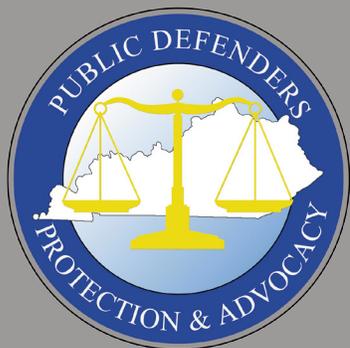
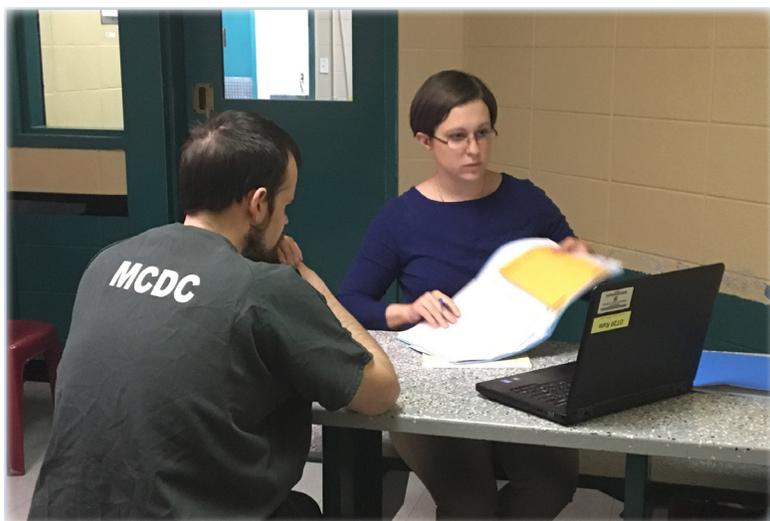


ANNUAL LITIGATION REPORT
Above and Beyond:
Not the Probable, the Possible
FISCAL YEAR 2017



COMMONWEALTH OF KENTUCKY
DEPARTMENT OF PUBLIC ADVOCACY

DAMON L. PRESTON, PUBLIC ADVOCATE
EDWARD C. MONAHAN, PUBLIC ADVOCATE (2008-2017)

SEPTEMBER 2017
Printed with donated funds

THE KENTUCKY PUBLIC ADVOCACY COMMISSION

2016 - 2017



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Chair
Mount Vernon



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Bowling Green



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Professor
Chase College of Law



Lewis G. Paisley
Stoll Keenon Ogden
Lexington



Michael D. Bowling
Bowling Law Office
Middlesboro

Dear Friends,

Our pride in the Kentucky public defender staff, who go above and beyond, is exceeded only by our desire to have sufficient resources to reduce workloads, increase compensation and have 57 trial offices.

Defender workloads remain excessive, now an average of 459 newly assigned cases per attorney. These have to be reduced to ensure defenders have the time to competently represent all of their clients. Significantly, the Governor recognizes that DPA needs more attorneys to accomplish our work as evidenced by his asking the 2016 General Assembly to provide funding for 44 additional defenders. Unfortunately, DPA did not receive that funding from the General Assembly. The Governor's support for obtaining these resources is critical. Had DPA received the additional attorneys, cases would have been resolved sooner, which is what clients, victims, judges and prosecutors would prefer, and county jails' costs would be less. Like Corrections, DPA cannot control its workload. In FY17, Corrections was provided \$42.8 million in necessary governmental expenses (NGE) above its original appropriation to address having inmates above the projection. In the last two fiscal years, DPA was appointed to 13,628 more cases than in FY15 (4,495 in FY16 and 9,133 in FY17). However, DPA, unlike Corrections, received no NGE funding. It is time that DPA's workload increases be recognized as a necessary governmental expense.

DPA has worked with the KBA on increasing the compensation of private attorneys doing conflict representation. The flat fee rates paid to private counsel doing conflict representation are clearly unconstitutionally low. DPA has also worked with the KBA and prosecutors to increase salaries for staff. State attorney salaries have not been increased in 16 years. Because of excessive workloads and inadequate compensation, defender turnover is enormous. Since 2008, 367 attorneys have left DPA. *It costs more to pay less* because of this expensive turnover. The system pays the price as resolution of cases is delayed. County jail costs increase. Through two Resolutions adopted at its June 20, 2017 meeting in Owensboro, the Kentucky Bar Association Board of Governors renewed its formal support for increasing compensation for prosecutors, defenders, and conflict counsel.

DPA now has 36 trial offices. With 120 county attorney offices and 57 commonwealth's attorney offices, DPA is moving to 57 trial offices which will reduce inefficient travel of our attorneys and provide more efficient services to local communities. It's just common sense.

Sincerely,

Jerry J. Cox
Chair, Public Advocacy Commission

2017 NEW COMMISSION MEMBERS



K. Gregory Haynes
Wyatt, Tarrant & Combs
Louisville, KY
Replacing Darryl Durham



Joseph Lambert
Former Chief Justice
Lexington, KY
Replacing Mike Bowling



Janice Powe
Former P & A Staff
Frankfort, KY
Replacing Debra Miller

ON THE COVER Public defenders advocating for their clients. Top left: Newport Trial Attorney Tamara Scull; Top right: Frankfort Directing Attorney Nathan Goodrich; Bottom left: Richmond Attorney Sara Zeurcher, Bottom right: Henderson Attorney Lindsey Noller Turner

NOT THE PROBABLE, THE *POSSIBLE*



Damon L. Preston
Public Advocate

Dear DPA friends,

It is an honor to have been appointed Public Advocate in September after nine years of distinguished leadership by Ed Monahan. Below are the inspiring words of the former Public Advocate introducing his final Annual Report. Thank you for your support of public defenders.

“There is a certain enthusiasm in liberty, that makes human nature rise above itself, in acts of bravery and heroism,” observed Alexander Hamilton in “The Farmer Refuted” on February 23, 1775. We know that passion for liberty well. Above and beyond in service to the liberty of our clients is a hallmark of Kentucky defenders, investigators, mitigation specialists, alternative sentencing workers, and administrative staff.

Routinely, we go above and beyond when an investigator finds evidence not uncovered by the police that tells the rest of the story, when an alternative sentencing worker helps a client become aware of their addiction and motivates the client to engage in treatment through a community-based alternative sentencing plan, when an administrative assistant helps clients and their families understand important issues with the litigation, when a mitigation specialist discovers the life history of a client facing death, when an attorney at trial seeks all of the discovery to ensure reliable results, and when a post-trial attorney frames the unfairness to correct an unjust conviction and sentence.

Kentucky defenders and staff could easily be satisfied with the probable but that is not what we are about. Not the probable, the *possible* for our clients. Day in and day out, we defenders rise above ourselves in selfless acts of bravery and heroism on behalf of clients. Liberty needs our enthusiastic work because the way it is taken from one person becomes the way it can be taken from all of us. What a privilege to do this work for clients!



