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SEP 10

ACQUISITIONS

Ohio
Public
Defender
Commission



J. Tullis Rogers
Ohio Public Defender

The Honorable James A. Rhodes, Governor of Ohio
Honorable Members of the General Assembly
Honorable Judges 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 1980. This Annual Report concerns the operation of the Commission, the State Public Defender Office and the county public defender offices and assigned counsel systems.

The Commission, during 1980, made great strides in meeting the statutory mandate of "providing, supervising and coordinating legal representation" for indigent individuals in the state of Ohio. An evaluation process for county indigent defense programs was designed and implemented, which will substantially contribute to uniform standards of services across the state. In addition, the Commission promulgated Rule 120-1-10 on defender and assigned counsel qualifications, which should serve to provide the quality and effectiveness of defense counsel in all Ohio courts.

Progress was also made in improving office operations by means of amendments to Chapter 120 of the Ohio Revised Code, which allowed the development of standards for reimbursement of assigned counsel and public defender operations and maximum fees for assigned counsel cases. These standards and maximum fees became effective in September and October.

The progress made in the direction and operation of the Ohio Public Defender Commission and the State Public Defender Office during fiscal year 1980 allows an optimistic view of future success with Ohio's indigent defense program. The foundation laid so far will continue to serve indigent Ohioans well into the future.

Respectfully yours,

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 simply were not appointing counsel in all the 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 free or for meager compensation. Following the U.S. Supreme Court decision in *Argersinger v. Hamlin* (1973), which mandated state provision of legal counsel to indigent individuals accused of crimes prior to the imposition of any term of imprisonment, many states began to develop and implement state defender systems.

After two previous unsuccessful attempts, the Ohio General Assembly in 1975 enacted Amended Substitute H.B. 164. This Act established Chapter 120 of the Ohio Revised Code, which 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 in the sense of rejecting full state control and, on the other hand, local autonomy with state funding, in favor of a system with cooperation and joint provision of services between levels of government.

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 was held in April of that year. State Public Defender, J. Tullis Rogers, was appointed on October 5, 1976, and the first additional staff members of the State Public Defender Office were hired in December, 1976.

As the Ohio system was developed, the State Public Defender Office serves two main functions: direct provision of legal services and reimbursement for county expenditures on 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 are unavailable for assignment, because a county defender office caseload has become too high to undertake additional cases, or because a defendant does not want local counsel or has heard of the availability of state defense attorneys. These requests are made for representation at trial, on appeal, on the filing of various postconviction motions, for parole revocation or probation violation hearings, for extradition proceedings, for writs of habeas corpus, or for other miscellaneous services.

Under Chapter 120, counties were afforded 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-five counties have created public defender offices and three counties have joined to form a joint county public defender office. Eighty-six counties utilize assigned counsel systems.

Members of the Ohio Public Defender Commission

	Appointed By	Term
Burton, Everett - <i>Chairman</i> 200 Bank One Plaza Portsmouth, Ohio 45662 Occupation: Attorney	Governor	1/13/78 - 1/12/82
Cassidy, Paul D. 503 S. High Street Columbus, Ohio 43215 Occupation: Attorney	Governor	1/13/79 - 1/12/83
Garry, Timothy A. 18th Floor, Provident Tower 1 East Fourth Street Cincinnati, Ohio 45202 Occupation: Attorney	Supreme Court	1/13/78 - 1/12/82
Hughes, James J., Jr. 100 East Broad Street 23rd Floor Columbus, Ohio 43215 Occupation: Attorney	Governor	1/13/77 - 1/12/81
Isaac, Frank K. One Erieview Plaza 8th Floor Cleveland, Ohio 44114 Occupation: Attorney	Supreme Court	1/13/80 - 1/12/84
Moody, Lizabeth A. 17210 Parkland Drive Shaker Heights, Ohio 44120 Occupation: Attorney and Law Professor	Supreme Court	1/13/79 - 1/12/83
Weimer, Raymond M. Route #5 - Box 318 London, Ohio 43140 Occupation: Madison County Auditor	Governor	1/13/80 - 1/12/84
White, David D. 180 East Broad Street 8th Floor Columbus, Ohio 43215 Occupation: Attorney and Accountant	Governor	1/13/78 - 1/12/82

Fiscal Year 1980 Highlights of the Commission

The Ohio Public Defender Commission held five meetings during fiscal year 1980: four regular quarterly meetings on August 18, 1979, October 27, 1979, January 26, 1980 and April 12, 1980, and a special meeting on December 8, 1979.

Among the issues considered and activities undertaken by the Commission during the year were:

- 1) promulgation of Rule 120-1-10, on public defender and assigned counsel qualifications;
- 2) monitoring of the Hamilton County Public Defender Office;
- 3) design and commencement of an evaluation process for county public defender offices and assigned counsel systems;
- 4) review of the initial reports on the evaluation project;

The Commission, after lengthy deliberations, promulgated Rule 120-1-10 which set down qualifications for public defenders and assigned counsel:

QUALIFICATIONS FOR ASSIGNED COUNSEL AND PUBLIC DEFENDERS

(A) Any attorney including public defenders and assistant public defenders who fails to meet the following minimum qualifications shall not be assigned to represent an indigent person in a criminal case.

- (1) Where the defendant is charged with murder, aggravated murder and aggravated murder with specifications.

- (a) Trial counsel or co-counsel in one prior murder trial; or
- (b) Trial counsel in two first degree felony trials; or
- (c) Trial counsel in ten or more jury trials.

- (2) Where the defendant is charged with a first, second or third degree felony.

- (a) Trial counsel in two or more first, second or third degree felony trials at least one of which was a jury trial; or
- (b) Trial counsel in any four jury trials at least one of which was a criminal jury trial in a first, second or third degree felony trial; or
- (c) Trial counsel in any two criminal trials and

- (i) Co-counsel in at least one criminal jury trial; or

- (ii) Trial counsel or co-counsel in two jury trials.

- (3) Where defendant is charged with a fourth degree felony.

- (a) Trial counsel or co-counsel in at least one jury trial; or
- (b) Completion of a training program certified by the local bar association, the court in which the case is being tried or the Ohio Public Defender Commission.

- (4) All other cases for which assigned counsel is required by current constitutional interpretations.

- (a) Trial counsel or co-counsel in one trial tried to verdict; or

- (b) Completion of a training program certified by the local bar association, the court in which the case is being tried or the Ohio Public Defender Commission.

(B) Assignments should be distributed as widely as possible among the members of the bar who meet the qualifications for assignment.

(C) The respective courts and county and joint county public defender commissions shall be free to adopt local rules requiring qualifications in addition to the minimum standards established by this regulation.

It is hoped that the new Rule has its intended effect of significantly improving the quality of defense services provided to indigent individuals in Ohio Courts.

