

MISSISSIPPI
PUBLIC DEFENDER
TASK FORCE



REPORT
TO
THE MISSISSIPPI LEGISLATURE

DECEMBER 1, 2006

~~~~

This report was amended subsequent to submission to the 2007 Legislature. Errors in calculations were discovered on pages 57 and 58.

Mississippi Public Defenders Task Force  
Report to the Mississippi State Legislature  
December 1, 2006

Table of Contents

|                                                                 |    |
|-----------------------------------------------------------------|----|
| Letter From the Chairman .....                                  | 1  |
| Outline of the 2007 Legislative Recommendations .....           | 4  |
| Statutory Creation .....                                        | 6  |
| Members of the Task Force .....                                 | 8  |
| Data Collection Activities .....                                | 10 |
| Proposed Recommendations for the 2007 Legislative Session ..... | 12 |
| Attachments                                                     |    |
| “A” Public Defender Task Force Minutes .....                    | 15 |
| “B” Indigent Defense in Mississippi Survey .....                | 45 |
| “C” Indigent Defense Costs in Mississippi for FY2005 .....      | 48 |
| “D” Statewide Public Defender System .....                      | 59 |
| “E” Public Defender Training Component .....                    | 67 |
| “F” Public Defender Systems in Other States .....               | 75 |

LETTER  
FROM THE  
CHAIRMAN OF THE  
MISSISSIPPI PUBLIC DEFENDERS TASK FORCE

December 1, 2006

The Honorable Amy Tuck  
Distinguished Members of the Senate  
The Honorable William J. McCoy  
Distinguished Members of the House  
New Capitol  
Jackson, Mississippi 39201

Mesdames and Messieurs:

The Public Defender Task Force has diligently and thoughtfully considered the legislative mandate which included: (1) needs - study for indigent counsel; (2) types and costs of other states' public defender systems; and (3) the relationship between the circuit bench and the appointment of public defenders. We trust that the enclosed report makes a detailed and comprehensive response to your concerns.<sup>1</sup>

#### RECOMMENDATIONS

One implied mission of the Task Force is to make recommendations for the improvement of our indigent defense system in criminal proceedings. The Task Force offers four recommendations to the Legislature for the forthcoming session.

1. Extension of the Repealer of the Public Defender Task Force

It is the unanimous belief of the Task Force members that the Legislature should authorize the continued work of the Public Defender Task Force. The Task Force members have demonstrated a commitment to improve the indigent defense system.

2. Inclusion of the Mississippi Bar and the Magnolia Bar

---

<sup>1</sup>The opinions expressed in this transmittal letter are that of the author and not of the individual task force members.

Invitations were extended to four organizations to share their respective positions on the indigent defense delivery system. Those organizations were the Magnolia Bar, the Mississippi Bar, the Mississippi Trial Lawyers Association, and the Mississippi Youth Justice Project. Three of the organizations expressed a desire for membership on the Task Force. Each presented unique reasons and perspectives for requesting membership. As a compromised position in a subsequent meeting, the organizations agreed that their respective interests could be represented by including a representative from the Mississippi Bar and the Magnolia Bar.

### 3. Creation of a Public Defender Training Component and Establishment of a Funding Source

Senate Bill 2960, signed by Governor Haley Barbour on March 21, 2005, created the Office of Indigent Appeals. The office parallels the Criminal Division of the Attorney General's Office and is similarly staffed. The next logical step would be the creation of a training division within the Office of Indigent Appeals.

Currently, spending for training public defenders compared to prosecutors is significantly low. Approximately \$50,000 per year is budgeted for public defender training. The annual budget for prosecutor training is approximately \$500,000.

Lawyers engaged in indigent defense have relied on the Mississippi Judicial College to plan and host two training conferences per year. The training is generally geared to non-capital, felony trial defenders with little emphasis on specialty areas such as youth court issues, post conviction practice or appeal issues. A public defender training component is needed and should mirror the Prosecutor Training Division of the Attorney General's Office.

The funding mechanism should be similar to the Prosecutor Training Division. A State Public Defender Education Fund should be established. The current assessment for the State Prosecutor Education Fund is one dollar (\$1). By imposing assessments on criminal fines, the costs for public defender training would fall upon those adjudicated as having broken the law, and would include many of those who were themselves using the services of appointed counsel.

### 4. Establishment and Funding of a Statewide Trial-Level Felony Public Defender System

A legislative subcommittee was formed to develop recommendations for consideration by the Task Force. After studying models from various states, the subcommittee developed a proposed bill for the establishment and funding of a statewide system. The Task Force adopted the recommendation. The draft bill is included in this report.

CONCLUSION

On behalf of all members of the Task Force, we appreciate the opportunity to serve with the hope that our legal system will be improved.

Sincerely,

/s/ James E. Graves, Jr.

James E. Graves, Jr., Chairman  
Mississippi Public Defender Task Force

JEG/mm

OUTLINE OF LEGISLATIVE RECOMMENDATIONS



MISSISSIPPI PUBLIC DEFENDER TASK FORCE

**OUTLINE OF 2007 LEGISLATIVE RECOMMENDATIONS**

1. Extension of the Repealer of the Public Defender Task Force (MS Code Ann. § 25-32-71)
2. Inclusion of the Mississippi Bar and the Magnolia Bar on the Public Defender Task Force
3. Creation of a Public Defender Training Component and Establishment of a Funding Source
4. Establishment and Funding of a Statewide Trial-Level Felony Public Defender System

## STATUTORY CREATION

Mississippi Public Defender Task Force  
Miss. Code Ann. § 25-32-71

There is created the Mississippi Public Defender Task Force which shall be composed of eleven (11) members as follows:

- The President of the Mississippi Public Defender Association, or his designee;
- The President of the Mississippi Prosecutors Association, or his designee;
- A representative of the Administrative Office of Courts;
- A representative of the Mississippi Supreme Court;
- A representative of the Conference of Circuit Judges;
- A representative of the Mississippi Attorney General's Office;
- A representative of the Mississippi Association of Supervisors;
- The Chairman of the Senate Judiciary Committee, or his designee;
- The Chairman of the Senate Appropriations Committee, or his designee;
- The Chairman of the House Judiciary En Banc Committee, or his designee;
- The Chairman of the House Appropriations Committee, or his designee.

The Task Force was charged to make a needs-study of the circuit court districts for state-funded indigent defense counsel, examine existing public defender systems, and provide this report to the Legislature by December 1, 2006. The Task Force also looked at the types of approaches taken by other states, and studied the relationship between the circuit bench and the appointment of public defenders.

MEMBERSHIP OF THE TASK FORCE

## Mississippi Public Defender Task Force Membership

### Chairman

**Justice James E. Graves, Jr.**  
Mississippi Supreme Court  
P.O. Box 117  
Jackson, MS 39205

### Vice-Chairman

**Judge William Chapman, III**  
Conference of Circuit Judges  
P.O. Box 1626  
Canton, MS 39046

**Senator Carl “Jack” Gordon, Jr.**  
Chairman Senate Appropriations Committee  
P.O. Box 1018 (Capitol)  
Jackson, MS 39215-1018

**Senator Charlie Ross**  
Senate Judiciary Committee  
P.O. Box 1018 (Capitol)  
Jackson, MS 39215

**Representative Edward Blackmon, Jr.**  
House Judiciary En Banc Committee  
P.O. Box 1018 (Capitol)  
Jackson, MS 39215-1018

**Representative Johnny W. Stringer**  
Chairman House Appropriations Committee  
P. O. Box 1018 (Capitol)  
Jackson, MS 39215-1018

### **Chris Klotz**

MS Public Defender Association  
Coxwell & Associates  
500 N. State St.  
Jackson, MS 39202

### **Smith Murphey**

President, MS Prosecutors Association  
Office of the District Attorney  
P.O. Box 1635  
Batesville, MS 38606

### **Kevin Lackey**

Administrative Office of Courts  
P.O. Box 117  
Jackson, MS 39205

### **Marvin L. “Sonny” White**

MS Attorney General  
P.O. Box 220  
Jackson, MS 39205-0220

### **T.H. “Butch” Scipper**

MS Association of Supervisors  
Quitman County Chancery Clerk  
230 Chestnut  
Marks, MS 38646

### Staff Support

Margarette Meeks  
Project Manager  
Administrative Office of Courts  
P. O. Box 117  
Jackson, MS 39205

## DATA COLLECTION ACTIVITIES

Mississippi Public Defender Task Force  
Report to the Mississippi Legislature  
December 1, 2006

**Data Collection Activities**

In regards to actions taken to collect data, the Administrative Office of Courts mailed the Indigent Defense Survey, included in Attachment “B,” to Chancery Clerks and County Administrators in March. The Mississippi Association of Supervisors sent two reminders to the counties in April. However, efforts in utilizing the survey resulted in low return rates.

Upon the suggestion of Honorable T.H. “Butch” Scipper, Quitman County Chancery Clerk, The Administrative Office of Courts mailed a request for the 2005 Final Amended Budget to Chancery Clerks and County Administrators in June. Budgetary information was obtained from all of the 82 counties with Mr. Scipper’s additional assistance.

The Administrative Office of Courts then hired Mr. Micah Dutro, a third-year law student at the Mississippi College School of Law, to review and analyze the final amended budgets. In addition, Mr. Dutro made follow-up calls to clarify and/or gather additional information. A report, which was prepared and presented to the Task Force, is included in Attachment “C.”

The total amount spent by Mississippi counties in FY2005 for indigent defense was \$11,364,919. As noted in the report in Attachment C, the data represents figures for attorney costs and, at the very least, estimates of other costs.

PROPOSED RECOMMENDATIONS  
FOR THE  
2007 LEGISLATIVE SESSION



## Mississippi Public Defender Task Force

### **Proposed Recommendations for the 2007 Legislative Session**

The Mississippi Public Defender Task Force offers four recommendations to the Mississippi Legislature for the forthcoming session. The first is the extension of the repealer of the Public Defender Task Force. The second is inclusion of the Mississippi Bar and the Magnolia Bar on the Public Defender Task Force. The third is the creation of a public defender training component and establishment of a funding source. And the fourth is the establishment and funding of a statewide trial-level felony public defender system.

#### **1. Extension of the Repealer of the Public Defender Task Force**

Currently, Miss. Code Ann. § 25-32-71, which created the Public Defender Task Force, is scheduled to be repealed on July 1, 2007. The Task Force has diligently worked towards fulfilling its legislative mandate. One implied mission of the Task Force is to make recommendations for the improvement of our indigent defense system in criminal proceedings. Reform of our present system is needed. The passage of House Bill 1228 (creating the Office of Capital Defense Counsel and the Office of Capital Post-Conviction Relief) and Senate Bill 2960 (creating the Office of Indigent Appeals) were important steps in reforming our indigent defense system. Reform of our present system, however, is an ongoing process. The Task Force has proven to be an effective forum for the discussion of issues affecting the delivery of indigent defense services in addition to serving as a vehicle for legislation. To this end, the work of the Public Defender Task Force is not complete. The Task Force recommends an extension of the repealer for another term of four years.

#### **2. Inclusion of the Mississippi Bar and the Magnolia Bar on the Task Force**

At the May 18, 2006 meeting, the Task Force invited representatives from several organizations to speak on the respective organization's position regarding the indigent defense delivery system. Those associations were the Magnolia Bar, the Mississippi Bar, the Mississippi Trial Lawyers Association, and the Mississippi Youth Justice Project. Originally, each organization, except for the Mississippi Bar, expressed a desire for membership on the Task Force. Each presented unique reasons and perspectives for requesting membership. As a compromised position in a subsequent meeting, the organizations agreed that their respective interests could be represented by including a representative from the Mississippi Bar and the Magnolia Bar. At the November 9, 2006 meeting, the Task Force adopted the recommendation and hereby recommends that Miss. Code Ann. § 25-32-71(1) be amended to include the Mississippi Bar and the Magnolia Bar.

#### **3. Creation of a Public Defender Training Component and Establishment of a Funding Source**

Current spending for training public defenders compared to prosecutors is significantly low. Approximately \$50,000 per year is budgeted for public defender training in contrast to approximately \$500,000 budgeted annually for prosecutor training. Lawyers engaged in indigent defense have relied on the Mississippi Judicial College to plan and host two training conferences per year. The training is generally geared to non-capital, felony trial defenders with little emphasis on specialty areas such as youth court issues, post conviction practice or appeal issues.

Senate Bill 2960, signed by Governor Haley Barbour on March 21, 2005, created the Office of Indigent Appeals. The office parallels the Criminal Division of the Attorney General's Office and is similarly staffed. The next logical step would be the creation of a training division within the Office of Indigent Appeals.

