



ANNUAL REPORT
July 1, 2023 – June 30, 2024

The Office of State Public Defender (OSPD) was created by the Legislature in 2011 through the consolidation of the Office of Capital Defense Counsel (OCDC) and the Office of Indigent Appeals (OIA).

Capital Defense was opened in 2001 to provide Sixth Amendment services in death penalty eligible cases at trial and direct appeal. Indigent Appeals was created in 2005 to handle non-death penalty felony appeals. In 2007 the Defender Training Division was added to provide training and technical assistance to all working in indigent defense. Also in 2007, the scope of services was expanded to allow Indigent Appeals to handle appeals from youth court.

In 2016 the scope of services was again expanded to authorize OSPD to handle defense of parents in matters brought by Child Protection Services alleging abuse or neglect or seeking to terminate parental rights and appeal of such matters. To provide these services OSPD created the Family Defense Program. The program director, Jennifer Morgan, supervises service delivery, spreadsheets planning for expansion, provides direct representation on appeals and provides training and technical assistance to frontline defenders. The 2024 Legislature, recognizing the importance of this representation to parents mandated the appointment of counsel to all custodial parents.

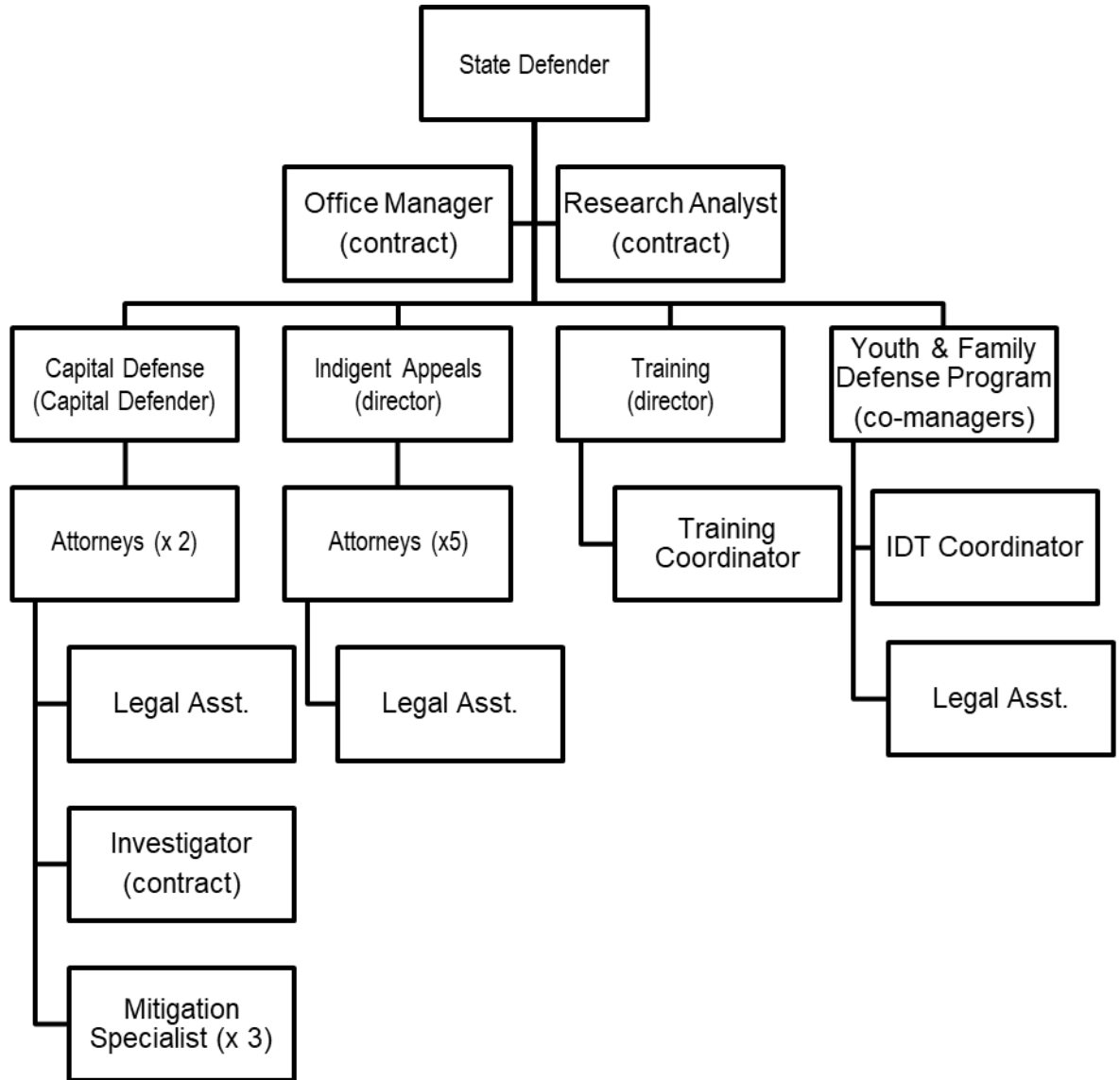
The 2024 Legislature also expanded OSPD scope of services with the authorization of a Youth Defender Program. In 1967 the Supreme Court of the United States recognized that children accused of acts of delinquency had a constitutional right to the assistance of legal counsel.¹ In the past OSPD has supported these lawyers through training and technical assistance provided by a part-time contract resource counsel. This new program will allow OSPD to increase the capacity to support the front-line defenders through not just training and technical assistance but also appellate litigation. For maximum efficiency the two programs will operate as a combined Youth and Family Defense program with co-directors.