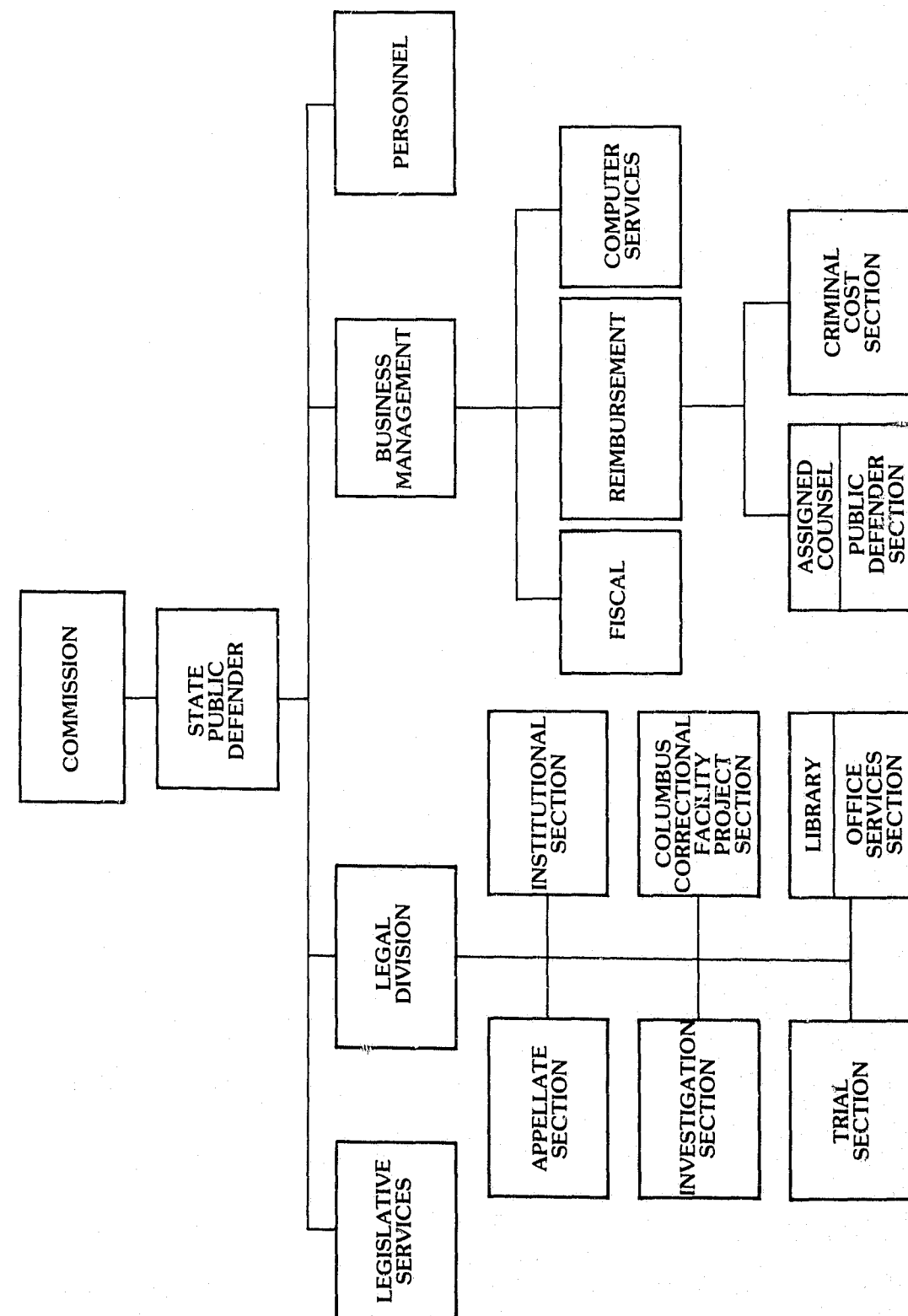
The Commission during the year also monitored the assumption of misdemeanor representation by the Hamilton County Public Defender Office. After a six-month monitoring process, the Commission made several recommendations for program improvements in the Hamilton County Public Defender program. These recommendations, including initiation of a training program, use of in-house counsel for felony arraignments and greater supervision over assigned counsel performance on felony cases, were successfully implemented during the latter months of 1979 by the Hamilton County Public Defender Office.

As a result of the Commission's monitoring role in Hamilton County, a statewide evaluation program for county public defender offices and assigned counsel systems was developed by a Commission Subcommittee on Evaluation. Three counties were selected (Franklin, Licking and Perry) and an evaluation team composed of a consultant from the National Legal Aid and Defender Association and several members of the State Public Defender Office staff began the evaluation process in February of 1980.

Initial reports on the counties selected during the first phase of the process were being prepared by the end of the fiscal year. The Commission played an active role in defining the data needed for the evaluation and in formulating the issues considered.

The Commission, also during 1979, monitored the implementation of the computerized reimbursement process in the State Defender Office, the professional development in the legal and investigative sections of the office and the publication of the first Annual Report of the Commission and the Office.

Table of Organization of the State Public Defender Office



State Public Defender Office

Budget

In addition to the amounts regularly budgeted in the appropriate process, Section 299 of Amended Substitute H.B. 204, the 1980-81 Ohio biennial budget bill, authorized the State Controlling Board to release up to \$300,000 of supplemental operating appropriations to the State Public Defender Office in each fiscal year of the biennium. The \$300,000 released in fiscal year 1980 allowed the Office to continue existing services and to expand staff and services in both the legal and fiscal divisions.

Table I
Fiscal Year 1979 and 1980 Expenditures

Item	Fund	FY 1979	FY 1980
Personal Services (salaries and fringes)	11 ¹	\$650,590	\$ 912,377
	10 ²	85,294	44,874
	08 ³	-0-	10,470
Maintenance (rent, utilities, supplies, etc.)	11	152,110	207,607
	10	11,658	35,042
Equipment	11	47,570	25,795
	10	5,494	-0-
Special Purpose ⁴	11	8,252	1,947
Subsidy (Indigent Defense) ^{5,6}	11	3,370,393	5,629,409
Subsidy (Criminal Costs) ⁷	11	1,172,941	2,004,999
Transfer	11	-0-	5,893
Total Expenditures - General Revenue Fund		\$ 5,401,856	\$ 8,788,027
Total Expenditures - All Funds		\$ 5,504,302	\$ 8,879,552

Notes

- Fund 11 is the state General Revenue Fund; expenditures from this Fund are supported by general tax dollars raised by the state;
- Fund 10 is the state Federal Special Revenue Fund; expenditures from this Fund are supported by Federal grants, which were received for the reporting period for the investigation staff and the computer program;
- Fund 08 is the state Special Revenue Fund; amounts expended from this Fund represent the participation of the State Public Defender Office in a summer intern program with the Ohio State University School of Law;
- Expenditures from the Special Purpose Account represent state match required for Federal grants;
- The Indigent Defense Subsidy Account includes the statutorily required 50% reimbursement for county expenditures on public defender offices and assigned counsel systems (see Ohio Revised Code sections 120.18, 120.28 and 120.33);
- Doubling the amount of expenditures in the Indigent Defense Subsidy Account will indicate the total amount spent by counties for indigent defense programs; this amount in fiscal year 1980 was \$11,258,818.
- The Criminal Cost Subsidy Account involves 100% reimbursement of a variety of court and certain law enforcement costs incurred by the counties (see Ohio Revised Code sections 2949.17 through 2949.20).

Legal Services

A main function of the State Public Defender Office involves direct representation of indigent individuals accused of crimes. Representation by staff attorneys during the 1980 fiscal year has been provided in State and Federal Courts at both the trial and appellate levels, in addition to other proceedings.

Under Ohio Revised Code section 120.06(B), the State Public Defender is not required to accept a case unless he feels there is arguable merit. Every referral and every inquiry is thus screened for arguable merit prior to being assigned to a State Public Defender staff attorney.

In addition to the actual criminal proceedings in which the legal staff is involved, the State Public Defender Office receives many letters of inquiry concerning the services provided by the Office. Some of the inquiries develop into part of the legal staff's caseload, while others are refused after a review of their merits.

