



Office of Chief Public Defender
State of Connecticut

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HARTFORD, CONNECTICUT 06106
(860) 509-6429 FAX (860) 509-6499

SUSAN O. STOREY
CHIEF PUBLIC DEFENDER

December 1, 2009

Honorable Robert L. Genuario, Secretary
Office of Policy and Management
450 Capitol Avenue
Hartford, CT 06106

RE: *FY 2011-5% Budget Reduction Option*

Dear Secretary Genuario:

Pursuant to your request, I am submitting this Agency's Reduction Option for FY 2011.

Although I have complied with the directive to submit a Reduction Option totaling 5% of the FY 2011 appropriation, this Agency would be unable to absorb such cuts and still meet its core obligations to provide constitutionally mandated defense services to indigent juveniles and adults.

The reductions in the Special Public Defender and Expert Witness OCE accounts that would be necessary to achieve this reduction are unrealistic given the numbers of cases including serious felony and capital cases pending at this time. Due to conflicts of interest, the courts are required to appoint special public defenders in approximately 8500 cases annually. With or without an adequate appropriation, the courts must continue to appoint counsel for indigent defendants, and this Agency will be responsible for payments to these attorneys. As such, a reduction in the appropriation will simply produce a larger deficiency in the SPD Non-Contractual account at a higher cost. To date, this Agency's appropriation for 2010 has been reduced by an aggregate amount of 8.2%, including holdbacks and rescissions of 5%, resulting in deficiencies in these accounts..

Similarly, the services of expert witnesses are constitutionally required in many cases. With or without an adequate appropriation, experts must be retained. Failure to do so would breach the state's legal obligation to indigent accused and could invalidate many resulting convictions.

This Agency will do everything possible to achieve the necessary savings in Personal Services, but at the same time must maintain its core function to provide


constitutionally adequate representation to clients, and maintain sufficient numbers of staff to properly administer the Agency. In order to provide effective assistance of counsel to indigent clients in criminal proceedings and adhere to the Commission caseload guidelines of no greater than 500 new cases per attorney per year in the GA courts, 75 new cases per attorney per year in the JD offices, 300-400 new cases per attorney per year in the juvenile offices and 25 new cases per year in the Habeas Unit; it is critical to our Division that vacant positions be filled. As of this date, seven (7) GA public defender offices exceed the caseload goals. Furthermore, this year's unprecedented murder rate in Hartford and the numbers of pending capital felony cases seeking the death penalty is cause for concern regarding our Office's ability to adequately represent defendants in a timely manner. Although it will be difficult, we feel that with careful management, we can absorb a substantial portion of this Personal Services reduction.

In order to achieve the 5% reduction required of this Agency, it would be necessary to reduce our Other Expenses appropriation by 10% in FY2011. Although we have been and will continue to reduce expenses wherever we can, this reduction will be exceedingly difficult if not impossible to achieve and would result in a deficiency in this account. In order to remain within this adjusted appropriation of \$1.32M, the Agency would have to eliminate all attorneys' automated legal research subscriptions to Lexis/Nexis and/or our Agency's access to the Judicial Criminal/Motor Vehicles system which would severely curtail our ability to represent our clients. Please note that the FY2011 Other Expenses appropriation of \$1,471,223 is comparable to the Agency's FY2007 level of expenditures of \$1,441,861 in this account.

A reduction in Training will curtail or eliminate training relating to all aspects of criminal defense including, but not limited to, defense of capital cases, trial and appellate advocacy, investigations, mental health and substance abuse issues, and management training. This year's cuts are more difficult to absorb due to the fact that participation in many trainings, including the Agency's annual training seminar, was foregone last year as a result of the budget crisis. Furthermore, this Agency does not receive federal funding for training opportunities comparable to other agencies, including the Judicial Branch and the Division of Criminal justice.

In addition to its impact on the Division's ability to meet its constitutional obligations, any reduction in funding in these areas would also result in violations of the terms of the settlement agreement in *Rivera v. Rowland, et al.* As such, I would respectfully urge that this Agency be exempt from any such further reductions.

Thank you for your understanding and support. Please contact me if I can provide additional information.

