

State of Wyoming

2021-2022

Supplemental Budget Request



Agency 008: Office of Public Defender

Prepared for the February 2021 Legislature.

The information in this budget request has been developed in accordance with the agency plan prepared according to W.S. 28-1-115 & 28-1-116 [W.S. 9-2-1011(b)(vi)].

Submitted by:

Signature 

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State Budget Department

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Description	Code	BFY 2021 Total Budget	Dept Step 2 COVID19 Reductions	Dept Step 3 COVID19 Reductions	Supplemental Request	Governor Changes Total	Governor's Recommended Approp.
Department Name: OFFICE OF THE PUBLIC DEFENDER							
Department Number: 008							
DIVISION							
PUBLIC DEFENDERS STATEWIDE	0100	27,824,181	(2,931,667)	0	0	0	24,892,514
COURT ORDERED CAPITAL CASE	0400	1,455,000	0	0	0	0	1,455,000
TOTAL BY DIVISION		29,279,181	(2,931,667)	0	0	0	26,347,514
OBJECT SERIES							
PERSONNEL	0100	19,865,891	(551,659)	0	0	0	19,314,232
SUPPORTIVE SERVICES	0200	850,376	(16,397)	0	0	0	833,979
RESTRICTIVE SERVICES	0300	4,074	0	0	0	0	4,074
CENT. SERV./DATA SERV.	0400	595,366	(194,040)	0	0	0	401,326
SPACE RENTAL	0500	29,365	0	0	0	0	29,365
CONTRACTUAL SERVICES	0900	7,934,109	(2,169,571)	0	0	0	5,764,538
TOTAL BY OBJECT SERIES		29,279,181	(2,931,667)	0	0	0	26,347,514
SOURCES OF FUNDING							
GENERAL FUND/BRA	G	24,919,169	(2,491,917)	0	0	0	22,427,252
OTHER FUNDS	Z	4,360,012	(439,750)	0	0	0	3,920,262
TOTAL BY FUNDS		29,279,181	(2,931,667)	0	0	0	26,347,514
AUTHORIZED EMPLOYEES							
FULL TIME EMPLOYEE COUNT		79	(1)	0	0	0	78
PART TIME EMPLOYEE COUNT		16	(2)	0	0	0	14
TOTAL AUTHORIZED EMPLOYEES		95	(3)	0	0	0	92

Department Name: OFFICE OF THE PUBLIC DEFENDER

Department Number: 008

SECTION 1. STATE OF THE AGENCY

Agency Overview

The Office of the State Public Defender fulfills the constitutional right to counsel for indigent defendants pursuant to the 6th Amendment of the United States Constitution, Art. 1 §10 of the Wyoming Constitution, W.S. §7-6-101, et al. and Rule 44 of the Wyoming Rules of Criminal Procedure; and the Office provides guardian ad litem attorneys for children pursuant to W.S. §14-12-101, et al.

Agency Background & Structure

The Office of the State Public Defender was created in 1978 in order to meet the federally mandated right to counsel for poor criminal defendants. The Public Defender has 13 trial field offices and one appellate office. The Public Defender provides representation to over 90% of all criminal defendants who are charged with misdemeanors, felonies, and juvenile delinquencies, which carry potential incarceration, including the appeals from those convictions. The Public Defender handles capital murder cases as well. In 2008, the legislature placed the Guardian ad Litem program (GAL) into the Office by way of session law and a budget footnote. The GAL represents children in abuse and neglect cases, CHINS, and juvenile delinquencies. The GAL has memorandums of understanding to provide services to children in 22 of the 23 counties.