Cases and inquiries by the type of proceeding involved in preceding fiscal years and fiscal year 1980 are reflected in Table II.

The State Public Defender Office obtains cases from a variety of sources. Most come to the Office at the request of individual defendants. Other cases are assigned by Common Pleas or District Court of Appeals judges or by the Supreme Court. Parole revocation cases are represented on-site at Ohio prisons at the request of the Adult Parole Authority. Finally, cases involving conflicts of interest on the part of local county public defenders (or other obstacles to representation at the local level) are referred to the Office.

Table III indicates the State Public Defender Office caseload by source of referral of the case.

Table IV provides another manner of looking at the State Public Defender

Office caseload for fiscal year 1980 and preceding fiscal years. This Table reveals caseload by criminal offense, broken down by Ohio Revised Code section, detailing the basis for the accusation or conviction of indigent clients.

**Table II
Type of Proceeding**

Proceeding Type	FY 77	FY 78	FY 79	FY 80	TOTAL
Trial	1	18	39	50	108
Appeal	25	75	112	125	337
Post Conviction Matter	13	33	44	97	187
Parole Revocation	11	41	71	293	416
Probation	1	6	8	12	27
Habeas Corpus	0	16	14	21	51
Other Than Above*	0	0	1	148	149
TOTAL CASELOAD	51	189	289	746	1275
Inquiries	89	291	426	324	1130

*Includes - Case Refused; no merit, civil matter, internal institutional matter, defendant not indigent.

**Table III
Source of Referral**

Source	FY 77	FY 78	FY 79	FY 80	TOTAL
County Public Defender	7	19	32	39	97
Common Pleas Court Judge	2	19	31	27	79
Appellate Court Judge	2	5	8	4	19
Defendant	123	410	597	646	1776
Adult Parole Authority	6	27	47	161	241
Other Than Above*	0	0	0	15	15
TOTAL	140	480	715	892	2227

*Other legal agencies and organizations; state and federal legislators.

**Table IV
Kinds of Criminal Offenses in Which Representation or Other Services Were Provided**

REVISED CODE SECTION	FY 77	FY 78	FY 79	FY 80	TOTAL
2151 JUVENILE COURT					
.022 Unruly			1		1
.03 Neglect				1	1
2903 HOMICIDE AND ASSAULT					
.01 Aggravated Murder	4	17	25	44	90
.02 Murder	11	25	31	31	98
.03 Voluntary Manslaughter	4	5	7	2	18
.04 Involuntary Manslaughter	1	2	4	6	13
.06 Agg. Vehicular Homicide				1	1
.11 Felonious Assault	2	16	11	14	43
.12 Aggravated Assault		2	4	9	15
.13 Assault	3	5	7	14	29
.22 Menacing				1	1
2905 KIDNAPPING AND EXTORTION					
.01 Kidnapping	1	7	9	6	23
.02 Abduction		2	3	2	7
.04 Child Stealing			1		1
.11 Extortion			2		2
2907 SEX OFFENSES					
.02 Rape	6	20	34	28	88
.03 Sexual Battery	1	2	3	1	7
.04 Corruption of a Minor	1	1			2
.05 Gross Sexual Imposition	2	4	5	8	19
.12 Felonious Sexual Penet.			1		1
.22 Promoting Prostitution				2	2
2909 ARSON AND RELATED OFFENSES					
.02 Aggravated Arson		1	2	1	4
.03 Arson		1	2	3	6
.05 Vandalism		1		2	3
2911 ROBBERY, BURGLARY AND TRESPASS					
.01 Aggravated Robbery	5	17	41	43	106
.02 Robbery	8	16	15	15	54
.11 Aggravated Burglary	4	19	16	15	54
.12 Burglary	1	5	2	13	21
.13 Breaking and Entering	4	16	12	29	61
.21 Criminal Trespass			1		1
.31 Safecracking				2	2
2913 THEFT AND FRAUD					
.02 Theft	5	14	19	24	62
.03 Unauth. Use of Vehicle			1		1
.11 Passing Bad Checks		3	3	3	9
.21 Misuse of Credit Card	1		1		2
.31 Forgery	1	8	13	10	32
.51 Receiving Stolen Prop.	1	8	12	14	35
2915 GAMBLING					
.05 Cheating	1				1

Table IV (continued)					
REVISED CODE SECTION	FY 77	FY 78	FY 79	FY 80	TOTAL
2917 OFFENSES AGAINST THE PUBLIC PEACE					
.11 Disorderly Conduct			1	2	3
2919 OFFENSES AGAINST THE FAMILY					
.01 Bigamy				1	1
2921 OFFENSES AGAINST JUSTICE AND PUBLIC ADMINISTRATION					
.03 Intimidation			1		1
.33 Resisting Arrest			1	1	2
.34 Escape	1	6	5	5	17
.41 Theft in Office		1	1		2
.42 Have Unlawful Intent in a Public Contract			1		1
2923 CONSPIRACY, ATTEMPT AND COMPLICITY: WEAPONS CONTROL					
.01 Conspiracy			1	2	3
.02 Attempted Conspiracy	1	2	2	5	10
.04 Eng. in Organized Crime			1	3	4
.12 Carrying Con. Weapon	1	8	6	7	22
.13 Having Weapon While Under Disability	1	2	2	6	11
.17 Unlawful Possession of Dangerous Ordnance				1	1
.24 Possessing Crim. Tools			1	1	2
2925 DRUG ABUSE					
.03 Trafficking in Drugs	5	12	15	13	45
.11 Drug Abuse		3	1	3	7
.21 Theft of Drugs		1	1		2
.22 Deception to Obtain Dangerous Drugs		1			1
.23 Illegal Processing of Drug Documents		1		4	5
2967 PARDON; PAROLE; PROBATION					
.15 Parole Violation				17	178
4507 DRIVER'S LICENSE LAW					
.02 Expired Ohio License			1		1
4511 TRAFFIC LAWS - OPERATION					
.19 Oper. Motor Vehicle Under Influence		1	4	5	10
.20 Reckless Driving		1	4	5	10
4549 MOTOR VEHICLE CRIMES					
.02 Acc. Stop After					1
CASES WHERE NO OFFENSE ALLEGED	64	223	378	482	1147
TOTALS	140	480	715	1070	2405

Investigative Services

The investigation unit of the legal section of the State Public Defender Office consists of four full-time investigators and two full-time polygraphists. The services of the unit are available to staff attorneys and upon request to County Public Defenders and private attorneys acting as assigned counsel. The investigators assist the attorneys in developing the factual content of their cases by interviewing both prosecution and defense witnesses, securing expert witnesses, searching court records and reviewing lab reports. When necessary, investigators may be and have been subpoenaed to testify in court.

The polygraphists administer the polygraph test to defendants either at the request of counsel or the defendant. The test simultaneously measures and records certain physiological changes in the body. It is believed that these changes involuntarily occur when a person who is being examined is making a conscious attempt to deceive the examiner while responding to a carefully prepared set of questions.

As indicated in the charts below, the results of polygraph exams and investigations conducted by this unit have been used to either reduce or have charges dropped against defendants.

Table V shows, by month, the activities of the investigators for the past fiscal year.

Table VI shows, by month, the activities of the polygraphists in the past fiscal year.

