

LEGISLATIVE BUDGET AND FINANCE COMMITTEE

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Pennsylvania Indigent Criminal Defense Services Funding and Caseloads

October 2021

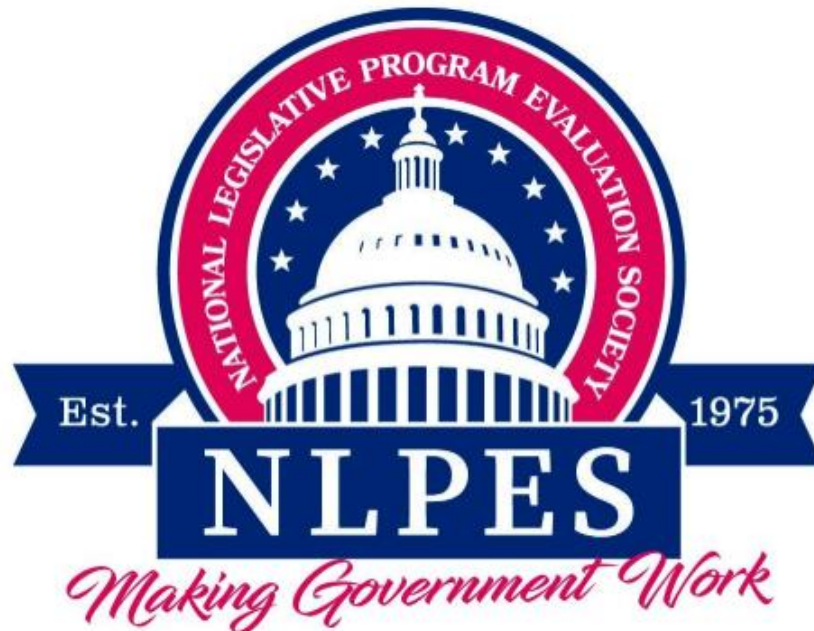


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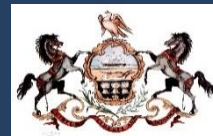
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REPORT SUMMARY



Objectives and Scope

Our objectives for this report on Pennsylvania Indigent Criminal Defense Services Funding and Caseloads are as follows:

- ❖ *To determine the amount of funding, and source of funding, spent on indigent criminal defense on a county-by-county basis.*
- ❖ *To determine indigent criminal caseloads on a county-by-county basis and the type of criminal category, where applicable.*
- ❖ *To determine the number of attorneys who represent indigent clients, and to determine other applicable statistical information, including but not limited to, rates paid for court-appointed counsel and the number of full-time and part-time public defenders in each county.*

Pennsylvania Indigent Criminal Defense Services Funding and Caseloads

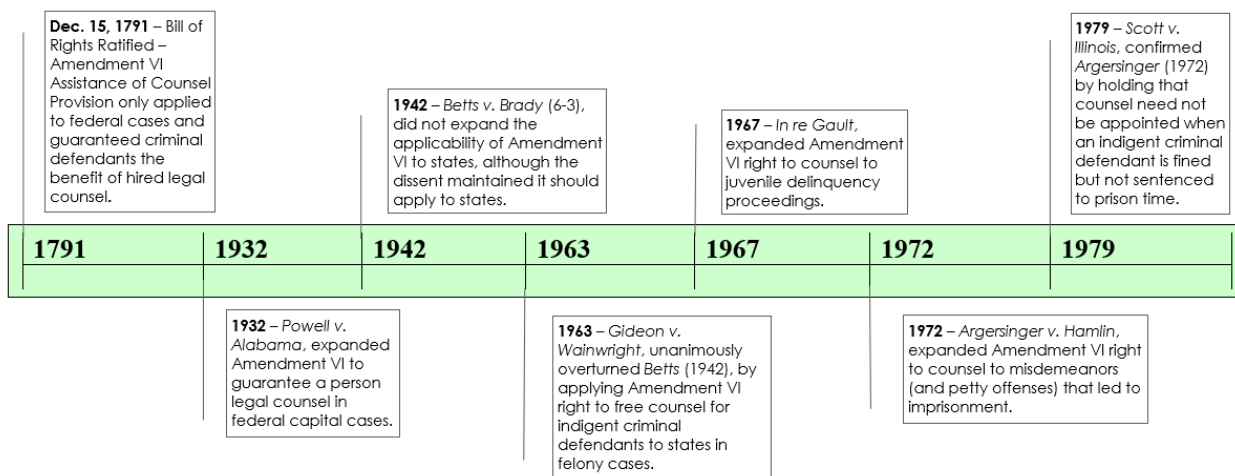
Our report generated in response to House Resolution 2019-619 (HR 2019-619) reaffirmed that indigent criminal defense is primarily a county-based responsibility and funding generally continues to be provided at the county level in the Commonwealth of Pennsylvania. To ascertain a thorough understanding of the subject matter of this report we reviewed the 2011 Joint State Government Commission (JSGC) report on indigent criminal defense services. We also reviewed numerous United States Supreme Court cases and Pennsylvania court cases and laws that support an indigent criminal defendant's right to be represented by an attorney (e.g., public defender). As previously indicated in the 2011 JSGC report, we note data collection in relation to Pennsylvania indigent criminal defense services continues to reflect a lack of systematic and complete data given data collection remains a county responsibility and substantive policies differ from county to county throughout the Commonwealth.

We reviewed funding and caseload data for calendar years (CYs) 2018, 2019, and 2020 to the extent data was maintained and was available for the 67 counties of the Commonwealth.

Section II – Background Information

Sixth Amendment of the U.S. Constitution. The U.S. Supreme Court ruled in *Gideon v. Wainwright* that the Sixth Amendment (Amendment VI) of the U.S. Constitution mandates governments, both federal and state, provide free counsel for indigent criminal defendants in felony cases who are too poor to hire a lawyer. In *Gideon*, the Court reasoned the Sixth Amendment's guarantee of counsel was an essential and fundamental right made obligatory to the states pursuant to the Due Process Clause of the Fourteenth Amendment. Subsequently, the U.S. Supreme Court extended the requirement of free counsel to misdemeanor (and petty offense) prosecutions, juvenile proceedings, and to all "critical proceedings" after a person's arrest, including the trial itself. The following timeline below reflects the ratification of Amendment VI and subsequent U.S. Supreme Court case law.

Amendment VI & U.S. Supreme Court Case Law



Source: Developed by LBFC Staff from data contained in this report.

Commonwealth of Pennsylvania. Article I (Declaration of Rights), § 9 (Rights of accused in criminal prosecutions) of the Pennsylvania Constitution provides (along with other criminal proceeding rights):

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel . . .

Pennsylvania Supreme Court cases indicate the Pennsylvania Constitution aligns with the U.S. Constitution in terms of an indigent criminal defendant's right to counsel at trial.

Article IX (Local Government), § 4 (County government) of the Pennsylvania Constitution provides that county officers shall consist of public defenders who shall be appointed.

In 1968 the Public Defender Act was enacted and provided for the appointment (except for in the County of Philadelphia)¹ and duties of Pennsylvania public defenders. The Public Defender Act was enacted subsequent to the United States Supreme Court decision in *Gideon v. Wainwright* (1963) that extended the U.S. Constitution Sixth Amendment provision to free counsel for indigent criminal defendants to states in felony cases and the Article IX, § 4 Pennsylvania Constitution (1968) provision that provided for the appointment of county public defenders.

¹ In 1969, the City of Philadelphia contracted with the nonprofit Defender Association of Philadelphia (DAP) for it be Philadelphia's sole public defender.

The Public Defender Act specifies that a public defender is responsible for providing legal counsel in the following types of cases where the individual is indigent (lacks sufficient funds to obtain legal counsel):

- Where a person is charged with juvenile delinquency.
- Critical pretrial identification procedures.
- Preliminary hearings.
- State habeas corpus proceedings.
- Pennsylvania Superior Court appeals.
- Pennsylvania Supreme Court appeals.
- Postconviction hearings, including proceedings at the trial and appellate levels.
- Criminal extradition proceedings.
- Probation and parole proceedings and revocation thereof.
- Any other situations where representation is constitutionally required.

The Public Defender Act further specifies the public defender shall provide counsel in the aforementioned situations after being satisfied of an individual's inability to procure sufficient funds to obtain legal counsel and the individual has signed an affidavit indicating their inability to procure sufficient funds.

Caseload Standards. According to defense advocates, caseloads for public defenders (and other defense counsel) should ensure they have adequate time and resources to be able to provide a quality defense. Defense advocates have also noted that caseload standards are important for ensuring a quality defense, but an attorney's overall workload may also affect representation. An attorney's workload encompasses their caseload along with consideration of case complexity (e.g., category of crime, novel legal issue, plea vs. trial, availability of support services, and nonrepresentational duties).

Many Pennsylvania public defender offices indicated they had no formal standards in place to ensure their attorneys' workloads are controlled so that each matter can be handled competently. Public defender offices responses generally indicated the following:

- No caseload standards.
- No formal caseload standards.
- In some instances, the public defender office has only one public defender.
- Some public defender offices indicated they manually monitor caseloads and try to ensure caseloads are balanced.
- One public defender office indicated it tries to follow the American Bar Association (ABA) workload principle.
- Some public defender offices indicated they have or are getting caseload management software.

Commonwealth of Pennsylvania Funding. Historically, Pennsylvania indigent criminal defense services mandated under the U.S. Constitution and Pennsylvania Constitution have been and continue to be provided for by a purely localized system where funding and management of indigent criminal defense services are exclusively provided for at the county level. Indigent criminal defense funding generally continues to be provided at the county level in the Commonwealth of Pennsylvania, although one-time state funding (PA Budget FY 2019-20) of \$500,000 was provided for indigent criminal defense in capital cases. This state funding was provided pursuant to Act 2019-20 (The Fiscal Code) as grants through the Pennsylvania Commission on Crime and Delinquency (PCCD) to reimburse Pennsylvania county costs related to indigent criminal defense in capital cases.

Section III – Public Defender Funding

Administration of Indigent Criminal Defense Services. No explicit direction is provided on how states are to execute or fund constitutionally mandated indigent criminal defense services. States may place some or all constitutional responsibilities of the Sixth Amendment on local governments.

The following illustrates how states are classified in terms of providing for the administration of indigent criminal defense services:

- State-run services: States that administer ALL indigent criminal defense services at the state-level.
- Mixed state and local-run (mixed-run) services: States that require shared administration of indigent criminal defense services between state and local governments. This includes states that split the administration of services between the state and local governments by case type. States that have state-run services only in certain regions of a state are also included in this category.
- Minimal or no state-run (local-run) services: States that place most of the administration of indigent criminal defense services on local governments. This category also includes those states that administer ALL or a portion of indigent criminal defense services at the local level.

Administration of Indigent Defense Services

Service Classification	States
State-run services	Alaska, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, Wyoming
Mixed-run services	Florida, Kansas, New Jersey, Nevada, New York, Ohio, Oklahoma
Local-run services	Alabama, Arizona, California, Georgia, Idaho, Illinois, Indiana, Louisiana, Michigan, Mississippi, Nebraska, North Carolina, Pennsylvania , South Carolina, South Dakota, Tennessee, Texas, Utah, Washington

Source: Developed by LBFC staff with information provided by the Sixth Amendment Center.

All indigent criminal defense services in Pennsylvania are administered at the county-level with no assistance or oversight from the Commonwealth. Counties administer services through a mix of both full-time and part-time attorneys. Conflict representation may be handled by private attorneys, although how this is handled varies from county to county.

Funding Classification of Indigent Defense Services. Indigent criminal defense services are funded differently in each state. According to a study done by the Sixth Amendment Center, states fall into one of three classifications of funding:

- State-funded services: States that absorb all costs of indigent defense services.
- Mixed state and local-funded services: States that share the financial responsibility of indigent defense services with local governments.
- Minimal or no state-funded services: States that place most or all funding for indigent defense services on local governments with little to no state assistance.

Pennsylvania is one of only two states that generally provide no state funding for the administration of indigent criminal defense services.

In Pennsylvania funding for indigent criminal defense services is primarily provided by counties through county budgets. Funding sources for the county budgets include local tax revenues and public defenders' offices revenues (in limited instances).

As would be expected, crime rates and indigent criminal defense expenditures differ among the counties. Philadelphia County, with a crime rate of over 4,000 crimes per 100,000 people, spent \$48.5 million on indigent criminal defense in 2020, the highest among the 67 counties. Cameron County, with a crime rate of approximately 1,600 crimes per 100,000 people spent the least amount on indigent criminal defense in 2020 at \$35,599.

Philadelphia County, with a population of 1.6 million, has the highest spending per capita at \$30.20. Mifflin County, with a population of 46,000 has the lowest spending per capita at just \$3.20. The average expenditure per capita was \$7.63.

Philadelphia County spent, on average, the most per case disposed at \$3,799.04 and Mifflin County spent, on average, the least at \$283.84 per case disposed. Public defenders in Pennsylvania spend, on average, \$1, 216.54 per case disposed.

Please note that higher overall expenditures do not necessarily mean per capita, or the average cost per case, will also be high.

Section IV – Public Defender Office Caseloads

Adult Criminal Cases. On average, 54 percent of all disposed criminal cases had representation provided by a public defender.

Statewide Percentage of Cases Involving a Public Defender (CY 2018-2020)

Year	Total Criminal Cases	Criminal Cases with a Public Defender	Percent of Cases with a Public Defender
2018	218,628	120,673	55.2
2019	207,596	114,711	55.3
2020	151,474	78,459	51.8

Source: Developed by LBFC Staff with data provided by AOPC.

In CY 2020, the top and bottom ten counties with the highest and lowest percentage of criminal cases involving a public defender were:

- | | |
|-----------------------|-----------------------|
| • Philadelphia: 86.5% | • Montgomery: 41.3% |
| • Cameron: 73.7% | • Potter: 41.0% |
| • Mifflin: 70.6% | • Wyoming: 39.4% |
| • Juniata: 70.2% | • Chester: 38.2% |
| • Clinton: 69.3% | • Bucks: 38.1% |
| • Lycoming: 66.0% | • Armstrong: 37.0% |
| • Venango: 64.8% | • Snyder: 36.0% |
| • Greene: 64.2% | • Washington: 35.9% |
| • Crawford: 64.1% | • Westmoreland: 32.1% |
| • Bedford: 63.4% | • Union: 30.6% |

The adult criminal case data presented below include the following categories of crimes:

- Summary appeal.
- Capital murder.
- Homicide.
- Felony other than homicide.
- Misdemeanor.
- Summary offense
- Ungraded offense.
- Indirect criminal contempt (ICC).

The following shows a statewide summary for calendar years 2018 to 2020 of all disposed criminal cases involving a public defender by category of crime.

**Statewide Total Adult Cases Involving a Public Defender
by Category of Criminal Offense
(CY 2018-2020)**

Year	Summary Appeal	Capital Murder	Homicide	Felony other than Homicide	Misdemeanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
2018	454	8	142	36,226	75,010	14,739	2,193	792	129,564
2019	489	8	115	34,346	71,682	16,009	1,386	836	124,871
2020	261	2	74	21,739	50,120	12,254	931	669	86,050

Source: Developed by LBFC Staff with data from AOPC.

Juvenile Delinquency Cases. The following shows a summary of all disposed juvenile delinquency cases for calendar years 2018 to 2020.² The categories of crimes in the data below include:

- Indirect criminal contempt.
- Ungraded offense.
- Summary offense.
- Misdemeanor.
- Felony other than homicide.
- Homicide.

**Statewide Juvenile Delinquency Cases Involving a Public Defender
by Category of Criminal Offense
(CY 2018-2020)**

Year	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
2018	11	40	1,106	7,494	3,138	1	11,790
2019	8	24	918	7,544	3,371	0	11,865
2020	1	17	565	6,084	2,901	1	9,569

Source: Developed by LBFC Staff with data from AOPC.

The following shows a summary of the type of representation for juvenile delinquents during their legal proceedings during calendar years 2018, 2019, and 2020.

**Type of Representation for Juvenile Delinquency Cases
(CY 2018-2020)**

Year	Number of Proceedings	Public Defender	Percent Public Defender	Court Appointed	Private Attorney	Waived Attorney	No Attorney
2018	13,139	8,597	68.2	2,511	1,647	13	11
2019	12,401	8,756	70.6	2,158	1,480	2	5
2020	8,570	5,797	67.6	1,686	1,087	0	0

Source: Developed by LBFC with data from JCJC.

² All juveniles are presumed indigent under Pennsylvania statute.

Section V – County Public Defender Survey

To collect data from public defenders' offices, including information on caseloads, salaries, and number of attorneys in each office, we developed a survey and sent it to the 67 county chief public defenders. Thirty-six county public defender offices responded to our survey. The offices vary greatly in size, from the smallest having just a chief public defender to the largest having 255 public defenders in CY 2020. Although some public defender offices have caseload management systems, caseload data was unknown and untracked by many offices. The responses also reflected that there is no uniform process among the counties for determining who qualifies for a public defender.

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SECTION I OBJECTIVES, SCOPE, AND METHODOLOGY



Why we conducted this study...

- ❖ *House Resolution 2019-619 directed the Legislative Budget and Finance Committee (LBFC) to conduct a study and issue a report analyzing the current Pennsylvania indigent criminal defense services funding and caseloads.*
- ❖ *On January 7, 2020, the LBFC Officers adopted this project pursuant to House Resolution 2019-619.*

Objectives

House Resolution 2019-619 (HR 2019-619) directed the Legislative Budget and Finance Committee (LBFC) to conduct a study and issue a report analyzing the funding and caseloads related to indigent criminal defense services in the Commonwealth of Pennsylvania. Indigent criminal defense is primarily a county-based responsibility; consequently, the focus of the report was on information and data collection from county offices and where applicable, state judicial management authorities along with other relevant state commissions and associations. It should be noted that in 2011 the subject matter of indigent criminal defense services was studied by the Joint State Government Commission (JSGC); however, at the time, the study was limited by the availability of systematic and complete data. Accordingly, the objectives for this study are as follows:³

- 1) To determine the amount of funding, and sources of funding, spent on indigent criminal defense on a county-by-county basis.
- 2) To determine the number of indigent criminal caseloads on a county-by-county basis and by type of criminal category, where applicable.
- 3) To determine the number of attorneys who represent indigent clients, and to determine other applicable statistical information, including but not limited to, rates paid for court-appointed counsel and the number of full-time and part-time public defenders in each county.

Scope

HR 2019-619 directs LBFC to study and issue a report on Pennsylvania indigent criminal defense services that is primarily focused on three calendar years (CYs) 2018, 2019, and CY 2020 to the extent data was

³ A Constitutional Default: Services to Indigent Criminal Defendants in Pennsylvania, Joint State Government Commission (Report of The Task Force And Advisory Committee On services To Indigent Criminal Defendants – December 2011), p. 47.

maintained and was available for the 67 counties of the Commonwealth. See Appendix A for a copy of HR 2019-619.

Indigent criminal defense involves a situation where an individual is determined to be indigent due to the lack of sufficient income/resources to be able to afford to hire a defense lawyer to defend them in a criminal case.

Methodology

To ascertain a thorough understanding of the subject matter of this report we reviewed the 2011 JSGC report on indigent criminal defenses services. We also reviewed numerous United States Supreme Court cases and Pennsylvania court cases and laws that support an indigent criminal defendant's right to be represented by an attorney (e.g., public defender). As previously indicated in the 2011 JSGC report, we note data collection in relation to Pennsylvania indigent criminal defense services continues to reflect a lack of systematic and complete data given data collection remains a county responsibility and substantive policies differ from county to county throughout the Commonwealth.

We reviewed data from the following sources:

- Direct outreach to Pennsylvania counties to obtain budget data for their respective public defender offices.
- Survey of Pennsylvania public defender offices to obtain data about funding and caseloads. LBFC staff crafted and distributed this survey to public defenders via an e-mail link.
- Administrative Offices of Pennsylvania Courts (AOPC) centralization of data in three statewide case management systems to obtain the number of summary appeals, capital murder, homicide, felony other than homicide, misdemeanor, summary offense, ungraded offense, and independent criminal contempt (ICC). These statewide case management systems (i.e., Magisterial District Judge System, Common Pleas Court Management System, and Pennsylvania Appellate Court Management System) contain information based on data each county self-reports.
- Juvenile Court Judges Commission (JCJC) to obtain statewide and county data on disposed juvenile delinquency cases indicating which juvenile indigent defendants were represented by a public defender, court-appointed counsel, private attorney, or not represented. The JCJC data is collected through the Juvenile Case Management System.

We also attempted to obtain data (i.e., number of cases, and amount and source of funding) from the Federal Community Defender Office (FCDO) for the Eastern District of Pennsylvania, Federal Public Defender (FPD) for the Middle District of Pennsylvania, and FPD for the Western District of Pennsylvania to obtain information about federal public defenders appearing in State court in relation to Pennsylvania individuals in a capital case and/or a capital appeals case at the state level. However, we were informed the Federal Defender Organization⁴ information we requested was not publicly available pursuant to guidance provided by the Administrative Office of the U.S. Courts.

With respect to the county public defender fiscal and caseload information contained in this report, we reviewed it and requested clarification where we determined it to be necessary, although we did not independently audit the financial or caseload information. Therefore, we cannot express an opinion or any form of assurance on the accuracy of the financial or caseload information provided by the counties.

Frequently Used Abbreviations

Throughout this report, we use several abbreviations. These abbreviations are as follows:

Abbreviation	Term
AOPC	Administrative Office of Pennsylvania Courts
JCJC	Juvenile Court Judges Commission
JSGC	Joint State Government Commission.
NAC	National Advisory Commission on Criminal Justice Standards and Goals.
PCCD	Pennsylvania Commission on Crime and Delinquency was established by the Act of Nov. 22, 1978 (P.L.1166, No.274) as an administrative commission (agency) in the Governor's Office.
PDAP	Public Defender Association of Pennsylvania is a nonprofit 501(c)(6) statewide community of public defenders (statewide association).

⁴ Federal law authorizes the establishment of Federal Defender Organizations as counterparts to federal prosecutors in U.S. Attorneys Offices and an institutional resource for providing defense counsel in those districts (or combination of adjacent districts) where at least 200 persons annually require appointment of counsel. There are two types of Federal Defender Organizations: 1) Federal Community Defender Organizations (FCDO) and 2) Federal Public Defender Organizations (FPD). An FCDO is a nonprofit defense counsel organization incorporated under state laws. An FPD is a federal entity, and its staff are federal employees. Federal Defender Organizations functions include the representation of death sentence prisoners in post-conviction proceedings (capital cases).

Acknowledgements

LBFC staff completed this review with cooperation from the following Commonwealth government entities and associations and their respective staffs: Pennsylvania Commission on Crime & Delinquency (PCCD), Public Defender Association of Pennsylvania (PDAP), Administrative Office of Pennsylvania Courts (AOCP), and Juvenile Court Judges' Commission (JCJC). We would also like to thank the numerous local county officials and chief public defenders for the funding and caseload information they provided.

Important Note

This report was developed by the staff of the Legislative Budget and Finance Committee, including project manager, Jason R. Brehouse, Esq., counsel, Rick Jones, Esq., staff analyst Anne Witkonis, and staff analyst Amy Hockenberry. The release of this report should not be construed as an indication that the Committee as a whole, or its individual members, necessarily concur with the report's findings, conclusions, or recommendations (if applicable).

Any questions or comments regarding the contents of this report should be directed to the following:

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SECTION II BACKGROUND INFORMATION



Fast Facts...