Agency Challenges/Risks/Priorities

The Public Defender is an agency that struggles to meet its constitutional and statutory obligations because of burgeoning caseloads and attorney turnover; in essence, the Public Defender is in crisis. The courts appoint poor defendants attorneys. The ongoing challenge is to meet the growing numbers of cases in each division with the biennium budget. Criminal defendants, regardless of ability to hire an attorney, have a right to ethically competent and constitutionally effective assistance of counsel. When an attorney's workload is not ethically manageable, the criminal defendant is denied his right to counsel. As caseloads increase, the number of attorneys, investigators, legal assistants, and access to constitutionally mandated funding should do so as well, in equal measure. The Public Defender funding has not been commensurate with increasing caseloads. Coupled with that, the Public Defender has struggled to attract and retain qualified attorneys. During this past fiscal year, attorney turnover resulted in two trial offices, Campbell and Natrona County Trial Divisions, being unable to handle misdemeanors. Furthermore, capital cases add to the challenges of the Public Defender. Capital case representation requires additional training and funding; the constitutional standard of care requires adequate funding which is impossible to predict given the nature of the cases, the unique characteristics of the capital client and the unfettered discretion prosecutors wield in determining when to seek the death penalty in first degree murder cases. In BFY14/15, the Public Defender's budget was depleted by capital case expenditures on 11 cases; this required the Public Defender to seek funding through the B-11 process and effective immediate funding as part of the BFY17/18 budget. The priority for this budget is to increase the number of attorneys to match caseload increases, to improve recruitment and retention of attorneys, to properly classify and compensate employees and contract attorneys, to maintain adequate funding for capital cases and to properly fund each case as constitutionally and ethically required.

The GAL also struggles with abiding by caseload standards. As in criminal cases, the courts appoint the GAL to represent children in child protection cases. Child protection cases continue to rise. Each child and case has unique challenges. Without the ability to add attorneys as caseloads increase, the GAL will continue to struggle to meet its own policies and national standard of care for children who have been abused or neglected. The priorities of this budget include increased funding to match the increase in caseloads and to increase support staff for the attorneys.

Department Name: OFFICE OF THE PUBLIC DEFENDER

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Agency Successes and Efficiencies

The Public Defender and the GAL have adopted caseload standards which, if followed and combined with adequate funding, will enable the Office to meet its statutory, constitutional and ethical mandates. Each division has adopted policies and budgeting practices that ensure expenditures on only that which is necessary. Despite the workload struggles, each Division strives to provide quality representation to ensure equal access to justice and the protection of children.

SECTION 3. DEPARTMENT STATUTORY AUTHORITY

W.S. §7-6-101 *et seq.*, Public Defender Act; W.S. §14-12-101 *et seq.* W.S. 28-1-116(a)

SECTION 5. DEPARTMENT PRIORITIES

008-OFFICE OF THE STATE PUBLIC DEFENDER								
Priority	Division	Unit #	Program Name	\$	GF	FF	OF	# of Positions
1	0100	0101	Public Defenders Office	\$27,824,181	\$23,682,419	\$0	\$4,141,762	95
2	0400	0401	Court Ordered Capital Case	\$1,455,000	\$1,236,750	\$0	\$218,250	0
				\$29,279,181	\$24,919,169	\$0	\$4,360,012	95

Department Name: OFFICE OF THE PUBLIC DEFENDER

Department Number: 008

- SECTION 8. STEP TWO COVID 19 REDUCTION PRIORITIES

008 - Office of the State Public Defender									
2021-2022 Step Two COVID19 Reduction Priorities									
Priority	Unit #	Description	Department Reduction		Governor's Recommendation				
			Amount	Pos	Amount	GF	FF	OF	Pos
1	0101	Step 2 COVID19 Reduction - 400 Series - New Case Management System Developed by ETS	(\$194,040)	0	(\$194,040)	(\$164,934)	\$0	(\$29,106)	0
2	0101	Step 2 COVID19 Reduction - 200/900 Series - Annual Public Defender Conference	(\$74,367)	0	(\$74,367)	(\$63,212)	\$0	(\$11,155)	0
3	0101	Step 2 COVID19 Reduction - 100 Series - Position Elimination	(\$551,659)	(3)	(\$551,659)	(\$468,910)	\$0	(\$82,749)	(3)
4	0101	Step 2 COVID19 Reduction - 900 Series - Agency Capital Case Funding	(\$500,000)	0	(\$500,000)	(\$425,000)	\$0	(\$75,000)	0
5	0101	Step 2 COVID19 Reduction - 900 Series - Exception Appropriation	(\$1,611,601)	0	(\$1,611,601)	(\$1,369,861)	\$0	(\$241,740)	0
Totals			(\$2,931,667)	(3)	(\$2,931,667)	(\$2,491,917)	\$0	(\$439,750)	(3)
			General Fund	(\$2,491,917)					
			Federal Funds	\$0					
			Other Funds	(\$439,750)					
			Total Reductions	(\$2,931,667)					

