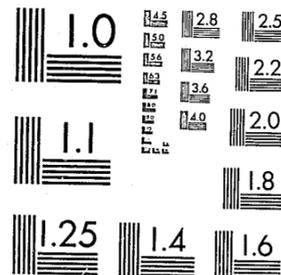


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United States Department of Justice  
Washington, D. C. 20531

8/8/83

# 1981 Annual Report

## Ohio Public Defender Commission



86787

A. Rhodes  
State of Ohio

Randall M. Dana  
State Public Defender

Everett Burton  
Chairman

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RANDALL M. DANA  
State Public Defender

**Office of the Ohio Public Defender**

20 East Broad Street  
Columbus, Ohio 43215  
(614) 466-5394

The Honorable James A. Rhodes, Governor of Ohio  
Honorable Members of the General Assembly  
Honorable Justices of the Supreme Court of Ohio

In accordance with Section 120.03 of the Ohio Revised Code, it is the pleasure of this Commission to submit to you the Annual Report of the Ohio Public Defender Commission for state fiscal year 1981. This Report concerns the operations of the Commission, the State Public Defender Office, and county public defender offices and assigned counsel systems.

The past year was extremely eventful and challenging for the Commission. Among the matters considered or decided were the reappointment of State Public Defender J. Tullis Rogers, the continuation of the county evaluation program, the development of reimbursement standards by the State Public Defender Office, the promulgation of new Rule 120-1-11 involving the setting of time limits for the submission of reimbursement requests by the counties, the declining of percentages of state reimbursement resulting from budget constraints, and a variety of policy matters relating to the Ohio indigent defense system.

The Ohio state-local partnership for the defense of indigent individuals accused of crimes has functioned effectively and improved. Refinements are being made even in the face of rising crime and tight budgets. To the credit of the participants in the system, quality defense services are on a timely basis available to those who qualify. Delays between arrest and provision of representation are being reduced, attorney compensation is being improved, and representation is being provided in appropriate proceedings.

The Commission assures you that we will continue to use our best efforts in "providing, supervising, and coordinating legal representation" for indigent individuals in the state of Ohio.

Sincerely,

A handwritten signature in black ink, appearing to read "Everett Burton".

Everett Burton  
Chairman  
Ohio Public Defender Commission

# Background: The Ohio Indigent Defense System

Prior to 1976, the state of Ohio did not have a coordinated, consistent, and uniform system for the provision of legal services to indigent individuals accused of crimes. Many counties were not appointing counsel in all cases required by the United States Supreme Court. Some counties had well organized legal aid and defender programs, while others used ad hoc assigned counsel systems with attorneys working for no or meager compensation. Following the U.S. Supreme Court decision in *Argersinger v. Hamlin* (1972), which mandated state provision of legal counsel to indigent persons accused of crimes which might result in imprisonment, states began to develop and implement state defender systems.

In 1975, after two unsuccessful attempts, the Ohio General Assembly enacted Amended Substitute H.B. 164. This Act (Chapter 120 of the Ohio Revised Code) created the Ohio Public Defender Commission and the State Public Defender Office and provided for a joint state-county program for the provision of legal services to indigent individuals. Ohio thus opted for a mixed system, rejecting full state control and local autonomy, in favor of a cooperative system with joint funding and provision of services shared between the state and the counties.

Appointments to the Ohio Public Defender Commission were made by the Governor and the Chief Justice of the Ohio Supreme Court in January, 1976, and the initial meeting of the Commission was held in April of that year. The first State Public Defender, J. Tullis Rogers, was appointed on October 5, 1976, and the initial staff members of the State Public Defender Office were hired in December, 1976.

Under the Ohio system, the State Public Defender Office serves two main functions: direct provision of legal services and partial reimbursement for county expenditures or indigent defense. The State Office provides direct services upon request by a judge, defendant, or a county public defender. These requests may be made because local counsel is unavailable for assignment, because a county public defender office caseload has become too high to undertake additional cases, or because a defendant does not want local counsel or prefers state defense attorneys. These requests are made for representation at trial, on appeal, on the filing of various postconviction motions, for parole revocation and probation violation hearings, for extradition proceedings, for writs of habeas corpus, and other miscellaneous services. Additionally the State Public Defender represents all persons incarcerated in state penal institutions who allege that they are being unlawfully detained.

Under Chapter 120, counties are given the option to choose between three possible systems for the provision of counsel: (1) a county public defender office, (2) a joint county public defender office, or (3) an assigned counsel system. Since 1976, twenty-seven counties have created public defender offices and three counties have joined to form a joint county public defender office. Eighty-six counties, including twenty-five of the counties which have public defender offices, utilize assigned counsel systems.

# Members of the Ohio Public Defender Commission

	Appointed By	Term
<b>Burton, Everett</b> — Chairman 200 Bank One Plaza Portsmouth, Ohio 45662 Occupation: Attorney, Burton, Johnson, & McKenzie	Governor	1/13-78-1/12/82
<b>Bloomfield, Saily W.</b> 100 East Broad Street 23rd Floor Columbus, Ohio 43215 Occupation: Attorney, Bricker & Eckler	Supreme Court	1/13/81-1/12/85
<b>Cassidy, Paul D.</b> 503 South High Street Columbus, Ohio 43215 Occupation: Attorney, Cassidy, Niehoff & Meeks	Governor	1/13/79-1/12/83
<b>Garry, Timothy A.</b> 18th Floor, Provident Tower 1 East Fourth Street Cincinnati, Ohio 45202 Occupation: Attorney, Keating, Muething, & Klekamp	Supreme Court	1/13/78-1/12/82
<b>Hughes, James J., Jr.</b> 100 East Broad Street 23rd Floor Columbus, Ohio 43215 Occupation: Attorney, Bricker & Eckler	Governor	1/13/81-1/12/85
<b>Isaac, Frank K.</b> 911 Citizens Federal Tower 2000 East Ninth Street Cleveland, Ohio 44115 Occupation: Attorney, Isaac, Elder, & Repicky	Supreme Court	1/13/80-1/12/84
<b>Moody, Lizabeth A.</b> 17210 Parkland Drive Shaker Heights, Ohio 44120 Occupation: Attorney and Professor of Law, Cleveland Marshall College of Law	Supreme Court	1/13/79-1/12/83
<b>Weimer, Raymond M.</b> Route #5 — Box 318 London, Ohio 43140 Occupation: Madison County Auditor	Governor	1/13/80-1/12/84
<b>White, David D.</b> 180 East Broad Street 8th Floor Columbus, Ohio 43215 Occupation: Attorney and Accountant; Bell, White, Stein, Lehman & Ross	Governor	1/13/78-1/12/82

# Fiscal Year 1981 Highlights of the Commission

The Ohio Public Defender Commission held eight meetings during state fiscal year 1981. Regular meetings were held on July 12 and October 11 of 1980, and on January 10, February 28, and April 25 of 1981. Special meetings were held on August 14 and September 15, 1980, and May 4, 1981.

The year began with consideration of State Public Defender J. Tullis Rogers for reappointment to a second four-year term. The Commission thoroughly reviewed the performance of the State Public Defender Office, appointing a special Subcommittee of three Commissioners to evaluate Office policies and procedures. After the completion of the review by the Subcommittee and upon its recommendation, Mr. Rogers was reappointed to another four-year term on September 15, 1980.

The Commission also continued monitoring and analyzing the county indigent defense evaluation program. This program, conducted at the direction of the Evaluation Subcommittee of the Commission by members of the staff of the State Public Defender Office and by the National Legal Aid and Defender Association, was begun in February, 1980. Indigent defense services in the following counties have been evaluated: Licking, Perry, Franklin, Stark, Lucas, and Mahoning. Evaluations of indigent defense systems in Ross, Washington, and Athens counties were being completed at the end of fiscal year 1981. The Commission has utilized the evaluations in identifying policy issues confronting the Ohio system.

The Commission reviewed and approved the Reimbursement Standards for Assigned Counsel and for Public Defender Offices promulgated by the State Public Defender pursuant to section 120.04 (B) (7) of the Revised Code. These Standards have resulted in substantial improvements in the state reimbursement process; policies and procedures of state reimbursement are now uniform and better understood to the greater appreciation of those dealing with the system. The current Standards as approved by the Commission are as follows:

## ASSIGNED COUNSEL STANDARDS

### A.C. 1 Proper Completion of the OPD-E-202

A. Counsel assigned to represent indigent individuals accused of crimes involving the loss of liberty in Ohio courts must complete and submit the form, OPD-E-202, "Application, Entry, and Certification for Assigned Counsel Fees," as prescribed by the Ohio Public Defender Commission and the State Public Defender Office. The OPD-E-202 is to be submitted for each case to the county auditor in the county in which the appointment of counsel was made and the services rendered. Reimbursement will be made by the State Public Defender Office contingent upon receipt of an OPD-E-202 form which is completed with all necessary items of infor-

mation. Necessary items of information are those found in A.C. 1(B).

