



ACTIVITIES AND EXPENDITURES REPORT July 1, 2021 – March 31, 2022

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 is 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 2023 Budget Request. OSPD has worked with local defender leaders and developed a new proposal for state support for indigent defense. The recommendation modifies the Public Defender Taskforce recommendation by eliminating the proposed commission and state-funded district defender positions.

Phase 1 of the new proposal would create a state grant program to be administered by OSPD. The proposal is to help create three pilot projects, one in each Supreme Court District. The southern and northern districts would be multi-county systems to help rural counties deliver services in most efficient ways. The central district project would be tailored to the unique needs of the city of Jackson. The goal of the proposal is to remedy four of the most serious deficiencies identified by the taskforce studies: lack of early entry in cases, lack of pay parity between defenders and prosecutors, lack of support services such as social workers, and excessive caseloads.

The State Defender serves on the Corrections and Criminal Justice Oversight Taskforce which met regularly to work on a legislative agenda and to prepare its annual report. The State Defender also works throughout the year 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.

The third quarter was dominated by the legislative session. The State Defender worked on the pilot project proposal and overall budget request for the Agency as well as other criminal law-related bills which included changes to the State Medical Examiner law and the work-release initiative supported by the C&CJ taskforce. The legislature did not expand OSPD authority nor fund the pilots, but OSPD was provided AARP funds to provide counsel in “special courts” created to reduce the backlog of cases in the 7th Circuit Court District.

CAPITAL DEFENSE

At current staffing Capital Defense can handle up to 10 new trial level cases per year and 2 new appellate cases per year. This assumes local counsel will be appointed at the trial level.

Capital Defense is currently representing 9 clients at the trial level and two clients at the direct appeal stage. These are all the direct appeal cases pending. In one case oral argument was conducted in the Supreme Court in the second quarter and the record was submitted to that court in the other case in the third quarter.

One case was tried to verdict in the third quarter and one case resolved by plea of guilty. Two cases were resolved by plea in the second quarter.

COVID-19 has periodically limited the extent of investigation that can be done. This has slowed some trial preparation and reduced the number of cases OSPD can handle. It has also reduced the number of cases in which prosecutors are seeking death, thus we do not believe there is currently a backlog in death penalty eligible cases.

INDIGENT APPEALS

Since July 1, 2021, Indigent Appeals (“IAD”) filed 63 briefs. IAD currently has 123 open cases including 25 awaiting the filing of the record and briefing schedule. Two of these cases are being handled by Stacy Ferraro. Ms. Ferraro serves as an independent resource counsel for attorneys handling cases for people who were juveniles at the time of the crime of conviction and are facing a life without parole sentence (“Miller cases”). The project is funded by the Vital Projects Fund and provides services at no charge to OSPD or the clients.

Three cases have been assigned to *pro bono* lawyers from the firm of Forman, Watkins and Krutz LLP. This firm has previously worked with OSPD providing *pro bono* representation in Miller cases. We hope this is the beginning of a long-term partnership.

There are two cases with independent outside counsel due to conflicts of interest between clients.

The staff attorneys of IAD routinely answer questions and conduct research for trial level defenders across the state. IAD also assists with moot courts for defenders inside and outside the office in preparation for oral arguments and appearing at oral arguments. IAD attorneys also serve on the Supreme Court committees and Mississippi Bar committees.

Staff Attorney Justin Cook is the President of the Mississippi Public Defender Association, and is joined on the Board by OSPD Training Director Erin Briggs.

DEFENDER TRAINING

The Training Division (“Division”) has continued to offer trainings in multiple formats: distance learning, virtual, in person and hybrid. In August the Division, continuing the collaboration with the federal defenders, produced a virtual training – “Understanding and Litigating the Use of Mobile Devices.”

The first in person training since March 2020 was conducted in September 2021. Forty parent defenders, including 7 virtual attendees, received their statutorily mandated certification training.

In October the Division produced two hybrid trainings. The Fall Public Defender Conference was attended by 100 in person and 14 virtually. Participants received 14.5 CLE credits. Simultaneously, 49 juvenile defenders, 38 in person and 11 virtually, received 8 CLE hours to complete their statutorily mandated certification training.

Two attorneys have utilized the Distance Learning Program to complete Parent Defense certification training and one attorney completed the Death Penalty Distance Learning Program. The Distance Learning Program allows lawyers in need of training certification to complete challenging programs without having to wait for the next regularly scheduled program or settle for a less rigorous pre-recorded video option.

