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**OFFICE OF THE
TERRITORIAL PUBLIC DEFENDER**
Government of the U.S. Virgin Islands

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**31st LEGISLATURE'S COMMITTEE ON FINANCE
FISCAL YEAR 2017 BUDGET HEARING PRESENTATION**

Good morning Honorable Senator Clifford F. Graham, Chairman of the Committee on Finance, other Honorable Senators of the Committee on Finance and of the 31st Legislature of the Virgin Islands, the listening and viewing audience and others present in the legislative chambers.

I am Samuel L. Joseph, Chief Public Defender for the Office of the Territorial Public Defender. I am here today with Office of The Territorial Public Defender Fiscal Accountant, Ronald Moorehead and Office of the Territorial Public Defender Administrator, Norman Edwards, Jr.

The Office of the Territorial Public Defender (OTPD), was established in 1973 under Title 5, Chapter 302, § 3520 et seq., of the Virgin Islands Code for the purpose of representing indigent criminal defendants that appear before the Superior Court of the Virgin Islands and now the Virgin Islands Supreme Court, when appointed. The OTPD is assigned one hundred percent of the criminal cases in both the Superior Court of the Virgin Islands as well as the Supreme Court of the Virgin Islands unless there is a conflict of interest or the person has the means to hire their own attorney.

GENERAL OVERVIEW

The OTPD, a semi-autonomous agency governed by the Public Defender Administration Board (Board), which consists of five (5) attorneys and it is fully constituted. The Board is authorized to hire and terminate all personnel of the office upon the recommendation of the Chief Public Defender. The Board promulgates rules and regulations governing employee's rights and relations and approves the annual budget for the OTPD.

The Public Defender Administration Board consists of five (5) attorneys from our community: the President of the Virgin Islands Bar Association or his/her designee; two (2) are appointees of the Presiding Judge of the Superior Court, One (1) of whom must be a resident of the St. Thomas/St. John district and one (1) a resident of the district of St. Croix; one (1) appointee of the Governor of the Virgin Islands and one appointed by the President of the Virgin Islands Legislature. The terms of the members appointed by the Governor and the President of the Bar association are the same as the terms of the persons who appointed them. Of the two (2) members appointed by the Presiding Judge of the Superior Court, one (1) shall serve for three (3) years and the other (1) shall serve for two (2) years. A vacancy on the board is filled for the unexpired term of the vacant member.

The current members of the Board are:

- Darren John Baptiste, Esq.
- Monica Howard, Esq.
- Charles Lockwood, Esq.
- Jomo Meade, Esq.
- Dave Cattie, Esq.

DUTIES AND RESPONSIBILITIES OF PUBLIC DEFENDERS

All persons accused of crimes have a 6th Amendment Constitutional right to be represented by counsel. Pursuant to *Gideon vs. Wainwright* the OTPD is required to provide effective representation to indigent defendants. I am proud to say the OTPD continues to fulfill its mission which is to provide each client high quality legal representation that is good as, or better than that provided by the best of the private bar.

Public defender's counsel and defend clients at every stage of the proceedings and in any appeals or other remedies before or after conviction that are considered to be in the interest of justice. This representation spans from the Virgin Islands Superior Court to the United States Supreme court when necessary.

Each Public Defender is required by law to devote his/her full time to the discharge of his/her duties and cannot directly, or indirectly engage in the private practice of law. Additionally, he/she will not directly or indirectly refer any civil or criminal litigation to any particular lawyer or lawyers. Moreover he/she is prohibited from counseling, defending, or prosecuting any legal matter or litigation when such action would conflict with his/her duties as a Public Defender.

The Job of the public defender does not just end at the court room or advising clients as to the legal aspects of their case. Our work at the OTPD involves a tremendous amount of long hours in and out of the courtrooms. Working evenings and weekends has become the norm. Each day is different at the OTPD. Every day we are confronted with new issues which require us to utilize innovative and out the box thinking.

OTPD staff is required to do what is necessary within the confines of the law to ensure that our clients have full and fair due process hearings/trials.

