

# St. Louis County Public Defender Caseload

**PRIVATE ATTORNEY APPOINTMENT PROCESS**

# Why Should We Care?

## Ethics and Public Safety

- Every person charged with a crime has a constitutional right to “effective assistance of counsel” under the Sixth Amendment. See Gideon.
- An attorney has an ethical obligation to provide “effective assistance of counsel.”
- A judge has an ethical obligation to ensure that each defendant is provided “effective assistance of counsel”
- Prosecution of criminal acts **requires** that counsel be appointed for those who can’t afford it.

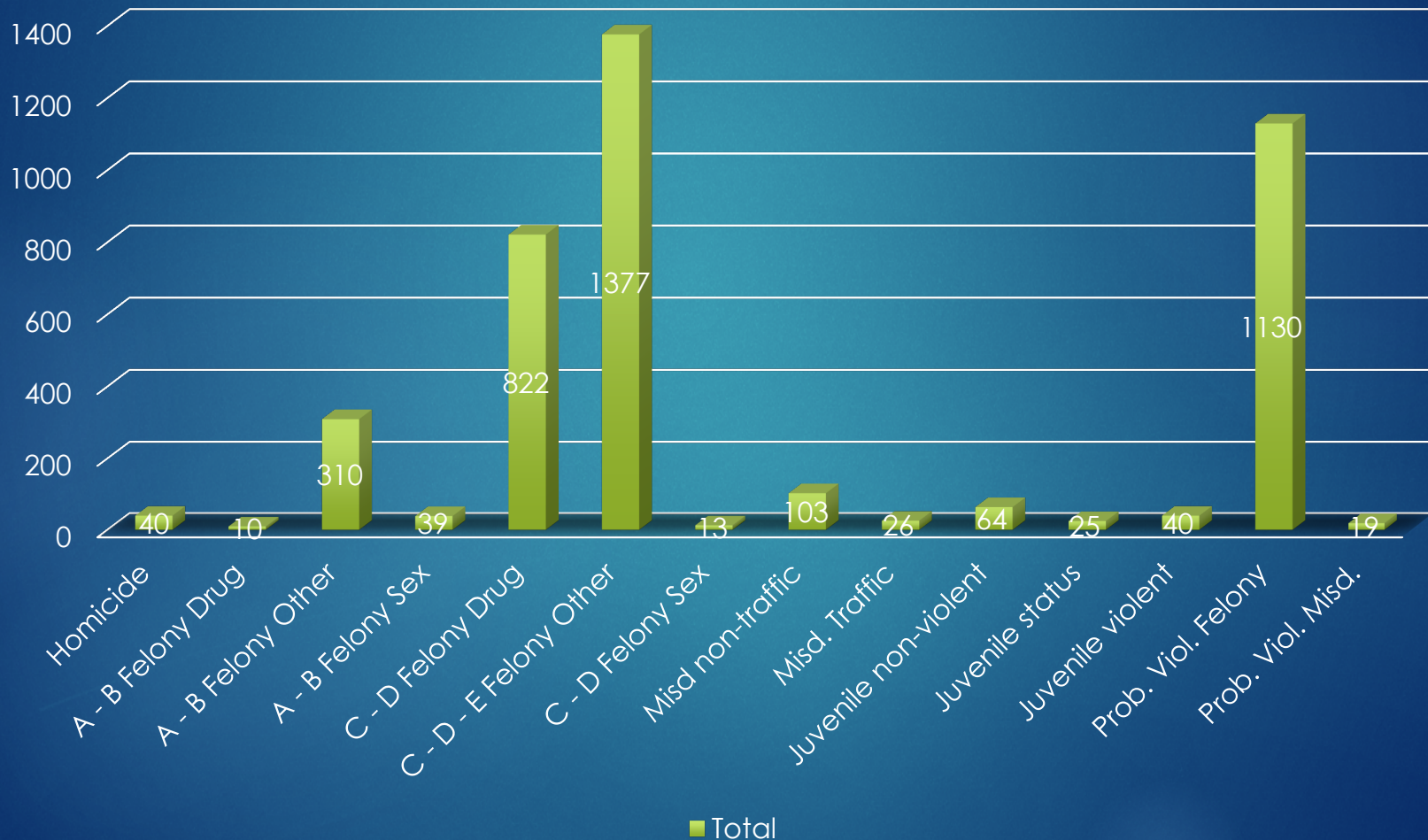
# Meet Clarence Gideon

*Gideon v. Wainwright* --  
Right to Counsel

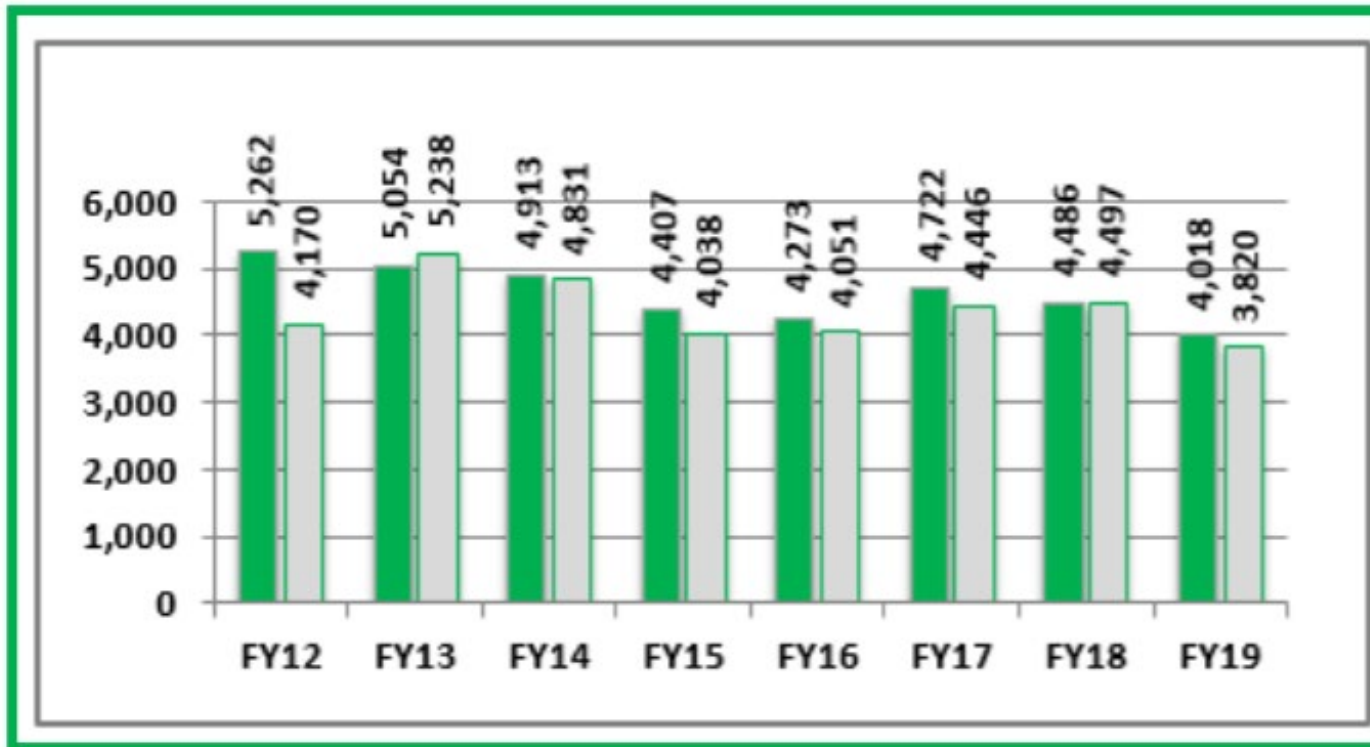


# FY 2019 by Case type – 4,018 cases opened

## Total



# St. Louis County PD Caseload 2012 - 2019



# St. Louis County – Biggest Caseload FY 2019

County	Cases Opened
<b>St. Louis County</b>	<b>4018</b>
Springfield	3775
Kansas City	2999

# MSPD Caseload Analysis – “The Missouri Project”

- 2014: Study by the ABA and Rubin-Brown (an accounting firm)
- Rubin-Brown applies Delphi workload measurement methods to quantify “appropriate caseloads” by hours spent.
- This is now a national standard of measuring attorney workload.

# Caseload Compared 2019-2020

2019

- ▶ **18** attorneys and 2 managing attorneys
- ▶ Total pending cases: **2,018**
- ▶ Ave. caseload per attorney: **112**

2020

- ▶ **21** attorneys and 2 managing attorneys
- ▶ Total pending cases: **2,638**
- ▶ Ave. caseload per attorney: **120**

**Ave. percentage IN EXCESS** of Rubin-Brown recommended caseload per attorney in 2020:

**147% over** recommended caseload



# Ethics – in re Karl Hinkbein

- In September, 2017, Karl Hinkbein was disciplined and placed on probation by the Missouri Supreme Court for violating ethics rules.
- The court found that he failed to diligently represent and keep his clients informed of the status of their post-conviction relief proceedings.
- He had chronic health problems requiring several hospitalizations.
- He believed that he could not refuse his case assignments.
- His post-conviction relief/appellate caseload was 110 cases.



