

ANNUAL CASELOAD REPORT FISCAL YEAR 2018



DEPARTMENT OF
PUBLIC ADVOCACY

*Justin Hoskins of the
Richmond Trial Office*

FROM THE PUBLIC ADVOCATE



Damon L. Preston
Public Advocate

On behalf of the 552 employees of the Department of Public Advocacy, I am proud to present this Annual Caseload Report. In these pages, we hope to demonstrate the excellent work being done for clients by public defenders and staff and the exceptional value DPA provides the Commonwealth of Kentucky.

The past year, my first as Public Advocate, has seen scarcity and then much-needed relief. For most of Fiscal Year 2018, DPA froze hiring, limited training, and restricted travel because of inadequate funding. Fortunately, after a recommendation by the Public Advocacy Commission, Governor Bevin and the 2018 General Assembly recognized DPA's critical need and provided help. DPA will now be able to fill attorney vacancies and provide additional caseload relief to the offices most in need.

We are grateful to the Public Advocacy Commission, the Governor, the General Assembly, and our Cabinet (Justice and Public Safety) for their support of public defense and look forward to another year of service for our clients and for the Commonwealth.

OFFICE OF THE PUBLIC ADVOCATE



B. Scott West
Deputy Public Advocate



Melanie Lowe
General Counsel



Cara Lane Cape
Executive Staff Advisor



Jeff Sherr
Education and Strategic
Planning Branch

PUBLIC ADVOCACY COMMISSION



Jerry J. Cox
Chairman
Mount Vernon



John M. Rosenberg
Vice-Chair
Prestonsburg



Dr. Crystal Rae Coel
Professor
Murray State University



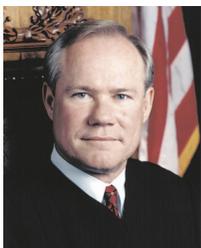
Charles E. English, Jr.
English, Lucas, Priest &
Owsley LLP
Bowling Green



Robert C. Ewald
Wyatt, Tarrant & Combs
Louisville



K. Gregory Haynes
Wyatt, Tarrant & Combs
Louisville



Joseph Lambert
Former Chief Justice
Lexington



Cortney Lollar
Associate Professor
UK College of Law



Luke Milligan
Professor
Brandeis School of Law



Lewis G. Paisley
Stoll Keenon Ogden PLLC
Lexington



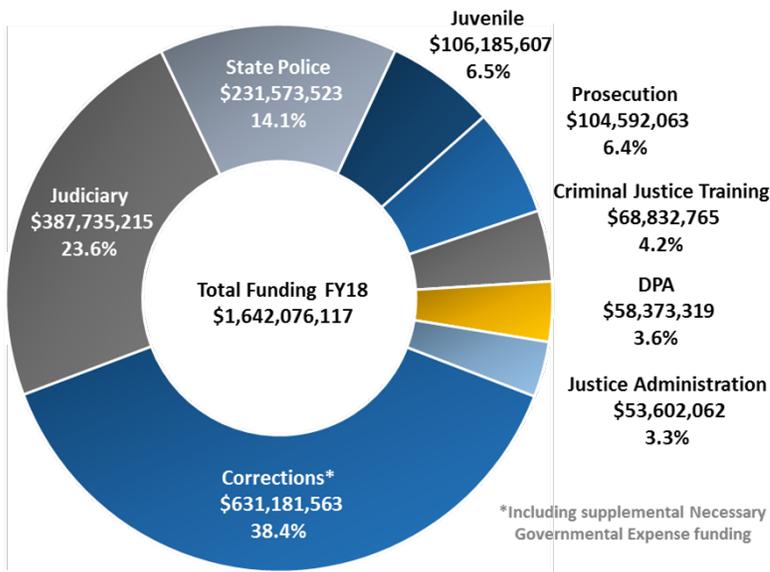
Janice Powe
Retired P&A Staff
Frankfort



Mark Stavsky
Professor
Chase College of Law

BUDGET AND REVENUE

Only 3.6% of the Funding for the Criminal Justice System Goes to Public Defense



DPA FUNDING

\$53,580,700 Defender General Funds
\$4,792,619 Defender Non-General Funds*
\$1,961,821 Protection & Advocacy

*Non-General Funds include funding from federal grant funds, court-ordered client fees, a portion of collected DUI service fees, and a small percentage of collected court costs.