In a typical week, we come into contact with Judges, law enforcement officers prosecutors, probation officers, treatment providers, experts in forensic science, mental health professionals, and family members and friends of the accused. We represent people who are often at their lowest moments in their life. They are scared, confused and most importantly in need of our service. The dedicated staff at the OTPD understands the value and necessity of the work we do. The work that we do impacts every aspect of our society.

STAFFING

The OTPD is comprised of two district offices, one on St. Croix and the other in St. Thomas/St. John District. Despite the fact we are located in two districts we are one office. Each district office is currently comprised of attorneys that are licensed to practice law in the Virgin Islands. The office is staffed with twelve (12) attorneys including myself. The St. Croix District Office has three (3) trial attorneys and one (1) juvenile attorney. The St. Thomas/St. John district office has six (6) trial attorneys, one juvenile attorney and one appellate attorney that serves both districts. Each district office also has a paralegal. In the St. Thomas/St. John district we have one (1) investigator and in the St. Croix district we have two (2) investigators. All investigators assist the entire legal staff. Both district offices rely on secretarial staff for administrative support. Other support staff includes: an Administrator, an Assistant Administrator, Fiscal Accountant, seven (7) legal secretaries, two (2) receptionists, one (1) data entry clerk, one (1) messenger and two (2) custodians.

The Chief Public Defender serves in a territorial capacity, overseeing both district offices and is also admitted to the Virgin Islands Bar. All employees of the Office are unclassified and are members of the Government Employees Retirement System (GERS). In total, the entire staff, territorially, comprises of thirty-three (33) employees.

CASELOAD

The current caseload for the OTPD territory wide is eight hundred twenty five (825) cases. As of June 17, 2016 there were three hundred ninety eight (398) cases pending in the St. Croix district and four hundred twenty seven (427) pending cases in the St. Thomas/St. John district. Currently there are fourteen (14) cases on appeal before the Virgin Islands Supreme Court. As of June 17, 2016, one hundred fifty five (155) new cases have been appointed in St. Croix and one hundred seventeen (117) new cases have been appointed in St. Thomas/St. John district. Average caseload for trial attorneys ranges from fifty cases (50) to one hundred and thirty (120) for any given month within a one year span. (See attached pie chart)

BUDGET JUSTIFICATION

The United States Constitution and its amendments is the foremost authority responsible for the shaping of American law and jurisprudence. It is a framework that is a product of great vision and insight. It dictates what is allowed and or required of states, territories, or jurisdiction that fall under the American flag. I believe the American judicial system is the best justice system in the world. But it only works if everyone is doing their part. The OTPD is an integral/key part of the system that requires the appropriate resources to operate.

Recently I had a conversation with a respected and prominent member of our community who questioned the need/requirement for an agency such as the OTPD. My initial response was “If you believe in the tenants of the United States Constitutions then there lies your answer. Often times we speak of the constitution, for its ideological insight. We sing praises of its worthiness and its general applicability, especially to those things we deem worthy, but we do so without a full understanding of what it really means.

I am not naïve to the general perception that persons charged with a crime committed the crime or the OTPD is the agency that helps “criminals get out of jail” That viewpoint which is held by many is a gross misunderstanding of what the OTPD does. We are the protectors of the indigent, the less fortunate, those that do not have the ability to protect themselves. We are the defenders of rights not only for our clients but also our community. We are the vanguard by necessity. Although the circumstances by which we represent our clients is not ideal our fight is no less.

The right to counsel is the vehicle through which all other rights are realized and Implicit in *Gideon v Wainwright* is the idea that a client’s lawyer, more than anyone else, is in the best position to uncover abuses of due process. Simply put lawyers in criminal courts are necessities, not luxuries. We are the blood that courses through the veins of the body of the criminal justice system. If we are unable to reach the organs of the body at the appropriate levels, the remainder of the body will fail.