Edward C. Monahan
Former Public Advocate
2008-2017

DPA LEADERSHIP TEAM



Tim Arnold
Post-Trial Division



Samuel Cox
Law Operations
Division



Glenda Edwards
Trial Division



Jeff Edwards
Protection & Advocacy
Division



Jeff Sherr
Education & Strategic
Planning Branch



B. Scott West
General Counsel

FY17 WORKLOAD IN BRIEF

TRIAL & POST-TRIAL CASES		CONFLICT CASES	
TOTAL	163,158	TOTAL	15,490
TRIAL	162,491	PRIVATE COUNSEL	4,538
POST-TRIAL	667	INTERNAL WITH WAIVER	9,541
TRIAL ATTORNEY AVERAGE	459	OTHER DPA OFFICE	1,411
FUNDING PER DPA TRIAL CASE	\$276	FUNDING PER PRIVATE CONFLICT CASE	\$323

ALTERNATIVE SENTENCING PROGRAM

PLANS SUBMITTED 2,389

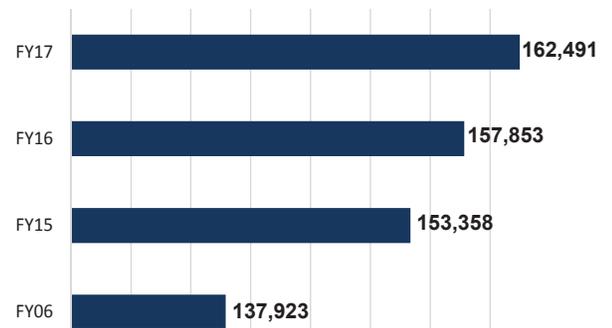
PLANS ACCEPTED 1,771

RETURN ON INVESTMENT

\$3.76 - \$5.66 saved per \$1 invested

\$10+ million cumulative savings

INCREASE IN TRIAL CASE APPOINTMENTS **2.9%**



FROM FY15-17, AN ADDITIONAL 13,628 CASES APPOINTED TO DPA

REVENUE AND EXPENDITURES - FY2017

Chronic Underfunding: Necessary Governmental Expense Authorization is Needed for DPA

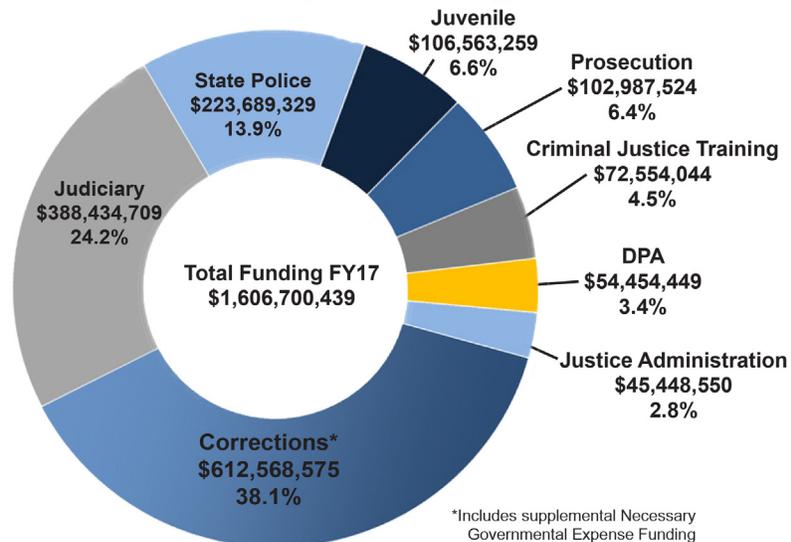
Problem: For decades, DPA's funding has been chronically inadequate for the work we are required to do. Two persistent factors are declining revenue and rising court appointments. Since FY06, DPA's revenue has fallen from \$4.3 million to \$3 million due primarily to fewer cases on which to place a court cost or DUI fee. There will be further decline in overall revenue in future years because the number of cases in the criminal justice system continues to decline. From CY07 thru CY16, there were 45,602 fewer criminal cases and 13,037 fewer DUI cases - an overall decline of more than 4,500 cases annually. Like the Department of Corrections, DPA does not control its workload. Courts appoint DPA to cases. DPA is required to accept all appointments and provide representation in each case. DPA was appointed to 2.9% more cases in FY16, some 4,495 cases, and 2.9% more in FY17, some 9,133 cases. This increase of 5.6% over two years means DPA was appointed to 24,568 more cases in FY17 as compared to FY06.

Action Needed: Statutorily recognizing that legal representation of indigents accused of a crime is a necessary governmental expense and provide the Department with the funds for staff to meet the increased workload and ensure ethical workloads.

Recommendation: Amend KRS 31.030 to add a necessary governmental expense provision for DPA: "Being authorized, in the event that actual indigent appointments exceed the number which the Department of Public Advocacy can ethically represent under the then-existing budget, to apply for payments from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund

Account (KRS 48.705), for the representation of indigent defendants in trials or appeals to meet and fulfill constitutional requirements, subject to approval as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue."

DPA Funding is 3.4% of the Criminal Justice System Funding, FY17



DPA EXPENDITURES

87% direct services to clients
13% operating expenses

DPA REVENUE

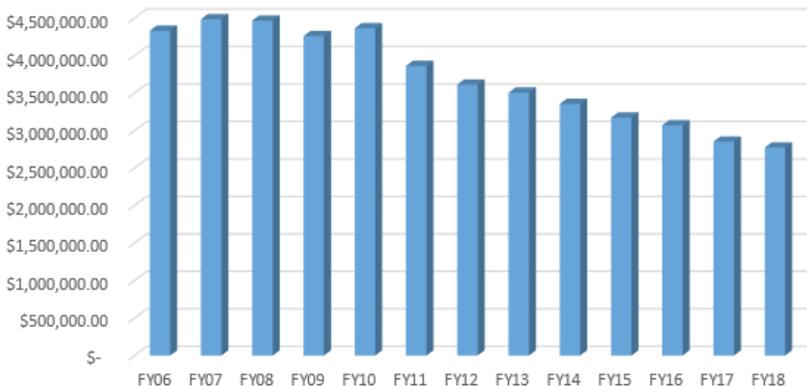
Partial fees \$1,165,795
DUI fees \$962,722
Court costs \$725,943

FUNDING PER:

New trial case \$276
Conflict case \$323

DPA revenue decline FY06 - FY18 (projected)

\$1.6 million (\$4.3 - \$2.7 million) which is the equivalent of 21 attorneys



Revenue Shortfall: DPA Does Not Receive the Full Amount of Budgeted Funds

Problem: Revenue, a critical part of DPA's enacted budget vital to DPA operations, continues to decline. Revenue has declined \$1.3 million since FY06 (\$4.3 million to \$3 million) and is projected to decrease 4.9%, \$319,800, in FY18. At the same time, court appointments are increasing, thus intensifying the gap between DPA's needed funding and DPA's budgeted funding. In FY18, this eleven-year decline will be \$1.6 million, which is the equivalent of 21 attorneys.

Action Needed: General fund dollars are needed to replace declining revenue to meet increasing court-ordered appointments.

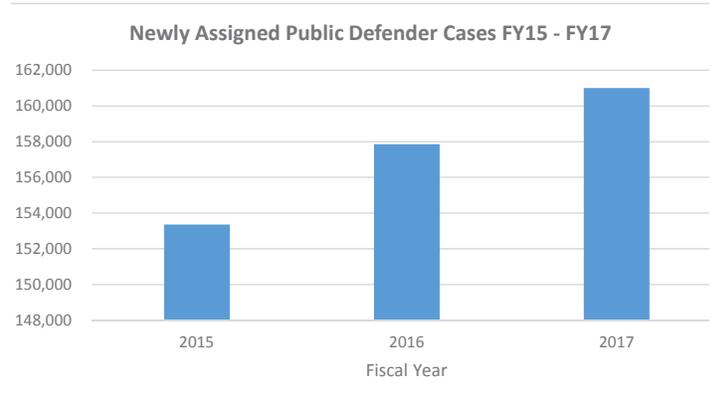
Recommendation: With the persistent decline in revenue, DPA needs the reduction replaced with general fund dollars in order to meet its representation responsibilities.

WORKLOAD REDUCTION

Workloads Are Excessive and Create Costly Delays for Resolution of Cases

Problem: In FY17 workloads have increased to 459 newly assigned trial cases per attorney with funding of \$276 per trial case. These cases are 55% above national caseload standards and do not factor in cases still open from the previous year. Workloads are unethical and subject to challenge as a constructive denial of counsel. Nineteen offices had FY17 caseload averages over 450 per attorney. Five offices were assigned more than 500 new cases per attorney. In order to address requirements of our Constitution, the KY Rules of Professional Conduct, and to accomplish the Governor's goal from his last budget proposal of average caseloads below 400 cases per attorney, DPA would now need funding for 51 additional attorneys statewide.