\$287
Funding Per
New Trial Case

\$310
Funding Per
Conflict Case

In FY18, DPA was given just over \$58 million to fund more than 170,000 cases. Through centralized administration and a statewide network of trial offices, trial services were efficiently provided at a rate of \$287 per case. Due to vacancies required by insufficient funding, actual caseloads spiked to more than 500 cases per attorney, far higher than our published caseload that is based on attorney positions. Caseloads under the new budget will be lower, but will remain far higher than national standards and will likely rise again based on the current upward trend of court appointments.



Ray Ibarra of the Cynthia Trial Office discusses options with a client in a courtroom jury box.



Kim Green of the Capital Trial Branch presents her closing jury argument.

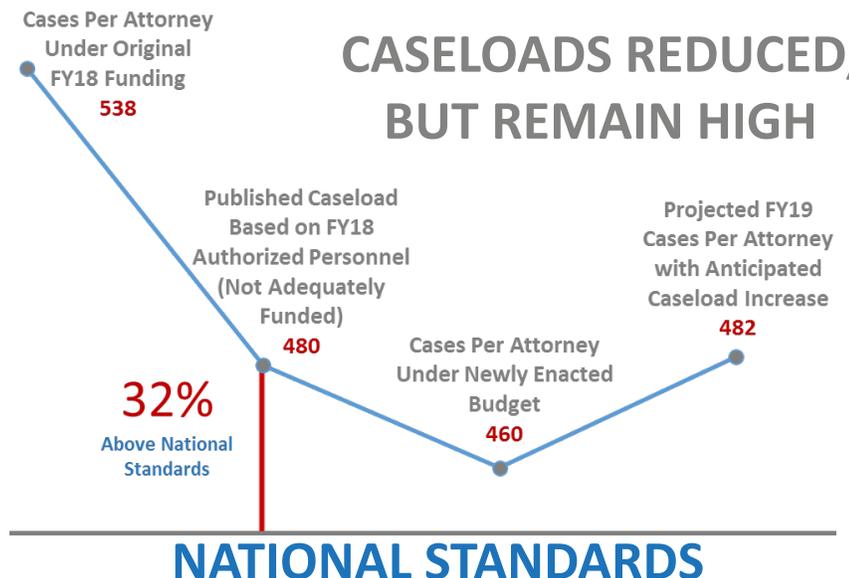


Evan Bates of the Boyd County Trial Office confers with a client.

DEFENDER DIVISION BUDGETS

\$48,834,508 Trial
\$5,716,410 Post-Trial
\$2,303,601 Operations (Human Resources, Information Technology, Fiscal)
\$1,518,800 Office of the Public Advocate and Education Branch

CASELOADS REDUCED, BUT REMAIN HIGH



DPA TRIAL CASE ASSIGNMENTS BY COUNTY

County	Total Cases	Caseload % in Circuit Court	Conflict Cases
Adair	694	36.3%	30
Allen	606	33.3%	16
Anderson	694	29.0%	10
Ballard	284	30.6%	18
Barren	1,768	42.4%	31
Bath	381	35.2%	60
Bell	1,835	30.4%	165
Boone	3,214	29.5%	117
Bourbon	489	29.7%	36
Boyd	2,032	35.2%	282
Boyle	1,106	26.7%	25
Bracken	172	25.0%	11
Breathitt	722	22.9%	19
Breckinridge	415	34.7%	30
Bullitt	2,713	32.0%	194
Butler	313	55.6%	27
Caldwell	581	27.4%	11
Calloway	1,048	34.5%	78
Campbell	2,409	38.1%	123
Carlisle	97	23.7%	6
Carroll	973	41.1%	52
Carter	1,490	22.4%	116
Casey	481	44.3%	47
Christian	4,049	19.2%	66
Clark	1,885	13.3%	127
Clay	1,367	12.6%	55
Clinton	495	35.4%	119
Crittenden	272	30.5%	5
Cumberland	256	36.7%	31
Daviess	4,864	26.3%	144
Edmonson	321	46.7%	21
Elliott	226	33.2%	4
Estill	900	26.6%	66
Fayette	12,244	15.9%	1,308
Fleming	681	28.0%	77
Floyd	1,605	21.6%	85
Franklin	1,872	37.8%	106
Fulton	467	25.3%	13
Gallatin	265	38.1%	22
Garrard	466	22.3%	36
Grant	1,021	42.4%	37

