

C80B00
Office of the Public Defender

Operating Budget Data

(\$ in Thousands)

	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Funds	\$57,080	\$56,916	\$62,446	\$5,530	9.71%
FY 2003 Cost Containment	0	-1,594	0	1,594	-100.00%
FY 2003 Deficiency	0	1,333	0	-1,333	-100.00%
Contingent & Back of Bill Reductions	0	-37	-295	-257	
Adjusted General Funds	\$57,080	\$56,618	\$62,151	\$5,534	9.80%
Special Funds	238	201	260	59	29.15%
Federal Funds	0	28	0	-28	-100.00%
Reimbursable Funds	1,210	1,168	1,432	264	22.61%
Adjusted Grand Total	\$58,528	\$58,015	\$63,843	\$5,828	10.05%

- \$803,598 deficiency is provided for the Baltimore City felony caseload crises.
- \$245,137 deficiency is provided for New Hargrove Southern District Court in Baltimore City.
- \$284,033 deficiency is provided for New Baltimore City Juvenile Justice Center.
- \$2,854,092 is provided for Phase I Compliance with American Bar Association (ABA) caseload standards.
- \$436,000 is provided for Children in Need of Assistance (CINA) representation noncustodial parents.
- \$121,000 is provided for Montgomery County District Court dockets.

Note: Numbers may not sum to total due to rounding.

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Personnel Data

	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>
Regular Positions	776.30	806.30	876.50	70.20
Contractual FTEs	83.43	107.50	108.50	1.00
Total Personnel	846.73	913.80	985.00	71.20

Vacancy Data: Regular Positions

Budgeted Turnover: FY 04	48.38	5.52%
Positions Vacant as of 12/31/02	81.50	10.11%

- 59 positions are added for compliance with ABA caseload standards.
- 8 positions are added for CINA noncustodial parents.
- 3 positions are added for Montgomery County District Court docket.
- 0.2 full-time equivalent attorney position is added in the Appellate and Inmate Services Division.

Analysis in Brief

Major Trends

Dramatic Increase in Caseloads: The Office of the Public Defender (OPD) caseloads increase from 169,223 in fiscal 2001 to projected 191,774 in fiscal 2004.

Attorney Caseloads Exceed ABA Standards: The OPD caseload exceeds the ABA standard of 400 in district court for misdemeanors, 150 in circuit court for felonies, and 200 in juvenile court.

Issues

New Caseload Standards: OPD plans to establish agency caseload standards with a case weighting study to establish base operating budget needs.

Budget by Cost Center: OPD should use the Financial Management Information System (FMIS) sub-program cost center structure to budget and expend funds.

Recommended Actions

	<u>Funds</u>
1. Reduce office equipment in fiscal 2004 to reflect \$164,750 provided in the fiscal 2003 deficiency request for 43 new positions.	\$ 164,750
2. Reduce funds for personal computers to reflect \$109,468 needed for lease financing in case management technical service procurement.	75,532
3. Add budget bill language to require the Financial Management Information System sub-program cost center to budget and expend District Operations expenditures.	
4. Adopt committee narrative requesting a report and an electronic database which establishes budgeting with caseload standards.	
Total Reductions	\$ 240,282

Updates

Case Management System: Functional requirements for the case management system were completed by September 2002.

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Operating Budget Analysis

Program Description

The Office of the Public Defender (OPD) provides counsel and related services to indigent persons. Representation is provided in criminal trials, appeals, juvenile causes, post-conviction proceedings, parole and probation revocations, disposition of detainees, and involuntary commitments to mental institutions. Five divisions support the office: (1) general administration; (2) district operations; (3) appellate and inmate services; (4) involuntary institutionalization; and (5) capital defense.

Performance Analysis: Managing for Results

The key indicators in **Exhibit 1** provided by the OPD in the budget book give a general sense that OPD is understaffed compared to the Managing for Results (MFR) goal of 480 cases in the district court, 180 cases in the circuit court, or 200 juvenile cases per attorney. In response to committee narrative adopted during the 2002 session, OPD provided more specific data by district and court.