- ❖ *Sixth Amendment of the U.S. Constitution mandates both federal and state governments to provide free counsel for indigent criminal defendants too poor to hire a lawyer.*
- ❖ *Article I, § 9 of the Pennsylvania Constitution provides: "In all criminal prosecutions the accused hath a right to be heard by himself and his counsel..."*
- ❖ *Indigent criminal defense funding generally continues to be provided for at the county level in the Commonwealth of Pennsylvania.*

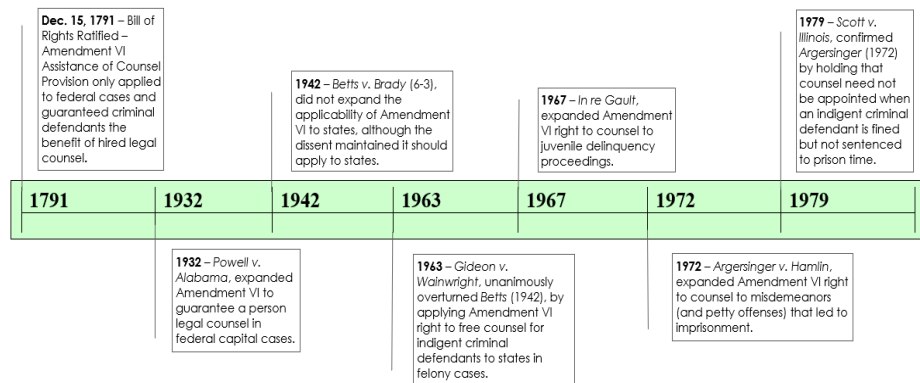
Statutory and Case Law History

Sixth Amendment of the U.S. Constitution

Sixth Amendment Expanded to States. The U.S. Supreme Court ruled in *Gideon v. Wainwright*⁵ that the Sixth Amendment (Amendment VI) of the U.S. Constitution mandates governments, both federal and state, to provide free counsel for indigent⁶ criminal defendants in felony cases who are too poor to hire a lawyer. Subsequently, the U.S. Supreme Court extended the requirement of free counsel to misdemeanor (and petty offense) prosecutions, juvenile proceedings, and to all "critical proceedings" after a person's arrest, including the trial itself. Exhibit 1 presents a timeline reflecting the ratification of Amendment VI and subsequent U.S. Supreme Court case law.

Exhibit 1

Amendment VI & U.S. Supreme Court Case Law



Source: Developed by LBFC Staff from data contained in this report.

⁵ *Gideon v. Wainwright*, 372 U.S. 335, 83 S. Ct. 792 (1963).

⁶ Indigent refers to an individual who lacks sufficient funds to obtain effective legal counsel.

Provisions and Evolution of the Sixth Amendment. The first ten Amendments (Bill of Rights) to the U.S. Constitution were ratified December 15, 1791, and included the Sixth Amendment (Rights to a Fair Trial) that provides as follows:⁷

In all criminal proceedings, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense. (Emphasis added)

When the Sixth Amendment was originally adopted as part of the Bill of Rights, the rights it afforded applied solely to the federal government (and not to the states), and it only guaranteed that the government could not prohibit the benefit of legal counsel where a criminal defendant had hired said counsel. Over time the U.S. Supreme Court would hold all the rights afforded by the Sixth Amendment were applicable to the states through the Due Process Clause of the Fourteenth Amendment.

The Sixth Amendment was expanded in 1932 by the U.S. Supreme Court in *Powell v. Alabama*,⁸ to guarantee a person the aid of legal counsel for their defense in a capital case (and arguably to defendants⁹ who were too ignorant, feeble-minded, illiterate, or the like to adequately make their own defense). Justice Sutherland provided the Supreme Court majority holding that expounded:¹⁰

The right to be heard would be, in many cases of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect.

⁷ U.S. Const. amend. VI.

⁸ *Powell v. Alabama*, 287 U.S. 45, 53 S. Ct. 55 (1932).

⁹ *Powell v. Alabama* involved the Scottsboro Boys trial of nine black youths (all of which were ignorant and illiterate) accused of raping two white women. An all-white jury sentenced all but the youngest to death. The defendants were afforded lawyers (as required in capital cases under Alabama law), but the lawyers were only assigned to the defendants on the morning of the trial.

¹⁰ *Powell v. Alabama*, 287 U.S. 45, 68-69, 53 S. Ct. 55, 64 (1932).

The applicability of the Sixth Amendment was not further expanded to the states in 1942 by the U.S. Supreme Court in *Betts v. Brady*¹¹ (a 6-3 decision).¹² Although it is worth noting that while the majority distinguished the *Betts* case from *Powell v. Alabama* by noting the latter was limited to capital cases, the dissent, written by Justice Hugo Black, maintained the Sixth Amendment should apply to the state as a fundamental right. Justice Black wrote:

A practice cannot be reconciled with "common and fundamental ideas of fairness and right," which subjects innocent men to increased dangers of conviction merely because of their poverty. Whether a man is innocent cannot be determined from a trial in which . . . denial of counsel has made it impossible to conclude, with any satisfactory degree of certainty, that the defendants' case was adequately presented

The Court noted at the time of its *Betts v. Brady* decision that most state constitutions only guaranteed a state could not deny the defendant the privilege to retain counsel of his choice to represent him.

Just over twenty years later (1963) Justice Black wrote the unanimous majority opinion for the U.S. Supreme Court in *Gideon v. Wainwright*. *Gideon* overturned the Supreme Court's prior decision in *Betts v. Brady* by applying the Sixth Amendment right to free counsel for indigent criminal defendants to the states in felony cases.¹³ The Court reasoned the Sixth Amendment's guarantee of counsel was an essential and fundamental right made obligatory to the states pursuant to the Due Process Clause of the Fourteenth Amendment. Justice Black stated in support of this position.¹⁴

[R]eason and reflection, require us to recognize that, in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him Government, both state and federal, quite properly spend vast sums of money to establish machinery to try defendants accused of crime The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.

¹¹ *Betts v. Brady*, 316 U.S. 445, 62 S. Ct. 1252 (1942).

¹² In *Betts v. Brady* the defendant was indicted and found guilty of robbery (a noncapital felony); however, in Carroll County, Maryland it was the practice to only appoint counsel for indigent defendants in prosecutions for murder or rape.

¹³ Defendant in *Gideon v. Wainwright* was charged in Florida state court with having broken and entered a poolroom with intent to commit a misdemeanor, which was a noncapital felony under Florida law.

¹⁴ Justice Black also specifically referenced Justice Sutherland's words cited above in *Powell v. Alabama* to further support his position in *Gideon v. Wainwright*.

Subsequent to *Gideon v. Wainwright*, the U.S. Supreme Court further expanded the Sixth Amendment right to be represented at trial by counsel in felony cases to include juvenile delinquency proceedings (*In re Gault*, 1967)¹⁵ and misdemeanors (and petty offenses)¹⁶ that actually lead to imprisonment¹⁷ (*Argersinger v. Hamlin*, 1972).¹⁸ The Supreme Court in *Argersinger v. Hamlin*, provided the following in support of its holding:

Both Powell and Gideon involved felonies. But their rationale has relevance to any criminal trial, where an accused is deprived of his liberty.

* * *

The requirement of counsel may well be necessary for a fair trial even in a petty offense prosecution. We are by no means convinced that legal and constitutional questions involved in a case that actually leads to imprisonment even for a brief period are any less complex than when a person can be sent off to prison for six months or more.

* * *

We hold, therefore, that, absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial.

* * *

The U.S. Supreme Court later confirmed *Argersinger* when it again drew the line at “actual imprisonment” by holding that counsel need not be appointed when the indigent criminal defendant is fined, but not sentenced to a term of imprisonment (*Scott v. Illinois*, 1979).¹⁹ The *Argersinger* and *Scott* holdings were further affirmed when the U.S. Supreme Court held that a suspended sentence that may “end up in the actual

¹⁵ *In re Gault* involved a 15-year-old boy, Gerald Gault, who was taken into custody stemming from a complaint involving lewd telephone calls and was subsequently ordered by the juvenile court judge in Arizona to be committed to the State Industrial School as a juvenile delinquent until he should reach majority.

¹⁶ Under federal law, a petty offense is any misdemeanor with a maximum penalty of six months imprisonment and/or a \$5,000 fine and since the maximum sentence is six months, the accused is not Constitutionally entitled to a jury trial. Some states also treat petty offenses as a separate class of criminal offense (e.g., summary offense).

¹⁷ *Argersinger* further specifies that no person may be imprisoned, unless represented at trial by counsel.

¹⁸ *Argersinger v. Hamlin* involved an indigent individual who was charged in Florida with carrying a concealed weapon, a misdemeanor offense punishable by imprisonment of up to six months, a \$1,000 fine, or both.

¹⁹ In *Scott v. Illinois* the indigent criminal defendant Scott was convicted of shoplifting and was fined \$50 following an Illinois state court bench trial. The maximum penalty under Illinois statute was a \$500 fine and/or one year in jail.

deprivation of a person's liberty" may not be imposed, unless the indigent criminal defendant was provided with counsel (*Alabama v. Shelton*, 2002).²⁰

In addition to the right to be represented at trial the U.S. Supreme Court has held that an indigent criminal defendant's right to counsel applies to "critical stages"²¹ of the criminal justice process prior to trial once adversarial judicial proceedings have been initiated.²²

In *Wade* (1967), the line-up identification occurred before trial, but after indictment and was considered a "critical stage" within the beginning of the adversarial judicial proceedings. However, five years later in *Kirby v. Illinois* (1974), the U.S. Supreme Court declined to extend the *Wade* exclusionary rule to a confrontation occurring before any adversarial judicial proceeding.

The U.S. Supreme Court, having well-established the right of an indigent criminal defendant to be represented by counsel under the Sixth Amendment, has also made it clear this right involves one of effective assistance of counsel (*Strickland v. Washington*, 1984). The Supreme Court noted the Sixth Amendment right to counsel plays a role necessary to ensure a fair trial and it is for this reason that "the right to counsel is the right to the effective assistance of counsel." The Court further affirmed that in determining whether ineffective counsel was provided in relation to a conviction (or the imposition of a death sentence) two things must be established by the defendant: 1) counsel's performance was deficient in that counsel was shown to not have provided reasonably effective assistance, considering the circumstance, and 2) the deficient performance prejudiced²³ the defense to deprive the defendant of a fair trial.

²⁰ In *Alabama v. Shelton* the indigent criminal defendant represented himself in a jury trial before the Alabama Circuit Court and was at no time offered assistance of counsel by the state. Shelton was convicted of third-degree assault a class A misdemeanor assault (that carried a maximum punishment of one year imprisonment and a \$2,000 fine) and sentenced to a 30-day jail term, which the court suspended and replaced with two years' unsupervised probation. The Alabama Supreme Court reversed the suspended sentence based on *Argersinger* and *Scott*, which the U.S. Supreme Court affirmed.

²¹ A "critical stage" encompasses both the formal and informal stages of prosecution, in court or not (*United States v. Wade*, 1967), including line-up identifications (*Wade*, 1967), arraignments (*Hamilton v. Alabama*, 1961), preliminary hearings (*Coleman v. Alabama*, 1970), plea negotiations/pleas (*White v. Maryland*, 1963), and appeals (*Douglas v. California*, 1963).

²² Another way of saying this would be that a defendant's 6th Amendment right to counsel attaches when the government initiates adversarial judicial criminal proceedings (i.e., formal charge, arraignment, preliminary hearing, indictment, or information). The 6th Amendment right to counsel does not arise upon arrest (unless formal charges are already filed), although a criminal defendant does have a 5th Amendment right (*Miranda v. Arizona*, 1966) to consult with an attorney during custodial interrogation by the police even if no formal charges have been brought and no arrest has been made. U.S. Const. amend. V.

²³ The proper standard for showing "prejudice" requires a defendant to show there is a reasonable probability, but for the errors by counsel, the proceeding results would have been different.

Commonwealth of Pennsylvania

Article I, § 9 - Constitution of the Commonwealth of Pennsylvania.

Article I (Declaration of Rights), § 9 (Rights of accused in criminal prosecutions) of the Pennsylvania Constitution currently provides (along with other criminal proceeding rights):²⁴

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel

This provision was contained within earlier versions of the Pennsylvania Constitution since 1776.

Pennsylvania Supreme Court cases indicate the Pennsylvania Constitution aligns with the U.S. Constitution in terms of an indigent criminal defendant's right to counsel at trial and, in some respects, is broader in that the right to counsel applies upon a suspect's arrest even where no formal proceedings have commenced,²⁵ in postconviction proceedings (including both collateral attacks and direct appeals), and parole revocation hearings (on a case-by-case basis).

Article IX, § 4 - Constitution of the Commonwealth of Pennsylvania

(1968). Article IX (Local Government), § 4 (County government) of the Pennsylvania Constitution provides that county officers²⁶ shall consist of public defenders who shall be appointed.²⁷

²⁴ Pa. Const. art I, § 9.

²⁵ A series of Pennsylvania Supreme Court decisions in between and after the U.S. Supreme Court decisions in *Wade* (1967) and *Kirby* (1972) established what the Pennsylvania Supreme Court referred to as the Whiting standard in *Commonwealth v. DeHart* (1986):

The Whiting standard, which is more favorable to the accused than the federal standard, see United States v. Ash, 413 U.S. 300, 93 S. Ct. 2568, 37 L. Ed. 2d 619 (1973), recognized that a suspect is entitled to the protection afforded by the presence of counsel once the government has made a commitment to prosecute. This Court determined that in Pennsylvania such a decision was established by the arrest of the accused. To extend the Sixth Amendment right to counsel during photographic identification proceedings to any person merely suspected of a crime would be an unreasonable burden on law enforcement officials and on the taxpayer

The other Pennsylvania Supreme Court cases included:

- *Commonwealth v. Whiting* (1970), applied the *Wade* (1967) ruling (prior to the *Kirby* (1972) ruling) to any pretrial trial confrontation (except for on-the-scene identifications) occurring after arrest, but prior to any adversarial judicial criminal proceeding.
- *Commonwealth v. Richman* (1974), held arrest (regardless of type: warrantless or warrant) is the triggering event for determining the initiation of judicial proceedings.
- *Commonwealth v. Karash* (1986), held that arrest is the trigger for adversarial judicial proceedings (vs. mere custodial interrogation/custodial situation).

²⁶ All other county officers (e.g., commissioners, district attorney, etc.) are elected.

²⁷ Pa. Const. art IX, § 4.

Public Defender Act and Other Commonwealth Provisions. In 1968 the Public Defender Act was enacted and provided for the appointment (except in the County of Philadelphia)²⁸ and duties of Pennsylvania public defenders.²⁹ The Public Defender Act was enacted subsequent to the United States Supreme Court decision in *Gideon v. Wainwright* (1963) that extended the U.S. Constitution Sixth Amendment provision of free counsel for indigent criminal defendants to states in felony cases and the Article IX, § 4 Pennsylvania Constitutional (1968) provision that provided for the appointment of county public defenders.

The Public Defender Act specifies that a public defender is responsible for providing legal counsel in the following types of cases where the individual is indigent (lacks sufficient funds to obtain legal counsel):

- Where a person is charged with juvenile delinquency.
- Critical pretrial identification procedures.
- Preliminary hearings.
- State habeas corpus proceedings.
- Pennsylvania Superior Court appeals.
- Pennsylvania Supreme Court appeals.
- Postconviction hearings, including proceedings at the trial and appellate levels.
- Criminal extradition proceedings.
- Probation and parole proceedings and revocation thereof.
- Any other situations where representation is constitutionally required.

The Public Defender Act further specifies the public defender shall provide counsel in the aforementioned situations after being satisfied of an individual's inability to procure sufficient funds to obtain legal counsel and the individual has signed an affidavit indicating their inability to procure sufficient funds.³⁰

²⁸ In 1969, the City of Philadelphia contracted with the nonprofit Defender Association of Philadelphia (DAP) for it be Philadelphia's sole public defender. DAP was established in 1934 for the purpose of providing legal representation of indigent persons accused of a crime in the City of Philadelphia. DAP was purely private in character from the time of its establishment until the mid-nineteen sixties, deriving its funding from membership dues and contributions from individuals and charitable organizations. Subsequent to the U.S Supreme Court decision in *Gideon v. Wainwright* (1963) that expanded judicially mandated representation of poor person in criminal matters, DAP began to seek other funding sources. These other funding sources initially included grants and by 1967 a portion of its funding included funds from the City of Philadelphia. In 1968 a bill was introduced by Philadelphia City Council proposing a wholly new public defender program. However, pursuant to DAP's history of providing indigent persons with legal defense and its negotiations with the City of Philadelphia, DAP and the City entered a contract for public defender services.

²⁹ Public Defender Act – Act of Dec. 2, 1968 (P.L.114, No.358) – 16 P.S. §§ 9960.1-9960.13.

³⁰ The Public Defender Act further provides, when appointed by the court, the public defender shall furnish legal counsel to individuals who are or may be subject to commitment in a proceeding under the Mental Health and Mental Retardation Act of 1966.

Subsequent to the enactment of the Public Defender Act (1968) and U.S. Supreme Court decisions *Argersinger v. Hamlin* (1972) and *Coleman v. Alabama* (1970), Pennsylvania Rule of Criminal Procedure (PRCP) 122 (relating to appointment of counsel)³¹ was adopted to implement the U.S. Supreme Court decisions that provide no defendant in a summary case may be sentenced to imprisonment unless represented at trial by counsel and had counsel starting no later than the preliminary hearing. Rule 122 specifically provides counsel shall be appointed:

- *In all summary cases, for all defendants who are without financial resources or who are otherwise unable to employ counsel when there is a likelihood that imprisonment will be imposed.*
- *In all court cases, prior to preliminary hearing to all defendants who are without financial resources or who are otherwise unable to employ counsel.*
- *In all cases, by the court, on its own motion, when the interest of justice requires it.*

PRCP Rule 454 (relating to trial in summary cases)³² reiterates that an indigent criminal defendant shall have counsel assigned, as provided in Rule 122, in summary cases if there is a reasonable likelihood of a sentence of imprisonment or probation.

PRCP Rule 123 (relating to application for the assignment of counsel)³³ specifies a defendant who requests counsel based on the lack of financial resources shall file a signed and verified application for assignment of counsel.³⁴ While the Public Defender Act, consistent with the Sixth Amendment, requires public defenders to provide legal counsel to indigent criminal defendants, *Commonwealth v. Brown* (Pa. Super 1984) noted that neither the Public Defender Act nor the Pennsylvania Rules of Criminal Procedure provide standard guidelines for making such a determination. As a result, the guidelines may differ among the counties. A defendant who is not deemed indigent by a county public defender may petition the court to determine otherwise.

Following the *In re Gault* (1967) U.S. Supreme Court decision that initially extended the right of counsel to indigent juveniles, Pennsylvania codified the rights of accused juveniles (e.g., the right of juveniles to be assisted by counsel, etc.) with the enactment of the Juvenile Act of 1972.³⁵ In

³¹ 234 Pa.R.Crim.P. 122.

³² 234 Pa.R.Crim.P. 454.

³³ 234 Pa.R.Crim.P. 123.

³⁴ The current form of PRCP Rule 123 was adopted in 1984 and the comments to the rule note that the specific form of application provided for in the preceding version of the rule was deleted (1985) in that it was no longer required to control the specific form of the application.

³⁵ Juvenile Act – Act of December 6, 1972 (P.L.1464, No.333).

1976, the Juvenile Act of 1972 was replaced by the enactment within the Judicial Code of Chapter 63 (Juvenile Matters), also known as the Juvenile Act.³⁶ The Juvenile Act³⁷ provides a juvenile is entitled to representation by legal counsel at all stages of any proceeding under Chapter 63, and if the juvenile is without financial resources or otherwise unable to employ counsel, to have court appointed counsel provided. In 2012 the Juvenile Act³⁸ was amended to provide that all children are presumed indigent.³⁹

In Pennsylvania, the responsibilities of the public defender offices at a minimum consists of handling adult criminal and juvenile delinquency matters involving indigent individuals. In addition, the offices may also handle an array of other matters, including but not limited to, juvenile dependency and child custody matters, petitions to establish paternity, child support, protection from abuse (PFAs) orders, involuntary civil commitments based on severe mental health issues, etc. These additional matters vary on a county-by-county basis.

Caseload Standards

According to defense advocates, caseloads for public defenders (and other defense counsel) should ensure they have adequate time and resources to provide a quality defense. Defense advocates have also noted that caseload standards are important for ensuring a quality defense, but an attorney's overall workload may also affect representation. An attorney's workload encompasses their caseload along with consideration of case complexity (e.g., category of crime, novel legal issue, plea vs. trial, availability of support services, and nonrepresentational duties).

Pennsylvania Rules of Professional Conduct. The Pennsylvania Rules of Professional Conduct (PRPC) provide the following ethical standards

³⁶ Juvenile Act/Chapter 63 (Juvenile Matters) – Judicial Code – Act of July 9, 1976 (P.L.586, No.142) – 42 Pa.C.S. §§ 6301-6375.

³⁷ Section 6337 (relating to right to counsel) of the Juvenile Act/Chapter 63 (Juvenile Matters).

³⁸ Section 6337.1 (relating to right to counsel for children in dependency and delinquency proceedings) of the Juvenile Act/Chapter 63 (Juvenile Matters).

³⁹ Pennsylvania Rule of Juvenile Court Procedure (PRJCP) 151 also specifies that “all juveniles are presumed indigent,” although, this presumption may be rebutted if the court ascertains that the child has the financial resources to obtain counsel. 237 Pa.R.J.C.P. 151 (Assignment of Counsel).

for legal practice for all attorneys practicing in the Commonwealth of Pennsylvania:

Rule 1.1. Competence⁴⁰

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.3 Diligence⁴¹

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment:

* * *

[2] A lawyer's workload must be controlled so that each matter can be handled competently.

These ethical standards indicate that the workload of a lawyer may impact the ability of a case to be competently handled as all Commonwealth attorneys are ethically bound to ensure.

American Bar Association Principles. The American Bar Association (ABA) developed the "Ten Principles of a Public Defense Delivery System" that provides:

5. Defense counsel's workload is controlled to permit rendering of quality representation.

National Caseload Standards. Pursuant to a United States Department of Justice (DOJ) funded initiative, the National Advisory Commission on Criminal Justice Standards and Goals (NAC) was charged with formulating national criminal justice standards and goals for crime reduction and

⁴⁰ PRPC - 204 Pa. Code § 1.1

⁴¹ PRPC - 204 Pa. Code § 1.3

prevention at the state and local levels. In 1973, the resulting NAC reports⁴² prescribed various criminal justice standards, including NAC Standard 13.12 (Workload of Public Defenders) that provides:

*The caseload of a public defender office should not exceed the following: felonies per attorney per year: not more than 150; misdemeanors (excluding traffic) per attorney per year: not more than 400; juvenile court cases per attorney per year: not more than 200; Mental Health Act cases per attorney per year: not more than 200; and appeals per attorney per year: not more than 25.*⁴³

NAC caseload standards provide a rough measure of maximum caseloads for full-time public defenders that are handling cases of average complexity and have adequate support staff. While the NAC standards have proven to be resilient and have been widely adopted in many jurisdictions, caution should be used when applying any caseload standard as it is impossible to determine the caseload/workload a particular public defender is capable of handling. Some have also recommended maximum caseloads should be lower than the suggested NAC caseload standards in that workloads of public defenders reflect more complicated cases, which tend to take longer presently, because of the enactment of new crimes, new technology and science (e.g., DNA, computer- or internet-based crimes), enhanced penalties, and additional collateral consequences upon conviction.