Action Needed: Reduce the average workload of full-time public defenders to 400 cases to ensure that clients receive prompt and thorough representation. Caseload reductions will allow cases to be resolved sooner with increased reliability and, in turn, will reduce the frustrations of clients, victims, judges, and prosecutors. The public confidence in our criminal justice system will increase, and it will save counties substantial funding spent on jails because cases will reach conclusion sooner.



Recommendation: In 2016, the Governor recognized that additional funding was needed to add attorneys to address excessive workloads. In 2016 DPA needed \$6.2 million over the biennium to hire 44 defenders. With the court-ordered case appointment increase in FY16 (4,495) and FY17 (9,133), DPA now needs \$8.1 million over the biennium to hire 51 defenders.



Glasgow Investigator Melinda Robertson meets with client Mardy Jones at Hart County Jail



Glasgow ASW Jennifer Johnson works on an assessment with client Rebecca Holbrook

Alternative Sentencing Worker Program Provides Public Value

DPA is doing its part to reduce correctional costs safely through its award-winning alternative sentencing worker program. These savings could be a source to provide funds for DPA's needs.

Fiscal Benefit: DPA's statewide alternative sentencing worker program, operating at \$3.76 - \$5.66 savings for every \$1 invested, is saving upwards of \$10 million each year as a result of reducing jail and prison costs, presenting 2,389 plans with 1,771 granted in FY17. This is 371 more plans granted than in the prior fiscal year.

Program Benefit: Clients will be served and cases will be resolved more efficiently, fully, and fairly by properly funding Kentucky's public defender system so that it can fulfill its essential constitutional role in the criminal justice system. Funding the defender system will result in reduction in overall costs in the system, including jail costs, as well as more reliable outcomes in courts. Funding DPA improves both the safety and quality of life of citizens throughout the Commonwealth.

TRIAL DIVISION



Glenda Edwards
Trial Division Director
Acting Southern Region
Manager



Rodney Barnes
Bluegrass Region
Manager



Roger Gibbs
Eastern Region
Manager



Brian Hewlett
Northern Region
Manager



Eric Stovall
Western Region
Manager



Renae Tuck
Central Region
Manager



Teresa Whitaker
Capital Trial
Manager

DPA's 36 trial offices provide representation to indigent clients in adult criminal, juvenile, civil contempt, involuntary commitment, and capital cases. DPA attorneys, investigators, alternative sentencing workers, and administrative professionals go above and beyond simple representation of a client on a single case as part of the vital role in the mission of DPA. Kentucky defender teams improve lives by insisting clients be treated fairly while guarding all constitutional protections for every client. We go beyond court representation of the client by assisting clients with treatment options and participating in specialty courts or team approaches, e.g., FAIR, Drug Court, Veterans Court, and Mental Health Court. We provide advice and other trial services as needed by the client. We strive to provide exceptional representation to meet the needs of all of our clients.

174,701
total trial cases
handled

2.9%
caseload increase
from prior year

162,491
total new
trial cases



Bowling Green Attorney Diana Werkman
meets with client William Beasley

\$276
funding per
new trial case

53
death eligible cases
handled

459
average caseload
per attorney

DPA ASW & Attorney Go Above and Beyond. Madisonville Alternative Sentencing Worker Rena Richardson and Attorney Kenneth Root were assigned to "Cody's" case. He was facing multiple trafficking charges.

At the time Cody was using alcohol, marijuana, cocaine, and benzodiazepines on a daily basis. ASW Richardson and attorney Kenneth Root spent close to a year negotiating with the Commonwealth's Attorney to get Cody appropriate treatment to address his substance use disorder. Cody wanted to enroll in college, so Drug Court was his best option, and ASW Richardson began working on an Alternative Sentencing Plan. When faced with resistance from the Commonwealth, ASW Richardson obtained letters from people in the community that knew Cody. She had Cody evaluated by Drug Court staff who agreed that Cody was appropriate for treatment and prepared a letter for the Judge. ASW Richardson and attorney Root presented the letters the judge. Finally, Cody was approved to attend Drug Court with a 20-year sentence, probated five years on condition he complete Drug Court.

While in Drug Court he enrolled in college and obtained his

Associates Degree. In college he was on the dean's list and very involved in academic life including being student of the month, a member of Phi Beta Lambda, president of the Student Advisory Board; Co-President of Phi Theta Kappa Honor Society Chi Eta Chapter, and President of the Student Government Association.

Cody is now enrolled in Murray State University and plans to obtain a Business Administration and Management degree. After obtaining his Associates degree, he was hired as the Epic Implementation Specialist at Baptist Health in Madisonville.

In a follow-up, the Commonwealth's Attorney stated that he was very proud of what Cody had accomplished. In April 2017, after meeting all conditions and requirements of the court, Cody was released from the supervision of Probation and Parole.

**CODY GRADUATED
WITH HONORS,
ENROLLED IN
COLLEGE, AND IS
EMPLOYED**

It Costs MORE to Pay LESS

Justice Delayed is Justice Denied

Increasing compensation for prosecutors and public defenders will improve the administration of justice and increase public confidence in Kentucky's justice system, as well as reduce the unnecessary costs that taxpayers pay due to constant staff turnover and its effects on the prompt and proper disposition of cases. It costs more to replace prosecutors and public defenders than it does to compensate them at a level of pay that is commensurate with their responsibilities, thereby retaining high caliber professionals and their experience and proven ability to protect the rights of citizens and ensure public safety.

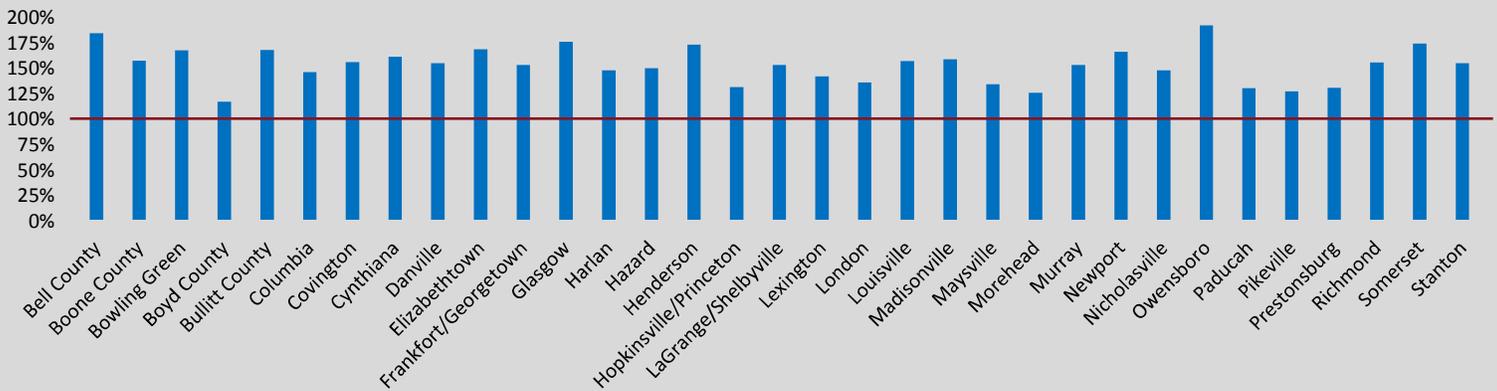
Prosecutor and public defender salaries have not increased for 16 years. Prosecutors' Rocket Dockets and

**KENTUCKY DEFENDER
& PROSECUTOR
SALARIES AVERAGE
23% LOWER THAN
COMPARABLE STATES**

the DPA Alternative Sentencing Worker Program are reducing jail costs to counties and prison costs to the state by millions of dollars each year. Using a portion of these savings to increase compensation will have a high return on investment.