The Training Division hosted three trainings in the 3rd quarter of 2022. All of our trainings continue to utilize a paperless system. We now offer conference registration, conference materials, and conference evaluations through QR Codes.

March 9-11, 2022, we hosted the biennial Deep South Capital Defense Conference in Bay St. Louis, Mississippi. There were 41 attendees in-person and 6 attendees virtually. Highlights of the conference included presentations from Sister Helen Prejean – a longstanding death penalty abolitionist, Curtis Flowers – a man tried six times for capital murder in Mississippi and who ultimately had his conviction reversed, and other nationally recognized as well as in-state presenters in the capital defense community.

Based on the high quality of speakers at the Conference, we had attendees from as far as California come for the training. Out of state attendees cover their own expenses and pay an attendance fee. The fee is deposited to the state general fund.

March 23-25, 2022, we hosted our Youth Defender and Parent Defender Certification Trainings. The Youth Defender Training was held March 23-24, 2022, and the Parent Defender Training was held March 24-25, 2022. The Youth Defender conference ended the morning of the 24th and the Parent Defender conference started the afternoon of the 24th. This approach to providing these trainings allows the Training Division to better utilize staff resources, reduce training costs, and provide attendees with the opportunity to receive two separate certifications without additional travel costs.

The Division has continued to host monthly public defender townhall meetings. These meetings strengthen the defender network and allow otherwise isolated defenders to brainstorm cases and other challenges presented by our work with defenders from across the state.

Training director Erin Briggs is not just leading training opportunities in Mississippi, she is recognized nationally. In September she was a facilitator at the National Defender Leadership Institute (NDLI) Nuts & Bolts of Leadership. The national Black Public Defender Association has certified Ms. Briggs as a *Trainer on Race*. In January she was a facilitator at a training for the Public Defender Service of Connecticut and plenary presenter on *Litigating Race on Appeal* for the NLADA Appellate Defender Training in New Orleans.

PARENT DEFENSE

In June 2021 our parent defense program took a giant step forward with the hiring of a full-time program manager. Jennifer Morgan, longtime parent defender in Desoto County, will be providing technical assistance to frontline defenders, assisting with training and

appeals. This year the program filed appellate briefs in two cases and is awaiting a scheduling order on a third.

OSPD held the first in-person Parent Defender training in September 2021 at the Hollywood Casino in Bay St. Louis. Thirty-three attended in person and 7 attended virtually. A second Parent Defender certification training was conducted March 24-25, 2022 at the King Edward Hotel in Downtown Jackson. Twenty-eight attorneys were certified out of 22 in-person participants and 10 virtual.

The Parent Defense Program has worked with the Commission on Children's Justice, Casey Family Programs, and local judges to develop or expand programs. The program is now involved in each county in the First Chancery Court District. Beginning in early 2022 a part-time parent defender began working in the Hinds County Youth Court. The Lee County Parent Defender project expanded to include a second part-time attorney and a full-time social worker.

Ms. Morgan has been working closely with Casey Family Programs and Be Better Now Mentoring to develop and pilot a Parent Partner Program which will provide clients with a Parent Partner who has personal life experience with the child welfare process. We will be piloting this program on the Gulf Coast and in Lee County.

OSPD and Casey Family Programs hosted an Informational Session on March 28, 2022. Almost 30 people were in attendance via Zoom and included judges, attorneys, and Mississippi Department of Child Protection Services ("MDCPS") employees. The initial development and planning phase ended March 31. Training is scheduled for April and May for Parent Partners and their supervisors.

Overall, the 2021 calendar year was a very successful year for Parent Defense. While MDCPS saw an increase in children in custody, from 3,766 to 3,849 (2.16% increase), those counties with salaried parent defenders saw a decrease by 1.11%, and those counties that received OSPD funding saw a 10.58% decrease of children in custody.

In the first quarter of 2022, MDCPS saw an increase of children in custody from 3,837 to 3,850 (a 0.338% increase). This also equated to an annual increase of children in custody statewide up from 3,728 (a 3.169% increase). Counties that receive partial funding from OSPD saw a decrease of children in custody by 0.402% this quarter and a decrease of 9.807% in the last 12 months.

While Parent Defenders are working hard to safely reunite children with their parents, there was a significant setback this year. Parent Defender's access to Mississippi Youth Court Information System ("MYCIDS"), the "official court file" was significantly restricted. While less than half of the Parent Defenders protecting a parent's right to raise their children have access to MYCIDS, that access was restricted even more following a MYCIDS "update". OSPD is working with the AOC to correct these problems.