Table V
Investigator Activity

Activity	JUL 79	AUG 79*	SEPT 79*	OCT 79*	NOV 79	DEC 79*	JAN 80*	FEB 80	MAR 80	APR 80**	MAY 80	JUNE 80	TOTAL 79-80
Number of Miles Driven	N/A	10076	6432	4013	7132	4888	7437	8016	6309	5639	1974	4073	65,989
Number of Cases Opened	N/A	17	16	10	12	11	14	21	9	9	5	6	130
Number of Cases Closed	N/A	18	15	11	9	10	10	22	6	11	4	5	121
Number of Interviews Conducted	N/A	167	95	122	111	55	76	82	104	88	26	53	979
Number of Hours Spent in Court	N/A	46	30	0	12	0	0	0	24	65	0	0	177
Number of Cases Where Results of Investigations Resulted in Charges Being Dropped or Reduced	N/A	0	6	1	0	2	0	0	2	2	1	2	16
Number of Hours Spent on Other Activities***	N/A	0	31	62	58.5	115.5	78	63	195	90	301	175	1169

*Indicates polygraphists performed some investigative function during that month (mileage statistics reported with polygraphists' mileage)

**Indicates investigative staff secretary did some investigation work that month (no mileage statistics)

***Includes: training, equipment service, special detail, searching court records, filing briefs, reproducing tape recordings, serving subpoenas, public speaking

**Table VI
Polygraphist Activity**

Activity	JUL 79	AUG 79	SEPT 79	OCT 79	NOV 79	DEC 79	JAN 80	FEB 80	MAR 80	APR 80	MAY 80	JUN 80	TOTAL 79-80
Miles Traveled	2959	4521	5255	6447	5952	6214	6483	6336	5074	5494	5584	5747	66,066
Number of Examinations Conducted:													
a. in office	6	3	2	2	1	2	3	2	1	0	0	0	22
b. within counties - no. of exams/no. of counties	13/8	23/14	31/14	23/10	19/13	29/13	22/11	24/15	24/NA	14/10	18/9	23/12	263/33*
c. total number of exams	19	26	33	25	20	31	25	26	28	14**	18	23	288
Results of Examinations:													
a. number of persons who refused exams or failed to appear for exams	5	3	6	2	1	1	0	0	3	0	1	2	24
b. number of people examined in whom deception was indicated	9	16	25	14	15	25	18	19	22	7	14	12	196
c. number of admissions of involvement by people in whom deception was indicated	6	9	6	7	8	9	1	8	4	0	4	1	63
d. number of people examined where no deception was indicated	5	3	2	5	1	3	7	7	3	7	3	8	54
e. number of cases where charges were reduced or dropped when no deception was indicated	3	3	1	2	1	3	1	0	1	3	3	NA	21
f. number of examinations that were inconclusive	0	3	0	4	1	1	0	0	0	0	0	0	9
g. number of cases for which an investigator testified in court	0	3	1	0	0	0	0	0	0	0	0	0	4

* Denotes the number of different counties

** Polygraph examiners attended a two-week seminar in April, 1980

NA Not Available

Legislative Services

The Legislative Services section of the Office suggests, reviews, amends, and generally monitors legislation affecting the administration of the Office and the functioning of the criminal justice system in general.

During the 1980-81 state budget process, several changes were made in Chapter 120 of the Ohio Revised Code, which governs the Ohio indigent defense program. Among the most important changes were:

Maximum Fees for Reimbursement: Section 120.04(B) (8) was added, giving the State Public Defender the authority to "establish maximum amounts that the State will reimburse the counties" for public defender offices and assigned counsel systems. Under this section, the State Public Defender promulgated the following policy on maximum fees for the reimbursement of counties for assigned counsel procedures:

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 offense 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.*
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 telephone 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	9 days
Felonies (degrees 1-4)	4 days
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. Reimbursement 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 policy on maximum fees became effective October 1, 1980, for all assignments of attorneys in criminal cases on or after that date.

Reimbursement Standards: Section 120.04 (B) (7) was added, giving the State Public Defender the authority to "establish standards and guidelines for the reimbursement" of public defender offices and assigned counsel systems. Under this section, the State Public Defender promulgated standards for assigned counsel systems which became effective September 1, 1980. These standards cover such matters as the proper completion of assigned counsel certificates, policy on compensation for multiple count indictments, types of reimbursable attorney expenses, and the necessity of contracts for Municipal Court representation of indigent individuals.

*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 (2) 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.

Proration of Reimbursement Subsidy Funds: A major change in state policy occurred with the enactment of section 120.34. Under this section, the State Public Defender, when it becomes apparent that appropriated funds in the Indigent Defense Subsidy Account are insufficient to reimburse county offices and assigned counsel systems at the normal statutory rate of 50%, must prorate available funds so as to ensure that the Subsidy Account is not depleted. Counties thus receive less than 50% per dollar on indigent defense expenditures in a major departure from the intent of the General Assembly at the time the state system was created. At this time, it is evident that section 120.34 will have to be applied in fiscal year 1981, with reimbursement demands well beyond appropriated funds.

Competency and Other Mental Health Proceedings: An amendment to sections 120.06(A) (2), 120.16(A) (3), and 120.26(A) (3) removed the authority of the State Public Defender and county public defenders to represent indigent individuals in competency proceedings in probate courts, and an amendment to section 120.06(A) (3) terminated representation of individuals committed to Lima State Hospital and other mental institutions, by State Public Defender Office attorneys. The rationale for these amendments involved the clarification of responsibilities for representation between the State Public Defender Office and the Ohio Legal Rights Service, a separate state agency. The services affected by these amendments are now being provided by the latter.

Criminal Cost Subsidy: Section 120.04(B) (9) was added, giving the State Public Defender permanent management responsibility for the Criminal Cost Subsidy Account. This Subsidy, for nearly 30 years the responsibility of the Auditor of State, reimburses a variety of administrative costs of criminal cases when the defen-

dant is (1) indigent, (2) convicted of a felony, and (3) incarcerated in a state penal institution. This Subsidy was thought to be more programmatically related to the State Public Defender Office since it deals with indigent criminal cases.

Monitoring activity on legislation affecting criminal law and procedure considered in the Ohio General Assembly is another activity of the Legislative Services section. During the portion of the 113th General Assembly represented by the period of this Report, several significant bills were enacted or became effective. Among these bills were the following:

SENATE

Not Guilty by Reason of Insanity: Amended Substitute S.B. 297, introduced by Sen. Morris Jackson (D-Cleveland), changed several procedures involved in the handling of individuals who have been found not guilty by reason of insanity (NGRI) or not competent to stand trial. Among these changes were the transfer of jurisdiction over the individual from Probate Court to the Common Pleas Court in which the verdict of NGRI or the finding of not competent to stand trial was made; the stipulation that release hearings on such individuals would be had in the same trial court in which the verdict or finding was set down, instead of in Allen County Probate Court; and the granting of standing to the county prosecutor to represent public interest in release hearings. Am. Sub. S.B. 297 became effective on April 30, 1980.

Auto Theft: Amended S.B. 191, introduced by Sen. Carney (D-Girard), increases the penalty for auto theft by making an offense a third degree felony rather than a fourth degree felony. The bill was effective June 20, 1980.

Arson: Amended Substitute S.B. 198, introduced by Sen. Butts (D-Cleveland), strengthened several provisions of the Ohio anti-arson law by requiring the collection of statistics on

fires by county officials and by regulating the payment of insurance proceeds in fire incidents. The bill became effective July 31, 1980.

