

# **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 1995 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.

On June 24, 2004 the New York Court of Appeals determined that certain provisions of the death penalty statute were unconstitutional. The Court also directed that first degree murder charges could not proceed as capital cases absent the statute being repaired by the Legislature. As of the beginning of the 2007 session, the Legislature has not enacted a statute addressing the issues raised by the Court.

Nevertheless, the Capital Defender Office remains ready to act should the death penalty be restored, and will ensure that offenders who face the death penalty receive the full legal protection to which they are entitled under law.

## **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 \$1.3 million in State tax dollars to fund the cost of providing death penalty defense in 2007-08. 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.

## **PROGRAM HIGHLIGHTS**

Since 1995, there have been a total of 877 capital-eligible cases and 58 notices of intent to seek the death penalty filed by the State's district attorneys. No notices were filed during 2005 and 2006. There is only one remaining death penalty case pending review by the Court of Appeals.

### **ALL FUNDS APPROPRIATIONS (dollars)**

<b>Category</b>	<b>Available 2006-07</b>	<b>Appropriations Recommended 2007-08</b>	<b>Change</b>	<b>Reappropriations Recommended 2007-08</b>
State Operations	6,600,000	1,300,000	(5,300,000)	0
Aid To Localities	0	0	0	0
Capital Projects	0	0	0	0
Total	6,600,000	1,300,000	(5,300,000)	0

# CAPITAL DEFENDER

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

**Full-Time Equivalent Positions (FTE)**

<b>Program</b>	<b>2006-07 Estimated FTEs 03/31/07</b>	<b>2007-08 Estimated FTEs 03/31/08</b>	<b>FTE Change</b>
Capital Defense			
General Fund	7	7	0
Total	<u>7</u>	<u>7</u>	<u>0</u>

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

<b>Fund Type</b>	<b>Available 2006-07</b>	<b>Recommended 2007-08</b>	<b>Change</b>
General Fund	6,600,000	1,300,000	(5,300,000)
Total	<u>6,600,000</u>	<u>1,300,000</u>	<u>(5,300,000)</u>

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

<b>Program</b>	<b>Available 2006-07</b>	<b>Recommended 2007-08</b>	<b>Change</b>
Capital Defense			
General Fund	6,600,000	1,300,000	(5,300,000)
Total	<u>6,600,000</u>	<u>1,300,000</u>	<u>(5,300,000)</u>

**STATE OPERATIONS - GENERAL FUND  
SUMMARY OF PERSONAL SERVICE APPROPRIATIONS AND CHANGES  
2007-08 RECOMMENDED  
(dollars)**

<b>Program</b>	<b>Total</b>		<b>Personal Service Regular (Annual Salaried)</b>	
	<b>Amount</b>	<b>Change</b>	<b>Amount</b>	<b>Change</b>
Capital Defense	800,000	0	800,000	0
Total	<u>800,000</u>	<u>0</u>	<u>800,000</u>	<u>0</u>

**STATE OPERATIONS - GENERAL FUND  
SUMMARY OF NONPERSONAL SERVICE AND MAINTENANCE UNDISTRIBUTED  
APPROPRIATIONS AND CHANGES  
2007-08 RECOMMENDED  
(dollars)**

<b>Program</b>	<b>Total</b>		<b>Supplies and Materials</b>	
	<b>Amount</b>	<b>Change</b>	<b>Amount</b>	<b>Change</b>
Capital Defense	500,000	(5,300,000)	13,000	0
Total	<u>500,000</u>	<u>(5,300,000)</u>	<u>13,000</u>	<u>0</u>

<b>Program</b>	<b>Travel</b>		<b>Contractual Services</b>	
	<b>Amount</b>	<b>Change</b>	<b>Amount</b>	<b>Change</b>
Capital Defense	8,000	0	474,000	0
Total	<u>8,000</u>	<u>0</u>	<u>474,000</u>	<u>0</u>

<b>Program</b>	<b>Equipment</b>		<b>Maintenance Undistributed</b>	
	<b>Amount</b>	<b>Change</b>	<b>Amount</b>	<b>Change</b>
Capital Defense	5,000	0	0	(5,300,000)
Total	<u>5,000</u>	<u>0</u>	<u>0</u>	<u>(5,300,000)</u>