Exhibit 1

Key Caseload indicators
Office of Public Defender
Fiscal 2001 through 2004

<u>Caseloads</u>	<u>FY 2001</u> <u>Actual</u>	<u>FY 2002</u> <u>Actual</u>	<u>FY 2003</u> <u>Estimate</u>	<u>FY 2004</u> <u>Estimate</u>	<u>FY 02-03</u> <u>%</u> <u>Change</u>	<u>FY 03-04</u> <u>%</u> <u>Change</u>
District Operations	169,223	177,306	184,398	191,774	4.0%	4.0%
Appeals/ Inmate Services	743	699	728	728	4.1%	0.0%
Psychiatric Confinement	662	994	1,000	1,004	0.6%	0.4%
Avg. Weighted Caseload						
District Court	752	827	861	729	4.1%	-15.3%
Circuit Court	169	184	179	178	-2.7%	-0.6%
Juvenile Court	318	291	304	242	4.5%	-20.4%

Source: Office of the Public Defender Managing for Results submission

Compliance with ABA Caseload Standards

OPD suffers from excessive caseloads. Agency attorneys statewide carry caseloads in excess of the American Bar Association (ABA) caseload standards. This jeopardizes effective representation of counsel, increases the costs of operating the criminal justice system through increased populations at detention centers, increases the number of case delays and retrials, and makes the State vulnerable to a class-action lawsuit. The statistical data from the agency response to the 2002 *Joint Chairmen's Report* (JCR) on OPD funding is summarized in **Exhibit 2**. Baltimore City with 85% of all felony defendants clearly has excessive caseloads far exceeding MFR and the ABA standards. OPD seeks an additional 119 attorneys and 93 support staff to comply with the ABA standards. Although the need is immediate, OPD proposes a three-year phase-in of staffing to reduce the economic impact of the initiative. The fiscal 2004 allowance included 59 new positions.

Exhibit 2

**Office of the Public Defender
Weighted Caseload per Attorney**

			<u>MFR Goal</u>	<u>ABA Std.</u>
MFR Goal vs. ABA Standard				
District Court – Misdemeanors			480	400
Circuit Court – Felonies			180	150
Juvenile			240	200
			+Exceed/-Below Fiscal 2002	
<u>Cases Assigned by District</u>	<u>FY 01</u>	<u>FY 02</u>	<u>MFR Goal</u>	<u>ABA Std.</u>
Baltimore City				
District Court.	630	730	250	330
Circuit Court	241	286	106	136
Juvenile Court	326	361	121	161
Lower Shore				
District Court	1,380	1,361	881	961
Circuit Court	182	178	-2	28
Juvenile Court	231	186	-54	-14
Upper Shore				
District Court	575	696	216	296
Circuit Court	159	164	-16	14
Juvenile Court	123	114	-126	-86
Western Maryland				
District Court	743	1,065	585	665
Circuit Court	98	135	-45	-15

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Juvenile Court	154	113	-127	-87
			+Exceed/-Below	
			Fiscal 2002	
<u>Cases Assigned by District</u>	<u>FY 01</u>	<u>FY 02</u>	<u>MFR Goal</u>	<u>ABA Std.</u>
Southern Maryland				
District Court	1,050	1,195	715	795
Circuit Court	141	202	22	52
Juvenile Court	258	197	-43	-3
Prince George's County				
District Court	1,082	1,257	777	857
Circuit Court	161	132	-48	-18
Juvenile Court	208	273	33	73
Montgomery County				
District Court	1,060	877	397	477
Circuit Court	83	90	-90	-60
Juvenile Court	172	203	-37	3
Anne Arundel County				
District Court	950	897	417	497
Circuit Court	139	121	-59	-29
Juvenile Court	297	318	78	118
Baltimore County				
District Court	845	822	342	422
Circuit Court	157	183	3	33
Juvenile Court	259	292	52	92
Harford County				
District Court	642	495	15	95
Circuit Court	105	109	-71	-41
Juvenile Court	516	400	160	200
Howard and Carroll Counties				
District Court	544	601	121	201
Circuit Court	83	113	-67	-37
Juvenile Court	411	635	395	435
Frederick and Washington Counties				
District Court	743	777	297	377
Circuit Court	142	202	22	32
Juvenile	306	346	103	143

Source: Office of Public Defender response to the 2002 *Joint Chairmen's Report* on Fiscal 2004 Funding

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ABA caseload standards for attorneys, currently used by OPD are debatable. The agency plans to establish a new caseload-based funding formula, developed in concert with the legislature and executive branch. The agency plans to conduct a case-weighting study using an outside consultant to assess current agency caseloads and provide baseline data for the development of meaningful caseload standards. The agency expects full implementation to take approximately four fiscal years from completion of the case-weighting study to formula-determined base funding in the operating budget.