In response to our survey, many Pennsylvania public defender offices indicated they had no formal standards in place to ensure their attorneys' workloads are controlled so that each matter can be handled competently. Public defender offices responses generally indicated the following:

- No caseload standards.
- No formal caseload standards.
- In some instances, the public defender office has only one public defender.
- Some public defender offices indicated they manually monitor caseloads and try to ensure caseloads are balanced.
- One public defender office indicated it tries to follow the American Bar Association (ABA) workload principle.
- Some public defender offices indicated they have or are getting caseload management software.

⁴² National Advisory Commission on Criminal Justice Standards and Goals (NAC) issued six reports, including the fourth report that focus on the courts and included Chapter 13, entitled, *"The Defense," omitting commentary, references, and related standards* in which encompassed NAC Standard 13.12 (Workload of Public Defenders).

⁴³ A 2011 Joint State Government Commission report on services to indigent criminal defendants referred to the NAC caseload standards per category (e.g., felony, misdemeanor, etc.) and noted the standards are mutual exclusive. Thus, if a public defender is assigned cases in more than one category, the percentage of the maximum caseload for each category should be assessed and the combined total for should not exceed 100 percent.

Commonwealth of Pennsylvania Funding

Historically, Pennsylvania indigent criminal defense services mandated under the U.S. Constitution and Pennsylvania Constitution have been and continue to be provided for by a purely localized system where funding and management of indigent criminal defense services are exclusively provided for at the county level. Indigent criminal defense funding generally continues to be provided for at the county level in the Commonwealth of Pennsylvania, although one-time state funding (PA Budget FY 2019-20) of \$500,000 was provided for indigent criminal defense in capital cases. This state funding was provided pursuant to Act 2019-20 (The Fiscal Code) as grants through the Pennsylvania Commission on Crime and Delinquency (PCCD) to reimburse Pennsylvania county costs related to indigent criminal defense in capital cases.

To obtain grant funds, counties had to apply to PCCD. To date, PCCD has distributed \$439,969 of the funds through two rounds of grants. A total of ten Pennsylvania counties have received grants, four of which were awarded grants in both rounds.⁴⁴ Exhibit 2 provides an overview of the PCCD grants awarded as of June 9, 2021.

Exhibit 2

Capital Case Indigent Defense Program Grants

County	Grant Amount	Grant Purpose
<u>2020</u>		
Adams	\$ 19,970	Mitigation expert
Berks	20,000	Mitigation specialist
Blair	20,000	Mitigation specialist
Bucks	20,000	Psychologist and mitigation specialist
Lancaster	39,999	Mitigation specialist, forensic psychiatrist, forensic neuropsychologist, and a specialist with forensic digital/video experience
Luzerne	20,000	Private Investigator and mitigation specialist
Northampton	80,000	Expert witness, investigator, mitigation specialist, and forensic psychologist
TOTAL:	\$ 219,969	
<u>2021</u>		
Beaver	20,000	Mitigation expert
Berks	20,000	Mitigation expert
Blair	40,000	Capital mitigation expert, neuropsychologist, therapeutic services
Bucks	40,000	Preparation of trial exhibits, e.g., photos and videos, and travel
Clinton	20,000	Expert witness and investigator

⁴⁴ PCCD anticipates (pending a budgetary waiver) doing a third grant round to distribute the remaining \$60,031 in one-time funding.

Exhibit 2 Continued

County	Grant Amount	Grant Purpose
Northampton	20,000	Expert witness, forensic scientist, investigator, mitigation specialist, and psychiatrist/psychologist
Potter	60,000	Mitigation specialist, expert witness services, private investigative services, and psychological services.
TOTAL:	\$ 220,000	
GRAND TOTAL:	\$ 439,969	

Source: Pennsylvania Commission on Crime and Delinquency.

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SECTION III PUBLIC DEFENDER FUNDING



Fast Facts...

- ❖ *No explicit direction is provided on how states are to execute or fund constitutionally mandated indigent criminal defense services.*
- ❖ *States may place some or all their constitutional responsibilities for the Sixth Amendment on local governments.*
- ❖ *Public defenders' offices are primarily funded by county funds.*

Overview

The LBFC was directed to review the funding of the 67 county public defender offices across the Commonwealth of Pennsylvania. While states are constitutionally obligated to provide indigent criminal defense services pursuant to the Sixth Amendment, no explicit direction is provided on how these services are to be executed or funded. States are left to their own discretion regarding administration and funding.

This section discusses how administration and funding for indigent criminal defense services are handled in Pennsylvania, as well as other states.

A. Administration of Indigent Criminal Defense Services

While states may place some or all their constitutional responsibilities of the Sixth Amendment on local governments, states must guarantee that local governments are not only capable of providing adequate representation, but that they are, in fact, doing so.

Exhibit 3 illustrates how states are classified in terms of providing for the administration of indigent criminal defense services:

- State-run services: States that administer ALL indigent criminal defense services at the state-level.
- Mixed State and local-run (mixed-run) services: States that require shared administration of indigent criminal defense services between state and local governments. This includes states that split the administration of services between the state and local governments by case type. States that have state-run services only in certain regions of a state are also included in this category.
- Minimal or no State-run (local-run) services: States that place most of the administration of indigent criminal defense services on local governments. This category includes those states that administer ALL or a portion of indigent criminal defense services at the local level.

Exhibit 3

Administration of Indigent Defense Services

Service Classification	States
State-run services	Alaska, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, Wyoming
Mixed-run services	Florida, Kansas, New Jersey, Nevada, New York, Ohio, Oklahoma
Local-run services	Alabama, Arizona, California, Georgia, Idaho, Illinois, Indiana, Louisiana, Michigan, Mississippi, Nebraska, North Carolina, Pennsylvania , South Carolina, South Dakota, Tennessee, Texas, Utah, Washington

Source: Developed by LBFC staff with information provided by the Sixth Amendment Center.

All indigent criminal defense services in Pennsylvania are administered at the county-level with no assistance or oversight from the Commonwealth. Counties administer services through a mix of both full-time and part-time attorneys. Conflict representation may be handled by private attorneys, although how this is handled varies from county to county.

B. Funding Classifications of Indigent Defense Services

As shown in Exhibit 4, indigent criminal defense services are funded differently in each state. Pennsylvania and South Dakota are the only two states that generally provide no state funding for the administration of indigent criminal defense services. According to a study by the Sixth Amendment Center, states fall into one of three classifications of funding:⁴⁵

- State-funded services: States that absorb all costs of indigent criminal defense services, even if alternative revenue sources are

⁴⁵ *Right to Counsel Services in the 50 States - An Indigent Defense Reference Guide for Policymakers* (March 2017) conducted by the Sixth Amendment Center.

used by local governments in addition to state general fund appropriations. Five states⁴⁶ allow, but do not require, local governments to use alternative revenues to augment state funding.

- Mixed State and local-funded services: States that share the financial responsibility of indigent criminal defense services with local governments.
- Minimal or no State-funded services: States that place most or all funding for indigent criminal defense services on local governments with little to no state assistance. This includes those states that pay for all, or a portion of, indigent criminal defense appellate services and place all funding responsibility of indigent criminal defense trial-level services on local governments.

Exhibit 4

State Funding Classifications of Indigent Criminal Defense Services

State	Funding Source	Additional Notes
Alabama	State	Counties do not contribute to funding of indigent criminal defense services; however, the state allows an alternative funding method in the form of a state civil filing fee which is collected and deposited into the Fair Trial Tax Fund. ^a If the costs of indigent criminal defense services exceed the money in the fund, the state is constitutionally obligated to provide funding through a State General Fund appropriation.
Alaska	State	State General Fund appropriation.
Arizona	Minimal State	The state provides no funding for trial-level services, however, the state will pay a portion of fees incurred when appointed counsel represents a capital defendant in state post-conviction relief.
Arkansas	State	Arkansas Supreme Court Case, <i>State v. Independence County</i> , held the state is responsible for funding indigent criminal defense services. Counties and municipalities may augment state funding, with the city of Little Rock being the only municipality that augments funds.
California	Minimal State	The state provides no funding for trial-level services, but funds representation in direct appeals and post-conviction proceedings in both capital and non-capital cases.
Colorado	State	State General Fund appropriation.
Connecticut	State	State General Fund appropriation.
Delaware	State	State General Fund appropriation.
District of Columbia	Federal	Federal Congressional appropriation.
Florida	State	State General Fund appropriation.
Georgia	Mixed State & Local	Counties are required to fund trial-level services, but the state provides some funding to reimburse a portion of the counties' costs.

⁴⁶ States that augment state funding: Alabama, Arkansas, Kentucky, Louisiana, and Virginia.

Exhibit 4 Continued

State	Funding Source	Additional Notes
Hawaii	State	State General Fund appropriation.
Idaho	Mixed State & Local	Counties are the primary funding source for trial-level and misdemeanor appellate indigent criminal defense services, and the state funds most indigent criminal defense services for felony appeals.
		The state recently enacted statutes that when fully implemented, will provide significant state money to local jurisdictions to meet state-imposed standards.
Illinois	Minimal State	The state provides minimal funding for trial-level indigent criminal defense services while appellate services are state-funded. The state covers 66.6 percent of the cost of the chief defender's salary in each county with a standing public defender. ^b
Indiana	Mixed State & Local	Counties are required to fund trial-level services, but the state then provides some funding to reimburse a portion of the counties' costs. The state reimburses the cost of providing indigent defense services (up to 45 percent in non-capital trial services not including misdemeanors and 50 percent for capital trial services) to those counties that opt to meet state-standards. ^c
Iowa	State	State General Fund appropriation.
Kansas	Mixed State & Local	Splits the cost of representation by case type: State pays for all appellate and felony representation, and counties pay for misdemeanor and juvenile delinquency representation.
Kentucky	State	The state fully funds indigent criminal defense services in all counties, except Jefferson County. Funding for the Jefferson County system is a combination of county and state money. Jefferson County is authorized to, and does, augment state funding with local money.
Louisiana	State	Most of the funding for trial-level indigent criminal defense services is from non-government generated alternative revenue such as court fines and fees. ^d
Maine	State	State General Fund appropriation.
Maryland	State	State General Fund appropriation.
Massachusetts	State	State General Fund appropriation.
Michigan	Mixed State & Local	Counties are the primary funding source for trial-level and misdemeanor appellate indigent criminal defense services, and the state funds most indigent criminal defense services for felony appeals.
		The state recently enacted statutes that when fully implemented, will provide significant state money to local jurisdictions to meet state-imposed standards.
Minnesota	State	State General Fund appropriation.
Mississippi	Minimal State	Cities and towns are the primary funding source for indigent criminal defense services. A combination of both a low tax burden and revenue raising restrictions from the state, causes local governments to rely heavily on court fees and assessments to fund indigent criminal defense services. The state provides minimal funding for trial-level indigent criminal defense services while appellate services are state-funded.
Missouri	State	State General Fund appropriation.
Montana	State	State General Fund appropriation.

Exhibit 4 Continued

State	Funding Source	Additional Notes
Nebraska	Minimal State	Counties bear most of the burden of indigent criminal defense services, with a state-funded office that deals directly with some capital trials, appeals, and some serious non-capital felonies involving drugs and violent crime.
Nevada	Minimal State	The state provides representation in counties that opt into state-run public defenders; however, the counties pay approximately 80 percent of the cost. The only local governments to opt into state-run public defenders are White Pine and Carson City.
New Hampshire	State	State General Fund appropriation.
New Jersey	Mixed State & Local	The cost of indigent criminal defense services is split between state and local governments based on case-type. Adult felony and juvenile delinquency cases are handled and funded by the state, while misdemeanor cases are handled and funded by local governments.
New Mexico	State	State General Fund appropriation.
New York	Mixed State & Local	Local governments bear most of the cost of indigent criminal defense services. The state also provides limited resources to improve defense services in other counties. The state provides all funding for trial-level services in five counties. ^e
North Carolina	State	State General Fund appropriation.
North Dakota	State	State General Fund appropriation.
Ohio	Mixed State & Local	Counties are required to fund trial-level services, but the state provides some amount of funding to reimburse (up to 50 percent) a portion of the counties' costs of providing trial-level representation.
Oklahoma	Mixed State & Local	The state provides almost all funding for indigent criminal defense services, however, there are two local governments (Oklahoma City and Tulsa) that established public defender offices prior to the creation of the Oklahoma Indigent Defense System and therefore do not receive full state funding.
Oregon	State	The state is fully responsible for funding indigent criminal defense services in state trial courts, while local governments are responsible for funding indigent criminal defense services in justice and municipal courts.
Pennsylvania	Minimal State	No state funding. Indigent defense services are 100 percent funded by the counties.^f
Rhode Island	State	State General Fund appropriation.
South Carolina	Mixed State & Local	Indigent defense services are state administered, but all counties are asked to fund a portion of the cost.
South Dakota	Minimal State	No state funding.
Tennessee	Mixed State & Local	The state provides almost all funding for indigent criminal defense services, except for Shelby, Davidson, and Knox Counties. ^g
Texas	Mixed State & Local	Counties are required to fund trial-level services, but the state provides some amount of funding to reimburse a portion of the counties' costs (for certain case types).

Exhibit 4 Continued

State	Funding Source	Additional Notes
Utah	Mixed State & Local	Local governments are responsible for the full cost of indigent criminal defense services but can apply for grants from the Indigent Defense Resources Restricted Account within the State General Fund. ^h
		The state recently enacted statutes that when fully implemented, will provide significant state money to local jurisdictions to meet state-imposed standards.
Vermont	State	State General Fund appropriation.
Virginia	State	State General Fund appropriation. Counties could augment state funds, however, there are no counties that do so.
Washington	Minimal State	Indigent defense services are, for the most part, entirely funded by the counties.
West Virginia	State	State General Fund appropriation.
Wisconsin	State	State General Fund appropriation.
Wyoming	Mixed State & Local	Indigent defense services are state administered, but all counties are asked to fund a portion of the cost.

^a ALA Code § 12-19-72 requires Alabama circuit and district courts to assess, collect, and remit civil filing fees to the “Fair Trial Tax Fund” established under ALA Code § 12-19-251.

^b In Illinois, not every county has a public defender; counties must determine for themselves how much to fund indigent criminal defense services with no oversight by the state.

^c In Indiana, as of 2015, 37 of the 92 counties chose not to participate in the state’s non-capital case reimbursement program and only 43 counties have applied for reimbursement of 50 percent of their defense expenses.

^d In Louisiana, each judicial district has a Judicial District Indigent Defender Fund that receives payment from the following: a \$45 fee assessed on convictions for all offenses other than parking violations and on bond forfeitures (La. Rev. Stat. Ann. §§ 15:168 (2015)); and a \$40 nonrefundable application fee for individuals seeking appointed counsel (La. Rev. Stat. Ann. §§15:175.A.(1)(f)-(h) (2015), individuals who are financially able may be ordered to reimburse the fund for their representation (La. Rev. Stat. Ann. §§ 15:176 (2015).

^e The New York state/county funding split does not include state money for juvenile representation in delinquency and family court matters, civil commitment of all kinds, and many, though not all, sex offender registration appeals.

^f As previously noted in Section I, funding for indigent criminal defense services in Pennsylvania are primarily funded by counties, however, in FY 2019-20, pursuant to Act 2019-20 (Fiscal Code) \$500,000 in grants were available through PCCD.

^g Both Shelby and Davidson Counties had public defender offices established prior to the creation of the Tennessee District Public Defender Conference and both counties contribute a significant amount of funding. Knox County augments its state funding with the 75 percent rule.

^h The Indigent Defense Resources Restricted Account receives deposits from the Utah state general fund appropriations and any funds obtained from other sources such as private or federal funding.

Source: Developed by LBFC staff with information provided by the Sixth Amendment Center.

C. Pennsylvania Demographics and County Funding of Indigent Criminal Defense Services

Below we present information about Pennsylvania demographics and corresponding county indigent criminal defense services funding data.

Pennsylvania Demographics

Pursuant to Article II of Act 1955-130 (The County Code), Pennsylvania is divided into 67 counties that are responsible for the provision and funding of indigent criminal defense services. Pennsylvania's 67 counties are classified based on population as illustrated in Exhibit 5.

Exhibit 5

Classification by County

Classification	Counties	Population Range
1	Philadelphia	1,500,000 or more
2	Allegheny	800,000 – 1,499,999
2A	Bucks, Delaware, Montgomery	500,000 – 799,999
3	Berks, Chester, Cumberland, Dauphin, Erie, Lackawanna, Lancaster, Lehigh, Luzerne, Northampton, Westmoreland, York	210,000 – 499,999
4	Beaver, Butler, Cambria, Centre, Fayette, Franklin, Monroe, Schuylkill, Washington	145,000 – 209,999
5	Adams, Blair, Lawrence, Lebanon, Lycoming, Mercer, Northumberland	90,000 – 144,999
6	Armstrong, Bedford, Bradford, Carbon, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Greene, Huntingdon, Indiana, Jefferson, McKean, Mifflin, Perry, Pike, Somerset, Susquehanna, Tioga, Venango, Warren, Wayne	45,000 – 89,999
7	Juniata, Snyder, Union, Wyoming	20,000 – 44,999
8	Cameron, Forest, Fulton, Montour, Potter, Sullivan	Less than 20,000

Source: Developed by LBFC staff with information provided by the Center for Rural PA.

Exhibit 6 presents the population, median income, poverty rate, unemployment rate, and crime rate for each county.

Exhibit 6

County Demographics

County	Population (2019)	Median Income (2019)	Poverty Rate (2019) %	Unemployment Rate (2019) %	Crime Rate (2017) ^a
Adams	103,009	\$67,253	7.6	3.3	899
Allegheny	1,216,045	61,043	10.8	4.1	2,178
Armstrong	64,735	51,410	11.1	5.1	999
Beaver	163,929	57,807	11.7	4.5	2,046
Bedford	47,888	50,509	10.4	4.7	1,154
Berks	421,164	63,728	10.2	4.3	1,732
Blair	121,829	49,181	14.9	4.5	1,648
Bradford	60,323	52,358	14.3	4.4	1,620
Bucks	628,270	89,139	5.7	3.8	1,425
Butler	187,853	70,668	7.8	3.9	1,151
Cambria	130,192	46,659	14.9	5.3	1,587
Cameron	4,447	41,165	14.0	6.0	1,688
Carbon	64,182	57,006	9.8	5.4	2,111
Centre	162,385	60,403	15.9	3.3	1,143
Chester	524,989	100,214	5.9	3.2	1,120
Clarion	38,438	46,680	14.1	4.9	831
Clearfield	79,255	49,015	13.7	5.2	1,757
Clinton	38,632	50,293	13.4	5.4	1,169
Columbia	64,964	50,550	14.7	4.8	1,351
Crawford	84,629	50,304	12.6	4.7	1,441
Cumberland	253,370	71,269	7.2	3.4	1,193
Dauphin	278,299	60,715	11.3	4.0	2,441
Delaware	566,747	74,477	9.9	4.0	2,118
Elk	29,910	53,440	9.8	4.9	1,575
Erie	269,728	51,529	16.6	4.6	2,062
Fayette	129,274	47,346	17.5	5.9	2,034
Forest	7,247	39,717	26.0	6.8	1,081
Franklin	155,027	63,379	8.1	3.8	1,513
Fulton	14,530	53,476	12.2	4.4	953
Greene	36,233	54,776	14.2	5.1	1,721
Huntingdon	45,144	51,678	13.0	5.9	1,210
Indiana	84,073	49,320	14.0	5.0	1,443

Exhibit 6 Continued

County	Population (2019)	Median Income (2019)	Poverty Rate (2019) %	Unemployment Rate (2019) %	Crime Rate (2017)^a
Jefferson	43,425	47,603	16.4	4.7	1,052
Juniata	24,763	53,879	10.4	4.4	654
Lackawanna	209,674	52,812	14.2	4.9	1,823
Lancaster	545,724	66,056	10.5	3.4	1,545
Lawrence	85,512	50,204	12.3	5.1	1,698
Lebanon	141,793	60,281	10.4	3.9	1,462
Lehigh	369,318	63,897	11.5	4.5	2,101
Luzerne	317,417	53,473	15.2	5.7	1,883
Lycoming	113,299	54,241	13.6	4.8	1,851
McKean	40,625	48,647	14.6	5.3	1,677
Mercer	109,424	50,696	13.1	4.9	1,827
Mifflin	46,138	50,219	13.3	4.7	1,461
Monroe	170,271	63,934	12.2	5.4	2,171
Montgomery	830,915	91,546	6.0	3.5	1,630
Montour	18,230	58,333	9.1	3.6	1,352
Northampton	305,285	70,471	7.9	4.5	1,826
Northumberland	90,843	48,671	13.3	5.6	1,406
Perry	46,272	63,718	8.9	3.7	1,147
Philadelphia	1,584,064	45,927	23.0	5.5	4,031
Pike	55,809	65,928	9.2	5.6	1,317
Potter	16,526	45,419	11.7	5.9	998
Schuylkill	141,359	52,280	11.7	5.4	1,504
Snyder	40,372	58,997	10.3	5.4	1,321
Somerset	73,447	49,089	12.5	5.3	900
Sullivan	6,066	47,407	12.9	5.2	814
Susquehanna	40,328	54,966	11.3	4.3	1,189
Tioga	40,591	51,324	13.4	5.3	2,178
Union	44,923	59,399	12.0	4.0	1,027
Venango	50,668	49,945	12.5	4.9	1,262
Warren	39,191	50,250	13.5	4.5	1,237
Washington	206,865	63,543	9.9	4.5	1,536
Wayne	51,361	56,096	12.4	4.7	1,246
Westmoreland	348,899	60,471	10.5	4.5	1,358

Exhibit 6 Continued

County	Population (2019)	Median Income (2019)	Poverty Rate (2019) %	Unemployment Rate (2019) %	Crime Rate (2017) ^a
Wyoming	26,794	59,415	9.9	4.9	1,326
York	449,058	66,457	9.2	3.8	1,695

^a Crime rate is the number of crimes per 100,000 residents.

Source: Developed by LBFC staff with information provided by the Center for Rural PA and the United States Census Bureau.

As previously noted, Article IX, § 4 of the Constitution of the Commonwealth of Pennsylvania provides for county public defenders, which are appointed (except for Philadelphia) pursuant to the Public Defender Act.

Historically, Pennsylvania public defenders' offices and the mandated services administered by the offices have generally continued to be funded by each individual county.

County funding and Public Defender Office expenditures

In Pennsylvania funding for indigent criminal defense services is primarily provided by counties through county budgets. Funding sources for county budgets include local tax revenues and public defenders' offices revenues (in limited instances).

Revenues to fund the public defenders' offices include sources such as: charges for services, miscellaneous receipts, employee insurance contributions, filing fees, local revenue, public defender fees, state/federal grants, etc.⁴⁷ While some public defender offices generate revenues, those revenues represent only a portion of those offices' overall budgets that are primarily funded by county appropriations.

⁴⁷ It should be noted, not all public defenders' offices reported revenues. The sources of revenues reported varies from county to county along with the nomenclature used.

Office expenditures⁴⁸ include staff benefits and salaries, services, office supplies, phone, computer supplies, staff development, equipment maintenance and repair, postage, etc. Services can include the following: professional services,⁴⁹ contracted services,⁵⁰ and contracted legal services.⁵¹ The specific services that fall into these different categories vary by county.

Exhibit 7 shows each county's actual expenditures and revenues for the period of review, 2018 to 2020.

