

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF PUBLIC ADVOCACY

100 FAIR OAKS LANE, SUITE 302 ♦ FRANKFORT, KENTUCKY 40601 ♦ 502-564-8006 ♦ FAX: 502-564-7890

Putting a face on justice through our Leadership, Litigation and Learning

Efficiently serving clients and the public while advancing public safety

Justice has many faces. For over 150,000 Kentuckians, ours are the faces of justice.

Our defenders have the privilege of working together to ensure justice for the indigent of Kentucky accused of crimes. The advocates of Protection and Advocacy have the privilege of working collaboratively to help those with developmental disabilities and mental illness.

The faces of the accused and vulnerable come in many colors and shapes but each is the face of a fellow human being in need of help. The reasons our clients need help are as varied as their faces.

We serve an important role for our clients. We provide professional assistance in their time of need, advocating in court for their innocence, seeking an alternative to incarceration, working to lessen barriers because of their disabilities.

We serve an important role for the criminal justice system and public safety. We ensure proper investigations are conducted, the law is followed, and fair and reliable results are reached for the overcharged and the inno-

cent. The better our defenders perform, the better the system performs. This past year, I visited our 30 DPA offices. (Staff in the Columbia office, below, took pictures of my visit.) I have spoken with our clients. I know the self-



less work of our staff promotes justice for our clients.

If the justice system is working at a high level, then the public is better protected. The right people are charged with crimes (not the innocent—which leaves the perpetrators on our streets) and trials are conducted fairly and efficiently (resulting in fewer reversals on appeal and saving the Commonwealth the expense of retrials). This past year, I have spoken with judges, community

leaders and legislators. They appreciate the selfless work of our staff and know it has brought about a better Kentucky.

To meet our responsibilities to our clients, our Constitution and the public, we continue to focus on leading propelled by learning to advance our litigation for our clients.

We are grateful beyond words for the financial help the General Assembly and the Governor provided DPA as we ended the last fiscal year and started this fiscal year. That help averted a collapse of the criminal justice system. This has gotten DPA through. Adequate funding for prosecution and public defense makes sure

that the system does not shut down and advances our highest responsibility, our public safety.

Because of this help, Kentucky remains a safe place for all of us and the criminal justice system continues to function.

Sincerely,

Edward C. Monahan
Public Advocate

The Kentucky Public Advocacy Commission

Robert C. Ewald, Chair

Wyatt, Tarrant, and Combs
Louisville, KY

Jerry J. Cox, PSC

Attorney At Law
Mount Vernon, KY

Judge Lewis G. Paisley (Retired)

Stoll, Keenon, Ogden, PLLC
Lexington, KY

John M. Rosenberg, Vice Chair

Attorney At Law
Prestonsburg, KY

Darryl W. Durham

Weber & Rose
Attorney At Law
Louisville, KY

Cedric Merlin Powell

Professor of Law
Brandeis School of Law
University of Louisville

Garland Hale Barr, IV

Kinkead & Stilz, PLLC
Lexington, KY

Mark Mangeot

Executive Director
Office of Legislative &
Intergovernmental Services
Frankfort, KY

Mark Stavsky

Professor of Law
Salmon P. Chase College of Law
Northern Kentucky University

Michael D. Bowling

Step toe & Johnson
Lexington, KY

Debra S. Miller

Director of Health Policy, Council
of State Governments
Representing Protection and
Advocacy Board
Frankfort, KY

Edward C. Monahan

Ex Officio (Secretary)
Public Advocate

Allison Connelly

Associate Professor
Clinic Director
University of Kentucky
College of Law

The Public Advocacy Commission is established by KRS Chapter 31 and assists DPA in ensuring its independence through public education about the purpose of the public advocacy system and provides budgetary oversight .

The Kentucky Department of Public Advocacy does not discriminate in employment of individuals or provision of services with regard to race, color, religion, national origin, disability, sex, age, or sexual orientation.

This report was published February 10, 2010.

Funds to cover the cost of the publication were donated by members of the Kentucky Public Advocacy Commission.



www.KentuckyUnbridledSpirit.com

Mission

The mission of the Department of Public Advocacy's defender services is to "provide each client with high quality services through an effective delivery system which ensures a defender staff dedicated to the interests of their clients and the improvement of the criminal justice system."

During FY 09, the Department of Public Advocacy provided representation in 147,245 cases to persons who would not otherwise have had an attorney. This representation ensures the poor and most vulnerable citizens of Kentucky are provided their constitutional protections. Both the Trial Division and Post-Trial Division directly provide services to the poor.

The Protection and Advocacy Division's purpose is to protect and promote the rights of Kentuckians with

disabilities through legally based individual and systemic advocacy, and education.

DPA's Kentucky Innocence Project made great strides

criminal justice system to ensure safety for our communities.

- To support continuous study of the effectiveness



this year in supporting our mission of improving the criminal justice system.

The purposes for which DPA collects and publishes data include:

- To provide accountability to Kentuckians for the work of the Department.
- To continue working cooperatively with all agencies and stakeholders in the

of the Commonwealth's criminal justice system.

The Department of Public Advocacy continually examines its data entry processes and data entry definitions to ensure the reliability of our published reports.

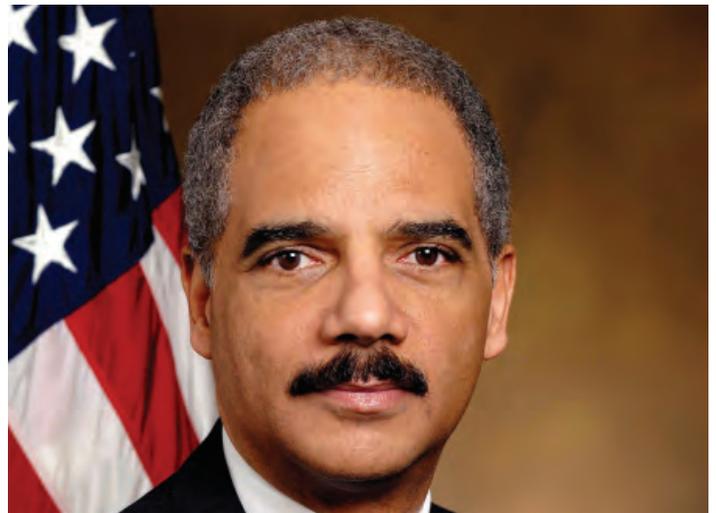
DPA is committed to the best technology and training for the purpose of data integrity.