Department Name: OFFICE OF THE PUBLIC DEFENDER Division Name: PUBLIC DEFENDERS STATEWIDE		Department Number: 008 Division Number: 0100					
1	2	3	4	5	6	7	
Division	Code	BFY 2021 Total Budget	Dept Step 2 COVID19 Reductions	Dept Step 3 COVID19 Reductions	Supplemental Request	Governor Changes Total	Governor's Recommended Approp.
UNIT							
PUBLIC DEFENDERS STATEWIDE	0101	27,824,181	(2,931,667)	0	0	0	24,892,514
TOTAL BY UNIT		27,824,181	(2,931,667)	0	0	0	24,892,514
OBJECT SERIES							
PERSONNEL	0100	19,865,891	(551,659)	0	0	0	19,314,232
SUPPORTIVE SERVICES	0200	850,376	(16,397)	0	0	0	833,979
RESTRICTIVE SERVICES	0300	4,074	0	0	0	0	4,074
CENT. SERV./DATA SERV.	0400	595,366	(194,040)	0	0	0	401,326
SPACE RENTAL	0500	29,365	0	0	0	0	29,365
CONTRACTUAL SERVICES	0900	6,479,109	(2,169,571)	0	0	0	4,309,538
TOTAL BY OBJECT SERIES		27,824,181	(2,931,667)	0	0	0	24,892,514
SOURCES OF FUNDING							
GENERAL FUND/BRA	G	23,682,419	(2,491,917)	0	0	0	21,190,502
SPECIAL REVENUE	SR	4,141,762	(439,750)	0	0	0	3,702,012
TOTAL BY FUNDS		27,824,181	(2,931,667)	0	0	0	24,892,514
AUTHORIZED EMPLOYEES							
FULL TIME EMPLOYEE COUNT		79	(1)	0	0	0	78
PART TIME EMPLOYEE COUNT		16	(2)	0	0	0	14
TOTAL AUTHORIZED EMPLOYEES		95	(3)	0	0	0	92

Department Name: OFFICE OF THE PUBLIC DEFENDER
 Division Name: PUBLIC DEFENDERS STATEWIDE
 Unit Name: PUBLIC DEFENDERS STATEWIDE

Wyoming On Line Financial Codes				
DEPT	DIVISION	UNIT	FUND	APPR
008	0100	0101	001	101

SECTION 1. UNIT STATUTORY AUTHORITY

W.S. §7-6-101 *et seq.*, Public Defender Act.

SECTION 5. STEP TWO COVID19 BUDGET REDUCTIONS

PRIORITY # 1 – Elimination of funding for case management system

A. EXPLANATION OF REDUCTION: Funding for a new case management system to be developed by ETS was requested in order to ensure the Public Defender’s ability to meet its sole Performance Measure of manageable caseloads. In order to guarantee the right to counsel, each Public Defender attorney must have a manageable caseload. In order to guarantee that right, each Public Defender attorney must have a manageable caseload. The *ABA Standards for Criminal Justice, Second Edition* state that “defense counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality representation, endangers the clients’ interest in the speedy disposition of charges, or may lead to the breach of professional obligations.” Defense Function Standard 4-1.3(e) Whether or not a caseload is excessive depends not only on the number of cases but also on case complexity, availability of support systems and the lawyer’s experience and ability. The Public Defender monitors caseloads that are recorded by an in-house case weighted database system. The Public Defender utilizes the caseload maximum standards recommendations by the *National Advisory Commission on Criminal Justice Standards and Goals (1971)*(NAC). No Public Defender field office or attorney should be at or above 100% of caseload maximum standards. In order to monitor caseloads, the Public Defender has been using an agency developed database that dates back to 2003.

B. REDUCTION BY OBJECT CODE, FUNDING AMOUNT & FUND SOURCE:

Object Code	Amount	Funding Source
1 0410 - IT Services/Charges	(\$194,040)	85% General Fund/15% Special Revenue
Total	(\$164,934)	85% General Fund
	(\$29,106)	15% Special Revenue

C. REDUCTION IMPACT: Law firms and prosecuting offices manage their cases with case management systems that are complex, yet effective. The current Public Defender database system is archaic and does not have true case management capabilities. It is effective as a tool for determining newly assigned cases during a given period of time and it allows for the tracking of open cases and Public Defender fees by county and by attorney. The current system does not allow for a scanning in of documents for case management purposes; it does not allow for a current reporting of active cases (as opposed to open cases pending paperwork from the court), and it is wholly reliant on accurate data entry that is difficult, if not impossible, to correct. The Public Defender currently must utilize services of ETS to run certain reports in addition to the basic reports that exist within the database program. The current database does not have the capability to track cases by case type nor does it allow for a true conflict check. In order to run extraneous reports, the Public Defender would have to pay ETS to run those reports, which over time can be costly. It becomes more cost effective to build a new case management system. The Public Defender will continue