Fiscal 2003 Actions

Proposed Deficiency

The deficiency appropriation requests total \$1,332,768 and is indicated in **Exhibit 3** together with the annualized impact on the fiscal 2004 budget:

• 13 positions – Baltimore City Felony Division	\$803,598
• 13 positions – Hargrove Southern District Court	245,137
• 17 positions – Baltimore City Juvenile Justice Center	284,033
Total Deficiency Request	\$1,332,768

Exhibit 3

**Governor’s Proposed Budget
Office of the Public Defender
(\$ in Thousands)**

How Much It Grows:	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
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Where It Goes:	<u>FY 2003</u>	<u>FY 2004</u>	<u>Annualize FY 2003</u>	<u>Amount Increase</u>
Personnel Expenses				
New Positions Including Fringe Benefits				
Baltimore City Felony Division – 13 positions	\$723	\$744	\$20	
Hargrove District Court – 13 positions.....	177	415	238	
Baltimore City Juvenile Justice Center - 17 positions	245	573	328	
New Positions Deficiency Fiscal 2003 – 43 New Positions	\$1,145	\$1,731		
Annualize 2004 for 2003 New Positions			\$586	\$586
SB 660 noncustodial parents represented in CINA Cases – 8 positions		323	323	
Montgomery County District Court Dockets – 3 positions		104	104	
Caseload Compliance with ABA 59 positions Attorney in Appellate and Inmate Services – 0.2 full-time equivalents (FTE) position		2,127	2,127	
New Positions fiscal 2004 – 70.2 New Positions			\$2,566	\$2,566
Worker’s compensation		366		-366
Cost containment 2003 restored		212		212
401k match deleted – in back of bill		-295		-295
Transit subsidy restored in fiscal 2004	-37	37		37
Other adjustments		190		190
Subtotal Salaries and Wages 2004 Increase				\$2,930
Panel Attorney – 4% caseload increase.....		106		106
Expert witness		126		126
Contractual position – SB 660 CINA		41		41
Increased contractual turnover		-577		-577
Cost Containment – 2003 BPW 1-8-2003 Restored				
Cost containment 2003 – panel overload.....	-402	402	0	402
Contractual payroll	-611	611	0	611
Subtotal Contractual Payroll Increase				\$709
Operating Expenses				
Cost Containment – 2003 Restored				
Contractual services	-180	180		180
Rent and other fixed charges.....	-190	190		190
Other expenses	-211	211		211

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Where It Goes:	<u>FY 2003</u>	<u>FY 2004</u>	<u>Annualize</u>	<u>Amount</u>
			<u>FY 2003</u>	<u>Increase</u>
Total Cost Containment BPW Action 1-8-2003	-\$1,594			
Across the board 2003 IT reduction DBM allocation to OPD restored.....		338		338
Case management system.....		500		500
Operating Expenses New 2003 Positions Deficiency Fiscal 2003				
Baltimore City Felony Division	81			
Hargrove District Court	68			
Baltimore City Juvenile Justice Center	39			
Total Deficiency 2003 Operating Expenses	\$188			
DBM telecommunications.....		208		208
In-state travel & training new positions.....		158		158
Out-of-state conference travel.....		6		6
Telecommunications for WAN		112		112
Office equipment – 70.2 new positions		236		236
Computers new positions \$116,000		116		116
State Treasurer lease payment.....		-53		-53
Other changes.....		-12		-12
Subtotal Operating Expenses				\$2,189
Total Increase Fiscal 2004				\$5,828

Notes:

Numbers may not sum to total due to rounding.

Table includes all budget action taken and proposed to fiscal 2003 working and fiscal 2004 allowance.

Baltimore City Felony Division Caseload Crises – \$803,598

For three fiscal years, the Baltimore City State’s Attorney Office has received State funding for 25 positions (13 attorneys and 12 support staff) to increase homicide and gun prosecutions. Despite repeated requests for parity in order to handle the increased felony caseload, OPD received no additional funding or positions. As a result, caseloads in the felony division increased by 20% through calendar 2002. By early spring, felony division attorneys’ caseloads averaged 60 open cases with some attorneys carrying in excess of 80 open felony cases. These caseloads correspond to an attorney handling approximately 300 felonies per year, double the ABA standard of 150 felonies/attorney/year.

Under these circumstances, without hope of adequate staffing, OPD determined that effective assistance of counsel was not possible. The Baltimore City District Public Defender capped felony attorney caseloads at 60 and declined additional cases. In response, the General Assembly approved

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language in the Fiscal 2003 Budget Bill endorsing Board of Public Works (BPW) creation of 13 new positions. BPW approved the new positions on November 20, 2002. The deficiency appropriation of \$803,598 covers \$723,114 for salaries and \$80,484 for operating expenses including \$66,717 for computers and office equipment. The positions are currently filled.

Baltimore City John R. Hargrove Southern District Court Building – \$245,137

The Maryland District Court plans to open a new Southern District courthouse on Patapsco Avenue in March 2003, the John R. Hargrove District Court Building. The new building adds one additional courtroom and a new office location for OPD. OPD requires additional personnel to staff the new building for two reasons: (1) an additional courtroom will add new dockets which attorneys and intake personnel must staff; and (2) OPD is expected to maintain an additional office in the new building, requiring a receptionist, additional intake personnel, clerical and secretarial support, and an office manager. Historically, the agency receives new positions to cover new courtrooms, new judges, and new buildings. With Baltimore City District Court caseloads in excess of the ABA standards, the agency cannot staff a new building or a new docket with existing resources without creating a shortage somewhere else.