Sincerely,

Susan O. Storey
Chief Public Defender

Cc: John Jaramillo, Budget Analyst

2011 MIDTERM ADJUSTMENT SUMMARY

PDS98500 - Public Defender Services Commission
11000 - General Fund

Priority	Adjustment Title	2011 Base	2011 Adjustment	2011 Revised	2012 Adjustment
	REDUCTION				
0.00	ELIMINATE EQUIPMENT FUNDING	105	-105	0	-105
0.00	PERSONAL SERVICES REDUCTION	39,095,094	-1,074,684	38,020,410	38,020,410
0.00	REDUCE EXPERT WITNESSES	1,535,646	-200,000	1,335,646	1,335,646
0.00	REDUCE OTHER EXPENSES	1,471,223	-147,122	1,324,101	1,324,101
0.00	REDUCE SPECIAL PUBLIC DEFENDERS CONTRACTUAL	3,144,467	-400,000	2,744,467	2,744,467
0.00	REDUCE SPECIAL PUBLIC DEFENDERS NON CONTRACTUAL	5,407,777	-695,000	4,712,777	4,712,777
0.00	REDUCE TRAINING AND EDUCATION	116,852	-21,647	95,205	95,205
	ADJUSTMENT TOTAL	50,771,164	-2,538,558	48,232,606	48,232,501

Head of Budgeted Agency (Signature)

Susan O. Storey

Susan O. Storey, Chief Public Defender

12/1/09

Date submitted

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

ELIMINATE EQUIPMENT FUNDING

Priscilla S. Koklinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

Eliminate funding of \$105 appropriated in the Equipment account in FY2011.

Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
10050 - Equipment	0	105	105	-105	0	-105
Total	0	105	105	-105	0	-105

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

PERSONAL SERVICES REDUCTION

Priscilla S. Kokinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

Reduction in the amount of \$1,074,684 would be necessary to achieve the savings of 5% required of this agency. This Agency will do everything possible to achieve the necessary savings as required by OPM, but at the same time must maintain its core function of providing constitutionally adequate representation to clients, and maintain sufficient numbers of staff to properly administer the Agency. The Public Defender Commission has authorized me to advertise positions that are determined to be constitutionally required for the representation of clients, or that is critical to the administration of the Agency as a whole. The Commission set caseload guidelines in 1999 as a result of the settlement in Rivera v. Rowland, which are considerably higher than the nationally recognized standards. Furthermore, the American Bar Association House of Delegates recently adopted the "Eight Guidelines of Public Defense related to Excessive Caseloads (August 2009)" which places an ethical obligation on all public defenders, and upon me as their supervisor, to take action to avoid caseloads that either are or about to become excessive.

It is critical to fill these vacancies in order to fulfill our constitutional mandate to provide effective assistance of counsel as required by both the state and federal constitutions to indigent clients in criminal and juvenile proceedings and adhere to the Commission caseload guidelines of no greater than 500 new cases per attorney per year in the GA courts, 75 new cases per attorney per year in the JD offices, 300-400 new cases per attorney per year in the juvenile offices and 25 new cases per year in the Habeas Unit. As of this date, seven (7) GA public defender offices exceed the caseload goals. Furthermore, this year's unprecedented murder rate in Hartford, and the number of capital cases seeking the death penalty proceeding to trial is cause for concern regarding that our Division's ability to adequately represent defendants in a timely manner.

Although it will be difficult, we feel that with careful management, we can absorb a substantial portion of this personal services reduction from SEBAC savings, furloughs, client reimbursements, delays in filling positions, leaves of absences and turnover savings.

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Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
10010 - Personal Services	36,763,323	39,079,397	39,095,094	-1,074,684	38,020,410	38,020,410
Total	36,763,323	39,079,397	39,095,094	-1,074,684	38,020,410	38,020,410

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

REDUCE EXPERT WITNESSES

Priscilla S. Kokinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

A reduction of \$200,000 in the Expert Witnesses account would be necessary to achieve the 5% reduction required of this agency in FY2010 and would be very difficult to achieve. Funds from this account are used to retain the services of outside professionals needed to prepare and present a constitutionally adequate defense. With or without an adequate appropriation, experts would have to be retained. To fail to do so would breach the state's legal obligation to indigent accused and invalidate many resulting convictions.

Expenditures in this account have been fairly level over the past few years at \$1.75M. However, due to a number of major capital felony trials expected to take place in this current fiscal year and FY2011, including the trials of the two defendants in the Cheshire case, Joshua Komisarjevsky and Steven Hayes, and a re-trial of the penalty phase in the capital case of State v. Roszkowski in Fairfield, as well as other capital case preparation, trials and habeas proceedings in other serious felony cases, we are currently projecting expenditures of \$1.9M in FY2010, a \$400,000 shortfall in this account. These figures do not include expenditures for the Racial Bias in Capital Cases Study in which there is ongoing litigation.