The requirement that every person that appears before the court in a criminal matter is entitled to an attorney is not just a notion of fairness but it is a constitutional mandate for all states, territories and any jurisdiction under the American flag. It is American as being American. Imagine for a moment you were charged with a crime, regardless of innocence or guilt you would seek out the help of those who have the ability to maneuver and navigate through the treacherous waters. You would expect that your guide is equipped with knowledge or tools that would allow your journey to be one of safe passage rather than ending in utter destruction. You see, *Gideon v Wainwright* is not only about the mandate for a public defense system but about protection of core rights. Public defenders provide a system of checks and balances on the criminal justice system as a whole.

The American judicial system is the best judicial system in the world, but it is not without its faults. For decades the criminal justice system has become industrialized. The humanitarian aspect implicit in Gideon has been pushed aside. But even more alarming is that our community is not up in arms at this phenomenon. How long shall we sit in silence while those who cannot protect themselves face harsh consequences because of lack of resources. Bear in mind, the greatest civil rights abuses happen in our criminal justice system. The OTPD will not sit in silence.

Public Defenders are constitutional beacons of light. We ensure our clients rights are protected, by rebutting the assumption that all persons charged are guilty. When in fact under American law they are innocent until proven otherwise. The OTPD ensures that each client receives due process of law. We vigorously challenge any individual, branch or agency that seeks to abridge our client's rights. It is our constitutional mandate and ethical obligation. The challenges of the criminal justice system are no secret and my statements today are not to cast aspersions on any individual, branch or agency but rather to point out the systematic problems, and the public defender's mandate for corrective action. In order to address the issues in the criminal justice system we must change our mind set as a community towards the indigent and most importantly ensure allocation of adequate resources for legal defense of the indigent. It is commonly understood and agreed amongst the United States Supreme Court Justices, the local judiciary, defense attorney's and even the U.S. attorney's office that justice can only be served in the criminal justice system when adequate funding is provided for public defense. It is easy to overlook the need for Public defenders when you have no need for one but for those in need of our services it is a matter of freedom or incarceration.

Being a public defender is not just a job, we are architects of social change. Our representation involves much more than in court representation. We approach the needs of our clients in a holistic manner with great emphasis placed on positive change. This requires us to be more proactive than reactive. To that end we are proud to state we are now going into our third year of our Youth Apprentice program (Y.A.P).

For those here and in the listening and viewing audience that are not familiar with our Youth Apprentice program (Y.A.P.), it is a program that is geared towards Juveniles who have come into contact with the criminal justice system. The mission of Y.A.P. is to provide our minor clients with an avenue to acquire marketable skills, so that they are able to financially support themselves when they reach adulthood in a few years. Youth participants also learn life lessons such as how to adjust and improvise when needed and how to cope and persevere through day to day issues. The program was established to combat the alarming crime statistics that have besieged the island of St. Croix. Businesses and government agencies were requested to participate in this program by mentoring a young person and teaching them a marketable skill at a minimum of two to three days per week for four hours a day to a maximum of 40 hours per week during the summer months. Currently we have eighteen (11) participants enrolled in the program.

This program is a great form of diversion. It has prevented many of its participants from further delinquent activity or has diverted these young people from becoming defendants in the Adult system. I would like to thank all the senators, agencies and business that have taken part in this program. Although, the positive effects are not always immediately seen, I can truly say that you have made a positive impact on participants and the community. This year we will again partner with Ernest Ruffin Jr., adjunct professor at Rutgers University with his Youth Entrepreneur organization (YEO). YEO is a training program geared towards self upliftment, sense of community and entrepreneurship. This program has been implemented in various cities across the country. The participants will learn sportsmanship, life skills and will compete with each other in producing viable business concepts. The winning team will receive a small cash prize for each member. If the winning team starts a business, YEO will pay up to two thousand five hundred dollars. (\$2500.00) for business licenses, LLC Formation, copyright, trademark applications, business stationary, etc. The Top awardees from each region will be entered into a regional competition.

Additionally, we have joined forces with Youth Arise, Inc., Economic Development Authority- Enterprise Zone Commission, and various EDC companies in St. Thomas to form Entrepernow. Entrepernow is a collaborative summer program that is focused on providing opportunities to hi-risk youth regarding their professional future and to equip them with the skills to accomplish this. This program also introduces participants to basic business concepts as an alternative to non-productive activities and providing information and tactics on becoming employable or entrepreneurs. I believe that if the children are the future, we must work on saving them now. It is especially important to place focus on the young men in our community. In recent years we have been losing our young men at an alarming rate, both to the jails and the graveyard and although the primary job of the OTPD is to protect our client's rights, as members of this community and as stakeholders in the criminal justice system I believe we have an obligation to change this trend.