District Courts of Appeal: Amended Substitute S.B. 13, introduced by Sen. Milleson (D-Freeport), creates the 12th District Court of Appeals, redistricts counties within the 2nd and 5th District Court of Appeals, including one (1) in the 10th District Court of Appeals and one (1) in the 6th District Court of Appeals. Am. Sub. S.B. 13 became effective July 25, 1980.

Misdemeanors - Trial Time: S.B. 288, which set the time within which trial must be held when a person is charged with multiple misdemeanors at the time required for the highest misdemeanor charged, became effective October 22, 1980. The bill was introduced by Sen. Cox (D-Barberton).

Domestic Violence Centers: Amended S.B. 382, introduced by Sen. Valiquette (D-Toledo), distributed the initial revenue raised by the \$10.00 surtax on marriage licenses for county shelters for victims of domestic violence. The measure became effective June 31, 1980.

Sentencing Discretion: Amended S.B. 384, which became effective October 22, 1980, requires courts to consider the impact of a felony offense on the victim before sentencing. Am. S.B. 384 was introduced by Sen. Schwarzwald (D-Columbus).

HOUSE

Return of Bail: Substitute H.B. 402, introduced by Rep. Orlett (D-Dayton), requires the return of bail posted by a third person for an accused upon the appearance of the accused. The bill became effective May 13, 1980.

Clergy - Penitent Confidentiality: Amended Substitute H.B. 284, introduced by Rep. Saxbe (R-Mechanicsburg), expands the existing evidentiary privilege between clergy and penitents.

The bill became effective October 22, 1980.

Permanent Child Custody: Amended Substitute H.B. 695, introduced by Rep. Boyle (D-Cleveland Heights), authorizes Juvenile courts to grant permanent custody of a child to an agency having temporary authority if parents are found to be unfit. Am. Sub. H.B. 695 became effective October 24, 1980.

Community Service Sentencing: Amended Substitute H.B. 892 became effective October 10, 1980. The bill, which was introduced by Rep. Bara (D-Elyria), allows judges to require first offenders to perform community service work.

Warrantless Arrest: Amended Substitute H.B. 5, introduced by Rep. Begala (D-Kent), allows university police to make warrantless arrests under certain circumstances. The bill became effective October 25, 1979.

Index - Sealed Records: Amended Substitute H.B. 105, introduced by Rep. Fix (R-Cincinnati), permits county officials to maintain an index of sealed conviction records. Am. Sub. H.B. 105 was effective on October 25, 1979.

Driver's Licenses: Amended H.B. 116, introduced by Rep. Colonna (D-Brook Park), authorizes courts to revoke the driver's or chauffeur's license of anyone found guilty of causing the death of another while fleeing or attempting to elude the police. The bill was effective August 22, 1979.

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" are prepared by the clerks of the eighty-eight county Common Pleas Courts for each case which fits the above criteria. These bills are then 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 all allowable costs to the counties involved.

Table VII indicates Criminal Costs Subsidy payments by county for fiscal year 1980 and the three preceding fiscal years.

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-eight counties have public defender offices (twenty-five 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 a form OPD-E-202 to the Court for the approval of the judge who presided over that proceeding. The OPD-E-202 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% of all reported costs are then reimbursed to the county general fund.

Table VIII shows the state share of county expenditures for assigned counsel programs for each quarter of fiscal year 1980 and for the three preceding fiscal years.

The twenty-eight counties with

public defender offices prepare monthly OPD-501 reports on office operational expenses. These reports are submitted to the county auditors for verification and are then transmitted to the State Public Defender Office. The Office then audits the reports and reimburses up to 50% of all allowable costs.

Table IX shows the state share of county expenditures for public defender offices for all quarters of fiscal year 1980 and for the three preceding fiscal years.



● Assigned Counsel
★ County Public Defender

Table VII
Reimbursements to the Counties for
Criminal Costs (Actual Dollars)

Counties	FY 77	FY 78	FY 79	FY 80
Adams	\$ 390	\$ 5,664	\$ 882	\$ 2,983
Allen	23,608	31,831	12,053	18,933
Ashland	18,333	8,602	6,415	6,611
Ashtabula	16,904	10,313	4,570	17,755
Athens	3,543	8,180	6,341	10,152
Auglaize	7,022	7,833	5,882	11,118
Belmont	2,178	3,829	5,560	12,255
Brown	1,447	4,445	5,545	5,285
Butler	16,343	28,976	19,275	22,886
Carroll	2,014	3,020	813	2,236
Champaign	2,551	5,804	5,361	5,601
Clark	25,282	50,701	23,726	40,431
Clermont	12,638	26,931	15,325	15,584
Clinton	5,818	4,311	3,908	3,510
Columbiana	18,962	18,445	8,443	26,466
Coshocton	1,535	2,630	5,675	4,610
Crawford	5,224	1,595	5,331	6,981
Cuyahoga	198,727	326,374	195,399	352,650
Darke	3,809	5,031	3,281	4,892
Defiance	4,156	3,564	3,579	6,779
Delaware	6,576	15,855	6,693	9,008
Erie	6,523	8,272	6,525	6,300
Fairfield	16,114	12,616	10,920	19,876
Fayette	6,977	4,251	4,430	5,509
Franklin	176,727	233,932	160,731	257,957
Fulton	1,380	1,751	3,835	7,567
Gallia	974	4,224	880	1,440
Geauga	3,489	5,646	4,765	2,898
Greene	13,463	23,293	14,505	24,936
Guernsey	3,516	8,073	5,420	7,505
Hamilton	209,928	248,653	122,355	249,098
Hancock	12,415	11,131	12,835	17,161
Hardin	932	1,340	1,162	655
Harrison	256	552	613	861
Henry	4,866	2,822	677	5,937
Highland	2,010	4,863	4,037	6,867
Hocking	1,704	4,718	1,922	1,642
Holmes	116	648	437	218
Huron	2,472	4,554	5,580	4,343
Jackson	3,362	2,202	1,332	1,785
Jefferson	3,322	10,728	10,640	14,147
Knox	3,681	4,740	2,594	3,799
Lake	29,553	27,273	22,864	24,554
Lawrence	12,012	3,569	7,950	2,472
Licking	23,467	44,525	22,069	51,732

Table VII (continued)				
Counties	FY 77	FY 78	FY 79	FY 80
Logan	1,703	5,692	3,401	4,599
Lorain	16,740	31,937	15,214	26,091
Lucas	105,442	98,853	69,697	58,515
Madison	2,990	1,064	1,437	4,690
Mahoning	23,951	30,090	19,231	30,783
Marion	9,579	15,537	8,099	11,986
Medina	9,486	18,737	11,982	11,667
Meigs	3,081	5,191	1,854	3,115
Mercer	2,602	4,813	1,755	3,071
Miami	10,802	14,000	9,911	16,124
Monroe	916	698	-0-	3,431
Montgomery	76,480	87,546	51,608	78,411
Morgan	105	368	2,923	2,079
Morrow	1,919	3,424	2,018	2,716
Muskingum	10,994	15,010	15,716	19,301
Noble	428	261	321	795
Ottawa	458	3,449	1,062	5,931
Paulding	3,243	4,357	5,049	5,293
Perry	3,180	1,647	1,847	998
Pickaway	13,422	12,734	6,108	14,717
Pike	2,482	2,258	2,555	558
Portage	20,730	25,518	23,192	31,077
Preble	6,948	4,563	3,930	3,863
Putnam	1,426	3,922	391	1,047
Richland	22,216	22,503	14,607	33,717
Ross	8,249	14,737	10,329	16,904
Sandusky	4,741	6,711	2,520	6,517
Scioto	4,223	16,588	11,732	15,512
Seneca	6,095	5,540	6,859	4,754
Shelby	2,888	3,846	3,817	6,836
Stark	42,488	47,117	25,653	47,250
Summit	83,114	117,706	61,284	145,240
Trumbull	9,138	16,152	9,892	24,454
Tuscarawas	2,525	11,274	6,465	6,674
Union	2,752	2,035	1,460	3,621
Van Wert	683	362	3,043	5,667
Vinton	174	54	-0-	560
Warren	10,618	12,977	6,884	13,745
Washington	9,342	6,989	6,156	6,510
Wayne	8,386	10,004	5,388	5,663
Williams	3,578	7,564	4,836	11,810
Wood	8,254	12,240	11,524	20,530
Wyandot	1,066	1,946	1,222	2,155
GRAND TOTALS	\$1,475,956	\$1,956,324	\$1,226,107	\$2,024,962