B. A completed OPD-E-202 must contain the following elements of information:

1. Court and County name;
2. Name of governmental unit which is prosecuting the case (strike the inapplicable unit);
3. Name of defendant;
4. Case number as assigned by court in which services are rendered;
5. Date attorney was appointed to the case (must correspond with date of signed journal entry pursuant to Ohio Revised Code Section 120.33(B));
6. Number of hours worked in-court and out-of-court (must correspond with itemized hours listed on back of the OPD-E-202);
7. Total fee claimed by the attorney (according to applicable county fee schedule, not including expenses);
8. Total expenses claimed (must be supported by receipts as outlined in A.C. 3);
9. Total fees and expenses upon which reimbursement is sought;
10. Applicable Ohio Revised Code charge(s) along with disposition on each;
11. Offense classification for each charge;
12. Attorney signature, name, address, and social security number;
13. Signature of judge presiding over disposition of case (see A.C. 7);
14. Signature of county auditor, along with date and number of check or warrant paid to the attorney;
15. Attorney time itemization by date, activity, and time spent (see A.C. 8);
16. Dated signature of counsel attesting to the itemization of time;
17. Party represented, case number, presiding judge, and date of assignment for case in which time is itemized.

### A.C. 2 Maximum Attorney's Fees

Reimbursement for attorney's fees are limited to the maximums approved by the State Public Defender under the authority of Ohio Revised Code Section 120.04(B) (8). Such maximums are incorporated by reference into these standards. If maximum allowable fees under the pertinent county fee resolution are lower than the state maximum, reimbursement shall be made at the county maximum.

### A.C. 3 Travel Expenses

Travel expenses listed on the OPD-E-202 and approved by the appointing court shall be reimbursed at 50% by the

State Public Defender Office, subject to the following conditions:

A. Travel expenses incurred in any mode of travel shall be reimbursable whenever the attorney travels outside of his/her home county, or a distance one way of 30 miles or greater from his/her office or base of operations. The attorney's certificate, if travel expenses are included, shall specify the points of departure and destination.

B. Reimbursement for travel by personal auto shall be made at 19 cents per mile, or at the applicable county rate if lower.

C. Reimbursement for travel by commercial airlines will be made so long as all fare does not exceed the maximum allowable for ground transportation. The lesser of the air fare and the maximum allowable ground transportation will be the base for reimbursement.

D. Lodging expenses shall be reimbursed at no greater than \$30.00 per day, and only when the attorney is on travel status as determined by item (A).

E. Reimbursement for meal expenses shall be made when the attorney is on travel status as determined by item (A). Meal expenses are limited to \$3.00 for breakfast, \$4.00 for lunch, and \$7.50 for dinner.

F. Parking tolls, taxis, bus fares, etc., are reimbursable only when the attorney is on travel status as determined by item (A).

G. The attorney's certificate shall include an itemized statement of all travel expenses, including mileage, air fare, lodging, meals, and miscellaneous items. All expenses submitted for reimbursement which exceed \$5.00 shall be documented by proper receipts attached to the OPD-E-202.

### A.C. 4 Costs Subject to Waiver

No reimbursement will be made for fees or costs incurred which are subject to waiver due to the indigency of the client (i.e., the \$20.00 filing fee for the Supreme Court).

### A.C. 5 Transcripts, Experts, and Other Costs

The State Public Defender Office will reimburse 50% of all expenses reasonably related and necessary to the defense of an indigent client. These expenses include transcripts, expert advice and testimony, polygraph examinations, phone calls, photocopying, and certain other items. Reimbursement for these expenses is limited by the following conditions:

A. Each expense must be specifically allowed in the pertinent county commissioner's fee schedule adopted pursuant to Ohio Revised Code Section 120.33.

B. Expenses submitted with the OPD-E-202 must be approved by the judge presiding over the proceeding giving

rise to the request for reimbursement, or by the administrative judge pursuant to Ohio Public Defender Commission Reimbursement Standard A.C. 7.

C. Expenses for non-expert, regular witnesses shall be reimbursed if not excessive, and only at the discretion of the State Public Defender.

D. Each expense must be itemized on the OPD-E-202, and those over \$5.00 shall be supported by a receipt.

E. Transcript expenses must be accompanied by the form promulgated by the State Defender Office and are reimbursable only when submitted with an OPD-E-202 at the conclusion of an assigned case.

### A.C. 6 Compensation and Reimbursement on Cases Involving Multiple Charges and/or Counts

A. An assigned counsel is entitled to one fee when one proceeding is held for a single defendant on charges/counts arising out of a single incident of criminal conduct or a series of related criminal incidents.

B. On cases involving multiple charges in which one fee is payable, the fee shall be set corresponding to the highest degree of offense charged.

C. An attorney representing co-defendants must submit separate certificates for each client, and time must be prorated between each client.

### A.C. 7 Signature of Presiding Judge

An OPD-E-202 must be signed by the judge who presided over the proceeding for which the request for reimbursement is being made. The State Public Defender has discretion to allow the signing of the certificate(s) by the court of common pleas administrative judge in the event that the presiding judge for a particular case(s) is unavailable to sign due to illness, vacation, return to home county (when presiding judge was a visiting judge), or some other acceptable reason.

### A.C. 8 Itemization of Attorney Hours

The itemization of hours spent in-court and out-of-court by the attorney is required on each certificate submitted, regardless of whether payment by the county was on a flat fee or per hour basis. Hours shall be itemized in quarter-hour segments.

### A.C. 9 Minor Misdemeanors

No reimbursement will be made for representation by assigned counsel on minor misdemeanors.

### A.C. 10 Representation in Municipal or County Court

Reimbursement will be made for representation in Municipal or County Court on any violations of municipal ordinances provided that such violations involve potential

loss of liberty for the accused and provided that the municipality has contracted with the County Commissioners for such representation pursuant to Ohio Revised Code Section 120.33. The contract between the municipality and the respective County Commissioners must be on file with the State Public Defender before reimbursement can be made for representation in municipal court.

#### A.C. 11 State Recoupment on Fees and Expenses Paid by Indigent

In any case in which reimbursement has been made or will be made by the State Public Defender Office, and the indigent defendant in that case subsequently repays the county for legal fees and expenses incurred (whether as a condition of parole, probation, or any other arrangement), 50% of such repayment is due the State Public Defender Office, payable by check or warrant made out to the order of "Treasurer - State of Ohio."

#### A.C. 12 Timely Submission of Certificates

OPD-E-202 forms paid by the county in any calendar month are due to the State Public Defender Office Reimbursement Division within thirty (30) days of the end that calendar month in order to be considered submitted in a timely manner. Certificates reported after the due date are classified as delinquent, and are subject both to greatly delayed reimbursement and to potential partial payment under the proration authority of Ohio Revised Code Section 120.34. (Standard now superseded by Administrative Rule 120-1-11, effective May 8, 1981)

#### A.C. 13 Reimbursement for Cases in Juvenile Court

Reimbursement will be made for attorneys assigned to represent juveniles in cases involving determination of delinquency or unruliness. Reimbursement will be made for attorneys assigned to represent adults accused of violations of any of the provisions of Chapter 2151 of the Ohio Revised Code. Reimbursement will be made for the appointment of guardians ad litem in connection with determinations of delinquency and unruliness.

No reimbursement will be made by the State Public Defender Office for attorneys or guardians ad litem appointed for the juvenile in abuse, neglect, dependency or custody cases.

Reimbursement for cases in which representation is authorized under this section shall only be made upon the completion and submission of the OPD-E-203, Application, Entry, and Certification for Assigned Counsel in Juvenile cases.

#### A.C. 14 Certificate for Attorney's Fees on Appeals and Extraordinary Writ Cases

On all appointments of counsel in indigent criminal

cases on appeal or on the filing for an extraordinary writ (mandamus, prohibition), reimbursement shall be made upon completion and submission of a form OPD-E-204, Application, Entry and Certification for Court of Appeals.

The form must be filled out completely and attorney time on the case must be itemized in quarter-hour segments on the back side of the form.

The signatures of all three appellate judges hearing the appeal must appear on the form.

#### Amendment of Standards

These standards are subject to amendment by the State Public Defender upon the giving of proper notice in writing to the appropriate county officials, including, but not limited to, county commissioners, auditors and common pleas judges.

### PUBLIC DEFENDER STANDARDS

#### P.D. 1 Completion of OPD 501: Monthly Operating Expenses for County Public Defender

The proper form for obtaining reimbursement for expenditures by a county or joint county public defender office is the OPD-501, Monthly Operating Expenses for County Public Defender. Each section of the OPD-501 form must be completely filled out, with amounts specified to the cent (no rounding).

The form can be completed by extracting the sums for the various classifications of expenses directly from the county auditor's books. From these figures, any federal funds such as LEAA are subtracted, as well as funds from private sources such as grants from charitable foundations, etc. Once the final figure is totaled and submitted to our office, we will reimburse the county at the percentage our office is using for that particular month.