Also of concern to the OTPD is the high rates of recidivism. Over 90% of the incarcerated population will be eventually released. By returning these individuals to a community under similar circumstances of joblessness and desperation is counterproductive to building better communities. To that end we are working on some internal restructuring that will aid the transition of individuals from incarceration back to society. The OTPD is not just about protecting our client's rights and winning cases. We are also focused on building better communities. This will also alleviate some of the burden of heavy and longstanding caseloads in the courts.

"Justice delayed is Justice denied". During fiscal year 2016 we met with the Judge Michael Dunston as well as the Office of the Attorney General to address the issue of the backlog of pending cases. As a result we have implemented some internal procedures that will realize consistent reduction and resolution of cases in shorter periods of time. I would like to thank everyone that has taken part to help realize these goals. I would also like to recognize those that have paved the way for an additional Judge of the Superior Court in the St. Croix district.

Based on current caseloads and resources our work can sometimes appear to be an insurmountable task. One that very few are willing to take on. It takes a vigor and tenacity not found in many, it is a drive and unwavering passion for mankind. One that is not for the faint of heart or the weary. It is for the true believers. Our attorneys and staff leave no question unanswered, no stone unturned. I continue to practice law before the judiciary as motivation for my staff, but more importantly as a constant reminder of the impact we have on the lives of the people we serve. I would like to recognize all OTPD staff for their hard work and dedication

The plight of the Public Defender is a peculiar one, we are loved and despised for the same reason(s). We are a lifesaving service that is rarely considered by the community until needed. We are as critical as any emergency service. It is important to reiterate we operate under a constitutional mandate. We do not have a choice or say in the amount or type of cases we have. We represent the majority of persons charged in criminal cases before the Virgin Island Judiciary. I am encouraged by the fact this body granted our fiscal year 2016 request. It is my sincere hope that you do so for fiscal years 2017.

This submittal represents the annual budget for salaries and a conservative outlook of OTPD expenses. It reflects the needs of the OTPD based on the increasing demand for indigent criminal defense services in both Magistrate Divisions of the Superior court, the felony division Superior Court and the Virgin Islands Supreme Court.

We recognize the budget constraints of the GVI, which is why training is one of my key priorities for fiscal year 2016. The best lawyers, investigators, and support staff can deal with any obstacles with training and increased professionalism. Long term this will increase efficiency and help to reduce overall cost to the government.

Accomplishments

During fiscal year 2016 the OTPD was able to accomplish and meet a number of goals. Each goal was essential to proper functioning:

- Purchase of two servers, one in each district.
- Purchase of Laptops for Attorneys. These laptops will be used by staff attorneys as their desktop/ primary work station and in the Superior Court when it fully implements its electronic device policy.
- Implemented Raises for staff.
- Amicus software and maintenance (File management software)
- Completed annual staff training

FY 2017 Budget Presentation
Hon. Clifford F. Graham
Chairman, Committee on Finance
31st Legislature of the Virgin Islands
June 22, 2016

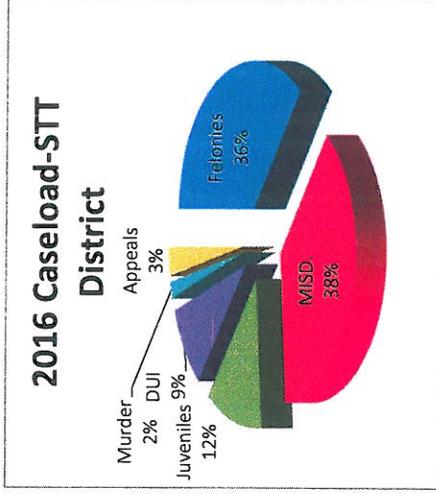
The FY 2017 proposed budget request is presented in the amount of \$4,500,000.00. In light of the dire financial state of the GVI, the OTPD is not requesting any increase in funding. We only ask that you continue to support the important work we do. I would like to thank you for the time afforded to the OTPD to present our FY 2017 budget request. We remain available to respond to your questions.