Exhibit 7

Public Defender Expenditures and Revenues by County (CY 2018-2020)

County	2018		2019		2020	
	Expenditures	Revenues	Expenditures	Revenues	Expenditures	Revenues
Adams	\$ 600,490	\$ - ^a	\$ 644,908	\$ -	\$ 711,125	\$ 19,905
Allegheny	9,278,130	14,948	9,340,529	10,459	9,172,627	-
Armstrong	243,564	2,502	210,108	646	227,400	1,953
Beaver	1,445,214	-	1,451,370	-	1,427,596	-
Bedford	219,356	-	229,925	-	213,368	-
Berks	3,328,655	-	3,412,535	-	3,539,961	-
Blair	757,861	5,500	883,030	6,090	935,696	8,700
Bradford	252,342	-	261,583	-	250,202	-
Bucks	4,132,778	5	4,092,827	-	3,819,801	3,519
Butler	1,043,910	-	1,077,160	-	890,747	-
Cambria	919,922	-	916,905	-	927,898	-
Cameron	44,564	-	48,008	-	35,559	-
Carbon	630,304	-	611,263	-	585,216	-
Centre	1,143,321	289,442	1,179,175	232,038	1,110,081	69,531
Chester	3,985,552	-	4,108,812	18,390	4,255,171	87,995

⁴⁸ Expenditures reported may vary from county to county in terms of the categories of expenditure data provided.

⁴⁹ Professional services include, but are not limited to, expert services, transcription services, record services, and interpreters.

⁵⁰ Contracted services include, but are not limited to, court appointed conflict counsel, legal research programs, temporary staff, investigators, and other litigation.

⁵¹ Legal services include, but are not limited to, out of county attorneys, legal research programs/subscriptions, mental health commitment hearings, contracts with attorneys for other services, and constables serving subpoenas.

Exhibit 7 Continued

County	2018		2019		2020	
	Expenditures	Revenues	Expenditures	Revenues	Expenditures	Revenues
Clarion	265,303	-	263,998	-	307,068	-
Clearfield	403,216	362	427,331	435	440,307	172
Clinton	350,973	-	351,817	-	359,565	-
Columbia	489,046	-	575,382	-	641,031	-
Crawford	816,064	-	727,744	352	558,310	-
Cumberland	1,424,039	7,300	1,545,171	9,200	1,604,083	7,130
Dauphin	3,902,280	3,450	4,024,005	-	3,811,913	-
Delaware	4,002,706	-	4,152,395	-	3,769,477	-
Elk	152,854	-	160,639	-	166,674	-
Erie	1,485,465	-	1,498,725	765	1,755,212	477
Fayette	603,595	-	1,195,211	-	731,302	-
Forest	114,745	37,627	102,718	4,332	58,546	-
Franklin	688,487	-	785,102	-	727,352	-
Fulton	77,370	-	91,277	-	86,203	-
Greene	298,683	1,370	301,663	1,050	322,094	363
Huntingdon	379,870	-	507,195	-	507,052	-
Indiana	420,460	-	380,070	-	423,858	1,275
Jefferson	338,041	3,958	243,553	6,119	265,915	7,406
Juniata	152,420	-	173,177	-	195,640	-
Lackawanna	1,109,944	-	1,246,434	-	1,314,502	-
Lancaster	3,248,136	18,056	3,476,518	27,608	3,366,945	54,298
Lawrence	755,731	-	835,249	-	755,604	-
Lebanon	841,816	-	836,455	-	861,920	-
Lehigh	2,631,723	-	2,698,320	-	2,805,764	-
Luzerne	2,465,457	360,445	2,391,013	356,939	2,411,349	262,224
Lycoming	674,906	-	729,645	-	888,758	-
McKean	447,485	-	468,913	-	491,508	-
Mercer	1,098,898	-	1,123,443	-	1,084,303	-
Mifflin	150,974	-	147,438	-	141,921	-
Monroe	1,837,527	1,065	1,995,943	20	1,911,627	-
Montgomery	5,209,890	211,463	5,656,455	267,468	5,375,577	27,000
Montour	121,930	-	113,180	-	121,250	-

Exhibit 7 Continued

County	2018		2019		2020	
	Expenditures	Revenues	Expenditures	Revenues	Expenditures	Revenues
Northampton ^b						
Northumberland	506,188	-	494,377	-	476,085	170,000
Perry	188,013	-	193,440	-	186,116	-
Philadelphia	45,596,609	-	47,832,909	-	48,483,359	-
Pike	358,005	-	357,218	-	333,761	-
Potter	185,019	-	212,063	-	247,222	-
Schuylkill	825,101	28,113	800,631	95,081	793,366	49,534
Snyder	184,264	-	191,064	-	190,426	-
Somerset	365,056	5,830	333,457	3,785	324,842	2,340
Sullivan	39,806	-	39,805	-	41,361	-
Susquehanna	200,414	-	216,152	-	263,170	-
Tioga	341,911	603	335,217	-	384,095	-
Venango	735,447	39,808	845,978	39,586	885,068	70,599
Warren	183,848	-	172,625	-	165,349	-
Washington	1,134,733	-	1,213,465	-	1,222,838	-
Wayne	230,814	-	323,368	-	323,501	-
Westmoreland	1,302,081	-	1,312,204	-	1,207,215	-
Wyoming	141,272	-	164,873	-	215,809	-
York	2,422,031	-	3,352,963	-	3,012,420	-
Total:	\$120,150,423	\$1,031,847	\$126,328,569	\$1,080,363	\$125,399,960	\$844,421

^a The spaces with a dash (-) reflect no revenue collection in a particular calendar year.

^b Northampton County did not provide actual revenues and expenditures for the requested timeframe. Although we did obtain Northampton County's approved budget numbers for CYs 2019 and 2020, which reflected total expenditures of \$17 million (CY 2019) and \$1.7 million (CY 2020).

Source: Developed by LBFC staff from information provided by the counties.

As would be expected, crime rates and indigent criminal defense expenditures differ among the counties. Philadelphia County, with a crime rate of over 4,000 crimes per 100,000 people, spent \$48.5 million on indigent criminal defense in 2020, the highest among the 67 counties. Cameron County, with a crime rate of approximately 1,600 crimes per 100,000 people spent the least amount on indigent criminal defense in 2020 at \$35,559. Exhibit 7 further illustrates the expenditure breakdown for each of the 67 counties.

The ten counties with the highest expenditures for CY 2020 were:

- Philadelphia County: \$48.5 million.
- Allegheny County: \$9.2 million.
- Montgomery County: \$5.4 million.
- Chester County: \$4.3 million.
- Bucks County: \$3.8 million.
- Dauphin County: \$3.8 million.
- Delaware County: \$3.8 million.
- Berks County: \$3.5 million.
- Lancaster County: \$3.4 million.
- York County: \$3.0 million.

The ten counties with the lowest expenditures for CY 2020 were:

- Cameron County: \$35,559.
- Sullivan County: \$41,361.
- Forest County: \$58,546.
- Fulton County: \$86,203.
- Montour County: \$121,250.
- Mifflin County: \$141,921.
- Warren County: \$165,349.
- Elk County: \$166,674.
- Perry County: \$186,116.
- Snyder County: \$190,426.

Exhibit 8 shows the breakdown of per capita spending per county for CY 2019.

Exhibit 8

**Public Defender Expenditures Per Capita
(CY 2019^a)**

County	Population	Expenditures	Per Capita
Adams	103,009	\$ 644,908	\$ 6.26
Allegheny	1,216,045	9,340,529	7.68
Armstrong	64,735	210,108	3.25

Exhibit 8 Continued

County	Population	Expenditures	Per Capita
Beaver	163,929	1,451,370	8.85
Bedford	47,888	229,925	4.80
Berks	421,164	3,412,535	8.10
Blair	121,829	883,030	7.25
Bradford	60,323	261,583	4.34
Bucks	628,270	4,092,827	6.51
Butler	187,853	1,077,160	5.73
Cambria	130,192	916,905	7.04
Cameron	4,447	48,008	10.80
Carbon	64,182	611,263	9.52
Centre	162,385	1,179,175	7.26
Chester	524,989	4,108,812	7.83
Clarion	38,438	263,998	6.87
Clearfield	79,255	428,331	5.40
Clinton	38,632	351,817	9.11
Columbia	64,964	575,382	8.86
Crawford	84,629	727,744	8.60
Cumberland	253,370	1,545,171	6.10
Dauphin	278,299	4,024,005	14.46
Delaware	566,747	4,152,395	7.33
Elk	29,910	160,639	5.37
Erie	269,728	1,498,725	5.56
Fayette	129,274	1,195,211	9.25
Forest	7,247	102,718	14.17
Franklin	155,027	785,102	5.06
Fulton	14,530	91,277	6.28
Greene	36,233	301,663	8.33
Huntingdon	45,144	507,195	11.24
Indiana	84,073	380,070	4.52
Jefferson	43,425	243,553	5.61
Juniata	24,763	173,177	6.99
Lackawanna	209,674	1,246,434	5.94
Lancaster	545,724	3,476,518	6.37
Lawrence	85,512	835,249	9.77
Lebanon	141,793	836,455	5.90
Lehigh	369,318	2,698,320	7.31
Luzerne	317,417	2,391,013	7.53
Lycoming	113,299	729,645	6.44
McKean	40,625	468,913	11.54
Mercer	109,424	1,123,443	10.27
Mifflin	46,138	147,438	3.20
Monroe	170,271	1,995,943	11.72
Montgomery	830,915	5,656,455	6.81
Montour	18,230	113,180	6.21
Northampton ^b	305,285		
Northumberland	90,843	494,377	5.44
Perry	46,272	193,440	4.18

Exhibit 8 Continued

County	Population	Expenditures	Per Capita
Philadelphia	1,584,064	47,832,909	30.20
Pike	55,809	357,218	6.40
Potter	16,526	212,063	12.83
Schuylkill	141,359	800,631	5.66
Snyder	40,372	191,064	4.73
Somerset	73,447	333,457	4.54
Sullivan	6,066	39,805	6.56
Susquehanna	40,328	216,152	5.36
Tioga	40,591	335,217	8.26
Union	44,923	242,443	5.40
Venango	50,668	845,978	16.70
Warren	39,191	172,625	4.40
Washington	206,865	1,213,465	5.87
Wayne	51,361	323,368	6.30
Westmoreland	348,899	1,312,204	3.76
Wyoming	26,794	164,873	6.15
York	449,058	3,352,963	7.47

^a CY 2019 expenditures and population data was used because it was the only full set of data we were able to obtain for population.

^b Northampton County did not provide actual revenue and expenditure information for the requested timeframe.

Source: Developed by LBFC staff from information provided by the counties and the US Census Bureau.

Philadelphia County, with a population of 1.6 million, had the highest spending per capita at \$30.20. Mifflin County, with a population of 46,000 had the lowest spending per capita at just \$3.20. The average expenditure per capita was \$7.63.

The ten counties with the highest per capita expenditures in 2019 were:

- Philadelphia County: \$30.20.
- Venango County: \$16.70.
- Dauphin County: \$14.46.
- Forest County: \$14.17.
- Potter County: \$12.83.
- Monroe County: \$11.72.
- McKean County: \$11.54.
- Huntingdon County: \$11.24.
- Cameron County: \$10.80.
- Mercer County: \$10.27.

The ten counties with the lowest per capita expenditures in 2019 were:

- Mifflin County: \$3.20.
- Armstrong County: \$3.25.
- Westmoreland County: \$3.76.
- Perry County: \$4.18.
- Bradford County: \$4.34.
- Warren County: \$4.40.
- Indiana County: \$4.52.
- Somerset County: \$4.54.
- Snyder County: \$4.73.
- Bedford County: \$4.80.

Exhibit 9 shows the expenditures per disposed case in each county for CY 2020.

Exhibit 9

Public Defender Average Expenditures Per Case Disposed (CY 2020)

County	Expenditures	# Of Cases Disposed	Total Cost Per Case
Adams	\$ 711,725	717	\$ 991.81
Allegheny	9,172,627	8,354	1,097.99
Armstrong	227,400	438	519.18
Beaver	1,427,596	1,324	1,078.24
Bedford	213,368	392	544.31
Berks	3,539,961	2,553	1,386.59
Blair	935,696	1,374	681.00
Bradford	250,202	392	638.27
Bucks	3,819,801	1,967	1,941.94
Butler	890,747	1,014	878.45
Cambria	927,898	1,225	757.47
Cameron	35,559	56	634.98
Carbon	585,216	598	978.62
Centre	1,110,081	598	1,856.32
Chester	4,225,171	1,894	2,246.66
Clarion	307,068	307	1,000.22
Clearfield	440,307	464	948.94
Clinton	359,565	450	799.03
Columbia	641,031	449	1,427.69
Crawford	558,310	639	873.72
Cumberland	1,604,083	2,052	781.72
Dauphin	3,811,913	3,454	1,103.62
Delaware	3,769,477	2,443	1,542.97
Elk	166,674	328	508.15
Erie	1,755,212	1,942	903.82
Fayette	731,302	1,369	534.19
Forest	58,546	42	1,393.95

Exhibit 9 Continued

County	Expenditures	# Of Cases Disposed	Total Cost Per Case
Franklin	727,352	1,024	710.30
Fulton	86,203	94	917.05
Greene	322,094	303	1,063.02
Huntingdon	507,052	237	2,139.46
Indiana	423,858	561	755.54
Jefferson	265,915	355	749.06
Juniata	195,640	132	1,482.12
Lackawanna	1,314,502	1,070	1,228.51
Lancaster	3,366,945	2,065	1,630.48
Lawrence	755,604	623	1,212.85
Lebanon	861,920	837	1,029.77
Lehigh	2,805,764	1,434	1,956.60
Luzerne	2,411,349	2,431	991.92
Lycoming	888,758	1,130	786.51
McKean	491,508	293	1,677.50
Mercer	1,084,303	967	1,121.31
Mifflin	141,921	500	283.84
Monroe	1,911,627	1,952	979.32
Montgomery	5,375,577	1,959	2,744.04
Montour	121,250	72	1,684.03
Northampton ^a		1,175	
Northumberland	476,085	540	881.64
Perry	186,116	278	669.48
Philadelphia	48,483,359	12,762	3,799.04
Pike	333,761	278	1,200.58
Potter	247,222	132	1,872.89
Schuylkill	793,366	1,278	620.79
Snyder	190,426	190	1,002.24
Somerset	324,842	399	814.14
Sullivan	41,361	38	1,088.45
Susquehanna	263,170	235	1,119.87
Tioga	384,095	185	2,076.19
Union	278,879	108	2,582.21
Venango	885,068	428	2,067.92
Warren	165,349	200	826.75
Washington	1,222,838	920	1,329.17
Wayne	323,501	187	1,729.95
Westmoreland	1,207,215	1,539	784.42
Wyoming	215,809	148	1,458.17
York	3,012,420	2,565	1,174.43

^a Northampton County did not provide actual revenues and expenditure information for the requested timeframe.

Source: Developed by LBFC staff from information provided by the counties.

Philadelphia County spent, on average, the most per case disposed at \$3,799.04 and Mifflin County spent, on average, the least at \$283.84 per case disposed. Public defenders in Pennsylvania spent, on average, \$1,216.54 per case disposed.

The ten counties with the highest average per case disposed cost in 2020 were:

- Philadelphia County: \$3,799.04.
- Montgomery County: \$2,744.04.
- Union County: \$2,582.21.
- Chester County: \$2,246.66.
- Huntingdon County: \$2,139.46.
- Tioga County: \$2,076.19.
- Venango County: \$2,067.92.
- Lehigh County: \$1,956.60.
- Bucks County: \$1,941.94.
- Potter County: \$1,872.89.

The ten counties with the lowest average per case cost in 2020 were:

- Mifflin County: \$283.84.
- Elk County: \$508.15.
- Armstrong County: \$519.18.
- Fayette County: \$534.19.
- Bedford County: \$544.31.
- Schuylkill County: \$620.79.
- Cameron County: \$634.98.
- Bradford County: \$638.27.
- Perry County: \$669.48.
- Blair County: \$681.00

When reviewing Exhibits 7, 8, and 9 it should be noted that higher overall expenditures do not necessarily mean per capita, or the average cost per case, will also be high.

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SECTION IV PUBLIC DEFENDER OFFICE CASELOADS



Fast Facts...

- ❖ *HR 2019-619 directed the LBFC to determine public defender caseloads by county and by category of crime.*
- ❖ *Data is based on disposed cases.*
- ❖ *On average, 54 percent of all adult criminal cases had representation provided by a public defender.*

HR 2019-619 directed the LBFC to determine public defender caseloads by county and category of crime. We collected data regarding public defenders' offices caseloads through a detailed data request to the Administrative Office of Pennsylvania Courts (AOPC). Each county self-reports its data to various court management systems from which AOPC obtains all court information.⁵² Additionally, we also received data from the Juvenile Court Judges Commission (JCJC) that was collected through the juvenile case management system.

To remain consistent with all data, we are reporting only those cases that have been *disposed* (completed) for each calendar year pursuant to:

- Plea.
- Conviction by trial.
- Finding of not guilty.
- Dismissal of case.
- Dropped charges.
- Accelerated Rehabilitative Disposition (ARD).

In some instances, we also include data regarding appeals and indirect criminal contempt, given that defendants may also be represented by a public defender for those proceedings.

A. Adult Criminal Cases

Below we show the total number of *disposed* adult criminal cases for calendar years 2018 to 2020 and the number of those cases *wherein* the defendant was represented by a public defender. On average, 54 percent of all adult criminal cases had representation provided by a public defender.

⁵² Court data is reported through three statewide case management systems – the Magisterial District Judge System, the Common Pleas Court Management System, and the Pennsylvania Appellate Court Management System.

Exhibit 10 shows a statewide summary for each year, and Exhibit 11 shows detail by county. The data presented below include the following categories of crimes:

- Summary appeal.⁵³
- Capital murder.
- Homicide.
- Felony other than homicide.
- Misdemeanor.
- Summary offense.⁵⁴
- Ungraded offense.⁵⁵
- Indirect criminal contempt (ICC).⁵⁶

Exhibit 10

Statewide Percentage of Cases Involving a Public Defender (CY 2018-2020)

Year	Total Criminal Cases	Criminal Cases with a Public Defender	Percent of Cases with a Public Defender
2018	218,628	120,673	55.2
2019	207,596	114,711	55.3
2020	151,474	78,459	51.8

Source: Developed by LBFC Staff with data provided by AOPC.

It is noteworthy that there were fewer disposed criminal cases from 2018 to 2019, a decrease of five percent and a further drop from 2019 to 2020, a decrease of 27 percent. Although we did not determine a cause for the 27 percent decline in disposed cases as it was outside of the scope of this study, we note that 2020 marked the beginning of the COVID-19 pandemic.

⁵³ A summary appeal is an appeal of a summary offense conviction, which is appealed to the PA Court of Common Pleas.

⁵⁴ For this study, summary offenses do not include traffic violations.

⁵⁵ An ungraded offense generally includes instances where the lead charge has been dismissed or withdrawn and is thus considered disposed for purposes of how the data was reported by AOPC.

⁵⁶ Indirect criminal contempt is defined as a violation of a court order outside the immediate presence of the court and can be either criminal or civil.

Exhibit 11

**Total Adult Criminal Cases and Criminal
 Cases Involving a Public Defender by County
 (CY 2018-2020)**

County	2018			2019			2020		
	Total Criminal Cases	Cases with a PD	Percent	Total Criminal Cases	Cases with a PD	Percent	Total Criminal Cases	Cases with a PD	Percent
Adams	1,383	811	58.6	1,306	829	63.5	1,357	717	52.8
Allegheny	29,757	12,289	41.3	28,174	13,281	47.1	18,175	8,354	46.0
Armstrong	1,202	434	36.1	1,185	465	39.2	1,184	438	37.0
Beaver	3,452	1,842	53.4	3,492	1,734	49.7	2,725	1,324	48.6
Bedford	702	449	64.0	668	443	66.3	618	392	63.4
Berks	6,103	3,840	62.9	6,411	3,813	59.5	4,564	2,553	55.9
Blair	2,474	1,301	52.6	2,720	1,502	55.2	2,259	1,374	60.8
Bradford	963	526	54.6	946	450	47.6	807	392	48.6
Bucks	7,070	2,913	41.2	6,647	2,638	39.7	5,159	1,967	38.1
Butler	2,903	1,445	49.8	2,485	1,200	48.3	2,174	1,014	46.6
Cambria	2,841	1,645	57.9	2,417	1,366	56.5	2,289	1,225	53.5
Cameron	67	45	67.2	80	66	82.5	76	56	73.7
Carbon	1,423	646	45.4	1,405	747	53.2	1,266	598	47.2
Centre	2,101	901	42.9	2,096	855	40.8	1,427	598	41.9
Chester	6,245	2,580	41.3	6,280	2,472	39.4	4,962	1,894	38.2
Clarion	755	324	42.9	701	315	44.9	657	307	46.7
Clearfield	940	530	56.4	1,001	553	55.2	890	464	52.1
Clinton	656	476	72.6	711	500	70.3	649	450	69.3
Columbia	1,135	540	47.6	1,237	655	53.0	991	449	45.3
Crawford	1,143	711	62.2	1,181	744	63.0	997	639	64.1
Cumberland	4,141	2,427	58.6	3,728	2,135	57.3	3,760	2,052	54.6
Dauphin	7,348	4,423	60.2	7,951	4,770	60.0	6,110	3,454	56.5

Exhibit 11 Continued

County	2018			2019			2020		
	Total Criminal Cases	Cases with a PD	Percent	Total Criminal Cases	Cases with a PD	Percent	Total Criminal Cases	Cases with a PD	Percent
Elk	524	312	59.5	608	348	57.2	592	328	55.4
Erie	4,561	2,516	55.2	3,986	2,206	55.3	3,501	1,942	55.5
Fayette	3,275	1,846	56.4	3,303	1,705	51.6	2,792	1,369	49.0
Forest	111	49	44.1	79	37	46.8	77	42	54.5
Franklin	2,263	1,453	64.2	2,121	1,375	64.8	1,687	1,024	60.7
Fulton	233	108	46.4	252	138	54.8	208	94	45.2
Greene	502	308	61.4	568	325	57.2	472	303	64.2
Huntingdon	719	301	41.9	840	344	41.0	568	237	41.7
Indiana	1,531	918	60.0	1,449	874	60.3	976	561	57.5
Jefferson	789	453	57.4	669	319	47.7	724	355	49.0
Junia	219	155	70.8	208	146	70.2	188	132	70.2
Lackawanna	3,528	1,482	42.0	3,544	1,640	46.3	2,492	1,070	42.9
Lancaster	6,028	2,877	47.7	5,984	2,886	48.2	4,544	2,065	45.4
Lawrence	1,807	920	50.9	1,304	676	51.8	1,141	623	54.6
Lebanon	2,040	1,299	63.7	2,335	1,295	55.5	1,460	837	57.3
Lehigh	5,550	2,840	51.2	5,037	2,449	48.6	3,345	1,434	42.9
Luzerne	6,616	3,861	58.4	6,192	3,739	60.4	4,286	2,431	56.7
Lycoming	1,973	1,267	64.2	1,874	1,321	70.5	1,713	1,130	66.0
McKean	584	350	59.9	621	379	61.0	524	293	55.9
Mercer	1,998	1,095	54.8	2,308	1,213	52.6	1,922	967	50.3
Mifflin	641	464	72.4	642	483	75.2	708	500	70.6
Monroe	2,820	1,909	67.7	2,595	1,471	56.7	4,246	1,952	46.0
Montgomery	10,068	4,861	48.3	9,933	5,085	51.2	4,740	1,959	41.3
Montour	152	64	42.1	149	82	55.0	139	72	51.8
Northampton	3,703	1,654	44.7	3,378	1,618	47.9	2,622	1,175	44.8

Exhibit 11 Continued

County	2018			2019			2020		
	Total Criminal Cases	Cases with a PD	Percent	Total Criminal Cases	Cases with a PD	Percent	Total Criminal Cases	Cases with a PD	Percent
Northumberland	1,289	660	51.2	1,240	615	49.6	1,175	540	46.0
Perry	612	390	63.7	484	295	61.0	496	278	56.0
Philadelphia	34,373	27,934	81.3	28,864	23,748	82.3	14,748	12,762	86.5
Pike	558	311	55.7	626	311	49.7	624	278	44.6
Potter	354	163	46.0	331	153	46.2	322	132	41.0
Schuylkill	2,906	1,923	66.2	2,733	1,779	65.1	2,162	1,278	59.1
Snyder	535	189	35.3	612	190	31.0	528	190	36.0
Somerset	1,153	502	43.5	1,243	493	39.7	894	399	44.6
Sullivan	54	29	53.7	61	37	60.7	81	38	46.9
Susquehanna	484	228	47.1	530	259	48.9	505	235	46.5
Tioga	395	217	54.9	429	231	53.8	358	185	51.7
Union	445	203	45.6	417	173	41.5	353	108	30.6
Venango	824	494	60.0	804	516	64.2	660	428	64.8
Warren	494	271	54.9	443	269	60.7	401	200	49.9
Washington	3,618	1,449	40.0	3,232	1,288	39.9	2,565	920	35.9
Wayne	518	321	62.0	465	247	53.1	359	187	52.1
Westmoreland	6,726	2,395	35.6	6,515	2,256	34.6	4,800	1,539	32.1
Wyoming	424	196	46.2	426	193	45.3	376	148	39.4
York	7,312	3,975	54.4	7,218	3,825	53.0	5,632	2,565	45.5
Total:	218,628	120,673	55.2	207,596	114,711	55.3	151,474	78,459	51.8

Source: Developed by LBFC Staff with data from AOPC.

