



**Office of Chief Public Defender  
State of Connecticut**

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**Testimony of Susan O. Storey, Chief Public Defender  
Hearing on Projected Deficiency of State Agencies  
APPROPRIATIONS COMMITTEE  
November 14, 2011**

**Summary of Deficiencies**

Account		Adjusted Appropriation	Projected Expenditures	End of Year Projected Balance
10010	Personal Services	\$ 38,389,750	\$ 38,793,598	\$ (403,848)
12090	Expert Witnesses	\$ 2,100,000	\$ 2,221,165	\$ (121,165)
12417	Contracted Attorneys	\$ 10,816,407	\$ 12,865,889	\$ (2,049,482)

**Projected Deficiency in Child Protection Contracted Attorneys  
(2,049,482)**

The Child Protection Commission was legislatively consolidated into the Division of Public Defender Services as of July 1, 2011. The Agency consolidation was effectuated by P.A. 11-51 which provided that the Division of Public Defender Services assumed full responsibility for services formerly performed by the Office of the Chief Child Protection Attorney. These responsibilities include the representation of children and parents in child protection matters, appointment of attorneys and guardians-ad-litem for children in the family Division, representation for contemnors in support enforcement, and representation of FWSN clients and Interest of Justice cases in the juvenile courts.

It was imperative for the Office of Chief Public Defender to first address the issues that caused the substantial child protection deficiency in prior years. Members of the Office of Chief Public Defender "consolidation team" have aggressively pursued efficiencies and cost saving measures to get the child protection budget under control. Some steps to reduce the budget and streamline procedures including but not limited to:

- Issuance of new flat rate \$500 per case contracts, with hourly billing for trials (TPR) at \$50 per hour; mileage payments, air phone card usage eliminated;
- Reductions of 8% in annual contract payments to support enforcement attorneys, (\$44,483 annual savings)
- Re-structuring of contracts and representation requirements for two legal services model offices in New Haven (NHLA) and Bridgeport (CLS)- total project cost including overhead was 118,714.35), and the termination of the contract for the Southeast model office whose level of funding proved to be unsustainable (\$1.3 million annually). Prior to re-structuring, the model offices represented only 10% of all children involved in child protection cases but accounted for almost 30% of the Child Protection budget;
- Streamlining the child protection contract billing and payment procedures to insure prompt payment to contract attorneys while avoiding duplicate and over-billing;
- Termination of contract with Kids-Voice case management/billing system (\$20,000 this FY and \$80,000 savings next FY);
- Elimination of Child Protection Court Liaison position (\$75,000 annual). Quality control and liaison matters are now handled internally by OCPD Director of Delinquency Defense and Child Protection and juvenile public defender supervisory staff trained in child protection;
- Subpoena service absorbed by public defender office investigators instead of process servers (\$50,000-\$75,000 savings estimated).

Despite the swift pre-emptive implementation of measures to reduce spending, it was determined early on in the consolidation process that this Agency would continue to incur a large deficiency in the Child Protection Contracted Attorney Account due to the legislated language of the Budget Implementer P.A. 11-51 Section 4 (d) that required the continuation of hourly payments to child protection contract attorneys under the prior billing schedule of \$75/\$40 per hour for cases to which they were appointed before July 1, 2011. This office promptly notified and consulted with the Office of Policy and Management, the Co-Chairs of the Appropriations Committee, and the Attorney General’s Office to determine the best way to mitigate the deficiency. This Office decided to exercise its right to terminate the prior child protection contracts and to issue a new contract “buyout” offer to those child protection attorneys who wished to retain those “implementer” cases. Without such remedial measures, this Office projected an estimated \$5 million deficiency in the contract account versus the \$2 million deficiency. Funding this deficiency will allow us to eliminate the former Child Protection Agency hourly system of billing entirely so that the Office of Chief Public Defender can more accurately project the necessary “baseline” appropriation for contracted child protection matters.

Below is a chart illustrating the cost savings we project to achieve as a result of the buy-out of Child Protection cases affected by the Budget Implementer legislation.

Projections with Buy-Out		Projections Without Buy-Out	
Projected Expenditures	\$ 12,865,889	Projected Expenditures	\$ 16,024,800
Appropriation	\$ 10,816,407	Appropriation	\$ 10,816,407
End of Year Balance	<b>\$ (2,049,482)</b>	End of Year Balance	<b>\$ (5,208,393)</b>

**Projected Deficiency in Personal Services Account  
(403,848)**

The \$40,367,054 appropriation for the Division of Public Defender Services Personal Services Account (PS) was reduced this fiscal year by \$1,977,304 per the SEBAC Savings Holdback. In order to help achieve this lapse savings and avoid a deficiency, this Agency took immediate action to reduce expenditures in this account. These actions included the termination of 41 temporary and per diem staff including attorneys who were necessary to maintain individual caseloads in the G.A., J.D. and juvenile offices within Public Defender Commission caseload goals. The goals were adopted as Commission policy in response to the settlement agreement in the class-action lawsuit *Rivera v. Rowland, et al.* to ensure constitutionally adequate representation for indigent adult and juvenile clients accused of crimes. Due to these staff reductions, ten (10) G.A. courts are projected to meet or exceed the Commission G.A. caseload goals for individual attorneys of 450-500 new cases per G.A. attorney per year. Other public defender offices currently have no permanent investigative or social work staff. These staffing levels are a dramatic downward departure from past years and negatively impact our ability to effectively represent clients.

This Agency has also delayed filling personnel vacancies for as long as possible to remediate the deficiency. Some of the vacancies however, such as Public Defender supervisors for the Judicial District Courts, are statutorily required to maintain parity with the State's Attorney offices and must be filled as essential positions. Furthermore, the largest G.A. offices with the highest caseloads and multiple dockets currently require more assistance. The SEBAC holdbacks have forced us to make significant reductions to both public defender management and field personnel and have seriously compromised our ability to provide essential, constitutionally required representational services. As Chief Public Defender, it is my statutory and ethical obligation to inform the Public Defender Commission and the funding authority when caseloads exceed and resources are depleted to a point that compromises the Agency's ability to provide effective assistance of counsel to indigent children and adults. The most economical way to remedy this situation is for this Agency to hire a limited number of permanent staff attorneys targeted specifically for those offices with the most need. The alternative, i.e. to hire assigned counsel at an hourly rate and on a per case basis is far more expensive. This Office will continue to work with the Appropriations Committee and the Office of Policy and Management to achieve savings through leaves of absence, delayed hiring, and freezing some vacant positions.

**Projected Deficiency in Expert Witness Account  
(121,165)**

This Office is projecting a deficiency in the Expert Witness Account largely due to the extraordinary expenditures incurred in representing indigent clients in major felony and high profile capital death penalty cases. The costs necessarily incurred in the capital cases of Christopher DiMeo, and Cheshire co-defendants Steven Hayes and Joshua Komisarjefsky, are scrutinized and approved by the Chief and Deputy Chief Public Defender and by the Public Defender Services Commission when appropriate. Several other capital cases where the state is seeking the death penalty are also expected to impact the deficiency in this account during the current fiscal year. These include *State v. Richard Roszkowski* (Fairfield JD), *State v. Jose Jusino* (Tolland JD) *State v. Leslie Williams* and *State v. Jokshan Bryant* (New Britain JD), and *State v. Christopher Pounce* (Danbury).

