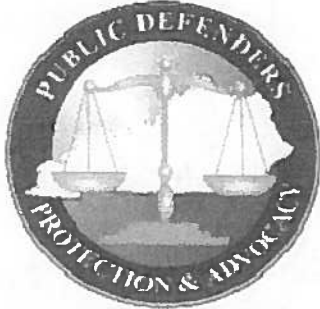


## DPA Partial Fee Collections by County - FY17 and FY18

COUNTY	FY17	FY18	% +/-	COUNTY	FY17	FY18	% +/-
ADAIR	\$ 700	\$ 1,200	71.43%	HOPKINS	\$ 63,750	\$ 49,421	-22.48%
ALLEN	\$ 1,826	\$ 1,575	-13.71%	JACKSON	\$ -	\$ -	-
ANDERSON	\$ 2,302	\$ 4,538	97.13%	JEFFERSON	\$ 2,958	\$ 2,215	-25.12%
BALLARD	\$ 9,773	\$ 6,986	-28.52%	JESSAMINE	\$ 34,395	\$ 31,590	-8.15%
BARREN	\$ 3,493	\$ 4,570	30.85%	JOHNSON	\$ 2,230	\$ 2,227	-0.13%
BATH	\$ 568	\$ 1,210	113.18%	KENTON	\$ 27,452	\$ 21,621	-21.24%
BELL	\$ 26,775	\$ 23,157	-13.51%	KNOTT	\$ 500	\$ 350	-30.00%
BOONE	\$ 37,477	\$ 49,550	32.21%	KNOX	\$ 10,000	\$ 11,050	10.50%
BOURBON	\$ 3,625	\$ 3,143	-13.28%	LARUE	\$ 10,853	\$ 11,740	8.17%
BOYD	\$ 11,804	\$ 9,287	-21.33%	LAUREL	\$ 13,634	\$ 12,912	-5.29%
BOYLE	\$ 2,774	\$ 2,001	-27.85%	LAWRENCE	\$ 1,593	\$ 1,900	19.30%
BRACKEN	\$ -	\$ 100	-	LEE	\$ 2,110	\$ 2,705	28.20%
BREATHITT	\$ 10,838	\$ 7,300	-32.64%	LESLIE	\$ -	\$ -	-
BRECKINRIDGE	\$ 925	\$ 2,878	211.14%	LETCHER	\$ 12,977	\$ 6,743	-48.04%
BULLITT	\$ 35,014	\$ 38,595	10.23%	LEWIS	\$ 8,441	\$ 8,448	0.09%
BUTLER	\$ 1,195	\$ 1,100	-7.95%	LINCOLN	\$ 2,825	\$ 1,134	-59.87%
CALDWELL	\$ 13,788	\$ 16,026	16.23%	LIVINGSTON	\$ 4,496	\$ 6,987	55.40%
CALLOWAY	\$ 5,488	\$ 5,882	7.18%	LOGAN	\$ 13,204	\$ 18,695	41.59%
CAMPBELL	\$ 25,369	\$ 19,635	-22.60%	LYON	\$ 6,857	\$ 8,264	20.52%
CARLISLE	\$ 2,677	\$ 1,617	-39.59%	MCCRACKEN	\$ 96,820	\$ 64,917	-32.95%
CARROLL	\$ 51,149	\$ 54,071	5.71%	MCCREARY	\$ 15,537	\$ 17,399	11.98%
CARTER	\$ -	\$ 125	-	MCLEAN	\$ 2,930	\$ 5,122	74.81%
CASEY	\$ 760	\$ 190	-75.00%	MADISON	\$ 1,872	\$ 2,050	9.53%
CHRISTIAN	\$ 63,022	\$ 59,589	-5.45%	MAGOFFIN	\$ -	\$ 3,340	-
CLARK	\$ 360	\$ 300	-16.67%	MARION	\$ 8,800	\$ 9,995	13.58%
CLAY	\$ -	\$ -	-	MARSHALL	\$ 4,707	\$ 2,860	-39.24%
CLINTON	\$ 2,400	\$ 1,100	-54.17%	MARTIN	\$ 795	\$ 555	-30.19%
CRITTENDEN	\$ 2,803	\$ 2,722	-2.89%	MASON	\$ 4,155	\$ 1,275	-69.31%
CUMBERLAND	\$ 597	\$ 405	-32.16%	MEADE	\$ 5,150	\$ 4,147	-19.48%
DAVISS	\$ 18,102	\$ 18,011	-0.50%	MENIFEE	\$ 400	\$ 150	-62.50%
EDMONSON	\$ 250	\$ 250	0.00%	MERCER	\$ 3,704	\$ 2,656	-28.30%
ELLIOTT	\$ -	\$ -	-	METCALFE	\$ 500	\$ 100	-80.00%
ESTILL	\$ 6,581	\$ 7,080	7.58%	MONROE	\$ 1,675	\$ 350	-79.10%
FAYETTE	\$ 8,010	\$ 7,251	-9.48%	MONTGOMERY	\$ 2,750	\$ 3,898	41.74%
FLEMING	\$ 1,750	\$ 1,055	-39.71%	MORGAN	\$ -	\$ -	-
FLOYD	\$ 4,250	\$ 2,240	-47.29%	MUHLENBURG	\$ 6,411	\$ 7,383	15.17%
FRANKLIN	\$ 2,613	\$ 2,353	-9.95%	NELSON	\$ 42,903	\$ 42,320	-1.36%
FULTON	\$ 15,779	\$ 18,119	14.83%	NICHOLAS	\$ 662	\$ 2,344	254.08%
GALLATIN	\$ 2,776	\$ 3,218	15.90%	OHIO	\$ 1,325	\$ 825	-37.74%
GARRARD	\$ 6,784	\$ 5,467	-19.41%	OLDHAM	\$ 2,425	\$ 2,725	12.37%
GRANT	\$ 58,546	\$ 59,629	1.85%	OWEN	\$ 16,553	\$ 13,402	-19.03%
GRAVES	\$ 31,862	\$ 31,805	-0.18%	OWSLEY	\$ 771	\$ 434	-43.71%
GRAYSON	\$ 1,280	\$ 2,215	73.05%	PENDLETON	\$ 2,060	\$ 1,852	-10.10%
GREEN	\$ 4,000	\$ 1,950	-51.25%	PERRY	\$ 1,887	\$ 532	-71.83%
GREENUP	\$ 11,010	\$ 8,517	-22.64%	PIKE	\$ 3,166	\$ 2,660	-15.98%
HANCOCK	\$ 650	\$ 150	-76.92%	POWELL	\$ 19,622	\$ 14,244	-27.41%
HARDIN	\$ 5,028	\$ 2,730	-45.70%	PULASKI	\$ 9,994	\$ 14,561	45.69%
HARLAN	\$ 125	\$ 225	80.00%	ROBERTSON	\$ -	\$ 850	-
HARRISON	\$ 3,583	\$ 9,187	156.43%	ROCKCASTLE	\$ 6,352	\$ 6,646	4.63%
HART	\$ 20,907	\$ 20,030	-4.20%	ROWAN	\$ 3,250	\$ 1,450	-55.38%
HENDERSON	\$ 20,816	\$ 15,407	-25.98%	RUSSELL	\$ 3,570	\$ 4,522	26.67%
HENRY	\$ 1,175	\$ 825	-29.79%	SCOTT	\$ 8,482	\$ 7,648	-9.83%
HICKMAN	\$ 4,595	\$ 5,065	10.23%	SHELBY	\$ 3,920	\$ 1,700	-56.63%