In CY 2020, the ten counties with the highest and the ten counties with the lowest percentage of criminal cases involving a public defender were:

- | | |
|-----------------------|-----------------------|
| • Philadelphia: 86.5% | • Montgomery: 41.3% |
| • Cameron: 73.7% | • Potter: 41.0% |
| • Mifflin: 70.6% | • Wyoming: 39.4% |
| • Juniata: 70.2% | • Chester: 38.2% |
| • Clinton: 69.3% | • Bucks: 38.1% |
| • Lycoming: 66.0% | • Armstrong: 37.0% |
| • Venango: 64.8% | • Snyder: 36.0% |
| • Greene: 64.2% | • Washington: 35.9% |
| • Crawford: 64.1% | • Westmoreland: 32.1% |
| • Bedford: 63.4% | • Union: 30.6% |

Another objective of this study was to determine indigent criminal case-loads by type of criminal category. Indirect criminal contempt (ICC), while not always considered a criminal offense, is included because the defendant is often represented by a public defender.

Exhibit 12 shows a statewide summary for calendar years 2018 to 2020 of all disposed criminal cases involving a public defender by category of crime.⁵⁷ Please note, defendants may have multiple charges filed against them; however, for the purposes of this study, AOPC provided data based only on the most severe category of crime charged. For example, if a person was charged with both a felony and a misdemeanor, only the felony will be included in the following exhibits. Additionally, we were informed by AOPC officials that counties are responsible for assigning categories of crimes and may categorize them differently, for example, some counties may include homicides as homicides, while others may categorize homicides as felonies. In these instances, the crime is only counted once as either a homicide or a felony as designated by the county.

Exhibit 12

Statewide Total Adult Cases Involving a Public Defender by Category of Criminal Offense (CY 2018-2020)

Year	Sum- mary Appeal	Capital Mur- der	Homi- cide	Felony other than Homicide	Misde- meanor	Sum- mary Of- fense	Un- graded Offense	Indirect Criminal Contempt	Total
2018	454	8	142	36,226	75,010	14,739	2,193	792	129,564
2019	489	8	115	34,346	71,682	16,009	1,386	836	124,871
2020	261	2	74	21,739	50,120	12,254	931	669	86,050

Source: Developed by LBFC Staff with data from AOPC.

⁵⁷ The total number of disposed adult criminal cases with a public defender (Exhibits 10 and 11) versus the total number of disposed adult criminal cases broken out by category of criminal offense (Exhibits 12, 13, 14, and 15) for calendar years 2018 to 2020 may differ and the latter amounts may be higher in that some of the categories may include a mix of criminal and non-criminal cases (i.e., summary appeal, summary offense, and indirect criminal contempt). Cases in the latter exhibits were included to show additional cases for which public defenders may also be responsible.

Exhibits 13, 14, and 15 below show the number of disposed criminal cases involving a public defender for each category of offense in each county for calendar years 2018, 2019, and 2020.

Exhibit 13

Total Adult Criminal Cases Involving a Public Defender by Category of Criminal Offense by County (CY 2018)

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Adams	1	0	0	183	616	38	0	1	839
Allegheny	18	0	22	3,531	7,639	3,798	211	2	15,221
Armstrong	7	0	0	153	266	38	4	1	469
Beaver	10	0	1	379	1,248	394	20	0	2,052
Bedford	3	0	1	84	339	32	0	1	460
Berks	19	1	14	1,168	2,575	113	46	61	3,997
Blair	0	0	0	319	878	157	4	1	1,359
Bradford	1	0	0	182	323	72	1	5	584
Bucks	7	0	0	740	2,061	142	3	0	2,953
Butler	32	0	0	248	962	331	2	0	1,575
Cambria	3	0	2	581	994	178	17	0	1,775
Cameron	1	0	0	16	28	3	0	0	48
Carbon	1	0	1	182	455	33	0	8	680
Centre	2	0	4	233	630	41	0	0	910
Chester	9	0	1	571	1,758	563	24	26	2,952
Clarion	0	0	0	138	158	57	0	0	353
Clearfield	6	0	0	140	379	20	0	0	545
Clinton	3	0	0	114	347	35	1	11	511
Columbia	2	0	1	109	385	91	0	5	593
Crawford	5	0	0	154	482	108	4	0	753

Exhibit 13 Continued

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Cumberland	10	0	0	308	1,758	704	5	7	2,792
Dauphin	4	0	2	1,018	2,872	859	9	0	4,764
Delaware	62	0	6	846	3,062	647	136	0	4,759
Elk	1	0	0	92	197	37	4	3	334
Erie	38	0	0	498	1,605	810	15	2	2,968
Fayette	5	0	0	484	1,289	157	10	8	1,953
Forest	0	0	0	22	21	8	0	0	51
Franklin	12	0	2	340	1,092	46	2	0	1,494
Fulton	0	1	0	40	65	9	1	0	116
Greene	18	0	0	80	201	124	3	0	426
Huntingdon	6	0	0	108	179	16	0	1	310
Indiana	6	0	1	152	688	203	6	3	1,059
Jefferson	0	0	1	173	272	21	0	0	467
Juniata	1	0	1	50	97	11	1	0	161
Lackawanna	0	0	1	377	840	329	124	3	1,674
Lancaster	52	0	2	1,062	1,649	328	6	0	3,099
Lawrence	18	0	0	253	638	49	4	0	962
Lebanon	17	0	2	312	951	52	1	0	1,335
Lehigh	2	0	0	745	1,852	492	40	0	3,131
Luzerne	6	0	3	843	2,756	629	14	0	4,251
Lycoming	4	0	1	372	866	66	8	0	1,317
McKean	2	0	0	92	240	31	2	0	367
Mercer	0	0	2	283	713	183	1	16	1,198
Mifflin	2	0	2	159	293	23	4	0	483
Monroe	2	1	0	241	1,468	381	21	0	2,114
Montgomery	8	0	7	1,140	3,259	651	9	0	5,074

Exhibit 13 Continued

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Montour	0	0	0	26	36	5	1	1	69
Northampton	4	0	2	347	1,205	160	5	0	1,723
Northumberland	3	0	0	177	432	86	0	5	703
Perry	1	0	0	123	257	32	1	7	421
Philadelphia	0	4	45	12,754	12,831	378	1,372	550	27,934
Pike	3	0	0	64	236	19	3	10	335
Potter	0	0	0	25	121	19	0	0	165
Schuylkill	8	1	6	637	1,271	15	3	0	1,941
Snyder	2	0	0	47	137	12	0	4	202
Somerset	5	0	0	75	355	103	1	3	542
Sullivan	0	0	0	9	19	3	1	0	32
Susquehanna	1	0	0	45	166	39	1	0	252
Tioga	3	0	0	030	178	24	1	1	237
Union	0	0	1	46	149	9	1	2	208
Venango	1	0	0	116	348	41	1	20	527
Warren	1	0	0	56	196	52	1	1	307
Washington	2	0	0	427	924	176	8	0	1,537
Wayne	0	0	0	64	244	18	2	8	336
Westmoreland	5	0	1	636	1,676	96	18	0	2,432
Wyoming	1	0	0	40	151	9	1	6	208
York	8	0	7	1,167	2,632	333	9	9	4,165
Total:	454	8	142	36,226	75,010	14,739	2,193	792	129,564

Source: Developed by LBFC Staff with data from AOPC.

Exhibit 14

**Total Adult Criminal Cases Involving a Public Defender
 by Category of Criminal Offense by County
 (CY 2019)**

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Adams	6	0	1	163	643	47	0	1	861
Allegheny	20	0	28	3,766	8,379	4,960	142	12	17,307
Armstrong	8	0	0	157	301	18	1	4	489
Beaver	20	0	0	378	1,147	362	16	0	1,923
Bedford	4	0	0	80	339	38	0	14	475
Berks	45	0	10	1,133	2,601	95	36	49	3,969
Blair	0	0	0	407	957	244	0	1	1,609
Bradford	11	0	0	191	248	46	1	2	499
Bucks	3	2	1	665	1,859	156	2	0	2,688
Butler	28	0	0	211	767	306	1	0	1,313
Cambria	7	0	1	494	797	165	16	0	1,480
Cameron	5	0	0	16	46	8	0	1	76
Carbon	1	0	0	174	557	41	0	7	780
Centre	5	0	1	206	642	17	1	0	872
Chester	7	0	2	448	1,780	596	10	25	2,868
Clarion	0	0	1	114	163	71	1	0	350
Clearfield	1	0	0	148	377	51	0	1	578
Clinton	5	0	0	137	350	21	1	10	524
Columbia	7	0	1	130	492	75	1	18	724
Crawford	11	0	0	176	509	95	2	0	793
Cumberland	7	1	0	298	1,434	799	7	4	2,550
Dauphin	9	0	0	1,092	3,148	892	12	0	5,153
Delaware	30	0	5	841	2,877	657	85	0	4,495

Exhibit 14 Continued

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Elk	5	0	0	107	230	25	1	2	370
Erie	24	0	2	467	1,356	804	17	1	2,671
Fayette	4	0	2	447	1,181	118	6	4	1,762
Forest	0	0	0	13	21	6	0	0	40
Franklin	4	0	3	358	995	48	2	0	1,410
Fulton	0	0	0	49	88	13	0	0	150
Greene	10	0	0	68	219	156	0	0	453
Huntingdon	11	0	0	108	221	17	0	0	357
Indiana	5	0	0	149	618	225	9	5	1,011
Jefferson	1	0	0	95	222	9	0	0	327
Juniata	2	0	0	36	104	10	1	0	153
Lackawanna	1	0	1	423	928	395	103	1	1,852
Lancaster	54	0	1	1,048	1,664	347	5	0	3,119
Lawrence	5	0	0	206	453	36	1	3	704
Lebanon	10	0	0	298	965	51	0	0	1,324
Lehigh	4	0	0	711	1,507	458	38	0	2,718
Luzerne	7	0	0	808	2,746	645	5	1	4,212
Lycoming	2	0	0	416	866	107	2	0	1,393
McKean	0	0	0	72	282	42	2	0	398
Mercer	9	0	3	314	798	169	7	23	1,323
Mifflin	2	0	1	142	332	20	1	0	498
Monroe	1	0	0	244	1,096	251	13	0	1,605
Montgomery	5	0	7	1,214	3,318	751	11	1	5,307
Montour	0	0	0	27	54	8	0	3	92
Northampton	6	0	0	331	1,194	134	3	0	1,668

Exhibit 14 Continued

County	Summary App- peal	Capital Murder	Homicide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Northumberland	0	0	0	175	381	88	0	3	647
Perry	2	0	0	70	213	22	1	1	309
Philadelphia	0	4	33	11,131	10,996	243	772	570	23,749
Pike	1	0	0	59	231	51	1	14	357
Potter	0	0	0	45	98	14	0	2	159
Schuylkill	17	0	4	612	1,151	11	6	5	1,806
Snyder	1	0	0	34	156	6	0	4	201
Somerset	9	0	0	84	334	118	0	4	549
Sullivan	1	0	0	8	29	4	0	1	43
Susquehanna	0	0	0	56	196	24	0	0	276
Tioga	0	0	0	37	185	27	0	0	249
Union	9	0	0	49	120	8	0	6	192
Venango	1	0	0	102	380	51	2	6	542
Warren	1	0	0	59	198	52	0	1	311
Washington	5	1	0	342	812	215	17	0	1,392
Wayne	0	0	0	43	185	28	3	12	271
Westmoreland	18	0	3	621	1,536	111	12	0	2,301
Wyoming	0	0	0	64	122	13	1	1	201
York	12	0	4	1,179	2,488	318	9	13	4,023
Total:	489	8	115	34,346	71,682	16,009	1,386	836	124,871

Source: Developed by LBFC Staff with data from AOPC.

Exhibit 15
Total Adult Criminal Cases Involving a Public Defender
by Category of Criminal Offense by County
 (CY 2020)

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Adams	1	0	1	191	518	27	0	4	742
Allegheny	22	0	19	2,406	5,003	3,526	66	1	11,043
Armstrong	5	0	0	116	307	39	3	3	473
Beaver	11	0	0	268	915	253	10	0	1,457
Bedford	1	0	0	51	323	23	0	11	409
Berks	11	0	11	805	1,686	72	24	47	2,656
Blair	3	0	0	382	883	225	6	1	1,500
Bradford	4	0	0	131	247	37	1	5	425
Bucks	3	0	2	432	1,427	158	5	0	2,027
Butler	13	0	0	171	650	281	1	0	1,116
Cambria	3	0	0	449	732	131	9	0	1,324
Cameron	0	0	0	15	36	8	0	0	59
Carbon	0	0	0	130	435	60	0	7	632
Centre	0	0	0	112	484	9	0	2	607
Chester	4	0	0	380	1,276	511	14	22	2,207
Clarion	0	0	0	121	159	50	0	0	330
Clearfield	1	0	0	117	330	37	0	1	486
Clinton	1	0	0	143	289	35	0	17	485
Columbia	6	0	2	78	324	102	2	14	528
Crawford	2	0	0	114	474	84	1	0	675
Cumberland	11	0	0	269	1,518	590	5	6	2,399
Dauphin	5	0	1	775	2,248	692	6	0	3,727
Delaware	11	0	0	463	1,549	728	97	0	2,848

Exhibit 15 Continued

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Elk	3	0	0	66	256	15	0	3	343
Erie	5	0	0	403	1,235	654	6	1	2,304
Fayette	1	0	0	331	981	71	4	2	1,390
Forest	0	0	0	20	21	0	1	0	42
Franklin	7	0	4	256	748	65	2	0	1,082
Fulton	0	0	0	22	70	6	1	0	99
Greene	9	0	0	58	207	89	2	0	365
Huntingdon	3	0	0	67	162	14	0	1	247
Indiana	0	0	2	117	407	76	1	7	610
Jefferson	0	0	1	108	246	9	0	0	364
Juniata	1	0	0	23	100	8	2	1	135
Lackawanna	0	0	1	319	593	224	57	0	1,194
Lancaster	36	0	0	720	1,209	2479	5	0	2,219
Lawrence	18	0	1	171	428	42	3	1	664
Lebanon	3	0	1	219	595	29	0	0	847
Lehigh	2	0	0	377	895	410	16	0	1,700
Luzerne	4	0	0	609	1,728	373	11	0	2,725
Lycoming	2	1	2	397	699	66	9	0	1,176
McKean	2	0	0	49	198	80	0	0	329
Mercer	6	1	0	241	631	165	0	20	1,064
Mifflin	0	0	141	349	27	0	0	0	520
Monroe	1	0	1	224	1,623	176	23	0	2,048
Montgomery	1	0	1	450	1,264	435	3	2	2,156
Montour	0	0	0	28	43	6	0	1	78
Northampton	3	0	0	249	853	100	2	0	1,207

Exhibit 15 Continued

County	Summary Appeal	Capital Murder	Homi- cide	Felony other than Homicide	Misde- meanor	Summary Offense	Ungraded Offense	Indirect Criminal Contempt	Total
Northumberland	0	0	0	130	331	109	0	1	571
Perry	0	0	0	58	199	35	0	2	294
Philadelphia	1	0	18	5,359	6,375	75	496	440	12,764
Pike	0	0	0	58	204	42	1	4	309
Potter	0	0	0	42	83	7	0	2	134
Schuylkill	10	0	0	422	846	19	3	1	1,301
Snyder	0	0	0	63	124	7	0	1	195
Somerset	5	0	0	54	276	99	1	0	435
Sullivan	2	0	0	8	29	1	1	0	41
Susquehanna	0	0	0	66	155	29	0	1	251
Tioga	0	0	0	43	133	21	2	3	202
Union	0	0	0	30	77	4	0	0	111
Venango	0	0	1	111	295	22	2	8	439
Warren	1	0	0	44	139	36	1	2	223
Washington	4	0	0	245	602	131	4	0	986
Wayne	0	0	0	37	136	25	2	6	206
Westmoreland	5	0	2	429	1,023	94	15	0	1,568
Wyoming	0	0	1	22	123	4	0	0	150
York	5	0	2	734	1,616	427	5	18	2,807
Total:	261	2	74	21,739	50,120	12,254	931	669	86,050

Source: Developed by LBFC Staff with data from AOPC.

All criminal cases may be appealed to the Pennsylvania Superior Court and the Pennsylvania Supreme Court. AOPC provided us with the number of indigent criminal defendant cases involving a public defender that were disposed in both courts for calendar years 2018 to 2020, as shown in Exhibit 16 below.

Exhibit 16

**Total Adult Criminal Cases Involving a Public Defender –
PA Superior and Supreme Courts by County
(CY 2018-2020)**

County	2018	2019	2020
Adams	18	9	6
Allegheny	54	63	58
Armstrong	1	2	8
Beaver	9	6	4
Bedford	1	3	3
Berks	38	55	50
Blair	10	2	8
Bradford	22	11	9
Bucks	25	26	35
Butler	7	5	6
Cambria	3	5	9
Cameron	0	0	0
Carbon	7	5	2
Centre	15	9	22
Chester	28	17	28
Clarion	4	3	3
Clearfield	1	4	3
Clinton	3	2	10
Columbia	2	1	4
Crawford	2	6	5
Cumberland	30	33	16
Dauphin	70	69	64
Delaware	92	82	36
Elk	4	1	0
Erie	29	33	20
Fayette	14	18	13
Forest	0	0	0
Franklin	13	12	10
Fulton	3	2	2
Greene	3	6	0
Huntingdon	0	0	1
Indiana	3	2	2
Jefferson	2	5	9
Juniata	2	0	0
Lackawanna	17	16	21

Exhibit 16 Continued

County	2018	2019	2020
Lancaster	57	45	56
Lawrence	0	0	1
Lebanon	13	21	13
Lehigh	25	21	20
Luzerne	23	22	55
Lycoming	32	50	23
McKean	6	6	3
Mercer	5	4	4
Mifflin	0	2	1
Monroe	23	31	15
Montgomery	49	51	64
Montour	1	0	0
Northampton	11	10	12
Northumberland	4	9	1
Perry	0	0	0
Philadelphia	171	168	152
Pike	3	4	7
Potter	0	0	0
Schuylkill	13	11	10
Snyder	4	2	0
Somerset	0	1	1
Sullivan	2	1	2
Susquehanna	0	0	1
Tioga	1	1	1
Union	2	1	3
Venango	3	6	2
Warren	0	2	0
Washington	5	8	6
Wayne	1	3	8
Westmoreland	3	0	5
Wyoming	11	4	2
York	45	33	46
Total:	1,045	1,030	981

Source: Developed by LBFC Staff with data provided by AOPC.

AOPC also provided us with data on convictions, whether a finding of guilt by trial or by plea. Exhibit 17 shows a summary of all convictions by trial and plea for calendar years 2018 to 2020 for indigent criminal defendants represented by a public defender. On average, 62.6 percent of these defendants were convicted from 2018 to 2020. Exhibit 18 shows the same data broken down by county.

Exhibit 17

Summary of Total Adult Criminal Case Convictions by Trial and Plea Involving a Public Defender (CY 2018-2020)

Year	Criminal Cases with a Public Defender	Cases Disposed with Conviction	Percent Convicted
2018	120,673	78,378	65.0
2019	114,711	72,921	63.6
2020	78,459	47,421	60.4

Source: Developed by LBFC Staff with data provided by AOPC.

