



ACTIVITIES AND EXPENDITURES REPORT July 1, 2019 – March 31, 2020

The following report of activities and expenditures of the State Public Defender is submitted in accordance with Miss. Code §§ 99-18-1 and 99-18-15. Agency expenditures can be found at www.transparency.ms.gov. A docket of potential death penalty eligible cases in the circuit courts and rosters of all death penalty cases in the state are available on our webpage at <http://www.ospd.ms.gov/CapDefInfo.htm>.

STATE DEFENDER

In July, the Office of the State Public Defender (“OSPD”) submitted a revised 5-Year Strategic Plan and FY 2021 Budget Request.

The State Defender serves on the Corrections and Criminal Justice Oversight Taskforce, the Sentencing Disparity Taskforce, and is working with the Parent Representation Taskforce to expand and deepen parent defense across the state. He also serves on the Supreme Court’s Children’s Justice Commission.

OSPD has completed the development of the plans to expand parent defense in the 1st and 10th Chancery Court Districts. Both areas became operational October 1. The 10th District project funds a fulltime defender housed in the Hattiesburg office of the Center for Legal Services. It is modeled on the successful Harrison County project and provides deeper services through its location at the Center for Legal Services.

Because the 1st District has no established legal aid or defender offices OSPD worked with Chancellor Mask, Judge Bevill and the Boards of Supervisors in Alcorn, Itawamba, Lee, Pontotoc, Tishomingo, and Union counties to create part-time contract programs. All but one of the new defenders attended the Parent Defender Training program in November. The final defender has attended other juvenile justice programs in the past but was unable to attend because of a scheduling conflict. He will complete training soon. With these new programs OSPD is involved in 16 counties across the state that collectively represent over 45% of the children in CPS custody.



OSPD continuously seeks partnerships with local government agencies as well as private sector providers and organizations to find new ways to more effectively serve low income Mississippians in their time of need. In recognition of the innovative work by OSPD, State Defender André de Gruy was presented the *Trail Blazer for Justice Award* by the Mississippi Center for Legal Services at their 45th Anniversary celebration.

Beginning in January the State Defender was actively engaged with the Legislature. With the prison unrest and the urgent need for comprehensive criminal justice reform the State Defender provided technical assistance to committees in both houses seeking solutions to the overcrowding in our prisons. We also supported legislation to adopt the Public Defender Task Force recommendations for reform of the public defender system in Mississippi. By mid-March the legislature recessed and OSPD began to respond to COVID-19.

Working with the Attorney General OSPD successfully advocated for Emergency Administrative Orders from the Supreme Court to relax the Rules of Criminal Procedure to facilitate video teleconferencing of hearings to ensure courts could remain open, clients and defenders would remain safe and constitutional rights would be protected.

CAPITAL DEFENSE

Capital Defense is currently staffed to handle a mix of 10-12 new trial level cases per year and/or two new appeals per year. This assumes local counsel will be appointed. Currently the division is representing 11 clients at the trial level and two clients at the direct appeal stage. These are all of the direct appeal cases pending. The office closed four cases thus far this year including one by guilty plea to manslaughter after a reversal by the state Supreme Court of a capital murder conviction and death sentence and an appeal that was vacated by the Supreme Court of the United States.

In February a trial team consisting of two division attorneys, mitigation specialist, paralegal and contract investigator were involved in a multi-week capital murder trial involving 8 victims. The client was convicted of four counts of capital murder and sentenced to death. We have begun the appeal process in this matter. Death was dropped in another case and a third case ended in a plea to capital murder and multiple life without parole sentences in another multi-victim case.



The attorneys and mitigation specialist worked with the Training Division to present the 4th Deep South Capital Conference to provide the training required for Mississippi public defenders to participate in defending death penalty eligible cases (MRCrP 7.4). Staff assisted with planning the program and in presenting lectures.