The proposed training component should mirror the Prosecutor Training Division of the Attorney General's Office. Legislation should specifically provide that the Division of Public Defender Training will provide 1) education and training for public defenders practicing in all state, county and municipal courts of Mississippi; 2) technical assistance for public defenders practicing in all state, county and municipal courts of Mississippi; and 3) current and accurate information for the Mississippi Legislature pertaining to the needs of public defenders practicing in all state, county and municipal courts in Mississippi.

Legislation should clearly state that the mission of the Division of Public Defender Training shall be to work closely with the Mississippi Public Defenders Association to provide training and services to public defenders practicing in all state, county and municipal courts of Mississippi. These services shall include but may not be limited to continuing legal education, case updates, and legal research for public defenders practicing in all state, county and municipal courts of Mississippi, as well as their support staff.

The funding mechanism shall be similar to the Prosecutor Training Division. Legislation should clearly provide for the establishment of a State Public Defender Education Fund. The current assessment for the State Prosecutor Education Fund is one dollar (\$1). By imposing assessments on criminal fines, the costs for public defender training would fall upon those adjudicated as having broken the law, and would include many of those who were themselves using the services of appointed counsel.

#### **4. Establishment and Funding of a Statewide Trial-Level Felony Public Defender System**

A legislative subcommittee was formed to develop recommendations for consideration by the Task Force. After studying models from various states, the subcommittee developed a proposed bill for the establishment and funding of a statewide system. The Task Force adopted the recommendation. The draft bill is included in Attachment "D."

ATTACHMENT "A"

PUBLIC DEFENDER TASK FORCE MINUTES

**MISSISSIPPI PUBLIC DEFENDER TASK FORCE**  
MINUTES  
FEBRUARY 16, 2006

MISSISSIPPI BAR CENTER BOARD ROOM  
10:00 A.M.

**Members Present:**

Judge William Chapman, III, Conference of Circuit Judges, Co-Chairman  
Justice James. E. Graves, Jr.  
Marvin “Sonny” White, MS Attorney General’s Office  
Clay Joiner, MS Prosecutors Association

**Others Present:**

Chris Klotz for MS Public Defenders Association  
Joel Yelverton, MS Association of Supervisors  
Sheila Bedi, Co-Director, MS Youth Justice Project  
Margarette Meeks, Administrative Office of Courts

**Members Absent:**

T.H. “Butch” Scipper, MS Association of Supervisors  
Kevin Lackey, Administrative Office of Courts  
Rep. Edward Blackmon, Jr., MS House Judiciary En Banc Committee  
Senator Charlie Ross, MS Senate Judiciary Committee  
Senator Carl “Jack” Gordon, Jr., MS Senate Appropriations Committee  
Rep. Johnny Stringer, MS House Appropriations Committee  
André deGruy, MS Public Defenders Association

**CALL TO ORDER**

The meeting of the Mississippi Public Defenders Task Force was called to order at 10:05 a.m. by Judge William Chapman, III, Vice-Chairman. Mr. Sonny White gave the opening prayer.

**OLD BUSINESS**

Minutes

The minutes from the August 26, 2005 were approved.

**NEW BUSINESS**

**A. *Election of New Chairman***

Judge Chapman announced that the chairmanship is open. Ms. Meeks noted that Presiding Justice William L. Waller, Jr. has stepped down due to the pressures of other responsibilities. The Court's new representative is Justice James E. Graves, Jr. Judge Chapman opened the floor for nominations. Mr. White moved that Justice Graves be elected as the new chairman. Judge Chapman seconded the motion. There were no other nominations. Justice Graves was elected the new chairman.

**B. *Issues for 2006***

Ms. Meeks stated that Presiding Justice Waller, as the outgoing chairman, asked her to prepare an outline of issues for the Task Force to consider in 2006. The issues are listed on today's agenda under "New Business." Ms. Meeks pointed out that the issues are not listed to be considered today but rather to help shape the framework for the Task Force's agenda for the year.

**1. *The Office of Indigent Appeals***

Ms. Meeks noted that the Office of Indigent Appeals was created by SB2960 during the 2005 Legislative session. To date, the office's executive director has not been appointed. Ms. Meeks noted that she placed a call to Mr. Paul Hurst, of the Governor's Office, requesting a status report of the appointment process. She was unable to reach him. There was some brief discussion. Justice Graves indicated that he will get a status report from Presiding Justice Waller on his efforts to urge the appointment. Justice Graves further stated that he will send a letter on behalf of the Task Force requesting that the appointment be made expeditiously.

**2. *Indigent Juvenile Appeals (HB 298, HB 199)***

Ms. Meeks noted that Ms. Sheila Bedi, of the MS Youth Juvenile Project, was present and available to give a brief report on bills introduced during the 2006 legislative session relating to indigent juvenile appeals.

Justice Graves called on Ms. Bedi to give a brief report. Ms. Bedi outlined each of the two bills. HB 1999, the Mississippi Juvenile Delinquency Prevention Act, makes changes on how training schools operate. Relevant to the Task Force, HB 199 requires training for court

appointed defenders. Ms. Bedi stated that her office conducted an assessment of the youth court process over the summer. Fifteen youth courts were surveyed which represented youth courts that provide half of the state's dispositions. The common issues noted were the lack of resources and the lack of training. HB 298 amends the Office of Indigent Appeals legislation by establishing one attorney position that is specific to providing training, resources and individual guidance to attorneys who represent children in youth courts. The bill proposes an additional 25-cent assessment, which is anticipated to generate an additional \$125,000.00. Ms. Bedi answered questions posed by task force members.

3. *Administrative Oversight for the Offices of Capital Defense Council, Post-Conviction Relief Counsel and Indigent Appeals*

Ms. Meeks noted that Mr. Andre deGruy brought this issue up during the last meeting. Mr. White pointed out that the statute is clear that the Office of Indigent Appeals can have no connection with the Office of Post Conviction Relief. It was established this way to comply with federal habeas laws.

There was general discussion on the pros and cons of administrative oversight of the three offices.

Mr. Klotz noted that the Task Force should consider inviting Mr. Michael Mears, of the Georgia Standards Council, to share information on how Georgia established its statewide system.

Ms. Meeks indicated that the task force should define what is administrative oversight. She suggested that the Task Force wait until the Office of Indigent appeals is operational before defining administrative oversight. She noted that it is hard to state what the needs are until the office is operational.

Justice Graves indicated that it would be good to have the offices under one umbrella. The question of whether it can be funded is another issue. He noted that unless there is a cost involved, he would be interested in Mr. Mears making a presentation to the Task Force.

Mr. Klotz stated that he believes it may be prudent to wait until the Office of Indigent Appeals is operational.

Judge Chapman noted that it may be good to hear from Mr. Mears.

Mississippi Public Defenders Task Force Minutes  
February 16, 2006

Ms. Meeks stated that she will visit with Mr. deGruy and Mr. Ryan to find out what needs of their individual offices warrant oversight. She stated that she believes the issue is with the terminology -, i.e., “oversight.” She further stated that more information may be needed before the task force can proceed with the discussion on oversight. Any further discussion on the subject at this time would be premature.

Mr. Yelverton suggested that the three offices (Capital Defense, Post Conviction Relief and Indigent Appeals) provide reports to the Task Force. These reports should include proposed legislation.

4. *Indigent Defense Survey for 2006*

Ms. Meeks pointed out that the survey is one of the tools utilized to comply with the statutory requirement for the task force. She briefly shared challenges faced in the past with data collection. She noted that current data is needed.

Mr. White suggested that the survey be mailed and follow-up be conducted with counties that do not respond.

Ms. Meeks noted that there was some concern about the correctness of the data based on the title of the person completing it. She asked if the Board of Supervisors Association could urge the counties to complete the surveys

Mr. Yelverton noted that the survey should be mailed to the chancery clerk or county administrators for larger counties. He indicated that his office would be happy to provide current mailing labels.

5. *Formation of Legislative Committee to Draft Legislative Proposal for 2007*

Meeks noted that Presiding Justice Waller suggested the formation of this committee for the purpose of developing the legislative proposal for next year, which may also include the resolution of issues raised by the Office of Post Conviction Relief during the last meeting.

There was general discussion about the advantages and disadvantages to formation of the committee. A working group would be okay. It should, however, not be restricted to the three offices.

Mr. White stated that he sees no need for the committee if there are no needs that warrant

legislation to be proposed during the next session.

Mr. Klotz opined that legislation tailored to creating and funding a statewide public defender system for felonies should be presented each year, regardless of whether it will be funded. If the legislation is not presented each year, the issue may be forgotten. He believes a working group should be established to present a legislative package to the Task Force. Waiting until August to begin work on a legislative package may be too late.

Mr. Joiner asked Mr. Klotz if the MS Public Defender Association supported the creation of a statewide public defender system. Mr. Klotz indicated that the association was split on the issue. Mr. Klotz noted that the differences relate to part-time vs. full-time defenders.

Judge Chapman suggested that the directors from the three offices present to the Task Force ideas for legislation. At that point, the committee could be formed.

It was also noted that groups with interest in indigent defense (e.g., prosecutor association, public defender association, etc.) should be allowed to present their position on the issue of creation of a statewide public defender system. It was further noted that there are many issues to be addressed before the Task Force will be ready to formulate a strategy. Mr. Joiner noted that the prosecutors association's initial problem with the legislation was the issue of suing prosecutors.

Mr. Klotz suggested that the Task Force considers changes to its membership to include others. Mr. White opined that the committee is already balanced. The three offices should continue to report to the Task Force. Mr. Yelverton suggested that the Task Force look at the legislation that authorizes it to see what revisions may be needed, if any (e.g., membership), since it set to expire in 2007.

Mr. Yelverton suggested that the Task Force meet on Monday afternoons around 2:00 p.m. or Friday midmorning during the legislative session to allow more participation from members who are legislators.

Ms. Meeks suggested a time frame for data collection so that the Task Force can consider the type of system the counties desire.

Mr. Yelverton opined that the work of the Task Force is not complete. He indicated that he would like another attempt at getting legislation passed for creating a statewide system.



Mississippi Public Defenders Task Force Minutes  
February 16, 2006

Judge Chapman underscored that the Task Force needs to hear from interested parties before preparing proposed legislation.

Mr. Joiner suggested that the Task Force meet in May and August. At the May meeting, interested parties should be allowed to testify about their position on a statewide public defender system.

Following the additional discussion, a volunteer work group was established. The group is composed of the following individuals: Klotz, Joiner and Scipper.

6. *Amendment of the State Statute to include Public Defenders in the State Retirement System*

Ms. Meeks indicated that the issue has reappeared. Mr. White recalled that it was not an issue for the Task Force to consider. Mr. Joiner suggested that the issue be tabled until the May meeting.

**NEXT MEETING**

The Task Force will meet in May. The specific date will be announced later.

**ADJOURNMENT**

There being no further business, the Mississippi Public Defender Task Force adjourned at 11:40 a.m.

Respectfully submitted by:

/s/ Margarete Meeks

Margarete Meeks  
Project Manager, Administrative Office of Courts  
Recorder, MS Public Defender Task Force

/s/ James E. Graves, Jr.

Hon. James E. Graves, Jr., Justice  
Supreme Court of Mississippi  
Chairman, MS Public Defender Task Force

May 18, 2006

Date Approved

**MISSISSIPPI PUBLIC DEFENDER TASK FORCE**

MINUTES

MAY 18, 2006

MISSISSIPPI BAR CENTER BOARD ROOM

10:00 A.M.

**Members Present:**

Justice James. E. Graves, Jr., Chairman  
Marvin "Sonny" White, MS Attorney General's Office  
Smith Murphey, MS Prosecutors Association  
Kevin Lackey, Administrative Office of Courts  
T.H. "Butch" Scipper, MS Association of Supervisors  
André deGruy, MS Public Defenders Association

**Others Present:**

Lori Langford, MS Association of Supervisors  
Louella V. Williams, MS Office of Capital Post-Conviction Counsel  
Bob Ryan, Ms Office of Capital Post-Conviction Counsel  
Sarah MacDougull, MS Office of Capital Post-Conviction Counsel  
Beverly Kraft, Administrative Office of Courts  
Scott Phillips, MS Public Broadcast  
Jimmie Reynolds, MS Bar  
Carlton W. Reeves, Magnolia Bar Association  
Chris Klotz, Ms Public Defenders Association  
Rick Patt, MS Trial Lawyers Association  
Rob McDuff, Attorney at Law  
Sheila Bedi, Co-Director, MS Youth Justice Project  
Jennifer Riley-Collins, MS Youth Justice Project  
Margarette Meeks, Administrative Office of Courts

**Members Absent:**

Judge William Chapman, III, Conference of Circuit Judges, Co-Chairman  
Rep. Edward Blackmon, Jr., MS House Judiciary En Banc Committee  
Senator Charlie Ross, MS Senate Judiciary Committee  
Senator Carl "Jack" Gordon, Jr., MS Senate Appropriations Committee  
Rep. Johnny Stringer, MS House Appropriations Committee

**CALL TO ORDER**

The meeting of the Mississippi Public Defenders Task Force was called to order at 10:05

a.m. by Justice James Graves, Chairman.