The growth over the last eight years has been accomplished without growth in staff. The agency was created thirteen years ago with 25 positions. We are providing more and higher quality services today with 21 full-time staff.

While we have yet to realize the state-wide system developed in collaboration with the Public Defender Task Force, we continue to present more modest “next step” proposals to the Legislature, continue to operate the case backlog project in Hinds County as well

¹ In re Gault, 387 U.S. 1 (1967).

as supporting attorneys in that office, and provide guidance to local stakeholders as they struggle to improve delivery of these constitutionally mandated services.



STATE DEFENDER

In July, the Office of the State Public Defender (“OSPD”) submitted a revised 5-Year Strategic Plan and FY 2026 Budget Request. The State Defender serves on the Corrections and Criminal Justice Oversight Taskforce and the Supreme Court’s Children’s Justice Commission.

HB 1020 (2023) provided state support through OSPD to increase the workload capacity of the Hinds County Public Defender Office (HCPDO). The goal of the initiative was to meet the 6th Amendment services needs resulting from the expansion of Capitol Police and the Capitol Complex Improvement District (CCID) court in Jackson.

The Act provided for three additional attorneys but no support staff.² The state funding facilitated a restructuring of the office that has transformed how services are delivered, reducing time in pre-trial detention and leading to more just outcomes including a safer community.



Public Defender Gail Lowery

The Department of Public Safety (DPS) report of arrests by Capitol Police from August 3, 2022, through August 23, 2024, was 1109 arrests. However, the exponential growth of the Capitol Police force and the growth in size of the CCID have resulted in rapid increases in the number of arrests in 2024.

Period	SFY 2023	SFY 2024	last 12 mo.	last 6 mo.	last 3 mo.
# arrested	154	735	889	672	374

Based on the trends a conservative estimate of new arrests leading to a case in this court is 75/month, 900/year. Six hundred (600) felony matters and 300 misdemeanor-only matters. Caseload estimate for HCPDO would be 200 misdemeanor cases and 450 felony matters.

Case numbers provided by HCPDO validate this estimate. In CY 2022, HCPDO opened 1199 cases. In CY 2023, they opened 1394 cases. They are on track to open 1600 cases in CY 2024. The three attorneys provided in HB 1020, Miss. Code Section 25-32-4, are not sufficient to handle this volume. Based on this increasing caseload, OSPD is asking for funding for additional attorneys and support staff in its 2026 budget request.

In September the State Defender along with Parent Defense Program Manager Jennifer Morgan and Cindy Cheeks of *Hope Rising* presented an update on parent defense to the Youth Court Judge’s Conference. In October the State Defender provided testimony to the House Judiciary B Committee on indigent defense needs statewide.



In response to the Supreme Courts amendments to the Rules of Criminal Procedure the State Defender drafted a Model Local Rule for Appointment of Indigent Defendants. In developing the model rule the State Defender met with several circuit court judges. While not strictly following the model, two circuits adopted local rules on appointments that have been approved by the Supreme Court. In October the State Defender presented on the amendment and need for local rules to the Circuit Judge’s Conference and made similar presentations to the New Justice Court Judge’s training, regular Justice Court Judge’s training and the Municipal Court Judge’s training.