#### P.D. 2 Submission of Caseload and Case Disposition Data

Each county public defender office must submit, along with the monthly OPD-501 form, a report on cases terminated during the month for which reimbursement is being sought. Cases should be reported in the following categories:

- |                            |            |
|----------------------------|------------|
| Felonies:                  | Terminated |
| a. Trials                  |            |
| b. Pleas                   |            |
| c. Dismissals              |            |
| d. Other Disposition       |            |
| e. Continued to Next Month |            |

#### Misdemeanors:

- a. Trials
  - b. Pleas
  - c. Dismissals
  - d. Other Disposition
  - e. Continued to Next Month
- Appeals
- Post Conviction Motions
- Parole and Probation Revocations
- Habeas Corpus
- Juvenile Proceedings
- Miscellaneous

Reimbursement for any month cannot be made until a case report has been received.

#### P.D. 3 Time Limit for Submission of OPD-501

The State Public Defender Office will not reimburse on an OPD-501 received more than sixty (60) days after the end of the month in which the expenditures were incurred. An extension for a reasonable amount of time may be granted in order to resolve problems on OPD-501 forms which are returned to the counties, but in no event will an extension of more than sixty (60) days beyond the initial submission period be granted. (Standard now superseded by Administrative Rule 120-1-11, effective May 8, 1981)

#### P.D. 4 Contracts with Municipalities

In order to receive reimbursement for expenses incurred in providing legal representation to indigent individuals in Municipal Court, the county public defender commission must contract with the municipality supporting the Municipal Court for the provision of services by the county public defender office. No particular form of contract is necessary, so long as the contract format chosen indicates the parties involved, the terms of compensation, and the fact that the contract is executed subject to the rules of the Ohio Public Defender Commission and these standards.

#### P.D. 5 Expenditures by the County Public Defender Offices

Prior to the beginning of each calendar year, the county public defender offices shall submit to the Ohio Public Defender Commission their proposed budget for the forthcoming year. The State Public Defender Office will review the budget. Upon reviewing the budget for each county public defender office, the State Public Defender Office shall

reimburse the county public defenders up to a maximum of 50% of that amount during the year. Once the reimbursement of 50% of the total budget has been completed, the State Public Defender Office shall not be responsible for any other reimbursement of the county public defender office until such time as the county public defender office submits a request for additional funding to the State Public Defender Office. This request for additional funding shall identify the items which the funding is being used for and the justification for that funding if reimbursement is expected to be received.

#### P.D. 6 Reimbursement for Indirect Costs

Indirect costs for county government can be submitted on the OPD-501 for state reimbursement only after the State Public Defender has approved the indirect cost plan upon which the charges are based.

#### P.D. 7 Representation in Juvenile Proceedings

Reimbursement will be made to county public defender offices for representation of indigent juveniles charged with an offense(s) which would involve the potential loss of liberty (essentially delinquency and unruliness determinations) and for representation of adults charged with violations of the Juvenile Code which involve a potential loss of liberty. No other Juvenile Court cases are reimbursable.

#### P.D. 8 Representation in Minor Misdemeanors

No reimbursement will be made to a county public defender office for representation provided on minor misdemeanors. County offices providing such representation are subject to reduction in reimbursement by the amount provided per fourth degree misdemeanor in the pertinent county fee resolution.

#### P.D. 9 Applicability of Assigned Counsel Standards

Where applicable, the Standards for Reimbursement of Assigned Counsel promulgated under section 120.04(B) (7) apply to the operations of county public defender offices.

The Commission considered at length the Maximum Fee Schedule for state reimbursement of assigned counsel. The current Maximum Fee Schedule, approved by the Commission after recommendations of the State Public Defender pursuant to section 120.04(B) (8) of the Revised Code, is as follows:

#### MAXIMUM FEE SCHEDULE FOR ASSIGNED COUNSEL

1. Reimbursement shall be made on the basis of \$30.00 per hour of representation out of court and \$40.00 per hour of representation in court, up to the following maximum amounts for the following offenses classifications and other proceedings:

Aggravated Murder (w/o Specs)	\$4,000/1; \$6,000/2
Murder	\$3,000
Felonies (degrees 1-4)	\$1,000
Misdemeanors (degrees 1-4)	\$ 500
Juvenile Proceedings:	
Delinquency Offenses	\$ 750
Guardian Ad Litem	\$ 150
All Others	\$ 300
Postconviction Proceedings:	
With Evidentiary Hearing	\$ 750
Without Hearing	\$ 300
Habeas Corpus, Parole, Probation and all other proceedings not elsewhere classified	\$ 300

2. Reimbursement for entrance of pleas should be on the basis of \$30.00 per hour out of court and \$40.00 per hour in court, up to the prescribed maximums for each offense classification. (\*See footnote).

3. Reimbursement for expenses associated with providing representation shall be made when submitted with the attorney's fee certificate (OPD-E-202) and approved by the trial judge, when permitted by the county resolution currently in effect. Expenses include, but are not limited to, such items as expert witness fees, polygraph examination costs, parking and meal expenses, long distance calls, copying, and other necessary items as approved in the discretion of the court.

4. Additional reimbursement shall be made for extraordinary cases at the rate of \$30.00 per hour out of court and \$40.00 per hour in court, up to \$200.00 per day plus expenses whenever a trial continues beyond the following periods:

Aggravated Murder	13 days
Murder	8 days
Felonies (degrees 1-4)	4 days

Additional reimbursement for extraordinary cases will only be made with approval of the trial court and must be allowed by the county fee resolution in effect.

5. Reimbursement for appellate representation shall be made on the basis of \$35.00 per hour for in or out of court representation, since appellate proceedings generally consume less than one hour of oral argument time. Reim-

\*The State Public Defender Office recommends a minimum fee (no authority exists to mandate minimums) for the entrance of pleas of \$250.00 to \$300.00 per case. This recommendation is made for two primary reasons:

- (1) A minimum fee for entrance of a plea encourages accuracy in reporting time records of in and out of court time of representation;
- (2) A minimum fee does not penalize the expertise of an attorney who may be able to negotiate more efficiently than a less experienced attorney if pleas are based exclusively on time records.

bursement shall be made when submitted with the appropriate certificate (OPD-E-204), approved by the appellate court, and within the prescribed fees as permitted by the county resolution currently in effect up to the following maximum amounts for these offense classifications:

Aggravated Murder (w/o Specs)	\$2,000
Murder	\$1,500
Felonies	\$ 750
Misdemeanors	\$ 500

The Commission enacted Administrative Rule 120-1-11, which set time limits on the submission of requests for reimbursement by counties. The Rule follows:

**Rule 120-1-11 Time Limits for Reimbursement of County Expenditures for Assigned Counsel and Public Defender Offices.**

The following time limits on submission of requests for state reimbursement under the Ohio Indigent Defense Program by county boards of county commissioners to the State Public Defender Office are hereby adopted:

(A) Assigned counsel expenditures shall not be reimbursed by the State Public Defender Office unless submitted by the county within ninety days of the end of the calendar month in which the case involved was terminated.