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to rely on an old system with antiquated capabilities. The fear is that the 17 year old, home grown database will start to be ineffective if not impossible to use over much more time. The Public Defender is mandated by the Federal and State Constitutions and it serves the most vulnerable of poor citizens in this state. The Public Defender handles nearly 90% of all criminal cases in the Wyoming court system and has “functioned” on a minimal budget, being just one capital case or one big drug conspiracy case or an increase in caseloads from catastrophe. As we all learned in in the spring of 2019, when the Public Defender is not adequately funded or staffed, a constitutional crisis ensues, as well as creating an ethical crisis for the State Public Defender and her assistants. The inability to adequately track cases and inform the tax payers of the type and number of cases could contribute to the inability to adequately fund and staff the Public Defender. It must be noted that any loss of general fund money also results in the loss of special revenue from the counties, as the counties are billed at 15% of the general fund appropriations.

GOVERNOR’S RECOMMENDATION

I recommend approval of this biennial reduction. Of this recommendation, \$0 is one-time funding.

PRIORITY # 2 – Eliminate Annual Public Defender Conference

A. EXPLANATION OF REDUCTION: Funding for training has been part of the Public Defender standard budget for several budgets. In order to ensure the Public Defender’s ability to meet its sole Performance Measure of manageable caseloads, in which includes a lawyer’s training and experience. In order to guarantee the right to counsel, each Public Defender attorney must have a manageable caseload. In order to guarantee that right, each Public Defender attorney must have a manageable caseload. The ABA *Standards for Criminal Justice, Second Edition* state that “defense counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality representation, endangers the clients’ interest in the speedy disposition of charges, or may lead to the breach of professional obligations.” Defense Function Standard 4-1.3(e) Whether or not a caseload is excessive depends not only on the number of cases but also on case complexity, availability of support systems and the *lawyer’s experience and ability. Standards and Goals (1971)(NAC)*. Each fiscal year, the Public Defender conducts an Annual Conference in which it mandates the attendance of its attorneys and provides a full year worth of continuing legal education credits, including the required ethical continuing ethical credits, to help train its attorneys to provide ethical and constitutional counsel.

B. REDUCTION BY OBJECT CODE, FUNDING AMOUNT & FUND SOURCE:

	Object Code	Amount	Funding Source
1	0221 - Travel/M&IE	(\$16,397)	85% General Fund/15% Special Revenue
2	0901 - Professional Fees	(\$57,970)	85% General Fund/15% Special Revenue
	Total	(\$63,212)	85% General Fund
		(\$11,155)	15% Special Revenue

C. REDUCTION IMPACT: The Public Defender will be unable to provide training to its attorneys. The benefit of training attorneys in this fashion is threefold: it allows the State Public Defender to address concerns and deficits at the same time, it guarantees that the attorneys will be in good standing with the Wyoming State Bar by providing the full year’s credit with the ethical credits as well, and it allows the training to occur at the same time, which enables the courts

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to adjust its dockets, accordingly. The areas of law assistant public defender’s must know go beyond criminal and trial; cases often include psychological issues, physical evidence including DNA, defenses, negotiation skills and sentencing mitigation. Public Defender work is difficult and often unsung. This annual conference provides quality training to its attorneys as well as providing a breather from the work and some inspiration to take forward into the next year. The Public Defender attorneys will have to pay for their own training and will have to figure out each of their case schedules with each court. The Public Defender is mandated by the Federal and State Constitutions and it serves the most vulnerable of poor citizens in this state. The Public Defender handles nearly 90% of all criminal cases in the Wyoming court system and has “functioned” on a minimal budget, being just one capital case or one big drug conspiracy case or an increase in caseloads from catastrophe. As we all learned in in the spring of 2019, when the Public Defender is not adequately funded or staffed, a constitutional crisis ensues, as well as creating an ethical crisis for the State Public Defender and her assistants. The inability to adequately train its attorneys in criminal case representation could result in unethical and unconstitutional representation of the indigent accused in the State of Wyoming. It must be noted that any loss of general fund money also results in the loss of special revenue from the counties, as the counties are billed at 15% of the general fund appropriations.

