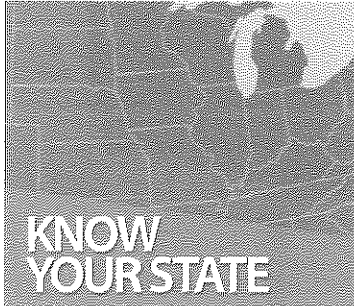


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6AC Views on News from Connecticut

- 2021 Year in Review

Posted on: February 24, 2022

Connecticut

All data is current as of 2013, unless otherwise noted.

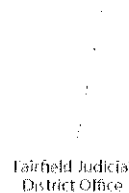
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How the right to counsel is administered and structured

State commission: yes
 Branch of government: judicial

The independence of Connecticut's public defense system is ensured through the seven-person **Public Defender Services Commission** appointed by diverse authorities: Governor, Chief Justice, Speaker of the House, Senate President Pro Tempore, and the House of Representatives Minority and Majority Leaders. The commission oversees the **Division of Public Defender Services**, a judicial branch agency that oversees both primary and conflict defender services throughout the state.

CONNECTICUT STRUCTURE
 Public Defender Services Commission
 Division of Public Defender Services



How the right to counsel is funded

Percentage of state funding: 100%
 Percentage of local funding: 0%
 Percentage of alternative funding: 0%

All primary and conflict defender services throughout the state are state-funded through the Division of Public Defender Services.

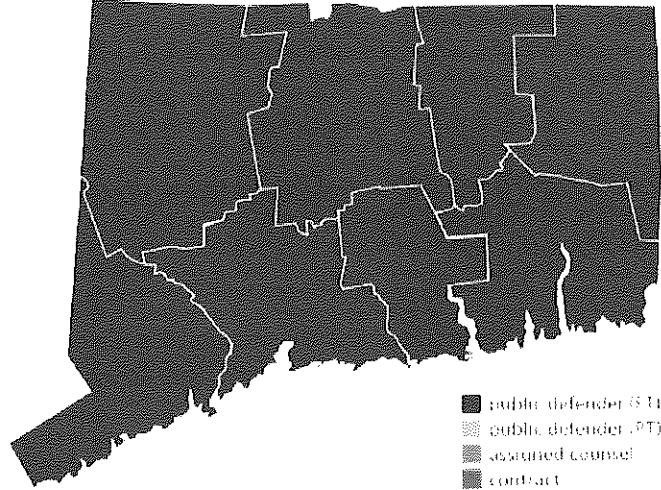
The methods used to provide public counsel

The state Division of Public Defender Services provides trial-level services throughout the state. It operates branch offices staffed with full-time attorneys

serving the state's 13 judicial districts, 13 juvenile venues, and 20 geographic area courts.

Conflict representation is handled by a panel of private attorneys, which is also administered statewide by the Division of Public Defender Services.

CONNECTICUT TRIAL-LEVEL SERVICES



Legal authority

Connecticut Constitution, **art. 1, § 8**

Connecticut General Statutes, **§§ 51-289 through 51-300** (public defender commission)

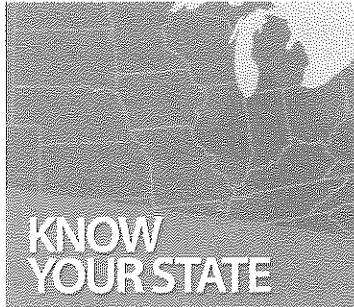
Source of data: original research conducted by Sixth Amendment Center staff.



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6AC Views on News from Massachusetts

- **2019 Year in Review**

Posted on: December 31, 2019

Massachusetts

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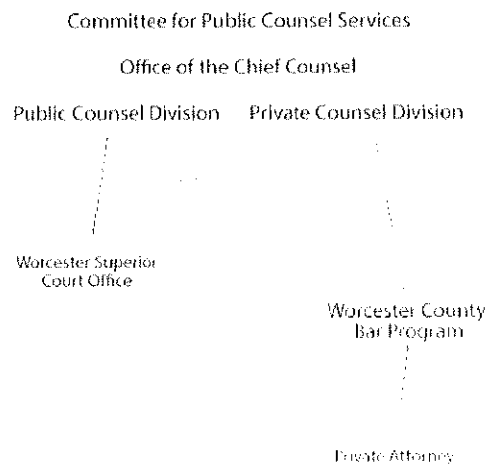
How the right to counsel is administered and structured