The Kentucky Bar Association established a Task Force to improve the compensation of prosecutors and public defenders to a level that is commensurate with their essential roles and responsibilities in Kentucky's criminal justice system, and to advance the fair, efficient and professional operation of our courts, promote the cause and quality of justice, and ensure public safety as well as the protection of constitutional rights. The 2015 KBA Report found that a smart justice solution is to pay higher salaries to attract better talent, become and remain competitive, and reduce expensive turnover. The Bar renewed its support for these Recommendations in a June 20, 2017 Resolution, below.

DPA Office Caseloads Compared to National Standards - FY17



Conflict representation:

Woefully Undercompensated, Creating Delays in Resolution of Cases

Problem: In FY17, DPA contracted out 4,538 trial cases due to an ethical conflict. The average amount paid to 152 local private attorneys doing conflict representation per case was \$323.

Action Needed: Increase the effectiveness and efficiency of local conflict lawyers in representing court-appointed clients by increasing compensation.

Recommendation: This problem was studied by the 2011 KBA Task Force on the Provision and Compensation of Conflict Counsel for Indigents. The group recommended an additional \$5.7 million and creation of a conflict division within DPA. As of 2016, this goal remains unrealized due to lack of funding. Kentucky's current conflict system is unconstitutional and vulnerable to disruptive legal challenge.

KBA 2017 Resolution



RESOLUTION OF RENEWED SUPPORT OF THE 2011 REPORT AND RECOMMENDATIONS OF THE KBA TASK FORCE ON THE PROVISION AND COMPENSATION OF CONFLICT COUNSEL FOR INDIGENTS

WHEREAS, the right to legal representation is at the foundation of our justice system and is a core value of the Kentucky Bar Association, and, further, that it is especially important to guarantee conflict-free, properly compensated counsel for all persons regardless of their economic or social condition in order for justice to be achieved;

WHEREAS, failure to provide effective assistance of counsel in compliance with the state and federal constitutions and applicable case law risks costly appeals and retrials due to unjust, unreliable verdicts and, worse, the wrongful conviction of innocent defendants and the consequent failure to apprehend and punish the actual perpetrators of crimes;

WHEREAS, Kentucky's current system for providing counsel in conflict cases does not meet the minimum requirements of national professional standards, and it is in dire need of reform, as well as increased resources and financial support, so that competent, well-trained attorneys are available and have the ability and means to handle such cases;

WHEREAS, the quality of justice in our courts will suffer, and the needs and interests of judges, prosecutors, victims and the indigent accused will be jeopardized unless the present system for the provision and compensation of conflict counsel is addressed and improved; and

WHEREAS, the members of the Kentucky Bar Association have a significant professional responsibility to work to advance equal access to justice, especially for the poor, and the Findings and Recommendations of the KBA Task Force on the Provision and Compensation of Conflict Counsel for Indigents reflect necessary reforms and improvements that are in keeping with recognized standards, best practices and our professional responsibility as lawyers;

THEREFORE, NOW BE IT RESOLVED, that the Board of Governors of the Kentucky Bar Association renews its endorsement of the Findings and Recommendations of the 2011 KBA Task Force on the Provision and Compensation of Conflict Counsel for Indigents, and urges the Governor and General Assembly to review said Findings and provide the resources necessary to implement said Recommendations in order to improve the administration of justice in our courts, promote a properly functioning public defense system, and ensure justice for all.

Dated this 20th day of June, 2017.


R. Michael Sullivan, PRESIDENT, KENTUCKY BAR ASSOCIATION

POST-TRIAL DIVISION



Tim Arnold
Post-Trial Division Director



Renee VandenWallBake
Juvenile Post Disposition
Supervisor



Margaret Ivie
Post-Conviction
Branch Manager



Kathleen Schmidt
Appeals Branch Manager



Linda Smith
Kentucky Innocence Project
Supervisor



Sam Potter
Appeals Supervisor



Kieran Comer
Post-Conviction Supervisor
Frankfort

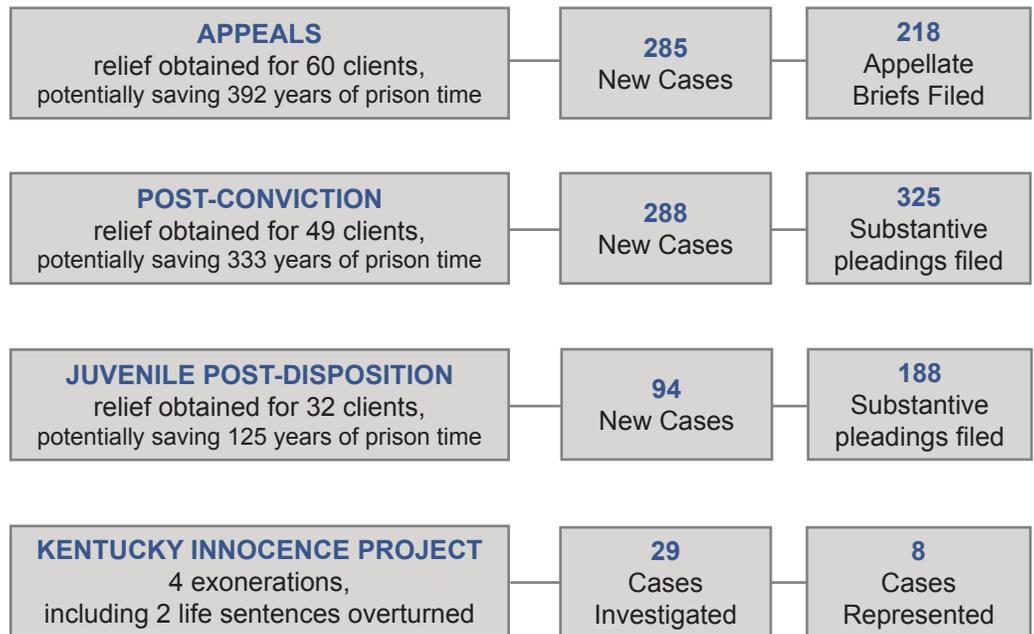


Steven Buck
Appeals Supervisor

The Post-Trial Division serves the critical function of identifying and seeking the correction of mistakes that affect someone's life or liberty.

Post-Trial Division attorneys, with the assistance of investigators, mitigation specialists, and administrative specialists, provide important representation after the completion of a trial case. Whether it is handling appeals as guaranteed by our state Constitution, litigating post-disposition challenges for juvenile clients on issues related to the fact, duration or conditions of confinement, representing adult inmates in post-conviction challenges to their convictions, or helping persons who have been wrongly accused obtain exonerations.

America is about fairness and freedom, and the Post-Trial Division is there, going above and beyond every day, for those people who have been treated unfairly by the justice system.



The work of the Post-Trial Division has had significant benefits for some of society's most vulnerable people. In some cases our work helps somebody get their life back.

Kentucky Innocence Project Supervisor Linda Smith and Investigator Jimmer Dudley, along with assistance from many others, helped secure an order dismissing William Virgil's murder case. Mr. Virgil had spent nearly 30 years in custody at the time of his release. This was one of four exonerations KIP was involved in this year.

Appeals attorney Linda Horsman helped Dennis Champion – and many others like him – avoid the cycle of arrest and re-arrest by securing a ruling in the Kentucky Supreme Court finding Lexington's panhandling ordinance unconstitutional.

JPDB Attorney Laura Karem advocated for a runaway child, and secured her suitable treatment rather than jail time.

PCB Attorney Aaron Baker secured a new trial for Daniel

Hostetler after uncovering a serious discovery violation. Mr. Hostetler has maintained his innocence, and physical evidence in the case supports the theory that the victim died by his own hand.

Appeals Attorney Shannon Smith secured a new trial for David Soloway, who had been convicted after a trial where the prosecutor argued that Mr. Soloway's silence was an indicator of his guilt.

JPDB Alternative Sentencing Worker Anthony Tanner and Appeals Attorney Suzanne Hopf helped Austin McComas, a youthful offender, remain in DJJ custody after his eighteenth birthday in order to complete treatment and secure parole.

