

# Greenbook

## LBO Analysis of Enacted Budget

### Ohio Public Defender Commission

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Attachment:

    Appropriation Spreadsheet

# LBO Greenbook

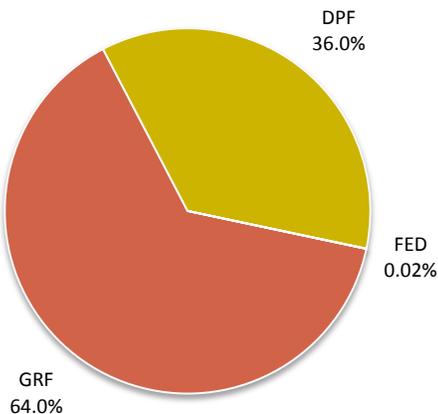
## Ohio Public Defender Commission

### Quick look...

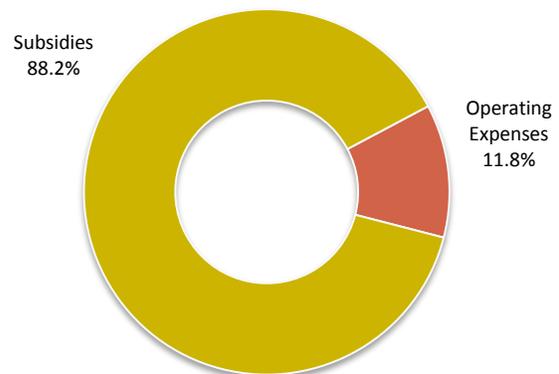
- The Ohio Public Defender Commission provides, supervises, and coordinates legal representation for persons who cannot afford to hire an attorney to represent that person in criminal court.
- The budget appropriates a total of \$371.7 million for the FY 2020-FY 2021 biennium, of which \$238.0 million, or 64%, is appropriated from the GRF.
- The budget increases biennial GRF funding for county reimbursements by \$152.6 million; the Commission estimates the resulting reimbursement rate will increase from 42% in FY 2019 to approximately 70% in FY 2020 and 90% in FY 2021.

Fund Group	FY 2018 Actual	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
General Revenue (GRF)	\$36,372,578	\$37,632,051	\$99,686,145	\$138,265,240
Dedicated Purpose (DPF)	\$61,511,397	\$61,937,225	\$67,713,152	\$66,003,341
Federal (FED)	\$37,662	\$39,394	\$38,315	\$38,315
Total	\$97,921,636	\$99,608,670	\$167,437,612	\$204,306,896
% change	--	1.7%	68.1%	22.0%
<i>GRF % change</i>	--	3.5%	164.9%	38.7%

**Chart 1: PUB Budget by Fund Group  
FY 2020-FY 2021 Biennium**



**Chart 2: PUB Budget by Expense Category  
FY 2020-FY 2021 Biennium**



## Overview

### Agency overview

The Ohio Public Defender Commission provides, supervises, and coordinates legal representation for persons who cannot afford to hire an attorney to represent that person in criminal court. Also notable are the Commission's role as: (1) 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, and (2) administrator of pass-through funding for the Ohio Legal Assistance Foundation (OLAF).<sup>1</sup>

The Commission consists of nine appointed members; the Governor appoints five, including the chair, and the Supreme Court of Ohio appoints the other four. No more than five members can be from one of the two major political parties. The Commission appoints a state public defender who maintains and administers the Office of the Ohio Public Defender. As of the close of FY 2019, the Office was staffed by 131 full-time permanent employees.

### Appropriation summary

The budget provides a total appropriation of \$167.4 million in FY 2020 and \$204.3 million in FY 2021 for a combined total of \$371.7 million for the biennium. The table and Chart 1 shown in the preceding "Quick look" section present the appropriations by fund group. As shown in Chart 1, the GRF comprises 64.0%, or \$238.0 million, of the Commission's biennial budget, and the Dedicated Purpose Fund (DPF) Group comprises another 36.0%, or \$133.7 million. The small remainder, 0.02%, or \$76,630, comes from the Federal Fund Group (FED).