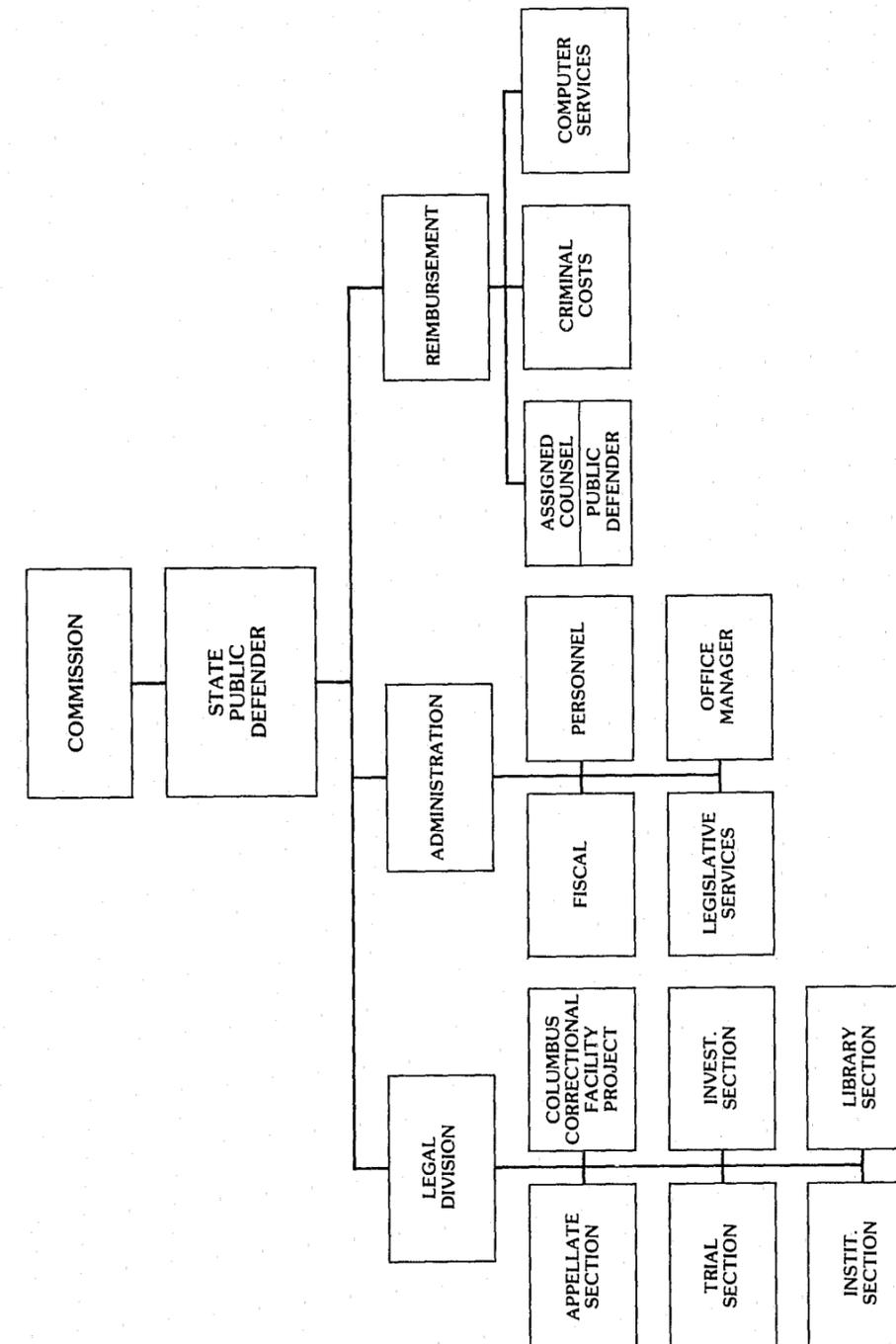
(B) County Public Defender Office operating expenditures shall not be reimbursed by the State Public Defender Office unless submitted by the County within sixty days of the end of the calendar month in which the expenditures were incurred.

The State Public Defender may grant an extension in writing to a county which has made a request for an extension in writing for a period of time not exceeding that originally allowed under this rule in order to correct errors in an attorney certificate or County Public Defender monthly statement and resubmit them.

Rule 120-1-11 will allow the State Public Defender Office to develop more accurate budgets for the subsidy, and save the state of Ohio a significant amount since attorney certificates and monthly statements submitted late will lose eligibility for state reimbursement.

The fiscal year which began July 1, 1981, promises to be challenging to the Commission as it considers the issues raised by the evaluation program, recommends and supervises legislative amendments to Chapter 120, and monitors the levels of state reimbursement provided in the fiscal year 1982 state budget.

# Table of Organization State Public Defender Office



# State Public Defender Office

## Management

On May 4, 1981, Mr. J. Tullis Rogers resigned as State Public Defender effective July 31, 1981. Mr. Rogers was the first State Public Defender, and the Commission expressed appreciation for his service since the creation of the State Public Defender Office.

On July 31, 1981, the Ohio Public Defender Commission appointed Randall M. Dana as State Public Defender for a four-year term commencing August 1, 1981.

Mr. Dana is a graduate of Ohio State University and Capital University School of Law. He spent three years with the Columbus City Prosecutor's Office, five years in the private practice of law, and two years as General Counsel of Society Bank in Columbus before coming to the State Public Defender Office in September, 1980, as First Assistant State Public Defender.

## Budget

Fiscal year 1981 was a difficult year for the State Public Defender Office in terms of operating and subsidy budgets. During the deliberations on appropriations for fiscal year 1981 by the Ohio General Assembly, a late revision of revenue estimates led to a 2% reduction in operating and subsidy

budgets. Following this, two 3% cuts were mandated by the Governor through Executive Orders.

Reductions of 8% had an adverse impact on the level of services provided by the Office. Virtually every division (legal, investigative, reimbursement, and administrative) was forced to reduce staff, and the proration provision of section 120.34 of the Revised Code had to be invoked for the Indigent Defense Subsidy Account. By the end of fiscal year 1981, the number of employees in the Office had declined from 56 to 42. Reimbursement for county expenditures on indigent defense sunk from the traditional 50% in prior fiscal years to an effective rate of 33 1/3% during the fiscal year.

Despite staff reductions, the Office has continued to provide basic legal services to the counties, and the amount of time required to process reimbursement requests has been reduced. As the Office moves into fiscal year 1982, it is hoped that service levels can be maintained while restoring the level of reimbursement out of the Indigent Defense Subsidy Account to 50%.

As Table I indicates, total funds available to the office in fiscal year 1981 were \$1,627,551 less than funds available the previous fiscal year.

Table I  
Fiscal Year 1980 and 1981 Expenditures

Appropriation Item	Fund	FY 1980	FY 1981
Personal Services	11 <sup>1</sup>	\$912,377	\$788,642
(salaries and fringes)	10 <sup>2</sup>	44,874	39,005
	08 <sup>3</sup>	10,470	52,586
Maintenance (rent, utilities, supplies, etc.)	11	207,607	252,390
	10	35,042	35,608
Equipment	11	25,795	11,232
Special Purpose <sup>4</sup>	11	1,947	3,439
Subsidy (Indigent Defense) <sup>5</sup>	11	5,629,409	4,277,246
Subsidy (Criminal Costs) <sup>6</sup>	11	2,004,999	1,790,714
Transfer	11	5,893	-0-
<b>Total Expenditures - General Revenue Fund</b>		<b>\$8,788,027</b>	<b>\$7,123,663</b>
<b>Total Expenditures - All Funds</b>		<b>\$8,878,413</b>	<b>\$7,250,862</b>

## Notes:

- Fund 11 is the State's General Revenue Fund; expenditures from this Fund are supported by general tax dollars and fees raised by the state;
- Fund 10 is the State's Federal Special Revenue Fund; expenditures from this Fund are derived from Federal grants, which were received during fiscal year 1981 for the reimbursement computer program and for the investigative staff;
- Fund 08 is the State Special Revenue Fund; amounts expended from this Fund during fiscal year included the payment of a legal intern under the Ohio State University Work-Study Program and the provision of legal services to inmates at the Columbus Correctional Facility pursuant to the consent decree in *Stewart v. Rhodes*; (see page 14)
- Expenditures from the Special Purpose Account represent state match required for Federal grants received by the Office during fiscal year 1981;
- The Indigent Defense Subsidy Account contains funds for reimbursement of county expenditures on defense of indigent individuals in criminal cases, as provided by sections 120.18, 120.28, and 120.33 of the Revised Code.
- The Criminal Cost Subsidy Account provides 100% reimbursement of a variety of court and certain law enforcement costs incurred by the counties; a county is entitled to reimbursement from this Account when a defendant is indigent, convicted of a felony, and sentenced to a state penal institution (for statutory authority on the program itself, see sections 2949.17 through 2949.19 of the Revised Code).

## Legal Services

One of the primary functions of the State Public Defender Office is the direct provision of legal services to indigent individuals accused of crimes in Ohio. Section 120.05 of the Revised Code authorizes the State Public Defender to establish a central office, which was created in 1976 at 20 East Broad Street in Columbus. Section 120.06 of the Revised Code permits the State Public Defender and office staff to provide legal services in a variety of matters, including representation of adults accused of serious offenses under section 120.06 (A) (1), of juveniles in juvenile proceedings involving a potential loss of liberty under section 120.06(A) (2), of persons incarcerated in state penal institutions under section 120.06(A) (3), and persons appealing convictions under section 120.06(A) (4).

The Legal Services staff of the Office includes the State Public Defender, eight (8) staff attorneys in the central office, and one (1) staff attorney managing the Columbus Correctional Facility (CCF) Legal Advisory Program. In addition, there are three (3) investigators, two (2) polygraph examiners, and five (5) legal interns working out of a central office with four (4) additional interns at the CCF Program.

The greatest number of cases reach the State Public Defender Office by request of a defendant (see Table III). The next greatest sources are judges and county public defenders.

Table II indicates the fiscal year 1981 caseload (and fiscal year 1980 for comparative purposes) of the State Public Defender Office categorized by type of proceeding. Table III reveals the same caseload by source of referral.

Table II  
Caseload by Type of Case

Proceeding	FY 1980	FY 1981
Trial-Level	50	77
Appeal	125	79
Post-Conviction	97	130
Parole Revocation	293	397
Probation Violation	12	16
Habeas Corpus	21	7
Other <sup>1</sup>	148	504
<b>TOTAL CASELOAD</b>	<b>746</b>	<b>1,210</b>
<b>INQUIRIES<sup>2</sup></b>	<b>324</b>	<b>1,040</b>

<sup>1</sup>"Other" includes juvenile proceedings, extradition, on-site institutional hearings, and miscellaneous hearings.

<sup>2</sup>Inquiries are requests for services or information which do not materialize into cases; included are such inquiries as internal prison matters, civil cases, and cases determined to be without merit.