PCB Attorney Krista Dolan secured a new trial for Robert Yell, a Logan County man who had been wrongfully convicted of murder and arson based on discredited arson science.

ALTERNATIVE SENTENCING WORKERS

The Alternative Sentencing Worker Program (ASWP) has 45 ASWs in trial offices throughout the Commonwealth, including six in the Louisville-Jefferson County Public Defender Office, offering services to individuals represented by public defenders. Through a referral process, public defenders and ASWs identify individuals who suffer from substance use disorders and/or mental health disorders, offering alternative options to the court, in lieu of incarceration. The value of these services is enhanced through the use of Motivational Interviewing which engages the individuals' willingness to start treatment, thus improving the odds that treatment will be beneficial. While the ASWP is not a treatment program, it aims to motivate individuals to participate actively in their treatment and rehabilitation.



ALTERNATIVE SENTENCING WORKER STAFF

Savings - In FY17 the Alternative Sentencing Workers presented 2,389 plans with 1,771 being accepted with a stunning return of \$3.76 - \$5.66 for every \$1 invested**. This is 371 more plans granted than in FY16. The program is offsetting over \$10 million in incarceration costs. It has proven public value.

Awards - This nationally recognized initiative has received three awards, the National Criminal Justice Association 2011 Outstanding Criminal Justice Program Award, the Harvard University's John F. Kennedy School of Government Ash Center for Democratic Governance and Innovation 2013 Top 25 Innovation in Government Award, and the American Bar Association's Section of State and Local Government Law 2017 Jefferson Fordham Society Law Office Accomplishment Award.

TRIPLE CROWN OF AWARDS



Ed Monahan accepts 2011 Criminal Justice Program Award for the Southern Region from Kristen Mahoney, President NCJA

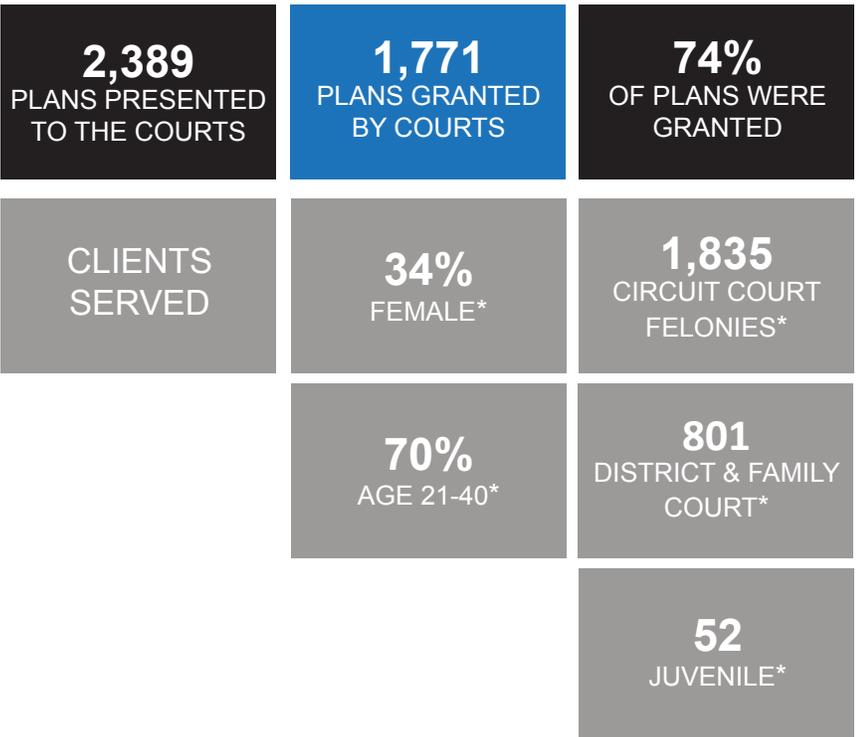


HARVARD Kennedy School
ASH CENTER
for Democratic Governance
and Innovation

2013 "Top 25 Innovations in Government"



2017 ABA Jefferson Fordham Society Law Office Accomplishment Award



*Does not include Louisville-Jefferson County Public Defender Corporation Caseload Numbers

**Results from SFY 2014 Alternative Sentencing Worker Program Evaluation conducted by Robert Walker, M.S.W., L.C.S.W. and Jaime Miller, B.A. with the University of Kentucky Center on Drug and Alcohol Research (CDAR) and SFY 2015 Alternative Sentencing Worker Program Evaluation conducted by Cara Lane Cape, M.S.W. with the Department of Public Advocacy and Robert Walker, M.S.W., L.C.S.W. with the University of Kentucky CDAR. Does not include Louisville-Jefferson County Public Defender Corporation data.

DPA TRIAL OFFICE CASELOADS - FY17

Office	Number of Attorney Positions	Average New Cases per Attorney	New Cases Assigned to Office	Average Cases Handled per Attorney	Conflict Case %
Bell County	4	494.3	2,015	569.3	9.6%
Boone County	12	453.8	5,678	493.0	4.8%
Bowling Green	10	472.8	4,966	545.3	5.2%
Boyd County	10	361.1	3,848	390.8	12.9%
Bullitt County	8	501.5	4,160	579.0	6.4%
Columbia	8	426.0	3,531	450.0	7.8%
Covington	10	424.7	4,515	458.6	6.6%
Cynthiana	3	468.7	1,493	538.7	7.4%
Danville	5	463.0	2,348	534.0	1.8%
Elizabethtown	13	496.1	6,804	570.1	7.0%
Frankfort/Georgetown*	9	452.2	4,197	504.0	3.7%
Glasgow	5	508.0	2,579	515.8	1.7%
Harlan	4	433.3	1,752	475.8	5.0%
Hazard	9	445.0	4,057	499.4	1.9%
Henderson	7	506.6	3,635	532.4	2.6%
Hopkinsville/Princeton*	14	454.9	6,470	476.9	1.9%
LaGrange/Shelbyville*	9	400.0	3,637	445.8	1.5%
Lexington	22	446.6	10,042	462.7	9.5%
London	11	396.7	4,714	405.2	10.0%
Louisville-Jefferson Co**	69	498.2	34,437	514.1	22.9%
Madisonville	6	457.0	2,827	467.3	3.3%
Maysville	4	443.0	1,872	508.0	5.9%
Morehead	9	378.2	3,572	405.4	9.0%
Murray	9	458.8	4,237	481.6	4.1%
Newport	6	437.8	2,744	504.5	5.6%
Nicholasville	5	455.6	2,405	484.6	5.4%
Owensboro	11	540.9	6,133	588.0	3.0%
Paducah	10	358.3	3,748	376.4	10.2%
Pikeville	5	431.2	2,186	496.2	2.0%
Prestonsburg	8	416.4	3,498	452.3	10.0%
Richmond	12	473.9	5,939	494.6	8.7%
Somerset	10	475.7	4,839	545.7	3.3%
Stanton	7	503.7	3,613	580.9	6.6%
DPA Total	344	459.2	162,491	494.7	9.5%



EASTERN REGION

*The Georgetown, Shelbyville, and Princeton Trial Offices were opened December 31, 2016.