### **OLD BUSINESS**

#### *Minutes*

The minutes from the February 16, 2006 meeting were approved.

### **NEW BUSINESS**

#### *A. Reports*

##### *1. Office of Capital Defense Counsel*

Mr. Andre deGruy presented a report on the Office of Capital Defense Council (“OCDC”). Written copies of the report were disseminated. OCD is now fully staffed with attorneys. The final position, which is a litigation support staff position, will be filled effective June 1, 2006, with a recent MSW graduate from Jackson State University. The administrative support position has been contracted out and this arrangement is working well.

Mr. deGruy highlighted two issues that OCDC will present to the 2007 Legislature. The first issue relates to the problem that OCDC has encountered in transitioning from the general fund appropriation to the special fund appropriation. Mr. deGruy pointed out that OCDC has the appropriations needed but not the funds.

Mr. deGruy noted that the written report outlines the details on the funds to be generated by the additional \$1.89 on criminal fines. He noted that a deficit will occur in January shortly after the 2007 Legislature convenes. Mr. deGruy stated that the estimates used to base the assessments were not sufficient. The funds are not being generated as projected. Mr. deGruy noted that OCDC is open to solutions for resolving the anticipated deficit. He suggested that excess funds from the Offices of Post Capital Relief (“Capital PCR”) and Indigent Appeals could be transferred to OCDC’s budget as an alternative to a deficit appropriation from state general funds. He noted that his report provides further details on this alternative.

Mr. deGruy opined that the intent of the Legislature in 2000 was to cover defense of all capital cases at the trial and appellate levels with state funds. It will take approximately \$4.5 million to cover all of the cases. The cost will be higher if OCDC remains at its current staffing level and has to retain appointed counsel to work the additional cases. Mr. deGruy indicated that OCDC plans to request t\$4.5 million in additional funding to cover costs for

new cases. He stated that there are approximately 70-80 new cases per year. Of these new cases, approximately 25% have retained counsel. He pointed out that if the new cases will be covered through criminal assessments, the assessment will have to be significantly increased, perhaps up to \$12.

Mr. deGruy answered questions about the funding requirement to cover new cases. Mr. Butch Scipper asked for clarification on the amount of the proposed increase in criminal assessments. Mr. deGruy stated that an increase from \$1.89 to \$2.70 would cover OCDC at its current caseload. However, to cover all of the expenses of death penalty defense, the assessment will need to be increased to at least \$12.

Mr. Sonny White asked if OCDC was receiving \$1.89. Mr. deGruy answered in the affirmative.

## 2. Office of Capital Post-Conviction Relief Counsel

Mr. Robert Ryan presented a report on Capital PCR. Written copies of the report were disseminated. Capital PCR has worked through its backlog of cases. Capital PCR is not experiencing any problems with funding. Since the last reported presented to this task force, six post-conviction relief petitions have been filed.

Mr. Ryan discussed issues that Capital PCR has confronted for which it desires legislative action. The first issue is in gathering records from law enforcement agencies. Generally, Capital PCR has attempted to get records from district attorneys. Mr. Ryan stated that it should be made clear which agency is responsible for ensuring that Capital PCR receives the files it is entitled pursuant to M.R.A.P. 22 without having to file motions to compel or otherwise.

The second issue is time constraints in filing the petitions. Mr. Ryan noted that when he was appointed to Capital PCR, the time frame was three years from the time of mandate. The case of *Puckett v. State*<sup>2</sup> changed the time frame to one year from the mandate. M.R.A.P. imposes a 180-day period for filing the petition after Capital PCR is appointed. Mr. Ryan stated that he would like the legislature to clearly give a period of time with which Capital PCR can work.

A case averages 10-25 file boxes of documents. It is time intensive to review all of the documents in order to develop issues.

---

<sup>2</sup>834 So.2d 676 (Miss. 2002).

The third issue is priority given to post conviction relief cases. Mr. Ryan stated that Capital PCR would like the legislature to require circuit judges to give priority to post conviction relief cases. He pointed out that the Capital PCR has to wait months for court reporters to transcribe hearings. Because of delays, Capital PCR has, on occasion for very important issues, hired its own court reporter. Judge Graves briefly interrupted to get clarity on the hiring of an official court reporter. Mr. Ryan explained that on occasions when it has been necessary, Capital PCR has obtained court approval to hire an official reporter to accompany Capital PCR to hearings. This method expedites the receipt of the transcript. Mr. Ryan pointed out that if the court reporter for the judge transcribes the hearing, Capital PCR may have to wait three or four months in order to get the transcript. Mr. Ryan underscored that Capital PCR is unable to effectively appeal issues to the Supreme Court without a complete record. Capital PCR is placed in a bind because of the time-frame for filing the petition.

3. Indigent Defense Survey Results for 2006

Ms. Meeks gave a report on the indigent defense survey results for 2006. Written copies of the report were disseminated. The survey was mailed to chancery clerks and county administrators. The return rate was 61 percent. According to the surveys, counties spent \$5.6 million on indigent defense. Ms. Meeks noted that this figure does not reflect Hinds County and some other significant counties. She indicated that challenges remain in collecting data through surveys.

Mr. deGruy suggested that the task force obtain information on the amount of criminal fines collected by the counties in future surveys. He opined that this information would provide a clearer picture.

4. Office of Indigent Appeals

Ms. Meeks reported that the appointment of the director to the Office of Indigent Appeals has not occurred. Paul Hurst, of the Governor's Office, has provided assurance that the appointment is forthcoming. As of April 10, the special fund has generated \$552,113.

*B. Responses from Associations Regarding the Creation and Funding of a Statewide Public Defender System in Mississippi*

1. Mississippi Public Defender Association

Mr. Chris Klotz, a current board member of the association, presented the position of the

Mississippi Public Defender Task Force Minutes  
May 18, 2006

Mississippi Public Defender Association on behalf of Mr. Jim Davis, association president. A recent poll of the membership, as of last month during the association's annual meeting, revealed that more than 95% of the members are in favor of a state-funded trial level defender system. There was no hesitancy or reservation on the association's part in taking this position. The association is of the opinion that the statewide system should include standards for caseloads and training for individuals who take indigent cases. The association requests that the task force continue to work toward a statewide public defender system at the trial level.

2. Mississippi Prosecutors Association

Mr. Smith Murphey, president of the Mississippi Prosecutors Association, presented the position of the association. The association believes that a lot of progress has been made toward meeting the initial needs that led to the creation of this task force. As a result of the task force's work, the OCD, Capital PCR and Indigent Appeals Office have been created. The association does not believe there is complete data that provides ample justification for a statewide system.

Mr. deGruy made comments on the training programs for public defenders and prosecutors. The Mississippi Judicial College spends approximately \$50,000 per year on training for the public defenders. The prosecutor training division within the Attorney General's Office spends approximately \$600,000 per year to train all of the prosecutors. Mr. deGruy indicated that he hopes the prosecutors association would be in support of a similar training program for public defenders independent of the Judicial College that could possibly be housed in the Indigent Appeals Office. Mr. deGruy noted that the next logical step following the creation of the Indigent Appeal Office would be to incorporate the training component. The training issue has become more urgent because of the 2006 legislative's mandate for training of indigent defenders in youth court. Mr. deGruy pointed out that no additional funds, however, were allocated to the Judicial College for such training. Mr. deGruy explained that the costs for the mandated training will be borne either by the public defenders as out-of-pocket expenses or the counties. He noted that the forthcoming uniform criminal rules will require training for capital cases. With the additional training, especially specialized training, the Judicial College will not be able to meet the future training needs of public defenders. Mr. deGruy concluded in stating that the task force should request an extension of its legislation to continue its work in studying public defender systems and gathering data to support the implementation of a state-funded system in the future. He suggested that in the immediate future, the task force should request funding for a public defender training program which mirrors the prosecutor training program.

Mr. White pointed out that the prosecutor training division in the Attorney General's Office is not a line-item in the office's budget but rather an assessment on fines.

Mr. Rob McDuff commented on the disparity between part-time public defenders and full-time prosecutors. He asked why is it okay for the indigent defense job in a vast majority of counties be performed by lawyers who are working part-time with the obligations of their private practices but the prosecution function can only be performed by people who are working full-time.

Mr. Murphey addressed questions regarding his association's position. Mr. Murphey underscored that his association's position has remained consistent over the years. The 1998 legislation, which proposed a statewide system, contained ambiguities and hidden costs. The association has not seen any data that supports funding a statewide system, he added.

### 3. MS Trial Lawyers Association

Mr. Rick Patt presented the position of the Trial Lawyers Association on behalf of Mr. Precious Martin, association president. Mr. Patt noted that the association has not held a formal meeting to poll its entire membership regarding the issue of a state funded public defender system. The association's president has, however, polled members of the executive committee and it supports funding a statewide system. Mr. Patt underscored that the issue is important to the association because a significant number of its members are engaged in public defender work. Mr. Patt noted that this issue will be discussed during the association's annual meeting in June.

### 4. Magnolia Bar Association

Mr. Carlton Reeves, president-elect of the Magnolia Bar Association, presented the position of the association on behalf of Ms. Jaribu Hill, association president. Mr. Reeves stated that the association is of the opinion that the current system does not work. Three of the association's objectives address the issue being considered by the task force.<sup>3</sup> The association believes that a statewide indigent defense system is long overdue. There is a particular need for such a system for many members of the community where the association's members live,

---

<sup>3</sup>The three objectives are 1) to facilitate the administration of justice; 2) to provide an agency to articulate the various problems confronting blacks and other minorities in the State of Mississippi and the world; and 3) to assure that justice prevails in the State of Mississippi.

send their children to school, attend church and where they practice law. Mr. Reeves pointed out that Mississippi has the highest percentage of people living below the poverty line of any state, and within those numbers the African-American community is impacted far more severely than any other racial group. Consequently, the patchwork system of indigent defense has a particularly devastating effect on the African-American community. Mr. Reeves noted that the faults in the existing system are borne by African-Americans because African-Americans have to rely on the system. He opined that the current indigent defense system has contributed to wrongful convictions, unreasonable pre-trial incarceration, and excessive and inappropriate sentences. The association is of the opinion that the most devastating effect on the African-American community is that many felony convictions result in the denial of the right to vote. Mr. Reeves pointed out that this disenfranchisement usually imposes a lifetime sanction. Mississippi's African-Americans, who disproportionately to some degree rely upon the current system, also suffer dilution of their voting strength. Mr. Reeves opined that the state could do better and should do better. He concluded that the association supports the creation and funding of a statewide public defender system.

#### 5. Mississippi Bar

Mr. Jimmy Reynolds presented the official position of the Mississippi Bar. He stated that it is the position of the Bar that it is the state's obligation to pay for a state enacted indigent defense system.

The Bar will continue to support the creation and funding of a statewide system.

#### 6. Mississippi Association of Supervisors

Mr. Butch Scipper, Quitman County Chancery Clerk, presented the position of the Mississippi Association of Supervisors. Mr. Scipper noted that he, like Mr. Patt, has been involved in the original discussions on establishing a statewide public defender system. He pointed out that it was the consensus of the task force that the system, as it existed in 2000, needed reform. Reform was needed at two levels. First, reform was needed on an administrative and implementation level that was more broad and comprehensive than counties could give it. And secondly, reform was needed at the funding level (i.e., funding to be borne by the state). Mr. Scipper explained that a patch work system, beginning at the top, has evolved in the state. The patchwork system began with OCDC and Capital PCR. The state took those expenses away from the counties, which the counties do appreciate. He pointed out that these two areas involved expenses for which counties could least plan, budget and fund. The third piece of the patchwork system, the Indigent Appeals Office, was created last year. Mr. Scipper stated that the association supports the implementation of a



statewide public defender system.

Mr. Scipper opined that the work of the task force is not complete. He discussed two problems that are unresolved. The first problem is with data collection. He noted the task force's 2004 legislative request for an administrative assistant position to facilitate the collection of data. Mr. Scipper pointed out that the survey return rate has consistently been low. The task force does not have an accurate picture of what counties are spending on indigent defense nor does the task force know how indigent defense is being provided in the various districts. The administrative position is needed so that the task force can present a better picture of what is being done county by county and district by district. The second problem will be how to fit all of the pieces of the patchwork system together under one umbrella so that the system works effectively and efficiently.

Mr. Murphey added that he is in agreement with Mr. Scipper regarding the need for more accurate and complete information. Mr. Murphey emphasized that it would be irresponsible to support the implementation of a statewide system without the information from counties and specifics on the type of system to be proposed.

Mr. Scipper noted that the objective of those involved in public defender discussions was to move the burden from the counties's general fund to the state's general fund. He commended the task force for finding ways to finance the public defender related offices. He opined that assessments on fines would be more palpable to the legislature and taxpayers. He concluded in recommending that the assessments be raised to whatever level is necessary to fund the system without burdening the general fund of either the state or counties.