State commission: yes

Branch of government: judicial

The **Committee for Public Counsel Services (CPCS)** is a judicial branch agency overseeing the delivery of indigent defense services in all courts across the state of Massachusetts. CPCS is a board of 15 members, appointed by diverse authorities to ensure that no one branch of government can exert disproportionate influence over the delivery of right to counsel services: Governor (2 appointees); President of the Senate (2); Speaker of the House of Representatives (2); and, the Supreme Court Justices (9 – of whom five must be: one public defender, one private bar advocate, one criminal appellate attorney, one with public administration/finance experience, and one current or former law school dean or faculty member). The board appoints CPCS's chief counsel to run the agency from its central office in Boston.

MASSACHUSETTS STRUCTURE



How the right to counsel is funded

Percentage of state funding: 100%

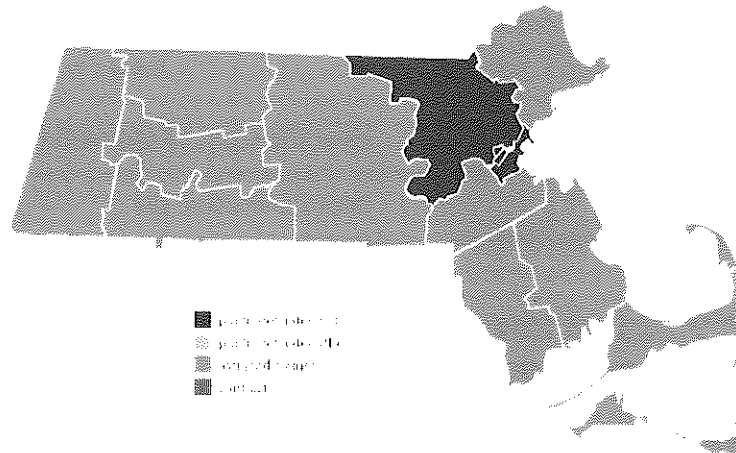
Percentage of local funding: 0%

Percentage of alternative funding: 0%

The methods used to provide public counsel

Since its founding in 1983, the Committee for Public Counsel Services (CPCS) has traditionally provided the bulk of right to counsel representation through assigned counsel, with public defender offices handling only the most serious cases in the more urban areas of the state. The delivery of direct services at the trial level is divided between two divisions, the Public Defender Division and the Private Counsel Division, each with a deputy chief counsel at its head. The deputy chief counsel for the Public Defender Division and the deputy chief counsel for the Private Counsel Division sit as equals on the agency's executive team, and ethical screens maintain confidentiality of direct services between one division and the other and between each division and the central office.

MASSACHUSETTS TRIAL-LEVEL SERVICES



While the proportion of services provided by full-time employee attorneys has increased in recent years, the method by which the panel of private bar attorneys is administered and supervised remains the same. More than 2,000 private attorneys handle direct services on behalf of CPCS statewide. (Some years it is even more; in FY2010, there were 3,026 attorneys on the roster.) Of the 2,000 attorneys participating in the statewide panel, more than 600 are certified to handle cases in Superior Court (more serious cases which carry potential sentences exceeding 2.5 years in jail). Of those certified for Superior Court work, 150 attorneys are further certified to handle murder cases. The certification requirements increase with each level of court and case type.

The minimum standards for certification are promulgated at the state level, and the initial screening of attorney applicants is handled locally. CPCS maintains annual contracts with non-profit bar advocate programs in each county. The composition of the local volunteer boards is determined according to statewide standards promulgated by CPCS. Those bar advocate programs in turn select a volunteer board to review attorney applications using CPCS' minimum statewide qualifications standards.

The county bar programs are also responsible for the actual assignment of cases to individual attorneys. Private attorneys accepting public case assignments agree to abide by CPCS' "Performance Guidelines Governing Representation of Indigents in Criminal Cases," and the direct review of ongoing attorney performance is also handled locally. Each county bar program maintains contracts with private attorneys who handle no cases, instead acting solely as supervisors for the private attorneys who represent clients.

There is no minimum level of experience required for attorneys to handle misdemeanors and concurrent felonies in District Court (the lowest level of qualification). Instead, selection is based on merit and interviews with the local volunteer board. Attorneys selected must then complete a 7-day training program (or apply for a waiver), which involves lectures each day along with small group sessions targeting skills training (client interviews, ethics, direct/cross, immigration consequences, etc.).