County	Total Cases	Caseload % in Circuit Court	Conflict Cases
Graves	1,945	22.4%	32
Grayson	515	30.5%	31
Green	291	30.2%	6
Greenup	716	40.1%	4
Hancock	146	43.2%	0
Hardin	4,877	24.3%	69
Harlan	1,544	19.8%	43
Harrison	605	28.6%	41
Hart	657	39.1%	13
Henderson	2,269	27.4%	36
Henry	767	34.2%	21
Hickman	71	31.0%	1
Hopkins	2,122	24.9%	74
Jackson	467	22.1%	4
Jefferson*	35,493	14.5%	59
Jessamine	1,781	25.7%	32
Johnson	872	27.3%	6
Kenton	5,160	37.1%	240
Knott	450	17.6%	8
Knox	915	27.9%	47
Larue	481	29.7%	10
Laurel	1,157	34.1%	43
Lawrence	520	43.3%	12
Lee	380	16.1%	6
Leslie	348	22.4%	2
Letcher	1,056	41.3%	33
Lewis	377	40.1%	20
Lincoln	706	18.0%	8
Livingston	250	38.8%	3
Logan	822	32.8%	24
Lyon	289	38.8%	12
Madison	3,712	30.0%	58
Magoffin	669	12.0%	21
Marion	732	37.8%	13
Marshall	1,089	28.7%	37
Martin	481	36.2%	15
Mason	883	21.9%	53
McCracken	2,820	39.8%	163
McCreary	590	35.1%	9
McLean	288	40.3%	20
Meade	592	41.4%	6

County	Total Cases
Menifee	142
Mercer	529
Metcalfe	190
Monroe	423
Montgomery	1,417
Morgan	588
Muhlenberg	818
Nelson	1,388
Nicholas	203
Ohio	988
Oldham	956
Owen	232
Owsley	197
Pendleton	377
Perry	2,443
Pike	2,289
Powell	939
Pulaski	2,050
Robertson	39
Rockcastle	958
Rowan	955
Russell	769
Scott	1,389
Shelby	1,256
Simpson	599
Spencer	355
Taylor	1,143
Todd	159
Trigg	449
Trimble	251
Union	502
Warren	4,033
Washington	258
Wayne	927
Webster	387
Whitley	812
Wolfe	593
Woodford	498

*The Louisville-Metro Public Defender is a non-profit organization that provides legal services in Jefferson County.

A VICTORY FOR INNOCENCE

Caseload % in Circuit Court	Conflict Cases
30.3%	1
27.6%	26
50.5%	6
39.2%	5
37.1%	37
24.3%	4
34.6%	14
34.9%	6
29.6%	12
45.4%	0
36.3%	32
34.5%	8
14.2%	4
28.1%	11
15.9%	63
13.6%	94
26.5%	24
41.1%	86
23.1%	0
29.1%	9
32.0%	24
32.8%	7
29.0%	56
34.9%	10
29.7%	3
27.3%	2
34.2%	46
35.8%	6
22.9%	13
45.8%	9
30.9%	15
47.5%	118
36.8%	8
43.6%	37
24.3%	13
32.6%	3
27.5%	11
29.5%	6



Exonerees Garr "Keith" Hardin and Jeffrey Clark following the dismissal of their case.
Photo By: Maggie Huber

On February 26, 2018, after serving more than two decades in prison for a crime they did not commit, Jeffrey Clark and Garr "Keith" Hardin were finally free.

In 1995, Clark, 24, and Hardin, 25, were convicted of the fatal stabbing of their friend Rhonda Sue Warford, and sentenced to life in prison. Shortly after the verdict, evidence was unearthed establishing that the jailhouse informant whose testimony had convicted Clark and Hardin had committed perjury; but it was not enough for the court to overturn the verdicts.

With the advancement of DNA technology in 2009, the Innocence Network and the Kentucky Innocence Project moved for DNA testing of the hairs found in Ms. Warford's sweatpants, which the Commonwealth had asserted at trial belonged to Hardin (based on microscopic hair analysis), thus providing the physical link to the crime.