The 2024 Legislative Session was dominated by proposals to bring Mississippi sentencing statutes into compliance with the Supreme Court of the United States 2012

² 2024 Legislature appropriated \$60,000 from Capital Expense Fund for support of HCPDO. The county and OSPD agreed that these funds would support an investigator. OSPD is seeking general funds for this position in SFY 2026.

opinion in *Miller v. Alabama*. OSPD and allies fought for and achieved the right to jury sentencing for a child facing a life without parole sentence.

Another legislative priority achieved was the passage of SB 2792. This Act amended Mississippi Code Section 43-21-201 to mandate appointment of counsel to all indigent custodial parents. The statute as amended has a state-first funding scheme with counties funding “until the state provides funding for counsel.” This state funding may come through OSPD or the Administrative Office of the Courts.

OSPD has also begun collaborating with the Deason Criminal Justice Reform Center at Southern Methodist University to study the unique indigent defense needs of rural communities in Mississippi. The Deason Center is a nonpartisan center for research and advocacy that combines data-driven research and compelling stories to advocate for innovative criminal justice reform. Criminal legal systems in small, tribal, and rural (STAR) communities are among the Center's chief areas of research and advocacy.

Special Defender Unit for 7th Circuit Court District

Since 2022 the Legislature has appropriated over \$1.38 million to OSPD from the Coronavirus State Fiscal Recovery Fund. The purpose of the appropriation was to create and operate a public defender office to augment criminal defense services to indigent defendants in the 7th Circuit Court District. OSPD has designated this office the OSPD Special Defender Unit. The unit works under the State Defender in collaboration with the Hinds County Public Defender Office (HCPDO) to help reduce any case backlog associated with the Covid-19 pandemic.

Staffing and service delivery was modeled on the Division of Capital Defense Counsel at OSPD. OSPD has assembled a team of attorneys, a social worker, investigator, and administrative support (legal secretary). The attorneys began work August 1, 2022, and the legal secretary began work on September 1, 2022. OSPD contracts with a private investigator for fact investigation and with a forensic social worker for client’s social service needs and case development.

Initial case assignments were as co-counsel with office attorneys prioritizing clients in-jail with indictments for murder, armed robbery, or carjacking. Early on it was realized that a significant backlog existed with not-indicted in-jail or “dead-zone” cases.

A total of 126 dead-zone clients with 218 charges were assigned to the SDU. Working with the District Attorney who assigned several prosecutors to review cases, and Senior Circuit Court Judge Winston Kidd who set aside a designated review day the HCPDO not-indicted caseload was reduced by 39% by the end of May 2023.

- Of all the people represented, even when indicted, cases were sped up significantly. Representation resulted in a resolution, freedom, or other change in status within just a week to a few months.
- 65% of all represented cases resolved “favorably” without any indictment at all: Guilty plea to Bill of Information with less time than facing if went to trial, release, or a “no true bill.”
- Of those cases that resolved “favorably,” 77% resolved with either a dismissal or release.

Based on the significant reductions in the dead-zone caseload and restructuring of the HCPDO beginning July 1, 2024, it was decided that this phase of the project would be wrapped up. Reassignments of indicted cases were then made. All indicted cases assigned to special circuit courts were assigned or reassigned to SDU attorneys only. Select additional cases in the elected courts were also assigned to SDU attorneys only.

Since August 1, 2022, OSPD Special Defender Unit has opened 366 cases (587 charges), 240 indicted cases (369 charges) and 126 dead-zone cases (218 charges). Three hundred thirty-six violent charges (57%) including 79 homicide charges. Unit attorneys handled seven jury trials.

On June 30, 2024, the Unit had 122 active cases (198 charges), including 26 cases involving a homicide charge(s) with 58 individual clients in jail.

CAPITAL DEFENSE

At current staffing Capital Defense can handle up to 10 new trial level cases per year. This assumes local counsel will be appointed at the trial level. Capital Defense can also handle all anticipated new death penalty appeals per year. In the past 10 years there have been 8 new death sentences returned with seven direct appeals initiated. Motion for New Trial was granted in one case.

At year end the division represented nine clients at the trial level and one client at the direct appeal stage. The division resolved eight cases in the year. Staff attorney Lenderrick “Rico” Taylor served as lead trial attorney in one case that resulted in a guilty verdict and life sentence. Seven cases were resolved with guilty pleas, four to capital murder and life sentences, three to murder in the second degree and term sentences. Staff attorney Greg Spore participated in oral argument in his first death penalty appeal.