Cases will also be transferred from existing courtrooms to the new building. OPD will transfer existing staff for the cases from existing courtrooms throughout the city to the new building.

The \$176,887 personnel funding request is for five attorneys (one of whom is a required office supervisor), four intake workers (two for the new office and two for the new courtroom and associated dockets; one of these is a required intake supervisor), and four clerical positions. The request includes operating expenses of \$68,250, including new computers and office equipment for the positions for a total of \$245,137.

Baltimore City Juvenile Justice Center – \$284,033

This deficiency provides representation for Juvenile and Children in Need of Assistance (CINA) cases and Management Information Systems (MIS) division personnel for the new Baltimore City Juvenile Justice Center, scheduled to open in fiscal 2003.

The \$244,769 personnel funding request includes eight attorneys, a social worker, an intake staff person and two additional support staff to the Baltimore City Juvenile Division; one attorney and three support staff to the Baltimore City CINA Division (which also coordinates CINA representation throughout the State), and a computer network specialist to the MIS Division. All new personnel will be located on-site to support the inter-agency cooperation required to fulfill the mission of the new center.

Chief Judge Bell and Judge Martin P. Welch, Judge-in-charge of the Juvenile cases assigned to the Circuit Court for Baltimore City, support funding of these positions. Judge Welch is one of the architects of juvenile justice reform.

Juvenile Reform Initiative Impact

Years of planning, unprecedented inter-agency coordination and millions of State dollars have been devoted to building more than a bricks and mortar shell in Baltimore City. The new Juvenile Justice Center was designed to support an overhaul of the juvenile justice system – an overhaul being closely watched by the media and increasingly vocal juvenile justice advocates. If successful, Baltimore City will become a national model for the handling of juvenile cases.

The aim of the overhaul is to expand alternative placements for juveniles, provide urgently needed social services in a timely, effective way, and reduce reliance on long-term incarceration in appropriate cases while improving procedural safeguards for children and their parents. To promote the inter-agency cooperation required to realize this vision, all juvenile justice participants will be located in the new building: courts, detention, prosecutors, social service agencies, the Department of Juvenile Justice (DJJ), and OPD. All participants are expected to handle cases differently: more client contact, more parent contact, more social service evaluations, more discussions with prosecutors, mental health treatment providers and judges, coordination of related CINA, and juvenile justice proceedings. As a result, each case requires more time. In addition, expanded dockets, expedited case management, and increased notice are already generating an increase in caseloads. Information technology plays an essential role in plans for inter-agency cooperation, communication, and exchange of data.

The Memorandum of Understanding signed in December 2000 sets out the vision of the juvenile justice participants.

Juvenile Division Case Processing Impact

The Juvenile Court adopted a new case processing approach for delinquency cases in June 2001. Every parent or guardian of a juvenile not detained, receives notice of the arraignment date, generating an increase in the number of those notified from approximately 60% under the old system to 100% under the reformed process. In addition, arraignments are now set within 75 days of arrest, reducing case preparation time by 50% (expediting arraignment dates by about 50%). Because notice has improved and court dates are set earlier, attendance is expected to improve, expanding the arraignment docket by about 50%. This increase will be offset by a decreased backlog as older cases appear on the docket and are resolved. The net effect is a projected increase in caseloads of approximately 30% for the Juvenile Division. Each case requires more attention from the attorneys because the priority in each case is to extensively evaluate each child and solicit input from all participants in the system to determine appropriate resolution of the cases. Attorneys must meet more extensively with their clients, must coordinate evaluations and placement alternatives, and engage in lengthier discussions with prosecutors about disposition.

Charts submitted at the House Public Safety and Administration (PSA) subcommittee hearing on caseloads in November 2002 and at the Senate Public Safety and Transportation subcommittee briefing on January 16, 2003, demonstrate that caseloads in the Baltimore City Juvenile Division already exceed ABA and agency MFR standards.

CINA Division

The CINA Division is a specialized unit within OPD's District Operations mandated to represent custodial parents and legal guardians charged with neglect or abuse, or threatened with termination of their parental rights (TPR). Although the division has three offices (located in Baltimore City, Montgomery, and Prince George's counties), statewide CINA services are administered through the Baltimore City office. The Baltimore City CINA office will be re-located to the new Juvenile Justice Center when it opens.