Table VIII Assigned Counsel (Actual Dollars)				
COUNTIES	FY 77	FY 78	FY 79	FY 80
Adams	\$ 8,718	\$ 9,778	\$ 11,584	\$ 11,387
Allen	26,100	33,419	15,191	22,960
Ashland	14,234	21,094	12,559	13,381
Ashtabula	13,916	6,870	3,573	6,188
Athens	4,074	5,377	1,642	4,715
Auglaize	21,835	15,302	15,685	13,538
Belmont	19,607	9,815	4,588	6,410
Brown	8,278	8,035	12,112	16,459
Butler	42,358	24,390	24,497	40,874
Carroll	4,292	925	765	1,530
Champaign	10,179	7,653	8,570	8,773
Clark	47,174	21,220	10,926	12,993
Clermont	3,473	1,945	3,996	2,112
Clinton	7,317	1,697	4,443	1,778
Columbiana	11,964	3,003	3,733	5,234
Coshocton	6,999	6,652	6,827	1,471
Crawford	22,331	20,661	15,653	14,779
Cuyahoga	750,788	670,085	516,935	630,544
Darke	8,705	7,472	9,672	7,748
Defiance	9,301	6,640	9,790	9,283
Delaware	23,863	22,648	12,491	13,865
Erie	5,870	2,810	6,580	5,148
Fairfield	27,691	16,956	21,124	29,835
Fayette	7,124	8,274	6,705	7,960
Franklin	159,779	137,484	98,308	126,978
Fulton	5,034	5,822	6,754	13,277
Gallia	10,076	8,782	16,278	25,696
Geauga	897	1,273	300	2,529
Greene	24,494	19,434	22,437	32,600
Guernsey	10,292	9,396	5,916	10,537
Hamilton	296,405	332,758	335,962	423,281
Hancock	37,183	26,864	28,890	35,313
Hardin	3,715	2,200	1,905	4,616
Harrison	512	114		877
Henry	8,039	3,121	1,389	4,998
Highland	10,400	7,380	7,348	15,737
Hocking	9,590	11,295	9,663	9,726
Holmes	3,344	1,756	2,080	2,062
Huron	26,995	23,514	4,587	3,512
Jackson	11,326	6,307	4,434	9,333
Jefferson	2,436	21,165	28,928	17,872
Knox	(Does not operate an Assigned Counsel program)			
Lake	82,053	48,177	-0-	-0-
Lawrence	29,422	17,905	14,450	22,797
Licking	54,436	34,419	52,025	51,887
Logan	9,259	9,332	12,288	12,480
Lorain	38,764	21,800	19,626	36,129

Table VIII - (continued)

COUNTIES	FY 77	FY 78	FY 79	FY 80
Lucas	328,152	115,165	228,563	365,204
Madison	17,274	11,785	12,245	14,955
Mahoning	104,528	74,828	69,391	102,682
Marion	27,909	28,496	28,106	30,087
Medina	11,289	9,856	7,857	9,401
Meigs	3,065	225	2,777	5,360
Mercer	16,619	3,868	4,788	6,965
Miami	11,870	3,882	6,828	10,779
Monroe	1,862	1,776	5,058	5,146
Montgomery	221,416	109,530	116,358	184,408
Morgan	3,279	3,008	4,567	3,200
Morrow	7,108	7,495	5,601	6,193
Muskingum	13,856	9,617	12,539	12,590
Noble	1,062	-0-	250	250
Ottawa	6,538	1,953	8,324	10,459
Paulding	8,483	5,703	14,703	8,110
Perry	2,933	1,993	1,975	1,462
Pickaway	14,396	11,191	13,300	11,365
Pike	4,650	2,073	2,513	1,020
Portage	33,356	16,122	28,418	37,895
Preble	9,895	4,368	7,553	9,021
Putnam	6,017	13,575	15,250	14,516
Richland	15,276	49,801	46,601	36,581
Ross	5,626	-0-	12,934	16,804
Sandusky	22,765	19,910	20,495	27,171
Scioto	22,184	17,848	25,902	33,668
Seneca	132	-0-	-0-	-0-
Shelby	200	873	1,785	1,544
Stark	46,357	24,425	29,772	14,342
Summit	246,828	160,580	167,364	209,430
Trumbull	36,319	33,529	18,049	29,258
Tuscarawas	1,025	4,195	3,707	6,880
Union	14,611	5,845	8,453	6,555
Van Wert	9,483	9,162	18,031	12,007
Vinton	1,983	2,347	2,131	2,651
Warren	19,786	11,519	16,424	20,874
Washington	8,790	8,645	8,612	12,073
Wayne	1,100	3,987	4,295	5,007
Williams	5,419	3,760	1,494	6,668
Wood	15,175	11,519	11,861	13,729
Wyandot	8,981	3,858	3,424	3,576
TOTALS	\$3,278,399	\$2,491,331	\$2,414,477	\$3,061,088

Table IX
Public Defender
(Actual Dollars)

COUNTIES	FY 77	FY 78	FY 79	FY 80
Ashtabula	\$ 918	\$ 13,105	\$ 25,030	\$ 28,735
Athens	5,540	8,364	6,092	11,463
Belmont	1,409	18,909	29,663	33,607
Carroll	30,630	-0-	-0-	-0-
Clark	13,803	41,427	60,676	69,910
Clermont	4,846	15,683	24,845	29,428
Clinton	39,554	5,881	1,697	14,374
Columbiana	1,693	29,948	46,156	65,792
Coshocton	48,022	-0-	-0-	-0-
Cuyahoga	653	170,912	536,136	617,575
Delaware	39,837	2,124	1,667	-0-
Erie	385,997	29,615	30,270	24,861
Franklin	10,038	518,347	518,413	534,919
Geauga		12,007	23,040	28,132
Greene		24,239	18,129	22,121
Guernsey		990	-0-	-0-
Hamilton	11,756	200,827	292,579	321,576
Hardin	1,480	-0-	-0-	-0-
Harrison	500	-0-	-0-	-0-
Huron		10,823	18,550	22,758
Knox	13,371	13,279	15,225	22,419
Lake	24,330	-0-	-0-	21,961
Miami		9,505	28,875	36,099
Montgomery	252,575	234,918	292,998	297,724
Portage	12,914	24,899	38,253	39,631
Seneca	11,113	26,570	26,289	26,357
Shelby	18,945	11,544	15,213	16,822
Stark	84,843	98,163	116,580	90,501
Summit		27,345	74,535	77,127
Tuscarawas				9,764
Wayne		27,919	34,094	40,216
Wood		5,763	28,876	64,445
TOTALS	\$1,014,767	\$1,583,106	\$2,330,881	\$2,568,317

County Programs

Under Chapter 120, counties have three options as to fulfilling the constitutional mandate for the provision of counsel to indigents. Counties may form a county public defender office, may join with other counties to form a joint county public defender office and/or may utilize an assigned counsel system.