Indigent defense on the national level

Attorney General Eric Holder says ‘there is a crisis in indigent defense’

“ . . . I have also called upon the Department to focus on another part of the criminal justice system: the very difficult issue of indigent defense. Putting politics aside, we must address the fact that, simply put, there is a crisis in indigent defense in this country. Resources for public defender programs lag far behind other justice system programs, constituting only about 3 percent of all criminal justice expenditures in our nation’s largest counties. In many cases, contract attorneys and assigned lawyers receive compensation that does not even cover their overhead. We know that defenders in many jurisdictions carry huge caseloads that make it difficult for them to fulfill their legal and ethical responsibilities to their clients. We hear of lawyers who cannot interview their clients properly, file appropriate motions, conduct fact investigations, or do many of the other things an attorney should be able to do as a matter of course.

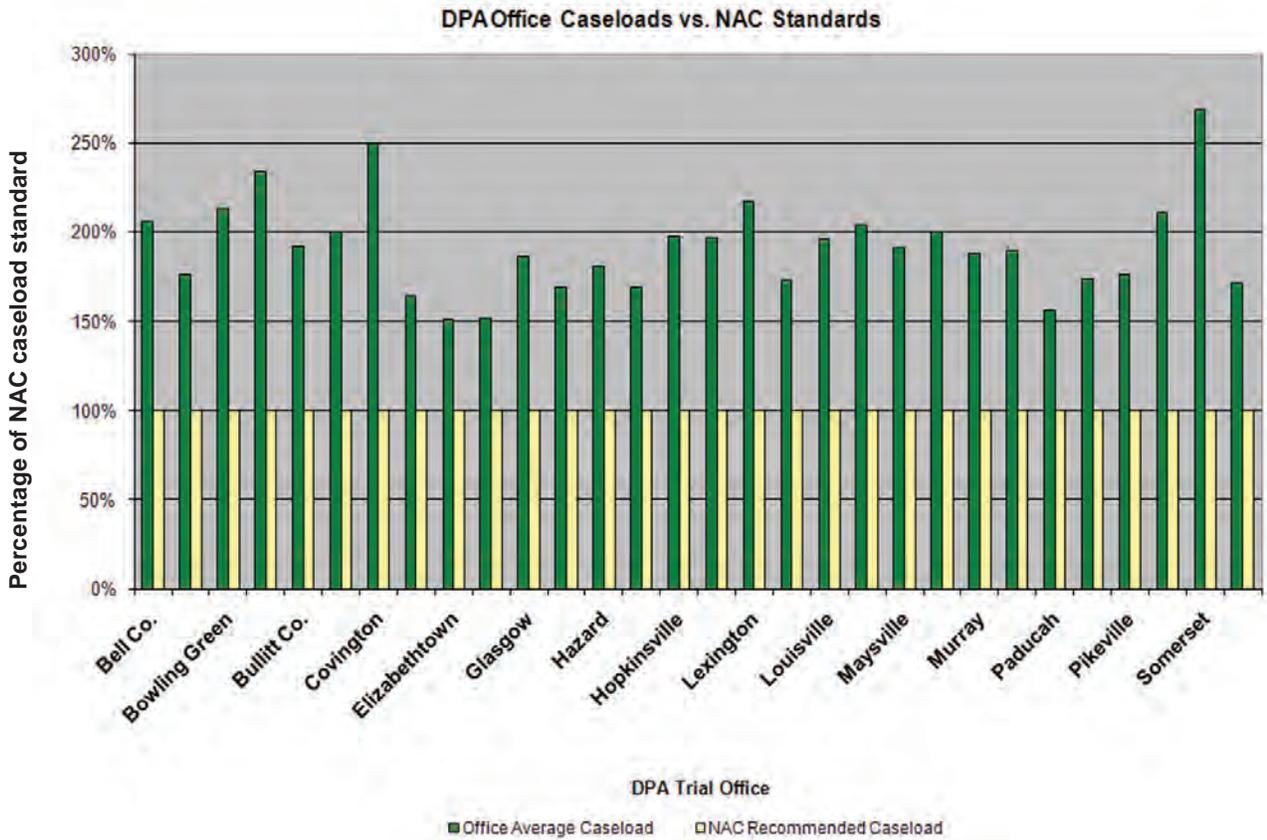
This growing crisis is troubling not just because of the government’s constitutional duty to ensure the right to counsel. When defendants fail to receive competent legal representation, their cases are vul-



nerable to costly mistakes that can take a long time to correct. Lawyers on both sides can spend years dealing with appeals arising from technical infractions and procedural errors. When that happens, no one wins.”

-- Attorney General Eric Holder, from his remarks at the Vera Institute of Justice’s third annual Justice Address, Thursday, July 9, 2009

DPA Office Caseloads Exceed NAC Standards



* NAC is the National Advisory Commission, which adopted the first national standards for the maximum number of cases public defenders can handle and provide competent and ethical representation. As shown above, the caseload in every DPA office exceeds these standards.

Trial Division

Efficiently serving more than 144,000 clients at a cost of \$208 per case



DPA's Trial Division is structured on the well-founded philosophy that indigent defense representation is best provided by full-time public defenders.

Not only are dedicated public defenders able to devote undivided attention to the specialty of criminal defense, but the statewide network of full-time offices provides consistent service for courts and cost efficiency for taxpayers.

There are 30 local trial offices and a statewide Capital Trial office within the Trial Division, which handles a high volume of cases. In FY09, trial attorneys were appointed to 144,878 cases by district and circuit judges. At the staffing levels the Department was able to fund in FY09, this amounted to an average trial attorney caseload of 497 new

cases assigned during the year.

Of the 144,878 cases opened by trial attorneys in FY09, 23 percent were in circuit court, 74 percent were adult district court, 3 percent were in family court. Of the district court total, 21,533 were juvenile cases. A breakdown of case numbers by county is provided in the appendix.

The Trial Division's leadership consists of a division director, Damon Preston (above left), and six regional managers overseeing the West, Central, East, Bluegrass, North, and Lexington/Capital branches.





Original photo: Photo Darren Pike/courtesy of Adair County Community Voice

Post-Trial Division

Efficiently ensuring the correction of erroneous results



The Post-Trial Division handles virtually every issue arising after a person has been convicted or adjudicated guilty of a criminal or status offense. Its current director, Tim Arnold, took over in FY 2008.