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Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
12090 - Expert Witnesses	1,840,646	1,535,646	1,535,646	-200,000	1,335,646	1,335,646
Total	1,840,646	1,535,646	1,535,646	-200,000	1,335,646	1,335,646

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

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Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
12090 - Expert Witnesses	1,840,646	1,535,646	1,535,646	-200,000	1,335,646	1,335,646
Total	1,840,646	1,535,646	1,535,646	-200,000	1,335,646	1,335,646

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

REDUCE OTHER EXPENSES

Priscilla S. Kokinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

The 2011 appropriation of \$1,471,223 is comparable to our Agency's FY2007 level of expenditures of \$1,441,861.

In order to achieve the 5% reduction required of this Agency, it would be necessary to reduce our appropriation by \$147,122 in FY2011. This adjustment represents a 10% reduction from our original appropriation of \$1.47M and would result in an adjusted appropriation of \$1.32M. Although we have been and will continue to reduce expenses wherever we can, this reduction will be exceedingly difficult if not impossible to achieve. In order to remain within this adjusted appropriation of \$1.32M, the Agency would have to eliminate all automated legal research subscriptions to Lexis/Nexis (\$159,000) and/or our Agency's access to the Judicial Criminal/MotorVehicles system (\$105,000) which would severely curtail our ability to represent our clients.

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Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
10020 - Other Expenses	1,528,632	1,504,829	1,471,223	-147,122	1,324,101	1,324,101
Total	1,528,632	1,504,829	1,471,223	-147,122	1,324,101	1,324,101

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

REDUCE SPECIAL PUBLIC DEFENDERS CONTRACTUAL

Priscilla S. Kokinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

Reduction in the amount of \$400,000 in the Special Public Defenders Contractual account would be necessary to achieve the 5% reduction for this agency in FY2011. However, such a reduction would not be cost effective. Funds from this account are used to contract with private attorneys to handle conflict of interest cases on a fixed cost basis, rather than on an hourly basis. This method of assigning cases to special public defenders is the most cost effective. Due to conflicts of interest, the courts are required to appoint special public defenders in approximately 8500 cases annually, with a majority of such cases assigned to special public defenders under contract. Without an adequate appropriation for contractual assignment of these cases, the courts will make these appointments on a non-contractual basis and this agency will be responsible for payments to these attorneys. As such, a reduction in funding in this account is not cost effective and would result in violations of the terms of the settlement agreement in Rivera v. Rowland, et al.

Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
12065 - Special Public Defenders - Cc	3,044,467	3,144,467	3,144,467	-400,000	2,744,467	2,744,467
Total	3,044,467	3,144,467	3,144,467	-400,000	2,744,467	2,744,467

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

REDUCE SPECIAL PUBLIC DEFENDERS NON CONTRACTUAL

Priscilla S. Kokinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

Reduction in the amount of \$695,000 in the Special Public Defenders Non Contractual account would be necessary to achieve the 5% agency reduction FY2011. Reductions of this magnitude in this account are untenable. When a conflict of interest precludes a public defender or contract special public defender from handling the case, the courts are required to appoint a non contractual special public defender. The settlement agreement in Rivera v. Rowland also requires that certain types of cases be handled non- contractually, including capital felony trials, appeals and habeas corpus petitions. With or without an adequate appropriation, the courts will continue to make these appointments and this agency will be responsible for payments to these attorneys. As such, a reduction in the appropriation will simply produce a deficiency in this account. In addition to its impact on the Division's ability to meet its constitutional obligations, any reduction in funding would also result in violations of the terms of the settlement agreement in Rivera v. Rowland, et al.

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Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
12076 - Special Public Defenders - Non Contractual	4,782,757	5,407,777	5,407,777	-695,000	4,712,777	4,712,777
Total	4,782,757	5,407,777	5,407,777	-695,000	4,712,777	4,712,777

Midterm Adjustments to the FY 2011 Budget - Reduction Adjustment

PDS98500 - Public Defender Services Commission 11000 - General Fund

REDUCE TRAINING AND EDUCATION

Priscilla S. Kokinis
860-509-6416

Priority: 0
Creation Date: 11/19/2009

Description & Reason

A reduction of \$21,647 would be necessary in order to achieve the 5% reduction required of this agency. This reduction will curtail or eliminate entirely participation in the annual training seminar for all agency staff for the second year in a row and limit important trainings sponsored by national organizations such as the National Legal Aid and Defender Association, National Organization of Forensic Social Workers, and the National Defense Investigator Association. These trainings relate to all aspects of criminal defense including, but not limited to, defense of capital cases; trial skills; investigations; mental health and substance abuse issues. This year's cuts are more difficult to absorb due to the fact that participation in many trainings, including the agency's annual training seminar, was foregone last year as a result of the budget crisis. It should also be noted that the Division is precluded from receiving some federal grant training funding from sources that fund the Division of Criminal Justice and the Judicial Branch, eg. VAWA.