Chart 2 in the "Quick look" section shows the biennial appropriation by general objects of expense. The Commission's largest biennial expense category is subsidies (county indigent defense reimbursements and OLAF pass-through funding) 88.2%, or \$327.7 million. The remainder of the Commission's biennial expenses is comprised of its operating expenses 11.8%, or \$44.0 million. This includes, in order of magnitude, personal services (wages, salaries, fringe benefits, and payroll check off charges), purchased personal services, supplies and maintenance, and equipment. The amounts to be allocated for personal services should be sufficient to pay for the costs of retaining 131 full-time permanent employees.

### Intellectual property agreements

The budget authorizes the State Public Defender to enter into agreements to license, lease, sell, and market for sale intellectual property owned by the Office of the Public Defender and receive payments from those agreements for the operation of the Office and programs for indigent persons' defense. The fiscal effect is a potential annual gain in money credited to the existing Public Defender Gifts and Grants Fund (Fund 4N90).

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<sup>1</sup> The budget changes the name of the Ohio Legal Assistance Foundation to the Ohio Access to Justice Foundation.

## State Public Defender reimbursement study and report

The budget requires the State Public Defender, in each fiscal year, to make certain determinations with regards to county reimbursements for indigent defense and report those findings and determinations the following fiscal year to the Governor and specified members of the General Assembly. It is unclear as to whether the Commission will need additional staff to comply with this annual study and reporting duty.

### Indigent defense reimbursement

The budget requires the State Public Defender to reimburse county governments for the costs they incur in providing indigent defense in cases, including capital cases, but the reimbursement percentage may be reduced by an equal amount for all counties if the General Assembly's appropriation to the State Public Defender is insufficient to cover the counties' costs for indigent defense. The budget retains an existing provision that specifies that the amount to be reimbursed for indigent defense in capital cases in any fiscal year cannot exceed the total amount appropriated by the General Assembly for that year for reimbursements.

Prior law required 50% reimbursement by the State Public Defender for the total cost of indigent defense in capital and noncapital cases, subject to the same type of allowance for a proportional reduction of the reimbursements and to the same capping of the reimbursements at the total amount of the General Assembly's appropriation for the year.

As a result of this change in the budget, instead of capping the state's annual reimbursement rate at 50% as under prior law, the state is required to reimburse counties up to 100%, subject to available appropriations.

### Billing practices

The budget contains a provision which changes how much a county is required to pay the State Public Defender for the provision of legal representation of an indigent defendant such that the county must pay 100% of the legal fees and expenses identified in the itemized bill for those services, but may submit the combined cost to the State Public Defender for up to full reimbursement.

Under prior law, in this situation, the county: (1) was required to pay 100% of the amount identified in the State Public Defender's submitted bill that is identified as legal fees, less a calculated state reimbursement rate reduction, and 100% of the amount identified as expenses, and (2) permitted to submit the cost of the expenses, excluding legal fees, to the State Public Defender for reimbursement.

As a result of this billing practice change, county expenditures to pay for indigent defense services provided by the State Public Defender will be reduced, as the state will ultimately pay the total cost of legal fees and expenses in such cases. It is unclear as to whether the Commission will need additional staff to administer the county reimbursement process.

## 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, counties use one of four methods: court-appointed counsel (40), county public defenders (28), contract with the state’s Office of the Ohio Public Defender (11), or contract with nonprofit corporations (9).

## Analysis of FY 2020-FY 2021 budget

### Introduction

This section provides an analysis of the funding for each appropriation line item (ALI) in the Commission’s budget. For organizational purposes, these ALIs are grouped into four major categories based on their funding purposes. The analysis for an ALI with a lower category or subcategory designation will appear before that for an ALI with a higher category or subcategory designation. That is, the analysis for an ALI with a category designation of C1:8 will appear before the analysis for an ALI with a category designation of C2:1 and the analysis for an ALI with a category designation of C1:3 will appear before the analysis for an ALI with a category designation of C1:8.

To aid the reader in locating each ALI in the analysis, the following table shows the category in which each ALI has been placed, listing the ALIs in order within their respective fund groups and funds.

In the analysis, each ALI’s actual expenditures for FY 2019 and appropriations for FY 2020 and FY 2021 are listed in a table. Following the table, a narrative describes how the appropriation is to be used.