Twenty-five counties have formed individual county public defender offices under Ohio Revised Code sections 120.13-18 (see map for counties with stars). Three counties have joined to form one joint county public defender office under Ohio Revised Code sections 120.23-28. These counties are Tuscarawas, Carroll and Harrison. Eighty-six counties use an assigned counsel system either in conjunction with a public defender office or for all cases (see map for counties with circles). Assigned counsel programs are governed by Ohio Revised Code section 120.33.

Table X is a listing of current county public defenders and their addresses. Table XI indicates the type of staff employed by each office.

Table X
County and Joint County Public Defenders

COUNTY	DEFENDER	PHONE
ASHTABULA	L. E. DOWNEY, PROJECT DIRECTOR Ashtabula County Legal Aid Corp. 4632 Main Avenue Ashtabula, Ohio 44004	(216) 998-2628
ATHENS	DOUGLAS J. BENNETT, PUBLIC DEFENDER Athens County 8 North Court Bldg., Room 502 Athens, Ohio 45701	(614) 593-6400
BELMONT	JAMES. L. NICHELSON, PUBLIC DEFENDER Belmont County 135½ East Main Street St. Clairsville, Ohio 43950	(614) 695-5263
CARROLL	SEE TUSCARAWAS COUNTY	
CLARK	RONALD L. GALLUZZO, PUBLIC DEFENDER Clark County 31 East High Street, Room 322 Springfield, Ohio 45503	(513) 323-4639
CLERMONT	R. DANIEL HANNON, PUBLIC DEFENDER Clermont County 257 Main Street Batavia, Ohio 45103	(513) 732-1141
CLINTON	ELAINE H. BIEHL, PUBLIC DEFENDER Clinton County 148 North South Street Wilmington, Ohio 45177	(513) 382-1316

Table X
County and Joint County Public Defenders

COUNTY	DEFENDER	PHONE
COLUMBIANA	FREDERIC E. NARAGON, PUBLIC DEFENDER Columbiana County 37 North Park Avenue Lisbon, Ohio 44432	(216) 424-7675
CUYAHOGA	HYMAN FRIEDMAN, PUBLIC DEFENDER Cuyahoga County 1200 Ontario Justice Center Cleveland, Ohio 44113	(216) 623-7223
ERIE	JEFFREY K. FURROW, PUBLIC DEFENDER Erie County 243 East Market Street Sandusky, Ohio 44870	(419) 626-9343
FRANKLIN	JAMES KURA, PUBLIC DEFENDER Franklin County 400 South Front Street Columbus, Ohio 43215	(614) 222-8980
GEAUGA	JOSEPH H. WEISS, JR., PUBLIC DEFENDER Geauga County 139 Main Street Chardon, Ohio 44024	(216) 564-7131 Ext. 148
GREENE	JOSEPH C. GRAF, PUBLIC DEFENDER Greene County 101 East Church Street Xenia, Ohio 45385	(513) 376-5041
HAMILTON	DONALD G. MONTFORT, PUBLIC DEFENDER Hamilton County Hamilton County Courthouse, Room 564 1000 Main Street Cincinnati, Ohio 45202	(513) 632-8701
HARRISON	SEE TUSCARAWAS COUNTY	
HURON	JOHN D. ALLTON, PUBLIC DEFENDER Huron County 36 Benedict Street Norwalk, Ohio 44857	(419) 668-3702
KNOX	GARRETT RESSING, PUBLIC DEFENDER Knox County 10 East Vine Street Mt. Vernon, Ohio 43059	(614) 397-0319
LAKE	R. PAUL LaPLANTE, PUBLIC DEFENDER Lake County 270 Main Street, Suite 50 Painesville, Ohio 44077	(216) 357-5777

Table X
County and Joint County Public Defenders

COUNTY	DEFENDER	PHONE
LUCAS	HENRY HERSCHEL, DIRECTOR Public Defender Division Toledo Legal Aid Society 555 North Erie, Room 248 Toledo, Ohio 43624	(419) 244-8351
MIAMI	ROBERT LINDERMAN, PUBLIC DEFENDER Miami County Miami County Courthouse West Main Street Troy, Ohio 45373	(513) 339-5178
MONTGOMERY	KURT PORTMAN, PUBLIC DEFENDER Montgomery County 379 West First Street Dayton, Ohio 45402	(513) 228-3246
PORTAGE	RICHARD J. BADGER, PUBLIC DEFENDER Portage County 449 South Meridian, 4th Floor Ravenna, Ohio 44266	(216) 296-6466
SENECA	JOHN CRABILL, PUBLIC DEFENDER Seneca County 81 Jefferson Street Tiffin, Ohio 44833	(419) 448-0703
STARK	RANDY MCFERREN, PUBLIC DEFENDER Stark County Renkert Building, 9th Floor 306 Market Street, North Canton, Ohio 44702	(216) 456-3520
SUMMIT	JOSEPH KODISH, DIRECTOR Summit County 1013 Centran Building Akron, Ohio 44308	(216) 434-3461
TUSCARAWAS	TERRY MCGONEGAL, PUBLIC DEFENDER Tuscarawas-Harrison-Carroll Public Defender Office 153 North Broadway New Philadelphia, Ohio 44663	(216) 364-3523
WAYNE	ROGER W. KIENZLE, JR., PUBLIC DEFENDER Wayne County Silver Building - Public Square Wooster, Ohio 44691	(216) 264-2299
WOOD	JOHN DUFFIN, PUBLIC DEFENDER Wood County 203 North Prospect Street Bowling Green, Ohio 43402	(419) 352-6531

Table XI
County Public Defender Offices
Staffing (June 30, 1980)

COUNTY	ATTORNEYS	INVESTIGATORS	LEGAL AIDES PARALEGALS LAW CLERKS	SOCIAL WORKERS AND SUPPORT STAFF	SECRETARIES CLERKS BOOKKEEPERS
Ashtabula	3	-	-	-	1
Athens			(Did Not Report)		
Belmont	3	1	-	-	1
Carroll	2	1	1	-	1
Tuscarawas					
Harrison					
Clark	7	1	1	-	2
Clermont	4	-	-	-	1
Clinton	2	-	-	-	1
Columbiana	6	1	-	-	1
Cuyahoga	29	3	10	4	9
Erie			(Did Not Report)		
Franklin	38	6	14	3	9
Geauga			(Did Not Report)		
Greene	2	-	-	-	2
Hamilton	24	5	3	1	4
Huron	2	-	-	-	1
Knox	2	-	-	-	1
Lake			(Did Not Report)		
Lucas	14	-	6	4	4
Miami	3	-	-	-	1
Montgomery	17	2	4	-	8
Portage	2	1	-	-	2
Seneca	2	1	-	-	1
Stark	8	3	1	-	3
Summit	4	-	3	-	2
Wayne	2	-	1	-	1
Wood	2	1	-	-	1

Table XII indicates expenditures for the period from July 1, 1979, through June 30, 1980 (state fiscal year 1980), and a cost per case developed for that same period. Cost per case was determined by dividing reported personal services and other operating expenditures (equipment was not counted as it is considered capitalized and not expensed) by number of cases represented. A case was defined as all individual proceedings involving one defendant on all charges and counts from one incident of criminal activity or a series of related criminal incidents. Thus, one defendant represented on charges of aggravated robbery, kidnapping and receiving stolen property would be one case despite the conduct of several proceedings (arraignment, preliminary hearing, pretrial and trial).