The Post-Trial Division has three branches, each of which specializes in one area of post-trial practice. When a person has been convicted or adjudicated guilty of a criminal offense, they have a right to appeal that offense to the next highest court. So, for example, an adult convicted in circuit court of a felony offense resulting in a sentence less than 20 years has a right to appeal to the Kentucky Court of Appeals. A person who receives a sentence of 20 years or more, or death, has the right to appeal directly to the Kentucky Supreme Court. All such cases on behalf of adult clients are handled by the Appeals Branch. During FY 2009, the Appeals Branch had 276 cases, including 8 death penalty cases.

If a person did not go to trial but instead pled guilty, or if a person did go to trial but was represented by ineffective counsel, or was deprived of discovery, or has some other basis for challenging the judgment which they were not aware of at the time of trial, then they may file a post-conviction action. In adult cases, most of those actions are initially filed by the inmate *pro se*. If the court appoints counsel, then the Post-Conviction Branch provides representation. In FY 2009, the Post-Conviction Branch opened 524 cases. In addition, it represented 29 clients on death row, and had 66

actions pending on behalf of those clients.

In some cases, individuals have a substantial basis for saying they are innocent. The Kentucky Innocence Project, which is a unit of the Post-Conviction Branch, assists those individuals.

Like adults, juvenile offenders have a right to appeal their conviction or adjudication for a criminal or status offense to a higher court. Such representation generally requires the services of a specialist in juvenile law, who is trained to recognize and address the often technical nature of juvenile proceedings. Moreover,

juvenile proceedings are often confidential and expedited, which places additional burdens on appellate counsel. Accordingly, the Department's Juvenile Post-Disposition Branch (JPDB) provides specialized appellate representation to juveniles who have been convicted or adjudicated of a criminal or status offense. JPDB also provides representation to youth who are confined to state institutions on matters related to the fact, duration or conditions of their confinement. In FY 2009, JPDB had 1,498 cases.

In all, the Division handled 2,367 total cases in FY 09. While the total

In FY 2009, Post-Trial handled 2,367 cases; the Appeals Branch handled 276 cases, including eight death penalty cases; JPDB handled 1,498 cases; and the Post-Conviction Branch opened 524 cases.

number of cases is considerably less than in the trial division, each individual case is on average much more time consuming. Every Post-Trial case requires a thorough independent investigation by the Post-Trial attorney.

This process is made more time-consuming by the fact that Kentucky records its court records on videotape, rather than written transcript.

Kentucky Public Defender cases before the U. S. Supreme Court

Padilla v. Kentucky, ___ U.S. ___ (2009)
Baze v. Rees, 553 U.S. 35; 128 S.Ct. 1520 (2008)
Standford v. Kentucky, 492 U.S. 361 (1989)
Olden v. Kentucky, 488 U.S. 227 (1988)
Buchanan v. Kentucky, 483 U.S. 402 (1987)
Griffith v. Kentucky, 479 U.S. 314 (1987)
Kentucky v. Stincer, 482 U.S. 730 (1987)
Batson v. Kentucky, 476 U.S. 79 (1986)
Crane v. Kentucky, 476 U.S. 683 (1986)
Evitts v. Lucy, 469 U.S. 387 (1985)
James v. Kentucky, 466 US 341 (1984)
Fletcher v. Wier, 455 U.S. 603 (1982)
Watkins v. Sowders, 449 U.S. 341 (1981)
Carter v. Kentucky, 450 U.S. 288 (1981)
Rawlings v. Kentucky, 448 U.S. 98 (1980)
Pilon v. Borderkircher, 444 U.S. 1 (1979)
Kentucky v. Whorton, 441 U.S. 786 (1979)
Bordenkircher v. Hayes, 434 U.S. 357 (1978)
Taylor v. Kentucky, 436 U.S. 478 (1978)



Kentucky Innocence Project

The Post-Trial Division of DPA also includes The Kentucky Innocence Project, made possible through a federal grant applied for and administered by DPA. Since the inception of KIP, nine people have been identified and released from prison because they were wrongfully convicted.

Over the past year, hundreds of applications have been reviewed and processed from individuals claiming actual innocence. Interviews with potential applicants are conducted by a team of DPA attorneys who then decide whether to pursue the claim further.

Unfortunately, because of limited resources innocent people sat in prison for as long as 14 years.

KIP applied for and received \$1.16

million in federal aid from the National Institute for Justice to provide DNA testing assistance. The funds are

Since the inception of this program, nine people have been identified and released from prison because they were wrongfully convicted.

being used to establish a program to test post-conviction cases with available physical evidence that was never tested. The grant is intended to be a collaborative effort with all parts of the criminal justice system.

Approximately 208 men and women across the country have been exonerated by post-conviction DNA testing. A review of the exonerations indicates that almost 80 percent of the cases involved mistaken eyewitness

identifications. One such case involved five eyewitnesses who were mistaken in their identification of a suspect convicted but later exonerated by DNA.

Kentucky has identified many similarities between the identification and

evidence issues seen locally and those seen at a national level.

The ultimate goal in any investigation and prosecution of a case is to convict the truly guilty person; when an innocent person is convicted of a crime, the guilty person has “gotten away with it” and the safety of the community is at risk. Unfortunately, that is another lesson learned—the guilty party, when later found, has often committed other offenses.

Innocent people who spent significant years in prison before being exonerated.

Herman May served 13 ½ years

Ben Kiper served 7 years

Tim Smith served 20 years

Jaqulyn Green served 7 years

Sam Plotnick served 7 years

Jason Girts served 3 years

Lacy Bedingfield served 14 years

Edwin A Chandler served 9 years

William Gregory served 7 years

Protection & Advocacy

Effectively advocating for Kentuckians with disabilities



Kentucky Protection & Advocacy (P & A) provides information, referral, advocacy, and training to people with disabilities living in the Commonwealth.

Our mission is to protect and promote the rights of Kentuckians with disabilities through legally based individual and systemic advocacy and education.

In 2008, Protection & Advocacy (P & A) helped many adults and children with disabilities move from restrictive places, such as institutions, into more home-like settings or return home.

We provided information to more than 1700 callers who needed more information about the rights of individuals with disabilities.

We provided training and outreach at 73 events for individuals with disabilities, including children/youth/adults; families; the Latino community; people with HIV/AIDS; veterans; and service providers

After many years of litigation, the Michelle P. Waiver rolled out, with 3000 people with intellectual and developmental disabilities receiving a

variety of community based services.