The new center is designed to promote changes in the way CINA cases are handled in order to bring CINA proceedings into compliance with federal timelines governing TPR cases and into compliance with improvements advocated by the Judiciary's Foster Care Improvement Project. Although CINA cases overall have not increased, TPR filings have increased. Because parental rights are at stake, TPR proceedings are long involved trials. The goal of reform is to complete these proceedings within federally mandated time frames (the JCR for the last several years has included narrative and language tied to the Judiciary's budget expressing concern about delays in these cases), expand the use of mediation to avoid protracted and distressing trials, and coordinate related CINA and delinquency proceedings. As with the delinquency cases, these reforms require more resources devoted to each case, earlier increased participation by social services agencies, increased coordination of placement, and treatment services, and increased investigation to satisfy the court's desire to make more informed and therefore more appropriate decisions. The result is the same – each case will take more attorney and support staff time. The consequence will be quicker resolution of cases, more appropriate dispositions, and children whose welfare is better served by the State's system.

Management Information Systems Support

Information technology (IT) features prominently in the design of the new Juvenile Justice Center. Agencies will be expected to share data with each other and with the court via a network in order to prevent duplication of effort and improve coordination of services. DJJ is coordinating the installation of a portal and wide area network (WAN); however, each agency is expected to support its own hardware. In addition, DJJ recently has verbally informed occupant-agencies that they are responsible for providing Help Desk services to their employees and may share in responsibility for network maintenance.

It is becoming increasingly clear that OPD must devote significant IT personnel time to coordinating with DJJ, accurately assessing IT interface needs, bringing the building "on-line" technologically and supporting IT once the building is on-line. OPD is requesting an additional IT position, a computer network specialist, to provide IT support and oversight to the agency's operations at the new center.

Currently, the MIS Division devotes two full-time positions to support Baltimore City operations. Baltimore City currently comprises approximately half of the agency's overall staff (e.g., 145 of the agency's 413 attorneys are in Baltimore City). The new Juvenile Justice Center will create another location requiring MIS support, create another IT committee requiring MIS representation, and require support for approximately 25 attorneys and associated support staff operating a new system, expanding MIS's service base by almost 20%. Current IT personnel are already overloaded supporting a legacy infrastructure, which is no longer covered by warranty, and supporting a newly installed WAN. As

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currently staffed, the MIS Division is unable to provide adequate support to the new Juvenile Justice Center. The requested new position can be located on-site to coordinate IT services with other agencies, ensure effective interfacing with required security safeguards, and support the center's and agency's IT systems at the center to ensure that the new IT systems function as intended.

Impact of Cost Containment – \$1,593,659

BPW approved cost containment reductions on January 8, 2003, to OPD's fiscal 2003 budget (\$1,593,659). OPD plans to reduce technical and special fees (\$1,013,159). This will eliminate \$611,000 for the assignment panel attorneys where there are multiple defendants in a case and \$402,159 for case overload panel attorneys. Drug cases typically have multiple defendants so this will delay the trial of drug cases in Baltimore City. Once OPD caseload assignments exceed an acceptable level, OPD will not accept additional cases and will be unable to panel out the case overload. This again will primarily impact Baltimore City. OPD plans to reduce \$580,500 in operating expenses – primarily fixed charges \$190,000, contractual services \$180,000, telecommunications \$90,000 – to make up the difference. However, funding for the 13 Baltimore City felony positions and the 13 Hargrove District Court positions will mediate some of the cost containment action if the deficiency request is approved.

Also, in fiscal 2003 cost containment reflects the reversion of appropriations to support free transit ridership for State employees, contingent upon enactment of a provision in the Budget Reconciliation and Financing Act (BRFA) of 2003.

Governor's Proposed Budget

The fiscal 2004 allowance, as indicated in Exhibit 3, increases \$5,828,000, or 10% over the adjusted fiscal 2003 budget after cost containment and with the 2003 deficiencies. The allowance restores funding for panel attorneys eliminated in fiscal 2003 under cost containment and provides an additional \$500,000 for the case management system. The significant item is the additional \$2,854,092 for 59 positions discussed earlier in the Performance Analysis Managing for results section of the analysis. The allowance includes 8 positions to implement SB 660 from the 2001 session (Chapter 415, Acts of 2001) to provide representation of noncustodial parents in CINA cases. The allowance also includes 3 positions for the Juvenile Court docket in Montgomery County and an increase of 0.2 FTE Attorney in the Appellate and Inmate Services Division.

Impact of Cost Containment

The fiscal 2004 allowance reflects the elimination of the appropriation for matching employee deferred compensation contributions up to \$600, contingent upon enactment of a provision in the 2003 BRFA.

