



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY

JOINT COMMITTEE ON APPROPRIATIONS

**AGENCY BUDGET PRESENTATIONS:
DIVISION OF CRIMINAL JUSTICE**

March 3, 2011

The Division of Criminal Justice appreciates this opportunity to present to the Joint Committee on Appropriations with additional information and supporting documentation concerning the budget for the 2012-2013 biennium. We would also like to thank the Governor and the Office of Policy and Management for their thorough review of the Division of Criminal Justice and their thoughtful consideration of our agency, its operations and its ability to fulfill its constitutionally mandated mission. We also thank the Appropriations Committee for your careful consideration of our budgetary needs.

The Division of Criminal Justice fully recognizes the continued financial difficulties facing our state and its people, and we have responded by aggressively managing our limited resources to achieve the most efficient and effective operations. For this, we owe a tremendous debt of gratitude to our dedicated employees and their commitment to the agency and its mission. Without their specialized skills, breadth of experience and wealth of talent the Division would not be able to operate as effectively as it does. That being said, every dollar can be stretched only so far and there is a point where further economies simply cannot make up for a lack of resources.

For the Division of Criminal Justice, the impact is most acute in the area of personnel. Ours is a labor-intensive agency. Some 94 percent of the Division's proposed budget is for personnel expenses. As such, the reductions proposed in the Governor's recommended budget undoubtedly have the greatest impact on staffing levels and our ability to deal with ever more complicated caseloads with fewer positions.

Established pursuant to Article XXIII of the Connecticut Constitution, the Division of Criminal Justice is responsible for the investigation and prosecution of essentially all criminal matters in the State of Connecticut. With the exception of the handful, if that, of home improvement fraud cases that are handled by the Attorney General under agreement with the Division, the Division represents the state in all criminal cases in the state courts from the least serious traffic violations to the most serious felony offenses. Additionally, unlike the defense

bar, the Division has significant pre-arrest responsibilities. Every arrest application for an arrest warrant must first be reviewed and signed by a prosecutor from the Division of Criminal Justice before it can be presented to a Judge of the Superior Court. So must every application for a search and seizure warrant, a task that has grown in scope with the addition of applications for *ex parte* orders concerning electronic communications. It is not simply a case of taking the application from the police and passing it on; the prosecutor must read and decide whether to apply for a warrant, send the application back for additional information, or to reject the application without requiring further investigation. Prosecutors are also responsible for working with the police in the pre-arrest stages of investigations as well as training police officers and working on community outreach and the critically important tasks related to victim contact. The prosecutor does far more than try cases - though they must handle every case on the trial list regardless of whether the defendant is represented by public or private defense counsel. The prosecutor must meet with victims, victim advocates, police officers, witnesses, defense attorneys and *pro se* defendants and read case reports and study the law.

These responsibilities alone are tremendous in scope. Yet the Division also has additional independent investigative responsibilities that also have no corresponding functions whatsoever in the public or private defense bar. Specialized units and bureaus in the Office of the Chief State's Attorney are responsible for the independent investigation of financial crimes, violent crimes and fraud in the Medicaid and Workers' Compensation programs as well as "cold cases," crimes, primarily homicides and violent sexual assaults, that have been unsolved for prolonged periods of time. These bureaus and units typically handle the most complex and complicated cases, including white-collar crimes and investigations undertaken through the investigatory grand jury system.

The investigation of financial crimes and cold cases are excellent examples of how the Division has initiated innovative collaborative efforts to get the most from the limited state resources available. We have established cold case units serving the Hartford area and southeastern Connecticut where sworn Division Inspectors work with police officers from municipal departments, the Connecticut State Police, the Department of Public Safety Forensic Science Laboratory and the Department of Corrections to investigate unsolved crimes. All of the municipal officers who serve in the cold case units do so at no cost to the state; their departments voluntarily have assigned them to this collaborative venture. The cold case units have made more than three dozen arrests for murders, sexual assaults and other serious felonies; in just over a year since its inception the Southeastern Connecticut Cold Case Unit made four arrests in four previously unsolved homicides. Recognizing the success of this approach, the Division in the past year has sought to employ a similar collaborative effort to investigate complex financial crimes. Again, Division Inspectors work with state and municipal police departments and personnel from the Department of Corrections to investigate cases that otherwise might be beyond the expertise and resources available to the individual departments on their own. Not only does this approach allow us to get more from limited state resources, but it also provides tremendous training opportunities for the municipal officers, expanding their ability to investigate future such cases with less, or no, assistance from the Division.