**Categorization of Commission’s ALIs for Analysis of FY 2020-FY 2021 Budget**

Fund	ALI	ALI Name	Category
<b>General Revenue Fund (GRF)</b>			
GRF	019401	State Legal Defense Services	C1:1 State Legal Defense Services
GRF	019403	Multi-County: State Share	C2:3 County-Level Indigent Defense
GRF	019404	Trumbull County – State Share	C2:4 County-Level Indigent Defense
GRF	019405	Training Account	C2:1 County-Level Indigent Defense
GRF	019501	County Reimbursement	C2:2 County-Level Indigent Defense

Categorization of Commission's ALIs for Analysis of FY 2020-FY 2021 Budget			
Fund	ALI	ALI Name	Category
<b>Dedicated Purpose Fund (DPF) Group</b>			
1010	019607	Juvenile Legal Assistance	C1:2 State Legal Defense Services
4060	019603	Training and Publications	C4:1 Program Management
4070	019604	County Representation	C1:3 State Legal Defense Services
4080	019605	Client Payments	C1:4 State Legal Defense Services
4C70	019601	Multi-County: County Share	C2:3 County-Level Indigent Defense
4N90	019613	Gifts and Grants	C1:5 State Legal Defense Services
4X70	019610	Trumbull County – County Share	C2:4 County-Level Indigent Defense
5740	019606	Civil Legal Aid	C3:1 Legal Assistance Foundation
5CX0	019617	Civil Case Filing Fee	C1:6 State Legal Defense Services
5DY0	019618	Indigent Defense Support – County Share	C2:5 County-Level Indigent Defense
5DY0	019619	Indigent Defense Support – State Office	C1:7 State Legal Defense Services
<b>Federal Fund (FED) Group</b>			
3S80	019608	Federal Representation	C1:8 State Legal Defense Services

## Category 1: State Legal Defense Services

This category of line items pays 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 locally by public defenders or assigned counsel.

The specific types of services and activities funded under the State Legal Defense Services include the following:

- Appellate Services Division (representation of capital sentenced individuals, appeals and post-conviction, prison intake, juvenile legal assistance, mitigation and investigation, and wrongful conviction project).
- Trial Department (representation of clients charged with the death penalty, those who have had issues with other counsel, and when local counsel are unable or unwilling to represent).
- Legal Resource Center (library reference and research resources).

The appropriated amounts for the FY 2020-FY 2021 biennium are likely to be sufficient to maintain the current level of State Legal Defense Services, including personal services expenses (wages, salaries, fringe benefits, and payroll check off charges) for 78.5 full-time equivalent (FTE) staff positions.

**C1:1: State Legal Defense Services (ALI 019401)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
GRF ALI 019401, State Legal Defense Services	\$4,071,015	\$5,659,317	\$6,534,523
% change	--	39.0%	15.5%

This line item supports the operating expenses (personal services, purchased personal services, supplies and maintenance, and equipment) associated primarily with the Commission's State Legal Defense Services, and secondarily the Program Management category. Approximately 90% of the line item's appropriation in each fiscal year is likely to be allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges).

A temporary law provision permits the Director of the Office of Budget and Management (OBM), in each fiscal year and upon written request of the State Public Defender, to approve an appropriation transfer of up to \$100,000 from GRF appropriation item 019501, County Reimbursement, to GRF appropriation item 019401, State Legal Defense Services, for the purpose of funding the operating expenses of the Public Defender Commission if the State Public Defender determines that the amounts appropriated to line item 019401 are insufficient.

**C1:2: Juvenile Legal Assistance (ALI 019607)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 1010 ALI 019607, Juvenile Legal Assistance	\$208,153	\$204,756	\$204,756
% change	--	-1.6%	0.0%

This line item supports the provision of certain legal services to children committed to the Department of Youth Services (DYS).<sup>2</sup> The entirety of each year's appropriation is allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges). The appropriations will be supported by cash transferred from the Department of Youth Services pursuant to an interdepartmental agreement.

<sup>2</sup> State law authorizes the State Public Defender to provide legal representation and services to a child committed to DYS relative to the fact, duration, and conditions of the child's confinement. DYS is required to give the State Public Defender access to the child and any DYS institution or record that the State Public Defender needs to provide authorized representation and services (R.C. 120.06 and 5139.04).

