

IN THE GENERAL SESSIONS COURT FOR KNOX COUNTY, TENNESSEE
DIVISIONS I, II, III, IV & V

IN RE: PETITION OF THE KNOX COUNTY PUBLIC DEFENDER-- SWORN
 PETITION TO SUSPEND APPOINTMENT OF THE DISTRICT PUBLIC
 DEFENDER TO DEFENDANTS IN THE KNOX COUNTY GENERAL
 SESSIONS COURT, MISDEMEANOR DIVISION.

SUPPLEMENTAL AFFIDAVIT OF ISSAC MERKLE

STATE OF TENNESSEE)
)
COUNTY OF KNOX)

Comes Issac Merkle, after first being duly sworn as required by law, and does hereby make oath and affirm that the following is a true and correct representation of fact:

1. Using the same methodology detailed in my original affidavit, I have generated case statistics for the first nine months of FY2008.

2. In order to facilitate comparisons between FY2008 and previous years, it was necessary to estimate the work our office will do over the course of the final three months of FY2008.

3. A simplistic approach to this would be to assume that having completed $\frac{3}{4}$ of the fiscal year, the statistics generated represent 75% of the full year's activity. Subjectively, some months seem markedly busier than others, however; my concern was that I might over- or underestimate the full year's statistical counts by not taking into account seasonal variations.

4. In order to quantify seasonal variation, I produced counts of charges/filings opened each month for the last three full calendar years. I then calculated the percentage of calendar-year-total new charges/filings opened each month for each of the three years.

FILED
MAY 27 2008
By **MARTHA PHILLIPS, Clerk**

5. As expected, this process exposed marked variation from month to month; as much as 3.6% in a single year. The seasonal variations, while following a similar pattern, weren't entirely consistent from year to year. This process exposed monthly deviations between .39% and 1.47% from year to year.

6. Rather than arbitrarily base projections on one particular previous year's patterns, I opted to average each month's contribution to the yearly total across the three years sampled.

7. To accomplish this, I totaled each month's charge/filing openings from all three sampled years. I then calculated the average percentage of total charges/filings that were opened each month. For example, in calendar year 2005, 8.6% of the year's total opened charges/filings were opened in January. In 2006, January accounted for 9.4% of the year's total. In 2007, the figure was 9.3%. On average, then, January accounts for 9.1% of a given year's filings (notably higher than the 8.3% one might expect).

8. Next, I totaled the average percentage calculated for the three months for which we do not yet have FY08 data – April, May and June. This figure is 25.47% - slightly more than the 25% one might guess. This means that the statistical counts we have for the first nine months of FY08 represent about 74.53% of what we'll see by the end of the fiscal year.

9. Inverting that percentage results in a multiplier of 1.34; that is, by multiplying current counts by 1.34, we can produce projected counts for the entire fiscal year.

10. We have opened 16,901 charges/filings so far this fiscal year; applying the above methodology produces a projected total of 22,678 charges filings opened by the end of the fiscal year.

11. Similarly, we've opened 8,579 new cases/incidents so far this fiscal year; following the above methodology suggests we'll have opened 11,511 cases/incidents by the end of the fiscal year.

12. The case statistics for the first nine months of FY2008 for the Knox County Public Defender's Community Law Office are attached to this affidavit, as are my projected full-year statistics.

Further, affiant saith not.

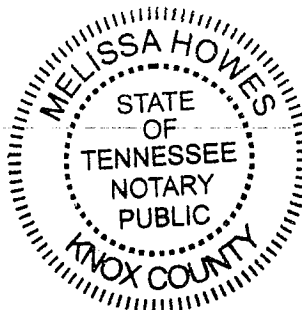


ISSAC MERKLEY

Sworn to and subscribed before me
this the 23rd day of May 2008.

Melissa Howes
NOTARY PUBLIC

My commission expires: 10-2-11



¾ FY2008 STATISTICAL REPORT

OPENED CHARGES

	Criminal, Div I	Criminal, Div II	Criminal, Div III	Sessions, DUI	Sessions, Felony	Sessions, Misd	Juvenile	TN Court Crim App	Charge Level Total
1 st Degree Murder	0	0	2	0	4	0	0	0	6
Felony, Class A	7	13	23	0	31	0	11	0	85
Felony, Class B	48	48	39	0	190	17	9	1	352
Felony, Class C	69	89	76	2	648	6	146	5	1,041
Felony, Class D	60	72	56	3	551	13	52	0	807
Felony, Class E	82	115	129	69	803	37	57	1	1,293
Misd, Class A	269	299	296	1,617	1,237	2,680	222	1	6,621
Misd, Class B	58	59	59	300	261	577	53	1	1,368
Misd, Class C	154	150	129	934	684	1,318	244	3	3,616
Juvenile Unruly	0	0	0	0	0	0	129	0	129
Probation	405	195	216	35	185	293	148	3	1,480
Fugitive From Justice	0	0	0	0	103	0	0	0	103
Court Total	1,152	1,040	1,025	2,960	4,697	4,941	1,071	15	16,901