In addition to these collaborative efforts, the Division has also taken steps in house to reorganize our operations to achieve greater efficiency. During the current biennium, the Office of the Chief State's Attorney was reorganized with the creation of a Financial Crimes Bureau

and a Violent Crimes Bureau. This streamlined administrative structure allows for greater flexibility in the assignment of investigative personnel and prosecutors as operational needs change. We are also in the process of consolidating the Cold Case unit, now housed at a surplus state property in the Hartford area, at the Office of the Chief State's Attorney located at the John M. Bailey Building in Rocky Hill. This move will be financed with a federal grant and relieve the Division of the expenses associated with the deteriorating surplus property, which can best be described as a "money pit." Again, through its own initiative the Division has stretched its available resources to the limit while maintaining a critical program.

Clearly, we have done more with less. As stated at the outset, ours is a labor-intensive agency, which would continue to experience a reduction in positions under the Governor's recommended budget. Our total position count has been reduced by approximately 8 percent since FY 09 from a high of 539 in the aftermath of the criminal justice reform legislation to a current authorization of 498. The Governor's recommended budget would further reduce the position count to 493 by eliminating five vacant positions. This continuing reduction in positions has occurred even though the number of serious crimes being prosecuted has remained relatively stable. The Division was never allowed to hire the five additional prosecutors that the General Assembly deemed were necessary for addressing persistent dangerous offenders in the wake of the Cheshire home invasion and murders. In fact, the Division is now being asked to operate with 41 fewer positions. The caseload has remained stable, the investigations and subsequent criminal cases have become more complicated, yet there are fewer employees to do the job.

The effect of the position cuts recommended in the Governor's budget will cut across all job classifications - prosecutors, inspectors, clerical - and with the same caseload and same number of locations to staff would make it difficult and in some cases, impossible, to effectively fulfill our constitutional and statutory mandates. Our internal analysis tells us that, at present, each prosecutor is able to spend an average of just six minutes per case on the docket on any given day. In any given year, the Division handles roughly 90,000 new criminal cases, 65,000 new motor vehicle cases and 120,000 new infractions. According to Judicial Branch statistics, as of February 1, 2011, approximately 2,300 cases were pending at the Part A level of the Superior Court, where the most serious cases are heard. This represents a caseload of approximately 33 per prosecutor, with roughly 3,200 of these cases added each year. In the Part B, or Geographical Area (G.A.) courts, there were 116 prosecutors to handle more than 22,000 criminal cases, 23,100 motor vehicle cases and nearly 22,000 infractions, again as of February 1, 2011. This represents more than 164,000 cases to be handled by 116 prosecutors. The Judicial Branch further reports that more than 8,000 currently pending cases are "over time standards." It should also be noted that while in general caseloads have remained relatively constant, the number of petitions for a writ of *habeas corpus* is expected to continue to increase. These post-conviction proceedings impact the Civil Litigation Bureau in the Office of the Chief State's Attorney and the State's Attorneys' offices, again requiring prosecutors to focus more and more time on these matters as opposed to pretrial screening and preparation and the trying of cases. Any further decrease in our staff will only exacerbate the already overwhelming backlog in pending cases at the trial court level and the continued pressure resulting from *habeas* petitions. The Division would note that it has unsuccessfully sought legislative reform to address the problem with repeat and meritless *habeas* petitions, which will continue to have negative budgetary implications unless and until reform legislation is enacted.

Erosion of prosecutor positions will further lessen the time and attention paid to case assessment in determining how a case should be handled (e.g. consideration for diversionary program, matters of bail/pre-trial release, etc.), will increase case backlogs, negatively affect the progress of a case, and the rights of defendants and victims of crime. Erosion of law enforcement and clerical staff will impact the quality of investigations, development of evidence, completeness of criminal case records, and attention to public and defense bar inquiries. The potentially disastrous impact on public safety is obvious.