**C1:3: County Representation (ALI 019604)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 4070 ALI 019604, County Representation	\$184,560	\$280,407	\$285,000
% change	--	51.9%	1.6%

This line item contains payments for legal representation, and investigation or mitigation services provided to counties under certain circumstances. The use of this money is restricted to providing legal representation for indigent persons, or to provide investigation or mitigation services. Approximately 90% of the appropriated amount in each fiscal year is likely to be allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges), and secondarily for supplies and maintenance.

**C1:4: Client Payments (ALI 019605)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 4080 ALI 019605, Client Payments	\$605,791	\$715,831	\$737,389
% change	--	18.2%	3.0%

This line item draws its appropriation from payments collected from certain defendants, and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee.<sup>3</sup> The money primarily is used for operating expenses incurred by State Legal Defense Services.

Each fiscal year of the line item's appropriation is likely to be allocated, in order of magnitude, across two categories of Commission line items: State Legal Defense Services and Program Management. Of the line item's appropriation, about 74%, or \$525,760 in FY 2020, and \$545,389 in FY 2021, is allocated for State Legal Defense Services. The amount allocated for Program Management is 26%, or \$190,071 in FY 2020, and \$192,000 in FY 2021.

Of the line item's total appropriation, around 95%, or \$680,831 in FY 2020 and \$702,389 in FY 2021, is likely to pay for personal services (wages, salaries, fringe benefits, and payroll check off charges). The remaining 5%, or \$35,000, in each fiscal year is to pay for supplies and maintenance.

<sup>3</sup> Existing law permits this money to 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.

**C1:5: Gifts and Grants (ALI 019613)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 4N90 ALI 019613, Gifts and Grants	\$18,800	\$19,440	\$19,440
% change	--	3.4%	0.0%

This line item is used to expend grants, donations, and awards from public and private sources received for a specific purpose that are credited to the Gifts and Grants Fund (Fund 4N90). The line item's entire appropriation in each fiscal year is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges).

Presently, the fund receives an annual gift of \$13,440 from the Ohio State University Moritz College of Law to fund law students for the Commission's Wrongful Conviction Project. The project focuses primarily on wrongful conviction claims that do not involve DNA evidence, including allegations of flawed science, witness misidentification, and false convictions.

**C1:6: Civil Case Filing Fee (ALI 019617)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 5CX0 ALI 019617, Civil Case Filing Fee	\$540,611	\$623,425	\$642,904
% change	--	15.3%	3.1%

This line item is supported by a portion of filing fees collected in certain new civil actions and proceedings and credited to the Civil Case Filing Fee Fund (Fund 5CX0). The purpose of the money is to fund assistant public defenders and other personnel, equipment, and facilities necessary for operation of the Commission. Of the line item's appropriation, 97%, or between \$604,000 and \$624,000, in each fiscal year is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges), and the rest for supplies and maintenance.

**C1:7: Indigent Defense Support – State Office (ALI 019619)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 5DY0 ALI 019619, Indigent Defense Support – State Office	\$6,559,220	\$7,113,482	\$7,216,852
% change	--	8.5%	1.5%

Of this line item, which draws its appropriation from the Indigent Defense Support Fund (Fund 5DY0), about 51%, or \$3.7 million, of each fiscal year's appropriation is expected to be allocated for State Legal Defense Services. The remaining 49%, or \$3.5 million, is expected to be allocated for Program Management to cover expenses related to the agency-wide operations.

The line item's total appropriation in each fiscal year is expected to be allocated more or less as follows: around 70% for personal services (wages, salaries, fringe benefits, and payroll check off charges), and, in decreasing order of magnitude, supplies and maintenance, personal services, and equipment.

Under current law, the Indigent Defense Support Fund (Fund 5DY0) is split such that at least 83% of the money in the fund is used to support county reimbursement of indigent criminal defense services (DPF line item 019618), and not more than 17% is allocated to support the operations of the Commission (DPF line item 019619).<sup>4</sup>

### **C1:8: Federal Representation (ALI 019608)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
FED Fund 3S80 ALI 019608, Federal Representation	\$36,610	\$38,315	\$38,315
% change	--	4.7%	0.0%

This line item contributes to the funding of State Legal Defense Services, specifically the Death Penalty Department, which provides, coordinates, and supervises 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.<sup>5</sup> It is supported by money appropriated from the Federal Representation Fund (Fund 3S80), which consists of payments collected from a federal court when it has appointed the State Public Defender to provide legal representation to an indigent defendant in a federal trial or in a federal habeas corpus proceeding, primarily matters involving the death penalty.