Beginning March 16, all field investigation was paused do to COVID-19. Attorneys and investigators are teleworking but until at least mid-May there will be no in person interviews of witnesses. The division had trials scheduled in April and May which have been continued. Because of the risk of introducing the virus into a prison or jail client visits have been restricted. Telephone contact is being maintained.

INDIGENT APPEALS

Since July 1, 2019, Indigent Appeals (“IAD”) has filed 74 briefs and participated in four oral arguments. IAD currently has 174 open cases including 37 awaiting the filing of the record and briefing schedule. Five cases raising *Miller v. Alabama* juvenile sentencing issues are assigned to the Juvenile Parole Project at Capital Defense funded by a grant from the SPLC. The grant funds ran out in March but Stacy Ferraro has agreed to continue representation of these clients pro bono. The remaining 132 cases are divided between the six attorneys on staff. There are an additional seven cases with independent outside counsel due to conflicts of interest between clients.

With the retirement of Professor Phil Broadhead, the Criminal Appeals Clinic at the University of Mississippi School of Law was discontinued. From the first days of Indigent Appeals the Clinic took on several cases each semester. The Law School and Professor Broadhead prepared us for this loss, but it will still be a loss. Indigent Appeals easily absorbed the last pending cases but without having the Clinic available for assignments staffing and assignments will have to be monitored.

The staff attorneys of IAD routinely answer questions and conduct research for trial level defenders in the field. IAD also assists with moot courts for defenders inside and outside the office preparing for oral arguments and handling oral arguments. IAD attorneys also serve on the Supreme Court committees and Mississippi Bar committees. Do to the COVID-19 emergency most staff are teleworking and continue to file briefs and maintain contact with clients and each other. Several IAD attorneys participate in the public defender Town Halls to offer support and assistance to the line defenders around the state.

DEFENDER TRAINING

Defender Training continues to produce high quality CLE programs for anyone participating in indigent defense. In September training was provided to 37 juvenile defenders. In October, 104 felony defenders received training. In November, 39 parent defenders were trained. The training for attorneys in youth court – juvenile and parent defenders – is statutorily mandated. The Supreme Court mandates training for lawyers in death penalty cases. The Training Division has been working on the next capital training.

The Deep South Capital Defense Training was conducted during the first week of March. The program again provided dual track programs in death penalty and juvenile life without parole litigation. This year OSPD partnered with the National Legal Aid and Defender Association to simultaneously present our program and their Life in the Balance program. Participants from Mississippi registered through OSPD and out of state participants registered through NLADA. Participants were allowed to participate in workshops and lectures at either program. Through cost sharing we maximized the educational content while minimizing the cost to OSPD.

In addition to providing support to the State Defender in developing the Parent Representation program and system reorganization plan, the Training Division is assisting with the development of a mental health cases resource project and defender data project. The Training Division is providing on-going technical assistance to trial level defenders and is involved in developing the privately organized Mississippi Bail Fund Collective.

OSPD, through the Training Division, continues to provide technical assistance to attorneys handling cases for juvenile offenders facing life without parole sentences (JLWOP) through the Juvenile Parole Resource Counsel project. The workload included entering a case as “second-chair” in Hinds County to relieve the county defender’s burden while providing direct training and technical assistance that will transfer to the entire office. The project is primarily funded through a grant from the Southern Poverty Law Center. The grant ended in early March but the project will continue on a more limited basis going forward.

The Training Division had the regular Spring Defender conference as well as two Youth Court programs, one for juvenile defenders and one for Parent Defenders scheduled. Due to the pandemic all conferences had to be canceled. Training Director Beau Rudder immediately began planning for distance learning. Initial steps were to organize “Defender Town Halls” via Zoom to connect public defenders around the state, including youth court defenders, to learn their needs and assist them in continuing to protect their client’s rights in the new environment. Beau is exploring ways to ensure that the youth court defenders are able to maintain their statutorily required training certification.