Following years of appeals, the Kentucky Supreme Court granted the DNA testing, which revealed the hair belonged to neither Clark nor Hardin.

In July 2016, Judge Bruce Butler vacated the convictions, and both Hardin and Clark were soon released on bail. The Attorney General appealed the court's decision to the Kentucky Supreme Court, which upheld Judge Butler's order, and in the meantime, indicted Clark and Hardin on additional charges of capital kidnapping and perjury. However, citing "no evidence," Judge Butler dismissed the new charges in January 2018, finding vindictive prosecution.

The Attorney General reassigned the case to an experienced prosecutor, who – following a serious review of the case and its evidence – soon filed a motion to dismiss all charges, exonerating Clark and Hardin.

2018 DPA ANNUAL AWARDS WINNERS

Daniel Schubert
Clarence Earl Gideon Award

Susan Balliet
Nelson Mandela Lifetime Achievement Award

Melanie Foote
Professionalism & Excellence Award

Kim Green
Furman Award

Charles "Chip" Rogalinski
In Re: Gault Award

Rachel Pate
Rosa Parks Award



Michael B. Healy and Rachel R. Holcomb
Cindy Lovell Downs Award

Jeff Sherr
Edward C. Monahan Award

Querida L. "Que" Christian and Ryan J. Dischinger
Defender Uprising Award

Representative Jason Nemes
Public Advocate Award

TRIAL DIVISION



Glenda Edwards
Director

DPA's 36 trial offices defend the constitutional rights of clients and ensure fair treatment in the criminal justice system. Along with investigators, alternative sentencing workers, and administrative professionals, our attorneys stand with and stand up for clients from accusation through acquittal, dismissal, or conviction. Beyond defending clients through excellent trial services in the courtroom, we support clients through rehabilitation referrals, specialty courts, and individualized sentencing plans. Our trial teams provide services in felony, misdemeanor, juvenile, revocation, civil contempt, involuntary commitment, and capital cases.



Rodney Barnes
Bluegrass Region



Renae Tuck
Central Region



Tracy Hancock
Eastern Region



Brian Hewlett
Northern Region



Shanda West-Stiles
Southern Region



Eric Stovall
Western Region



Teresa Whitaker
Capital Trial Branch

480
Average
Caseload
Per Attorney

170,121 Total New Trial Cases
179,773 Total Trial Cases Handled

Caseload
Increase of
4.7%
From FY17

LAW OPERATIONS DIVISION



Samuel Cox
Director

DPA's Law Operations Division provides statewide support by meeting the fiscal, human resources, and technology needs of the agency. Additionally, Law Operations oversees the Defender Services Branch which manages the Alternative Sentencing Worker Program.

Alternative Sentencing Workers (ASWs) meet with clients to inspire and enable them to start the treatment process while motivating clients to participate in rehabilitation.

Josh (last name withheld) met ASW Amanda Adkins following his arrest for felony possession of methamphetamine and misdemeanor drug paraphernalia charges. In Josh's Alternative Sentencing Plan (ASP), presented to the court by his attorney Lisa Whisman, Adkins recommended the court to allow Josh to attend residential treatment instead of being sent to prison. The court granted this request. Instead of sitting in a prison cell, Josh has now completed treatment and is volunteering as a peer mentor at Hickory Hills Recovery Center, helping others who are starting on their path to recovery.

82
Average Plans
Presented
Per ASW

3,395
Plans
Presented
to Court

4,754 Total New ASW Assignments
2,013 Total ASPs Granted



Amanda, along with Josh and Lute (another peer mentor) at Hickory Hills Recovery Center.

POST-TRIAL DIVISION



Tim Arnold
Director

The Post-Trial Division serves the critical function of finding and trying to fix mistakes that affect someone's life or liberty. Post-Trial attorneys, with investigators, mitigation specialists, paralegals, 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 cases for juvenile clients who have been court-ordered into state custody, representing adult inmates in post-conviction challenges to their incarceration, or helping persons who have been wrongfully convicted obtain exonerations, the Post-Trial Division provides a necessary check on the accuracy of the justice system.

The Post-Trial Division exists to protect freedom and stand up for those who have been treated unfairly by the justice system.