Nearly 97% of the appropriated amount in each fiscal year is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges), and the remainder is for supplies and maintenance.

### **Category 2: County-Level Indigent Defense**

This category of line items is used by the Commission 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. This portion of the budget primarily reimburses counties for the cost of providing counsel to indigent persons in criminal and juvenile matters,

<sup>4</sup> R.C. 120.08.

<sup>5</sup> Habeas corpus is an appeal to the federal courts for wrongful conviction and unconstitutional imprisonment. A habeas petition is filed after a defendant has exhausted his or her direct appeal and state post-conviction remedies. In this instance, a defendant combines all of the prior claims raised on direct appeal and state post-conviction and he or she raises them in one petition in the United States District Court. All habeas cases, win or lose, are reviewed by the United States Court of Appeals for the Sixth Circuit in Cincinnati. In this habeas petition, the defendant may only seek relief on claims that involve a violation of the United States Constitution, for example, a violation of the sixth amendment right to effective counsel or a violation of the eighth amendment right to present mitigating evidence for sentencing.

and secondarily, the Commission's costs of operating the Multi-County and Trumbull County Branch Office programs. The total amount appropriated for these purposes is expected to be sufficient to support the personal services expenses (wages, salaries, fringe benefits, and payroll check off charges) for 39.0 FTE staff positions.

Table 1 below summarizes the county reimbursement rates and amounts for the prior (FY 2018-FY 2019) and current (FY 2020-FY 2021) biennia. For the prior biennium, a total of \$124.3 million was disbursed in county reimbursement payments, with the GRF accounting for \$61.4 million, or 49.4%. For the current biennium, a total of \$277.8 million has been appropriated for county reimbursement payments, with the GRF accounting for \$214.0 million, or 77%. This is a biennial increase of \$153.5 million, almost all of which is supported by additional funding appropriated from the GRF. The resulting reimbursement rates will increase from 45% and 42% in FY 2018 and FY 2019, respectively, to approximately 70% and 90% for FY 2020 and FY 2021, respectively.

Table 1. Biennial County Reimbursement Rates and Amounts (\$ in millions)				
Biennium	Reimbursement Rate*	Total Amount	GRF	Non-GRF
FY 2018-FY 2019	FY 2018: 45% FY 2019: 42%	\$124.3	\$61.4	\$62.9
FY 2020-FY 2021	FY 2020: 70% FY 2021: 90%	\$277.8	\$214.0	\$63.7
<b>Biennial Difference</b>		<b>\$153.5</b>	<b>\$152.6</b>	<b>\$0.8</b>

\*FY 2018 and FY 2019 are actual rates; FY 2020 and FY 2021 are Commission estimates.

## C2:1: Training Account (ALI 019405)

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
GRF ALI 019405, Training Account	\$37,125	\$50,000	\$50,000
	% change	--	34.7%
			0.0%

This line item supports 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 appropriated amount in each fiscal year is expected to provide training seminars to approximately 328 attorneys that are appointed to criminal cases. The entirety of each fiscal year's appropriation is allocated to pay companies to deliver pro bono training. The seminar companies presently charge \$125 per attorney for a regular one-day seminar and \$200 per

attorney for the two-day Rule 20 seminars.<sup>6</sup> The seminars are provided free of charge to attorneys who are employees of a county public defender office, who contract with the Ohio Public Defender to represent criminal defendants, or who agree to provide representation in an indigent case at no charge to the state.

## **C2:2: County Reimbursement (ALI 019501)**

<b>Fund/ALI</b>	<b>FY 2019 Actual</b>	<b>FY 2020 Appropriation</b>	<b>FY 2021 Appropriation</b>
GRF ALI 019501, County Reimbursement	\$31,188,211	\$89,020,000	\$125,000,000
% change	--	185.4%	40.4%

This line item will support the reimbursement of counties for up to 100% of their indigent defense expenditures on both noncapital and capital cases. If the available appropriations are insufficient to reimburse the full amount 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 are reduced equally.