Based on May 12, 2008 LegalPro data export

¾ FY2008 STATISTICAL REPORT

CLOSED CHARGES

	Criminal, Div I	Criminal, Div II	Criminal, Div III	Sessions, DUI	Sessions, Felony	Sessions, Misd	Juvenile	TN Court Crim App	Charge Level Total
1 st Degree Murder	1	0	1	0	4	0	0	1	7
Felony, Class A	18	8	4	0	27	0	9	4	70
Felony, Class B	43	39	27	1	180	18	9	2	319
Felony, Class C	61	97	81	2	636	4	152	5	1,038
Felony, Class D	49	105	58	2	500	11	46	0	771
Felony, Class E	100	88	111	82	751	28	45	1	1,206
Misd, Class A	170	295	185	1,626	1,237	2,669	223	1	6,406
Misd, Class B	45	83	54	313	240	526	54	1	1,316
Misd, Class C	149	222	110	896	651	1,260	250	3	3,541
Juvenile Unruly	0	0	0	0	0	0	121	0	121
Probation	300	187	207	39	183	286	138	2	1,342
Fugitive From Justice	0	0	0	0	95	0	0	0	95
Court Total	936	1,124	838	2,961	4,504	4,802	1,047	20	16,232

Based on May 12, 2008 LegalPro data export

¾ FY2008 STATISTICAL REPORT

OPENED CASES

	Criminal, Div I	Criminal, Div II	Criminal, Div III	Sessions, DUI	Sessions, Felony	Sessions, Misd	Juvenile	TN Ct Crim App	Charge Level Total
1 st Degree Murder	0	0	1	0	2	0	0	0	3
Felony, Class A	4	7	11	0	13	0	6	0	41
Felony, Class B	20	17	14	0	139	10	5	1	206
Felony, Class C	40	50	49	2	462	5	127	3	738
Felony, Class D	30	36	37	3	379	11	39	0	535
Felony, Class E	33	45	69	58	519	33	36	0	793
Misd, Class A	58	51	64	910	480	2,061	159	0	3,783
Misd, Class B	11	7	5	65	74	376	27	0	565
Misd, Class C	2	0	1	64	140	505	136	0	848
Juvenile Unruly	0	0	0	0	0	0	89	0	89
Probation	128	134	139	35	137	210	122	2	907
Fugitive From Justice	0	0	0	0	71	0	0	0	71
Court Total	326	347	390	1,137	2,416	3,211	746	6	8,579

Based on May 12, 2008 LegalPro data export

3/4 FY2008 STATISTICAL REPORT

CLOSED CASES

	Criminal, Div I	Criminal, Div II	Criminal, Div III	Sessions, DUI	Sessions, Felony	Sessions, Misd	Juvenile	TN Court Crim App	Charge Level Total
1 st Degree Murder	1	0	1	0	2	0	0	1	5
Felony, Class A	6	5	1	0	10	0	7	0	29
Felony, Class B	16	19	13	1	131	11	6	2	199
Felony, Class C	42	51	52	2	457	3	128	3	738
Felony, Class D	22	48	37	2	338	9	35	0	491
Felony, Class E	43	45	65	70	476	25	28	0	752
Misd, Class A	34	53	39	895	511	2,049	154	0	3,735
Misd, Class B	9	23	10	62	72	344	28	0	548
Misd, Class C	1	3	1	56	124	513	126	0	824
Juvenile Unruly	0	0	0	0	0	0	77	0	77
Probation	98	136	126	37	131	204	114	1	847
Fugitive From Justice	0	0	0	0	62	0	0	0	62
Court Total	272	383	345	1,125	2,314	3,158	703	7	8,307

Based on May 12, 2008 LegalPro data export

PROJECTED FY2008 FULL-YEAR STATISTICS

MONTHLY CHARGE/FILING ANALYSIS

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
CY2005	8.6%↑	7.6%↓	8.5%↑	7.6%↓	8.6%↑	8.6%↑	8.4%↑	10.3%↑	9.0%↑	8.4%↑	8.1%↓	6.3%↓
CY2006	9.4%↑	8.4%↑	8.8%↑	7.8%↓	8.7%↑	8.8%↑	8.4%↑	8.8%↑	8.1%↓	7.7%↓	8.1%↓	6.9%↓
CY2007	9.3%↑	9.0%↑	8.5%↑	8.5%↑	9.4%↑	8.4%↑	9.6%↑	9.3%↑	7.5%↓	7.7%↓	6.8%↓	6.0%↓
Average	9.1%↑	8.3%=	8.6%↑	8.0%↓	8.9%↑	8.6%↑	8.8%↑	9.5%↑	8.2%↓	7.9%↓	7.7%↓	6.4%↓

(ARROWS FOLLOWING PERCENTAGES INDICATE RELATIONSHIP TO 8.3%, THE EXPECTED MONTHLY PERCENTAGE IF ALL MONTHS CONTRIBUTED EQUALLY)

AVERAGE JUL-MAR PORTION OF TOTAL 25.5%

AVERAGE APR-JUN PORTION OF TOTAL 74.5%

MULTIPLIER TO PROJECT FULL YEAR 1.34

¾ FY08 OPENED CHARGES 16,901

PROJECTED FY08 OPENED CHARGES 22,678

¾ FY08 OPENED CASES 8,579

PROJECTED FY08 OPENED CASES 11,511