Attorneys seeking approval for Superior Court work are required to have handled a minimum of six criminal jury trials as lead counsel within the past five years. A state blue ribbon panel of "top notch" attorneys then reviews their applications. Finally, each attorney must complete 8 hours of mandatory CLE, with CPCS pre-approving specific sessions. Certain attorneys may also need additional training, which is determined by the attorneys and the private bar supervisors. Certification to handle murder cases requires a minimum of 10 jury trials, of which five must be felonies carrying a potential of life imprisonment, within the past five years.

Legal authority

Massachusetts Constitution, art. XII

Massachusetts General Laws, ch. 211D, §§ 1 through 16 (committee for public counsel services)

Source of data: original research conducted by Sixth Amendment Center staff.

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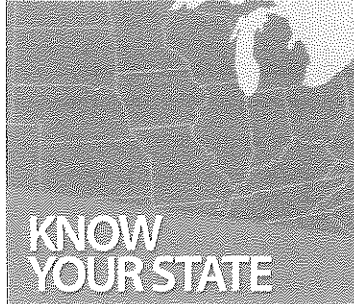
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More Information about New Hampshire

Learn about the Sixth Amendment Center's **evaluation of trial-level indigent defense representation in adult criminal and juvenile delinquency cases in New Hampshire**

6AC Views on News from New Hampshire

- **New report exposes systemic deficiencies in New Hampshire's administration and oversight of indigent defense representation**

Posted on: October 25, 2022

- **2021 Year in Review**

Posted on: February 24, 2022

New Hampshire

All data is current as of 2019, unless otherwise noted.

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The right to counsel in New Hampshire

The New Hampshire constitution guarantees that “. . . [e]very person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court.”

All offenses in New Hampshire are either a felony, a misdemeanor, or a violation. All felonies and Class A misdemeanors are punishable by loss of liberty. Class B misdemeanors and violations do not carry loss of liberty as a possible punishment. In criminal proceedings, indigent defendants charged with a felony or a class A misdemeanor are statutorily entitled to have counsel appointed to represent them, unless they waive the right to appointed counsel, from “initial appearance before the court at every stage of the proceedings until the entry of final judgment,” including on direct appeal. Although a person charged with a class B misdemeanor cannot be sentenced to jail, they can be detained without bail pending trial and state law requires counsel be appointed to represent any indigent person during that detention hearing.

Delinquency proceedings allege the commission of an offense by a child (under the age of 18): (i) that “would be a felony or misdemeanor . . . if committed by an adult;” or (ii) that is possession of up to 3/4 oz. marijuana or up to 5 grams hashish resulting in the child needing “counseling, supervision, treatment, or rehabilitation.” If adjudicated delinquent (other than for certain delineated offenses), a child can be committed to custody until the age of 18, and in certain circumstances until the age of 21. In delinquency proceedings, indigent children are statutorily entitled to have counsel appointed to represent them, unless they waive the right to appointed counsel.

Though the federal Constitution does not require it, New Hampshire statutorily guarantees appointed counsel to indigent defendants in some later stages of a criminal or delinquency case (including adult probation or parole violation proceedings, and certain post-disposition proceedings in delinquency cases without regard to whether the child is indigent) and to indigent parties in certain civil proceedings (including certain stages & types of involuntary commitment/treatment/guardianship cases, parents alleged to have neglected

and/or abused their child, parents in termination of parental rights cases, children in children in need of services cases without regard to whether the child is indigent, and pregnant minors in parental notification of abortion proceedings without regard to whether the minor is indigent).

How the right to counsel is administered and structured

The entire indigent defense system in New Hampshire is provided and overseen by the **New Hampshire Judicial Council**, except the judicial council is not responsible for rules governing financial eligibility for appointed counsel and recoupment of indigent defense expenditures. Instead, that responsibility is statutorily assigned to the state's commissioner of administrative services, through its office of cost containment, with the approval of the attorney general.

The New Hampshire Judicial Council is an executive branch state agency, statutorily created in to serve as a statewide forum for on-going consideration of issues affecting the administration of justice. In addition to administering the indigent defense system, the judicial council also makes recommendations to policymakers and others to improve justice policies, practices, and statutes. Most of the judicial council's responsibility for indigent defense is carried out through its indigent defense subcommittee and its executive director and staff.