Caseload Crises – Phase One Compliance with ABA Caseload Standards – \$2,854,092

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The 59 positions are part of a three-year program to bring the OPD caseload into compliance with ABA standards. In year one, the rural districts (Eastern Shore and Western Maryland) and one-third of Baltimore City will be brought into compliance with ABA standards. These are the districts that OPD indicates are experiencing the most extreme district and juvenile court caseloads. Baltimore City, representing such a large portion of agency operations, will be phased in over all three years. Year two will address the needs of the remaining rural districts (e.g., Southern Maryland, Harford, Howard, and Carroll counties) and one-third of Baltimore City. Year three will address the suburban counties (Anne Arundel, Baltimore, Prince George's, and Montgomery) and the final third of Baltimore City.

CINA Representation for Non-custodial Parents – \$436,000

During the 2001 legislative session the General Assembly passed SB 660 (Chapter 415, Acts of 2001), which made significant changes to the law-governing CINA proceedings. CINA proceedings involve abused and neglected children and determine everything from the placement of children in temporary care to the termination of parental rights. Prior to passage of this legislation, indigent custodial parents threatened with removal of their children were entitled to public defender representation; noncustodial parents were not. The agency provides representation in all districts, statewide, to those parents through its CINA Division within District Operations. The new legislation now mandates public defender representation for noncustodial parents as well as custodial parents. This provision was enacted by the General Assembly in order to comply with standards promulgated by the National Council of Juvenile Justice and Family Court. This new provision doubles the pool of potential clients for the agency's CINA Division. As a result, the agency's CINA caseload will increase. To provide representation to *all* parents in CINA proceedings, the agency requires five new CINA attorneys and three support staff positions. This funding will provide additional attorneys in the regions of the State with the smallest CINA staff, those offices least able to absorb caseload increases, and regions where qualified panel attorneys are unavailable and located too distant from the administration to be adequately supervised.

Other significant changes in CINA laws have increased the number of CINA cases, the numbers of hearings required for each case, and the complexity of CINA cases. Prior to 1997 a CINA case involved three issues to resolve: the need for emergency placement, the validity of the allegations, and the issue of custody. Now, CINA cases present a host of issues; for example, sufficiency of placement efforts, necessity of emergency relief, visitation, review of the case plan, review of implementation of the case plan, and adoption are all added to the scope of representation. Prior to 1997 three issues were resolved at one hearing. Now, the typical case involves at least ten hearings.

Since 1997 the workload of the agency's CINA attorneys has increased exponentially. As a result, the CINA Division cannot fully absorb the increased caseload associated with the new mandates of SB 660 of 2001. The division requires additional staffing in the rural counties, in Montgomery County, and in Baltimore City.

Montgomery County District Court Dockets – \$121,000

The transfer of juvenile jurisdiction to the circuit court creates two additional district court judges to

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hear criminal cases in Montgomery County, increases the number of available district court judges from 11 to 13. The agency must provide one district court attorney for each judge and one office secretary to support the increased filings and a part-time 0.2 FTE office clerk per document production.

Previously, juvenile jurisdiction was vested in the district court in Montgomery County and handled by two district court judges. In fiscal 2002 juvenile jurisdiction was transferred to the circuit court. With the transfer complete, these two district court judges are now available to hear criminal cases.

Issues

1. New Caseload Standards

OPD plans to establish agency caseload standards with a case weighting study to establish base operating budget needs. A funding formula based upon caseload standards will promote efficient use of resources during the budget appropriation process. It narrows the number of factors that must be evaluated by OPD internal budget administration, Department of Budget and Management (DBM), and the Department of Legislative Services (DLS).

Under the proposal, OPD will develop caseload standards that satisfy DBM budget justification requirements and will use a funding formula that DBM will be willing to use to determine the OPD annual base budget. The standards must be reasonable, based on actual Maryland practice, and relevant statewide in each court. OPD plans to select an objective experienced outside organization to do a case weighting study. It is also essential that the case management system currently under development be completed to collect data to measure performance.

In the interim OPD plans to adapt ABA caseload standards to establish agency caseload standards and determine annual budget needs.

It is recommended that OPD submit an interim report to the budget committees and an electronic database to DLS that restates the approved fiscal 2004 budget, distributes resources to each district office based on the caseload standards, and prepares the budget for fiscal 2005 in the same format.

2. Budget by Cost Center

OPD should use the Financial Management Information System (FMIS) sub-program cost center structure to budget and expend funds by cost center. Currently all personnel and operating expenses are budgeted and expended under a single budget program and are not broken down by district into sub-programs. OPD claims that since the agency resources are centrally managed, it is more appropriate to budget all expenses under one program. However, DLS would argue that the budget should reflect how personnel and expenses are actually assigned. Currently, personnel are assigned to a specific district while certain services are allocated centrally to districts during the year.

