

**OFFICE OF THE STATE PUBLIC DEFENDER
STATE OF WISCONSIN**

2011-13 BIENNIAL REPORT

**KELLI S. THOMPSON
STATE PUBLIC DEFENDER**

The website address for the Office of the State Public Defender is:
<http://www.wisspd.org/>. Our website is available in English, Hmong and Spanish, and includes our Mission Statement, historical information, descriptions of each agency division, links to information for private bar attorneys and other agency information.

**AGENCY PERFORMANCE AND OPERATIONS
DURING THE 2011-13 BIENNIUM**

Caseloads:

During the 2011-13 biennium, the Wisconsin Office of the State Public Defender (SPD) opened 277,093 cases. Of those, 167,533 were appointed to SPD staff, 99,324 were appointed to private bar attorneys on a rotational basis, and an additional 10,236 cases were appointed to private bar attorneys under the terms of fixed fee contracts.

Contracts with the Private Bar:

The SPD assigns cases to the private bar both under fixed fee contracts and by rotational appointments, as authorized by Wis. Stat. s.977.08. Fixed fee contracts are paid on a per case basis while rotational appointments are paid on a per hour basis. The SPD entered into 51 fixed-fee contracts for 5,865 misdemeanor cases in FY12 and FY13. Chapter 51 cases are contracted in Milwaukee County on a fixed fee basis. There were 8 fixed-fee contracts in FY12 and 8 contracts in FY13 awarded to private bar attorneys for representation in 775 Chapter 51 cases. The SPD assigned 44,018 cases in FY12 and 43,264 cases in FY13 to the private bar on a rotational basis.

Collections & Verifications:

State Public Defender collections from clients are received in the following categories: SPD initiated, DOA contract collections, county juvenile recoupment, court ordered payments, and Ch. 51/55 recoupment. The following amounts were received in each category during the biennium:

	2011-2012	2012-2013
SPD Initiated	\$790,048	\$723,859
Court Ordered Attorney Fees	29,293	20,912
Juvenile Recoupment	365,938	322,855
DOA Contractors	312,072	374,349
Ch. 51/55 Payments from Clients	<u>23,997</u>	<u>24,763</u>
Total	\$1,521,348	\$1,466,739

Specialty Courts and Diversion Programs:

The SPD has been an active participant in specialty courts and diversion programs since the creation of the first Wisconsin drug court in Dane County in 1996. These specialty courts and diversion programs provide evidence-based, cost-effective alternatives to conviction and incarceration for participants.

SPD staff attorneys are active in over 50 specialty courts statewide. They include drug treatment courts, Operating While Intoxicated (OWI) courts, juvenile courts, mental health courts, veterans' courts, and co-occurring disorders courts. SPD staff attorneys are also involved in the planning stages for additional specialty courts. SPD involvement is critical to the success of these courts because research shows the importance of having full participation of collaborative evidence-based and treatment-oriented teams of justice professionals when determining effective interventions for offenders. Staff also are active in diversion programs that allow clients to resolve charges by meeting specified conditions such as participation in programming and payment of restitution.

SPD staff attorneys serve on the board of the Wisconsin Association of Treatment Court Professionals (WATCP), which is the professional organization supporting those who work with specialty courts including judges, prosecutors, probation agents, case managers, and treatment providers.

State Criminal Justice Coordinating Council:

In April of 2012, Executive Order #65 created a state-level Criminal Justice Coordinating Council (CJCC). Chaired by the Attorney General and the Secretary of the Department of Corrections, the CJCC Executive Council has permanent membership including the State Public Defender. The mission of the CJCC is to "facilitate the implementation of effective, data driven criminal justice policies and practices that maximize justice and the safety of the public."

Local office SPD staff attorneys serve on county-level criminal justice coordinating councils statewide.

Awards Received:

The SPD received the Patriot Award from the National Committee for Employer Support of the Guard and Reserve on April 15, 2013. The SPD received this award in recognition of its personnel policies and practices that support employee participation in the Guard and Reserves. This honor marks the second time the agency has received the Patriot Award.

The Wisconsin Association of Treatment Court Professionals presented the Jack Aulik Award to the SPD on April 11, 2013, to recognize the agency's support of and work with the state's specialty courts and diversion programs.

**OFFICE OF THE STATE PUBLIC DEFENDER
2011-2013 PROGRAM GOALS AND OBJECTIVES**

Legal Assistance:

Goal: To continuously improve services to clients.

Objective: Fair treatment and representation of clients.

Goal: To strengthen public value to clients, the community, other governments, and justice system partners.

Objective: Reduce crime by reaching and educating young people before they offend.

Goal: To continuously improve administrative management.

Objective: Maximize resources to serve eligible clients.