Impact of Proposal

Positions / Financials

	2009 Actual	2010 Estimated	2011 Base	2011 Agency Adjustment	2011 Revised	2012 Adjustment
Number of Full Time Positions	400	400	400	0	400	400
SID Code / Title						
12106 - Training and Education	66,502	116,852	116,852	-21,647	95,205	95,205
Total	66,502	116,852	116,852	-21,647	95,205	95,205



PUBLIC DEFENDER SERVICES COMMISSION

AGENCY PURPOSE

<http://www.ocpd.state.ct.us/>

- Ensure the constitutional administration of criminal justice within the state criminal court system, by maintaining a public defender office at all juvenile and adult court locations throughout the state.
- Provide legal representation to indigent accused children and adults in criminal trials and appeals, extradition proceedings, habeas corpus proceedings arising from a criminal matter, delinquency and juvenile post-conviction matters, Psychiatric Security Review Board cases and post-conviction petitions for DNA testing, and to convicted persons seeking exoneration through the CT Innocence Project.
- Provide social work services to clients for referrals to alternative pre-trial programs and sentencing alternatives to incarceration and to assist them in addressing personal and social problems to prevent recidivism within the criminal justice system.
- Contribute to public safety initiatives by participation in the development of specialized programs that promote successful reentry, reduce violence, homelessness and recidivism including Domestic Violence Courts, Community Courts, Diversionary Programs, Drug Intervention, Alternatives to Incarceration and Team Child.
- Provide a balanced perspective within the criminal justice community by participation on state policy boards, task forces, and committees involved in addressing criminal and juvenile justice issues.
- Fulfill the State's constitutional obligation to provide counsel for indigent accused in a professional, effective and cost efficient manner.

RECENT HIGHLIGHTS

CONNECTICUT INNOCENCE PROJECT

The Division established the Connecticut Innocence Project (CTIP) as a volunteer program in 2005 for the purpose of assisting individuals wrongfully convicted of crimes that they did not commit. In 2007, the Project became a permanent Unit of the Public Defender Services Division with the addition of four new positions in the FY2008-2009 Biennium. Based upon strict criteria, cases are reviewed and proceedings are initiated if new evidence exists to establish that the person is actually innocent of the crime for which they were sentenced.

Innocence Project staff include 2 attorneys, an investigator and a paralegal who are currently reviewing requests for assistance from incarcerated persons in Connecticut.

To date, the work of CTIP has resulted in the exoneration of three (3) innocent individuals who were wrongfully convicted and incarcerated in Connecticut prisons for, on average, 18-20 years before exoneration.

CTIP in collaboration with the Division of Criminal Justice and The State Forensic Laboratory have recently been awarded \$1.4 million federal grant dollars from the Department of Justice to expedite exonerations of Connecticut inmates convicted of murder, aggravated sexual assaults, and non-negligent manslaughter who claim that they are actually innocent.

ELECTRONIC EVIDENCE TRAINING AND INFORMATION TECHNOLOGY INITIATIVES

The Division continues to expand the use of computerized electronic evidence presentation techniques in the courtroom. With the addition of a Training Specialist and essential equipment, the Agency's Training Department continues to provide innovative training in case management, time line, and electronic evidence presentation to those offices involved in serious felony and capital case trials. Training has been expanded to include more offices and staff. The Training Division is also expected to utilize more web-based training.

The Information Systems Unit is also working with the Director of Special Public Defenders to design a more efficient invoice tracking and billing system and a more efficient Agency wide case-tracking system.

RAISE THE AGE CONNECTICUT

The Director of Juvenile Delinquency Defense has continued to serve as an important resource for the Agency and the General Assembly to effectuate implementation of raising the age of juvenile jurisdiction to include the 16 year old population in 2010. The Agency also continues to offer specialized juvenile delinquency training for public defender staff, special public defenders, the private bar, and other related juvenile court agency staff and service providers.