245

Appellate
Briefs Filed

240

New Post-Conviction
Appointments

71

New Juvenile
Post-Disposition Cases

104

Clients Obtained Post-Trial Relief,
Potentially Saving **925** Years of Prison Time



Kathleen Schmidt
Appeals Branch



Samuel N. Potter
Appeals



Steve Buck
Appeals



Kieran Comer
Post-Conviction



Renee VandenWallBake
Juvenile Post-Disposition

PROTECTION & ADVOCACY DIVISION



Jeff Edwards
Director

The Protection and Advocacy Division (P&A) has a mission of protecting and promoting the rights of Kentuckians with disabilities. P&A is primarily federally funded and operates independently from the rest of DPA.

The Interim Settlement Agreement (ISA) signed in August 2013, set a benchmark of providing services to 600 individuals with Serious Mental Illness (SMI) over three years. By September 30, 2015, only 225 individuals with SMI had received services as described in the ISA.

P&A negotiated with the Cabinet for Health and Family Services (CHFS) to amend the ISA and called for CHFS to provide community based services. The current Amended Settlement Agreement (ASA) states within 5 years, over 675 individuals residing in Personal Care Homes (PCP), or who have previously resided in a PCP, will receive services outlined in the ASA. As of September 30, 2017, 450 individuals have received services under the ASA. The ASA has provided much needed community supports and services to Kentuckians with SMI. However, there continues to be a lack of providers, opportunities, or choices for the majority of those with SMI who want to receive services in their home communities.



P&A staff members establish division priorities for the year.

DPA TRIAL OFFICE CASELOADS

Office	Attorneys	Average New Cases per Attorney	New Cases Assigned to Office	Average Cases Handled per Attorney	Conflict Case %	Caseload % Compared to National Standard
Bell County	4	439.3	1,793	508.0	9.4%	162%
Boone County	12	458.0	5,729	484.7	4.1%	165%
Bowling Green	10	547.5	5,909	610.6	7.6%	210%
Boyd County	10	471.2	5,029	494.0	10.1%	172%
Bullitt County	8	491.5	4,106	562.1	5.7%	174%
Columbia	8	524.5	4,321	546.9	10.8%	189%
Covington	10	486.9	5,151	517.2	6.7%	188%
Cynthiana	3	379.0	1,256	476.0	11.5%	130%
Danville	5	464.0	2,376	505.2	2.3%	157%
Elizabethtown	13	499.7	6,888	546.8	6.7%	173%
Frankfort	5	374.0	1,936	387.8	4.4%	139%
Georgetown	4	561.3	2,346	608.8	5.5%	187%
Glasgow	5	594.6	3,021	603.2	2.4%	224%
Harlan	4	405.8	1,630	445.0	3.6%	132%
Hazard	9	434.4	3,982	473.8	3.7%	149%
Henderson	7	481.0	3,444	498.6	2.6%	164%
Hopkinsville	11	447.2	4,997	476.3	1.8%	167%
LaGrange	4	497.3	2,018	536.8	2.1%	173%
Lexington	22	541.8	12,200	546.7	8.5%	172%
London	11	380.4	4,525	386.7	8.0%	131%
Louisville*	69	513.5	35,493	719.3	0.2%	164%
Madisonville	6	520.5	3,215	532.0	3.2%	183%
Maysville	4	400.8	1,738	515.5	9.3%	129%
Morehead	9	387.1	3,660	407.6	13.3%	135%
Murray	9	438.9	4,054	471.1	4.3%	153%
Newport	6	393.5	2,456	422.7	4.5%	153%
Nicholasville	5	423.0	2,218	442.2	5.1%	147%
Owensboro	11	531.6	6,015	574.4	3.3%	190%
Paducah	10	394.7	4,033	411.9	2.9%	148%
Pikeville	5	453.2	2,301	572.6	2.2%	134%
Prestonsburg	8	435.4	3,606	470.6	6.6%	143%
Princeton	3	432.7	1,324	462.0	1.3%	158%
Richmond	12	486.7	6,082	509.7	8.2%	161%
Shelbyville	5	442.2	2,246	462.2	2.0%	162%
Somerset	10	517.8	5,276	601.5	2.7%	196%
Stanton	7	519.4	3,747	561.7	5.5%	166%
NATIONAL STANDARD						100%
DPA Total	344	480.1	170,121	549.3	8.7%	165%