Exhibit 18

Total Adult Criminal Case Convictions by Trial and Plea Involving a Public Defender, by County (CY 2018-2020)

County	2018			2019			2020		
	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted
Adams	811	705	86.9	829	742	89.5	717	651	90.8
Allegheny	12,289	6,629	53.9	13,281	6,450	48.6	8,354	3,879	46.4
Armstrong	434	316	72.8	465	366	78.7	438	329	75.1
Beaver	1,842	1,007	54.7	1,734	996	57.4	1,324	765	57.8
Bedford	449	419	93.3	443	411	92.8	392	366	93.4
Berks	3,840	2,930	76.3	3,813	2,909	76.3	2,553	1,901	74.5
Blair	1,301	1,009	77.6	1,502	1,169	77.8	1,374	1,044	76.0
Bradford	526	405	77.0	450	366	81.3	392	308	78.6
Bucks	2,913	2,502	85.9	2,638	2,245	85.1	1,967	1,656	84.2

Exhibit 18 Continued

County	2018			2019			2020		
	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted
Butler	1,445	1,004	69.5	1,200	829	69.1	1,014	669	66.0
Cambria	1,645	1,081	65.7	1,366	886	64.9	1,225	767	62.6
Cameron	45	37	82.2	66	53	80.3	56	44	78.6
Carbon	646	558	86.4	747	658	88.1	598	497	83.1
Centre	901	580	64.4	855	534	62.5	598	303	50.7
Chester	2,580	1,931	74.8	2,472	1,837	74.3	1,894	1,341	70.8
Clarion	324	223	68.8	315	205	65.1	307	203	66.1
Clearfield	530	501	94.5	553	511	92.4	464	436	94.0
Clinton	476	379	79.6	500	416	83.2	450	353	78.4
Columbia	540	343	63.5	655	463	70.7	449	237	52.8
Crawford	711	632	88.9	744	686	92.2	639	573	89.7
Cumberland	2,427	1,514	62.4	2,135	1,202	56.3	2,052	1,241	60.5
Dauphin	4,423	3,398	76.8	4,770	3,709	77.8	3,454	2,598	75.2
Delaware	4,363	3,736	85.6	4,146	3,644	87.9	2,443	1,815	74.3
Elk	312	243	77.9	348	292	83.9	328	276	84.1
Erie	2,516	1,777	70.6	2,206	1,467	66.5	1,942	1,280	65.9
Fayette	1,846	1,314	71.2	1,705	1,265	74.2	1,369	944	69.0
Forest	49	40	81.6	37	28	75.7	42	32	76.2
Franklin	1,453	1,237	85.1	1,375	1,185	86.2	1,024	852	83.2
Fulton	108	82	75.9	138	110	79.7	94	60	63.8
Greene	308	184	59.7	325	165	50.8	303	172	56.8
Huntingdon	301	245	81.4	344	284	82.6	237	196	82.7
Indiana	918	598	65.1	874	553	63.3	561	390	69.5
Jefferson	453	368	81.2	319	253	79.3	355	274	77.2

Exhibit 18 Continued

County	2018			2019			2020		
	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted
Juniata	155	147	94.8	146	134	91.8	132	125	94.7
Lackawanna	1,482	809	54.6	1,640	893	54.5	1,070	678	63.4
Lancaster	2,877	2,280	78.2	2,886	2,283	79.1	2,065	1,654	80.1
Lawrence	920	376	40.9	676	356	52.7	623	332	53.3
Lebanon	1,299	1,144	88.1	1,295	1,076	83.1	837	698	83.4
Lehigh	2,840	1,754	61.8	2,449	1,491	60.9	1,434	802	55.9
Luzerne	3,861	2,663	69.0	3,739	2,489	66.6	2,431	1,468	60.4
Lycoming	1,267	1,098	86.7	1,321	1,104	83.6	1,130	835	73.9
McKean	350	266	76.0	379	294	77.6	293	219	74.7
Mercer	1,095	763	69.7	1,213	880	72.5	967	645	66.7
Mifflin	464	382	82.3	483	363	75.2	500	381	76.2
Monroe	1,909	999	52.3	1,471	1,033	70.2	1,952	739	37.9
Montgomery	4,861	3,802	78.2	5,085	3,972	78.1	1,959	1,162	59.3
Montour	64	48	75.0	82	72	87.8	72	55	76.4
Northampton	1,654	1,483	89.7	1,618	1,463	90.4	1,175	1,032	87.8
Northumberland	660	529	80.2	615	538	87.5	540	465	86.1
Perry	390	307	78.7	295	251	85.1	278	220	79.1
Philadelphia	27,934	11,105	39.8	23,748	7,362	31.0	12,762	2,633	20.6
Pike	311	245	78.8	311	233	74.9	278	151	54.3
Potter	163	122	74.8	153	128	83.7	132	111	84.1
Schuylkill	1,923	1,553	80.8	1,779	1,453	81.7	1,278	1,002	78.4
Snyder	189	156	82.5	190	158	83.2	190	170	89.5
Somerset	502	355	70.7	493	334	67.7	399	267	66.9
Sullivan	29	19	65.5	37	25	67.6	38	24	63.2

Exhibit 18 Continued

County	2018			2019			2020		
	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted	Criminal Cases with a PD	Total Convictions	Percent Convicted
Susquehanna	228	151	66.2	259	186	71.8	235	174	74.0
Tioga	217	172	79.3	231	190	82.3	185	130	70.3
Union	203	166	81.8	173	151	87.3	108	84	77.8
Venango	494	436	88.3	516	437	84.7	428	376	87.9
Warren	271	201	74.2	269	219	81.4	200	155	77.5
Washington	1,449	1,147	79.2	1,288	993	77.1	920	675	73.4
Wayne	321	252	78.5	247	190	76.9	187	139	74.3
Westmoreland	2,395	1,881	78.5	2,256	1,798	79.7	1,539	1,120	72.8
Wyoming	196	157	80.1	193	153	79.3	148	118	79.7
York	3,975	3,483	87.6	3,825	3,330	87.1	2,565	2,130	83.0
Total:	120,673	78,378	65.0	114,711	72,921	63.6	78,459	47,421	60.4

Source: Developed by LBFC Staff with data provided by AOPC.

We also reviewed convictions of indigent criminal defendants represented by a public defender where the convictions were by plea, rather than a finding of guilt by trial. Exhibit 19 shows a summary of all convictions because of trial or plea for calendar years 2018 to 2020. For each of the three years, on average, indigent criminal defendants were convicted 62.6 percent of the time. Of those convictions, 97 percent were the result of a plea.

Exhibit 19

Summary of Adult Criminal Case Convictions by Trial or Plea Involving a Public Defender (CY 2018-2020)

Year	Cases Disposed with a Conviction	Convictions by Trial	Convictions by Plea	Percent of Convictions by Plea
2018	78,378	3,430	74,948	95.6
2019	72,921	2,349	70,575	96.8
2020	47,421	1,001	46,420	97.9

Source: Developed by LBFC Staff with data provided by AOPC.

Exhibit 20 shows conviction details by county: the first column for each year shows the number of convictions by trial, and the second column for each year shows the number of convictions as a result of a plea. The third column for each year shows the percentage of convictions that were pleas.

For each calendar year – 2018, 2019, and 2020, convictions due to pleas were over 95 percent. In calendar year 2020 conviction rates from pleas ranged from a low of 89.2 percent in Philadelphia to a high of 100 percent in six counties. An additional 24 counties had conviction rates from pleas between 99 and 99.7 percent.

Exhibit 20

Adult Criminal Case Convictions by Trial or Plea Involving a Public Defender (CY 2018-2020)

County	<u>2018</u>			<u>2019</u>			<u>2020</u>		
	Trial	Plea	Percent Convictions by Plea	Trial	Plea	Percent Convictions by Plea	Trial	Plea	Percent Convictions by Plea
Adams	11	694	98.4	16	726	97.8	9	642	98.6
Allegheny	241	6,386	96.4	222	6,228	96.6	125	3,754	96.8
Armstrong	7	309	97.8	12	354	96.7	10	319	97.0

Exhibit 20 Continued

County	<u>2018</u>			<u>2019</u>			<u>2020</u>		
	Trial	Plea	Percent Convic- tions by Plea	Trial	Plea	Percent Convic- tions by Plea	Trial	Plea	Percent Convic- tions by Plea
Beaver	12	995	98.8	15	981	98.5	8	757	99.0
Bedford	2	417	99.5	0	411	100.0	1	365	99.7
Berks	68	2,862	97.7	60	2,849	97.9	34	1,867	98.2
Blair	9	1,000	99.1	9	1,160	99.2	5	1,039	99.5
Bradford	7	398	98.3	6	360	98.4	2	306	99.4
Bucks	39	2,463	98.4	32	2,213	98.6	12	1,644	99.3
Butler	6	998	99.4	9	820	98.9	14	655	97.9
Cambria	9	1,072	99.2	9	877	99.0	2	765	99.7
Cameron	4	33	89.2	1	52	98.1	0	44	100.0
Carbon	8	550	98.6	9	649	98.6	3	494	99.4
Centre	13	567	97.8	11	523	97.9	6	297	98.0
Chester	27	1,904	98.6	29	1,808	98.4	16	1,325	98.8
Clarion	3	220	98.7	9	196	95.6	7	196	96.6
Clearfield	5	496	99.0	3	508	99.4	2	434	99.5
Clinton	8	371	97.9	16	400	96.2	1	352	99.7
Columbia	2	341	99.4	4	459	99.1	2	235	99.2
Crawford	3	629	99.5	8	678	98.8	9	564	98.4
Cumberland	30	1,484	98.0	14	1,188	98.8	19	1,222	98.5
Dauphin	74	3,324	97.8	68	3,641	98.2	48	2,550	98.2
Delaware	80	3,656	97.9	65	3,579	98.2	21	1,794	98.8
Elk	6	237	97.5	5	287	98.3	0	276	100.0
Erie	45	1,732	97.5	33	1,434	97.8	14	1,266	98.9
Fayette	39	1,275	97.0	54	1,211	95.7	32	912	96.6
Forest	1	39	97.5	0	28	100.0	0	32	100.0
Franklin	38	1,198	96.9	38	1,147	96.8	8	843	99.1
Fulton	9	73	89.0	8	102	92.7	3	57	95.0
Greene	18	166	90.2	10	155	93.9	10	162	94.2
Huntingdon	8	237	96.7	5	279	98.2	3	193	98.5
Indiana	6	592	99.0	11	542	98.0	12	378	96.9
Jefferson	3	365	99.2	5	248	98.0	1	273	99.6
Juniata	4	143	97.3	2	132	98.5	1	124	99.2
Lackawanna	12	797	98.5	9	884	99.0	8	670	98.8
Lancaster	41	2,239	98.2	48	2,235	97.9	22	1,632	98.7
Lawrence	4	372	98.9	4	352	98.9	8	324	97.6
Lebanon	46	1,098	96.0	35	1,041	96.7	17	680	97.6
Lehigh	14	1,740	99.2	23	1,468	98.5	4	798	99.5
Luzerne	26	2,637	99.0	48	2,441	98.1	24	1,444	98.4

Exhibit 20 Continued

County	2018			2019			2020		
	Trial	Plea	Percent Convictions by Plea	Trial	Plea	Percent Convictions by Plea	Trial	Plea	Percent Convictions by Plea
Lycoming	18	1,080	98.4	36	1,068	96.7	8	827	99.0
McKean	30	236	88.7	42	252	85.7	18	201	91.8
Mercer	13	750	98.3	12	868	98.6	4	641	99.4
Mifflin	10	372	97.4	9	354	97.5	4	377	99.0
Monroe	21	978	97.9	21	1,012	98.0	16	723	97.8
Montgomery	81	3,721	97.9	91	3,881	97.7	13	1,149	98.9
Montour	0	48	100.0	5	67	93.1	2	53	96.4
Northampton	15	1,468	99.0	19	1,444	98.7	10	1,022	99.0
Northumberland	0	529	100.0	7	531	98.7	6	459	98.7
Perry	3	304	99.0	7	244	97.2	2	218	99.1
Philadelphia	2,086	9,019	81.2	933	6,429	87.3	285	2,348	89.2
Pike	3	242	98.8	4	229	98.3	0	151	100.0
Potter	0	122	100.0	3	125	97.7	6	105	94.6
Schuylkill	26	1,527	98.3	46	1,407	96.8	40	962	96.0
Snyder	0	156	100.0	3	155	98.1	3	167	98.2
Somerset	0	355	100.0	1	333	99.7	0	267	100.0
Sullivan	0	19	100.0	0	25	100.0	1	23	95.8
Susquehanna	2	149	98.7	3	183	98.4	1	173	99.4
Tioga	1	171	99.4	6	184	96.8	1	129	99.2
Union	0	166	100.0	0	151	100.0	3	81	96.4
Venango	12	424	97.2	3	434	99.3	1	375	99.7
Warren	1	200	99.5	4	215	98.2	1	154	99.4
Washington	11	1,136	99.0	11	982	98.9	3	672	99.6
Wayne	4	248	98.4	2	188	98.9	0	139	100.0
Westmoreland	39	1,842	97.9	50	1,748	97.2	19	1,101	98.3
Wyoming	3	154	98.1	1	152	99.3	2	116	98.3
York	60	3,423	98.3	62	3,268	98.1	27	2,103	98.7
Total:	3,430	74,948	95.6	2,349	70,575	96.8	1,001	46,420	97.9

Source: Developed by LBFC Staff with data from AOPC.

Indigent criminal defendants may also be represented by an attorney who is not a public defender. Exhibit 21 shows the number of criminal cases disposed with a court appointed attorney recorded on the docket, but not a public defender. These court appointed attorneys can include conflict counsel and those initially denied a public defender who were later assigned a public defender.

Exhibit 21

**Total Criminal Cases with Court-Appointed Attorneys,
NOT Public Defenders
(CY 2018-2020)**

County	2018	2019	2020
Adams	40	16	45
Allegheny	1,388	1,274	920
Armstrong	56	86	52
Beaver	204	166	74
Bedford	126	119	97
Berks	572	533	313
Blair	291	360	310
Bradford	105	139	92
Bucks	573	441	258
Butler	268	215	170
Cambria	242	149	139
Cameron	0	1	0
Carbon	123	152	123
Centre	128	190	84
Chester	368	338	251
Clarion	4	6	2
Clearfield	75	95	59
Clinton	20	28	24
Columbia	64	84	54
Crawford	61	83	53
Cumberland	411	363	381
Dauphin	396	455	277
Delaware	612	578	356
Elk	33	28	48
Erie	275	179	109
Fayette	138	143	85
Forest	1	5	7
Franklin	366	354	191
Fulton	2	19	5
Greene	46	38	14
Huntingdon	248	276	161
Indiana	57	29	65
Jefferson	1	0	2
Juniata	4	0	0
Lackawanna	224	215	283
Lancaster	611	598	393
Lawrence	185	188	112

Exhibit 21 Continued

County	2018	2019	2020
Lebanon	270	258	160
Lehigh	164	177	66
Luzerne	399	423	296
Lycoming	137	139	74
McKean	58	54	19
Mercer	272	303	217
Mifflin	22	29	20
Monroe	100	120	152
Montgomery	432	469	167
Montour	14	18	22
Northampton	143	159	101
Northumberland	156	166	121
Perry	8	2	1
Philadelphia	5,611	4,350	1,714
Pike	35	49	53
Potter	13	20	27
Schuylkill	275	234	118
Snyder	60	64	64
Somerset	102	150	105
Sullivan	4	3	3
Susquehanna	43	46	44
Tioga	7	11	3
Union	45	59	22
Venango	86	86	63
Warren	79	65	73
Washington	217	135	112
Wayne	1	1	3
Westmoreland	335	363	220
Wyoming	25	26	40
York	815	743	489
Total:	18,246	16,665	10,178

Source: Developed by LBFC Staff with data from AOPC.

B. Juvenile Delinquency Cases

We reviewed AOPC data regarding juvenile delinquency cases wherein the defendant⁵⁸ was represented by a public defender. Exhibit 22 shows a summary of all disposed juvenile delinquency cases and Exhibits 23, 24, and 25 show the number of disposed cases for each category of offense in each county for calendar years 2018 to 2020. The categories of crimes below include:

- Indirect criminal contempt.
- Ungraded offense.
- Summary offense.
- Misdemeanor.
- Felony other than homicide.
- Homicide.

The data presented below includes only juvenile delinquents and does not include those juveniles charged as an adult. Cases involving juveniles charged as adults are included in the adult data above.

Exhibit 22

Statewide Juvenile Delinquency Cases Involving a Public Defender by Category of Criminal Offense (CY 2018-2020)

Year	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
2018	11	40	1,106	7,494	3,138	1	11,790
2019	8	24	918	7,544	3,371	0	11,865
2020	1	17	565	6,084	2,901	1	9,569

Source: Developed by LBFC Staff with data from AOPC.

⁵⁸ All juveniles are presumed indigent under Pennsylvania statute.

Exhibit 23

Total Juvenile Delinquency Cases Involving a Public Defender by Category of Criminal Offense by County (CY 2018)

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
Adams	0	0	65	114	24	0	203
Allegheny	4	2	14	474	337	1	832
Armstrong	0	0	0	1	10	0	11
Beaver	0	0	1	108	40	0	149
Bedford	0	0	0	21	9	0	30
Berks	0	0	1	188	66	0	255
Blair	0	0	3	112	26	0	141
Bradford	0	0	2	33	13	0	48
Bucks	0	0	23	257	60	0	340
Butler	0	0	0	194	40	0	234
Cambria	0	0	37	104	52	0	193
Cameron	0	0	0	1	0	0	1
Carbon	0	0	9	38	8	0	55
Centre	0	0	0	1	0	0	1
Chester	0	0	2	201	96	0	299
Clarion	0	0	11	24	12	0	47
Clearfield	0	0	1	36	8	0	45
Clinton	0	0	5	30	18	0	53
Columbia	0	0	0	9	0	0	9
Crawford	0	0	1	56	15	0	72
Cumberland	0	0	12	301	68	0	381
Dauphin	0	0	0	1	0	0	1
Delaware	0	22	327	881	366	0	1,596
Elk	0	0	1	1	3	0	5

Exhibit 23 Continued

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
Erie	0	0	9	148	55	0	212
Fayette	0	0	0	8	14	0	22
Forest	0	0	0	0	0	0	0
Franklin	0	1	90	185	49	0	325
Fulton	0	0	0	2	3	0	5
Greene	0	0	1	2	1	0	4
Huntingdon	0	0	0	12	2	0	14
Indiana	0	0	3	34	5	0	42
Jefferson	0	0	0	47	8	0	55
Juniata	0	0	0	4	3	0	7
Lackawanna	0	0	0	2	2	0	4
Lancaster	3	0	4	248	80	0	335
Lawrence	0	1	4	104	54	0	163
Lebanon	0	0	0	91	33	0	124
Lehigh	0	1	1	260	85	0	347
Luzerne	1	0	4	143	59	0	207
Lycoming	0	0	0	5	4	0	9
McKean	0	1	0	38	7	0	46
Mercer	0	0	0	104	26	0	130
Mifflin	0	0	1	57	6	0	64
Monroe	0	0	23	159	35	0	217
Montgomery	1	5	190	466	226	0	888
Montour	0	0	0	1	0	0	1
Northampton	0	0	3	191	68	0	262
Northumberland	0	0	7	74	21	0	102
Perry	0	0	0	4	1	0	5
Philadelphia	0	4	6	858	684	0	1,552

Exhibit 23 Continued

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
Pike	0	0	1	13	7	0	21
Potter	0	0	0	8	3	0	11
Schuylkill	0	0	0	77	35	0	112
Snyder	0	0	29	32	5	0	66
Somerset	0	0	22	35	18	0	75
Sullivan	0	0	0	0	0	0	0
Susquehanna	0	0	0	17	6	0	23
Tioga	0	0	0	15	2	0	17
Union	0	0	4	23	5	0	32
Venango	0	0	0	0	0	0	0
Warren	0	0	3	21	5	0	29
Washington	0	0	135	216	35	0	386
Wayne	0	0	2	15	9	0	26
Westmoreland	1	3	34	316	42	0	396
Wyoming	0	0	1	2	0	0	3
York	1	0	14	271	164	0	450
Total:	11	40	1,106	7,494	3,138	1	11,790

Source: Developed by LBFC Staff with data from AOPC.

Exhibit 24

**Total Juvenile Delinquency Cases Involving a
 Public Defender by Category of Criminal Offense by County
 (CY 2019)**

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
Adams	0	0	54	107	13	0	174
Allegheny	2	0	24	478	343	0	847
Armstrong	0	0	0	8	9	0	17
Beaver	0	0	1	139	51	0	191
Bedford	0	0	0	13	4	0	17
Berks	0	0	0	143	70	0	213
Blair	0	1	1	105	36	0	143
Bradford	0	0	1	30	11	0	42
Bucks	0	0	17	278	53	0	348
Butler	0	0	2	169	39	0	210
Cambria	0	0	42	169	67	0	278
Cameron	0	0	0	2	2	0	4
Carbon	0	0	2	28	11	0	41
Centre	0	0	0	1	0	0	1
Chester	1	1	0	209	83	0	294
Clarion	0	0	4	29	14	0	47
Clearfield	1	0	0	71	7	0	79
Clinton	0	0	2	35	12	0	49
Columbia	0	0	0	4	4	0	8
Crawford	0	0	0	70	20	0	90
Cumberland	0	0	6	244	67	0	317
Dauphin	0	0	0	1	0	0	1
Delaware	0	7	198	744	260	0	1,209

Exhibit 24 Continued

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
Elk	0	0	0	4	2	0	6
Erie	0	1	7	176	50	0	234
Fayette	0	0	0	6	20	0	26
Forest	0	0	0	1	0	0	1
Franklin	0	0	66	167	51	0	284
Fulton	0	0	0	5	4	0	9
Greene	0	0	0	8	0	0	8
Huntingdon	0	0	0	10	9	0	19
Indiana	0	0	3	32	13	0	48
Jefferson	0	0	0	47	14	0	61
Juniata	0	0	0	4	2	0	6
Lackawanna	0	0	0	0	0	0	0
Lancaster	0	0	2	327	100	0	429
Lawrence	0	0	8	44	20	0	72
Lebanon	0	0	1	128	43	0	172
Lehigh	0	0	1	257	62	0	320
Luzerne	0	0	7	147	69	0	223
Lycoming	0	0	0	0	2	0	2
McKean	0	0	0	20	7	0	27
Mercer	0	0	1	67	12	0	80
Mifflin	0	1	0	54	20	0	75
Monroe	0	0	23	159	31	0	213
Montgomery	0	0	222	488	283	0	993
Montour	0	0	0	23	7	0	30
Northampton	0	0	0	173	49	0	222
Northumberland	0	0	18	86	42	0	146

Exhibit 24 Continued

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misdemeanor	Felony Other than Homicide	Homicide	Total
Perry	0	0	2	16	9	0	27
Philadelphia	1	3	7	878	917	0	1,806
Pike	0	0	0	23	3	0	26
Potter	0	0	4	9	3	0	16
Schuylkill	0	0	0	71	30	0	101
Snyder	1	0	23	51	13	0	88
Somerset	0	9	11	27	24	0	71
Sullivan	0	0	0	1	0	0	1
Susquehanna	0	0	0	9	7	0	16
Tioga	0	0	0	36	11	0	47
Union	0	0	5	16	6	0	27
Venango	0	0	0	0	0	0	0
Warren	0	1	2	15	7	0	25
Washington	0	0	70	235	36	0	341
Wayne	0	0	0	32	10	0	42
Westmoreland	2	0	59	331	43	0	435
Wyoming	0	0	0	0	1	0	1
York	0	0	22	284	163	0	469
Total:	8	24	918	7,544	3,371	0	11,865

Source: Developed by LBFC Staff with data from AOPC.

Exhibit 25

**Total Juvenile Delinquency Cases Involving a
Public Defender by Category of Criminal Offense by County
(CY 2020)**

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misde- meanor	Felony Other than Homicide	Homi- cide	Total
Adams	0	0	42	79	41	0	162
Allegheny	0	0	26	438	340	0	804
Armstrong	0	0	0	8	1	0	9
Beaver	0	2	1	78	51	0	132
Bedford	0	0	0	9	3	0	12
Berks	0	0	1	135	59	0	195
Blair	0	0	0	57	30	0	87
Bradford	0	0	0	29	15	0	44
Bucks	0	0	16	227	53	0	296
Butler	0	0	0	129	43	0	172
Cambria	0	0	68	134	66	0	268
Cameron	0	0	1	0	0	0	1
Carbon	0	0	6	25	13	0	44
Centre	0	0	0	1	1	0	2
Chester	0	0	2	204	89	0	295
Clarion	0	0	13	22	8	0	43
Clearfield	0	0	0	61	6	0	67
Clinton	0	0	0	32	8	0	40
Columbia	0	0	0	18	8	0	26
Crawford	0	0	0	52	18	0	70
Cumberland	0	1	5	237	94	0	337
Dauphin	0	0	0	0	0	0	0
Delaware	0	3	61	470	234	0	768
Elk	0	0	0	2	2	0	4
Erie	0	0	3	208	49	0	260
Fayette	0	0	0	7	7	0	14
Forest	0	0	0	2	0	0	2
Franklin	0	0	5	89	46	0	140
Fulton	0	0	0	7	3	0	10
Greene	0	0	0	0	0	0	0
Huntingdon	0	0	0	9	0	0	9
Indiana	1	0	0	47	11	0	59
Jefferson	0	0	0	23	8	0	31
Juniata	0	0	0	3	0	0	3
Lackawanna	0	0	0	0	0	0	0

Exhibit 25 Continued

County	Indirect Criminal Contempt	Ungraded Offense	Summary Offense	Misde- meanor	Felony Other than Homicide	Homi- cide	Total
Lancaster	0	0	3	336	109	0	448
Lawrence	0	0	15	60	22	0	97
Lebanon	0	0	0	118	42	0	160
Lehigh	0	0	0	219	76	0	295
Luzerne	0	0	13	68	38	0	119
Lycoming	0	0	0	5	1	0	6
McKean	0	0	1	25	7	0	33
Mercer	0	0	1	69	15	0	85
Mifflin	0	0	0	29	11	0	40
Monroe	0	0	8	128	50	0	186
Montgomery	0	0	68	299	191	0	558
Montour	0	0	0	11	7	0	18
Northampton	0	0	0	162	53	0	215
Northumberland	0	0	12	74	33	0	119
Perry	0	0	0	15	24	0	39
Philadelphia	0	1	4	661	593	0	1,259
Pike	0	0	1	12	9	0	22
Potter	0	0	2	16	5	0	23
Schuylkill	0	0	0	59	28	0	87
Snyder	0	0	19	41	8	0	68
Somerset	0	9	2	25	12	0	48
Sullivan	0	0	0	1	1	0	2
Susquehanna	0	0	0	0	0	0	0
Tioga	0	0	1	23	4	0	28
Union	0	0	1	16	5	0	22
Venango	0	0	0	0	0	0	0
Warren	0	0	0	21	7	0	28
Washington	0	0	79	223	57	1	360
Wayne	0	0	0	20	10	0	30
Westmoreland	0	1	72	283	51	0	407
Wyoming	0	0	0	1	0	0	1
York	0	0	13	222	125	0	360
Total:	1	17	565	6,084	2,901	1	9,569

Source: Developed by LBFC Staff with data from AOPC.