The appropriations for this line item mark a significant increase in the commitment of GRF funding for the reimbursement of counties for the provision of indigent criminal defense services. The Commission estimates that the GRF appropriation, when combined with non-GRF funding, will increase the annual county indigent defense reimbursement rate from 45% and 42% in FY 2018 and FY 2019, respectively, to approximately 70% and 90% for FY 2020 and FY 2021, respectively.

A temporary law provision permits the OBM Director, in each fiscal year and upon written request of the State Public Defender, to approve an appropriation transfer of up to \$100,000 from GRF appropriation item 019501, County Reimbursement, to GRF appropriation item 019401, State Legal Defense Services, for the purpose of funding the operating expenses of the Public Defender Commission if the State Public Defender determines that the amounts appropriated to line item 019401 are insufficient.

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<sup>6</sup> Rule 20 of the Rules of Superintendence for the Courts of Ohio applies to the appointment of counsel for indigent defendants charged with aggravated murder with one or more specifications of aggravating circumstances for which the defendant could receive a death sentence.

**C2:3: Multi-County Branch Office (ALIs 019403 and 019601)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
GRF ALI 019403, Multi-County: State Share	\$1,708,761	\$3,607,498	\$4,644,653
% change	--	111.1%	28.7%
DPF Fund 4C70 ALI 019601, Multi-County: County Share	\$2,331,289	\$1,352,812	\$0
	--	-42.0%	-100.0%
Total	\$4,040,050	\$4,960,310	\$4,644,653
% change	--	22.8%	-6.4%

These two line items support the operations of the Multi-County Branch Office. This office provides local indigent defense services to ten counties in the southern and southeastern part of Ohio: 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 GRF line item funds the state's share. The county share is funded with money appropriated to DPF line item 019601 from the Multi-County: County Share Fund (Fund 4C70), which consists of funds received via contract from the participating counties.

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 system. The GRF and non-GRF appropriations for the branch offices are generally structured to keep the reimbursement rates for the branch offices equal to the reimbursement rates expected for the other counties that are reimbursed from line items 019501, County Reimbursement, and 019618, Indigent Defense Support – County Share. Since the branch offices are funded with different line items, adjustments are often made during any given fiscal year to keep the reimbursement rates equal across all counties.

**C2:4: Trumbull County Branch Office (ALIs 019404 and 019610)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
GRF ALI 019404, Trumbull County – State Share	\$626,940	\$1,349,330	\$2,036,064
% change	--	115.2%	50.9%
DPF Fund 4X70 ALI 019610, Trumbull County – County Share	\$857,964	\$505,999	\$0
	--	-41.0%	-100.0%
Total	\$1,484,904	\$1,855,329	\$2,036,064
% change	--	24.9%	9.7%

These two line items support the Trumbull County Branch Office, established in FY 1985, which provides local indigent defense services for that county. The GRF line item funds the state's share. The county share is funded with money appropriated to DPF line item 019610 from the Trumbull County – County Share Fund (Fund 4X70), which consists of funds received via contract from Trumbull County for their participation.

As noted above with regard to the Multi-County Branch Office, the GRF and non-GRF appropriations for the branch offices are generally structured to keep the reimbursement rates for the branch offices equal to the reimbursement rates expected for the other counties that are reimbursed from line items 019501, County Reimbursement, and 019618, Indigent Defense Support – County Share. Since the branch offices are funded with different line items, adjustments are often made during any given fiscal year to keep the reimbursement rates equal across all counties.

### **C2:5: Indigent Defense Support – County Share (ALI 019618)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 5DY0 ALI 019618, Indigent Defense Support – County Share	\$30,077,470	\$31,872,000	\$31,872,000
% change	--	6.0%	0.0%

This line item draws its appropriations from the Indigent Defense Support Fund (Fund 5DY0), and is used as part of the Commission's county reimbursement system. Fund 5DY0 consists of a mix of fines, fees, and court costs. The Commission estimates that the appropriations, when combined with GRF line item 019501, will increase the annual county indigent defense reimbursement rate from 45% and 42% in FY 2018 and FY 2019, respectively, to approximately 70% and 90% in FY 2020 and FY 2021, respectively.