We monitored psychiatric hospitals; intermediate care facilities for individuals with mental retardation (ICF's-MR); and psychiatric residential treatment facilities (PRFTs) to ensure people were being treated well and receiving the services they needed.

We developed a transition tool kit for youth transitioning to adulthood from foster care. The toolkit, which was a collaborative effort among several agencies, will be used to help youth become effective advocates for themselves and will serve as an advocacy resource for parents and professionals.

We helped students obtain special education and related services and worked with a multi-agency group in developing tools to teach the use of the self-directed Individualized Education Plan (IEP).

Kentucky Protection & Advocacy represented clients throughout the state on accessibility issues. Many buildings in Kentucky have not yet been renovated to comply with the provisions of the Americans with Disabilities Act (ADA). In one case, the post office in a small town required individuals to ring a door bell and then wait for someone to come and open the door for them. The door bell, however, was placed too high for individuals in wheel chairs to reach. With the assistance of P&A, an automatic door was installed and the door-bell system eliminated.

We provided comments on state and federal regulations relevant to

persons with disabilities and their family members.

We continued to represent individuals in administrative hearings when their rights were violated due to disability.

For the last three years, P&A has worked for passage of an anti bullying law. P&A felt this was important because often times our eligible clients tend to be the ones most affected by bullying. The law was finally passed this year and became law in July, 2008.

P & A's two advisory bodies; the Protection & Advocacy for Individuals with mental illness (PAIMI) Advisory Council and the Protection & Advocacy for Individuals with developmental disabilities (PADD) Advisory Board, met on a quarterly basis through out the year.

Members of our PAIMI Advisory Council, with support from P&A staff, provided trainings about mental health advance directives to participants at 16 therapeutic rehabilitations programs across the state. These trainings caught the eye of the Division of Mental Health who invited P & A staff and members of our PAIMI Advisory Council to present the training to case managers from around the state who work with adults with mental illness.

Both advisory bodies continued to provide input in the agency priority setting process and assisted us with conducting a public forum in the far western part of the state.

Brittany

P & A staff met Brittany, then age 15, while monitoring at a facility. Since the age of 12 she had been in 30 previous placements and was facing placement out of state when we met her. Brittany requested our assistance and informed us she did not want to be placed out of state. At P & A's urgency Brittany's social worker agreed to make additional attempts to locate a program in state to meet her needs.

Upon completion of the program Brittany was informed she would return home. Brittany did not want to return to her parents' home. With support from her advocate and cooperation from her state social worker we were successful in arranging for independent living services upon discharge from the program.

Brittany graduated from high school and has plans to pursue post-secondary education.



Barry

Barry is 33 years old and contacted P & A requesting our assistance in having his right to vote restored. During Barry's hearing the judge questioned him about his desire to vote. Based on his answers the judge noted that the standard for voting rights was whether or not a person "knowingly and willingly wished to participate in the voting process." The judge found that Barry met the standard and modified the guardian-



ship petition to reflect restoration of his right to vote. Barry immediately registered to vote and voted in the November 2008 election.

Zachari

Zachari's mother contacted P & A for assistance in getting the school to provide appropriate services to her son, who is 9 years old and has anxiety problems. The school had "designed" a special room for Z that was roughly the size of a broom closet. Z's name was prominently displayed on the door of the room. Z had one aide and a teacher and was not allowed to have any interactions with the other kids in the school. All of this had come about because Z "argued" with the teachers. According to the teachers this arguing was a distraction to the other students. Therefore, a decision was made to place Z in another room away from the other kids. As the meeting progressed, the regular teacher explained that Z always read ahead of the other students in all of the subjects. The material had been broken down into smaller

portions for the class. Since Z completed whole assignments, he would interrupt the teacher and talk about the entire section. After P&A's involvement, Z was moved to the gifted and talented program where he continues to flourish.



Alternative Sentencing Program

Efficiently providing sentencing options to judges

The Kentucky Department of Public Advocacy is on the “cutting edge” according to Equal Justice Works*, whose representatives note that Kentucky is “leading the way toward addressing the whole client issues that exist today.”

DPA is continuing to grow its alternative sentencing program, which seeks alternatives to incarceration. This program (commonly referred to as the Social Worker program) was piloted between October 2006 and October 2007 in three regions. It found that placement of social workers in defender offices helped clients to secure treatment and identified alternative sentencing plans. This program also helps to reduce incarceration rates because it helps individuals to obtain and abide by the terms of supervised probation.

The University of Louisville Kent School of Social Work, in its independent evaluation of the program, said 229 defendants were served by three

social workers. Of that number, the Kent School tracked 181 individuals (141 adults and 40 juveniles) for the purposes of statistical reporting.

Prior to the introduction of social workers, 86 percent of adults and 52 percent of juveniles reported factors that indicated substance abuse and a similarly disturbing percentage reported signs of mental distress: 73 percent of adults and juveniles.

An encouraging 82 percent of adult

Each social worker placed in a DPA office saved 10,000 days of incarceration annually—or 27 years each.

Additionally, 93 percent of the defendants abstained from prohibited substances. The number of defendants that participated in AA, NA or other self-help groups tripled in six months.

During the pilot, the program saved the Commonwealth more than \$100,000 per social worker annually

(after operating costs and costs for treatment). The benefits of the program are to the State Treasury; but also to our clients as they

receive treatment for the underlying issues that landed them in trouble in the first place. This reduces recidivism and consequently eliminates prison costs.

If this program were funded for statewide implementation, the estimated savings to taxpayers would be between \$3.1 and \$4 million per year.

Equal Justice Works says ‘Kentucky is leading the way toward addressing the whole client issues that exist today’

defendants who received social worker services were still in the community after their release from incarceration. Recidivism among these adult defendants was an extremely low 15 to 18 percent. The average rate of recidivism for all offenders, as reported by the Kentucky Department of Corrections, was approximately 34 percent.

*Equal Justice Works is a non-profit organization dedicated to mobilizing the next generation of lawyers committed to equal justice.

Appendices

Trial Cases and Case Counting Methods

The case definition adopted by DPA is consistent with national standards and is conservative. Yet, the average per attorney caseload exceeds the national standards by over 200 percent. Total cases listed for a branch, division, or DPA as a whole are only those cases that were opened during the fiscal year being reported.