In the recent past we have tried to partially mitigate the loss of positions by using attorneys hired on a per diem basis as Special Deputy Assistant State's Attorneys to prosecute motor vehicle infractions, thereby freeing up the time of prosecutors assigned to the Geographical Area (G.A.) courts to handle more serious crimes. We believe this Regionalized Infractions Adjudication Program (RIAP) has allowed a more efficient operation of our criminal courts and also has generated significant revenue for the state. However, even this effort at streamlining cannot compensate for the continuing decline of positions. If positions are lost we would have to consider eliminating the RIAP program, and using the dollar savings to hire special contract prosecutors to handle non-MV criminal cases. When this program was eliminated due to budget constraints in 2004, there was a significant reduction in fine revenue. When confronted with the need to choose between prosecuting violent crime and traffic infractions, the Division of Criminal Justice has no choice. The legislative intent is also clear as evidenced in Section 51-277c, which mandates that priority be given to the prosecution of crimes involving physical violence.

The Division would respectfully request the Committee's restoration of the five positions recommended for elimination in the Governor's budget. Additionally, we would ask the Committee to include in the budget the general fund pickup of an additional four positions in the areas of domestic violence prosecution and drug asset forfeiture prosecution as requested in the expansion options submitted to OPM. There are currently five prosecutor positions dedicated to the prosecution of domestic violence matters in the Hartford, Bridgeport, Windham, and Milford judicial districts that are funded entirely with federal funds. As we have noted in testimony to this Committee on several past occasions, this federal funding has been shrinking in recent years while the costs of the positions has grown. We estimate that, over the upcoming biennium, federal funding will be adequate to fund only three of these positions. The Division would respectfully request the general fund pickup of two of these positions. The inability to transfer these positions would undermine our efforts to carry out the clear directive of the General Assembly for greater emphasis on the prosecution of domestic violence.

Similarly, the Division would respectfully request the transfer to the general fund of two positions currently funded from the Drug Asset Forfeiture Revolving account. This account was established by statute to collect forfeited funds resulting from drug arrests. Per statute, 10 percent of all revenue collected is retained by the Division for furthering prosecution of such cases. Over the years these funds have been used to support the salaries of a lead prosecutor, a paralegal and a clerical staff person who work exclusively on these cases. Again, the Division on previous occasions has alerted the Appropriations Committee that future revenues would be inadequate to continue to support these positions. We now project that revenue will not be adequate in the upcoming biennium and would ask that two of the positions be picked up in the general fund.

The Division also must request the Committee's restoration of funding in the area of Other Expenses (OE). The Governor's recommended \$2.1 million appropriation in each year of the biennium is woefully inadequate. Our analysis shows that OE expenditures have averaged \$2.5 million annually over the past 13 years. There has never been a fiscal year during that time when OE expenditures did not exceed \$2.1 million; and we project expenditures of almost \$2.4 million for the current fiscal year despite serious cost cutting efforts (such as the elimination of print research publications). The Division is not an agency that has "programs" that it can control or restrain. Our OE budget reflects the administrative overhead and investigative and prosecution operating costs incurred by the agency in pursuit of its constitutional and statutory mandates. We have substantial fixed annual costs which are the product of lease agreements for real and personal property, fees for online legal research, property management services, state courier services, hardware and software maintenance agreements, etc. Many other expenses are unplanned and unforeseen and cannot be determined in advance or controlled as they are dictated by forces beyond our control. The Division is bound by statute to make payments to police witnesses and must cover travel and lodging for prosecution witnesses at trial. We also must pay travel and other expenses to extradite criminals who have fled this state to avoid prosecution and are found in other locales. Additionally there are costs for postage, mileage reimbursement, gasoline, utilities, court transcripts, travel and lodging for investigations, all of which are beyond our control. It is unrealistic to assume that expenses in any of these categories will decrease, or that we can control normal inflation.

Following state directives, we have curtailed, and in some cases eliminated, purchases of non-critical goods and services wherever feasible; but there are necessary purchases, in addition to fixed costs, which cannot be deferred - such as property and vehicle maintenance, IT and standard office supplies. As an example, since we do not have an electronic method of handling cases in the courthouses, we rely on simple, but necessary office supplies -- including paper and file folders -- to record and track investigative and prosecutorial activity on cases. Our appellate and *habeas* units are required to file briefs in a format acceptable to the courts. The service which provides the legal briefs is costly, and expenses rise in relation to the number of briefs filed. Since appellate and *habeas* caseloads are ever escalating, we can anticipate that the cost of printing briefs will do likewise.