### **Category 3: Legal Assistance Foundation**

The lone line item in this category is used to pass-through funding to the Ohio Legal Assistance Foundation (OLAF), a nonprofit entity, created by statute, and charged with administering state funds for Ohio's legal aid societies.<sup>7</sup>

#### **C3:1: Civil Legal Aid (ALI 019606)**

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 5740 ALI 019606, Civil Legal Aid	\$20,544,904	\$25,000,000	\$25,000,000
% change	--	21.7%	0.0%

<sup>7</sup> The Foundation, established by H.B. 152 of the 120<sup>th</sup> General Assembly, effective July 1993, develops financial support and solicits financial contributions for use in providing assistance to Ohio's legal aid societies.

This line item supports the state’s legal aid societies. Of each year’s appropriation, \$19.5 million is allocated for distribution by OLAF to legal aid societies in Ohio, which collectively serve all 88 counties. These funds are distributed to legal aid societies throughout the state pursuant to a statutory formula based on poverty population.

Of the remainder in each fiscal year, \$5.5 million is set aside by OLAF as a pool of discretionary funds to address emerging civil legal needs and gaps in the legal services provided by Ohio’s legal aid to low-income and vulnerable populations. Around \$5,000 in each fiscal year is to be retained by the Commission for its administrative costs.

The money for these purposes is appropriated from the Civil Legal Aid Fund (Fund 5740), which consists of: (1) interest generated on lawyer and title insurance trust accounts, and (2) additional filing fees collected on certain new civil actions and proceedings. The interest revenues fluctuate, as they are sensitive to changes in the Federal Funds rate, as well as the savings rate which is tied to the former.

Related temporary law: (1) requires the OBM Director to transfer \$500,000 in each fiscal year from the GRF to Fund 5740, (2) requires \$250,000 of the transferred cash in each fiscal year to be distributed by OLAF to Ohio’s civil legal aid societies for the sole purpose of providing legal services for economically disadvantaged individuals and families seeking assistance with legal issues arising as a result of substance abuse disorders, (3) requires \$250,000 of the transferred cash in each fiscal year to be distributed by OLAF to Ohio’s civil legal aid societies for the sole purpose of providing legal services for veterans, and (4) prohibits any of the transferred funds to be used for administrative costs, including, but not limited to, salaries, benefits, or travel reimbursements.

## Category 4: Program Management

The Program Management category includes 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. The Division also provides certain required services: 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.

The appropriated amounts for the FY 2020-FY 2021 biennium are likely to be sufficient to maintain the current level of program management services, including personal services expenses (wages, salaries, fringe benefits, and payroll check off charges) for 23.0 FTE staff positions.

### C4:1: Training and Publications (ALI 019603)

Fund/ALI	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
DPF Fund 4060 ALI 019603, Training and Publications	\$8,462	\$25,000	\$25,000
% change	--	195.4%	0.0%

This line item supports training and educational programs for attorneys and others involved with the legal representation of indigent persons. The line item is supported by money appropriated from the Training and Publications Fund (Fund 4060). The money is expected to be generated from a nominal fee that the Commission plans to charge attendees of its training and educational programs.

### **Line items shared with State Legal Defense Services**

As noted, the Program Management and State Legal Defense Services categories will share the funding appropriated to three line items used by the Commission. Table 2 below summarizes the FY 2020-FY 2021 biennial funding for those three line items and the approximate amounts that are to be allocated between Program Management and State Legal Defense Services.

<b>Table 2. Approximate Program Management Allocations from Line Items Shared with State Legal Defense Services, FY 2020-FY 2021</b>				
<b>Fund Group/ Line Item</b>	<b>Line Item Name</b>	<b>Total Biennial Appropriation</b>	<b>Program Management Allocation</b>	<b>State Legal Defense Services Allocation</b>
GRF/019401	State Legal Defense Services	\$12,193,840	\$4,223,221	\$7,970,619
DPF/019605	Client Payments	\$1,453,220	\$382,071	\$1,071,149
DPF/019619	Indigent Defense Support – State Office	\$14,330,334	\$7,016,827	\$7,313,507
<b>Total</b>		<b>\$27,977,394</b>	<b>\$9,142,119</b>	<b>\$16,355,275</b>