The totals do not include the numerous, ongoing cases handled by DPA that were opened in previous fiscal years. Following is a chart showing average DPA caseloads using the method of calculation which DPA has used in previous caseload reports. This is the most conservative way of calculating caseloads

To understand what the case numbers represent, one must understand what was and was not included. The Administrative Office of the Courts, the Prosecutors Advisory Council, and DPA all use case counting in order to monitor the workloads of their employees. Since the work performed by the employees of these different agencies is not the same, each agency counts cases slightly differently. Consequently, the numbers used by these different agencies do not match. For example, DPA counts probation and parole revocations, contempt hearings and Persistent Felony Offender charges as separate cases because each requires separate investigation and often is years after the original charge.

AOC opens a case at the time of the indictment and the time lag before DPA is assigned the case may result in DPA opening the case in a different fiscal year. Each agency counts what should be counted for its own employees, in a way that fits the needs of each agency. Consistency of definition is ensured through the use of the agency's case management system, and in-house database.

Throughout this document, the following definitions and methods of case counting are used consistently.

Trial Division Cases

A case consists of a single accused, having either under the same or differ-

ent case number(s), one or more charges, allegations, or proceedings arising out of one event or a group of related contemporaneous events. These charges must be brought contemporaneously against the defendant, stemming from the same course of conduct, and involving proof of the same facts. Some cases assigned to individual attorneys are conducted, either wholly or in part, outside the confines of state courts. To be counted as a "case" for Trial Division statistical purposes, a formal appointment by a court with appropriate jurisdiction is required. An individual attorney's actions do not constitute a "case" (for agency statistical purposes) if the activity is brief, strictly routine (e.g., standing in for arraignment purposes as a regularly scheduled motion hour, responding to inmate correspondence), and performed as a courtesy to the court.

In addition to adhering to the general agency definition of a "case," to be counted as a capital eligible case, an accused individual must be charged with at least one count of kidnapping or murder, with a qualifying KRS aggravator identified. The number of attorneys assigned to the case has no bearing on the agency's counting of capital cases, and, because cases must be entered and categorized upon assignment, the agency does not require prior receipt of notice from the Commonwealth's Attorney that the death penalty will be sought. Although death penalty cases are always very labor-intensive, DPA does not normally count death penalty cases as anything more than single felony cases.

Post-Trial Division Cases

The Post-Trial Division has three branches, each of which has a different mission and function. The division has developed a common definition for a case. As with the Trial Division, all cases are only counted during the year that the case is opened. The Post-Trial Division case counting system records multiple counts tried together at the trial level as a single case for appellate or post-conviction purposes. Most post-trial cases remain open and require work over several years.

Across the division, a case is assigned and counted as a case at the following points in the process:

- a. When a direct appeal is received and the case is assigned to counsel to brief;
- b. When a post-conviction appeal is received and the case is assigned to counsel to brief. These include appeals from RCr 11.42 denials, CR 60.02 denials, state habeas denials, conditional guilty pleas, probation revocations, denials of requests to withdraw guilty pleas, jail credit denials, sentence reduction denials, and *Lewis* hearing appeals;
- c. When a petition for habeas corpus is filed in the federal U.S. District Court;
- d. When a final (versus proof) brief is filed in a habeas case in the Sixth Circuit Court of Appeals;
- e. When a petition for writ of certiorari is granted and briefing is ordered;
- f. When a motion for discretionary review is granted and briefing is ordered;
- g. When original actions are filed and extraordinary writs are filed in a circuit court, court of appeals, supreme court, or federal court;
- h. When fact, duration or condition-of-confinement cases are pursued on behalf of clients under eighteen years of age who are in the juvenile system. (These include *inter alia* motions to terminate commitment, cases pursued as Section 1983 litigation, ARC hearings, YO sentencing hearings where JPDB lawyers do not enter the case until the sentencing stage as the attorneys for the child in circuit court, supervised placement revocation hearings);
- i. When state habeas actions are filed in circuit courts;
- j. When RCr 11.42 pleadings are filed in circuit courts and juvenile courts;
- k. When CR 60.02 pleadings are filed in circuit courts and juvenile courts;
- l. When section 1983 litigation is filed;
- m. When clemency petitions are filed on behalf of capital and non-capital clients;
- n. When motions are filed post-conviction to correct the sentence; and
- o. When motions are filed to reopen cases pursuant to claims of factual innocence.

Trial office caseloads

ORIGINATING OFFICE	Actual Number of Attys	Authorized Complement of Attys*	FY 09 Cases	FY09 Conflict Cases	FY 09 Attorney Average Caseload per Actual Number of Attys	FY 09 Attorney Average Caseload per Authorized Complement of Attys
Bell County	7.5	7	3,549	337	428.3	458.9
Boone County	10	11	4,263	82	418.1	380.1
Bowling Green	10	10	4,652	148	450.4	450.4
Boyd County	6	8	3,553	50	583.8	437.9
Bullitt County	7	7	3,449	40	487.0	487.0
Columbia	7	8	3,169	67	443.1	387.8
Covington	12	15	6,743	210	544.4	435.5
Cynthiana	4	5	1,832	58	443.5	354.8
Danville	9	9	3,885	26	428.8	428.8
Elizabethtown	13	13	5,178	79	392.2	392.2
Frankfort	7	8	2,704	49	379.3	331.9
Glasgow	4	6	1,733	24	427.3	284.8
Hazard	7	9	3,679	30	521.3	405.4
Henderson	7	7	2,980	69	415.9	415.9
Hopkinsville	13	14	6,594	122	497.8	462.3
LaGrange	4	5	2,060	33	506.8	405.4
Lexington	16	22	10,691	200	655.7	476.9
London	9.5	10	4,195	177	422.9	401.8
Louisville	57	62	32,437	46	568.3	522.4
Madisonville	6	7	3,060	47	502.2	430.4
Maysville	4	5	2,019	122	474.3	379.4
Morehead	8	8	4,086	125	495.1	495.1
Murray	7	9	3,436	88	478.3	372.0
Owensboro	10	12	4,634	115	451.9	376.6
Paducah	11	13	4,258	107	377.4	319.3
Paintsville	4	4	1,874	61	453.3	453.3
Pikeville	7	7	3,515	72	491.9	491.9
Richmond	7	10	4,225	64	594.4	416.1
Somerset	6	9	3,819	83	622.7	415.1
Stanton	6	6	2,595	60	422.5	422.5
Capital Trial Br. ¹	6	8	11	0	N/A	N/A
TOTAL	286	326	144,867	2,791	496.8	435.8

*Authorized complement as of 07/01/09.