#### C. Comments from the Mississippi Youth Justice Project

Ms. Jennifer Riley-Collins, of the Mississippi Youth Justice Project ("MYJP"), asked Chairman Graves for an opportunity to address the task force on the juvenile perspective of the issue. Chairman Graves yielded the floor to Ms. Riley-Collins. Ms. Riley-Collins recognized Ms. Shelia Bedi, Co-Director of MYJP, who was also in attendance. Ms. Riley-Collins shared that MYJP conducted a survey last summer on indigent defense available to children in the state youth court system. The study found, like many other studies conducted on the issue, that defense provided to juveniles is inadequate. She opined that it is therefore necessary that a statewide system be created and funded. Contract attorneys represent the majority of indigent juvenile court defendants. Most public defender offices do not have public defenders designated to represent indigent juveniles in youth court. The representation of indigent juveniles in youth court should be given attention in the statewide public defender

system that is being considered by this task force.

D. Requests for Membership on the Task Force

1. *Trial Lawyers Association*

Mr. Patt indicated that the Trial Lawyers Association would like to request a seat on the task force if the task force plans to propose membership changes to its legislation. He added that many of the association's members are involved in public defender work.

2. *Magnolia Bar Association*

Mr. Reeves stated that the Magnolia Bar also wishes to make a request for membership on the task force.

3. *Mississippi Youth Justice Project*

Ms. Riley-Collins requested membership for MYJP to provide the juvenile perspective.

E. Remarks

Chairman Graves thanked the association representatives for preparing and presenting their reports to the task force.

Mr. deGruy pointed out that the task force is scheduled to sunset in 2007. He stated that the report to the 2007 legislature should include hiring a support person to perform the functions as proposed in the 2004 legislative packet. He noted that the task force will not be able to complete its function in gathering data without an individual devoting full-time attention to this task. Mr. deGruy stated that the task force should recommend expanding its membership to include the Trial Lawyers Association, the Magnolia Bar Association and MYJP. He further added that the task force should consider extending permanent membership to the directors of the three public defender related offices (OCDC, Capital PCR and Indigent Appeals).

As a result of the discussion on data collection, Chairman Graves created a data collection subcommittee consisting of Mr. deGruy (chairman), Mr. Murphey, Mr. Scipper and Mr. White. The subcommittee was instructed to look into the issues on data collection and present its report to the task force.

Mississippi Public Defender Task Force Minutes  
May 18, 2006

Chairman Graves also appointed a legislative subcommittee consisting of Mr. Klotz (chairman), Mr. Ryan, Mr. Reeves, Ms. Riley-Collins, Mr. Patt and a representative from the Prosecutors Association to be designated by Mr. Murphy. This subcommittee was charged with drafting recommendations for the task force's consideration for the 2007 legislative proposal.

Chairman Graves requested that the subcommittees submit their reports on or before July 31. He asked task force members to provide e-mail addresses so that information could be shared and work conducted via email prior to the next meeting.

**NEXT MEETING**

The Task Force will meet in August. The specific date will be announced later.

**ADJOURNMENT**

There being no further business, the Mississippi Public Defender Task Force adjourned at 11:50 a.m.

Respectfully submitted by:

/s/ Margarete Meeks

Margarete Meeks  
Project Manager, Administrative Office of Courts  
Recorder, MS Public Defender Task Force

/s/ James E. Graves, Jr.

Hon. James E. Graves, Jr., Justice  
Supreme Court of Mississippi  
Chairman, MS Public Defender Task Force

August 24, 2006

Date Approved

**MISSISSIPPI PUBLIC DEFENDER TASK FORCE**  
MINUTES  
AUGUST 24, 2006

MISSISSIPPI BAR CENTER BOARD ROOM  
10:00 A.M.

**Members Present:**

Justice James. E. Graves, Jr., Chairman  
Marvin “Sonny” White, MS Attorney General’s Office  
Smith Murphey, MS Prosecutors Association  
T.H. “Butch” Scipper, MS Association of Supervisors  
Chris Klotz, Ms Public Defenders Association

**Others Present:**

André deGruy, MS Public Defenders Association  
Louella V. Williams, MS Office of Capital Post-Conviction Counsel  
Beverly Kraft, Administrative Office of Courts  
Rob McDuff, Attorney at Law  
Sheila Bedi, Co-Director, MS Youth Justice Project  
Jennifer Riley-Collins, MS Youth Justice Project  
Omar L. Nelson, MS Trial Lawyers Association  
Margarette Meeks, Administrative Office of Courts

**Members Absent:**

Judge William Chapman, III, Conference of Circuit Judges, Co-Chairman  
Rep. Edward Blackmon, Jr., MS House Judiciary En Banc Committee  
Senator Charlie Ross, MS Senate Judiciary Committee  
Senator Carl “Jack” Gordon, Jr., MS Senate Appropriations Committee  
Rep. Johnny Stringer, MS House Appropriations Committee  
Kevin Lackey, Administrative Office of Courts

**CALL TO ORDER**

The meeting of the Mississippi Public Defender Task Force was called to order at 10:05 a.m. by Justice James Graves, Chairman.

**OLD BUSINESS**

*Minutes*

The minutes from the May 18, 2006 meeting were approved.

**NEW BUSINESS**

**A. NEW MEMBER**

Justice Graves welcomed Mr. Chris Klotz to the Task Force. Mr. Klotz is the new representative for the MS Public Defender Association.

**B. REPORTS**

**1. Legislative Subcommittee**

Mr. Klotz presented the report of the legislative subcommittee. Copies of the report were distributed. The subcommittee met on June 13, 2006 and August 3, 2006. The recommendations of the subcommittee are the following: 1) extend the sunset of the Task Force; 2) include additional interest organizations on the Task Force; 3) establish a codified defender training mechanism and source of funding; and 4) secure state funding for trial level felony public defenders.

Mr. Murphy stated that the report does not reflect the views of the prosecutors' association since the prosecutors were not represented at the August meeting. He noted that the August meeting was scheduled at the same time that prosecutorial training was held. In his response, Mr. Klotz noted that, in the future, reports will reflect the individual votes of persons present during the meeting. Mr. Klotz explained that he was unaware of the prosecutors training when the legislative subcommittee meeting was scheduled. Mr. Klotz pointed out that recommendations one through three were discussed at the first subcommittee meeting. Recommendation four was discussed significantly at the August meeting. Mr. Klotz noted that e-mail was used to obtain feedback from subcommittee members on the draft recommendations. Mr. Klotz stated that no response was received from the prosecutors' association.

Mr. Murphy offered comments on the recommendations presented in the report. While he was unable to attend the August subcommittee meeting, Mr. Murphy reported that he discussed the proposed recommendations with his association's board of directors during the prosecutors training. The prosecutors, according to Mr. Murphy, have no objection to extending the repealer, which is the first recommendation. As to the second recommendation, Mr. Murphy noted that his board believes that it is unnecessary to expand the membership

Mississippi Public Defender Task Force Minutes  
August 24, 2006

of the Task Force because the interests of the organizations that are seeking membership are adequately represented. Mr. White added that Attorney General Hood has indicated that he is opposed to expanding the Task Force membership. As to recommendation three, Mr. Murphy stated that there is no opposition on the part of the prosecutors association that public defenders receive training. He suggested that recommendation three may, however, be premature since the proposal is to place the training unit within the Office of Indigent Appeals, which has not yet opened. Mr. Murphy opined that more information is needed as to the projected costs for the training component and how it will be implemented. He is opposed to equal funding during the initial phase absent additional information to support the justification. As to recommendation four, Mr. Murphy noted that the position is more complicated. He pointed out that the draft legislation, which addresses recommendation four, was changed from the June to August meeting. There are questions as to implementation, he added. Mr. Murphy stated that he was not sure if the issue is ripe for discussion absent input from the Conference of Circuit Judges.

Justice Graves asked Mr. Murphy if he would be amenable to participating in another meeting of the legislative subcommittee since Mr. Murphy was unable to attend due to scheduling conflicts. Mr. Murphy answered in the affirmative. As to input from the Conference of Circuit Judges, Justice Graves stated that he would appoint Judge Chapman to the legislative subcommittee. Mr. Klotz noted that he would schedule another meeting of the legislative subcommittee and send the notice to all task force members. Therefore, any task force member wishing to attend may do so, Mr. Klotz added.

Justice Graves asked the Task Force if there were additional questions or comments regarding the legislative subcommittee report. Mr. White added that the Attorney General has indicated that he is opposed to the proposed legislation as drafted.

Mr. Murphy and Mr. White raised the issue of funding sources as to recommendation four. Mr. Klotz stated that it was his desire that the report serve as a catalyst for discussing funding alternatives. There was some discussion on funding alternatives. Mr. Klotz stated that Mr. Joel Yelverton, of the MS Board of Supervisors Association, informed the subcommittee that some of the expenditures, such as overhead, would be born by the counties. The specifics of how much will be born by the state and the counties will have to be worked out.

Mr. Scipper offered some comments as to funding. He indicated that his major concern with the subcommittee's proposed legislation is its impact on the counties. The proposed legislation in the mid-1990s failed because of the lack of funding and the request for general

fund appropriations. He urged the Task Force to consider other funding alternatives. Mr. Scipper pointed out that additional assessments on criminal fines were established to generate funds to fund the Office of Indigent Appeals. He indicated that he did not believe there is support at the county or state level to appropriate general funds for indigent defense. With all of the pressures from post-Katrina and economic development, Mr. Scipper explained, it is unlikely that the legislature will appropriate general funds for additional indigent defense. Another funding mechanism should be explored for implementing another tier of the public defender system. He opined that the legislature has done a good job in supporting indigent defense by funding the offices of Capital Defense, Post Conviction Relief and Indigent Appeals.

Mr. Klotz stated that the subcommittee had considered proposing the funding of several pilot programs. Mr. Scipper pointed out that the Task Force proposed the funding of pilot programs in 1996. However, the legislature did not approve the measure. Mr. Scipper indicated that he believes that pilot programs are a good way to implement the system. Increasing the assessments on fines may be the avenue. People who use the system should help fund it, Mr. Scipper added.

Mr. Scipper pointed out that capital cases are the category for which counties can least plan and budget. In the case of Quitman County, the county had to float a bond to pay for a capital case that led the county to bring suit against the state.

Mr. Klotz asked Mr. Scipper for ideas on ways to fund the proposal. Mr. Scipper noted that filing fees and assessments on criminal fines are good ways for doing so. Mr. Scipper suggested that the Task Force consider the submission of the proposal in two phases. In phase one, the Task Force may request the special assessment in 2007. The only activity will be the collection of the fines. In 2008, the Task Force could then modify the assessment, if needed, and request implementation.

Mr. deGruy pointed out that the \$10 increase in civil filing fees, which began on July 1, 2006, is earmarked for legal services.

Mr. Murphy opined that it remains to be seen the effect that the Office of Indigent Appeals will have on the overall system. He noted that he is interested in knowing how the Indigent Appeals office will decrease the amount that counties are spending on indigent defense.

Mr. Klotz asked Mr. Murphy if the prosecutors board of directors provided any comments or feedback on the first draft of the legislation which was circulated prior to the August

meeting. Mr. Murphy asked for clarification on some of the language as to hiring and supervision of the chief public defender and the assistant public defenders.

Following the discussion, Justice Graves directed the legislative subcommittee to schedule one or more meetings to look at what other states have done and to identify a model program, if possible, that is working well. He indicated that brochures and other documents which describe the systems should be obtained so that individual Task Force members may review. Mr. Klotz noted that materials from Georgia and Wisconsin were reviewed in preparation of the draft legislation.

Justice Graves shared his suggestion, which is in line with Mr. Scipper's suggestion, for the legislative subcommittee to consider at its next meeting. The subcommittee could consider determining an assessment amount that would be implemented on July 1, 2007. The only activity in 2007 would be the collection of the assessment. Then on July 1, 2008, the pilot programs could be implemented with the funds collected the previous year.

2. DATA COLLECTION SUBCOMMITTEE

Mr. deGruy presented the report of the data collection subcommittee. Copies of the report were distributed. Mr. deGruy noted that the 2005 final amended budgets were being submitted to Ms. Meeks. These documents will assist the Task Force in ascertaining the amount of money that counties are spending on indigent defense.

3. OFFICE OF CAPITAL DEFENSE COUNSEL

Mr. Andre deGruy presented a report on the Office of Capital Defense Council ("OCDC"). Mr. deGruy stated that OCDC receives 70-80 new cases per year. Of these cases, 75% are indigent. He noted that OCDC plans to request \$5 million to fund every death penalty case. The funding mechanism that will be proposed is to increase the criminal assessment to \$14.00. A hearing before the legislative budget office is scheduled for September 18, 2006.