Table III  
Source of Referral

Source	FY 1980	FY 1981
County Public Defender	39	52
Common Pleas Judge	27	65
Appellate Judge	4	25
Defendant	646	580
Adult Parole Authority	161	397
Other*	15	91
<b>TOTAL CASELOAD</b>	<b>892</b>	<b>1,210</b>

\*\*"Other" category includes referrals from miscellaneous legal organizations, and state and federal legislators.

An integral part of the Legal Services Division and an important component of the entire State Public Defender Office is the Legal Advisory Program at the Columbus Correctional Facility. Fiscal year 1981 marked the first full year of operation for the Program.

The Legal Advisory Program was a direct result of a provision in the consent decree entered in the case of *Stewart v. Rhodes*. *Stewart* was a lawsuit filed over unconstitutional conditions at the Columbus Correctional Facility (formerly the Ohio Penitentiary). One provision in the consent decree mandated that the Department of Rehabilitation and Correction provide forty hours per week of access to legal advice and guidance to inmates at the Columbus Correctional Facility. After consultation with various parties, the Department decided to contract with the State Public Defender Office for the latter to deliver the mandated services. The Office assigned a staff attorney to manage the Program, and hired four legal interns to staff it. Workload by type of case assistance is indicated in Table IV.

**Table IV**  
**Legal Advisory Program Workload**

TYPE OF ASSISTANCE/ INQUIRY	FY 1981
General Advice	907
Post-conviction Relief	326
Shock Probation	740
Appeal	484
Research	96
Parole	137
Sentence Question	126
Medical Question	22
Sec. 1983 Action	114
Shock Parole	94
Jail Time Credit	73
Detainers	117
Habeas Corpus	22
Parole Revocation Hearings	150
Prison Grievance	27
Clemency	22
Rules Infraction Board Matter	34
General Civil Matters	224
Divorce	19
Child Custody	9
Tax	10
Bankruptcy	10
Court of Claims	42
<b>TOTAL</b>	<b>3,805</b>

The investigative staff of the Legal Services Division plays an important role in the work of the Office. It provides support services for staff attorneys, and is available to county public defenders and assigned counsel when caseload permits. The work performed during fiscal year 1981 by the three investigators and two polygraph examiners is indicated in Table V. (Please note that the number of investigators in fiscal year 1980 was five, and the number of polygraph examiners for the same year was three).

**Table V**  
**Investigator Activities**

	FY 1980	FY 1981
Number of Full Investigations Completed	121	94
Number of Investigations Completed by Each Investigator	20.2	31.3
Number of Additional Services such as filing briefs, checking court records, fingerprint examinations, firearms identification, polygraphic services, handwriting analysis and other miscellaneous services	NA	84
Number of Investigations Which Resulted in Charges Being Reduced or Dropped	16	18
Number of Polygraph Examinations Given	288	254
Number of Miles Traveled by Investigators	65,989	43,462

Investigative services were provided in the following counties: Ashtabula, Athens, Belmont, Butler, Clark, Crawford, Darke, Delaware, Fairfield, Franklin, Hancock, Highland, Licking, Lucas, Madison, Marion, Muskingum, Pickaway, Richland, Ross, Scioto, Trumbull, Tuscarawas, and Union.

**County Reimbursement**

The State Public Defender Office operates three reimbursement programs out of two separate subsidy accounts:

The Criminal Costs Subsidy Account allows 100% reimbursement to counties for a variety of costs incurred in criminal cases in which the defendant is indigent, is convicted of a felony, and is sent to a state penitentiary or reformatory. "Cost bills" prepared by the clerks of the eighty-eight county Common Pleas Courts for such cases are sent to the Ohio prisons for verification of prisoner transportation costs and then are transmitted to the State Public Defender Office. The Office audits the bills and vouchers them for payment of 100% of allowable costs to the counties involved.

Table VI indicates Criminal Costs Subsidy payments by county for fiscal years 1980 and 1981.

The Indigent Defense Subsidy Account provides funds for up to 50% reimbursement of county expenditures for assigned counsel programs and local public defender offices. Eighty-six counties maintain assigned counsel programs, while twenty-nine counties have public defender offices (twenty-six single county offices and one joint county office with three counties participating).

With an assigned counsel program (Ohio Revised Code section 120.33), a court with jurisdiction over a case assigns an attorney from a panel or listing of available attorneys to provide representation to a defendant who has been found indigent. After legal services have been provided, the attorney prepares and submits one of the applicable forms to the Court for the approval of the judge who presided over that proceeding. The form is then submitted to the county auditor, who pays the attorney the requested fees and expenses as approved by the judge. The auditor then files a monthly report

of all attorney certificates paid during that month with the State Public Defender Office. The certificates are audited and up to 50% (the exact percentage is determined by the availability of funds and the number of cases submitted for reimbursement) of all reported costs are then reimbursed to the county general fund.

Table VII shows the state share of county expenditures for assigned counsel programs for fiscal year 1980 and 1981. In parentheses following the fiscal year 1981 figures are the amounts submitted for reimbursement. These figures can be used to calculate

an exact percentage of reimbursement for the year in each county.

The twenty-nine counties with public defender offices prepare monthly reports on office expenses. These reports are submitted to the county auditors for verification and then to the State Public Defender Office. The Office then audits the reports and reimburses up to 50% of all allowable costs.

Table VIII shows the state share of county expenditures for public defender offices for fiscal years 1980 and 1981. Requested amounts for fiscal year 1981 have been placed in parentheses following the amounts paid.



**Table VI  
Criminal Cost Subsidy  
Expenditures**

County	FY 1980	FY 1981	County	FY 1980	FY 1981
Adams	2,983	3,002	Logan	4,599	7,360
Allen	18,933	18,709	Lorain	26,091	25,201
Ashland	6,611	5,649	Lucas	58,515	13,235
Ashtabula	17,755	14,256	Madison	4,690	2,652
Athens	10,152	7,106	Mahoning	30,783	30,139
Auglaize	11,118	7,042	Marion	11,986	14,891
Belmont	12,255	7,961	Medina	11,667	9,051
Brown	5,285	4,158	Mercer	3,115	3,813
Butler	22,886	21,791	Miami	16,124	6,535
Carroll	2,236	1,501	Monroe	3,431	1,026
Champaign	5,601	5,112	Montgomery	78,411	58,370
Clark	40,431	43,920	Morgan	2,079	198
Clermont	15,584	20,545	Morrow	2,716	6,076
Clinton	3,510	5,750	Muskingum	19,301	20,982
Columbiana	26,466	21,166	Noble	795	115
Coshocton	4,610	2,239	Ottawa	5,931	3,745
Crawford	6,981	5,837	Paulding	5,293	1,073
Cuyahoga	352,650	404,315	Perry	998	1,609
Darke	4,892	7,259	Pickaway	14,717	9,444
Defiance	6,779	8,123	Pike	558	3,022
Delaware	9,008	9,736	Portage	31,077	28,621
Erie	6,300	8,639	Preble	3,863	4,231
Fairfield	19,876	14,693	Putnam	1,047	5,926
Fayette	5,509	7,152	Richland	33,717	21,094
Franklin	257,957	265,629	Ross	16,904	21,848
Fulton	7,567	2,503	Sandusky	6,517	6,982
Gallia	1,440	4,475	Scioto	15,512	14,608
Geauga	2,898	5,820	Seneca	4,754	8,866
Greene	24,936	24,294	Shelby	6,836	4,057
Guernsey	7,505	1,928	Stark	47,250	38,288
Hamilton	249,098	163,970	Summit	145,240	105,438
Hancock	17,161	18,913	Trumbull	24,454	15,695
Hardin	655	2,403	Tuscarawas	6,674	7,876
Harrison	861	1,297	Union	3,621	5,508
Henry	5,937	2,692	Van Wert	5,667	6,109
Highland	6,867	10,309	Vinton	560	700
Hocking	1,642	5,342	Warren	13,745	6,999
Holmes	218	642	Washington	6,510	8,689
Huron	4,343	4,871	Wayne	5,663	5,176
Jackson	1,785	3,019	Williams	11,810	5,123
Jefferson	14,147	3,385	Wood	20,530	14,732
Knox	3,799	4,540	Wyandot	2,155	3,055
Lake	24,554	16,381			
Lawrence	2,472	2,806			
Licking	51,732	30,189	<b>TOTALS</b>	<b>2,024,962</b>	<b>1,791,007</b>