** The Louisville-Jefferson County Public Defender Corporation is a non-profit organization that contracts with DPA to provide defender services in Jefferson County

DPA TRIAL CASE ASSIGNMENTS BY COUNTY - FY17

County	Total Cases	Circuit Court	District Court	Family Court	Conflict Cases
Adair	601	206	395	0	26
Allen	536	150	361	25	20
Anderson	626	176	362	88	6
Ballard	300	73	227	0	32
Barren	1,407	572	822	13	19
Bath	423	152	271	0	25
Bell	2,034	616	1,418	0	199
Boone	3,350	944	2,397	9	128
Bourbon	630	229	381	20	31
Boyd	1,591	440	1,151	0	221
Boyle	1,094	301	726	67	20
Bracken	210	47	163	0	7
Breathitt	778	189	583	6	31
Breckinridge	333	110	223	0	28
Bullitt	2,642	709	1,609	324	191
Butler	376	212	155	9	18
Caldwell	528	175	353	0	10
Calloway	1,051	307	734	10	71
Campbell	2,715	980	1,690	45	160
Carlisle	85	19	66	0	3
Carroll	908	391	517	0	97
Carter	1,314	317	764	233	102
Casey	438	150	288	0	21
Christian	4,118	869	2,989	260	82
Clark	1,719	253	1,422	44	86
Clay	1,235	187	1,048	0	75
Clinton	335	101	234	0	38
Crittenden	299	97	199	3	5
Cumberland	262	77	185	0	18
Daviess	5,036	1,341	3,077	618	164
Edmonson	165	77	84	4	4
Elliott	182	49	99	34	21
Estill	759	183	576	0	75
Fayette	9,982	1,765	8,033	184	968
Fleming	756	176	580	0	35
Floyd	1,863	360	1,468	35	161
Franklin	1,748	599	992	157	93
Fulton	369	108	261	0	37
Gallatin	267	80	187	0	10
Garrard	473	92	351	30	37
Grant	873	346	527	0	29
Graves	2,309	420	1,889	0	59
Grayson	568	164	404	0	58
Green	279	91	188	0	17
Greenup	628	237	386	5	66
Hancock	124	50	74	0	2
Hardin	4,594	998	3,241	355	312
Harlan	1,649	392	1,257	0	104
Harrison	663	191	462	10	45
Hart	632	234	398	0	12
Henderson	2,494	589	1,682	223	58
Henry	634	233	389	12	21
Hickman	149	36	113	0	26
Hopkins	1,903	443	1,441	19	64
Jackson	463	140	323	0	51
Jefferson	34,437	4,744	28,489	789	7,875
Jessamine	1,926	456	1,402	68	95
Johnson	815	250	511	54	115
Kenton	4,515	1,501	2,452	562	304
Knott	371	52	311	8	15

DPA TRIAL CASE ASSIGNMENTS BY COUNTY - FY17

County	Total Cases	Circuit Court	District Court	Family Court	Conflict Cases
Knox	1,001	305	674	22	136
Larue	544	123	421	0	33
Laurel	1,386	447	900	39	205
Lawrence	456	131	297	28	101
Lee	462	46	416	0	30
Leslie	304	87	217	0	24
Letcher	1,182	501	681	0	61
Lewis	314	77	208	29	33
Lincoln	690	129	554	7	12
Livingston	238	58	180	0	23
Logan	745	308	437	0	21
Lyon	394	174	220	0	6
Madison	3,757	1,047	2,646	64	378
Magoffin	417	32	361	24	42
Marion	615	212	403	0	86
Marshall	898	291	600	7	46
Martin	380	131	215	34	41
Mason	857	185	672	0	69
McCracken	2,550	940	1,481	129	271
McCreary	468	183	285	0	51
McLean	179	71	108	0	5
Meade	721	282	439	0	58
Menifee	159	41	118	0	2
Mercer	561	115	422	24	13
Metcalfe	182	94	83	5	11
Monroe	336	90	246	0	6
Montgomery	1,398	461	937	0	169
Morgan	484	122	293	69	24
Muhlenberg	735	286	449	0	26
Nelson	1,396	460	933	3	75
Nicholas	267	86	146	35	26
Ohio	1,001	369	611	21	26
Oldham	953	320	626	7	19
Owen	253	103	150	0	12
Owsley	297	47	250	0	33
Pendleton	285	80	196	9	2
Perry	2,539	434	2,105	0	11
Pike	2,173	291	1,862	20	63
Powell	871	214	655	2	43
Pulaski	1,862	755	1,061	46	52
Robertson	37	8	18	11	31
Rockcastle	787	241	530	16	39
Rowan	895	263	632	0	84
Russell	901	270	594	37	23
Scott	1,316	376	925	15	43
Shelby	1,248	427	758	63	5
Simpson	434	142	279	13	10
Spencer	295	50	170	75	5
Taylor	903	360	543	0	82
Todd	214	79	135	0	1
Trigg	446	98	348	0	12
Trimble	360	191	162	7	8
Union	459	149	254	56	10
Warren	3,465	1,186	2,099	180	216
Washington	152	63	89	0	11
Wayne	789	287	451	51	17
Webster	419	125	276	18	21
Whitley	865	319	546	0	80
Wolfe	440	126	307	7	16
Woodford	393	127	210	56	14

PROTECTION & ADVOCACY



PROTECTION & ADVOCACY STAFF

Kentucky P&A continued participation in Project SAFE (Safety & Accessibility for Everyone), a multi-disciplinary network working to build the capacity of professionals throughout Kentucky to provide safe, accessible and comprehensive person-centered services to individuals with disabilities who have been subjected to sexual assault and/or domestic violence. During FY17, Kentucky P&A had an advocate serve as co-chair of the statewide organization.

A Kentucky P&A advocate served as a panelist in the Crisis Intervention Team (CIT) for the Louisville Metro Police Department and State CIT, and actively participated in quarterly meetings of the CIT Advisory Board for the Louisville Metro Police Department.

Kentucky P&A also presented on the intersection of disability and youth entering the juvenile justice system at the Juvenile Justice and Community System Summit. Kentucky P&A will continue to collaborate with others on Project SAFE to advocate for accessible services for all who have been subjected to sexual assault and/or domestic violence.

The mission of Kentucky Protection & Advocacy is to protect and promote the rights of Kentuckians with disabilities through legally-based individual and systemic advocacy, and education.

The full P&A Annual Report is available at: www.kypa.net.



PROTECTION & ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS (PAIMI) ADVISORY COUNCIL



PROTECTION & ADVOCACY FOR DEVELOPMENTAL DISABILITIES (PADD) ADVISORY BOARD

In FY17 Kentucky P&A:

- assisted 2,175 person with disabilities
- provided 114 trainings on special education, guardianship, crisis intervention, longer-term care rights, and voting
- trained 2,130 individuals with disabilities, family members, and providers
- hosted 14 information booths at disability and non-disability related conferences and events
- distributed over 5,560 Kentucky P&A publications
- handled 438 new cases



Nancy and Roger Chesser accepting Jean Gossick Award on behalf of son, Jim Chesser



P&A staff past and present: Melissa Rodden-Meap, Jan Powe, Rick Cain, Susan Abbott, Jeff Edwards, Bill Stewart, and Debbie Foy



Kelly Knoop accepting the Victoria Scott & Billy Cox Award

LEGISLATIVE UPDATE

Legislative Work and Criminal Justice Reform:

Armed with the knowledge and experience of over 300 criminal law attorneys representing clients charged in over 160,000 cases each year, DPA serves an important role in advising the General Assembly as it considers changes in Kentucky's criminal law. DPA's goal is to assist legislators in developing and maintaining reasonable evidence-based criminal justice policy.

CJPAC and Senate Bill 120:

Governor Bevin's Criminal Justice Policy Assessment Council (CJPAC) was created to address the rising prison population, update the Penal Code, and remove barriers to successful reentry. The first product of the CJPAC was Senate Bill 120, signed by Governor Bevin, which focused primarily on removing barriers to reentry. Reforms included work programs for inmates, both within prisons and through work release from jails, compliance credits for parolees successfully following the rules of parole, and the elimination of restrictions on employment and licenses related to prior felony convictions. DPA applauds the reforms in SB 120 and hopes the work of the CJPAC continues towards the goal of meaningful criminal law reform.

Expungement Advocacy and Education:

With the support of DPA, House Bill 40 (2016) and Senate Bill 195 (2017) expanded opportunities for expungement of adult and juvenile convictions. Thanks to these bills, many ex-offenders are now better able to support their families, support the Commonwealth through taxes, and stay out of trouble.

To spread the word about expungement, DPA has organized and hosted community information sessions around Kentucky.