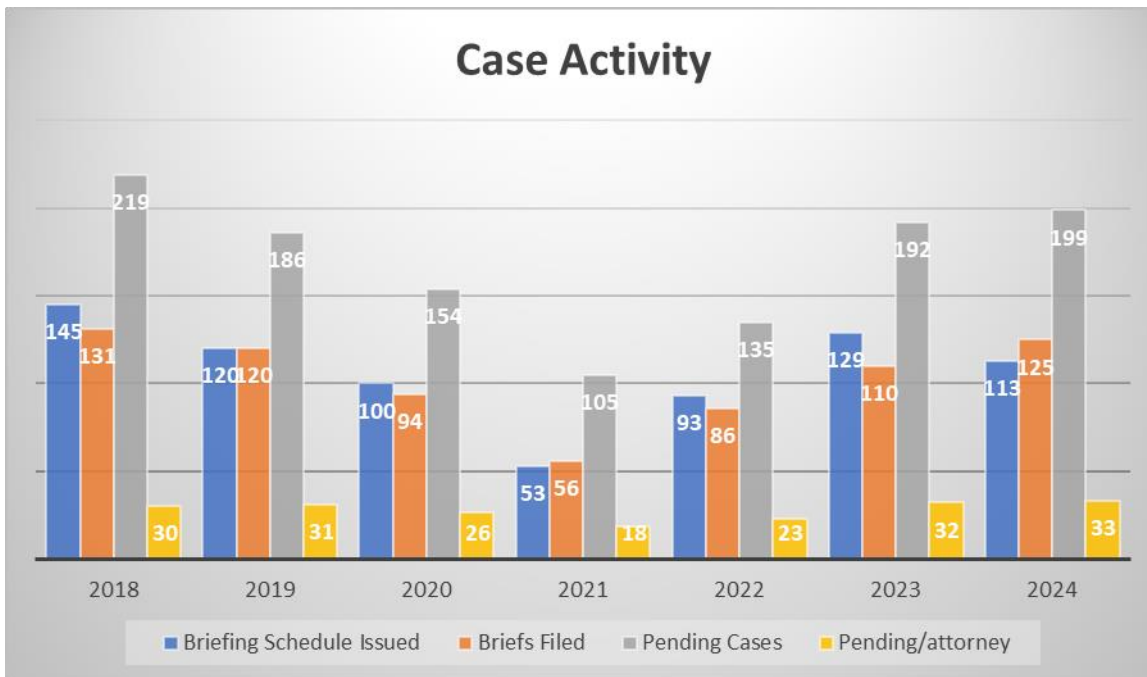
Capital Defender Kelsey Rushing was instrumental in planning the 2024 Deep South Capital Defense Conference in partnership with OSPD Training Director Erin Briggs and the National Legal Aid and Defender Association. Kelsey also presented in two of the sessions.

INDIGENT APPEALS

Since July 1, 2023, Indigent Appeals (“IAD”) filed 125 briefs. At year end IAD had 199 open cases including 65 awaiting the filing of the record and briefing schedule. Two cases have been assigned to a *pro bono* lawyer from the firm of Forman, Watkins and Kritz LLP, including an appeal from Youth Court. The firm previously worked with OSPD providing *pro bono* representation in *Miller* cases and is now in its third year of partnering on appeals. There are six additional cases with independent outside counsel hired on contract due to conflicts.

Staff attorney Hunter Aikens served as co-counsel in a death penalty appeal handled by the Capital Division and the division had one additional oral argument. 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.

IAD caseload returned to pre-pandemic levels in SFY 2023. The number awaiting briefing schedule is at its highest in over six years. While the number of pending cases is stable, the average pending per attorney is at its highest in over six years. In 2018 IAD had seven attorneys and two paralegals. The current staff is six attorneys and one paralegal.



DEFENDER TRAINING

The Training Division continues to offer training in multiple formats: distance learning, virtual, and in person. Hybrid training has been phased out this year. This move is consistent with changes adopted by the Commission of Continuing Legal Education. We will continue to offer distance learning opportunities for certification training on an as needed basis.

A Family Defender Certification Training was held September 21-22, 2023, at the Whispering Woods Conference Center in Olive Branch, Mississippi. We offered 7 CLE hours. There were 26 in-person attendees and 11 virtual attendees. In total, there were 30 attorneys that were certified at this training.

The Youth Defender Certification Training was held September 20-21, 2023, at the Whispering Woods Conference Center in Olive Branch, Mississippi. We offered 7 CLE

hours (including 1 ethics hour). There were 27 in-person attendees and 17 virtual attendees. In all, there were 36 attorneys that were certified at this training.