Table VII  
Indigent Defense Subsidy  
Assigned Counsel Reimbursement

County	FY 1980	FY 1981	
	Amt. Paid	Amt. Paid	Amt. Submitted
Adams	\$ 11,387	\$ 9,143	(26,057)
Allen	22,960	22,911	(76,359)
Ashland	13,381	11,035	(30,843)
Ashtabula	6,188	7,565	(23,022)
Athens	4,715	3,963	( 9,159)
Auglaize	13,538	12,383	(37,248)
Belmont	6,410	2,346	( 6,539)
Brown	16,459	11,875	(31,693)
Butler	40,874	32,815	(98,422)
Carroll	1,530	946	( 2,632)
Champaign	8,773	5,768	(19,073)
Clark	12,993	11,597	(33,571)
Clermont	2,112	1,256	( 4,246)
Clinton	1,778	2,980	( 7,502)
Columbiana	5,234	2,197	( 5,646)
Coshocton	1,471	1,439	( 2,878)
Crawford	14,779	13,693	(39,442)
Cuyahoga	630,544	374,028	(1,082,054)
Darke	7,748	7,669	(25,211)
Defiance	9,283	10,766	(28,102)
Delaware	13,865	11,032	(35,920)
Erie	5,148	3,301	(10,547)
Fairfield	29,835	19,491	(53,616)
Fayette	7,960	6,388	(17,083)
Franklin	126,978	101,080	(316,503)
Fulton	13,277	5,164	(16,186)
Gallia	25,696	21,036	(62,961)
Geauga	2,529	2,933	( 7,628)
Greene	32,600	29,128	(89,621)
Guernsey	10,537	6,762	(19,077)
Hamilton	423,281	253,060	(781,133)
Hancock	35,313	25,043	(75,746)
Hardin	4,616	4,197	(13,422)
Harrison	877	—	( 539)
Henry	4,998	4,983	(17,047)
Highland	15,737	10,581	(29,354)
Hocking	9,726	8,877	(25,897)
Holmes	2,062	2,810	( 8,616)
Huron	3,512	5,368	(15,981)
Jackson	9,333	7,259	(18,003)
Jefferson	17,872	7,908	(26,624)
Knox	—	—	—
Lake	—	—	—
Lawrence	22,797	16,204	(53,934)

Table VII (cont.)

County	FY 1980	FY 1981	
	Amt. Paid	Amt. Paid	Amt. Submitted
Licking	51,887	40,492	(121,863)
Logan	12,480	10,988	(34,248)
Lorain	36,129	34,230	(106,303)
Lucas	365,204	88,120	(274,687)
Madison	14,955	12,897	(40,239)
Mahoning	102,682	55,931	(165,365)
Marion	30,087	24,863	(82,438)
Medina	9,401	8,075	(25,384)
Meigs	5,360	430	( 1,069)
Mercer	6,965	5,449	(16,185)
Miami	10,779	3,111	( 9,805)
Monroe	5,146	1,273	( 4,560)
Montgomery	184,408	166,848	(518,034)
Morgan	3,200	1,538	( 5,314)
Morrow	6,193	6,429	(20,265)
Muskingum	12,590	8,486	(25,678)
Noble	250	104	( 415)
Ottawa	10,459	7,789	(22,845)
Paulding	8,110	8,102	(25,777)
Perry	1,462	1,787	( 4,509)
Pickaway	11,365	15,711	(51,015)
Pike	1,020	1,807	( 5,499)
Portage	37,895	24,057	(74,983)
Preble	9,021	6,106	(18,275)
Putnam	14,516	3,909	(11,309)
Richland	36,581	37,349	(132,816)
Ross	16,804	22,065	(67,832)
Sandusky	27,171	15,070	(44,261)
Scioto	33,668	23,946	(74,291)
Seneca	—	—	—
Shelby	1,554	4,233	(12,916)
Stark	14,342	18,758	(70,131)
Summit	209,430	126,331	(385,793)
Trumbull	29,258	27,622	(75,893)
Tuscarawas	6,880	1,406	( 4,568)
Union	6,555	5,446	(18,983)
Van Wert	12,007	13,589	(40,915)
Vinton	2,651	3,345	( 8,041)
Warren	20,874	12,573	(41,043)
Washington	12,073	10,208	(32,466)
Wayne	5,007	4,223	(13,758)
Williams	6,668	1,196	( 2,393)
Wood	13,729	10,556	(38,191)
Wyandot	3,576	2,735	(10,521)
<b>TOTALS</b>	<b>\$3,061,088</b>	<b>\$1,978,163</b>	<b>(\$6,026,013)</b>

# County Programs

Chapter 120 of the Revised Code allows Ohio counties three distinct options for the organization of indigent defense services. Sections 120.13 through 120.18 allow the formation of a county public defender office, sections 120.23 through 120.28 permit counties to join in a county public defender office, and section 120.33 contains authority for an assigned counsel system.

Table IX lists county and joint county defender offices, the name of the county public defender, the term of appointment, and the address of the office.

**Table IX**  
**County and Joint County Public Defenders**  
**(As of June 30, 1981)**

COUNTY	DEFENDER	PHONE
ASHTABULA	L. E. DOWNEY Ashtabula County Public Defender Office 4632 Main Avenue Ashtabula, Ohio 44004 Term: Appointed March 21, 1978, for a term of 4 years.	(216) 998-2628
ATHENS	DOUGLAS J. BENNETT Athens County Public Defender Office 8 North Court St. Room 502 Athens, Ohio 45701 Term: Appointed March 1, 1980, for a term of one year.	(614) 593-6400
AUGLAIZE	GLENN DERRYBERRY Auglaize County Public Defender Office 4½ East Auglaize Street Wapakoneta, Ohio 45895 Term: Unreported	(419) 738-3217
BELMONT	JAMES L. NICHELSON Belmont County Public Defender Office 135½ East Main Street St. Clairsville, Ohio 43940 Term: Appointed January 5, 1981, for a term of 4 years.	(614) 695-5263
CLARK	RONALD L. GALLUZZO Clark County Public Defender Office 31 East High Street, Room 322 Springfield, Ohio 45503 Term: Unreported	(513) 323-4639
CLERMONT	R. DANIEL HANNON Clermont County Public Defender Office 257 Main Street Batavia, Ohio 45103 Term: Appointed September 1, 1981 for a term of 4 years.	(513) 732-2212

**Table VIII**  
**Indigent Defense Subsidy**  
**Public Defender Office Expenditures**

County	FY 1980 Amt. Paid	FY 1981 Amt. Paid	Amt. Submitted
Ashtabula	28,735	25,614	( 72,724)
Athens	11,463	9,524	( 28,230)
Auglaize <sup>1</sup>	—	—	—
Belmont	33,607	24,020	( 71,497)
Clark	69,910	64,528	( 196,515)
Clermont	29,428	24,330	( 66,231)
Clinton	14,374	14,634	( 38,329)
Columbiana	65,792	37,232	( 114,095)
Cuyahoga	617,575	459,688	(1,392,586)
Erie	24,861	17,008	( 52,942)
Franklin	534,919	421,304	(1,266,913)
Geauga	28,132	20,696	( 60,432)
Greene	22,121	19,033	( 57,656)
Hamilton	321,576	265,414	( 799,495)
Huron	22,758	15,891	( 46,724)
Knox	22,419	19,309	( 55,443)
Lake	21,961	67,332	( 198,402)
Lucas <sup>2</sup>	—	83,231	( 236,720)
Miami	36,099	25,656	( 76,746)
Montgomery	297,724	232,440	( 692,101)
Portage	39,631	25,218	( 74,972)
Seneca	26,357	17,544	( 50,214)
Shelby <sup>3</sup>	16,822	1,741	( 3,482)
Stark	90,501	97,502	( 290,133)
Summit	77,127	56,672	( 175,259)
Tuscarawas (Tri-county)	9,764	27,301	( 85,647)
Wayne	40,216	29,165	( 86,633)
Wood	64,445	25,586	( 73,785)
<b>TOTALS</b>	<b>2,568,317</b>	<b>2,127,603</b>	<b>(6,363,906)</b>

**Notes:**

<sup>1</sup>The Auglaize County Public Defender Office was created in May, 1981, and therefore there are no fiscal year 1980 or 1981 reimbursement figures that can be reported.

<sup>2</sup>Reimbursement expenditures for the Lucas County Public Defender Office in fiscal year 1980 are included in the Assigned Counsel Expenditure report (Table VII) due to the manner such expenditures were reported to the State Public Defender Office.

<sup>3</sup>The Shelby County Public Defender Office was terminated in June, 1980, and received reimbursement for only three months during fiscal year 1981.