GOVERNOR’S RECOMMENDATION

I recommend approval of this biennial reduction. Of this recommendation, \$0 is one-time funding.

PRIORITY # 3 – Termination of positions in Weston/Crook County and Laramie County Field Offices

A. EXPLANATION OF REDUCTION: Funding for positions and field offices is necessary to ensure the Public Defender’s ability to meet its sole Performance Measure of manageable caseloads. In order to guarantee the right to counsel, each Public Defender attorney must have a manageable caseload. In order to guarantee that right, each Public Defender attorney must have a manageable caseload. The ABA *Standards for Criminal Justice, Second Edition* state that “defense counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality representation, endangers the clients’ interest in the speedy disposition of charges, or may lead to the breach of professional obligations.” Defense Function Standard 4-1.3(e) Whether or not a caseload is excessive depends not only on the number of cases but also on case complexity, availability of support systems and the lawyer’s experience and ability. The Public Defender monitors caseloads that are recorded by an in-house case weighted database system. The Public Defender utilizes the caseload maximum standards recommendations by the *National Advisory Commission on Criminal Justice Standards and Goals (1971)(NAC)*. No Public Defender field office or attorney should be at or above 100% of caseload maximum standards. For many reasons, it has become untenable to house an attorney and a legal assistant in Newcastle, which is the location for the Weston/Crook County field office. These cases will be handled by the Campbell County field office as the 6th Judicial Public Defender Trial Field Office. There currently exists a .75 employee position in Laramie County which will be replaced by a new full-time attorney. The Public Defender is mandated by the Federal and State Constitutions and it serves the most vulnerable of poor citizens in this state. The Public Defender handles nearly 90% of all criminal cases in the Wyoming court system and has “functioned” on a minimal budget, being just one capital case or one big drug conspiracy case or an increase in caseloads from catastrophe. As we all learned in in the spring of 2019, when the Public Defender is not adequately funded or staffed, a constitutional crisis ensues, as well as creating an ethical crisis for the State Public Defender and her assistants. Any reduction of attorneys, whether contract or employee, increases the likelihood that the State Public Defender will have to refuse cases and without the ability to compensate court appointed poor people could be without counsel. It must be noted that any loss of general fund money also results in the loss of special revenue from the

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Unit Name: PUBLIC DEFENDERS STATEWIDE

Wyoming On Line Financial Codes				
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008	0100	0101	001	101

counties, as the counties are billed at 15% of the general fund appropriations. Any case affected by lack of adequate counsel or lack of counsel completely would likely be returned to the courts after appeals, costing the state more money than it likely saves here.

B. REDUCTION BY OBJECT CODE, FUNDING AMOUNT & FUND SOURCE:

Object Code	Amount	Funding Source
1 0103 - Salaries	(\$183,738)	85% General Fund/15% Special Revenue
2 0104/0105/0196/0197 - Benefits	(\$367,921)	85% General Fund/15% Special Revenue
Total	(\$468,910)	85% General Fund
	(\$82,749)	15% Special Revenue

C. REDUCTION IMPACT: The first reduction is both the attorney and the legal assistant in the Weston/Crook County field office. The impact of closing a field office and handling it in another field office is hard to calculate. Based on caseload numbers, the Campbell County field office can absorb the cases; however, the caseload numbers do not account for the travel that will now be required from Gillette to Sundance to Newcastle. The risk of doing so is great especially given the history of high turnover and difficulties in recruitment in that area. The caseloads numbers, however, may not justify handling these counties in any other way both in terms of personnel and cost effectiveness. The second reduction is of a .75 employee attorney in Laramie County. This office will be adding a new full-time attorney, however, but is also absorbing the caseload of a part-time contract attorney. In essence this office will have to handle an additional 70 or so case. If this office experiences turnover or an increase in caseloads, the loss of position could become a crisis. Public Defender is mandated by the Federal and State Constitutions and it serves the most vulnerable of poor citizens in this state. The Public Defender handles nearly 90% of all criminal cases in the Wyoming court system and has “functioned” on a minimal budget, being just one capital case or one big drug conspiracy case or an increase in caseloads from catastrophe. As we all learned in in the spring of 2019, when the Public Defender is not adequately funded or staffed, a constitutional crisis ensues, as well as creating an ethical crisis for the State Public Defender and her assistants. Any reduction of attorneys, whether contract or employee, increases the likelihood that the State Public Defender will have to refuse cases and without the ability to compensate court appointed attorneys poor people could be without counsel. It must be noted that any loss of general fund money also results in the loss of special revenue from the counties, as the counties are billed at 15% of the general fund appropriations. Any case affected by lack of adequate counsel or lack of counsel completely would likely be returned to the courts after appeals, costing the state more money than it likely saves here.

