

C80B00
Office of the Public Defender

Operating Budget Data

(\$ in Thousands)

	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 02-04</u> <u>Change</u>	<u>FY 05</u>	<u>FY 04-05</u> <u>Change</u>
Operations	\$55,207	\$54,857	\$59,441	\$4,234	\$63,999	\$4,558
Contractual Services	3,322	2,515	2,439	-\$883	2,281	-158
Contingent & Back of Bill Reductions	0	0	0	\$0	-343	-343
Adjusted Grand Total	\$58,529	\$57,372	\$61,880	\$3,351	\$65,937	\$4,057
General Funds	57,080	55,917	60,188	\$3,108	64,793	4,605
Contingent & Back of Bill Reductions	0	0	0	\$0	-343	-343
Adjusted General Funds	\$57,080	\$55,917	\$60,188	\$3,108	\$64,450	\$4,262
Special Funds	238	239	260	\$22	110	-150
Reimbursable Funds	1,210	1,216	1,432	\$222	1,377	-55
Adjusted Grand Total	\$58,528	\$57,372	\$61,880	\$3,352	\$65,937	\$4,057
Annual % Change		-2.0%	7.9%		6.6%	

- \$2,828,175 is for year two of the three-year caseload initiative.
- \$1,376,176 is for the annualized cost of other new personnel added in fiscal 2004 initiatives.
- \$444,000 reflects a reduction for one-time costs associated with fiscal 2004 initiatives.
- The \$150,000 reduction in special funds reflects termination of the bail reconsideration project, the circuit court caseload management, and drug intervention projects in Anne Arundel County.

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

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Personnel Data

	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 02-04</u> <u>Change</u>	<u>FY 05</u>	<u>FY 04-05</u> <u>Change</u>
Regular Positions	776.3	812.0	870.5	94.2	939.0	68.5
Contractual FTEs	83.4	53.9	86.6	3.2	82.6	-4.0
Total Personnel	859.7	865.9	957.1	97.4	1,021.6	64.5

Vacancy Data: Regular Positions

Turnover Expectancy	40.57	4.66%
Positions Vacant as of 12/31/03	82.00	9.42%

- 68.5 new positions are requested for the second year of caseload initiative.
- Cost containment eliminated four contractual positions.

Analysis in Brief

Major Trends

Attorney Caseloads Are Reduced: The attorney caseload initiative reduces attorney caseloads in the juvenile and circuit courts of Baltimore City and in District and juvenile courts in the rural and suburban counties.

Issues

Two-grade Increase for Public Defenders: The Department of Budget and Management Annual Salary Review provides a two-grade salary increase for Public Defenders.

Recommended Actions

1. Concur with Governor's allowance.

Updates

Status of Caseload Initiative: The case management system will be completed by the end of fiscal 2004.

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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 240 juvenile cases per attorney. However, the first year of caseload initiative in fiscal 2004 and the second year caseload initiative in fiscal 2005 will improve the attorney caseload as indicated in **Exhibit 2**. The most dramatic impact is in the Circuit Court of Baltimore City and the District Courts in the suburban jurisdictions. The first-year focus of the caseload initiative was to phase in staffing to reduce caseloads in Baltimore City and address the need for attorneys in District and juvenile courts in rural districts. Year two of the caseload initiative will address the need for attorneys in the District and juvenile courts in the metropolitan/suburban counties as well as Baltimore City.

Exhibit 1
Program Measurement Data
Office of the Public Defender
Key Caseload Indicators
Fiscal 2001 through 2005

<u>Cases</u>	Actual 2001	Actual 2002	Actual 2003	Est. 2004	Est. 2005	Ann. Chg. 01-03	Ann. Chg. 03-05
District Operations	169,223	177,306	177,995	181,555	185,186	2.6%	2.0%
Appeals/Inmate Services	743	699	731	750	750	-0.8%	1.3%
Psychiatric Confinement	662	994	1,000	1,035	1,248	22.9%	11.7%
Average Weighted Caseload							
District Court	752	827	709	649	630	-2.9%	-5.7%
Circuit Court	169	184	214	202	198	12.5%	-3.8%
Juvenile Court	318	291	377	369	360	8.9%	-2.3%