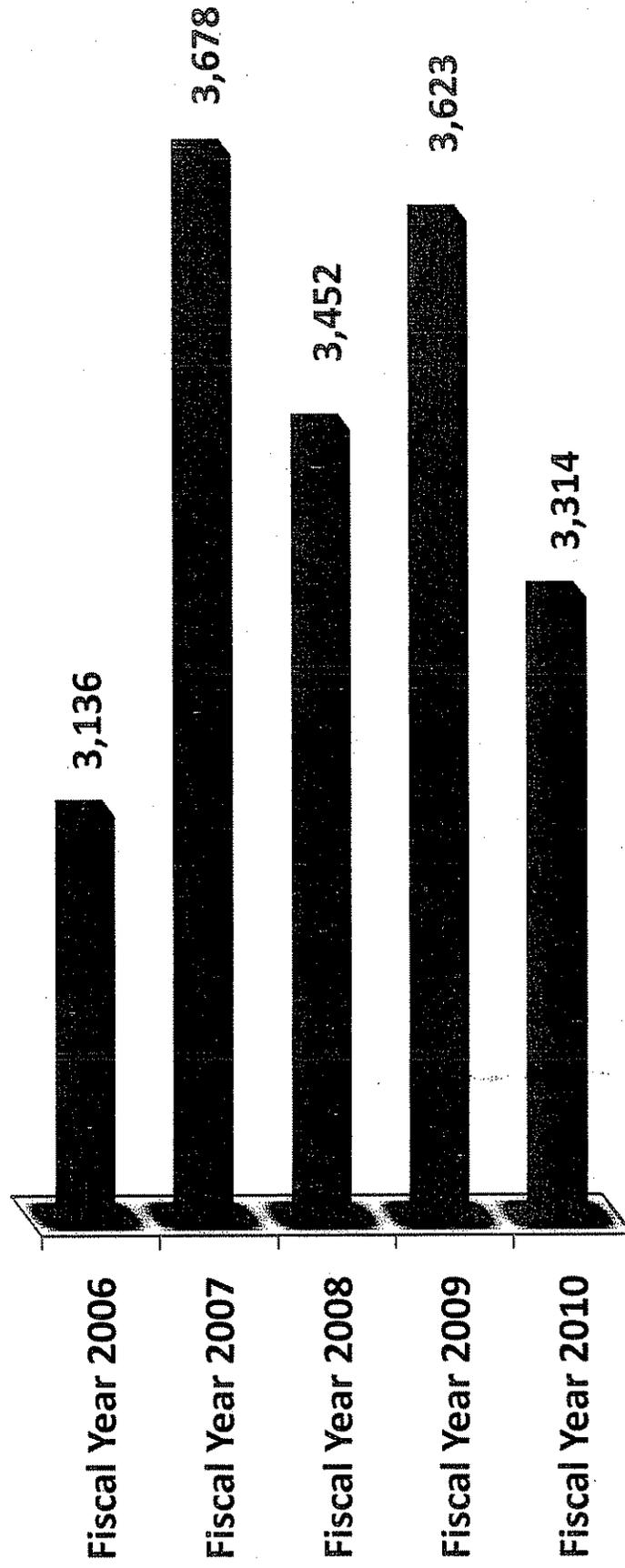
The final area to which we would call the Committee's attention is employee training. The recommended budget reduces training funds from the current year's appropriation of \$153,941 to \$70,000 in each year of the biennium, or a reduction of 55 percent. The resources provided for training are already scant - we have no personnel solely dedicated to planning and coordinating training. Further, the recommendation to cut training funding by more than half comes at a time when we are making every effort to expand training opportunities for prosecutors to meet statutory and collective bargaining requirements and in response to the clear directive of the General Assembly for more training. This is simply a penny wise and a pound foolish. The legislature has on numerous occasions expressed the importance of prosecutor training to help reduce the incarcerated population, yet the recommended budget guts that effort while still forecasting a significant decline in pretrial detainees over the next two years. Without adequate resources, both fiscal and human, the task of training Division personnel is a serious challenge. Without a Training Officer to plan and coordinate in-house training, without someone to track and report data, and without adequate funding to send personnel to training that includes registration fees, travel, and sometimes lodging, our ability

to satisfy the statute and collective bargaining intent will be meager at best. The current training budget for the Division as a whole is roughly equivalent to the cost to incarcerate four inmates for a year. If the General Assembly hopes to save money in the long run it would seem most prudent to fund the necessary training programs to assure that prosecutors, particularly at the G.A. level, understand and recommend the diversionary programs that can save money in the long run.