GOVERNOR’S RECOMMENDATION

I recommend approval of this biennial reduction. Of this recommendation, \$0 is one-time funding.

PRIORITY # 4 – Agency Capital Case Funding

A. EXPLANATION OF REDUCTION: The Public Defender’s Office must ensure that sufficient resources are available to provide high quality representation of clients faced with the ultimate punishment. In order to accomplish this, the Public Defender’s Office abides by the mandated *ABA Guidelines for Appointment and Performance of Defense Counsel in Death Penalty Cases, Revised Edition, February, 2003*, as well as the *ABA Supplementary Guidelines for the Mitigation*

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Function of Defense Teams in Death Penalty Cases. In the event that the State of Wyoming seeks the death penalty in any case during the BFY, substantial monies and resources will be needed Without a properly resourced Public Defender, the death penalty is meaningless. When a defendant faces the ultimate punishment, the state must ensure that he has all of the constitutionally required resources and the qualified team for his defense. This funding is one-time and all monies not spent revert. This reduction would amount to the Public Defender not being able to provide representation in capital cases.

B. REDUCTION BY OBJECT CODE, FUNDING AMOUNT & FUND SOURCE:

Object Code	Amount	Funding Source
1 0903 - Capital Case	(\$500,000)	85% General Fund/15% Special Revenue
Total	(\$425,000)	85% General Fund
	(\$75,000)	15% Special Revenue

C. REDUCTION IMPACT: Prosecutors have sole discretion in determining whether a first degree murder case becomes a death penalty case. Once a prosecutor states that a first degree murder case is a potential death penalty case, if the public defender is appointed to the case, the public defender must begin abiding by the constitutional law in terms of providing ethical and constitutional counsel to its capital client. This includes assigning at least two qualified attorneys to the case, hiring a mitigation investigation specialist, and assigning a qualified fact investigator. The vast majority of the cost of capital case is the comprehensive and through social history investigation required by law and the ABA Guidelines. This does not include the cost of experts involved in the defense of the capital murder in the guilt phase and then the penalty phase. If the public defender does do these things, they will be found ineffective by a higher court. The loss of this money either results in the public defender having to inform the court that it would have to withdraw from the capital case because he/she cannot provide ethical representation to the capital client or in the handling of the capital case without the necessary resources to meet constitutional mandates. The latter scenario would result in the case being remanded back much like the circumstances in the Eaton resentencing that is currently budgeted for \$2.6 million. If the Public Defender were not allowed to withdraw from a capital case, the Eaton scenario arises again. Because of the costly results of eliminating capital case funding, it would be easy to not include the cut in this proposal; but not cutting monies that are designated to the rare case would only require the Public Defender to begin firing attorneys who handle the 15,000 cases annually, causing a constitutional crisis on a daily level. As we all learned in in the spring of 2019, when the Public Defender is not adequately funded or staffed, a constitutional crisis ensues, as well as creating an ethical crisis for the State Public Defender and her assistants. It must be noted that any loss of general fund money also results in the loss of special revenue from the counties, as the counties are billed at 15% of the general fund appropriations. Any case affected by lack of adequately resourced counsel would likely be returned to the courts after appeals, costing the state more money than it likely saves here.

GOVERNOR'S RECOMMENDATION

I recommend approval of this biennial reduction. Of this recommendation, \$500,000 is one-time funding.