4. OFFICE OF CAPITAL POST-CONVICTION RELIEF COUNSEL

Ms. Louella Williams presented the report for the Office of Post Capital Relief Counsel ("PCR") on behalf of Mr. Robert Ryan, Director, who is attending a conference out-of-state. She indicated that PCR currently has one vacancy. PCR continues to experience problems with getting records from district attorneys and trial lawyers.



**C. PROPOSED LEGISLATION FOR 2007**

Since the proposed legislation had already been discussed, Justice Graves opened the floor for comments from Task Force members and others in attendance. Ms. Shelia Bedi, of the MS Youth Court Justice Project, underscored the importance of including youth court defenders. She pointed out that it cost \$100 per child per day to house children.

Mr. deGruy suggested that the legislative subcommittee submit its revised proposal to the Task Force members prior to the various fall conferences in October. Members would then have the opportunity to discuss the proposal with their respective associations. Several Task Force members agreed.

**NEXT MEETING**

The Task Force will meet on Thursday, November 9. The location will be announced at a later date. The legislative subcommittee will meet in mid-September.

**ADJOURNMENT**

There being no further business, the Mississippi Public Defender Task Force adjourned at 11:38 a.m.

Respectfully submitted by:

/s/ Margarete Meeks  
Margarete Meeks  
Project Manager, Administrative Office of Courts  
Recorder, MS Public Defender Task Force

/s/ James E. Graves, Jr.  
Hon. James E. Graves, Jr., Justice  
Supreme Court of Mississippi  
Chairman, MS Public Defender Task Force

November 9, 2006  
Date Approved

**MISSISSIPPI PUBLIC DEFENDER TASK FORCE**

MINUTES

NOVEMBER 9, 2006

MISSISSIPPI BAR CENTER

10:00 A.M.

**Members Present:**

Justice James E. Graves, Jr., Chairman

Judge William Chapman, III, Conference of Circuit Judges, Co-Chairman

Marvin "Sonny" White, MS Attorney General's Office

Smith Murphey, MS Prosecutors Association

T.H. "Butch" Scipper, MS Association of Supervisors

Chris Klotz, MS Public Defender Association

**Others Present:**

Lori Langford, MS Association of Supervisors

Leslie Lee, Office of Indigent Appeals

Jennifer Riley-Collins, MS Youth Justice Project

Louwlynn V. Williams, MS Office of Capital Post Conviction Counsel

Beverly P. Kraft, Administrative Office of Courts

Jimmie Gates, Clarion Ledger

Andre deGruy, MS Office of Capital Defense Counsel

Micah Dutro, contract researcher for the Administrative Office of Courts

Margarette Meeks, Administrative Office of Courts

**Members Absent:**

Rep. Edward Blackmon, Jr., MS House Judiciary En Banc Committee

Senator Charlie Ross, MS Senate Judiciary Committee

Rep. Johnny Stringer, MS House Appropriations Committee

Senator Carl "Jack" Gordon, Jr., MS Senate Appropriations Committee

**Call to Order**

The meeting of the Mississippi Public Defenders Task Force was called to order at 10:12 a.m. by Justice James Graves, Chairman.

**Old Business**

**Minutes**

The minutes from the August 24, 2006 meeting were approved.

### New Business

#### **A. Remarks - Hon. Talmidge Golding, Montgomery County Chancery Clerk**

Justice Graves acknowledged Mr. Talmidge Golding, Chancery Clerk for Montgomery County, and invited him to make remarks to the Task Force. Mr. Golding shared comments about the impact of financing multiple trials for a capital murder case where four residents were murdered. In the first trial, the cost to the county was approximately \$78,000. In the second trial, the cost was approximately \$85,000. The third trial cost approximately \$60,000. A fourth trial will be required. Taxes have been raised 3 mils, of which 1.2 mils is designated for the fourth trial. In Montgomery County, one mil yields \$47,480 in revenues. Approximately \$52,580 has been budgeted for the fourth trial. The county will be forced to use its cash reserves if the costs exceed the budgeted amount. Mr. Golding noted that his county and other small rural counties similarly situated need some assistance with capital cases.

Several Task Force members asked questions about the breakdown of expenditures. It was noted that retained counsel was used in the first two trials. Mr. deGruy pointed out that his office is only responsible for attorney costs. Mr. Golding noted that his figures represent the costs for the trials. There was brief discussion about other costs associated with prosecuting a case.

#### **B. Reports**

##### ***1. MS Indigent Defense Costs for FY2005***

Mr. Micah Dutro<sup>4</sup> presented a report on the costs of indigent defense in FY2005 for Mississippi counties. Copies of the report were distributed to the Task Force. He discussed the methodology, the analysis of the information, the non-uniform budget format and classification, and challenges regarding follow-up questions and clarification. Mr. Dutro noted that the report does not include costs for defense of youths in youth courts. According to the information submitted by the 82 counties, \$10,986,067 was spent on indigent defense

---

<sup>4</sup>Mr. Dutro is a third year law student at the Mississippi College School of Law. He was hired by the Administrative Office of Courts to review and compile the budgetary information on indigent defense submitted by the counties.

for adults in circuit courts. Mr. Dutro pointed out that the usefulness of the data is limited because many of the counties only submitted information for attorney costs.

Mr. Butch Scipper suggested that the Task Force request budgetary information for FY2006 so that a comparative study may be conducted.

## **2. *Legislative Subcommittee***

Mr. Chris Klotz presented the report of the Legislative Subcommittee. Copies of the report were mailed to Task Force members prior to the meeting. The recommendations of the legislative subcommittee are the following:

- a. Extend the sunset repealer of the Task Force;
- b. Amend the Task Force statute (Miss. Code Ann. § 25-32-71(1)) to include the Mississippi Bar and the Magnolia Bar;
- c. Create a training component and establish a funding mechanism; and
- d. Establish and fund a statewide trial-level felony public defender system.

Justice Graves inquired about the membership of the subcommittee. He noted that the members are not listed on the face of the report.

Justice Graves opened the floor for discussion on the respective recommendations.

### *Recommendation 1 - Extend the Sunset Repealer*

Justice Graves opened the floor for discussion on the recommendation to extend the sunset repealer of the Task Force. He noted that, as chairman, he will vote only in the case of a tie. There was no discussion. Justice Graves called the question.

|                           |                                                 |
|---------------------------|-------------------------------------------------|
| <b>For:</b>               | <b>Chapman, Klotz, Murphey, Scipper, White</b>  |
| <b>Against:</b>           | <b>None</b>                                     |
| <b>Not participating:</b> | <b>Graves</b>                                   |
| <b>Absent:</b>            | <b>Blackmon, Gordon, Lackey, Ross, Stringer</b> |

By majority vote of the members present, the Task Force agreed to include the recommendation to extend the sunset repealer in the 2007 legislative report.

### *Recommendation 2 - Inclusion of the MS Bar and the Magnolia Bar on the Task Force*

Justice Graves opened the floor for discussion on the recommendation to include the Mississippi Bar and the Magnolia Bar on the Task Force. Mr. White expressed opposition to expanding the membership. He opined that the Task Force was balanced and that the current composition has worked well. Mr. Klotz pointed out that representatives from various associations expressed a desire for membership during the Task Force meeting in May. The representatives did not believe that all of the relevant interests were represented by the current composition. As a compromised position, the various associations agreed that the interests could be represented by including a representative from the Mississippi Bar and the Magnolia Bar. Justice Graves called the question on each association separately.

**Inclusion of the Mississippi Bar:**

**For:** Chapman, Klotz, Murphey  
**Against:** Scipper, White  
**Not participating:** Graves  
**Absent:** Blackmon, Gordon, Lackey, Ross, Stringer

**Inclusion of the Magnolia Bar:**

**For:** Chapman, Klotz, Murphey, Scipper  
**Against:** White  
**Not participating:** Graves  
**Absent:** Blackmon, Gordon, Lackey, Ross, Stringer

By majority vote, the Task Force will include the recommendation to amend the Task Force statute to include the Mississippi Bar and the Magnolia Bar in the 2007 legislative report.

*Recommendation 3 - Create Training Component and Establish Source of Funding*

Justice Graves opened the floor for discussion on the recommendation to create a training component and establish a funding mechanism. There was no discussion.

**For:** Chapman, Klotz, Murphey, Scipper, White  
**Against:** None  
**Not participating:** Graves  
**Absent:** Blackmon, Gordon, Lackey, Ross, Stringer

By majority vote, the Task Force will include the recommendation to create a training component and establish a funding mechanism in the 2007 legislative report.

*Recommendation 4 - Establish and Fund a Statewide Trial Level Public Defender System*

Justice Graves opened the floor for discussion on the recommendation to establish and fund a statewide trial level public defender system. He directed the Task Force to Appendix A of the Legislative Subcommittee Report. Mr. Murphey questioned whether the information about the needs of the various circuit court districts has been gathered to proceed further. Mr. Klotz noted that information from various surveys throughout the years have been obtained and are on file in the Administrative Office of Courts.

Judge Chapman shared, in his opinion, what he believes is the position of the Circuit Judges Conference. Relative to this particular legislation, Judge Chapman believes the circuit judges would prefer to retain control over the appointment of public defenders. He believes some action regarding recommending proposed legislation should be taken for the upcoming legislative session. If there is a consensus that some type of legislation/recommendation will be submitted to the legislature for its consideration, Judge Chapman noted that his preference would be to abstain and allow other Task Force members to vote. He does not want the circuit judges conference's position to be cemented by his vote and interpreted as the conference's unqualified endorsement. Judge Chapman explained that he is not opposed to voting for it so that the legislation may be discussed and debated. He reiterated that he believes some action by the task force is needed for the upcoming legislative session.

Following Judge Chapman's comments, Justice Graves called the question on pursuing the concept of a statewide public defender system.

|                           |                                                 |
|---------------------------|-------------------------------------------------|
| <b>For:</b>               | <b>Chapman, Klotz, Murphey, Scipper, White</b>  |
| <b>Against:</b>           | <b>None</b>                                     |
| <b>Not participating:</b> | <b>Graves</b>                                   |
| <b>Absent:</b>            | <b>Blackmon, Gordon, Lackey, Ross, Stringer</b> |

By majority vote, the Task Force agreed to pursue the concept of a statewide public defender system.

Justice Graves called the question on some type of legislation to be proposed for the upcoming session. There was discussion. Judge Chapman pointed out that the responses from circuit judges in the 2000 survey may not reflect the current view since there have been some changes in judges. He did note, however, that he does not believe the issue should be studied continuously without some action.

Mississippi Public Defender Task Force Minutes  
November 9, 2006

Justice Graves made some general remarks as to the actions taken in other states toward the establishment of a statewide public defender system.

More than 40 states have some type of system which funds, either fully or in part, the defense of indigents. The U.S. Constitution provides that every person has a right to counsel. Indigent defendants have a right to be represented and the states to some degree have some responsibility in ensuring that this requirement is met. In all criminal cases, representation will be provided, however varied the quality of the representation may be. So, the questions become what will be the quality of the representation, how much will it cost, and who will bear the costs. The ultimate issue is whether there will be some type of system that will provide for some equitable distribution of funds which allow for the constitutional right to be represented to actually have some meaning substantively in the various counties. If 40 plus states have determined that it is important to establish such a system, information for Mississippi is not likely to suggest otherwise.

Following the chairman's comments, Mr. Klotz moved that the draft bill be adopted. Judge Chapman seconded the motion. Judge Chapman explained that his action and vote will be for the purpose of taking some action rather than doing nothing. He noted that the circuit judges conference may ultimately vote to oppose the legislation or take steps to make changes to the legislation.

Justice Graves noted that he favors some type of legislation. However, he believes it should be a more conservative approach. Nevertheless, he is not opposed to supporting the recommendation of the legislative subcommittee so that there will be some discussion of the issue in the 2007 legislature.

Following the discussion, Justice Graves called the question on the adoption of the draft bill that supports the establishment and funding of a statewide trial level felony public defender system.

|                           |                                                 |
|---------------------------|-------------------------------------------------|
| <b>For:</b>               | <b>Chapman, Klotz, Scipper</b>                  |
| <b>Against:</b>           | <b>Murphey, White</b>                           |
| <b>Not participating:</b> | <b>Graves</b>                                   |
| <b>Absent:</b>            | <b>Blackmon, Gordon, Lackey, Ross, Stringer</b> |

By majority vote, the Task Force will include the recommendation to establish and fund a statewide trial level felony public defender system in the 2007 legislative report.

Mr. Murphey requested that the minutes reflect that the MS Prosecutors Association is interested in what is in the best interests of the citizens of the state. He reiterated that he does not believe adequate information has been obtained to move forward with the draft legislation.

**C. Proposed Legislation for 2007**

Justice Graves noted that the report to the 2007 legislature will be due the first week in December. The four recommendations of the legislative subcommittee will be included in the report. He suggested that the subcommittee schedule another meeting to develop an alternative strategy in the event the proposed legislation does not receive legislative support. Mr. Murphey noted that he is amenable to meeting again with the legislative subcommittee.