There is, as is apparent from Table XII, a wide range between county offices on cost per case handled.

Table XII
County Office Expenditures
July 1, 1979 through June 30, 1980

County	Personal Services	Other Operating	Total	Cost Per Case
Ashtabula	\$ 41,705	\$ 9,811	\$ 51,516	\$ 88.50
Athens		(Did Not Report)		
Belmont	57,107	13,231	70,338	144.10
Carroll	44,872	11,028	55,900	279.50
Harrison				
Tuscarawas				
Clark	149,483	16,826	166,309	190.90
Clermont	47,606	7,698	55,304	31.00
Clinton	36,820	-	36,820	120.70
Columbiana	107,063	7,900	114,963	139.50
Cuyahoga	986,776	314,214	1,300,900	369.30
Erie		(Did Not Report)		
Franklin	1,049,615	55,132	1,104,747	121.90
Geauga		(Did Not Report)		
Greene	63,690	-	63,690	83.20
Hamilton	632,000	80,000	712,000	82.80
Huron	35,000	2,800	37,800	163.60
Knox	31,325	4,374	35,699	109.80
Lake		(Did Not Report)		
Lucas	291,838	21,738	313,576	78.70
Miami	66,048	2,980	69,028	80.40
Montgomery	594,619	75,011	669,630	80.90
Portage	59,725	5,500	65,225	60.60
Seneca	51,235	7,360	58,595	196.60
Stark	205,500	23,250	228,750	90.20
Summit	124,173	25,943	150,116	77.70
Wayne	60,089	15,558	75,647	152.80
Wood	57,000	12,592	69,592	204.70

Table XIII contains the caseload of each office for the period from July 1, 1979, through June 30, 1980. The same definition of case was used for caseload reporting purposes as for the cost per case calculation.

Table XIII
County Office Caseloads

County	Trials, Agg. Murder, Murder, + Felonies	Misdem.	Appeals And Post-Conviction	Probation, Parole, Competency, Habeas Corpus, Extradition	Juvenile	Total
Ashtabula	212	297	32	4	37	582
Athens			(Did not report)***			
Belmont	147	159	8	5	169	488
Carroll Harrison Tuscarawas }						
Clark	338	324	19	20	170	871
Clermont	677	1,067	19	19	1	1,783
Clinton	57	168	1	6	73	305
Columbiana	318	421	12	28	45	824
Cuyahoga	1,662	-	94	352	1,415	3,523
Erie			(Did not report)***			
Franklin	3,051	5,774	*	117	121*	9,063
Geauga			(Did not report)***			
Greene	238	450	26	16	35	765
Hamilton	-	7,000	-	-	1,600	8,600**
Huron	100	25	5	10	91	231
Knox	59	134	26	11	95	325
Lake			(Did not report)***			
Lucas	241	3,261	1	-	480	3,983
Miami	197	557	13	13	79	859
Montgomery	480	7,024	85	279	412	8,280
Portage	123	915	1	1	36	1,076
Seneca	111	132	-	4	51	298
Stark	575	945	5	127	885	2,537
Summit	78	1,629	2	-	222	1,931
Wayne	86	304	9	12	84	495
Wood	112	200	2	-	26	340
TOTALS	8,862	30,786	360	1,024	6,127	47,159

*The Franklin County Public Defender Office included appellate and juvenile cases together. This is reflected in the caseload figure under the "Juvenile" column.

**The Hamilton County Public Defender Office submitted estimated figures for caseload.

***County public defender offices in Athens, Erie, Lake and Geauga did not report data by the time this Report was printed.

A Look to the Future

Great progress has been made in the past four years in developing and refining the system for the defense of indigents in Ohio. Much work remains, however, and the system faces a variety of challenges in the 1980's.

Funding - In the face of scarce government resources, indigent defense in the 1980's will need a large infusion of additional financial resources, both at the state and county level, in order to meet expected needs. The decrease in state reimbursement from 50% to 35% during fiscal year 1981 marks an alarming situation: a real decrease in the state contribution to the joint state-county system in Ohio. County revenues have also been declining, and their ability to assume a greater portion of the costs of counsel is questionable.

One possible solution to the funding crisis is the dedication of a new or existing source of revenue to the indigent defense program. A current example of the use of special revenues to fund a state program is the imposition of a \$3.00 charge as added cost on all misdemeanor and felony cases except nonmoving traffic cases in Ohio courts. This charge funds the Ohio victims of crime reparations program managed by the Ohio Court of Claims. A revenue source such as this which is independent of the state General Revenue Fund would provide stability and solvency for the statewide program.

The State Public Defender Office intends to investigate potential sources of revenue and attempt to arrange through the Office of Budget and Management and the General Assembly the placement of the state indigent defense program on a self-supporting or otherwise independent basis.

Quality of Legal Services to the Indigent - While enormous improvements have been made in the quality of legal services to the poor, problems remain, as have been indicated by the new county evaluation program conducted by the State Public Defender Office and the National Legal Aid and Defender Association.

There remains a need to improve the speed with which legal counsel is made available upon arrest and/or indictment. Early representation can make a difference between a successful defense and no defense.

Another major problem with the quality of services involves lack of support services for both public defender offices and assigned counsel systems. Adequate investigative and expert assistance in the preparation and conduct of trials must be available. In many counties, assigned counsel have been forced to do their own investigation, and funds for expert witnesses have been simply nonexistent. Similarly, in public defender offices, support resources have been kept to a minimum because of the need to maintain an adequate number of attorneys for representation purposes. Although the problem of adequate support services is inextricably related to lack of funding, it also has a dire impact on the quality of the service rendered to the indigent. Ensuring the availability of such services is a major goal of the Ohio Public Defender Commission in the 1980's.

Finally, more efforts over the next few years need to be devoted to training programs in order to ensure competent, quality legal defense. Continuing legal education is a must in view of the ever-changing criminal law at the state and federal level.

Attorney Compensation - More must be done to improve the level of compensation paid to assigned counsel, and the salaries paid to county public defenders and their assistants. Another goal of the Ohio Public Defender Commission is to gradually increase the maximum fee schedule set by the State Public Defender and to encourage counties to follow suit by raising fee schedules set pursuant to Ohio Revised Code section 120.33. In addition, work should be continued toward achieving parity of county public defender office salaries with county prosecutor office salaries. Only through these efforts will the most competent and skilled attorneys be attracted to criminal defense work for the indigent.

Structure of the Ohio System - The Ohio system itself will undergo changes in the next decade. More counties can be expected to establish public defender offices as crime rates, caseloads and other costs rise. The State Public Defender Office is considering the possibility of opening branch or regional offices in certain counties who are either experiencing difficulties with availability of counsel or specifically request such offices. Finally, in recognition of the need to maximize the involvement of the private bar, means must be developed to encourage more use of a wider portion of interested members of the private bar in the counties. The Ohio Public Defender Commission is committed to the "mixed" nature of many metropolitan county systems, with a combination assigned counsel and public defender delivery system.

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