1. The Capital Trial Branch is included to recognize the services of its attorneys and staff, but its cases are excluded from “average cases per attorney” comparison analysis due to their length and complexity.

Overview of Expenditures and Costs per Trial Case

The FY 2009 DPA cost per Trial Division case was \$207.83, well below the hourly rate for many private attorneys.

	<u>Expenditures</u>	<u>Cases</u>	<u>Cost per case</u>
Trial Division cases:	\$30,110,422.05	144,878	\$207.83

Overview of Expenditures and Costs per Conflict Case

When multiple co-defendants are involved in a case, DPA many times must seek “conflict” representation. A single DPA office can only represent one of that set of defendants because of attorney ethical rules unless there is a waiver of the conflict. Without such a waiver, the other indigent clients from that same incident must be represented either by other DPA offices or by outside counsel. In these instances, DPA contracts with outside “conflict” attorneys at hourly rates well below standard hourly rates. Without this partnership between DPA and the private bar, the cost of providing indigent defense would escalate tremendously. Typically, DPA has been able to contract with “conflict” attorneys to handle the defense in a criminal case for less than \$500 per case.

	<u>Expenditures</u>	<u>Cases</u>	<u>Cost per case</u>
Trial Division cases:	\$955,433.44	2,256	\$423.51

FY 2009 Trial Case Openings by Court Type & County

County	Total	Circuit	Circuit %	District	District %	Family	Family %	Other	Other %	Juvenile*
ADAIR	503	139	27.63%	364	72.37%	0	0.00%	0	0%	142
ALLEN	316	124	39.24%	124	39.24%	68	21.52%	0	0%	81
ANDERSON	478	96	20.08%	361	75.52%	20	4.18%	1	0%	98
BALLARD	434	149	34.33%	285	65.67%	0	0.00%	0	0%	15
BARREN	922	312	33.84%	569	61.71%	41	4.45%	0	0%	172
BATH	537	140	26.07%	397	73.93%	0	0.00%	0	0%	50
BELL	1,628	457	28.07%	1,170	71.87%	1	0.06%	0	0%	280
BOONE	2,714	755	27.82%	1,932	71.19%	26	0.96%	1	0%	436
BOURBON	644	93	14.44%	518	80.43%	33	5.12%	0	0%	114
BOYD	1,613	466	28.89%	1,146	71.05%	1	0.06%	0	0%	187
BOYLE	934	207	22.16%	712	76.23%	15	1.61%	0	0%	85
BRACKEN	228	38	16.67%	190	83.33%	0	0.00%	0	0%	33
BREATHITT	601	169	28.12%	430	71.55%	2	0.33%	0	0%	24
BRECKINRIDGE	470	172	36.60%	298	63.40%	0	0.00%	0	0%	44
BULLITT	2,288	468	20.45%	1,773	77.49%	47	2.05%	0	0%	331
BUTLER	248	112	45.16%	134	54.03%	2	0.81%	0	0%	22
CALDWELL	317	117	36.91%	198	62.46%	2	0.63%	0	0%	37
CALLOWAY	770	247	32.08%	502	65.19%	20	2.60%	1	0%	93
CAMPBELL	2,288	736	32.17%	1,182	51.66%	355	15.52%	15	1%	796
CARLISLE	218	63	28.90%	154	70.64%	1	0.46%	0	0%	11
CARROLL	453	145	32.01%	308	67.99%	0	0.00%	0	0%	34
CARTER	841	174	20.69%	620	73.72%	47	5.59%	0	0%	102
CASEY	403	148	36.72%	255	63.28%	0	0.00%	0	0%	68
CHRISTIAN	4,649	1,034	22.24%	3,467	74.58%	130	2.80%	18	0%	720
CLARK	1,261	151	11.97%	994	78.83%	115	9.12%	1	0%	252
CLAY	503	96	19.09%	407	80.91%	0	0.00%	0	0%	41
CLINTON	274	119	43.43%	155	56.57%	0	0.00%	0	0%	21
CRITTENDEN	311	96	30.87%	196	63.02%	19	6.11%	0	0%	29
CUMBERLAND	183	46	25.14%	137	74.86%	0	0.00%	0	0%	7
DAVISS	3,310	635	19.18%	2,671	80.69%	0	0.00%	4	0%	1,032
EDMONSON	124	46	37.10%	55	44.35%	23	18.55%	0	0%	12
ELLIOTT	205	69	33.66%	136	66.34%	0	0.00%	0	0%	6
ESTILL	428	123	28.74%	297	69.39%	8	1.87%	0	0%	37
FAYETTE	10,694	1,393	13.03%	8,703	81.38%	541	5.06%	57	1%	920
FLEMING	603	170	28.19%	433	71.81%	0	0.00%	0	0%	81
FLOYD	1,430	266	18.60%	1,074	75.10%	90	6.29%	0	0%	122
FRANKLIN	1,142	308	26.97%	704	61.65%	126	11.03%	4	0%	251
FULTON	406	124	30.54%	281	69.21%	1	0.25%	0	0%	35
GALLATIN	286	38	13.29%	207	72.38%	41	14.34%	0	0%	85
GARRARD	402	128	31.84%	251	62.44%	23	5.72%	0	0%	53
GRANT	570	167	29.30%	401	70.35%	2	0.35%	0	0%	101
GRAVES	1,630	373	22.88%	1,257	77.12%	0	0.00%	0	0%	125
GRAYSON	472	173	36.65%	298	63.14%	1	0.21%	0	0%	101
GREEN	246	64	26.02%	182	73.98%	0	0.00%	0	0%	25
GREENUP	772	257	33.29%	507	65.67%	8	1.04%	0	0%	58
HANCOCK	177	64	36.16%	113	63.84%	0	0.00%	0	0%	13