**Adjournment**

There being no further business, the Mississippi Public Defender Task Force adjourned at 12:18 p.m.

Respectfully submitted by:

---

Margarette Meeks  
Project Manager, Administrative Office of Courts  
Recorder, MS Public Defender Task Force

---

Hon. James E. Graves, Jr., Justice  
Supreme Court of Mississippi  
Chairman, MS Public Defender Task Force

---

Date Approved



**ATTACHMENT "B"**

**INDIGENT DEFENSE IN MISSISSIPPI SURVEY**

**THE MISSISSIPPI PUBLIC DEFENDER TASK FORCE  
INDIGENT DEFENSE SURVEY**

This survey is being sent pursuant to Mississippi Code § 25-32-71, which instructs the Task Force to obtain information from counties as to the current cost of indigent defense (for public defenders or court-appointed attorneys for felonies). Unless accurate information is obtained from the counties, the State will be unable to adequately determine the feasibility of a state-funded system. It is vital that we obtain this information from each county.

Please provide the costs for your county's annual Felony Indigent Defense expenses, excluding Capital Cases. This survey is being sent to chancery clerks and/or county administrators. A pre-addressed envelope is enclosed for your convenience.

County \_\_\_\_\_ Circuit District No. \_\_\_\_\_

Person Completing Survey \_\_\_\_\_

Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

1. Percentage of felony defendants who have indigent counsel in the named county

\_\_\_\_\_ %

2. Attorneys are paid by:

Full-time Public Defender Office (annual budget \$ \_\_\_\_\_)

Contractual Basis

Individual Case Appointment

3. Number(s) of Attorneys Providing Indigent Defense Services:

If full-time Public Defender Office, number of attorneys \_\_\_\_\_

If contractual, number of attorneys employed to handle felonies \_\_\_\_\_

If individual case appointment, number of attorneys on current list \_\_\_\_\_

4. FY2005 Expenses Actually Incurred for Felony Indigent Defense (excluding Death Penalty)

a. Attorney Costs \$ \_\_\_\_\_  
(including office budget if full time office)

b. Attorneys for Conflict Cases \$ \_\_\_\_\_  
(If contractual or Public Defender Office)

|              |             |                 |
|--------------|-------------|-----------------|
| c.           | Expert Fees | \$ _____        |
| d.           | Filing Fees | \$ _____        |
| e.           | Transcripts | \$ _____        |
| f.           | Other Costs | \$ _____        |
| <b>TOTAL</b> |             | <b>\$ _____</b> |

Of the above total costs, please estimate the amount or percentage that is spent on indigent appeals of non-capital felony convictions \$ \_\_\_\_\_

Thank you for your cooperation.

*Please return to:*  
Margarette Meeks, Project Manager  
Administrative Office of Courts  
Supreme Court of Mississippi  
P. O. Box 117  
Jackson, MS 39205  
Phone: 601/354-7446  
Fax: 601/354-7459

**ATTACHMENT "C"**

**INDIGENT DEFENSE COSTS IN MISSISSIPPI  
FOR FY 2005**

Indigent Defense Costs, Mississippi  
FY 2005

Prepared For

The Mississippi Public Defender Task Force

## **Introduction**

The Mississippi State Legislature commissioned the Mississippi Public Defender Task Force to gather information regarding the costs of indigent defense at the county level. Budget information was requested and received from every county in Mississippi. An analysis of that information, a discussion of its strengths and weaknesses, follows below.

## **Methodology**

Budgetary information received from all 82 Mississippi counties was reviewed in conjunction with responses generated by The Mississippi Public Defender Task Force Indigent Defense Survey for Fiscal Year 2005. Telephone calls were made and written questions were faxed to county officials (mostly Circuit Clerks and County Administrators) to obtain additional information and clarify any ambiguities in the submitted budgets and returned surveys.

## **Analysis**

While it was encouraging and unprecedented to have information from all 82 counties in the state, the process of interpreting the data received and following up with requests for additional information and clarification was not without its challenges. These challenges are outlined below.

First, however, a general overview of the findings of the study may be useful, if not essential, to understanding the challenges we faced in gathering the requested information. The total amount spent by each county is shown on the attached chart. The total amount spent by Mississippi's 82 counties in the 2005 Fiscal Year was approximately \$11,364,919. The mean, or average, amount spent by a county was \$138,596.58. Adams County, population 34,340 according to the 2006 Judicial Directory and Court Calendar, is a fair representation of this figure having spent

\$139,387.48. The median, the 50th percentile, was \$79,110.62 with Walthall County, population 15,156, coming close to this number at approximately \$78,000. The minimum amount spent in FY 2005 was \$3,075 in Issaquena County while Hinds County spent the most, as one might expect, at \$1,226,713.30.

One item of note is the fact that there are often “hidden” costs associated with indigent criminal defense. As the members of the Task Force are, no doubt, aware indigent defense includes much more than the trial attorney’s fees. Funds to pay for expert witnesses, filing fees for appeals to the Mississippi Supreme Court, and the cost of preparing the trial transcript for those appeals must also be paid in cases where the defendant is indigent. In many cases, these funds were spread out across various departments within a county’s budget. Account number 001-170 is usually, but not always, the account number used for the Public Defender in counties that have either a full-time office or attorneys that work on a part-time or contractual basis as public defenders. However, only one (1) county out of 82 actually included the costs mentioned above in the Public Defender category. The remaining 81 counties generally, but not always, included those costs in account number 001-161, the account for the Circuit Court.

Unfortunately, for many counties, obtaining information on the amount of money spent on these less-than-obvious costs proved to be difficult if not impossible. For those counties the dollar amount in the spreadsheet is enclosed in parentheses indicating that only the amount paid for the public defender or court appointed attorney’s fees could be determined. It should also be noted that even in those counties not marked by an asterisk the amount shown includes numbers that are often estimates for filing fees and expert witnesses.

### **Response to the Task Force’s Request**

While most counties sent their entire final amended budget, some counties did not send the exact information the Task Force requested. The request sent out to all 82 counties asked for a copy of each county's amended budget for the 2005 fiscal year. Many counties sent what appeared to be a summary of the amended budget for the relevant time period, consisting of only one or two line items per county department (usually "Personal Services" and "Contractual Services"). In those cases, determining how much money was spent on what item was extremely difficult, especially for those counties without a Public Defender category in their budget.

Other counties sent what appeared to be a photocopy of the page of their final amended budget that included the Public Defender category. Of course, this necessarily left out any costs that might fall under the Circuit Court's section of the budget.

Finally, a tiny fraction of counties did not send their final amended budget at all but an earlier version of the budget for the 2005 fiscal year.

### **Non-Uniform Budget Format and Classification**

Perhaps the single largest difficulty we faced in gathering information on indigent criminal defense was the fact that every county keeps track of their budget in a different way. Department account numbers and descriptions varied from county to county. For example, one county listed the Public Defender under the Human Resources department and not under 001-170. Another county did not even have an account number 001-161 for its circuit courts; each circuit judge had his or her own account code in the budget and the funds divided among them accordingly.

Similarly, line item descriptions for budgetary items within a department varied from county to county. What one description meant in one county would change in the next. The description "Legal Fees," for example, was usually used to describe court appointed attorneys for cases in which



the public defender had a conflict and could not represent a particular defendant. At least one county, however, used that label for its budget for filing fees to the Mississippi Supreme Court. Many counties used “Medical Fees” to detail expenditures for expert witnesses while others used “Other Professional Fees/Services” to indicate expert witness fees.

Filing fees to the Mississippi Supreme Court were particularly difficult to identify. Only a handful of counties had an explicit line item accounting code for filing fees or indigent appeals. Filing fees in other counties were included in line items whose interpretation was not intuitive.

Still other descriptions defied any attempt at independent identification. “Ct. Cost Recording” was a description one county used, though what that description meant remained a mystery. There was also, of course, the ubiquitous “Other” category found in the circuit court budget of most counties – miscellaneous category, no doubt, that might or might not have anything to do with indigent defense.

### **Challenges Regarding Follow-Up Questions and Clarification**

Follow-up questions and requests for clarification had their challenges as well. Many counties, especially smaller counties, did not keep financial records on a computer or other electronic means. As such it was difficult, if not impossible, for those counties to answer our questions regarding expenditures from FY 2005. Several officials from several different counties informed us that someone would have to go back and search through all the records from that fiscal year by hand in order to answer our questions about filing fees or expert witnesses. Others stated flatly that their county “did not have appeals” (probably perfectly true in many of the smaller counties), while others simply asked other members of the office in which they worked if they could remember whether any appeals had been filed during the relevant time period.

In areas affected by hurricane Katrina, especially the three coastal counties, records had been lost or destroyed by the storm and simply did not exist. Meanwhile, other counties informed us that they could easily look back through their records for expert witness fees, for example, but because of the way the records were created and/or maintained, there would be no way to determine if that witness had testified for the prosecution or the defense.

This is not to say that the county officials were uncooperative. On the contrary, most county officials were more than willing to help in any way that they felt they reasonably could do so. Of course, in smaller counties, our public servants often wear more than one hat and many counties simply did not have the time or the manpower to manually search the records of an entire fiscal year looking for, in the words of one County Administrator, “a needle in a stack of needles.” Only in the rarest of cases, perhaps one or two occasions, did we meet with hostility of any kind or an uncooperative attitude.

### **Failure to Communicate**

In some instances simple breakdowns in communication occurred between county officials and the researchers. A professor of sociology once told this researcher “there is no such thing as a perfect question.” In other words, no matter how carefully one formulates a question in a survey or questionnaire, no matter the diction or sentence structure employed, there will always be a certain percentage of respondents who do not seem to understand what information is actually being requested.

In this study the submitted budget information was examined alongside the counties’ response (for those counties that actually responded) to the Mississippi Public Defender Indigent Defense Survey for the same fiscal year. The main challenge encountered in this comparison was

the fact that the amounts filled in by county officials on the survey could not be matched up with line items in the budget for that county. In fact there were no line items at all in many of the budgets submitted to the Task Force since, as mentioned above, many counties sent a summary of the budget rather than an itemized print out. In such cases we could only assume that the county official that responded to the survey had access to more complete, or at least more specific, information than had been sent to us.

### **Conclusion**

The above discussion is not meant to denigrate any county in any way but simply to describe the challenges we faced in gathering budget information from all the counties in Mississippi. Certainly, the county governments face their own challenges and many of the idiosyncratic practices of accounting and record keeping have evolved, no doubt, in response to those challenges. Nor should the discussion of the challenges the process presented imply, in any way, that the data collected is of little or no use. On the contrary, almost every county had very definite numbers on funds spent on public defenders and private attorneys who were appointed to represent indigent defendants by a judge. Some counties, especially, the larger ones, were able to provide specific, exact figures for all categories requested. Additionally, even where a county could not give a definite figure on filing fees to the Mississippi Supreme Court, most Circuit Clerks were able to provide solid estimates of those amounts.

As such, the data presented to the Task Force represents exact figures for attorney costs and, at the very least, estimates of other costs such as filing fees, expert witness fees, and transcript production fees. It is our hope that the information provided, viewed in light of its limitations, will assist both the Task Force and our legislators in the efforts to improve the administration of indigent

defense in Mississippi.

Respectfully submitted,

/s/ Micah Dutro

Micah Dutro

Contractual Researcher for the Administrative Office of Courts  
3rd Year Law Student, Mississippi College School of Law

November 8, 2006

## Appendix: Mississippi Counties' Public Defender Budgets





ATTACHMENT "D"

STATEWIDE PUBLIC DEFENDER SYSTEM

# DRAFT

AN ACT TO CREATE THE MISSISSIPPI INDIGENT DEFENSE BOARD; TO PROVIDE THE DUTIES OF THE BOARD; TO CREATE THE STATE INDIGENT DEFENSE FUND AND TO PROVIDE FOR ITS ADMINISTRATION; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO PROVIDE ASSESSMENTS FOR THE FUND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

Section 1: There is created the Mississippi Indigent Defense Board.

Section 2: The purpose of the Board shall be to provide oversight and administrative support for the indigent defense delivery system in Mississippi to ensure the system can deliver effective, efficient, high quality, ethical, and conflict-free representation to accused persons who cannot afford to hire an attorney and are entitled to appointment of counsel under the state or federal constitution or laws of this state. The State funded indigent defense programs shall also provide legal representation for any juvenile indigent person who upon a conviction of guilt or adjudication of delinquency could be subject to incarceration.

Section 3: The board shall consist of nine (9) voting members, each of whom shall serve until his successor shall be appointed and qualified. No active prosecutor or law enforcement professional may serve as a member of the board.

Section 4: The members of the board shall be selected as follows:

- (a) The Governor shall appoint one (1) member whose initial term shall expire on September 30, 2010.