Source: Office of Public Defender MFR submission

**Exhibit 2
Weighted Attorney Caseloads – Office of the Public Defender**

Cases Assigned Compared to MFR & ABA Standards						+Exceed/-Below	
<u>District</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>MFR Goal</u>	<u>ABA Std.</u>
MFR Goal vs. ABA Standard							
District Court - Misdemeanors						480	400
Circuit Court - Felonies						180	150
Juvenile Court						240	200
Baltimore City District 1							
District Court	630	755	798	747	663	183	263
Circuit Court	241	270	225	201	179	-1	29
Juvenile Court	326	361	365	256	222	-18	22
Lower Shore District 2							
District Court	1,380	1,361	1,416	708	681	201	281
Circuit Court	182	178	205	191	191	11	41
Juvenile Court	231	123	224	103	103	-137	-97
Upper Shore District 3							
District Court	575	696	665	475	431	-49	31
Circuit Court	159	164	172	142	142	-38	-8
Juvenile Court	186	114	99	95	95	-145	-105
Western Md District 12							
District Court	743	1,065	1,137	777	518	38	118
Circuit Court	98	135	63	77	77	-103	-73
Juvenile Court	154	113	135	151	151	-89	-49
Southern Md. District 4							
District Court	1,050	1,195	1,076	666	574	94	174
Circuit Court	141	202	131	115	115	-65	-35
Juvenile Court	224	197	314	244	215	-25	15
Prince George's County District 5							
District Court	1,082	1,257	1,231	1,257	820	340	420
Circuit Court	161	132	110	129	129	-51	-21
Juvenile Court	208	273	291	273	182	-58	-18
Montgomery District 6							
District Court	1,060	877	871	789	789	309	389
Circuit Court	83	90	87	85	85	-95	-65
Juvenile Court	172	203	196	203	203	-37	3

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Exhibit 2, contd.

Cases Assigned Compared to MFR & ABA Standards						+Exceed/-Below		
	<u>District</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>MFR Goal</u>	<u>ABA Std.</u>
Anne Arundel District 7								
District Court	950	897	854	897	538	58	138	
Circuit Court	139	121	125	121	121	-59	-29	
Juvenile Court	297	318	325	159	106	-134	-94	
Baltimore Co. District 8								
District Court	845	822	700	583	583	103	183	
Circuit Court	157	183	169	169	169	-11	19	
Juvenile Court	259	292	284	244	244	4	44	
Harford District 9								
District Court.	642	495	517	495	385	-95	-15	
Circuit Court	105	109	104	109	109	-71	-41	
Juvenile Court	516	400	547	400	200	-40	0	
Howard & Carroll District 10								
District Court	544	601	561	462	462	-18	62	
Circuit Court	83	113	139	113	113	-67	-37	
Juvenile Court	411	635	321	423	181	-59	-19	
Frederick & Washington Counties District 11								
District Court	743	777	858	594	639	159	239	
Circuit Court	142	202	230	175	175	-5	25	
Juvenile Court	306	343	301	258	343	103	143	

Source: Office of Public Defender

Fiscal 2004 Actions

Impact of Cost Containment

Cost containment action adopted in the 2004 legislative appropriation eliminated funding for 13 Hargrove District Court positions in Baltimore (\$488,000). The agency absorbed this reduction by reallocating Baltimore City Juvenile Justice Center (BCJJC) funding between the center and the Hargrove District Court building. After additional delays BCJJC opened in September 2003. In July 2003 additional cost containment action approved by the Board of Public Works reduced the legislative appropriations – \$841,000 in general administration and district operations.

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General Administration Cost Containment

- \$127,000 for information technology (IT) software, computers and supplies; and
- \$ 53,000 in-state travel, office supplies, and non-Annapolis Data Center Computer usage.