County	Total	Circuit	Circuit %	District	District %	Family	Family %	Other	Other %	Juvenile*
HARDIN	3,921	842	21.47%	2,982	76.05%	94	2.40%	3	0%	391
HARLAN	1,917	851	44.39%	1,066	55.61%	0	0.00%	0	0%	184
HARRISON	617	70	11.35%	526	85.25%	21	3.40%	0	0%	99
HART	380	149	39.21%	230	60.53%	1	0.26%	0	0%	32
HENDERSON	1,790	395	22.07%	1,180	65.92%	213	11.90%	2	0%	462
HENRY	462	76	16.45%	375	81.17%	11	2.38%	0	0%	51
HICKMAN	139	40	28.78%	99	71.22%	0	0.00%	0	0%	28
HOPKINS	1,771	447	25.24%	1,247	70.41%	77	4.35%	0	0%	304
JACKSON	332	80	24.10%	252	75.90%	0	0.00%	0	0%	15
JEFFERSON	32,437	4,413	13.60%	28,024	86.40%	0	0.00%	0	0%	4,871
JESSAMINE	1,509	330	21.87%	1,048	69.45%	131	8.68%	0	0%	385
JOHNSON	751	180	23.97%	551	73.37%	19	2.53%	1	0%	59
KENTON	4,456	1,090	24.46%	2,618	58.75%	744	16.70%	4	0%	1,412
KNOTT	450	69	15.33%	363	80.67%	18	4.00%	0	0%	104
KNOX	877	165	18.81%	640	72.98%	72	8.21%	0	0%	217
LARUE	264	95	35.98%	168	63.64%	1	0.38%	0	0%	27
LAUREL	1,583	430	27.16%	1,063	67.15%	90	5.69%	0	0%	295
LAWRENCE	470	128	27.23%	316	67.23%	25	5.32%	1	0%	55
LEE	345	72	20.87%	273	79.13%	0	0.00%	0	0%	16
LESLIE	187	16	8.56%	171	91.44%	0	0.00%	0	0%	21
LETCHER	1,120	210	18.75%	909	81.16%	1	0.09%	0	0%	101
LEWIS	327	112	34.25%	202	61.77%	13	3.98%	0	0%	36
LINCOLN	487	79	16.22%	391	80.29%	16	3.29%	1	0%	96
LIVINGSTON	181	32	17.68%	147	81.22%	2	1.10%	0	0%	15
LOGAN	770	245	31.82%	525	68.18%	0	0.00%	0	0%	90
LYON	194	55	28.35%	139	71.65%	0	0.00%	0	0%	14
MADISON	2,719	373	13.72%	2,216	81.50%	129	4.74%	1	0%	314
MAGOFFIN	334	50	14.97%	261	78.14%	23	6.89%	0	0%	37
MARION	525	261	49.71%	264	50.29%	0	0.00%	0	0%	35
MARSHALL	1,024	296	28.91%	709	69.24%	19	1.86%	0	0%	105
MARTIN	319	53	16.61%	234	73.35%	32	10.03%	0	0%	70
MASON	1,188	305	25.67%	883	74.33%	0	0.00%	0	0%	75
MCCRACKEN	2,887	870	30.14%	1,933	66.96%	71	2.46%	13	0%	395
MCCREARY	530	211	39.81%	313	59.06%	6	1.13%	0	0%	142
MCLEAN	175	51	29.14%	124	70.86%	0	0.00%	0	0%	29
MEADE	521	139	26.68%	382	73.32%	0	0.00%	0	0%	78
MENIFEE	235	99	42.13%	136	57.87%	0	0.00%	0	0%	25
MERCER	466	118	25.32%	314	67.38%	34	7.30%	0	0%	73
METCALFE	186	72	38.71%	106	56.99%	8	4.30%	0	0%	30
MONROE	248	66	26.61%	182	73.39%	0	0.00%	0	0%	16
MONTGOMERY	1,237	452	36.54%	783	63.30%	0	0.00%	2	0%	160
MORGAN	400	79	19.75%	311	77.75%	10	2.50%	0	0%	28
MUHLENBERG	1,114	344	30.88%	768	68.94%	1	0.09%	1	0%	89
NELSON	962	354	36.80%	608	63.20%	0	0.00%	0	0%	111
NICHOLAS	183	26	14.21%	145	79.23%	12	6.56%	0	0%	20
OHIO	678	253	37.32%	424	62.54%	1	0.15%	0	0%	81

FY 2009 Trial Case Openings by Court Type & County

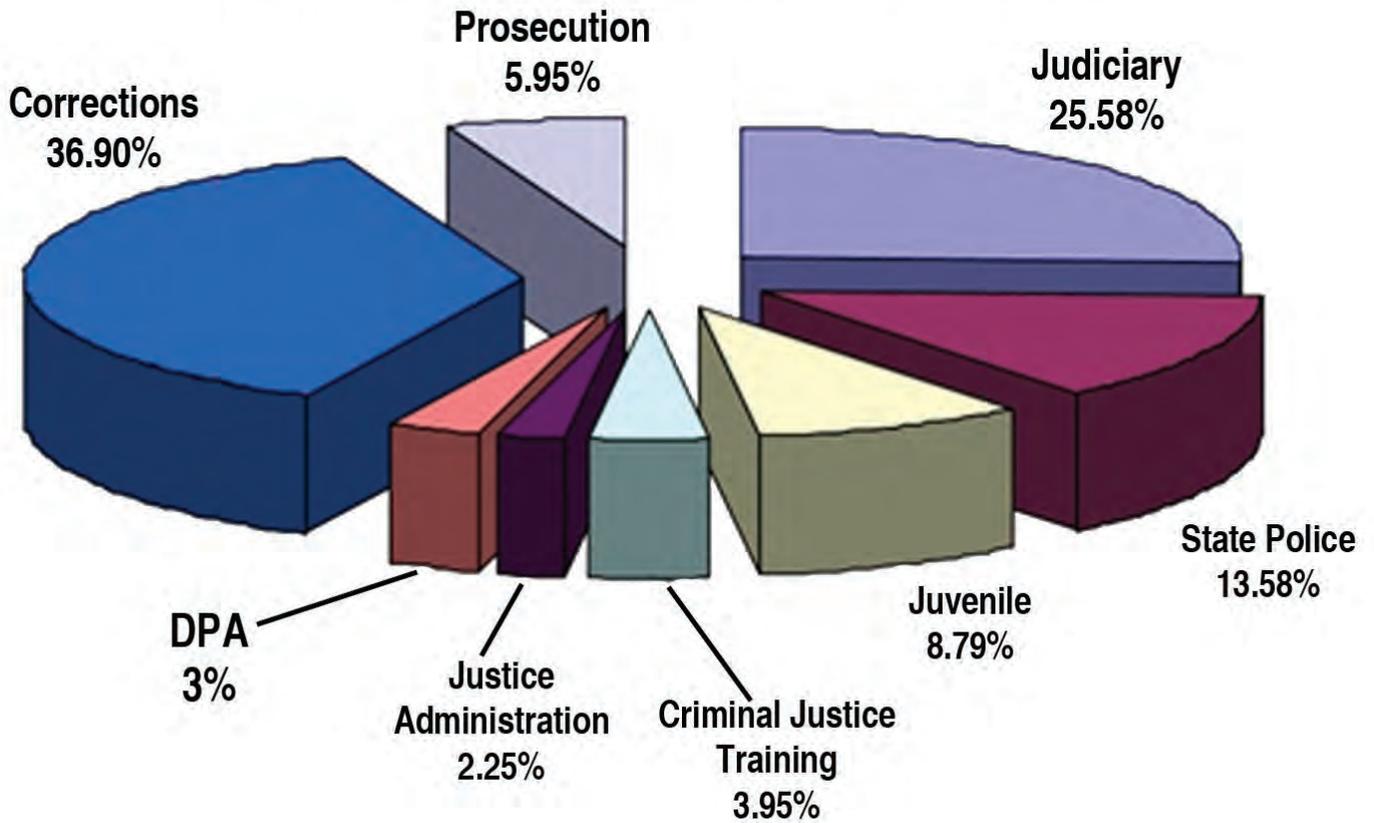
(Continued)