Those costs that are managed centrally, for example deoxyribonucleic acid – DNA – testing and expert witness fees, should be budgeted under a central office budget center with costs allocated to a district office budget center as the funds are expended. Services that support all cost centers such as personnel administration and the case management system currently under development should be budgeted and expended under a single sub-program cost center. In essence, the budget and accounting system should reflect how costs are budgeted initially and expended throughout the year and reflects case formula budgeting.

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It is recommended that OPD budget all personnel and related operating expenses by sub-program for each district based on the proposed interim case funding formula. It is recommended that all expenses that are centrally managed be budgeted under a central cost center sub-program with expenditures distributed to district cost centers during the year.

Recommended Actions

- | | <u>Amount
Reduction</u> | |
|--|------------------------------------|----|
| 1. Reduce office equipment in fiscal 2004 to reflect \$164,750 provided in the fiscal 2003 deficiency request for 43 new positions. | \$ 164,750 | GF |
| 2. Reduce funds for personal computers to reflect \$109,468 needed for lease financing in case management technical service procurement. | 75,532 | GF |
| 3. Add the following language: | | |

Further provided that the Office of Public Defender (OPD) shall use the Financial Management Information System (FMIS) sub-program cost center to budget and expend funds by cost center to reflect how costs are budgeted initially and expended throughout the year that reflects case formula budgeting. Expenses that are centrally managed may be budgeted under a central cost center sub-program but with expenditures distributed to district cost center during the year.

Explanation: This budget bill language requires OPD to budget and expend District Operations program funds in accordance with the case formula using the FMIS sub-program cost center budget and expenditure accounting system.

4. Adopt the following narrative:

Budgeting with Caseload Standards: The Office of Public Defender shall submit a report to the budget committee and an electronic database to the Department of Legislative Services that restates the approved fiscal 2004 budget, distributes resources to each district based on the caseload standards, and prepares the budget for fiscal 2005 in the same format.

Information Request	Author	Due Date
Report and electronic Database Budgeting with caseload standards fiscal 2004 and 2005	OPD	September 15, 2003

Total General Fund Reductions	\$ 240,282	
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Updates

1. Case Management System

Functional requirements for a new OPD case management system were completed in September 2002, and Verizon was selected under a task order procurement contract to do the development work. The cost to develop and fully deploy the case management system is approximately \$2.5 million as indicated in **Appendix 4**. The fiscal 2004 budget includes approximately \$500,000. The contract includes funds for 625 personal computers (PCs) connected to a WAN, and OPD plans to add an additional 125 PCs to the WAN. PCs will be financed over three years while servers and other hardware costs will be financed over five years through the State Treasurer's Office lease financing.

Current and Prior Year Budgets

Current and Prior Year Budgets Office of the Public Defender (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2002					
Legislative Appropriation	\$53,701	\$198	\$28	\$1,125	\$55,052
Deficiency Appropriation	3,500	0	0	0	3,500
Budget Amendments	-121	63	0	85	27
Reversions and Cancellations	0	-23	-28	0	-51
Actual Expenditures	\$57,080	\$238	\$0	\$1,210	\$58,528
Fiscal 2003					
Legislative Appropriation	\$56,916	\$201	\$28	\$1,168	\$58,313
Deficiency Appropriation	1,333	0	0	0	\$1,333
Budget Amendments	-1,631	0	0	0	-1,631
Working Appropriation	\$56,618	\$201	\$28	\$1,168	\$58,015

Note: Numbers may not sum to total due to rounding.

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Appendix 2

**Object/Fund Difference Report
Office of the Public Defender**

<u>Object/Fund</u>	<u>FY02</u>	<u>FY03</u>	<u>FY04</u>	<u>FY03 - FY04</u>	<u>Percent</u>
	<u>Actual</u>	<u>Working Appropriation</u>	<u>Allowance</u>	<u>Amount Change</u>	<u>Change</u>
Positions					
01 Regular	776.2	806.30	876.50	70.20	8.7%
02 Contractual	83.43	107.50	108.50	1.00	0.9%
Total Positions	846.73	913.80	985.00	71.20	7.8%
Objects					
01 Salaries and Wages	\$ 46,838,346	\$ 46,392,584	\$ 50,724,862	\$ 4,332,278	9.3%
02 Technical & Spec Fees	4,800,032	6,123,534	5,819,272	-304,262	-5.0%
03 Communication	734,893	864,231	1,071,941	207,710	24.0%
04 Travel	265,045	217,692	380,578	162,886	74.8%
06 Fuel & Utilities	11,986	9,100	30,700	21,600	237.4%
07 Motor Vehicles	118,066	86,527	115,354	28,827	33.3%
08 Contractual Services	3,321,650	1,641,173	2,550,716	909,543	55.4%
09 Supplies & Materials	545,608	610,638	622,970	12,332	2.0%
10 Equip - Replacement	78,230	85,610	26,660	-58,950	-68.9%
11 Equip - Additional	540,993	290,553	593,503	302,950	104.3%
13 Fixed Charges	1,273,359	1,991,637	2,201,578	209,941	10.5%
Total Objects	\$ 58,528,208	\$ 58,313,279	\$ 64,138,134	\$ 5,824,855	10.0%
Funds					
01 General Fund	\$ 57,079,603	\$ 56,916,409	\$ 62,446,186	\$ 5,529,777	9.7%
03 Special Fund	238,180	201,437	260,168	58,731	29.2%
05 Federal Fund	0	27,684	0	-27,684	-100.0%
09 Reimbursable Fund	1,210,425	1,167,749	1,431,780	264,031	22.6%
Total Funds	\$ 58,528,208	\$ 58,313,279	\$ 64,138,134	\$ 5,824,855	10.0%