District Operations Cost Containment

- \$269,475 for postage, travel/conferences, office supplies, furniture, and subscriptions;
- \$180,000 in rent payments for non-State-owned space needed to accommodate 70 new positions to reflect normal delays in finding leased space;
- \$185,000 for contractual employees by leaving open 45 vacancies among the 108 contractual positions most of which were clerical positions; and
- \$26,525 reductions to vehicles and office furniture.

Governor's Proposed Budget

The budget is driven by the caseload initiative. In year two of the caseload initiative, \$2,261,522 for 68.5 new positions accounts for a significant portion of the \$4,057,025 and 6.6% increase in the Public Defender allowance over the fiscal 2004 working appropriation. The new caseload positions are funded with 34.3% turnover taken. The annualized cost of fiscal 2004 positions, in five areas, accounts for \$1,376,167 and all but \$1,393,114 of the net remaining increase in salary expenses. Employee salary increments (\$738,270) and the health insurance increase (\$388,433) accounts for most of the remainder.

Exhibit 3
Governor's Proposed Budget
Office of the Public Defender
(\$ in Thousands)

	<u>FY 03</u> <u>Actual</u>	<u>FY 04</u> <u>Approp.</u>	<u>FY 05</u> <u>Allowance</u>	<u>FY 04-05</u> <u>Change</u>	<u>FY 04-05</u> <u>% Change</u>
General Funds	\$55,917	\$60,188	\$64,793	\$4,605	7.7%
Contingent & Back of Bill Reductions	0	0	-343	-343	
Adjusted General Funds	\$55,917	\$60,188	\$64,450	\$4,262	7.1%
Special Funds	\$239	\$260	\$110	-\$150	-57.7%
Reimbursable Funds	\$1,216	\$1,432	\$1,377	-\$55	-3.8%
Adjusted Grand Total	\$57,372	\$61,880	\$65,937	\$4,057	6.6%

Where It Goes:

Personnel Expenses

New positions in year two of caseload initiative – 68.5 positions	\$2,262
Year one of caseload initiative annualized	567
Baltimore Hargrove District Court positions annualized	530
Baltimore Juvenile Justice Center positions annualized.....	160
Children in Need of Assistance (CINA) positions	90
Montgomery County Juvenile Court	29
Increments.....	738
Health insurance	388
Workers' compensation premium assessment.....	97
Turnover adjustments	83
Other fringe benefit adjustments.....	95
	5,039

Other Changes

Reduction of 15 contractual positions	-271
Reduction in panel attorneys.....	-466
Reduction of medical service support	-14
Reduction in other caseload related technical support	-124
Decrease in DBM Telecommunications	-28
Decrease in network management support	-134
Reduction in other contractual services	-24
Reduction in office supplies.....	-41

Analysis of the FY 2005 Maryland Executive Budget, 2004

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Where It Goes

Increase in installment payments for information technology equipment.....	124
Decrease for rent, insurance, subscriptions and association dues	-10
Other changes.....	6
Total	\$4,057

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

Annualized Personnel Increase

- \$567,302 for 58.5 positions approved in fiscal 2004 as the first installment of the three-year caseload initiative, to bring attorney caseloads into compliance with national standards. These positions were funded at 25% turnover in fiscal 2004. Fiscal 2005 provides full-year funding.
- \$530,410 for the Hargrove District Court in Baltimore. The new building opened in April 2003 but funding for 13 new positions was cut by the General Assembly for cost containment. Fiscal 2005 provides full-year funding.
- \$159,537 for the Baltimore City Juvenile Justice Center (BCJJC). OPD moved into this facility in November 2003. The positions were funded in fiscal 2004 at 25% turnover. Fiscal 2005 provides full-year funding.
- \$118,927 for other annualized positions. New positions to reflect the transfer of juvenile court in Montgomery County (\$28,893) from the District Court to the circuit court, and to implement representation of non-custodial parents (\$90,034) in child in need of assistance (CINA) proceedings were funded at 25% turnover. Fiscal 2005 provides full funding of these positions.

The increases in the caseload initiative are offset by a \$465,891 decrease in the allowance for panel attorneys. Panel attorneys are utilized to address the attorney case overload problem and to provide client representation in cases where there are multiple defendants. In cases with multiple defendants, the interests of each client may be different and are perceived as compromised if more than one client is represented by the public defender.