As statutorily established, the judicial council has 23 members. Eight members automatically serve (or designate their representative) by virtue of holding some other office:

- the chief justice of the supreme court (or their designee);
- the chief justice of the superior court;
- the administrative judge or deputy administrative judge of the circuit court;
- the director of the administrative office of courts;
- the attorney general (or their designee);
- the president-elect of the New Hampshire Bar Association;
- the chair of the senate judiciary committee (or their designee from the committee); and
- the chair of the house judiciary committee (or their designee from the committee).

The other 15 members are each appointed to serve a three-year term (and continuing until their successor is appointed):

- a superior court clerk, appointed by the chief justice of the superior court;
- a circuit court clerk, appointed by the circuit court administrative judge;
- six New Hampshire attorneys who have been practicing in New Hampshire for more than five years (three appointed by the governor and council, and three appointed by the chief justice of the supreme court); and
- seven lay people (five appointed by the governor and council, and two appointed by the chief justice of the supreme court).

During the 1970s, the judicial council created its indigent defense subcommittee. Since the mid-1990s, the indigent defense subcommittee oversees all proposals, contracting, and other decision-making about indigent defense services, with the full judicial council voting only up or down on the subcommittee's recommendations. The indigent defense subcommittee is composed of four members of the judicial council, who typically have current or recent experience in criminal defense law; and judicial council members of the attorney general's office, judicial branch, and legislature do not serve on the indigent defense subcommittee.

The judicial council appoints an executive director who serves at their pleasure. In addition to the executive director, the judicial council has two staff members; the same number of staff it has had for at least 40 years.

How the right to counsel is funded

The state provides 100% of the funding for the state's entire indigent defense system, through a general fund appropriation in the state's operating budget that is appropriated to the judicial council. From that appropriation, the judicial council pays for (among other things) all representation provided to indigent defendants in criminal and juvenile delinquency cases, including both: the cost of the attorney; and "investigative, expert and other services and expenses, including process to compel the attendance of witnesses, as may be necessary for an adequate defense before the courts of this state," which the judicial council refers to anecdotally as "services other than counsel." If expenditures are anticipated to exceed the operating budget appropriation, the judicial council can and does go to the legislature's fiscal committee to request additional funding, which the governor and council can authorize to be paid "from any money in the treasury not otherwise appropriated."

The methods used to provide public counsel

As required by New Hampshire statutes, all indigent defendants who receive appointed counsel are represented by a private attorney (not an attorney employed by government). New Hampshire is the only state in the country that contracts with a single private law firm to serve as the statewide public defender office.

The judicial council uses a three-part system of private attorneys to provide the right to counsel in adult criminal and juvenile delinquency cases, in every case where the courts appoint counsel:

- a two-year contract with the non-profit New Hampshire Public Defender law firm to serve as the state's "public defender program;"
- a series of one-year contracts with individual private attorneys, for-profit private law firms, and a law school, referred to as "contract counsel," to be available for assignment (in non-homicide cases) when the New Hampshire Public Defender has a conflict or is otherwise unavailable; and
- case-by-case appointments of individual private attorneys, referred to as "assigned counsel," who accept assignments in cases when the New Hampshire Public Defender is unavailable and there is no available contract counsel.

Although the judicial council has had authority since 1988, with approval of the governor and council, to additionally contract with an "alternate public defender program" to provide indigent representation when the primary public defender program has a conflict or is otherwise unable to be appointed, it has never done so.

The **New Hampshire Public Defender (NHPD)** is a non-profit law firm that since 1986 has served as the statewide public defender program, through a series of two-year contracts with the state's judicial council. The NHPD is organized into: central administration; the Conflict Case Administrator Office (CCAO); the information technology department; an appellate division; and 10 branch offices. Unless the NHPD has a conflict, all trial-level representation of indigent defendants

in New Hampshire is provided by attorneys under subcontract to the NHPD or attorneys employed by the NHPD in one of the NHPD's 10 branch offices:

- the Concord office, located in Merrimack County;
- the Dover office, located in Strafford County;
- the Keene office, located in Cheshire County;
- the Laconia office, located in Belknap County;
- the Littleton office and the Orford office, both located in Grafton County;
- the Manchester office and the Nashua office, both located in Hillsborough County;
- the Newport office, located in Sullivan County; and
- the Stratham office, located in Rockingham County.