County	Total	Circuit	Circuit %	District	District %	Family	Family %	Other	Other %	Juvenile*
OHIO	678	253	37.32%	424	62.54%	1	0.15%	0	0%	81
OLDHAM	657	127	19.33%	511	77.78%	19	2.89%	0	0%	152
OWEN	246	82	33.33%	164	66.67%	0	0.00%	0	0%	20
OWSLEY	251	61	24.30%	190	75.70%	0	0.00%	0	0%	30
PENDLETON	346	59	17.05%	254	73.41%	32	9.25%	1	0%	98
PERRY	2,109	372	17.64%	1,737	82.36%	0	0.00%	0	0%	194
PIKE	2,085	398	19.09%	1,518	72.81%	169	8.11%	0	0%	268
POWELL	721	180	24.97%	500	69.35%	41	5.69%	0	0%	91
PULASKI	1,470	489	33.27%	921	62.65%	55	3.74%	5	0%	169
ROBERTSON	42	14	33.33%	28	66.67%	0	0.00%	0	0%	0
ROCKCASTLE	466	125	26.82%	337	72.32%	4	0.86%	0	0%	25
ROWAN	1,472	329	22.35%	1,143	77.65%	0	0.00%	0	0%	104
RUSSELL	565	246	43.54%	315	55.75%	3	0.53%	1	0%	40
SCOTT	773	162	20.96%	597	77.23%	14	1.81%	0	0%	78
SHELBY	734	239	32.56%	468	63.76%	27	3.68%	0	0%	102
SIMPSON	350	168	48.00%	169	48.29%	13	3.71%	0	0%	47
SPENCER	199	50	25.13%	149	74.87%	0	0.00%	0	0%	22
TAYLOR	778	318	40.87%	460	59.13%	0	0.00%	0	0%	88
TODD	368	142	38.59%	224	60.87%	1	0.27%	1	0%	42
TRIGG	295	71	24.07%	224	75.93%	0	0.00%	0	0%	23
TRIMBLE	207	47	22.71%	154	74.40%	6	2.90%	0	0%	35
UNION	457	93	20.35%	339	74.18%	25	5.47%	0	0%	79
WARREN	3,614	1,393	38.54%	1,770	48.98%	450	12.45%	1	0%	652
WASHINGTON	256	130	50.78%	126	49.22%	0	0.00%	0	0%	6
WAYNE	792	291	36.74%	492	62.12%	6	0.76%	3	0%	67
WEBSTER	425	102	24.00%	300	70.59%	23	5.41%	0	0%	50
WHITLEY	1,045	209	20.00%	836	80.00%	0	0.00%	0	0%	276
WOLFE	252	64	25.40%	179	71.03%	9	3.57%	0	0%	35
WOODFORD	309	66	21.36%	226	73.14%	17	5.50%	0	0%	65
TOTAL	144,878	32,637	22.53%	107,480	74.19%	4,618	3.19%	143	0.10%	21,533

Juvenile case totals are excluded from the overall total as they are included in District Court totals.

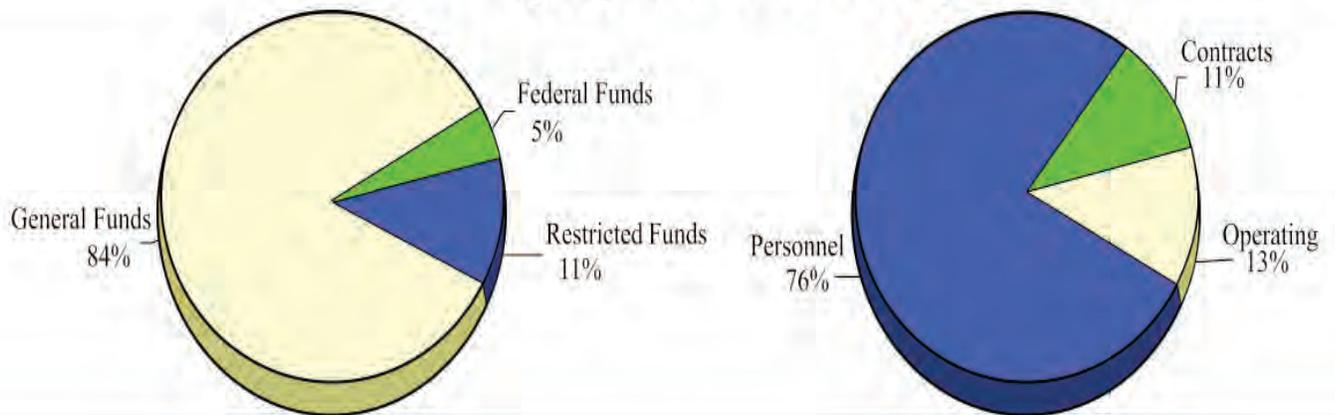
Criminal Justice System

2009 Actual Expenditures - All Funds



REVENUE & EXPENDITURES

FY 2009 Budget by Fund Source and Program



FY 2009 New Juvenile Claims by Institution