A handwritten signature in blue ink, appearing to read 'S. Joseph', is written over a horizontal line.

Samuel L. Joseph, Esq.
Chief Public Defender

St. Thomas District Total Case Load 2016

Total Cases as of May 31, 2016	427
Felonies	156
MISD.	169
Juveniles	53
DUI	41
Murder	8
Appeals	14



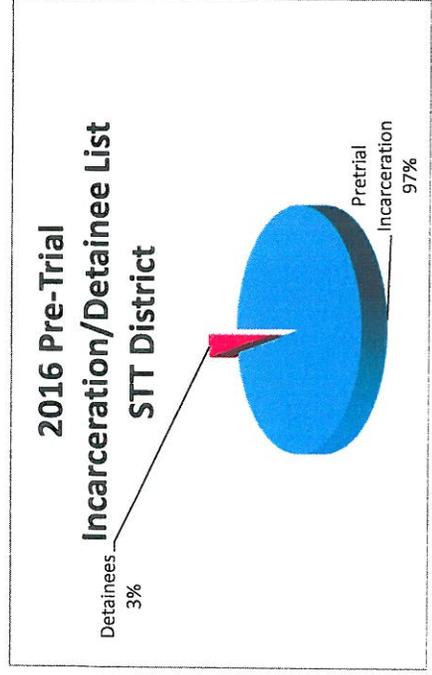
Total New Cases as of May 31, 2016

Total New Cases as of May 31, 2016	117
Felonies	54
MISD.	47
Juveniles	9
DUI	7



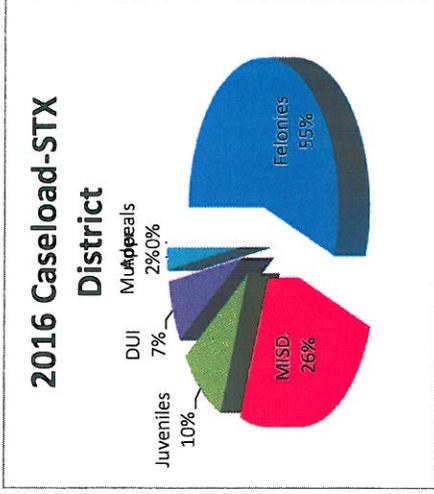
Pretrial Incarceration Detainees

Pretrial Incarceration	33
Detainees	1



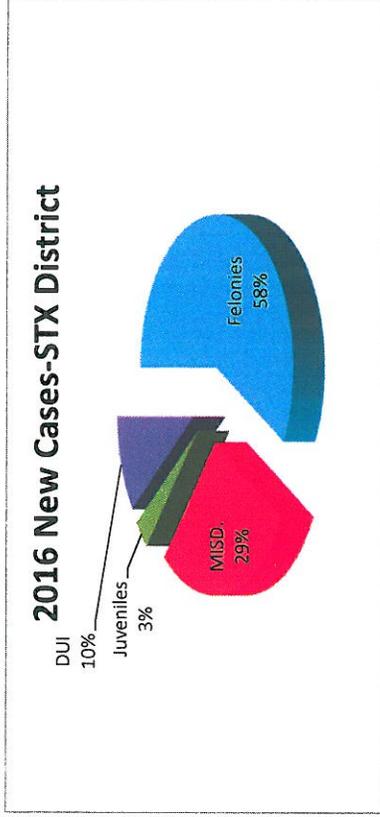
St. Croix District Total Case Load 2016

Total Cases as of May 30, 2016	398
Felonies	220
MISD.	102
Juveniles	39
DUI	27
Murder	10
Appeals	0



Total New Cases as of May 30, 2016

Total New Cases as of May 30, 2016	155
Felonies	90
MISD.	44
Juveniles	5
DUI	16



**Detainees
Pretrial Incarceration**

Detainees	32
Pretrial Incarceration	28