The NHPD does not have a branch office in Coos County, where most representation is provided through the Littleton branch office in Grafton County. The NHPD also does not have a branch office in Carroll County, where most representation is provided through the Laconia branch office in Belknap County.

Whenever the NHPD has a conflict of interest in an indigent defendant's trial-level case, the NHPD's Conflict Case Administrator Office (CCAO) distributes those cases, first to a contract counsel attorney if one is available, and secondarily to an assigned counsel attorney. Contract counsel attorneys are private attorneys who work in either a law school or private law offices that have a one-year contract with the judicial council to be available for assignments to represent indigent defendants in non-homicide cases in certain court locations – there are some court locations in the state where there may be only one contract counsel attorney available to be assigned cases of indigent defendants. Assigned counsel attorneys are private attorneys who accept assignments through the judicial council on a case-by-case basis.

Legal authority

New Hampshire Constitution, **pt. I, art. 15**

New Hampshire Revised Statutes, **§ 21-I:7-b** (commissioner of administrative services' office of cost containment), and **tit. 494** (judicial council), and **tit. 604-A** and **tit. 604-B** (provision of counsel to indigent defendants)

New Hampshire Administrative Rules, **ch. Adm 1000** (eligibility for appointed counsel and recoupment of indigent defense expenditures)

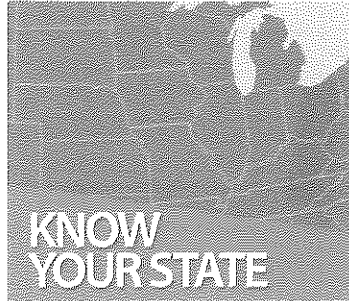
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Rhode Island

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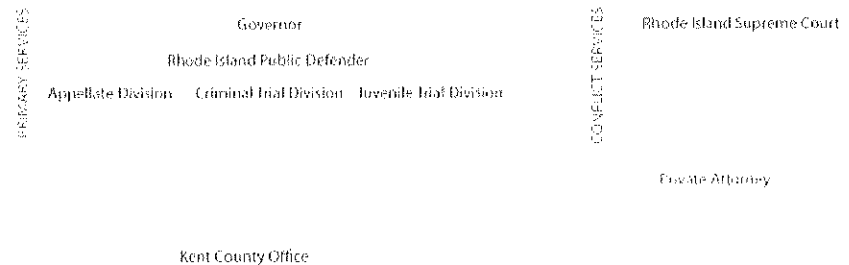
How the right to counsel is administered and structured

State commission: none
 Branch of government: executive

The governor appoints the chief public defender of the **Rhode Island Public Defender**, which is a statewide executive branch agency responsible for providing right to counsel services throughout the state.

The Rhode Island Supreme Court administers a panel of private attorneys to be appointed in conflict cases.

RHODE ISLAND STRUCTURE



How the right to counsel is funded

Percentage of state funding: 100%
 Percentage of local funding: 0%
 Percentage of alternative funding: 0%

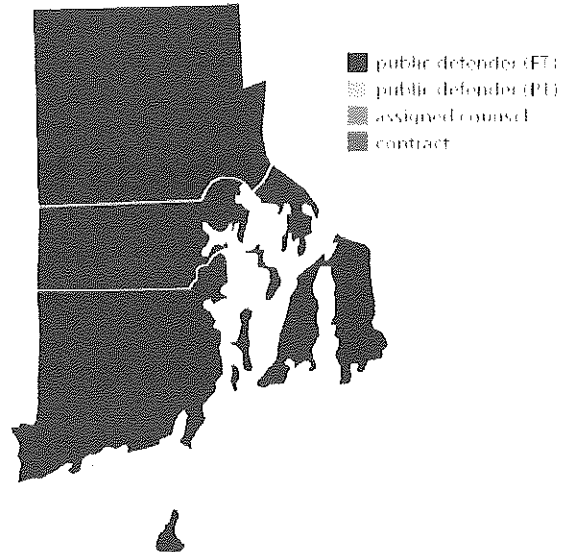
The methods used to provide public counsel

Rhode Island is home to the nation's first-ever statewide, state-funded public defender office, established in 1941. The Rhode Island Public Defender remains to this day as the state's primary system for providing right to

counsel services. Being a geographically small state, the agency has but **five satellite offices** located across the state.

Conflict representation is provided by a panel of private attorneys, who are paid hourly on a per-case basis and **administered by the Rhode Island Supreme Court**.