In October the general criminal defense training seminar was held in Jackson. Fifteen hours of CLE were provided. An ethics hour was held virtually on November 8, 2023. A total of 91 attended in person and 15 virtually.

The Training Division has revamped the evaluation process for the conference sessions, now assigning numerical values to evaluations that range of 1 to 5, with 5 being the highest favored response. An overall average of 71.76% of the evaluation responses indicated that the thirteen sessions offered during the Fall training were extremely useful to them.

March 5-8, 2024, the division put on the *Life in the Balance – Deep South Capital Defense* Conference in Biloxi. Over 90 people attended including 41 Mississippi attorneys who met their Rule 7.4 training requirements to handle death penalty cases and a circuit court judge.

The Youth and Family Defender trainings were held March 19-22, 2024, in Meridian. Forty-nine attended the Youth Defender portion with 42 meeting certification requirements. Forty-six attended the Family Defender portion with 37 meeting certification requirements.

There are currently 59 certified family defenders available for appointment in 50 counties. This is an increase of 17 counties covered from last year. There are currently 68 certified youth defenders available for appointment in 52 counties.

The Spring general criminal defense seminar was held in Biloxi in April. Thirteen hours of CLE were provided including an ethics hour. One hundred thirty-three people attended.

In addition to these trainings, Training Director Erin Briggs continues to participate in programs throughout the country. In September, she again participated as a facilitator in the Black Public Defender Association Anti-Racism Program Fellowship. Her involvement in this program ended at the Black Public Defender Associations Conference during the NLADA's Annual Conference in Oakland, CA in November.

FAMILY DEFENSE PROGRAM

The Family Defense Program formerly changed its name from Parent Defense to reflect the full scope of services provided.

Family Defense continues to work with Casey Family Programs on developing an Interdisciplinary Defense Team model for Mississippi. There were pilot protects on the Gulf Coast and Lee County. Each project provides clients with a Parent Partner, a person with lived experience in the child welfare system, trained to assist parent/clients and social worker support.

Family Defense now has an Interdisciplinary Team Coordinator on staff. The coordinator oversees and provides support for our Interdisciplinary Team Projects including parent partners and social workers and supervises social work interns in selected locations.

In November, Family Defense and Casey hosted a seminar on Interdisciplinary Defense with the assistance of the Oklahoma Parent Defense Team. The program brought together Child Protection Services employees, judges, attorneys, social workers, and parent partners to collaborate on best practices.

Family Defense provides training and technical assistance to family defenders across the state and provides expertise across the system. Jennifer Morgan, program director, participated in a panel discussion at the Youth Court Judges and Referees conference in September and served on the Foster Care and Adoption Task Force.

In the direct representation area, Family Defense managed joint state-local and grant projects touching twenty-four counties and provided appellate representation in five cases as well as assisting 15 *pro se* litigants and/or local counsel on appeal.

With the passage of SB 2792 establishing the right to counsel for custodial parents in child welfare matters, we began developing a plan to provide state funded, trained and supervised lawyers to all these parents. OSPD has funding for approximately 20% of the anticipated need in SFY 2025.

We believe the plan developed is most fair to all counties and the most efficient and effective way to connect families to defenders, pay the defenders, monitor their performance, and begin to drawdown federal IVE funds. The plan is based on the delivery model used in Colorado. To implement and administer, OSPD is adopting a *Family Defense Plan* based on our model *Circuit Indigent Defense Plan*.

Under the plan, we are developing a network of *Cooperating Counsel*. Cooperating Counsel and OSPD will enter an MOU agreeing to practice standards and data reporting. Cooperating Counsel will accept referrals from OSPD on individual cases at an hourly rate. Full-time defenders cannot serve as Cooperating Counsel and part-time contractors cannot serve as Cooperating Counsel in the county employed part-time.

Judge/referee may contact OSPD for availability of a state funded defender and OSPD and MDCPS are working on a plan for caseworkers to provide OSPD contact information to custodial parents and OSPD has developed an on-line application for screening. Year one we anticipate up to 12 Cooperating Counsel participants spread across the state.

In fairness to those counties that have been receiving state funds, we developed a transition plan. OSPD will reimburse for July-September based on SFY 2024 MOU. This is to allow counties to plan for their next fiscal year beginning October 1, 2024. If counties choose to keep salaried/contract attorneys there would not be state support for that position, but they would be eligible for Cooperating Counsel services as available.