**Table IX (cont.)  
County and Joint County Public Defenders  
(As of June 30, 1981)**

COUNTY	DEFENDER	PHONE
CLINTON	ELAINE H. BIEHL Clinton County Public Defender Office 148 North South Street Wilmington, Ohio 45177 Term: Unreported	(513) 382-1316
COLUMBIANA	FREDERIC E. NARAGON Columbiana County Public Defender Office 37 North Park Avenue Lisbon, Ohio 44432 Term: Appointed January 26, 1980, for a term of 2 years.	(216) 424-7675
CUYAHOGA	HYMAN FRIEDMAN Cuyahoga County Public Defender Office Justice Center 1200 Ontario Street Cleveland, Ohio 44113 Term: Appointed June 1, 1981, for a term of 4 years.	(216) 623-7223
ERIE	JEFFREY K. FURROW Erie County Public Defender Office 243 East Market Street P.O. Box 1179 Sandusky, Ohio 44870 Term: Appointed January 1, 1980, for a term of 4 years.	(419) 626-9343
FRANKLIN	JAMES KURA Franklin County Public Defender Office 400 South Front Street Columbus, Ohio 43215 Term: Appointed July 1, 1980, for a term of 4 years.	(614) 222-8980
GEAUGA	JOSEPH H. WEISS, JR. Geauga County Public Defender Office 139 Main Street Chardon, Ohio 44027 Term: Appointed January 3, 1978, for a term of 4 years.	(216) 564-7131 ext. 148
GREENE	JOSEPH C. GRAF Greene County Public Defender Office 101 East Church Street Xenia, Ohio 45385 Term: Appointed March 13, 1978, for a term of 4 years.	(513) 376-5041

**Table IX (cont.)  
County and Joint County Public Defenders  
(As of June 30, 1981)**

COUNTY	DEFENDER	PHONE
HAMILTON	DONALD G. MONTFORT Hamilton County Public Defender Office Courthouse, Room 564 1000 Main Street Cincinnati, Ohio 45202 Term: Appointed May, 1981, for a term of 2 years.	(513) 632-8701
HURON	RUSSELL V. LEFFLER Huron County Public Defender Office 36 Benedict Avenue Norwalk, Ohio 44857 Term: Appointed June 1, 1981 for a term of 7 months.	(419) 668-3702
KNOX	T. GARRETT RESSING Knox County Public Defender Office 10 East Vine Street Mt. Vernon, Ohio 43050 Term: Appointed March 1, 1981, for a term of one year.	(614) 397-7420
LAKE	R. PAUL LaPLANTE Lake County Public Defender Office 270 East Main Street, #50 Painesville, Ohio 44077 Term: Appointed November 1, 1980, for a term of one year.	(216) 357-5777
LUCAS	HENRY B. HERSCHEL Toledo Legal Aid Society - Defender Division 535 North Erie Street, Suite 248 Toledo, Ohio 43624 Term: No regular term, Mr. Herschel is an employee of the Toledo Legal Aid Society.	(419) 244-8351
MIAMI	ROBERT J. LINDEMAN Miami County Public Defender Office Miami County Courthouse Troy, Ohio 45373 Term: Appointed April, 1978, to a term of 4 years.	(513) 339-5178
MONTGOMERY	KURT R. PORTMAN Montgomery County Public Defender Office 379 West First Street Dayton, Ohio 45422 Term: Appointed January 10, 1981, for a term of one year.	(513) 228-3246

**Table XI (cont.)  
County and Joint County Public Defenders  
(As of June 30, 1981)**

COUNTY	DEFENDER	PHONE
PORTAGE	RICHARD J. BADGER Portage County Public Defender Office 449 South Meridian, 4th Floor Ravenna, Ohio 44266 Term: Unreported	(216) 296-6466
SENECA	JOHN CRABILL 81 Jefferson Street Tiffin, Ohio 44883 Term: Appointed March 20, 1979 for an indefinite term.	(419) 448-0703
STARK	PAUL MASTRIACOVO 903 Renkert Building 306 Market Street, North Canton, Ohio 44702 Term: Appointed July 2, 1981, for a term of 2 years.	(216) 456-3520
SUMMIT	JOSEPH KODISH Legal Defender Office 1013 Centran Building Akron, Ohio 44308 Term: Appointed July 21, 1980, for a term of 4 years.	(216) 434-3461
TRI-COUNTY (Tuscarawas, Carroll, Harrison)	TERRY J. MCGONEGAL Tri-County Public Defender Office 153 North Broadway New Philadelphia, Ohio 44663 Term: Appointed October 1, 1979, for an indefinite term.	(216) 364-3523
WAYNE	ROGER W. KIENZLE, JR. Wayne County Public Defender Office Silver Building, Public Square Wooster, Ohio 44691 Term: Appointed March, 1981, for a one year term.	(216) 264-2299
WOOD	JOHN P. DUFFIN Wood County Public Defender Office 203 North Prospect Street Bowling Green, Ohio 43402	(419) 352-6531 ext. 2245

Table X provides a listing of the number of attorneys and support staff employed by the county and joint county public defender offices as of June 30, 1981. Despite financial problems at the state and local level during the year, a moderate (7.3%) increase in county attorney staffs was noted over comparable figures in fiscal year 1980. Staff increases have not, however, matched the caseload increase (56.3%) over the past year.

**Table X  
Defender Office Staffs**

COUNTY	ATTORNEYS	INVESTIGATORS	CLERICAL/ SECRETARIAL	LEGAL AIDES/ INTERNS	ADMIN./ OTHER
Ashtabula	2	—	1	—	—
Athens	1	—	1	—	—
Auglaize	1	—	1	—	—
Belmont	2	1	1	—	—
Clark	6	1	2	—	1
Clermont	4	—	1	—	—
Clinton	2	—	1	—	—
Columbiana	6	1	1	—	—
Cuyahoga	25	3	8	7	6
Erie	2	—	2	—	—
Franklin	40	6	9	11	5
Geauga	3	—	1	—	—
Greene	2	—	2	—	—
Hamilton	25	4	3	2	3
Huron	2	1	1	—	—
Knox	2	—	2	—	—
Lake	6	—	2	1	3
Lucas	17	—	2	15	1
Miami	3	—	1	—	1
Montgomery	17	6	8	8	1
Portage			— did not report —		
Seneca	2	1	1	—	—
Stark	8	3	2	2	—
Summit	5	—	2	3	—
Tri-County	3	1	1	—	—
Wayne	2	—	1	1	—
Wood	3	—	1	2	—
<b>TOTALS</b>	<b>191</b>	<b>28</b>	<b>58</b>	<b>52</b>	<b>21</b>

Table XI indicates caseload by type of case handled by each county public defender office during state fiscal year 1981. There was a 56.3% increase in total caseload during fiscal year 1981.

**Table XI  
Caseload**

County	Felonies	Misdemeanors	Appeals	Juvenile	Par./Prob.	Other	Total
Ashtabula	279	318	6	4	—	48	655
Athens	71	256	2	27	7	25	388
Belmont	122	247	7	111	—	12	499
Clark	450	384	26	144	—	8	1,012
Clermont	438	1,353	18	239	26	1	2,075
Clinton	66	298	1	88	2	3	458
Columbiana	413	384	7	39	20	1	864
Cuyahoga	2,128	—	145	1,593	348	4,632	8,846
Erie	723	250	10	50	20	9	1,062
Franklin	1,286	11,635	103	4,649	105	13	17,791
Geauga	55	184	1	42	7	1	290
Greene	305	450	15	60	8	26	864
Hamilton	—	7,358	—	863	—	—	8,221
Huron	90	34	3	95	12	11	245
Knox	70	167	6	142	10	68	463
Lake	329	650	16	598	14	5	1,612
Lucas	218	4,309	5	672	25	1,549	6,778
Miami	276	637	9	90	17	6	1,035
Montgomery	1,018	10,252	42	526	364	124	12,326
Portage			— did not report—				
Seneca	119	272	1	46	15	25	478
Stark	422	1,060	7	1,017	55	890	3,451
Summit	103	2,096	3	221	9	49	2,481
Tri-County	124	197	28	43	19	8	419
Wayne	153	413	5	137	22	22	752
Wood	182	357	6	68	14	40	667
<b>TOTALS</b>	<b>9,440</b>	<b>43,561</b>	<b>472</b>	<b>11,564</b>	<b>1,119</b>	<b>7,576</b>	<b>73,732</b>

Table XII shows calendar year 1981 operating expenditures, for personal services and other operating items, as well as an overall cost-per-case determined by dividing total cases from Table XI into total expenditures.

It should be noted that the cost-per-case figures are not refined, and should not be utilized for office-by-office comparisons. Offices which provide a high proportion of misdemeanors or juvenile representation will, by necessity, have a lower cost-per-case than offices with heavy felony and appellate caseloads. Further, every appeal drives cost-per-case up because of the extensive research and briefing requirements.

Expenditures shown are actual figures from January 1, 1981, through June 30, 1981, combined with budgeted/appropriated figures for the period from July 1, 1981, through December 31, 1981. This combination approach was taken in order to provide the most recent cost data on the county offices.