The allowance also reflects the elimination of special funds for the bail reconsideration (\$57,679), the Criminal Justice Drug Intervention Project (\$67,000), and the circuit court case management study (\$49,357) in Anne Arundel County. The Board of Public Works' January 28, 2004, agenda includes approval for an assistant public defender (\$42,453) for a juvenile drug court program in Baltimore County. The program is funded by a Baltimore County Byrne drug grant.

Impact of Cost Containment

The fiscal 2005 allowance reflects the elimination of the \$343,000 appropriation for matching employee deferred compensation contributions up to \$600 contingent upon enactment of a provision in the budget reconciliation legislation.

Issues

1. Two-grade Increase for Public Defenders

The budget provides for a two-grade increase for attorneys in OPD. It would affect 557 positions and will cost \$4.3 million in fiscal 2005. A two-grade increase was awarded to attorneys in the Office of the Attorney General in a prior year. **The OPD should provide the committees with specific data demonstrating the need for this increase at the budget hearing.**

The Department of Legislative Services will make recommendations relating to this and other compensation issues in its analysis of employee compensation.

Recommended Actions

1. Concur with Governor's allowance.

Updates

1. Status of Caseload Initiative

The agency's Caseloads Initiative has three components: (1) reduce excessive public defender caseloads to comply with ABA standards; (2) establish a funding/staffing formula linked to Maryland specific caseload standards; and (3) install a case management system to improve case management and provide accurate caseload/workload data to increase accountability and streamline the budget process. More detail on this initiative is provided in the report, *Caseloads Initiative, November 2003*, submitted in response to the 2003 *Joint Chairmen's Report*.

The first step to establishing caseload-based funding is the development of Maryland specific caseload standards. The fiscal 2004 appropriation included funds to conduct a case-weighting study to determine appropriate caseload standards. That study is being designed now and will be conducted early in 2004. This baseline workload data will be used to develop caseload standards for review by the legislature in the 2005 session.

Infrastructure deficiencies were remedied in fiscal 2002 and 2003. The case management system design was completed in fiscal 2003. Pilot sites have been selected and have begun testing the case management system. Design changes based upon pilot site reporting will be completed in spring 2004. Statewide rollout will be completed by the end of fiscal 2004.

The budget request for the OPD should be caseload driven. The OPD should be able to provide sufficient data to justify a caseload driven budget beginning with the budget request for fiscal 2006 or 2007.

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 2003					
Legislative Appropriation	\$56,916	\$201	\$28	\$1,168	\$58,314
Deficiency Appropriation	1,088	0	0	0	1,088
Budget Amendments	0	60	0	279	339
Cost Containment	-2,050	0	0	0	-2,050
Reversions and Cancellations	-37	-23	-28	-231	-318
Actual Expenditures	\$55,917	\$239	\$0	\$1,216	\$57,372
Fiscal 2004					
Legislative Appropriation	\$61,029	\$260	\$0	\$1,432	\$62,721
Cost Containment	-841	0	0	0	-841
Budget Amendments	0	0	0	0	0
Working Appropriation	\$60,188	\$260	\$0	\$1,432	\$61,880

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

Fiscal 2003

Two rounds of cost containment approved by the Board of Public Works (BPW) in January and February 2003 reduced the appropriation \$2,012,783, and the \$37,318 employee transit subsidy was eliminated by budget bill action in the 2003 legislative session. The January 8, 2003, BPW action

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reduced \$1,593,659 of which \$1,013,159 was in technical and special fees. This eliminated \$611,000 for the assignment of panel attorneys where there are multiple defendants in a case and \$402,159 for case overload panel attorneys. OPD reduced operating expenses by \$580,500 – primarily fixed charges \$190,000, contractual services \$180,000, and telecommunications \$90,000. In February 2003 BPW action eliminated \$419,124 budgeted for the employee bonus.

Fiscal 2004

In July 2003 BPW approved \$841,000 in cost reductions that were discussed earlier in the fiscal 2004 impact of cost containment under fiscal 2004 actions.