FY 2011- 2013 Goals and Actuals

Prog. No.	Performance Measure	Goal 2011	Actual 2011	Goal 2012	Actual 2012	Goal 2013	Actual 2013
1.	Court grants attorney withdrawals at client request as a percentage of total trial cases.	1.5%	2.3%	1.5%	2.1%	2%	2.6%
1.	Number of educational contacts with children and youth.	3,100	3,614	4,000	2,587	2,750	2,490
1.	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	782	800	801	800	768
1.	Number of cases with greatest risk of penalties handled by staff attorneys.	1,300	1,110	1,100	1,199	1,200	1,234

FY 2014 AND 2015 GOALS

Prog. No.	Performance Measure	Goal 2014	Goal 2015
1.	Court grants attorney withdrawals at client request as a percentage of total trial cases.	2%	2%
1.	Number of educational contacts with children and youth.	2,750	2,750
1.	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	800
1.	Number of cases with greatest risk of penalties handled by staff attorneys.	1,200	1,200

Enactment of 2009 Wisconsin Act 164:

Background

The SPD provides constitutionally-mandated legal representation to the indigent who meet financial eligibility standards. These standards, set by statute, had not been adjusted since 1987, leaving many working-poor defendants without access to SPD representation. 2009 Wisconsin Act 164 (Act 164) updated the financial eligibility standards to be similar to those for the Wisconsin Works (W2) program.

Benefits of Act 164

- Saves taxpayer money – the new standards reduce the cases in which defendants seek court-appointment of an attorney at county expense. SPD absorbed some costs previously borne by counties and, in general, was able to provide more cost effective representation than counties.
- Ensures that a consistent financial eligibility standard is used throughout Wisconsin – all SPD appointments use the same eligibility criteria.
- Ensures that Wisconsin provides uniform representation according to constitutional requirements.

Summary of Act 164

- Act 164, as amended and funded by 2011 Wis. Act 32, took effect June 19, 2011.
- The Acts authorized 29.7 FTE attorney and 15.7 FTE support staff positions (e.g. investigators, client services specialists, etc.). In allocating each position statewide, the SPD considered caseloads in the area/region, the availability of private bar attorneys, and the availability as well as cost of office space.

The impact of Act 164 was first demonstrated in Fiscal Year 2012 (July 1, 2011-June 30, 2012) when the SPD provided legal representation in 12,691 additional cases attributable to the passage of Act 164. This increased caseload held steady for Fiscal Year 2013 as well.

Racial Bias and Discussion Circles:

The SPD has a long history of diversity. Though we come from different backgrounds and experiences, we share a strong common commitment to serve our clients and the public well. It was in that spirit that we implemented Racial Bias Discussion Circles in 2012.

The Racial Bias Discussion Circles gave our staff an opportunity to step out of normal work roles and have a personal discussion with co-workers about feelings, fears, hopes, and biases relating to race. The concept of a discussion circle is based in Native American culture. Using a talking piece, each person in the group takes a turn at responding to the prepared questions and sharing the values they bring to the discussion. Ground rules guide the discussion circle and ensure that each participant has the opportunity to be heard. The process encourages open and honest sharing and encourages listening.

All SPD staff, from the executive team to local office managers, attorneys and support staff, participated in these racial bias discussion circles. Evaluations of the discussion circles have been exceedingly positive - staff reported that they “felt more comfortable talking about race.”

As a result of the agency's work with the YWCA Madison on the agency's Racial Bias and Discussion Circles, the agency's racial disparity practice coordinator was a featured speaker at the YWCA's Circle of Women event held on February 21, 2013.

Specialty Practice Group Coordinators:

The SPD created specialty practice groups for Termination of Parental Rights Cases, Immigration Issues, Juvenile Cases, Chapter 980 Cases, Forensic Sciences, Racial Disparity Challenges and Homicide Cases. These practice groups allow us to share specialized knowledge and expertise more efficiently, by lessening the need for staff and private bar attorneys to “reinvent the wheel” in these complex practice areas.

Each practice group is led by a staff attorney coordinator (or coordinators) who stay abreast of the latest developments in the practice area and share this expertise as an advisor, mentor, and educator. Coordinators assist others in quickly changing areas of legal practice. Each coordinator compiles practice materials, such as motions, briefs, transcripts, case outlines, and research/articles/studies to share with other attorneys. Coordinators also track the legal developments and other details in their practice areas. Attorneys contact them as needed when they are preparing a client's case or have a question in a new or undeveloped area of the law.

The practice group coordinators also assist with the SPD's training efforts, including presenting at the annual conference. Some coordinators conduct or assist with expert examinations at motion hearings and trials.

**OFFICE OF THE STATE PUBLIC DEFENDER
PART-TIME POSITIONS AND ALTERNATIVE WORK PATTERNS**

The Office of the State Public Defender offers permanent part-time employment to its staff. Currently, 15 staff attorneys, 37 clerical staff and another 12 support staff are part-time, approximately 9.45% of the agency employees. The SPD accommodates flexible work schedules as requested by employees whenever possible.