If any community or local bar association would like to host an information or CLE session, contact the DPA central office at 502-564-8006. For more information about expungement, see our web page at <http://dpa.ky.gov/clientandcommunityresources/expungement>.



DPA Staff Attorney Kyle Morris explains the expungement process at a community information session at ECU in Richmond



Sen. Whitney Westerfield, Secretary Derrick Ramsey, members of the Smart on Crime coalition, and advocates for criminal justice reform celebrate the passage of SB120.

Penal Code Reform is Overdue:

As of the end of FY17, Kentucky's prison population, at 24,002, was higher than it has ever been despite more than a decade of historically low crime rates. The criminal law puts too many non-violent offenders in prison for terms that are longer than their offense would deserve.

Kentucky's Penal Code should be reformed with the following changes:

- Reform the broad repeat offender law to limit it to violent or career criminals;
- Create a Gross Misdemeanor classification and reduce non-violent offenses that should not lead to a felony conviction;
- Raise the financial damage felony thresholds to \$2,000 or higher to limit felonies to the most serious offenses;
- Expand medical and geriatric parole to allow elderly or infirm inmates to receive less-expensive care out of custody;
- Reduce some non-violent misdemeanors to prepayable violations to save court, prosecutor, and defender resources.



**FY 17, DPA Juvenile Cases
8,470**

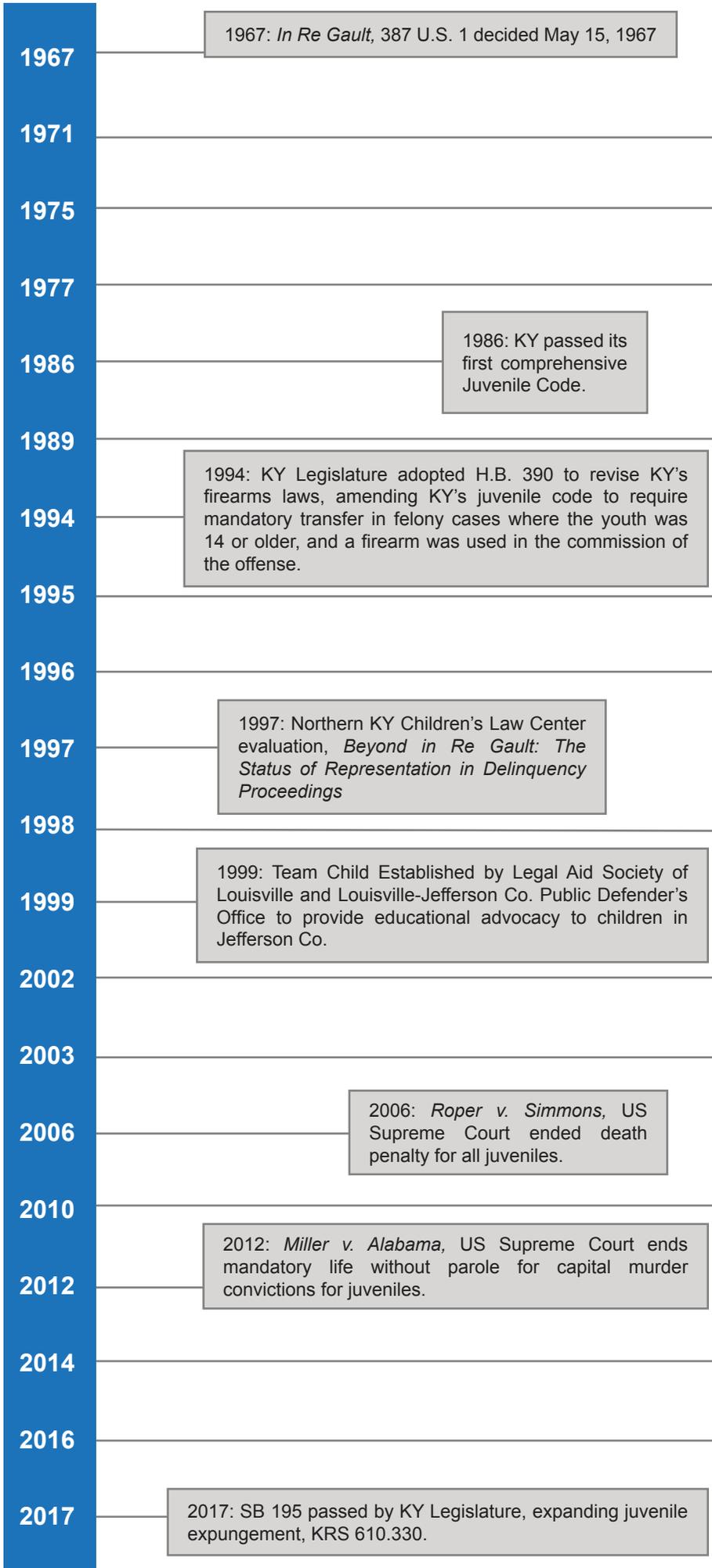
The 50th Anniversary of *In Re Gault*, reminds us that juveniles are constitutionally entitled to counsel and fair process. These foundational rights did not implement themselves in Kentucky. Over the past five decades, implementation was achieved through policy advocacy with the legislature, legal advocacy by counsel, case by case, writ by writ, appeal by appeal, child by child. This timeline is a summary of this work.

As we celebrate our progress, let's remind ourselves how 15-year old Gerald Gault was treated. Gerald had his liberty seized because of a complaint by a neighbor, Mrs. Cook, about a telephone call made to her in which the caller or callers made indecent remarks. No notice was provided to Gerald or his parents that he going to be was arrested. The petition, which contained no facts, was filed in court but not served on Gerald or his parents. At the hearing the next day, the complainant was not present, the judge questioned Gerald, who said he only dialed the number and handed the phone to the other boy. No one was sworn with no record of the proceeding. No counsel was appointed.

At a subsequent hearing, Mrs. Gault asked that the complainant be present. The judge refused. The probation report provided to the judge was not provided to Gerald or his parents. The judge found Gerald "a delinquent child" and sentenced him to confinement until 21. No appeal was permitted but a writ of habeas corpus was filed. At the hearing on the habeas, the judge was questioned, saying he sentenced Gerald because he was on probation and he remembered other calls made by Gerald at other times.

Understanding the injustice of the lack of due process, in 1967, the US Supreme Court in *Gault* said, "that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure." Truth is the objective. Recognizing that "Procedure is to law what 'scientific method' is to science," the Court held a juvenile had the right to notice of charges, counsel, confrontation, cross-examination of witnesses, and the privilege against self-incrimination.

More progress is needed. DPA needs more resources to ensure that juveniles have an attorney and a social worker who have the time and capacity to make sure the procedures are fair and the disposition is evidence-based.



1971: Kentucky Juvenile Defender Program established by James Archambault and led by Anthea Boarman, the first federally financed program in the nation to provide legal counsel exclusively to indigent juveniles. Financed by the Department of Health, Education and Welfare for one year, the program operated in a 17 county area, 16 of which were considered "rural counties."

1975: Louisville-Jefferson County Public Defender's Office established a Juvenile Trial Division staffed with attorneys and a full-time social worker whose duties included evaluation of juvenile case dispositions and recommended alternatives to the dispositions advocated by the Commonwealth.

1977: Social Worker David Richart established KY Youth Advocates in Louisville, KY as a policy advocacy organization.

1989: *Stanford v. Kentucky*, US Supreme Court held that it was constitutional to impose death penalty on children who are 16 and above.

1989: Northern KY Children's Law Center established by Kim Brooks Tandy in Covington, Kentucky.

1996: DPA Juvenile Post Disposition Branch established.

1996: The KY General Assembly adopted a juvenile justice reform bill.

1995: *MK v. Wallace* Consent Decree was signed by the Governor and the Northern KY Children's Law Center, leading to the creation of the DPA Juvenile Post Disposition Branch.