Department Name: OFFICE OF THE PUBLIC DEFENDER

Division Name: PUBLIC DEFENDERS STATEWIDE

Unit Name: PUBLIC DEFENDERS STATEWIDE

Wyoming On Line Financial Codes				
DEPT	DIVISION	UNIT	FUND	APPR
008	0100	0101	001	101

PRIORITY # 5 – 900 Series Exception Appropriation

A. EXPLANATION OF REDUCTION: This funding was requested and appropriated to ensure that the Public Defender’s ability to meet its sole Performance Measure of manageable caseloads. In order to guarantee the right to counsel, each Public Defender attorney must have a manageable caseload. In order to guarantee that right, each Public Defender attorney must have a manageable caseload. The ABA *Standards for Criminal Justice, Second Edition* state that “defense counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality representation, endangers the clients’ interest in the speedy disposition of charges, or may lead to the breach of professional obligations.” Defense Function Standard 4-1.3(e) Whether or not a caseload is excessive depends not only on the number of cases but also on case complexity, availability of support systems and the lawyer’s experience and ability. The Public Defender monitors caseloads that are recorded by an in-house case weighted database system. The Public Defender utilizes the caseload maximum standards recommendations by the *National Advisory Commission on Criminal Justice Standards and Goals (1971)(NAC)*. No Public Defender field office or attorney should be at or above 100% of caseload maximum standards. In order to address the crisis that occurred in Campbell and Natrona Counties in the spring and summer of 2019 the Public Defender was appropriated an additional \$3 million in funding allowing the Public Defender to utilize a combination of contract monies and up to 5 FTE positions to add attorneys where caseload maximums require them and to also have the funding to hire contractors to handle caseload overflow, to compensate private attorneys appointed by the court, increase contractor hourly rates to attract private attorneys to assist the Public Defender and to hire conflict attorneys for field offices when necessary.

B. REDUCTION BY OBJECT CODE, FUNDING AMOUNT & FUND SOURCE:

Object Code	Amount	Funding Source
1 0901 - Contract Services	(\$1,611,601)	85% General Fund/15% Special Revenue
Total	(\$1,369,861)	85% General Fund
	(\$241,740)	15% Special Revenue

C. REDUCTION IMPACT: The funding was intended to help the Public Defender avoid having to refuse cases. This funding removal will return the Public Defender to the previous shoe string budget of the past and create the cyclical turnover and retention problems that also led to the crisis last year. This funding would have ensured that the right to counsel is a meaningful check on the powers of government for poor defendants and the loss of this funding takes away the progress this agency and this administration accomplished. Even with the support of the Wyoming Supreme Court, the Public Defender will either be forced to continue to act outside of ethical norms or the clients it cannot serve because of ethical limitations will be denied the right to counsel. The Public Defender is mandated by the Federal and State Constitutions and it serves the most vulnerable of poor citizens in this state. The Public Defender handles nearly 90% of all criminal cases in the Wyoming court system and has “functioned” on a minimal budget, being just one capital case or one big drug conspiracy case or an increase in caseloads from catastrophe. As we all learned in in the spring of 2019, when the Public Defender is not adequately funded or staffed, a constitutional crisis ensues, as well as creating an ethical crisis for the State Public Defender and her assistants. Any reduction of attorneys, whether contract or employee, increases the likelihood that the State Public Defender will have to refuse cases and without the ability to compensate court appointed poor people could be without counsel. It must be noted that any loss of general fund money also results in the loss of special revenue from the counties, as the counties are billed at 15% of the general fund appropriations. Any case affected by lack of adequate counsel or lack of counsel completely would likely be returned to the courts after appeals, costing the state more money than it likely saves here.

Department Name: OFFICE OF THE PUBLIC DEFENDER
Division Name: PUBLIC DEFENDERS STATEWIDE
Unit Name: PUBLIC DEFENDERS STATEWIDE

Wyoming On Line Financial Codes				
DEPT	DIVISION	UNIT	FUND	APPR
008	0100	0101	001	101

GOVERNOR'S RECOMMENDATION

I recommend approval of this biennial reduction. Of this recommendation, \$0 is one-time funding.