RHODE ISLAND TRIAL LEVEL SERVICES



Legal authority

Rhode Island Constitution, **art. I, § 10**

Rhode Island General Laws, **§§ 12-15-1 through 12-15-11**

Source of data: original research conducted by Sixth Amendment Center staff.

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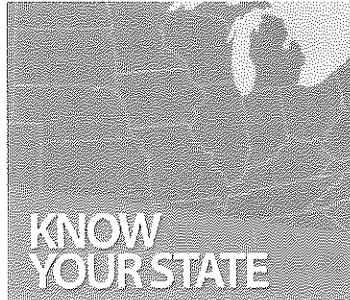
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Vermont

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How the right to counsel is administered and structured

State commission: none

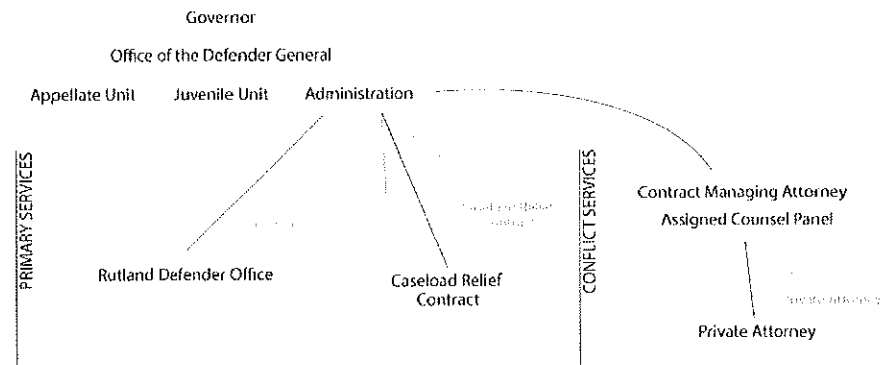
Branch of government: executive

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In 1972, Vermont created the **Office of the Defender General**. The Defender General is a direct gubernatorial appointee who oversees primary and conflict indigent defense services related to criminal matters, as well as juvenile delinquency and dependency cases. The central office in Montpelier houses an administrative office, the state appellate defender, a juvenile unit, and a prisoners' rights unit.

VERMONT STRUCTURE



How the right to counsel is funded

Percentage of state funding: 100%

Percentage of local funding: 0%

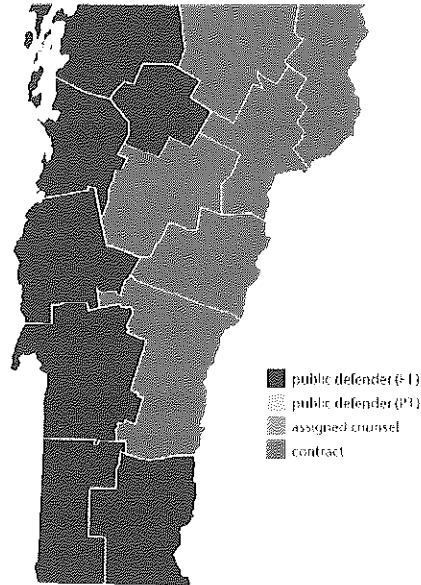
Percentage of alternative funding: 0%

The methods used to provide public counsel

The state Office of the Defender General provides trial-level services through a combination of full-time public defender offices and contracts with private

law firms. Vermont has 14 counties, eight of which (Addison, Bennington, Chittenden, Franklin & Grand Isle sharing an office, Lamoille, Rutland, and Windham) are served by **seven public defender offices** ranging in size from a single attorney up to 12 full-time attorneys. ODG **contracts with one law firm each for the six remaining counties** each to provide indigent representation, though the law firm in Addison County handles only juvenile cases.

VERMONT TRIAL-LEVEL SERVICES



When any one of these counties needs relief from caseload, the Office of the Defender General has contracts with three “caseload relief” attorneys to provide representation. For conflicts, the Office of the Defender General contracts with a private attorney to manage an assigned counsel system. The managing attorney appoints private attorneys, who are paid hourly, to conflict cases based on the type of case (felony, misdemeanor, juvenile delinquency and dependency, appeals, and post-conviction).

Legal authority

Vermont Constitution, **art. 10th**

Vermont Statutes Annotated, **tit. 13, §§ 5201 through 5277**

Source of data: original research conducted by Sixth Amendment Center staff.