# Section 600.064 – Private Counsel Appointment

- ▶ Passed in 2013.
- ▶ A circuit court judge can appoint private counsel.
- ▶ Court must ensure that defendant is “indigent.”
- ▶ Provide appointed counsel with a hearing if requested.
- ▶ Litigation expenses paid by MSPD.
- ▶ No attorney compensation provision.

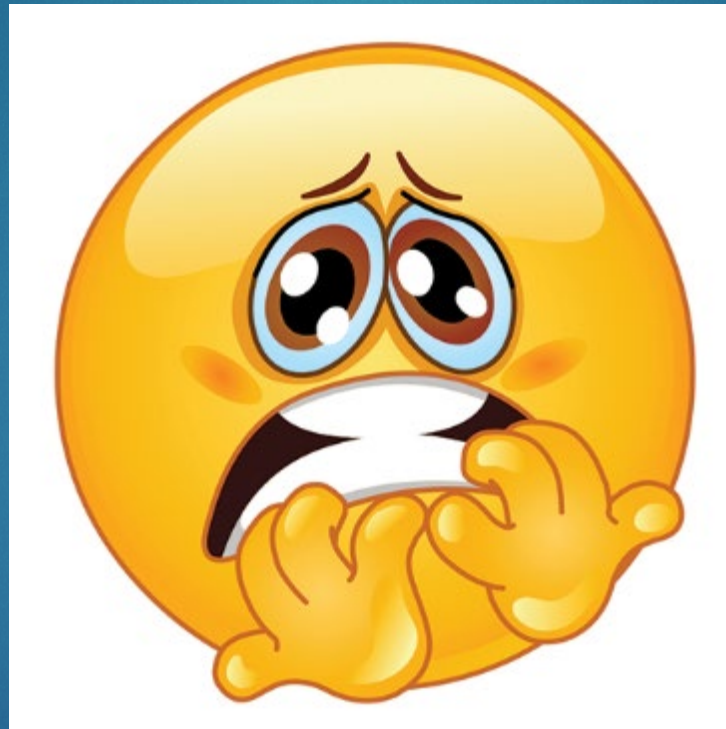
# Local Court Rule 21.6

- Passed by Court en banc in May, 2019.
- Cases where defendant on bond and likelihood of future confinement is very low.
- Certain attorney categories excluded (21.6(5)).
- Meant to include all attorneys in St. Louis County who are in good standing and active status.
- Substitution with court approval permitted.
- Petition for hardship within 10 days.
- Appointments, excuses and substitutions made by Presiding Judge only.
- No compensation.
- No provisions for malpractice insurance.

# Jan. 1, 2020: MSPD Waitlist Authorized

- Defendants have new charges only (no old cases).
- They are on bond.
- They have low-level felony charges without other complications [language, immigration, mental illness, injured victims]
- They have probation plea offers.
- They have a low risk of any kind of incarceration sanction.
- There were about 150 defendants on the list.

March, 2020  
Attorney Appointments Were  
Set To Begin



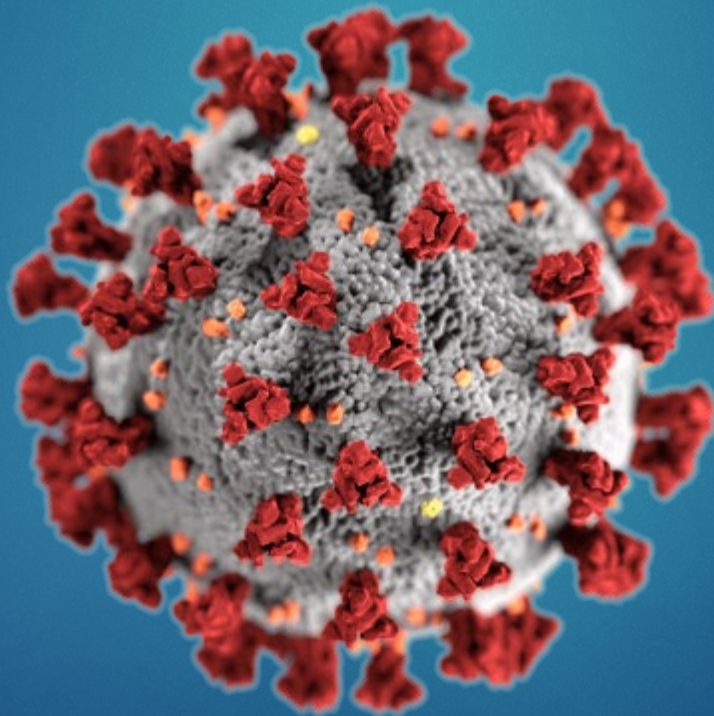
# How Will This Work?