Department Name: OFFICE OF THE PUBLIC DEFENDER Division Name: PUBLIC DEFENDERS STATEWIDE Unit Name: PUBLIC DEFENDERS STATEWIDE			Wyoming On Line Financial Codes				
		DEPT	DIVISION	UNIT	FUND	APPR	
		008	0100	0101	001	101	
1	2	3	4	5	6	7	
Description	Code	BFY 2021 Total Budget	Dept Step 2 COVID19 Reductions	Dept Step 3 COVID19 Reductions	Supplemental Request	Governor Changes Total	Governor's Recommended Approp.
EXPENDITURES							
SALARIES CLASSIFIED	0103	10,734,805	(183,738)	0	0	0	10,551,067
SALARIES OTHER	0104	2,230,500	(179,472)	0	0	0	2,051,028
EMPLOYER PD BENEFITS	0105	3,501,366	(95,135)	0	0	0	3,406,231
EMPLOYER HEALTH INS BENEFITS	0196	3,320,664	(91,124)	0	0	0	3,229,540
RETIREEES INSURANCE	0197	78,556	(2,190)	0	0	0	76,366
PERSONNEL	0100	19,865,891	(551,659)	0	0	0	19,314,232
EQUIPMENT REP & MNTC	0202	3,500	0	0	0	0	3,500
UTILITIES	0203	6,000	0	0	0	0	6,000
COMMUNICATION	0204	64,000	0	0	0	0	64,000
DUES-LICENSES-REGIST	0207	236,000	0	0	0	0	236,000
ADVERTISING-PROMOT	0208	6,498	0	0	0	0	6,498
MISCELLANEOUS	0210	750	0	0	0	0	750
TRAVEL IN STATE	0221	218,811	(16,397)	0	0	0	202,414
TRAVEL OUT OF STATE	0222	22,500	0	0	0	0	22,500
PERMANENTLY ASSIGNED VEHICLES	0223	98,602	0	0	0	0	98,602
SUPPLIES	0230	74,250	0	0	0	0	74,250
OFFICE SUPPL-PRINTNG	0231	65,953	0	0	0	0	65,953
EDUCA-RECREATNL SUPP	0236	712	0	0	0	0	712
OFFICE EQUIP-FURNISH	0241	0	0	0	0	0	0
IT HARDWARE	0242	0	0	0	0	0	0
REAL PROPERTY RENTAL	0251	2,000	0	0	0	0	2,000
EQUIPMENT RENTAL	0252	50,000	0	0	0	0	50,000
INSURANCE & BOND PREMS	0254	800	0	0	0	0	800
SUPPORTIVE SERVICES	0200	850,376	(16,397)	0	0	0	833,979
COST ALLOCATION	0301	4,074	0	0	0	0	4,074
RESTRICTIVE SERVICES	0300	4,074	0	0	0	0	4,074
CENTRAL-SER DATA-SER	0410	250,266	(194,040)	0	0	0	56,226
TELECOMMUNICATIONS	0420	345,100	0	0	0	0	345,100
CENT. SERV./DATA SERV.	0400	595,366	(194,040)	0	0	0	401,326
SPACE RENTAL	0520	29,365	0	0	0	0	29,365
SPACE RENTAL	0500	29,365	0	0	0	0	29,365
CONTRACT SERVICES	0901	5,579,109	(1,669,571)	0	0	0	3,909,538
CONSULTING SERVICES	0902	400,000	0	0	0	0	400,000
SPECIAL PROJ & SVCS	0903	500,000	(500,000)	0	0	0	0
CONTRACTUAL SERVICES	0900	6,479,109	(2,169,571)	0	0	0	4,309,538
EXPENDITURE TOTALS		27,824,181	(2,931,667)	0	0	0	24,892,514
SOURCE OF FUNDING							
GENERAL FUND	1001	23,682,419	(2,491,917)	0	0	0	21,190,502

Department Name: OFFICE OF THE PUBLIC DEFENDER Division Name: PUBLIC DEFENDERS STATEWIDE Unit Name: PUBLIC DEFENDERS STATEWIDE			Wyoming On Line Financial Codes				
			DEPT	DIVISION	UNIT	FUND	APPR
			008	0100	0101	001	101
1	2	3	4	5	6	7	
Description	Code	BFY 2021 Total Budget	Dept Step 2 COVID19 Reductions	Dept Step 3 COVID19 Reductions	Supplemental Request	Governor Changes Total	Governor's Recommended Approp.
GENERAL FUND - EFFECTIVE IMMED	1001EI	0	0	0	0	0	0
GENERAL FUND/BRA	G	23,682,419	(2,491,917)	0	0	0	21,190,502
LOCAL FUNDS MATCH	6133	4,141,762	(439,750)	0	0	0	3,702,012
SPECIAL REVENUE	SR	4,141,762	(439,750)	0	0	0	3,702,012
TOTAL FUNDING		27,824,181	(2,931,667)	0	0	0	24,892,514
AUTHORIZED EMPLOYEES							
FULL TIME EMPLOYEE COUNT		79	(1)	0	0	0	78
PART TIME EMPLOYEE COUNT		16	(2)	0	0	0	14
TOTAL AUTHORIZED EMPLOYEES		95	(3)	0	0	0	92