The Juvenile Court Judges Commission (JCJC) provided us with data regarding the type of representation for juvenile delinquents during their legal proceedings. Exhibit 26 shows a summary for calendar years 2018 to 2020 and Exhibits 27, 28, and 29 shows the same data broken down by county.⁵⁹

Exhibit 26

**Type of Representation for Juvenile Delinquency Cases
(CY 2018-2020)**

Year	Number of Proceedings	Public Defender	Percent Public Defender	Court Appointed	Private Attorney	Waived Attorney	No Attorney
2018	13,139	8,597	68.2	2,511	1,647	13	11
2019	12,401	8,756	70.6	2,158	1,480	2	5
2020	8,570	5,797	67.6	1,686	1,087	0	0

Source: Developed by LBFC with data from JCJC.

⁵⁹ The number of juvenile delinquency proceedings shown in this exhibit are based on JCJC data that may not exactly match the number of juvenile delinquency cases shown in the exhibits above, based on AOPC data. This can be attributed to several reasons as indicated by both AOPC and JCJC: 1) it may be due to a change in attorney throughout the lifecycle of the case. AOPC counted the case if a public defender or court-appointed attorney was on the case at any time. JCJC only counted if the public defender/court-appointed attorney was on the case during the hearing or 2) cases were counted in different disposition years depending on when the data was pulled and/or the disposition counted by JCJC. AOPC counted in the year of the final disposition.

Exhibit 27

Type of Representation for Juvenile Delinquency Cases by County
 (CY 2018)

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Adams	123	85	69.1	34	27.6	4	3.3	0	0.0	0	0.0
Allegheny	1,052	633	60.2	96	9.1	323	30.7	0	0.0	0	0.0
Armstrong	55	35	63.6	12	21.8	8	14.5	0	0.0	0	0.0
Beaver	113	93	82.3	7	6.2	13	11.5	0	0.0	0	0.0
Bedford	31	26	83.9	3	9.7	2	6.5	0	0.0	0	0.0
Berks	407	263	64.6	106	26.0	38	9.3	0	0.0	0	0.0
Blair	198	125	63.1	59	29.8	14	7.1	0	0.0	0	0.0
Bradford	33	20	60.6	12	36.4	1	3.0	0	0.0	0	0.0
Bucks	460	327	71.1	54	11.7	79	17.2	0	0.0	0	0.0
Butler	227	148	65.2	52	22.9	27	11.9	0	0.0	0	0.0
Cambria	166	121	72.9	35	21.1	10	6.0	0	0.0	0	0.0
Cameron	4	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Carbon	31	21	67.7	9	29.0	1	3.2	0	0.0	0	0.0
Centre	82	15	18.3	52	63.4	15	18.3	0	0.0	0	0.0
Chester	395	302	76.5	47	11.9	46	11.6	0	0.0	0	0.0
Clarion	58	52	89.7	4	6.9	2	3.4	0	0.0	0	0.0
Clearfield	25	21	84.0	1	4.0	3	12.0	0	0.0	0	0.0
Clinton	59	46	78.0	8	13.6	5	8.5	0	0.0	0	0.0
Columbia	67	48	71.6	1	1.5	18	26.9	0	0.0	0	0.0
Crawford	116	75	64.7	36	31.0	4	3.4	0	0.0	1	0.9
Cumberland	214	144	67.3	53	24.8	17	7.9	0	0.0	0	0.0
Dauphin	384	291	75.8	0	0.0	93	24.2	0	0.0	0	0.0
Delaware	825	607	73.6	57	6.9	138	16.7	13	1.6	10	1.2
Elk	21	9	42.9	11	52.4	1	4.8	0	0.0	0	0.0
Erie	248	165	66.5	67	27.0	16	6.5	0	0.0	0	0.0
Fayette	75	64	85.3	2	2.7	9	12.0	0	0.0	0	0.0
Forest	7	0	0	7	100.0	0	0.0	0	0.0	0	0.0
Franklin	144	104	72.2	29	20.1	11	7.6	0	0.0	0	0.0

Exhibit 27 Continued

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Fulton	18	14	77.8	2	11.1	2	11.1	0	0.0	0	0.0
Greene	16	14	87.5	2	12.5	0	0.0	0	0.0	0	0.0
Huntingdon	68	38	55.9	22	32.4	8	11.8	0	0.0	0	0.0
Indiana	63	57	90.5	0	0.0	6	9.5	0	0.0	0	0.0
Jefferson	80	71	88.8	0	0.0	9	11.3	0	0.0	0	0.0
Juniata	29	23	79.3	1	3.4	5	17.2	0	0.0	0	0.0
Lackawanna	285	149	52.3	110	38.6	26	9.1	0	0.0	0	0.0
Lancaster	430	272	63.3	115	26.7	43	10.0	0	0.0	0	0.0
Lawrence	88	88	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Lebanon	171	115	67.3	44	25.7	12	7.0	0	0.0	0	0.0
Lehigh	354	253	71.5	78	22.0	23	6.5	0	0.0	0	0.0
Luzerne	268	152	56.7	102	38.1	14	5.2	0	0.0	0	0.0
Lycoming	239	196	82.0	37	15.5	6	2.5	0	0.0	0	0.0
McKean	60	43	71.7	0	0.0	17	28.3	0	0.0	0	0.0
Mercer	175	127	72.6	34	19.4	14	8.0	0	0.0	0	0.0
Mifflin	77	59	76.6	16	20.8	2	2.6	0	0.0	0	0.0
Monroe	207	136	65.7	38	18.4	33	15.9	0	0.0	0	0.0
Montgomery	589	387	65.7	11	1.9	191	32.4	0	0.0	0	0.0
Montour	18	14	77.8	2	11.1	2	11.1	0	0.0	0	0.0
Northampton	334	262	78.4	33	9.9	39	11.7	0	0.0	0	0.0
Northumberland	83	26	31.3	57	68.7	0	0.0	0	0.0	0	0.0
Perry	60	56	93.3	0	0.0	4	6.7	0	0.0	0	0.0
Philadelphia	2,194	1,465	66.8	587	26.8	142	6.5	0	0.0	0	0.0
Pike	60	46	76.7	0	0.0	14	23.3	0	0.0	0	0.0
Potter	21	20	95.2	0	0.0	1	4.8	0	0.0	0	0.0
Schuylkill	124	94	75.8	18	14.5	12	9.7	0	0.0	0	0.0
Snyder	41	27	65.9	9	22.0	5	12.2	0	0.0	0	0.0

Exhibit 27 Continued

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Somerset	33	32	97.0	0	0.0	1	3.0	0	0.0	0	0.0
Sullivan	2	0	0.0	2	100.0	0	0.0	0	0.0	0	0.0
Susquehanna	23	17	73.9	4	17.4	2	8.7	0	0.0	0	0.0
Tioga	60	49	81.7	0	0.0	11	18.3	0	0.0	0	0.0
Union	26	17	65.4	6	23.1	3	11.5	0	0.0	0	0.0
Venango	92	13	14.1	77	83.7	2	2.2	0	0.0	0	0.0
Warren	44	30	68.2	8	18.2	6	13.6	0	0.0	0	0.0
Washington	154	110	71.4	30	19.5	14	9.1	0	0.0	0	0.0
Wayne	39	31	79.5	0	0.0	8	20.5	0	0.0	0	0.0
Westmoreland	466	358	76.8	64	13.7	44	9.4	0	0.0	0	0.0
Wyoming	27	23	85.2	0	0.0	4	14.8	0	0.0	0	0.0
York	401	229	57.1	148	36.9	24	6.0	0	0.0	0	0.0
Total:	13,139	8,957	68.2	2,511	19.1	1,647	12.5	13	0.1	11	0.1

Source: Developed by LBFC Staff with data from JCJC.

Exhibit 28

Type of Representation for Juvenile Delinquency Cases by County
 (CY 2019)

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Adams	128	98	76.6	21	16.4	9	7.0	0	0.0	0	0.0
Allegheny	978	655	67.0	97	9.9	226	23.1	0	0.0	0	0.0
Armstrong	57	33	57.9	19	33.3	5	8.8	0	0.0	0	0.0
Beaver	101	70	69.3	11	10.9	20	19.8	0	0.0	0	0.0
Bedford	38	33	86.8	2	5.3	3	7.9	0	0.0	0	0.0
Berks	351	229	65.2	82	23.4	40	11.4	0	0.0	0	0.0
Blair	203	124	61.1	70	34.5	9	4.4	0	0.0	0	0.0
Bradford	31	23	74.2	3	9.7	5	16.1	0	0.0	0	0.0
Bucks	434	317	73.0	30	6.9	87	20.0	0	0.0	0	0.0
Butler	196	137	69.9	37	18.9	22	11.2	0	0.0	0	0.0
Cambria	164	121	73.8	29	17.7	14	8.5	0	0.0	0	0.0
Cameron	3	3	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Carbon	27	20	74.1	6	22.2	1	3.7	0	0.0	0	0.0
Centre	53	44	83.0	3	5.7	6	11.3	0	0.0	0	0.0
Chester	319	235	73.7	55	17.2	29	9.1	0	0.0	0	0.0
Clarion	61	56	91.8	3	4.9	2	3.3	0	0.0	0	0.0
Clearfield	76	75	98.7	0	0.0	1	1.3	0	0.0	0	0.0
Clinton	45	44	97.8	0	0.0	1	2.2	0	0.0	0	0.0
Columbia	59	48	81.4	0	0.0	11	18.6	0	0.0	0	0.0
Crawford	114	67	58.8	40	35.1	7	6.1	0	0.0	0	0.0
Cumberland	216	133	61.6	66	30.6	17	7.9	0	0.0	0	0.0
Dauphin	491	395	80.4	0	0.0	96	19.6	0	0.0	0	0.0
Delaware	821	654	79.7	66	8.0	97	11.8	2	0.2	2	0.2
Elk	19	11	57.9	8	42.1	0	0.0	0	0.0	0	0.0
Erie	281	171	60.9	101	35.9	9	3.2	0	0.0	0	0.0
Fayette	56	47	83.9	2	3.6	7	12.5	0	0.0	0	0.0
Forest	7	6	85.7	0	0.0	1	14.3	0	0.0	0	0.0
Franklin	109	85	78.0	11	10.1	13	11.9	0	0.0	0	0.0
Fulton	4	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Greene	15	14	93.3	0	0.0	1	6.7	0	0.0	0	0.0

Exhibit 28 Continued

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Huntingdon	64	55	85.9	6	9.4	3	4.7	0	0.0	0	0.0
Indiana	62	56	90.3	0	0.0	6	9.7	0	0.0	0	0.0
Jefferson	47	45	95.7	0	0.0	2	4.3	0	0.0	0	0.0
Juniata	27	20	74.1	1	3.7	6	22.2	0	0.0	0	0.0
Lackawanna	253	206	81.4	11	4.3	36	14.2	0	0.0	0	0.0
Lancaster	476	302	63.4	138	29.0	36	7.6	0	0.0	0	0.0
Lawrence	81	81	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Lebanon	129	82	63.6	40	31.0	7	5.4	0	0.0	0	0.0
Lehigh	364	276	75.8	66	18.1	22	6.0	0	0.0	0	0.0
Luzerne	138	70	50.7	54	39.1	14	10.1	0	0.0	0	0.0
Lycoming	231	182	78.8	42	18.2	7	3.0	0	0.0	0	0.0
McKean	49	40	81.6	0	0.0	9	18.4	0	0.0	0	0.0
Mercer	154	108	70.1	35	22.7	11	7.1	0	0.0	0	0.0
Mifflin	69	60	87.0	4	5.8	5	7.2	0	0.0	0	0.0
Monroe	181	121	66.9	27	14.9	33	18.2	0	0.0	0	0.0
Montgomery	595	402	67.6	21	3.5	172	28.9	0	0.0	0	0.0
Montour	29	21	72.4	7	24.1	1	3.4	0	0.0	0	0.0
Northampton	361	260	72.0	5	14.4	49	13.6	0	0.0	0	0.0
Northumberland	96	30	31.3	61	63.5	5	5.2	0	0.0	0	0.0
Perry	45	43	95.6	0	0.0	2	4.4	0	0.0	0	0.0
Philadelphia	2,024	1,380	68.2	515	25.4	129	6.4	0	0.0	0	0.0
Pike	61	38	62.3	0	0.0	22	36.1	0	0.0	1	1.6
Potter	37	36	97.3	0	0.0	1	2.7	0	0.0	0	0.0
Schuylkill	101	72	71.3	11	10.9	18	17.8	0	0.0	0	0.0
Snyder	27	20	74.1	2	7.4	5	18.5	0	0.0	0	0.0
Somerset	21	17	81.0	0	0.0	4	19.0	0	0.0	0	0.0
Sullivan	2	0	0.0	2	100.0	0	0.0	0	0.0	0	0.0
Susquehanna	12	9	75.0	2	16.7	1	8.3	0	0.0	0	0.0
Tioga	46	35	76.1	0	0.0	11	23.9	0	0.0	0	0.0
Union	13	11	84.6	2	15.4	0	0.0	0	0.0	0	0.0
Venango	86	19	22.1	61	70.9	6	7.0	0	0.0	0	0.0
Warren	36	32	88.9	1	2.8	3	8.3	0	0.0	0	0.0
Washington	185	129	69.7	38	20.5	18	9.7	0	0.0	0	0.0

Exhibit 28 Continued

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Wayne	28	24	85.7	0	0.0	4	14.3	0	0.0	0	0.0
Westmoreland	430	291	67.7	80	18.6	57	13.3	0	0.0	2	0.5
Wyoming	38	33	86.8	0	0.0	5	13.2	0	0.0	0	0.0
York	346	198	57.2	117	33.8	31	9.0	0	0.0	0	0.0
Total:	12,401	8,756	70.6	2,158	17.4	1,480	11.9	2	0.0	5	0.0

Source: Developed by LBFC Staff with data from JCJC.

Exhibit 29

**Type of Representation for Juvenile Delinquency Cases by County
 (CY 2020)**

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Adams	106	86	81.1	14	13.2	6	5.7	0	0.0	0	0.0
Allegheny	683	441	64.6	79	11.6	163	23.9	0	0.0	0	0.0
Armstrong	53	31	58.5	14	26.4	8	15.1	0	0.0	0	0.0
Beaver	70	60	85.7	5	7.1	5	7.1	0	0.0	0	0.0
Bedford	33	24	72.7	3	9.1	6	18.2	0	0.0	0	0.0
Berks	306	191	62.4	88	28.8	27	8.8	0	0.0	0	0.0
Blair	141	62	44.0	69	48.9	10	7.1	0	0.0	0	0.0
Bradford	12	8	66.7	3	25.0	1	8.3	0	0.0	0	0.0
Bucks	292	216	74.0	34	11.6	42	14.4	0	0.0	0	0.0
Butler	158	103	65.2	38	24.1	17	10.8	0	0.0	0	0.0
Cambria	111	72	64.9	25	22.5	14	12.6	0	0.0	0	0.0
Cameron	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Carbon	20	7	35.0	5	25.0	8	40.0	0	0.0	0	0.0
Centre	50	36	72.0	2	4.0	12	24.0	0	0.0	0	0.0
Chester	239	160	66.9	41	17.2	38	15.9	0	0.0	0	0.0
Clarion	49	38	77.6	10	20.4	1	2.0	0	0.0	0	0.0

Exhibit 29 Continued

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Clearfield	28	27	96.4	0	0.0	1	3.6	0	0.0	0	0.0
Clinton	37	31	83.8	6	16.2	0	0.0	0	0.0	0	0.0
Columbia	37	29	78.4	2	5.4	6	16.2	0	0.0	0	0.0
Crawford	98	61	62.2	34	34.7	3	3.1	0	0.0	0	0.0
Cumberland	184	98	53.3	68	37.0	18	9.8	0	0.0	0	0.0
Dauphin	336	276	82.1	0	0.0	60	17.9	0	0.0	0	0.0
Delaware	427	330	77.3	33	7.7	64	15.0	0	0.0	0	0.0
Elk	7	6	85.7	1	14.3	0	0.0	0	0.0	0	0.0
Erie	225	142	63.1	65	28.9	18	8.0	0	0.0	0	0.0
Fayette	44	35	79.5	4	9.1	5	11.4	0	0.0	0	0.0
Forest	10	0	0.0	10	100.0	0	0.0	0	0.0	0	0.0
Franklin	100	87	87.0	1	1.0	12	12.0	0	0.0	0	0.0
Fulton	12	6	50.0	4	33.3	2	16.7	0	0.0	0	0.0
Greene	13	10	76.9	3	23.1	0	0.0	0	0.0	0	0.0
Huntingdon	44	31	70.5	11	25.0	2	4.5	0	0.0	0	0.0
Indiana	53	53	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Jefferson	57	53	93.0	0	0.0	4	7.0	0	0.0	0	0.0
Juniata	34	27	79.4	6	17.6	1	2.9	0	0.0	0	0.0
Lackawanna	170	131	77.1	6	3.5	33	19.4	0	0.0	0	0.0
Lancaster	322	212	65.8	85	26.4	25	7.8	0	0.0	0	0.0
Lawrence	47	47	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Lebanon	92	62	58.5	33	31.1	11	10.4	0	0.0	0	0.0
Lehigh	248	188	75.8	41	16.5	19	7.7	0	0.0	0	0.0
Luzerne	106	62	58.5	33	31.1	11	10.4	0	0.0	0	0.0
Lycoming	97	40	41.2	55	56.7	2	2.1	0	0.0	0	0.0
McKean	31	24	77.4	0	0.0	7	22.6	0	0.0	0	0.0
Mercer	110	77	70.0	24	21.8	9	8.2	0	0.0	0	0.0
Mifflin	48	43	89.6	3	6.3	2	4.2	0	0.0	0	0.0
Monroe	125	80	64.0	24	19.2	21	16.8	0	0.0	0	0.0
Montgomery	418	274	65.6	11	2.6	133	31.8	0	0.0	0	0.0
Montour	16	12	75.0	2	12.5	2	12.5	0	0.0	0	0.0

Exhibit 29 Continued

County	Number of Proceedings	Public Defender	Per-cent	Court Appointed	Per-cent	Private Attorney	Per-cent	Waived Attorney	Per-cent	No Attorney	Per-cent
Northampton	222	168	75.7	35	15.8	19	8.6	0	0.0	0	0.0
Northumberland	70	28	40.0	40	57.1	2	2.9	0	0.0	0	0.0
Perry	50	45	90.0	0	0.0	5	10.0	0	0.0	0	0.0
Philadelphia	1,228	783	63.8	363	29.6	82	6.7	0	0.0	0	0.0
Pike	42	22	52.4	0	0.0	20	47.6	0	0.0	0	0.0
Potter	8	7	87.5	0	0.0	1	12.5	0	0.0	0	0.0
Schuylkill	64	49	76.6	4	6.3	11	17.2	0	0.0	0	0.0
Snyder	34	24	70.6	9	26.5	1	2.9	0	0.0	0	0.0
Somerset	17	6	35.3	11	64.7	0	0.0	0	0.0	0	0.0
Sullivan	7	3	42.9	4	57.1	0	0.0	0	0.0	0	0.0
Susquehanna	8	8	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Tioga	26	21	80.8	0	0.0	5	19.2	0	0.0	0	0.0
Union	20	16	80.0	1	5.0	3	15.0	0	0.0	0	0.0
Venango	53	6	11.3	44	83.0	3	5.7	0	0.0	0	0.0
Warren	32	23	71.9	7	21.9	2	6.3	0	0.0	0	0.0
Washington	134	72	53.7	44	32.8	18	13.4	0	0.0	0	0.0
Wayne	20	18	90.0	0	0.0	2	10.0	0	0.0	0	0.0
Westmoreland	352	240	68.2	66	18.8	46	13.1	0	0.0	0	0.0
Wyoming	19	11	57.9	0	0.0	8	42.1	0	0.0	0	0.0
York	263	156	59.3	77	29.3	30	11.4	0	0.0	0	0.0
Total:	8,570	5,797	67.6	1,686	19.7	1,087	12.7	0	0.0	0	0.0

Source: Developed by LBFC Staff with data from JCJC.

SECTION V COUNTY PUBLIC DEFENDER SURVEY



Fast Facts...

- ❖ *Thirty-six county public defenders' offices responded to our survey.*
- ❖ *Although some public defenders' offices have caseload management systems, caseload data was unknown and untracked by many offices.*
- ❖ *There is no uniform process among the counties for determining who qualifies for a public defender.*

To collect data from public defenders' offices, including information on caseloads, salaries, and number of attorneys in each office, we developed a survey and sent it via Survey Monkey© to the 67 county chief public defenders (See Appendix B). We received a response to this survey from 36 counties for a return rate of 54 percent.⁶⁰ All but seven surveys were submitted by a chief public defender, versus another representative of a county public defender office.

Although some public defender offices have caseload management systems, many of the responding counties were unable to answer our questions regarding caseload data, often telling us that this data was unknown and untracked by their offices, or that it was available through county court administration. As an example, for the questions regarding adult or juvenile delinquency caseloads by category of crime – felony, misdemeanor, summary offense, etc. – only a small number of counties could provide specific numbers for any category in any of the three calendar years for which we requested data.

A. Determination of Eligibility for a Public Defender

We asked each county how it determines if a criminal defendant qualifies as indigent, and therefore qualifies for a public defender. As reflected in the responses we received, there is no uniform process used by the counties for determining who qualifies for a public defender. Most counties, 23, use federal poverty guidelines, or a higher percentage of the guidelines, ranging from 125 percent to 175 percent of the poverty guidelines. Several other counties use federal poverty guidelines in conjunction with other criteria, for example, home equity, cash, other assets, and family size.

Still other counties use different methods to determine indigency as indicated by the following:

⁶⁰ The counties responding to our survey were from county classes 1 to 8 and included the following: Adams, Berks, Blair, Bucks, Cambria, Centre, Chester, Clearfield, Columbia, Cumberland, Delaware, Erie, Fayette, Forest, Huntingdon, Indiana, Jefferson, Lackawanna, Lebanon, McKean, Mercer, Mifflin, Monroe, Montour, Perry, Philadelphia, Pike, Potter, Schuylkill, Tioga, Venango, Washington, Wayne, Westmoreland, Wyoming, and York.