# FY 2020 - FY 2021 Final Appropriations

# All Fund Groups

Line Item Detail by Agency			Appropriations			FY 2019 to FY 2020	Appropriations	FY 2020 to FY 2021
			FY 2018	FY 2019	FY 2020	% Change	FY 2021	% Change
<b>Report For: Main Operating Appropriations Bill</b>			<b>Version: As Enacted</b>					
<b>PUB Ohio Public Defender Commission</b>								
GRF	019401	State Legal Defense Services	\$ 3,778,343	\$ 4,071,015	\$ 5,659,317	39.01%	\$ 6,534,523	15.46%
GRF	019403	Multi-County: State Share	\$ 1,794,829	\$ 1,708,761	\$ 3,607,498	111.12%	\$ 4,644,653	28.75%
GRF	019404	Trumbull County - State Share	\$ 531,710	\$ 626,940	\$ 1,349,330	115.22%	\$ 2,036,064	50.89%
GRF	019405	Training Account	\$ 30,475	\$ 37,125	\$ 50,000	34.68%	\$ 50,000	0.00%
GRF	019501	County Reimbursement	\$ 30,237,220	\$ 31,188,211	\$ 89,020,000	185.43%	\$ 125,000,000	40.42%
<b>General Revenue Fund Total</b>			<b>\$ 36,372,578</b>	<b>\$ 37,632,051</b>	<b>\$ 99,686,145</b>	<b>164.90%</b>	<b>\$ 138,265,240</b>	<b>38.70%</b>
1010	019607	Juvenile Legal Assistance	\$ 202,985	\$ 208,153	\$ 204,756	-1.63%	\$ 204,756	0.00%
4060	019603	Training and Publications	\$ 25,000	\$ 8,462	\$ 25,000	195.44%	\$ 25,000	0.00%
4070	019604	County Representation	\$ 267,105	\$ 184,560	\$ 280,407	51.93%	\$ 285,000	1.64%
4080	019605	Client Payments	\$ 683,696	\$ 605,791	\$ 715,831	18.16%	\$ 737,389	3.01%
4C70	019601	Multi-County: County Share	\$ 2,184,628	\$ 2,331,289	\$ 1,352,812	-41.97%	\$ 0	-100.00%
4N90	019613	Gifts and Grants	\$ 17,684	\$ 18,800	\$ 19,440	3.40%	\$ 19,440	0.00%
4X70	019610	Trumbull County - County Share	\$ 646,004	\$ 857,964	\$ 505,999	-41.02%	\$ 0	-100.00%
5740	019606	Civil Legal Aid	\$ 17,993,164	\$ 20,544,904	\$ 25,000,000	21.68%	\$ 25,000,000	0.00%
5CX0	019617	Civil Case Filing Fee	\$ 517,148	\$ 540,611	\$ 623,425	15.32%	\$ 642,904	3.12%
5DY0	019618	Indigent Defense Support - County Share	\$ 32,830,022	\$ 30,077,470	\$ 31,872,000	5.97%	\$ 31,872,000	0.00%
5DY0	019619	Indigent Defense Support - State Office	\$ 6,143,962	\$ 6,559,220	\$ 7,113,482	8.45%	\$ 7,216,852	1.45%
<b>Dedicated Purpose Fund Group Total</b>			<b>\$ 61,511,397</b>	<b>\$ 61,937,225</b>	<b>\$ 67,713,152</b>	<b>9.33%</b>	<b>\$ 66,003,341</b>	<b>-2.53%</b>
3GJ0	019622	Byrne Memorial Grant	\$ 7,546	\$ 2,784	\$ 0	-100.00%	\$ 0	N/A
3S80	019608	Federal Representation	\$ 30,115	\$ 36,610	\$ 38,315	4.66%	\$ 38,315	0.00%
<b>Federal Fund Group Total</b>			<b>\$ 37,662</b>	<b>\$ 39,394</b>	<b>\$ 38,315</b>	<b>-2.74%</b>	<b>\$ 38,315</b>	<b>0.00%</b>
<b>Ohio Public Defender Commission Total</b>			<b>\$ 97,921,636</b>	<b>\$ 99,608,670</b>	<b>\$ 167,437,612</b>	<b>68.10%</b>	<b>\$ 204,306,896</b>	<b>22.02%</b>