**DPA Partial Fee Collections by County - FY17 and FY18**

COUNTY	FY17	FY18	% +/-
SIMPSON	\$ 2,986	\$ 3,384	13.33%
SPENCER	\$ 850	\$ 850	0.00%
TAYLOR	\$ 9,688	\$ 11,231	15.93%
TODD	\$ 4,835	\$ 6,662	37.79%
TRIGG	\$ 11,961	\$ 13,615	13.83%
TRIMBLE	\$ 1,095	\$ 500	-54.34%
UNION	\$ 1,965	\$ 1,705	-13.24%
WARREN	\$ 18,714	\$ 13,599	-27.33%
WASHINGTON	\$ 1,783	\$ 3,350	87.89%
WAYNE	\$ 8,447	\$ 10,645	26.03%
WEBSTER	\$ 2,934	\$ 3,176	8.23%
WHITLEY	\$ 38,478	\$ 35,712	-7.19%
WOLFE	\$ 8,285	\$ 5,787	-30.16%
<b>TOTALS</b>	<b>\$ 1,165,795</b>	<b>\$ 1,097,281</b>	<b>-5.88%</b>



COMMONWEALTH OF KENTUCKY

# DEPARTMENT OF PUBLIC ADVOCACY

200 FAIR OAKS LANE, SUITE 500 • FRANKFORT, KENTUCKY 40601 • 502-564-8006 • FAX: 502-564-7890

January 8, 2016

Judge Thomas M. Funk  
District Judge  
Grant Co. Judicial Center  
224 S. Main  
Williamstown, KY 41097

RE: Report on revenue supporting the statewide public defender program, Fiscal Year 2015 (July 1, 2014- June 30, 2015)

Dear Judge Funk,

I write to provide the yearly report on *DPA Revenue by County for FY 2015*, and to ask for your assistance in appropriate collection of revenue for the Department of Public Advocacy (DPA).