Notes: Full-time and contractual positions and salaries are reflected for operating budget programs only.

Fiscal 2003 appropriations and fiscal 2004 allowance do not include cost containment and contingent reductions.

Fiscal Summary
Office of the Public Defender

<u>Unit/Program</u>	<u>FY02 Actual</u>	<u>FY03 Legislative Appropriation</u>	<u>FY03 Working Appropriation</u>	<u>FY02 - FY03 % Change</u>	<u>FY04 Allowance</u>	<u>FY03 - FY04 % Change</u>
01 General Administration	\$ 5,294,720	\$ 2,687,556	\$ 4,072,066	-23.1%	\$ 5,231,320	28.5%
02 District Operations	46,864,106	48,887,221	47,502,711	1.4%	52,078,202	9.6%
03 Appellate and Inmate Services	4,481,559	4,745,707	4,745,707	5.9%	4,724,557	-0.4%
04 Involuntary Institutionalization Services	1,076,851	1,149,132	1,149,132	6.7%	1,197,137	4.2%
05 Capital Defense Division	810,972	843,663	843,663	4.0%	906,918	7.5%
Total Expenditures	\$ 58,528,208	\$ 58,313,279	\$ 58,313,279	-0.4%	\$ 64,138,134	10.0%
General Fund	\$ 57,079,603	\$ 56,916,409	\$ 56,916,409	-0.3%	\$ 62,446,186	9.7%
Special Fund	238,180	201,437	201,437	-15.4%	260,168	29.2%
Federal Fund	0	27,684	27,684	n/a	0	-100.0%
Total Appropriations	\$ 57,317,783	\$ 57,145,530	\$ 57,145,530	-0.3%	\$ 62,706,354	9.7%
Reimbursable Fund	\$ 1,210,425	\$ 1,167,749	\$ 1,167,749	-3.5%	\$ 1,431,780	22.6%
Total Funds	\$ 58,528,208	\$ 58,313,279	\$ 58,313,279	-0.4%	\$ 64,138,134	10.0%

Fiscal 2003 appropriations and fiscal 2004 allowance do not include cost containment and contingent reductions.

**Office of the Public Defender
Case Management System
Technical Services Procurement**

		<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>Total</u>
Milestone I	Network Infrastructure	\$91,913							
Milestone II	Printer Infrastructure	45,480							
Milestone III	PCs – 225	304,161							
Milestone IV	PCs – 200	298,602							
Milestone IVa	PCs – 200	330,235							
Milestone IVa	User Acceptance	19,268							
Milestone V	Server Network Infrastructure	249,280							
Milestone VI	Email	179,280							
Milestone VIIa	CM Project Plan	16,525							
Milestone VIIb	CM Software Licenses	335,564							
Milestone VIII	CM Infrastructure Architecture	66,117							
Milestone IX	CM Process Analysis	171,772							
Milestone X	CM Detail Design	97,928							
Milestone XI	Infrastructure Training	87,805							
		\$2,293,930							
Additional PCs	PCs – 125	\$206,397							
Total		\$2,500,327							
Software		\$269,700	\$0	\$0	\$0	\$0	\$0	\$0	\$269,700
Software Licenses		335,564	0	335,564	0	0	0	0	335,564
PCs		1,139,395	54,734	109,468	109,468	54,734	0	0	1,139,395
Other Hardware		386,673	0	77,335	77,335	77,335	77,335	38,667	386,673
Other		368,995	0	0	0	0	0	0	368,995
Total		\$1,449,685	\$93,401	\$522,367	\$186,803	\$132,069	\$77,335	\$38,667	\$2,500,327

Source: Office of the Public Defender