191	\$ 5,696,513	\$ 4,377,500	-23.15%	\$ 3,471,400	-20.70%
GRF	019403	Multi-County: State Share	\$ 750,209	\$ 748,458	\$ 1,308,201	74.79%	\$ 1,456,835	11.36%
GRF	019404	Trumbull County - State Share	\$ 236,929	\$ 241,934	\$ 430,217	77.82%	\$ 467,727	8.72%
GRF	019405	Training Account	\$ 25,031	\$ 34,909	\$ 50,000	43.23%	\$ 50,000	0.00%
GRF	019501	County Reimbursement	\$ 29,812,630	\$ 25,656,916	\$ 13,855,879	-46.00%	\$ 10,711,478	-22.69%
<b>General Revenue Fund Total</b>			<b>\$ 37,915,269</b>	<b>\$ 33,603,069</b>	<b>\$ 20,794,297</b>	<b>-38.12%</b>	<b>\$ 16,770,040</b>	<b>-19.35%</b>
1010	019602	Inmate Legal Assistance	\$ 114	\$ 17,557	\$ 0	-100.00%	\$ 0	N/A
4070	019604	County Representation	\$ 196,448	\$ 200,113	\$ 196,650	-1.73%	\$ 207,143	5.34%
4080	019605	Client Payments	\$ 586,827	\$ 533,363	\$ 600,000	12.49%	\$ 600,000	0.00%
5CX0	019617	Civil Case Filing Fee	\$ 619,343	\$ 719,624	\$ 743,076	3.26%	\$ 772,121	3.91%
<b>General Services Fund Group Total</b>			<b>\$ 1,402,731</b>	<b>\$ 1,470,657</b>	<b>\$ 1,539,726</b>	<b>4.70%</b>	<b>\$ 1,579,264</b>	<b>2.57%</b>
3S80	019608	Federal Representation	\$ 260,076	\$ 326,580	\$ 202,347	-38.04%	\$ 212,303	4.92%
<b>Federal Special Revenue Fund Group Total</b>			<b>\$ 260,076</b>	<b>\$ 326,580</b>	<b>\$ 202,347</b>	<b>-38.04%</b>	<b>\$ 212,303</b>	<b>4.92%</b>
4C70	019601	Multi-County: County Share	\$ 2,159,712	\$ 2,220,329	\$ 2,227,056	0.30%	\$ 2,384,210	7.06%
4N90	019613	Gifts and Grants	\$ 0	\$ 12,300	\$ 0	N/A	\$ 0	N/A
4X70	019610	Trumbull County - County Share	\$ 686,447	\$ 719,340	\$ 732,393	1.81%	\$ 765,467	4.52%
5740	019606	Civil Legal Aid	\$ 34,778,871	\$ 23,139,351	\$ 35,000,000	51.26%	\$ 35,000,000	0.00%
5DY0	019618	Indigent Defense Support - County Share	\$ 0	\$ 3,700,000	\$ 27,783,000	650.89%	\$ 37,044,000	33.33%
5DY0	019619	Indigent Defense Support - State Office	\$ 0	\$ 0	\$ 3,087,000	N/A	\$ 4,116,000	33.33%
<b>State Special Revenue Fund Group Total</b>			<b>\$ 37,625,030</b>	<b>\$ 29,791,320</b>	<b>\$ 68,829,449</b>	<b>131.04%</b>	<b>\$ 79,309,677</b>	<b>15.23%</b>
<b>Ohio Public Defender Commission Total</b>			<b>\$ 77,203,106</b>	<b>\$ 65,191,626</b>	<b>\$ 91,365,819</b>	<b>40.15%</b>	<b>\$ 97,871,284</b>	<b>7.12%</b>