In conclusion, the Division would respectfully request the Committee's restoration of positions and funding in the critical areas outlined above. The alternative may well be a reduction in the amount of time available to prosecutor to assess and make critical decisions in criminal cases, a reduction or elimination of domestic violence or other special dockets, the elimination of the Regionalized Infractions Adjudication Program and a reduction in the revenue it produces, and/or an curtailment of the complex investigations into white collar and other complicated cases now handled by the specialized units and bureaus in the Office of the Chief State's Attorney. The Division would not even wish to speculate as to the potential impact on and danger to public safety. We thank the Committee for your serious consideration of this matter and stand ready to provide any additional information the Committee requires or to answer any questions you have.

**Judicial District / Part A
Criminal Cases Added Annually
Last Five Years**

Cases Added Fiscal Years 2006 - 2010

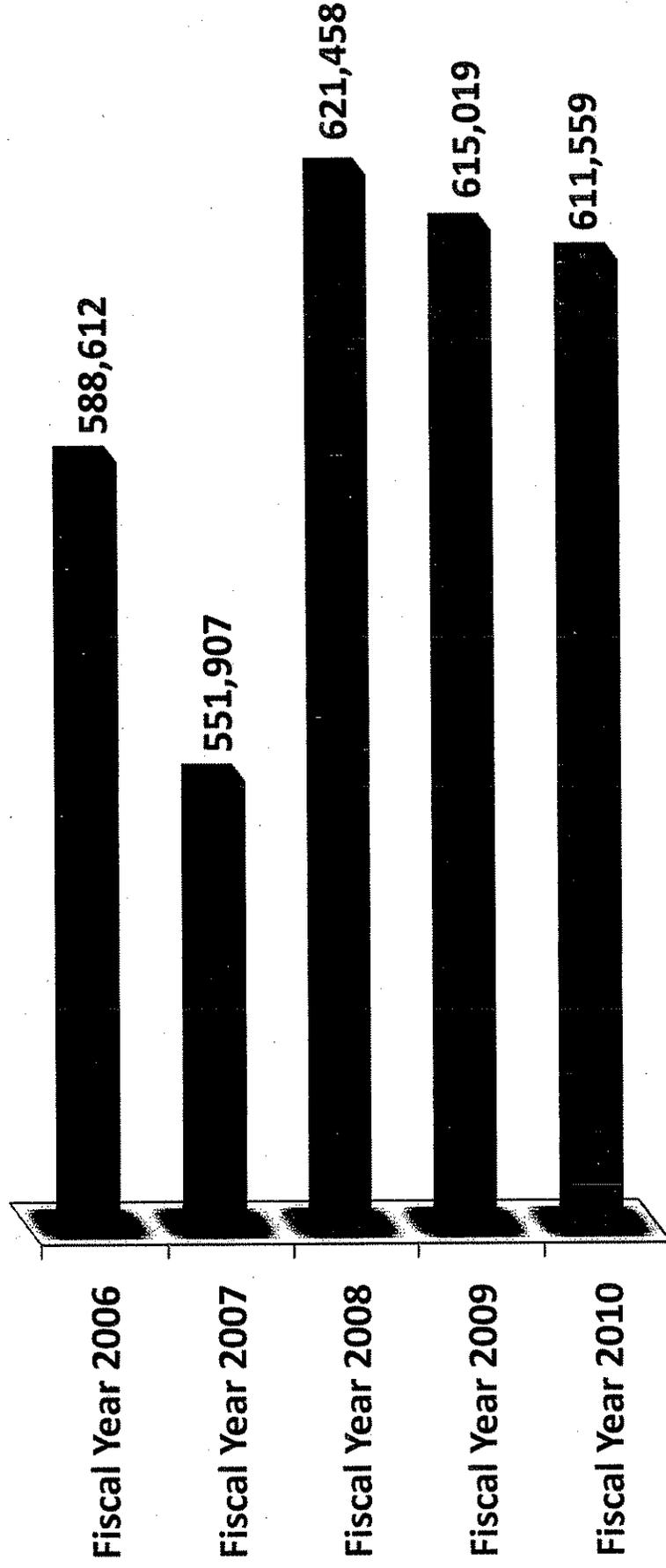