Even as I make this request for you to assist us in the collection of fees, I know that you may question why public defender trial attorneys regularly oppose imposition and collection of costs and fees and whether my request in this letter is a change in our agency's approach.

**DPA wears two hats; administrative vs client representative.** As you know, my role as Public Advocate, the Commissioner of a state agency, is different from the role of a public defender representing an individual client. I am required to administer the agency. Under the Kentucky Supreme Court's Kentucky Rules of Professional Conduct (KRPC), a public defender is required to represent the client.

This letter is not an attempt to override our attorneys' ethical duty to advocate for relief for their clients based on the individual facts of each case. Rather, I ask only that you follow the holdings of the Kentucky Supreme Court and Court of Appeals that include *Wiley v. Commonwealth*, 348 S.W.3d 570 (KY 2011), *Maynes v. Commonwealth*, 361 S.W.3d 922 (KY 2012), *Smith v. Commonwealth*, 361 S.W.3d 908 (KY 2012); and *Butler v. Commonwealth*, 367 S.W.3d 609 (Ky. App. 2012).

**DPA's Fiscal Situation.** Nearly 6.3% or \$3.2 million of DPA's FY 15 funding is budgeted to come from revenue collected by the courts. DPA receives funding from three sources of revenue: 20% of the DUI service fee, 3.5% of court costs capped by statute at \$1.75 million, and partial fees from clients represented by DPA attorneys. All of these funds are collected through the clerks' offices by orders and enforcement of the courts.

#### **\$44 million of revenue since 2005, *DPA Revenue Statewide, 2005 - 2015***

Substantial funds from criminal defendants have been collected by the courts since 2005 in court costs, DUI fees and court-ordered partial fees paid by clients. The portion that DPA has received from these three revenue sources and in particular from clients since 2005 is:

FY05 – FY15 Total Revenue to DPA	\$44,077,713
FY05 – FY15 Total Partial Fees to DPA	\$14,524,813

**Revenue for FY15 by county, DPA Revenue by County for FY 2015** Attached is a report that has the DPA portion of the three revenue funds and total revenue by county for the last fiscal year, July 1, 2014 – June 30, 2015.

**Decline in revenue, especially court costs.** As you know, there has been a consistent decline in revenue over the course of many years. This is explained by several factors.

The most telling reason is the reduced number of cases in the criminal justice system. According to the Administrative Office of the Courts, since calendar year 2007 the total number of adult criminal cases filed yearly in district and circuit court has decreased from 254,285 to 212,245, a decline of 42,040. Since 2009, DUI cases have decreased from 35,435 to 27,514, a decline of 7,921.

With 42,040 fewer cases in the criminal justice system between CY 07 and CY 14 and with the dramatic economic decline, a decrease in revenue is not unexpected.

An additional explanation for the decline in court cost fees is the consequence of the County Attorney Traffic Diversion programs which are diverting cases out of the court system. There were 27,833 cases diverted in FY 14 in the 73 counties with these programs. These diversions result in no court cost fee applied to the case. However, this has been partially mitigated by the 2015 change in the statute, KRS 186.574(6)(e), to provide some funds from the County Attorney Traffic Diversion programs to court cost recipients.

**Appropriate assessment under the law.** Because of the way the legislature structures DPA's budget, the revenue collected by the court system is essential to DPA's ability to provide the required services to clients and the courts. I ask for your help in assessing and collecting these fees where appropriate under the law, including the provisions of KRS 31.211, and upon a hearing and appointment of counsel for an indigent. Court costs are appropriately assessed against the many in the court system who are not wholly indigent.

**Thank You.** Without your valuable assistance, Kentucky's statewide public defender program would not be able to perform its duty to provide effective representation to the indigent accused, and help the courts to conduct their important business.

We welcome feedback on our provision of services to clients and the courts. Please contact our directing attorney or me if you have any questions regarding revenue issues or our professional services.

I ask for your continued support.

Sincerely,



Edward C. Monahan  
Public Advocate

ECM:jl

Enclosure

cc: John D. Minton, Jr., Chief Justice, Kentucky Supreme Court  
Glenn E. Acree, Chief Judge, Kentucky Court of Appeals  
John Tilley, Secretary, Kentucky Justice and Public Safety Cabinet  
Laurie K. Dudgeon, Director, Kentucky Administrative Office of the Courts  
Jerry J. Cox, Chair, Kentucky Public Advocacy Commission  
DPA Directing Attorneys