1995: The US Department of Justice and the Cabinet for Human Resources enter into a consent decree under the Civil Rights for Institutionalized Person's Act (CRIPA). The additional resources required to comply with the decree eventually lead to the establishment of the Department of Juvenile Justice as a separate agency.

1998: Evidence of Gang Involvement added to the 7 factors test, making the test for transfer to now consider 8 factors.

2002: KRS Chapter 31.110(4) amended to include statutory language enjoining the work of the Juvenile Post Disposition Branch into DPA's enabling statute.

2002: Gail Robinson, James Norris, and Timothy G. Arnold secured acquittal for Larry Osborne who had been convicted and sentenced to death.

2002: US Supreme Court denied Kevin Stanford's petition for certiorari and on October 21, it denied his direct petition for a writ of habeas corpus. Kevin was the only person then on KY's death row for a capital offense that was committed when the defendant was a minor.

2002: ABA evaluation, *Advancing Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*

2003: Gail Robinson and Margaret O'Donnell secured clemency for Kevin Stanford, Governor Patton commuted Kevin's sentence to Life Without Possibility of Parole.

2010: KY Family Court Rules of Procedure and Practice adopted, encompassing Status Offense Cases, passage led by KY Supreme Court Justice Mary Noble.

2014: SB 200 passed into law, reforming KY's Juvenile Code to shift focus from lengthy incarceration and long term commitment towards rehabilitation, graduated, evidence based sanctions, opportunity for diversion, and fairness for all children.

2016: KY Juvenile Court Rules of Procedure and Practice adopted, passage led by KY Supreme Court Justice Mary Noble.

2016: *Montgomery v. Louisiana*, US Supreme Court made *Miller* retroactive, bringing potential relief to those sentenced to life with meaningful opportunity for parole.

2016: DPA Strategic Plan for Statewide Juvenile Indigent Defense System Reform

2017 AWARDS

Each year, DPA honors those who have shown a deep commitment to the value of public defense. This year, DPA had the privilege of honoring professionals who have gone above and beyond in their support of clients and the Kentucky public defender system.



2017 William T. Robinson, III Professionalism & Excellence Award
Amy Hannah, Assistant Director
Louisville Metro Public Defender Office
 For thorough, professional and excellent representation of clients



2017 Rosa Parks Award
Lisa Evans
Investigator
Bell County Trial Office
 For fiercely investigating for clients



2017 In re Gault Award
Sherry Hurley
Deputy Chief Juvenile Defender
Louisville Metro Public Defender Office
 For courageous representation of juveniles



2017 Rosa Parks Award
Kita Clement, MSW, CSW,
Alternative Sentencing Worker Specialist
Bowling Green Trial Office
 For faithfully helping clients receive treatment



2017 Gideon Award
Shanda West-Stiles
Directing Attorney
Columbia Trial Office
 For committed service of ensuring the right to counsel for clients in Kentucky



2017 Anthony Lewis Media Award
Mark Heyne
WVXU Radio
 For reporting on "The Work of Public Defenders in our Legal System"



2017 Public Advocate Award
Michael Sullivan,
President, Kentucky Bar Association
 For dedicated support of Kentucky public defenders and leadership on advancing diversity and inclusion



2017 Nelson Mandela Lifetime Achievement Award
Edward C. Monahan, Public Advocate
 For a lifetime of courageous service and leadership in the fight to ensure the right to counsel for clients in need

TRIAL OFFICE LEADERS



Linda West
Bell County
(606) 337-8357



Stephen Florian
Boone County
(859) 282-0818



James Rhorer
Bowling Green
(833) 254-2458



Greg Griffith
Boyd County
(606) 739-4161



Jennifer Wittmeyer
Bullitt County
(502) 955-8594



Kim Green
Capital Trials East
(859) 246-2333



Joanne Lynch
Capital Trials West
(502) 647-0483



Shanda West-Stiles
Columbia
(833) 254-2467



Daniel Schubert
Covington
(859) 292-6596



Ray Ibarra
Cynthiana
(859) 234-4535



Landon Tingle
Danville
(833) 205-0827



Susie Hurst
Elizabethtown
(270) 766-5160



Nathan Goodrich
Frankfort
(502) 564-7204



Sarah Fightmaster
Georgetown
(502) 570-9899



Greg Berry
Glasgow
(270) 834-8236



William Seidelman
Harlan
(606) 573-2501



Will Collins
Hazard
(606) 439-4509



Tina McFarland
Henderson
(833) 254-2463



Brandi Jones
Hopkinsville
(833) 254-2464



Dan Goyette
Jefferson County
(502) 574-3800



Liz Curtin
LaGrange
(502) 222-7712



Christopher Tracy
Lexington North
(859) 258-2377



Shannon Brooks-English
Lexington South
(859) 246-2906



Michael Brophy
London
(833) 205-0826



Eric Stovall
Madisonville
(833) 254-2468



Chris Kippley
Maysville
(606) 564-5768



Charles Landon
Morehead
(606) 783-8600



Cheri Riedel
Murray
(270) 753-4633



Eva Hager
Newport
(859) 261-0192



Erica Roland
Nicholasville
(859) 881-4460



Leigh Jackson
Owensboro
(270) 687-7030



Chris McNeill
Paducah
(833) 895-0577



Traci Hancock
Pikeville
(833) 254-2461



Carla Bowens-Tackett
Prestonsburg
(833) 895-0579



Jason Pfeil
Princeton
(270) 365-9363



Valetta Browne
Richmond
(833) 895-0580



Melanie Lowe
Shelbyville
(502) 647-6044



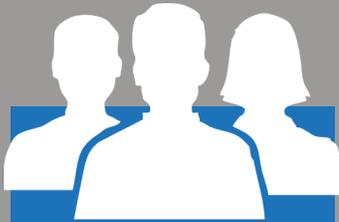
Emily Campbell
Somerset
(606) 677-4129



Lisa Whisman
Stanton
(606) 663-2844

Having issues with one of the phone numbers listed above? Please contact Central Office at (502) 564-8006 for assistance.

OUR VALUES



CLIENTS

UNYIELDING COMMITMENT TO CLIENTS BY PASSIONATELY REPRESENTING THEM FROM ARREST THROUGH POST-CONVICTION



QUALITY

EXPECTING THAT EVERYTHING WE DO WILL BE OF THE HIGHEST QUALITY



INTEGRITY

TREATING OUR CLIENTS, EACH OTHER, AND OUR PROFESSION WITH INTEGRITY BY WORD AND DEED



LIBERTY

SERVING WITH PASSION AND DEDICATION BY PROTECTING INDIVIDUAL FREEDOMS

OUR GOALS



LITIGATE

IMPROVE OUR LITIGATION ON BEHALF OF OUR CLIENTS



SUPPORT

IMPROVE OUR COLLABORATION AND COMMUNICATION WITHIN THE AGENCY



TRAIN

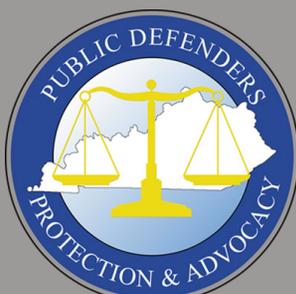
ENHANCE ACCESS FOR ALL STAFF TO TRAINING AT THE NATIONAL, LOCAL, AND AGENCY LEVEL



ENGAGE

ENGAGE COMMUNITY & STATEWIDE LEADERS & STAKEHOLDERS TO IDENTIFY OUR MUTUAL INTERESTS IMPACTING OUR CLIENTS

QUALITY REPRESENTATION OF OUR CLIENTS



TO PROVIDE HIGH QUALITY, CLIENT-CENTERED LEGAL REPRESENTATION TO INDIGENT PERSONS OF ALL AGES, ACCUSED OF CRIMES OR FACING DEPRIVATION OF LIBERTY THROUGHOUT THE COMMONWEALTH OF KENTUCKY.