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## **Sunset Review Committee** **May 10, 2016**

Good afternoon, Mr. Chairman and Members of the Committee. My name is Kari Bloom, and I am the legislative liaison for the Office of the Ohio Public Defender. I am here today on behalf of the Ohio Public Defender Commission.

The Sixth Amendment to the United States Constitution guarantees that “In all criminal prosecutions, the accused shall ... have the Assistance of Counsel for his defence.” Similarly, Article I of the Ohio Constitution guarantees that defendants facing imprisonment “shall be allowed to appear and defend in person and with counsel.”

In 1963, the U.S. Supreme Court issued its landmark decision in *Gideon v. Wainwright*, ruling that the Constitution requires states to provide defense attorneys to defendants facing felony charges who cannot afford to hire an attorney. The right to counsel at state expense was later expanded to people facing any deprivation of liberty, including misdemeanor charges (*Argersinger v. Hamlin*, 1972), and to juveniles in delinquency cases (*In re Gault*, 1967).

In 1976, the Ohio General Assembly created the Ohio Public Defender Commission in response to this series of decisions from the U.S. Supreme Court. The Commission is statutorily required “to provide, supervise, and coordinate legal representation at state expense for indigent and other persons.”

Each Ohio county may choose from among five statutorily allowed options for providing indigent defense at the trial level: county public defender, joint county public defender, assigned counsel, contract with a not-for-profit organization, or contract with the state public defender. Counties provide trial-level indigent defense services and submit records of their expenditures to my office, which reimburses counties for up to half of their expenses. Funding levels for reimbursement provided in HB 64 have allowed us to reimburse counties for 50% of their defense expenses in death penalty cases and 48% for all other cases during this fiscal year. This is the highest level of state reimbursement since fiscal year 2001.

Funding for the operations of the state public defender office, on the other hand, has been consistently cut and flat-funded for a decade and a half, adversely impacting the agency’s ability to fulfill its statutory obligations. In fiscal year 2001, the agency’s central office had 138 staff; today we have 99.

Properly funded defense services and appropriate training and oversight are especially important now, as Ohio faces an all-time record number of incarcerated Ohioans at the same time it is attempting to reduce its prison population. Under-resourced and poorly trained defense attorneys lead to wrongful convictions, improper sentences, missed jail-time credit, and other constitutional and legal errors that unnecessarily increase our prison population and the costs for other parts of the criminal justice system.

The State of Ohio is legally obligated under the U.S. Constitution, federal law, the Ohio Constitution, and Ohio statute to provide defense counsel to those who cannot afford to hire an attorney. The Ohio Public Defender Commission and the Office of the Ohio Public Defender were created to meet those obligations.

Mr. Chairman and Members of the Sunset Review Committee, I ask that you recommend the continuation of the Ohio Public Defender Commission's enabling statutes. Given that the work done by the Commission and the agency is mandated by the U.S. and Ohio Constitutions and statutes, I also ask you to consider recommending that the Commission be added to the list of entities in Ohio Revised Code section 101.82 that are not subject to periodic consideration for abolishment. Finally, I ask you to support future efforts to provide sufficient state resources to properly fund the provision and oversight of the right to counsel in Ohio.