- *There are certain general guidelines that are used (i.e., make less than 30,000 per year); but it can also depend on the severity of the charge. A person making 80,000 per year but is charged with homicide may still qualify based on ability to hire private counsel.*
- *Each defendant is required to fill out an application for public defender. Based on that and the nature of the offense determines eligibility.*
- *We use a holistic approach looking at type of offense, and applicant's resources and applicants' circumstances. We use the Federal Poverty guidelines as guide, but not exclusively.*
- *Upon receiving an application for services, the applicant's net income is used to determine eligibility. Upward adjustments for eligibility are applied if the applicant has dependents. It is believed that our guidelines provide broader eligibility for services than for those below the federal poverty guidelines.*

Three counties responded that their respective county courts determine eligibility of a defendant for a public defender. The remainder determine eligibility within their public defender offices. Two of those counties described extenuating circumstances wherein the courts could get involved: 1) the Court of Common Pleas can appoint the public defender in cases where the client is above 150 percent of federal poverty guidelines and 2) if an individual did not initially qualify, an indigency hearing can be held before the court to determine whether a public defender can be appointed.

COVID-19 Impact on Determination of Eligibility

Considering COVID 19, we asked counties if they had changed how they determine eligibility and seven answered that they had. Several counties commented on their changes:

- *I look at all apps for income but take into account the pandemic and its impact.*
- *Specific requirements have been relaxed to a degree to accommodate COVID-19 restrictions and to safeguard both Public Defender staff, Clients, and Applicants from possible COVID exposure. Some of these changes are very likely to be made permanent.*
- *Yes, the office has increased the federal poverty guidelines from 125% to 175%. The office will review this policy change upon the completion of the pandemic.*
- *I do not anticipate the change to be permanent. We were not requiring pay stubs or proof of income. We had individuals sign an affidavit indicating that they had no income, and they would update the office upon change in circumstance.*

- *We have become less stringent about requiring certain documentation (specifically letters of support when clients indicate that they have zero income).*
- *Since COVID we no longer require an in-person office visit for non-incarcerated applicants. We do the qualification & verification by phone or zoom and accept applications by mail with a telephone follow-up. We are currently considering an online application moving forward.*
- *We have required much less documentation.*
- *To assist clients until they get back on their feet and back to work. Then we reassess when [the] client lets us know they have returned to work.*

B. Information about Public Defenders' Offices

In our survey, we asked public defenders' offices about their staffing and salaries. Of the responses we received, most chief public defenders, 29, or 81 percent, are full-time county employees. One chief is contracted full-time. The remaining chief public defenders are part-time (four) or contracted part-time (two).

We also asked for the number of full-time equivalent (FTE) and part-time (PT) public defenders each county employed and responding counties provided the following as shown in Exhibit 30.

Exhibit 30

Full-time Equivalent and Part-time Employees at Public Defenders' Offices^a (CY 2018-20)

County	<u>2018</u>		<u>2019</u>		<u>2020</u>	
	FTE	PT	FTE	PT	FTE	PT
Adams	3	0	3	0	3	0
Berks	24	0	24	0	24	0
Blair	5	5	5	5	5	5
Bucks	23	0	23	0	25	0
Cambria	4	0	4	0	5	1
Centre	7	0	7	0	7	0
Chester	26	2	25	1	23	1
Clearfield	5	3	5	3	5	2
Columbia	4	2	4	2	4	2
Cumberland	11	1	11	1	11	1
Delaware	57	0	57	0	46	0

Exhibit 30 Continued

County	<u>2018</u>		<u>2019</u>		<u>2020</u>	
	FTE	PT	FTE	PT	FTE	PT
Erie	5	10	5	10	5	10
Fayette	0	- ^b	0	-	0	-
Huntingdon	2	0	2	0	2	0
Indiana	-	5	-	4	-	5
Jefferson	0	0	0	0	0	0
Lackawanna	4	0	4	0	4	0
Lebanon	5	0	6	0	6	0
McKean	3	1	3	1	3	1
Mercer	8	5	8	5	8	5
Mifflin	0	1	0	1	0	1
Monroe	-	3	-	0	-	0
Montour	1	3	1	3	1	3
Perry	0	-	0	-	0	-
Philadelphia	249	3	255	3	255	3
Pike	4	3	3	2	4	3
Potter	1	0	1	0	1	0
Schuylkill	2	7	3	6	3	6
Tioga	1	1	2	0	0	1
Venango	4	1	4	0	4	0
Washington	7	1	9	1	9	1
Wayne	5	4	5	4	5	4
Westmoreland	14	6	14	6	14	5
Wyoming	2	0	2	0	2	0
York	23	3	24	3	24	3

^a Data in this exhibit may not include the chief public defender. Additionally, although we asked for full-time equivalent employees in our survey, data may represent the number of full-time employees.

^b Dash (-) reflect no response was provided to the question.

Source: Developed by LBFC Staff with data from Survey Monkey© Public Defender Survey.

Responding counties gave us information regarding chief public defender salaries as well as salary ranges for other full-time and part-time public defenders. Exhibit 31 shows the salary range of chief public defenders from CY 2018 to 2020.

Exhibit 31

Chief Public Defender Salary Ranges (CY 2018-2020)

2018	2019	2020
\$ 37,600-123,000	\$ 38,750-136,000	\$ 40,100-139,000

Source: Developed by LBFC Staff with data from Survey Monkey© Public Defender Survey.

Exhibit 32 shows the salary range of full-time and part-time public defenders.

Exhibit 32

Public Defender Salary Ranges (CY 2018-2020)

Status	2018	2019	2020
Full-time PDs	\$35,000-120,000	\$38,000-120,000	\$40,500-120,000
Part time PDs ^a	21,000-70,000	22,750-60,000	23,000-75,000

^a Two counties responded that they pay part-time public defenders' hourly rates. Both counties reported rates of \$25 and \$40.38 for all three calendar years.

Source: Developed by LBFC Staff with data from Survey Monkey© Public Defender Survey.

Other Counsel

As part of our survey, we asked each public defenders' offices to tell us the number of indigent criminal defendants represented by court-appointed counsel, including conflict counsel, *not by* a public defender. Only seven of the responding counties gave us specific data for this question; most did not have the information.

We also asked for the total amount of funding expended on court-appointed counsel; 13 counties responded to this question and eight of them answered zero dollars. Other counties said this information was not available or did not know what these expenditures were. Still other counties stated that these types of counsel are paid for through the court administration budget.

Some of the responding counties paid court-appointed counsel an hourly rate for their services; in two counties the hourly rate was also indicated to be a contracted rate. Six counties paid a per case rate, one of which was a contracted rate, and the remaining counties used overall contracted rates (a set amount for a time period/number of cases) for court-appointed counsel.

Some counties noted exceptions to how they compensated this type of counsel. For example, one county that paid on a per case basis paid on an hourly basis for homicide cases. Another county had two attorneys acting as standing conflict counsel, who received up to five cases per month and were paid a per month amount.

C. Counties' Other Comments

For the last question in our survey, we invited counties to give us any other thoughts, comments, observations, or information. Below are examples of their comments:

- *Survey shows cases PD office represented which may be different then filed. Juveniles are deemed indigent by statute and do not have to apply. Much of the requested information is not kept by this office as we do not have the luxury to have felony attorneys versus misdemeanor attorneys. Other response in the survey reflects Mental Health Commitment hearings the office handles . . .*
- *State funding would be of great benefit to indigent defense. More so in counties which have a state prison where public defenders must handle inmates commuting criminal, parole revocations and appeals of revocations.*
- *We are underfunded and cannot hire experienced qualified attorneys. We cannot hold onto counsel who gain experience and can make more at a firm. We are unable to get positions for investigators or other type of support. We are often paid less than the district attorney as promotions occur.*
- *The criminal case totals do not include our many other duties: probation/parole violation hearings take at least 6 PDs per week; nonsupport hearings require one PD one day per week; PFA hearings (80 cases in 2019 and 77 in 2020) mental health commitment hearings (395 cases in 2019 and 347 cases in 2020) and the times we are summoned by the courts to represent persons who didn't go through the application process. Much of the data you request in this survey is not available to the PD's office . . .*
- *Our case management system does not permit us to track some of the information you requested. Also, for conflict counsel the county has a contract with 10 or so attorneys to handle approximately 40 cases per year. They are paid out of the Court's budget.*
- *Two attorneys are hired as independent contractors to provide juvenile PD services and probation violation [PV] services. Each is a flat fee, annual contract. I believe the juvenile is \$26,000 annually and the PV contract is \$24,000 annually.*
- *While I am the Chief, I am also a full-time trial lawyer. I do not have the time or luxury to be able to compile statistics and record*

information We lack the resources to do many of the things and record much of the information that you are looking for.

- *I apologize for the lack of meaningful statistics for our 2018, 2019, and 2020 calendar years - we just obtained new case tracking software in July of 2020 which should make these statistics more readily available in the future. I believe that Pennsylvania's lack of funding for Public Defense is both troublesome and embarrassing and leads to an inequitable system of justice. We lose attorneys to private practice because individual counties cannot afford to pay reasonable salaries. Chief Public Defenders consistently make approximately \$100,000/year less than the District Attorney in most counties. The county budgets . . . include millions of dollars for prosecution, policing, probation, Courts, and jails, yet only a small fraction of those dollars is spent for providing adequate defense for the indigent.*
- *Generally, [the county] provides good resources for such things as experts and training. As with other P.D. offices, salaries for attorneys and support staff are well below the private sector.*
- *The Public Defender's office(s) always works harder with fewer people in the office and resources for the office for indigent clients. Our office last year had just received a full time and part time (contracted) public defender and has only 1 office staff. We handle about 85% of the cases in [the county]. None of the people in the office get paid what they should for all we do. But we continue to strive to handle the cases professionally, timely and with few issues, that is probably why the county doesn't think we should be paid with higher wages.*
- *A lot of the data you are asking about is available through the Administrative Office of Pennsylvania Courts.*

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APPENDICES



Appendix A House Resolution 2019-619

PRIOR PRINTER'S NO. 2947

PRINTER'S NO. 3007

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 619 Session of
2019

INTRODUCED BY McCLINTON, A. DAVIS, D. MILLER, MURT, HOHENSTEIN,
FREEMAN, HILL-EVANS, WARREN, ROEBUCK, GALLOWAY AND OTTEN,
NOVEMBER 22, 2019

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 9, 2019

A RESOLUTION

Directing the Legislative Budget and Finance Committee to
conduct a study to collect and organize data regarding
~~historie~~ funding and caseloads relating to indigent criminal
defense in this Commonwealth ~~during the most recent three~~
~~years for which data is available.~~

WHEREAS, The Sixth Amendment to the Constitution of the
United States states, in part:
In all criminal prosecutions, the accused shall enjoy the
right . . . to have the Assistance of Counsel for his
defense[;];
and

WHEREAS, In the landmark case of *Gideon v. Wainwright*, 372
U.S. 335 (1963), the United States Supreme Court ruled that free

counsel for criminal defendants who cannot afford to hire an attorney is mandated upon the states by the Sixth Amendment of the Constitution of the United States; and

WHEREAS, The United States Supreme Court subsequently clarified that the guarantees described in *Gideon* include misdemeanor prosecutions that could result in a term of imprisonment, juvenile delinquency proceedings and all critical proceedings subsequent to arrest; and

WHEREAS, The Constitution of Pennsylvania also guarantees to indigent criminal defendants a right to counsel; and

WHEREAS, Since 1776, the Constitution of Pennsylvania has provided that:

In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel[;];

and

WHEREAS, The Commonwealth of Pennsylvania provides indigent criminal defendant representation through a variety of means, including a county-based public defender system, court-appointed counsel, conflict counsel, pro bono representation and others; and

WHEREAS, The Public Defender Act, the act of December 2, 1968 (P.L.1144, No.358), mandates that:

In each county except the County of Philadelphia, there shall be a public defender, appointed as herein provided. Two or more counties may cooperate in the appointment of a public defender, as provided in the intergovernmental cooperation provisions of the Constitution of

Pennsylvania or as provided by law[;];

and

WHEREAS, The Public Defender Act further provides that:

In lieu of, or in addition to assistant public defenders, the public defender may arrange for and make use of the services of attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth and the court of common pleas of the county or counties in which they may serve, when such attorneys volunteer to act as assistants, without compensation, to enable him to carry out the duties of his office[;];

and

WHEREAS, IN 2011, THE JOINT STATE GOVERNMENT COMMISSION ISSUED A REPORT OF THE TASK FORCE AND ADVISORY COMMITTEE ON SERVICES TO INDIGENT CRIMINAL DEFENDANTS IN WHICH THE JOINT STATE GOVERNMENT COMMISSION CONCLUDED THAT THE "[L]ACK OF SYSTEMATIC AND COMPLETE DATA HAMPERS ANALYSIS AND EVALUATION OF OUR [INDIGENT DEFENSE SYSTEM]"; AND

WHEREAS, Funding for the criminal justice system in Pennsylvania, including indigent criminal defense, is primarily county-based; and

WHEREAS, The interests of justice and therefore of all Pennsylvanians are best served when Pennsylvania's indigent criminal defense system operates in an effective and ethical manner, responsibly using sufficient funding to zealously represent its clients; therefore be it

RESOLVED, That the House of Representatives direct the

Legislative Budget and Finance Committee to conduct a study to collect and organize data regarding ~~historie~~ funding and caseloads relating to indigent criminal defense in the Commonwealth ~~during the most recent three years for which data is available~~; and be it further

RESOLVED, That the study shall determine the sources of funding and size of caseloads for indigent criminal defense in each county, including WHERE DATA IS AVAILABLE:

- (1) county-based public defenders;
- (2) Federal public defenders appearing in State court;
- (3) court-appointed counsel, including conflict counsel;
- (4) private representation provided pro bono or at reduced rates; and
- (5) any other source of indigent criminal defense representation that the committee determines to be informative;

and be it further

RESOLVED, That the study shall determine the amount of funding available and caseloads for indigent criminal defense supported by each source of funding in each county annually, including the rates paid to court-appointed counsel; and be it further

RESOLVED, That the study shall determine the number of attorneys supported by each source of funding in each county annually and appearing on behalf of indigent criminal defendants, including the number of public defenders, both full-time and part-time; and be it further

RESOLVED, That the study shall determine each county's

caseload for indigent criminal defense supported by each source of funding in each county annually by category, including WHERE DATA IS AVAILABLE:

- (1) capital murders;
- (2) homicides;
- (3) felonies;
- (4) misdemeanors; and
- (5) such other categories that the Committee determines to be informative;

and be it further

RESOLVED, That the study shall determine each county's caseload for indigent criminal defense supported by each source of funding in each county annually by category, including WHERE DATA IS AVAILABLE:

- (1) jury trial;
- (2) bench trial; and
- (3) other disposition;

and be it further

RESOLVED, THAT, UPON COMPLETION OF THE STUDY, THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL SUBMIT A REPORT ON THE RESULTS OF THE STUDY WITHIN 30 DAYS TO THE GOVERNOR, THE JUDICIARY COMMITTEE OF THE SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND BE IT FURTHER

RESOLVED, That the study shall be completed by November 30, 2020, UNLESS EXTENDED BY A RESOLUTION IN A SUBSEQUENT SESSION.

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Appendix B

LBFC Pennsylvania Public Defender Survey



LEGISLATIVE BUDGET & FINANCE COMMITTEE

EST. 1959

Pennsylvania Public Defenders

LBFC Pennsylvania Public Defender (PD) Survey

The Legislative Budget and Finance Committee (LBFC) is a bipartisan and bicameral legislative service agency consisting of 12 members of the Pennsylvania General Assembly. Pennsylvania House Resolution 2019-619 directs the LBFC to conduct a study and provide a report on the funding and caseloads related to indigent criminal defense services in Pennsylvania. The purpose of this survey is to document available funding and caseload information from all Pennsylvania counties for calendar years 2018, 2019, and 2020.

The results from this survey will be reported on a county basis. Your personal identifiable information will be kept confidential. Please note that knowing who provided responses to us is helpful if we need to follow up with any questions, as well as making our report more useful to the General Assembly.

We recognize that some PD offices may be unable to provide some of the data we are asking for. In the questions below, if you are unable to provide an answer, please let us know by using 'Unknown' or 'NA (not applicable)', whichever is appropriate.

Please note that you will be able to save your progress at any time by clicking on the DONE button at the very end of the survey. You can regain access to your survey by clicking on the survey link that we provided in our original email. If you have any questions, please contact Anne Witkonis by email at awitkonis@palbfc.us or by phone at 717/951-2205.

We thank you for your time and consideration in completing our survey.

Question Title

1. Please provide your contact information. 0

Name

Email Address

Phone Number

Question Title

2. Please enter your title. 0

Question Title

3. Provide the name of your county. 0

Question Title

4. Does your county share resources with any other counties to provide public defender services to indigent criminal defendants? 0

☐ Yes

- ☐ No
- ☐ If yes, please identify the county and specify how resources are shared.

Question Title

5. How does your county determine eligibility of individuals for indigent criminal defense? For example, use of federal poverty guidelines. Please be specific. 0

Question Title

6. What entity in your county determines eligibility for indigent criminal defense? 0

- ☐ Public defender office
- ☐ County court
- ☐ Other (please specify)

Question Title

7. Has your county changed how it determines eligibility, or proof of eligibility for indigent defense since the onset of the COVID-19 pandemic? 0

- ☐ Yes
- ☐ No
- ☐ If you answered yes, how has eligibility determination or proof of eligibility changed? Do you anticipate this change to be permanent?

Question Title

8. What was the total number of criminal cases, involving an indigent criminal defendant represented by your PD office that were filed in the following calendar years? 0

2018

2019

2020

Question Title

9. What was the total number of indigent criminal cases where the defendant was found guilty pursuant to a plea or trial? 0

2018

2019

2020

Question Title

10. If available, what was the total number of indigent criminal cases where the defendant was found guilty pursuant to a plea? 0

2018

2019

2020

Question Title

11. In CALENDAR YEAR **2018**, what was the number of indigent criminal cases in your county that were filed and classified as: 0

Adult

Juvenile delinquency

Question Title

12. In CALENDAR YEAR **2019**, what was the number of indigent criminal cases in your county that were filed and classified as: 0

Adult

Juvenile delinquency

Question Title

13. In CALENDAR YEAR **2020**, what was the number of indigent criminal cases in your county filed and classified as: 0

Adult

Juvenile delinquency

Question Title

14. In CALENDAR YEAR **2018**, what was the number of adult indigent criminal cases, that were filed and classified as indicated below. Please base your response on the most serious offense charged.

NOTE: *The Other/ungraded category below includes indirect criminal contempt, probation/parole violations, or other criminal matters not included in the categories below. Please do not include cases involving, e.g., mental health.* 0

Capital murder

Homicide

Other felony

Misdemeanor

Summary offense with possibility of incarceration

Appeal

Other/ungraded

Question Title

15. In CALENDAR YEAR **2019**, what was the number of adult indigent criminal cases that were filed and classified as indicated below. Please base your response on the most serious offense charged.

NOTE: *The Other/ungraded category below includes indirect criminal contempt, probation/parole violations, or other criminal matters not included in the categories below. Please do not include cases involving, e.g., mental health.* 0

Capital murder

Homicide

Other felony

Misdemeanor

Summary offense with possibility of incarceration

Appeal

Other/ungraded

Question Title

16. In CALENDAR YEAR **2020**, what was the number of adult indigent criminal cases that were filed and classified as indicated below. Please base your response on the most serious offense charged.

NOTE: *The Other/ungraded category below includes indirect criminal contempt, probation/parole violations, or other criminal matters not included in the categories below. Please do not include cases involving, e.g., mental health.* 0

Capital murder

Homicide

Other felony

Misdemeanor

Summary offense with possibility of incarceration

Appeal

Other/ungraded

Question Title

17. In CALENDAR YEAR **2018**, what was the number of juvenile delinquent indigent criminal cases that were filed and classified as indicated below. Please base your response on the most serious offense charged.

NOTE: *The Other/ungraded category below includes indirect criminal contempt, probation/parole violations, or other criminal matters not included in the categories below. Please do not include cases involving, e.g., mental health or juvenile dependency.* 0

Capital murder

Homicide

Other felony

Misdemeanor

Summary offense with possibility of incarceration

Appeal

Other/ungraded

Question Title

18. In CALENDAR YEAR **2019**, what was the number of juvenile delinquent indigent criminal cases that were filed and classified as indicated below. Please base your response on the most serious offense charged.

NOTE: *The Other/ungraded category below includes indirect criminal contempt, probation/parole violations, or other criminal matters not included in the categories below. Please do not include cases involving, e.g., mental health or juvenile dependency.* 0

Capital murder

Homicide

Other felony

Misdemeanor

Summary offense with possibility of incarceration

Appeal

Other/ungraded

Question Title

19. In CALENDAR YEAR **2020**, what was the number of juvenile delinquent indigent criminal cases that were filed and classified as indicated below. Please base your response on the most serious offense charged.

NOTE: *The Other/ungraded category below includes indirect criminal contempt, probation/parole violations, or other criminal matters not included in the categories below. Please do not include cases involving, e.g., mental health or juvenile dependency.* 0

Capital murder

Homicide

Other felony

Misdemeanor

Summary offense with possibility of incarceration

Appeal

Other/ungraded

Question Title

20. Please indicate the employment status of your county's chief public defender: 0

- ☐ Full-time
- ☐ Part-time
- ☐ Full-time contracted
- ☐ Part-time contracted

Question Title

21. How many **full-time equivalent (FTE)** public defenders did your county employ in the following calendar years? 0

2018

2019

2020

Question Title

22. Of the number of FTEs listed in **Question 21**, how many of them were **part-time** public defenders (fewer than 30 hours per week)? 0

2018

2019

2020

Question Title

23. What was the chief public defender's salary in the following calendar years? 0

2018

2019

2020

Question Title

24. What was the salary range for **full-time** public defenders in the following calendar years? 0

2018

2019

2020

Question Title

25. What was the salary range for **part-time** public defenders in the following calendar years? 0

2018

2019

2020

Question Title

26. What was the total number of criminal cases in your county in which indigent criminal defendants were represented by court-appointed counsel, including conflict counsel, or other type of counsel (NOT public defender - please see note below) representing indigent criminal defendants in the following calendar years?

NOTE: *We recognize that in some counties, PDs are technically appointed by county court administration. However, in this question, we are trying to discern any other circumstances wherein the court would appoint counsel, other than a public defender.* 0

2018

2019

2020

Question Title

27. Based on your response to **Question 26** what was the total amount of funding expended by your office for court-appointed counsel, including

conflict counsel, or other type of counsel representing indigent criminal defendants in the following calendar years? 0

2018

2018

2020	
------	--

Question Title

28. Based on your response to **Question 26**, how did your county pay for court-appointed counsel, including conflict counsel, or other type of counsel representing indigent criminal defendants? 0

- ☐ Hourly rate
- ☐ Per case rate
- ☐ Overall contracted rate
- ☐ Other (please specify)

[illegible]

Question Title

29. Based on your response to **Question 26**, please specify/explain the rate(s) your county paid for court-appointed counsel, including conflict counsel, or other type of counsel representing indigent criminal defendants? 0

2018

2019

2020

Question Title

30. How many indigent criminal defendants were represented by a private attorney at a reduced rate or pro bono? 0

2018

2019

2020

Question Title

31. Please specify, for the following calendar years, any other sources of indigent criminal defense in your county, for example, the ACLU or The Innocence Project? 0

2018

2019

2020

Question Title

32. Please use the space below to provide any additional comments that you may wish to share with the LBFC regarding indigent criminal defense. 0

Thank you again for your time in completing this survey. We appreciate your participation. 0