- (b) The Lieutenant Governor shall appoint one (1) member whose initial term shall expire on September 30, 2010.
- (c) The Speaker of the House of Representatives shall appoint one (1) member whose initial term shall expire on September 30, 2010.
- (d) The Executive Director of the Mississippi Association of Supervisors shall appoint one (1) member whose initial term shall expire on September 30, 2009.
- (e) The Chief Justice of the Supreme Court of Mississippi shall appoint one (1) member whose initial term shall expire on September 30, 2009.

DRAFT



# DRAFT

- (f) The Mississippi Conference of Circuit Judges shall appoint one (1) member whose initial term shall expire on September 30, 2009.
- (g) The Mississippi Council of Youth Court Judges shall appoint one (1) member whose initial term shall expire on September 30, 2008.
- (h) The President of the Mississippi Public Defenders Association shall appoint one (1) member whose initial term shall expire on September 30, 2008.
- (i) The President of the Magnolia Bar shall appoint one (1) member whose initial term shall expire on September 30, 2009. The successive term shall be filled by an appointee of the President of the Mississippi Bar Association. The appointments to this position shall alternate every term between the two Bar Association.
- (j) The Chairman of the Senate Judiciary En Banc Committee, or his designee, and the Chairman of the House of Representatives Judiciary En Banc Committee, or his designee, shall serve as legislative liaisons and nonvoting members.

Section 5: Such selections and appointments shall be made by the respective appointing authorities not later than October 1, 2007. Vacancies on the board shall be filled by the respective selecting and appointing authorities. In the event that any selection or appointment is not timely made, the Chief Justice of the Supreme Court of the State of Mississippi shall make such selection or appointment, and any board member so appointed shall serve the remaining unexpired portion of the term for which he has been appointed. After the initial terms, all terms shall be three (3) years and shall commence on October 1 following the expiration of each prior term.

Section 6: The Board shall employ a director and administrative assistant. The director shall be an attorney licensed to practice in the state courts of Mississippi and have a minimum of five years legal experience in the area of criminal defense. The director shall be compensated at the maximum amount allowed by statute for a district attorney. The director shall be empowered to pay and disburse salaries, employment benefits and charges relating to employment of staff and to establish their salaries and expenses of the office; to incur and pay travel expenses of staff necessary for the performance of the duties of the office; to rent or lease office space as is necessary in the City of Jackson to accommodate the staff; to enter into and perform contracts and to purchase such necessary office supplies and equipment as may be needed for the proper administration of said office within the funds appropriated for such purpose, and to incur and pay such other expenses as are appropriate and customary to the operation of the office.

DRAFT

# DRAFT

Section 7: Upon the expiration of the current terms of the directors of the Office of Indigent Appeals; the Office of Capital Defense Counsel and the Office of Capital Post-Conviction Counsel the Board shall appoint the directors of those offices under the same terms and conditions as are currently in place, however the salary for each position shall be reduced to 95% of the salary of the district attorney.

Section 8: The Board shall prepare and approve the annual budget for the operation of the Office of Indigent Appeals; the Office of Capital Defense Counsel and the Office of Capital Post-Conviction Counsel, and to administer and oversee the implementation of each such budget. This section shall take effect upon expiration of the current terms of the directors of each office.

Section 9: The Board shall establish, implement and enforce policies and standards for a comprehensive and effective indigent defense system throughout the State of Mississippi, including, but not limited to: standards for determining who qualifies as an indigent person; standards for determining which districts should be served by an indigent defense office; standards for maximum caseloads for full-time and part-time indigent defenders to include a uniform definition of what constitutes a case; standards for minimum education, training and experience of attorneys appointed or employed as indigent defenders and to establish a reasonably hourly rate to be paid appointed attorneys and non-attorney members of the defense team.

Section 10: The Board shall establish a Division of Indigent Defender Training. The mission of the Division of Indigent Defender Training shall be to work closely with the Mississippi Public Defenders Association to provide training and services to indigent defenders practicing in all state, county and municipal courts of Mississippi. These services shall include but may not be limited to continuing legal education, case updates, and legal research for public defenders practicing in all state, county and municipal courts of Mississippi, as well as their support staff.

Section 11: Upon recommendation of the Board and appropriation of funds by the legislature the circuit judge or senior circuit judge, if there be more than one (1) circuit judge, shall establish a district indigent defender office.

Section 12: When the office of indigent defender is established, the circuit judge or senior circuit judge, if there be more than one (1) circuit judge, shall appoint a practicing attorney to serve as indigent defender until the end of the term of office of the district attorney and thereafter for a term of four (4) years and said term shall coincide with the term of the district attorney. The indigent defender may be removed from office by the circuit judge or senior circuit judge, if there be more than one (1) circuit judge, upon a finding that the indigent defender is not qualified under law including any rules or regulations established by the Indigent Defender Board under

DRAFT

# DRAFT

authority of this Act; has failed to perform the duties of the office; or has acted beyond the scope of the authority granted by law for the office.

Section 13: Such appointee shall be selected from a list of two (2) or more attorneys recommended by the Mississippi Indigent Defender Board. In the event a vacancy shall occur in the office of the indigent defender, the circuit judge or senior circuit judge if there be more than one (1) circuit judge, shall appoint another person from a new list of two (2) or more qualified attorneys recommended by the Board to serve as indigent defender until the end of the regular term of office. In the event that a circuit judge does not make an appointment within 4 months of having been provided the above described list of candidates, the board will select the district defender to fill the vacancy. The district indigent defender shall be compensated at 95 % of the pay of the district attorney.

Section 14: Based on caseload standards set by the Board, assistant indigent defenders may be authorized. The district indigent defender shall appoint all assistant indigent defenders. Such assistant indigent defenders shall be compensated according to the experience-based salary scale of the prosecutor's office. The indigent defender shall also be provided with office space, secretarial and investigative assistance, and all reasonable expenses of operating the office on a pro-rata basis with the district attorney. In no event shall there be more assistant district defenders appointed in any district than there are prosecutors in that same district.

Section 15: As an alternative to a defender office and for cases of conflict of interest with a defender office or excessive caseload of a defender office, the Board shall maintain for each circuit court district a current list of private attorneys who are competent in the defense of criminal charges and are willing to accept appointments for individual representations, and who meet any other qualifications established by the Board. The Board shall maintain a separate list of attorneys qualified to handle capital cases noting whether counsel is qualified to serve as lead counsel and a list of attorneys qualified to handle Youth Court cases. To these ends the Board shall:

- (i) Notify once a year all licensed attorneys residing in Mississippi by publication or otherwise that a list is being prepared and maintained of attorneys willing to represent indigent persons;
- (ii) Afford attorneys notified under this section a reasonable time to submit the information requested by the Board;
- (iii) Prepare, certify and update annually a list of such attorneys for each circuit court district and provide such lists to each circuit, county and justice court judge;
- (iv) Recommend attorneys from this list for individual representations;

DRAFT

# DRAFT

- (v) Ensure that all persons entitled to appointment of counsel have competent counsel assigned as soon as feasible after being taken into custody.

Section 16: The Board shall cooperate with any individual, private or public agency, whether state, local or federal, or with any law school, public or private, or with any institution of higher learning, public or private, to obtain by gift, grant or otherwise any financial, professional, investigatory, training, educational or research or other assistance; provided, however, that any grants or any financial assistance whatever for the purpose herein set out shall be paid over to the Board and administered by the Board consistent with the provisions of this Chapter and the Rules and Regulations of the Mississippi Department of Finance and Administration.

Section 17: The Board shall receive, allocate and disburse funds appropriated for the operation of the Office of Indigent Appeals; Office of Capital Defense Counsel and Office of Capital Post-Conviction Counsel, and to reallocate available resources as may be necessary to carryout and implement more effectively and efficiently the purposes and policies of this chapter. This section shall take effect upon expiration of the current terms of the directors of each office.

Section 18: The Board shall present an annual report which shall include a report of the operation of the indigent defender system in the State of Mississippi, and recommendations for improvement of the system; appear before and provide assistance to the Legislature and other relevant bodies regarding matters related to the indigent defender system.

Section 19: The Board shall maintain records of the operation of the indigent defender system, including, but not limited to, the following:

- (i) Detailed descriptions of each county's and district's indigent defender system;
- (ii) Caseloads of each indigent defender and number of cases assigned to private attorneys;
- (iii) Expenditures on indigent defense in each county and district.

Section 20: The Board shall adopt and promulgate reasonable and necessary rules and regulations, formally or informally, as may be appropriate, to perform its duties and powers hereunder, and to implement the provisions of this Chapter; and to propose forms for the use of the courts, and other persons with powers and duties hereunder.

Section 21: Members of the Board shall receive a per diem as provided in § 25-3-69, Mississippi Code of 1972, for actual attendance upon meetings of the board, together with reimbursement for traveling and subsistence expenses incurred as provided in § 25-3-41, Mississippi Code of 1972, except that members of the board who are members of the Legislature shall not receive per diem

DRAFT

# DRAFT

for attendance while the Legislature is in session and no member whose regular compensation is payable by the state or any political subdivision of the state shall receive per diem for attendance upon meetings of the board.

Section 22: There is created in the State Treasury a special fund to be known as the State Indigent Defense Fund. The purpose of the fund shall be to provide funding for the Mississippi Indigent Defender Board; the Mississippi Office of Indigent Appeals; the Mississippi Office of Capital Post-Conviction Counsel; the Mississippi Office of Capital Defense Counsel; any district indigent defender office established by the Board and related purposes. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature for the purposes of funding the Mississippi Indigent Defender Board; the Mississippi Office of Indigent Appeals; the Mississippi Office of Capital Post-Conviction Counsel; the Mississippi Office of Capital Defense Counsel;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies transferred to this fund from the counties;
- (e) Monies received from the federal government;
- (f) Donations; and
- (g) Monies received from such other sources as may be provided by law.

Section 23: Each county shall pay annually into the Indigent Defense Fund an amount equal to its total actual expenses for indigent defense services in fiscal year 2007 (October 1, 2006 – September 30, 2007). For purposes of this section, “total actual expenses” includes all amounts paid by counties for attorneys, staff, investigators, expert witnesses, office space and expenses, and other related expenditures. Such transfers shall begin October 1, 2008, and shall be made in equal monthly installments deposited with the Treasurer of the State of Mississippi on or before the 5<sup>th</sup> day of each month.

Section 24: On and after October 1, 2008, the counties shall not be responsible for any cost of indigent defense beyond the amount as provided for in this Act. Each county shall provide an accounting to the Board of all fines and assessments collected from indigent defendants for the purpose of defraying the cost of court appointed counsel. If an annual collection exceeds the counties annual payment to the Indigent Defense Fund the excess amount shall be transferred to the Fund. In no event shall the amount expended on indigent defense in a county be less than the counties contribution to the Indigent Defense Fund.

DRAFT

Section 25: Miss. Code § 99-19-73 shall be amended to add in paragraph (1) a fee of \$10.00 for the Indigent Defense Fund; in paragraph (2) a fee of \$10.00 for the Indigent Defense Fund; in paragraph (3) a fee of \$10.00 for the Indigent Defense Fund; in paragraph (4) a fee of \$10.00 for the Indigent Defense Fund; in paragraph (5) a fee of \$10.00 for the Indigent Defense Fund; and in paragraph (6) a fee of \$10.00 for the Indigent Defense Fund.

Section 26: This act shall take effect and be in force from and after July 1, 2007.

ATTACHMENT "E"

PUBLIC DEFENDER TRAINING COMPONENT

**Amend the following sections to establish and fund a State Public Defender Education Fund at the level of the State Prosecutor Education Fund:**

§ 37-26-1. Legislative purpose; applicability of chapter.

(1) The purpose of this chapter is to provide funds for use by:

(a) The University of Mississippi Law Center in providing: (i) education and training for the courts of Mississippi and related personnel; (ii) technical assistance for the courts of Mississippi and related personnel; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of the courts of Mississippi and related personnel; and

(b) The Attorney General of the State of Mississippi in providing: (i) education and training for district attorneys, county prosecuting attorneys and municipal prosecuting attorneys; (ii) technical assistance for district attorneys, county prosecuting attorneys and municipal prosecuting attorneys; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of district attorneys, county prosecuting attorneys and municipal prosecuting attorneys.

(c) The Mississippi Office of Indigent Appeals in providing: (i) education and training for public defenders practicing in all state, county and municipal courts of Mississippi; (ii) technical assistance for public defenders practicing in all state, county and municipal courts of Mississippi; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of public defenders practicing in all state, county and municipal courts of Mississippi.

(2) The provisions of this chapter are applicable to all courts of Mississippi, now or hereafter created, including, but not limited to, the supreme, circuit, chancery, county, youth, family, justice and municipal courts, other provisions to the contrary notwithstanding.



