

CAPITAL DEFENDER OFFICE

MISSION

Established simultaneously with the 1995 restoration of the death penalty, the Capital Defender Office is authorized to defend any indigent person charged with a capital crime. Under the restored death penalty legislation, persons convicted of first-degree murder could be sentenced to death by lethal injection, life imprisonment without parole, or 20 to 25 years in prison. To be sentenced to death, a person must be found guilty of first-degree murder, which includes the killing of a police officer, killing for hire or certain other heinous murders.

The Capital Defender Office ensures that offenders who face the death penalty receive the full legal protection to which they are entitled under law. The Office is required to provide legal, investigative and expert services to indigent defendants charged with crimes eligible for the death penalty. Since not all defendants in capital cases will be represented by the Office, the law also requires the Office to set minimum standards for lawyers appointed to defend such cases, provide training and assistance to these attorneys and provide judges with lists of qualified lawyers.

On June 24, 2004 the New York Court of Appeals determined that the deadlock provision of the death penalty statute was unconstitutional. The Court also directed that first degree murder charges could not proceed as capital cases absent the statute being repaired by the Legislature. There is only one remaining death penalty case pending review by the Court of Appeals. If the Legislature fails to enact a statute that addresses the issues raised by the Court, there will no longer be any reason for the continued existence of the Capital Defender Office.

ORGANIZATION AND STAFFING

A three-member Board oversees the work of the Office. The Board members are appointed, one each by the Temporary President of the Senate, the Speaker of the Assembly and the Chief Judge of the Court of Appeals. The Office will have a staff of 7 located in offices in New York City and Albany.

FISCAL BACKGROUND AND BUDGET HIGHLIGHTS

The Executive Budget recommendation provides a total of \$6.1 million in State tax dollars to fund the cost of providing death penalty defense in 2006-07. These funds will support the Office's staff attorneys, investigators and experts as well as legal aid societies and private attorneys appointed to represent indigent defendants in capital cases. A portion of these funds will be available to support diminishing office operations, in the absence of legislative action to address the issues raised by the Court of Appeals in its June 2004 decision regarding the State's death penalty. The full amount of this funding will only become available upon passage of the necessary statute.

PROGRAM HIGHLIGHTS

Since 1995, there have been a total of 875 capital-eligible cases and 58 notices of intent to seek the death penalty filed by the State's district attorneys. Due in part to progress made in reducing violent crime, the number of capital-eligible cases has declined from 138 in 1996 to 18 in 2005.

CAPITAL DEFENDER

ALL FUNDS APPROPRIATIONS (dollars)

Category	Available 2005-06	Appropriations Recommended 2006-07	Change	Reappropriations Recommended 2006-07
State Operations	12,277,000	6,100,000	(6,177,000)	0
Aid To Localities	0	0	0	0
Capital Projects	0	0	0	0
Total	12,277,000	6,100,000	(6,177,000)	0

ALL FUND TYPES PROJECTED LEVELS OF EMPLOYMENT BY PROGRAM FILLED ANNUAL SALARIED POSITIONS

Full-Time Equivalent Positions (FTE)

Program	2005-06 Estimated FTEs 03/31/06	2006-07 Estimated FTEs 03/31/07	FTE Change
Capital Defense			
General Fund	7	7	0
Total	7	7	0

STATE OPERATIONS ALL FUNDS FINANCIAL REQUIREMENTS BY FUND TYPE APPROPRIATIONS (dollars)

Fund Type	Available 2005-06	Recommended 2006-07	Change
General Fund	12,277,000	6,100,000	(6,177,000)
Total	12,277,000	6,100,000	(6,177,000)

STATE OPERATIONS ALL FUNDS FINANCIAL REQUIREMENTS BY PROGRAM APPROPRIATIONS (dollars)

Program	Available 2005-06	Recommended 2006-07	Change
Capital Defense			
General Fund	12,277,000	6,100,000	(6,177,000)
Total	12,277,000	6,100,000	(6,177,000)

STATE OPERATIONS - GENERAL FUND SUMMARY OF PERSONAL SERVICE APPROPRIATIONS AND CHANGES 2006-07 RECOMMENDED (dollars)

Program	Total		Personal Service Regular (Annual Salaried)	
	Amount	Change	Amount	Change
Capital Defense	0	(4,648,000)	0	(4,467,000)
Total	0	(4,648,000)	0	(4,467,000)

Program	Temporary Service (Nonannual Salaried)	
	Amount	Change
Capital Defense	0	(181,000)
Total	0	(181,000)

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**STATE OPERATIONS - GENERAL FUND
SUMMARY OF NONPERSONAL SERVICE AND MAINTENANCE UNDISTRIBUTED
APPROPRIATIONS AND CHANGES
2006-07 RECOMMENDED
(dollars)**

Program	Total		Supplies and Materials	
	Amount	Change	Amount	Change
Capital Defense	6,100,000	(1,529,000)	0	(187,000)
Total	6,100,000	(1,529,000)	0	(187,000)

Program	Travel		Contractual Services	
	Amount	Change	Amount	Change
Capital Defense	0	(314,000)	0	(2,040,000)
Total	0	(314,000)	0	(2,040,000)

Program	Equipment		Maintenance Undistributed	
	Amount	Change	Amount	Change
Capital Defense	0	(159,000)	6,100,000	1,171,000
Total	0	(159,000)	6,100,000	1,171,000