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

<u>Object/Fund</u>	<u>FY03 Actual</u>	<u>FY04 Working Appropriation</u>	<u>FY05 Allowance</u>	<u>FY04 - FY05 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	812.30	870.50	939.00	68.50	7.9%
02 Contractual	53.87	86.60	82.60	-4.00	-4.6%
Total Positions	866.17	957.10	1021.60	64.50	6.7%
Objects					
01 Salaries and Wages	\$ 46,788,568	\$ 49,968,199	\$ 55,350,446	\$ 5,382,247	10.8%
02 Technical & Spec Fees	4,603,864	5,634,272	4,759,927	-874,345	-15.5%
03 Communication	616,527	754,202	724,940	-29,262	-3.9%
04 Travel	224,198	295,578	294,869	-709	-0.2%
06 Fuel & Utilities	24,012	30,700	30,700	0	0%
07 Motor Vehicles	100,168	97,509	95,529	-1,980	-2.0%
08 Contractual Services	2,514,883	2,439,416	2,281,114	-158,302	-6.5%
09 Supplies & Materials	335,148	441,270	400,455	-40,815	-9.2%
10 Equip - Replacement	11,516	2,980	2,980	0	0%
11 Equip - Additional	585,087	238,921	371,625	132,704	55.5%
13 Fixed Charges	1,531,143	1,977,103	1,967,590	-9,513	-0.5%
14 Land & Structures	36,868	0	0	0	0.0%
Total Objects	\$ 57,371,982	\$ 61,880,150	\$ 66,280,175	\$ 4,400,025	7.1%
Funds					
01 General Fund	\$ 55,916,621	\$ 60,188,202	\$ 64,793,176	\$ 4,604,974	7.7%
03 Special Fund	239,057	260,168	110,209	-149,959	-57.6%
09 Reimbursable Fund	1,216,304	1,431,780	1,376,790	-54,990	-3.8%
Total Funds	\$ 57,371,982	\$ 61,880,150	\$ 66,280,175	\$ 4,400,025	7.1%

Note: Fiscal 2004 appropriations and fiscal 2005 allowance do not include deficiencies, cost containment, and contingent reductions.

**Fiscal Summary
Office of the Public Defender**

<u>Unit/Program</u>	<u>FY03 Actual</u>	<u>FY04 Legislative Appropriation</u>	<u>FY04 Working Appropriation</u>	<u>FY03 - FY04 % Change</u>	<u>FY05 Allowance</u>	<u>FY04 - FY05 % Change</u>
01 General Administration	\$ 4,639,923	\$ 5,118,697	\$ 4,938,697	6.4%	\$ 4,696,632	-4.9%
02 District Operations	46,353,585	50,833,320	50,198,845	8.3%	54,975,337	9.5%
03 Appellate And Inmate Services	4,610,034	4,680,488	4,659,583	1.1%	4,598,420	-1.3%
04 Involuntary Institutionalization Services	1,093,606	1,183,489	1,180,389	7.9%	1,182,068	0.1%
05 Capital Defense Division	674,834	905,156	902,636	33.8%	827,718	-8.3%
Total Expenditures	\$ 57,371,982	\$ 62,721,150	\$ 61,880,150	7.9%	\$ 66,280,175	7.1%
General Fund	\$ 55,916,621	\$ 61,029,202	\$ 60,188,202	7.6%	\$ 64,793,176	7.7%
Special Fund	239,057	260,168	260,168	8.8%	110,209	-57.6%
Total Appropriations	\$ 56,155,678	\$ 61,289,370	\$ 60,448,370	7.6%	\$ 64,903,385	7.4%
Reimbursable Fund	\$ 1,216,304	\$ 1,431,780	\$ 1,431,780	17.7%	\$ 1,376,790	-3.8%
Total Funds	\$ 57,371,982	\$ 62,721,150	\$ 61,880,150	7.9%	\$ 66,280,175	7.1%

Note: Fiscal 2004 appropriations and fiscal 2005 allowance do not include deficiencies, cost containment, and contingent reductions.