§ 99-40-1. (1) There is created the Mississippi Office of Indigent Appeals. This office shall consist of six (6) attorneys, two (2) secretaries/paralegals and one (1) financial assistant. One (1) of the attorneys shall serve as director of the office. The director shall be appointed by the Governor and shall serve for a term of four (4) years. The remaining attorneys and other staff shall be appointed by the director and shall serve at the will and pleasure of the director. The director and all other attorneys in the office shall either be active members of The Mississippi Bar, or, if a member in good standing of the bar of another jurisdiction, must apply to and secure admission to The Mississippi Bar within twelve (12) months of the commencement of the person's employment by the office. The attorneys in the office shall practice law exclusively for the office and shall not engage in any other practice. The office shall not engage in any litigation other than that related to the office. The salary for the director shall be equivalent to the salary of district attorneys and the salary of the other attorneys in the office shall be equivalent to the salary of assistant district attorney. In addition to the positions created in this section the director shall establish a Division of Public Defender Training, appoint a director of this Division and provide necessary support staff for the Division. The Director of the Division of Public Defender Training may be compensated at an amount equal to the Director of the Attorney General's Division of Prosecutor Training and shall have similar support staff to that Division. The mission of the Division of Public Defender Training shall be to work closely with the Mississippi Public Defenders Association to provide training and services to public defenders practicing in all state, county and municipal courts of Mississippi. These services shall include but may not be limited to continuing legal education, case updates, and legal research for public defenders practicing in all state, county and municipal courts of Mississippi, as well as their support staff.

(2) The office shall provide representation on appeal for indigent persons convicted of felonies but not under sentences of death. Representation shall be provided by staff attorneys, or, in the case of conflict or excessive workload, by attorneys selected, employed and compensated by the office on a contract basis. All fees charged by contract counsel and expenses incurred by attorneys in the office and contract counsel must be approved by the court. At the sole discretion of the director, the office may also represent indigent juveniles adjudicated delinquent on appeals from a county court or chancery court to the Mississippi Supreme Court and/or the Mississippi Court of Appeals. The office shall provide advice, education and support to attorneys representing persons under felony charges in the trial courts.

(3) There is created in the State Treasury a special fund to be known as the Indigent Appeals Fund. The purpose of the fund shall be to provide funding for the Mississippi Office of Indigent Appeals. Monies from the funds derived from assessments under Section 99-19-73 shall be distributed by the State Treasurer upon warrants issued by the Mississippi Office of Indigent Appeals. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature for the purposes of funding the Office of Indigent Appeals;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations; and
- (f) Monies received from such other sources as may be provided by law.

§ 99-19-73. Assessment schedule; collection and disbursement

(1) Traffic violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation in Title 63, Mississippi Code of 1972, except offenses relating to the Mississippi Implied Consent Law (Section 63-11-1 et seq.) and offenses relating to vehicular parking or registration:

FUND AMOUNT

|                                                                                                                                          |                |
|------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| State Court Education Fund .....                                                                                                         | \$ 1.50        |
| State Prosecutor Education Fund .....                                                                                                    | 1.00           |
| <u>Public Defender Education Fund .....</u>                                                                                              | <u>1.00</u>    |
| Vulnerable Adults Training, Investigation and Prosecution Trust Fund .....                                                               | .50            |
| Child Support Prosecution Trust Fund .....                                                                                               | .50            |
| Driver Training Penalty Assessment Fund .....                                                                                            | 7.00           |
| Law Enforcement Officers Training Fund .....                                                                                             | 5.00           |
| Spinal Cord and Head Injury Trust Fund (for all moving violations) .....                                                                 | 6.00           |
| Emergency Medical Services Operating Fund .....                                                                                          | 15.00          |
| Mississippi Leadership Council on Aging Fund .....                                                                                       | 1.00           |
| Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund .....                                                               | .50            |
| Law Enforcement Officers Disability Benefits Trust Fund .....                                                                            | 1.00           |
| State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys ..... | 1.50           |
| Crisis Intervention Mental Health Fund .....                                                                                             | 10.00          |
| Drug Court Fund .....                                                                                                                    | 10.00          |
| Capital Defense Counsel Fund .....                                                                                                       | 1.89           |
| Indigent Appeals Fund .....                                                                                                              | 2.29           |
| Capital Post-Conviction Counsel Fund .....                                                                                               | 2.33           |
| Victims of Domestic Violence Fund .....                                                                                                  | .49            |
| TOTAL STATE ASSESSMENT .....                                                                                                             | <u>\$68.50</u> |

-----  
(2) Implied Consent Law violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or any other penalty for any violation of the Mississippi Implied Consent Law (Section 63-11-1 et seq.):

FUND AMOUNT

|                                                                            |             |
|----------------------------------------------------------------------------|-------------|
| Crime Victims' Compensation Fund .....                                     | \$ 10.00    |
| State Court Education Fund .....                                           | 1.50        |
| State Prosecutor Education Fund .....                                      | 1.00        |
| <u>Public Defender Education Fund .....</u>                                | <u>1.00</u> |
| Vulnerable Adults Training, Investigation and Prosecution Trust Fund ..... | .50         |
| Child Support Prosecution Trust Fund .....                                 | .50         |
| Driver Training Penalty Assessment Fund .....                              | 22.00       |
| Law Enforcement Officers Training Fund .....                               | 11.00       |

|                                                                                                                                             |                 |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Emergency Medical Services Operating Fund .....                                                                                             | 15.00           |
| Mississippi Alcohol Safety Education Program Fund .....                                                                                     | 5.00            |
| Federal-State Alcohol Program Fund .....                                                                                                    | 10.00           |
| Mississippi Crime Laboratory Implied Consent Law Fund .....                                                                                 | 25.00           |
| Spinal Cord and Head Injury Trust Fund .....                                                                                                | 25.00           |
| Capital Defense Counsel Fund .....                                                                                                          | 1.89            |
| Indigent Appeals Fund .....                                                                                                                 | 2.29            |
| Capital Post-Conviction Counsel Fund .....                                                                                                  | 2.33            |
| Victims of Domestic Violence Fund .....                                                                                                     | .49             |
| State General Fund .....                                                                                                                    | 35.00           |
| Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund .....                                                                  | .50             |
| Law Enforcement Officers Disability Benefits Trust Fund .....                                                                               | 1.00            |
| State Prosecutor Compensation Fund for the purpose of providing<br>additional compensation for legal assistants to district attorneys ..... | 1.50            |
| Crisis Intervention Mental Health Fund .....                                                                                                | 10.00           |
| Drug Court Fund .....                                                                                                                       | 10.00           |
| TOTAL STATE ASSESSMENT .....                                                                                                                | <u>\$192.50</u> |

-----  
(3) Game and Fish Law violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation of the game and fish statutes or regulations of this state:

FUND AMOUNT

|                                                                                                                                             |                 |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| State Court Education Fund .....                                                                                                            | \$ 1.50         |
| State Prosecutor Education Fund .....                                                                                                       | 1.00            |
| <u>Public Defender Education Fund .....</u>                                                                                                 | <u>1.00</u>     |
| Law Enforcement Officers Training Fund .....                                                                                                | 5.00            |
| Hunter Education and Training Program Fund .....                                                                                            | 5.00            |
| State General Fund .....                                                                                                                    | 30.00           |
| Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund .....                                                                  | .50             |
| Law Enforcement Officers Disability Benefits Trust Fund .....                                                                               | 1.00            |
| State Prosecutor Compensation Fund for the purpose of providing<br>additional compensation for legal assistants to district attorneys ..... | 1.00            |
| Crisis Intervention Mental Health Fund .....                                                                                                | 10.00           |
| Drug Court Fund .....                                                                                                                       | 10.00           |
| Capital Defense Counsel Fund .....                                                                                                          | 1.89            |
| Indigent Appeals Fund .....                                                                                                                 | 2.29            |
| Capital Post-Conviction Counsel Fund .....                                                                                                  | 2.33            |
| Victims of Domestic Violence Fund .....                                                                                                     | .49             |
| TOTAL STATE ASSESSMENT .....                                                                                                                | <u>\$ 73.00</u> |

-----  
(4) Litter Law violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person

upon whom a court imposes a fine or other penalty for any violation of Section 97-15-29 or [97-15-30](#):

FUND AMOUNT

Statewide Litter Prevention Fund ..... \$ 25.00  
TOTAL STATE ASSESSMENT ..... \$ 26.00

-----

(5) Other misdemeanors. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any misdemeanor violation not specified in subsection (1), (2) or (3) of this section, except offenses relating to vehicular parking or registration:

FUND AMOUNT

Crime Victims' Compensation Fund ..... \$ 10.00  
State Court Education Fund ..... 1.50  
State Prosecutor Education Fund ..... 1.00  
Public Defender Education Fund ..... 1.00  
Vulnerable Adults Training, Investigation and Prosecution Trust Fund ..... .50  
Child Support Prosecution Trust Fund ..... .50  
Law Enforcement Officers Training Fund ..... 5.00  
Capital Defense Counsel Fund ..... 1.89  
Indigent Appeals Fund ..... 2.29  
Capital Post-Conviction Counsel Fund ..... 2.33  
Victims of Domestic Violence Fund ..... .49  
State General Fund ..... 30.00  
State Crime Stoppers Fund ..... 1.50  
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund ..... .50  
Law Enforcement Officers Disability Benefits Trust Fund ..... 1.00  
State Prosecutor Compensation Fund for the purpose of providing  
additional compensation for legal assistants to district attorneys ..... 1.50  
Crisis Intervention Mental Health Fund ..... 10.00  
Drug Court Fund ..... 8.00  
Judicial Performance Fund ..... 2.00  
TOTAL STATE ASSESSMENT ..... \$ 81.00

-----

(6) Other felonies. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any felony violation not specified in subsection (1), (2) or (3) of this section:

FUND AMOUNT

Crime Victims' Compensation Fund ..... \$ 10.00  
State Court Education Fund ..... 1.50  
Public Defender Education Fund ..... 1.00

|                                                                                                                                             |                 |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| State Prosecutor Education Fund .....                                                                                                       | 1.00            |
| Vulnerable Adults Training, Investigation and Prosecution Trust Fund .....                                                                  | .50             |
| Child Support Prosecution Trust Fund .....                                                                                                  | .50             |
| Law Enforcement Officers Training Fund .....                                                                                                | 5.00            |
| Capital Defense Counsel Fund .....                                                                                                          | 1.89            |
| Indigent Appeals Fund .....                                                                                                                 | 2.29            |
| Capital Post-Conviction Counsel Fund .....                                                                                                  | 2.33            |
| Victims of Domestic Violence Fund .....                                                                                                     | .49             |
| State General Fund .....                                                                                                                    | 60.00           |
| Criminal Justice Fund .....                                                                                                                 | 50.00           |
| Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund .....                                                                  | .50             |
| Law Enforcement Officers Disability Benefits Trust Fund .....                                                                               | 1.00            |
| State Prosecutor Compensation Fund for the purpose of providing<br>additional compensation for legal assistants to district attorneys ..... | 1.50            |
| Crisis Intervention Mental Health Fund .....                                                                                                | 10.00           |
| Drug Court Fund .....                                                                                                                       | 10.00           |
| TOTAL STATE ASSESSMENT .....                                                                                                                | <u>\$159.50</u> |

-----

(7) If a fine or other penalty imposed is suspended, in whole or in part, such suspension shall not affect the state assessment under this section. No state assessment imposed under the provisions of this section may be suspended or reduced by the court.

(8) After a determination by the court of the amount due, it shall be the duty of the clerk of the court to promptly collect all state assessments imposed under the provisions of this section. The state assessments imposed under the provisions of this section may not be paid by personal check. It shall be the duty of the chancery clerk of each county to deposit all such state assessments collected in the circuit, county and justice courts in such county on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The chancery clerk shall make a monthly lump-sum deposit of the total state assessments collected in the circuit, county and justice courts in such county under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the circuit, county and justice courts in such county during such month. It shall be the duty of the municipal clerk of each municipality to deposit all such state assessments collected in the municipal court in such municipality on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The municipal clerk shall make a monthly lump-sum deposit of the total state assessments collected in the municipal court in such municipality under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the municipal court in such municipality during such month.

(9) It shall be the duty of the Department of Finance and Administration to deposit on a monthly basis all such state assessments into the proper special fund in the State Treasury. The monthly

deposit shall be based upon the number of violations reported under each subsection and the pro rata amount of such assessment due to the appropriate special fund. The Department of Finance and Administration shall issue regulations providing for the proper allocation of these special funds.

(10) The State Auditor shall establish by regulation procedures for refunds of state assessments, including refunds associated with assessments imposed before July 1, 1990, and refunds after appeals in which the defendant's conviction is reversed. The Auditor shall provide in such regulations for certification of eligibility for refunds and may require the defendant seeking a refund to submit a verified copy of a court order or abstract by which such defendant is entitled to a refund. All refunds of state assessments shall be made in accordance with the procedures established by the Auditor.

ATTACHMENT "F"

PUBLIC DEFENDER SYSTEMS  
IN OTHER STATES