Division of Criminal Justice

**Geographical Areas / Part B
Criminal, Motor Vehicle, & Infractions
Cases Added Annually**

Last Five Years

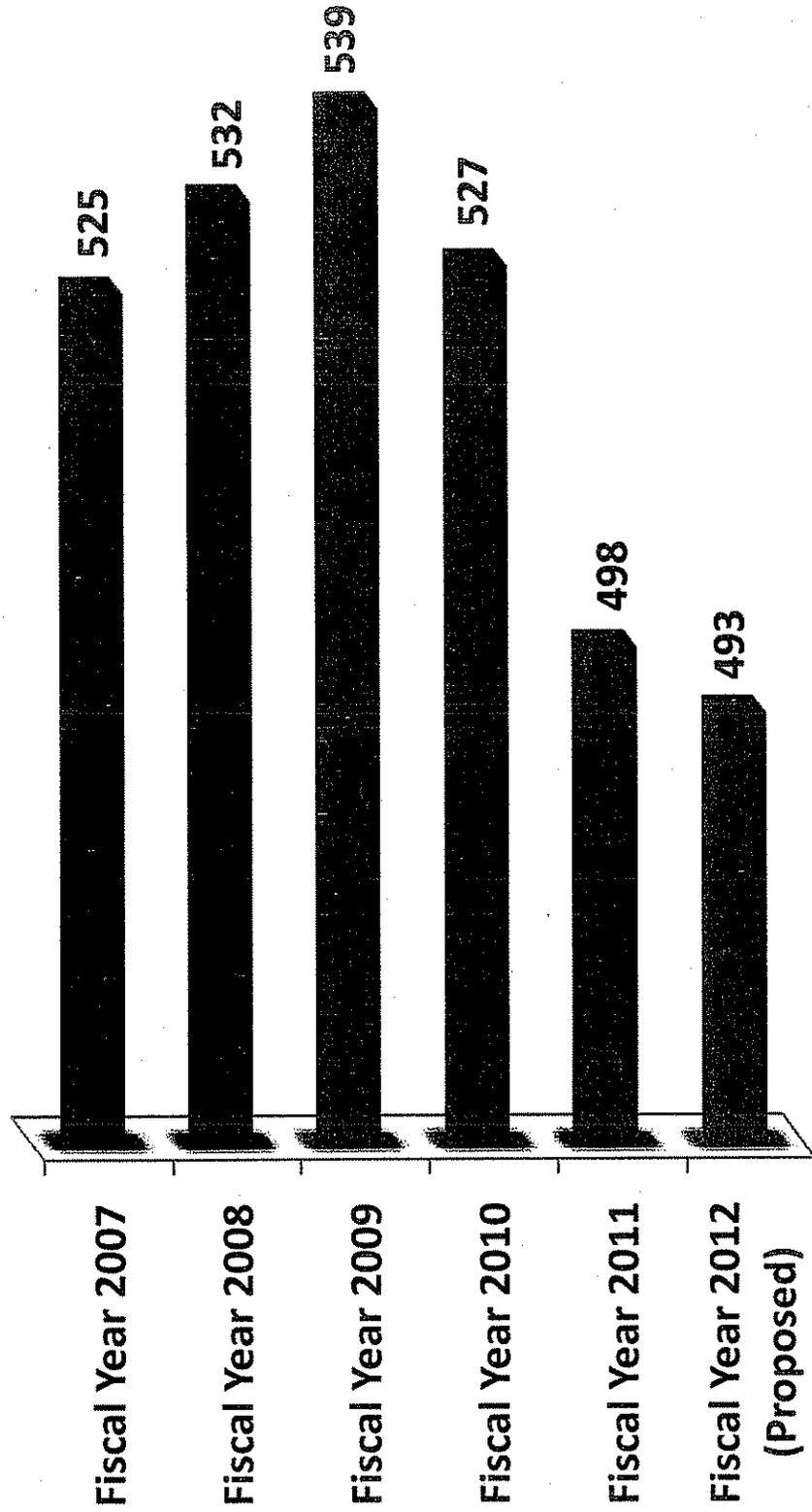
Cases Added Fiscal Years 2006 - 2010



Division of Criminal Justice

Authorized Position Counts Last Five Fiscal Years

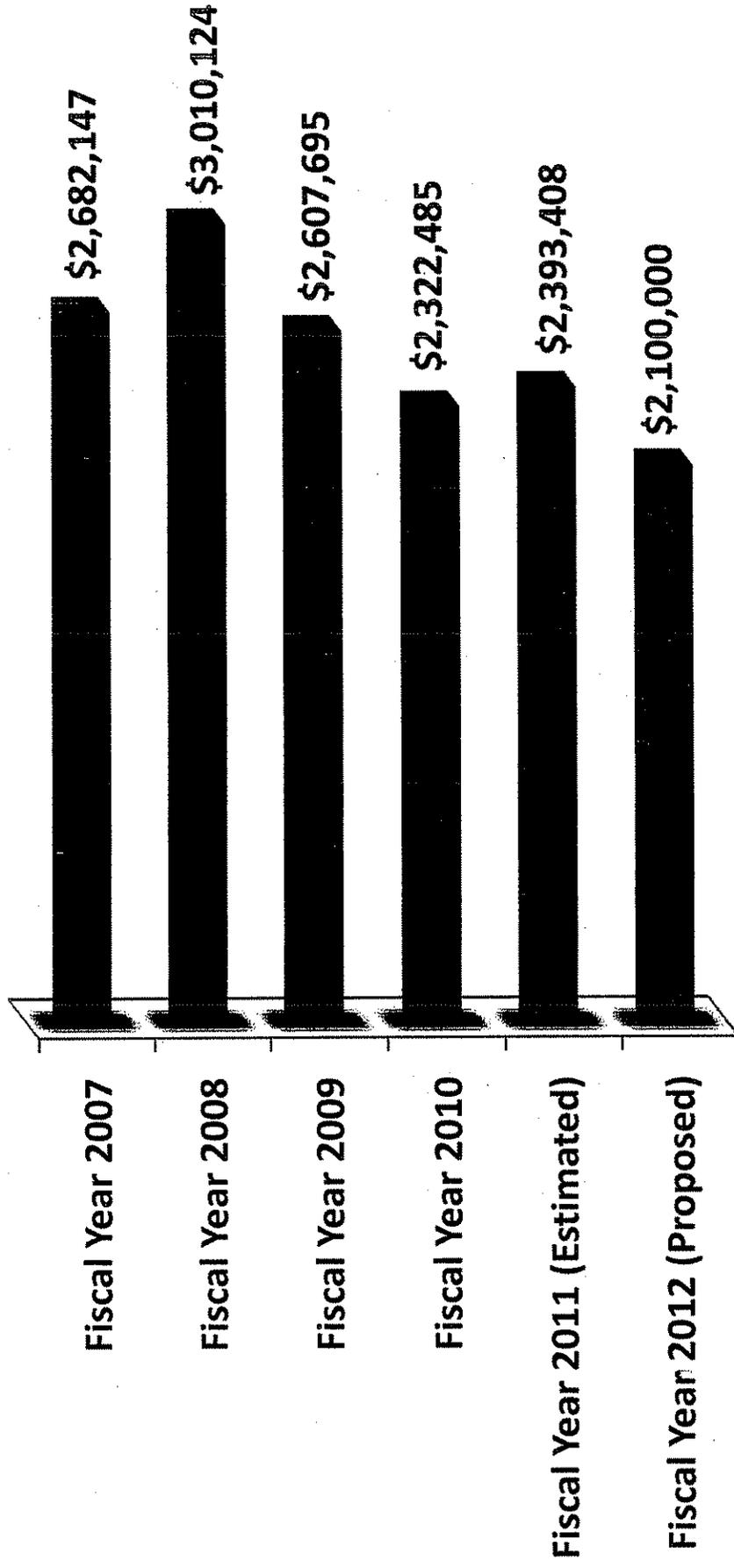
Counts From 2007 - 2011



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Other Expenses Expenditure History

Other Expenses Annually From 2007 - 2011



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