- Randomized current database from MO Bar.
- Select some cases from the waitlist (pre-screened)
- Appoint the attorney
- Notice is sent electronically.
- Notice is mailed to appointed attorney with
  - Instructions (“protocol”) and
  - Client case information sheet from PD intake.
- Video training is available for viewing.
- Form motions (discovery, suppression) available for download.
- Client meeting rooms available in courthouse.

# Other Helpful Facts

- Work through attorney list before coming back to you.
- You can arrange for a substitute, which must be approved by the Presiding Judge.
- Litigation expenses paid if approved in advance.
- If the client is charged with more cases and the recommendation changes to include confinement, MSPD will take the case back.
- Video training resources (CLE credit pending)
- Downloadable motions.
- MSPD will take your questions.

**March, 2020**  
**Everything Changed...**  
**And Nothing Changed.**





# What has changed?

- ▶ Court is now virtual:
  - ▶ Zoom
  - ▶ Webex

Since March, we have held court virtually:

**68,770** total participants have “come to court” via Zoom.

Adult Abuse video participants: **3,801**

Associate Civil participants: **10,200**

Wedding participants/guests: **251**

# Access to Justice

Video stations to participate in court proceedings for people who don't have smartphones or internet:



# What has changed?

- ▶ Waitlist suspended –

MSPD has absorbed those cases = so caseload has gone up.

# What has NOT changed:

- ▶ Crime.
- ▶ Poverty.
- ▶ Adult Abuse.
- ▶ Addiction.
- ▶ Housing Instability.
- ▶ Economic Hardship.

# St. Louis County Crime as of 09/21/2020

St. Louis County Police Department Part 1 Crimes									
Crime Classification	8/16- 8/22	8/23- 8/29	8/30- 9/5	9/6- 9/12	9/13- 9/19	Moving Average	2019 YTD	2020 YTD	YTD % Change
Homicide, Murder and Non-negligent Manslaughter	2				2	0.8	27	27	
Rape, Sodomy Sex Offenses	1	6	4	3	2	3.2	130	144	10.8%
Robbery, Firearm	7	4	1	5	2	3.8	164	129	-21.3%
Robbery, Strong-arm	1	2	2	1	3	1.8	66	78	18.2%
Robbery, Knife/Cutting Instrument and Other Dangerous Weapon				2	1	0.6	22	14	-36.4%
Assault, Aggravated, Firearm	18	24	25	26	35	25.6	456	630	38.2%
Assault, Aggravated, Knife/Cutting Instrument	7	2	4		1	2.8	105	116	10.5%
Assault, Aggravated, Other Dangerous Instrument	20	15	3	12	12	12.4	258	310	20.2%
Assault, Aggravated, Hands/Feet/Fists		1			3	0.8	81	70	-13.6%
Negligent Homicide							3	3	
Human Trafficking							3		-100.0%
<b>Crimes Against Persons Total</b>	<b>56</b>	<b>54</b>	<b>39</b>	<b>49</b>	<b>61</b>	<b>51.8</b>	<b>1315</b>	<b>1521</b>	<b>15.7%</b>
Burglary	21	28	20	18	26	22.6	965	729	-24.5%
Larceny	102	101	112	105	96	103.2	3898	3505	-10.1%
Motor Vehicle Theft	31	30	50	19	32	32.4	919	1116	21.4%
Arson	2	1		1		0.8	40	53	32.5%
<b>Crimes Against Property Total</b>	<b>156</b>	<b>160</b>	<b>182</b>	<b>143</b>	<b>154</b>	<b>159</b>	<b>5822</b>	<b>5403</b>	<b>-7.2%</b>
<b>Total</b>	<b>212</b>	<b>214</b>	<b>221</b>	<b>192</b>	<b>215</b>	<b>210.8</b>	<b>7137</b>	<b>6924</b>	<b>-3.0%</b>

\*Statistics are based on a CARE search by approved date

# Our Oath



That I will at all times conduct myself in accordance with the Rules of Professional Conduct; and,

That I will practice law to the best of my knowledge and ability and with consideration for the defenseless and oppressed.

So help me God.

# How Can I Help?

To volunteer for cases in St. Louis County:

Contact:

**Stephen Reynolds**, District Defender:

**Patrick Brayer**, First Assistant:

100 S. Central, 2nd Floor

Clayton, MO 63105

**314-615-4778**

[Stephen.Reynolds@mspd.mo.gov](mailto:Stephen.Reynolds@mspd.mo.gov)

[Patrick.Brayer@mspd.mo.gov](mailto:Patrick.Brayer@mspd.mo.gov)

# How Can I Help?

For cases in the City/County/Jackson:

## **Missouri Coalition for the Right to Counsel**

For questions, please contact Richard Scherrer at:

[richard.scherrer@mspd.mo.gov](mailto:richard.scherrer@mspd.mo.gov) or

(314) 340-7625, ext. 237.