**Table XII  
County Public Defender Offices  
Expenditures and Cost-Per-Case  
January 1, 1981, Through December 31, 1981**

County	Personal Services	Other Operating	Total	Cost-Per-Case
Ashtabula	\$ 47,517	\$ 13,259	\$ 60,776	\$ 92.79
Athens	31,045	8,933	39,978	103.04
Auglaize*		no expenditures incurred during fiscal year		
Belmont	73,882	17,834	91,716	183.80
Clark	176,000	72,207	248,207	245.26
Clermont	51,770	7,200	58,970	28.42
Clinton	44,617	6,232	50,849	111.02
Columbiana	90,515	10,750	101,265	117.20
Cuyahoga	1,134,586	218,459	1,353,045	152.96
Erie	50,174	17,600	67,774	63.82
Franklin	1,242,433	167,393	1,409,826	79.24
Geauga	44,712	8,708	53,420	184.21
Greene	62,350	2,630	64,980	75.21
Hamilton	774,500	30,250	804,750	97.89
Huron	48,600	11,050	59,650	243.47
Knox	39,215	15,375	54,590	117.90
Lake	147,975	45,200	193,175	119.84
Lucas	377,903	29,367	407,270	60.09
Miami	74,683	4,580	79,263	76.58
Montgomery	650,331	107,500	757,831	61.48
Portage		— did not report —		
Seneca	73,664	8,465	82,129	171.82
Stark	281,192	31,241	312,433	90.53
Summit	131,245	49,755	181,000	72.95
Tri-County	69,650	18,350	88,000	210.02
Wayne	81,000	18,975	99,975	132.95
Wood	65,119	12,446	77,565	116.29

Table XIII shows, statewide, the number of assigned counsel cases for which reimbursement was sought during fiscal year 1981, the total number of hours itemized on the certificates submitted for reimbursement on each case, and the total amount of attorney fees and expenses paid.

**Table XIII**  
**Assigned Counsel Caseload**

Month	Felony Misd. Cases	Juvenile Cases	Total	Attorney Hours Worked	Total Fees & Expenses
Jul 1980	1,881	525	2,406	22,166	483,057
Aug 1980	2,003	394	2,397	23,940	508,308
Sep 1980	1,842	374	2,216	22,103	451,041
Oct 1980	1,828	498	2,326	23,045	475,382
Nov 1980	1,793	255	2,048	20,381	417,085
Dec 1980	2,184	490	2,674	26,339	553,541
Jan 1981	2,040	275	2,315	25,577	484,153
Feb 1981	2,246	450	2,696	26,947	546,662
Mar 1981	2,622	370	2,992	30,275	618,696
Apr 1981	2,654	257	2,911	30,989	663,660
May 1981	2,171	265	2,436	25,666	530,813
Jun 1981	2,126	259	2,385	28,531	624,122
<b>Totals</b>	<b>25,390</b>	<b>4,412</b>	<b>29,802</b>	<b>305,959</b>	<b>\$6,356,520</b>

## A Look to the Future

While progress was made on several fronts during fiscal year 1981, the year presented some severe challenges that threaten the stability of the Ohio system over the next decade. Many of the challenges directly relate to the shortfall in funding for the system experienced during fiscal year 1981.

**Funding.** The State Public Defender Office suffered severe reductions in appropriations for both operating and reimbursement purposes. Funds for operating the central office in Columbus were reduced during the past year by a 2% cut imposed by the General Assembly, followed by two successive 3% cuts imposed by the Governor. Staff size was reduced from 56 to 42 positions, and important services had to be curtailed. Reduction in operating appropriations during fiscal year 1981 restricted the ability of the Office to fulfill the mandates of Chapter 120 of the Revised Code. Difficult choices face the Office through the early 1980's as some service mandates are met while others must be ignored. It is hoped that the proposed state budget will restore operating funds to the level of previous years to allow the Office to reach the service potential intended when Chapter 120 was enacted.

Reimbursement funding was also drastically cut back. For the first time the rate of reimbursement dropped below 50%, with the effective rate for the fiscal year down to 33 1/3%. This drop precipitated dissatisfaction on the part of the counties who feel that the state violated a five-year commitment to share equally the costs of the provision of indigent defense services. The reduction in state funding will continue to adversely affect county programs. Several counties have lowered appointed counsel fee schedules, one county went to a temporary pro bono system with attorneys taking assignments without compensation, and others began denying motions for expert witnesses, investigators, and other support services. These reactions have had a profound impact upon the quality of defense services in Ohio, in that some services to which indigent persons are constitutionally entitled are not being provided.

As was noted in the fiscal year 1980 Annual Report of the Commission, some permanent arrangement must be made with respect to financing the Ohio system. As of the printing of this Report, the provisions of S.B. 357 (introduced by Senator Paul Pfeiffer in April, 1981), which instituted a \$10.00 charge upon all convictions with the exception of nonmoving traffic violations in order to fund the Ohio indigent defense program, were rolled into the Senate version of the state biennial budget bill. The insertion of the special revenue mechanism allowed the Senate to endorse a return to full 50% funding of the reimbursement. It is the hope of the State Public Defender Office that the approach of the Senate is reflected in the final version of the state budget as it passes both chambers of the Legislature and is signed by the Governor. A statutory commitment to 50% cost-sharing by the state is a vital prerequisite to restoring local confidence in the program and fostering the type of changes leading to increased quality of defense services.

Solid, assured financing will permit concentration on other challenges and improvements to the system throughout the 1980's.

**Attorney Compensation** - Fiscal year 1981 marked the effective date of the maximum fee schedule promulgated by the State Public Defender pursuant to section 120.04(B) (8). The maximum fee schedule has had a generally beneficial impact on attorney compensation in that several counties with extremely low fee schedules have raised their fees in response to the state maximums. In turn, increases in fee schedules to more competitive levels have attracted more experienced and more qualified attorneys, and have also encouraged competent attorneys already taking assignments to remain on the panel.

On the other hand, the maximum fee schedule has enabled the Office to conserve indigent defense subsidy funds and to distribute available funds among the counties more equitably. Unlimited fees in certain counties were inequitably draining state appropriations from other counties to those counties. This significantly lowered the percentage of reimbursement statewide during the fiscal year, until the maximum fee schedule became effective on October 1, 1980.

The Ohio Public Defender Commission and State Public Defender Office will work on a variety of fronts to secure fair compensation for public defenders and assigned counsel. Competitive salaries, benefits, and fees are necessary in order to attract qualified, experienced attorneys to carry out the important mandates of Chapter 120 of the Revised Code. One approach is legislation to set county public defender salaries at a level equal to those paid to county prosecutors. Under equivalent circumstances, an assistant county public defender practicing in the same courtroom should not be paid less than an assistant county prosecutor. In addition, with increased appropriations for the indigent defense subsidy, the State Public Defender can use authority under section 120.04 (B) (8) to raise the Maximum Fee Schedule for assigned counsel, allowing counties to raise fee schedules while having to provide only 50% of the cost of the increases.

**Supportive Services** - An area related to attorney compensation in terms of impact on the quality of representation is the availability of supportive services for public defenders and assigned counsel. The county evaluation program undertaken by the Commission and staff of the State Public Defender Office revealed in many counties that adequate investigation was not being done on some cases, and that expert witnesses and technical assistance were simply not available for many defendants. While improvements have been made over the past five years in the Ohio program, it cannot be considered a success until indigent defendants throughout the state have sufficient and timely access to supportive services. As one approach to meeting this need, the State Public Defender Office is hoping to expand its investigative staff and concentrate on assisting local defender offices and assigned counsel. This assistance will be especially targeted for death penalty cases as they arise under the recently enacted capital punishment statute.

**Death Penalty** - Perhaps the greatest challenge to the State Public Defender Office over the next few years involves the reinstatement of the death penalty in Ohio. An estimate made by Office staff and presented to the House and Senate Judiciary Committees during consideration of the new law indicated that defense services in each aggravated murder case, carried through all available appellate and postconviction proceedings, will cost approximately \$32,000. Given the cost and time requirements, and the heavy caseloads facing local jurisdictions whether they are utilizing public defender offices or assigned counsel systems, it is inevitable that the great bulk of cases arising under the death penalty will be assigned or referred to the State Public Defender Office. In order to meet this challenge, the Office is seeking funding from the General Assembly for additional attorneys, investigators, and legal interns, and for additional subsidy funds to meet the cost of cases handled locally. Also, existing staff are being reassigned in order to handle initial case referrals.

The State Public Defender Office will have to play a critical role in training, standards development, technical assistance, and actual provision of direct legal services if the defense bar and criminal justice system is to meet the challenge of the new death penalty law.

**Early Representation** - The evaluation program has shown that in several Ohio counties indigent defendants do not receive effective counsel at the earliest possible time. Often the difference between a defendant winning or losing a case comes down to providing representation at the earliest possible point in the case. Difficult issues involving search and seizure, eyewitness identification, police interrogation, and other matters can be more easily resolved when counsel is appointed and available from the time of arrest onward. The Ohio Public Defender Commission and State Public Defender Office are committed to encouraging the enhancement of local programs to provide the earliest possible intervention of counsel. Such improvements are critical to the continued development of the Ohio program.

**Local Program Structure** - As caseloads and costs rise, more counties are investigating the feasibility and economics of utilizing public defender offices to handle all or part of the indigent defense caseload. While the policy of the State Public Defender Office has been and is to defer to the counties on the type of program selected for service delivery, technical assistance is available for counties wishing to develop the most economical system. Program development based upon cost considerations, without the sacrifice of quality, is a vital necessity as the Commission and the Office strive to keep the subsidy funding requirements as low as possible.

**END**