MARYLAND OFFICE OF THE PUBLIC DEFENDER



ANNUAL REPORT 2021



Maryland
Office of the
Public
Defender

WE ARE THE STATEWIDE ADVOCATES FOR SECURING JUSTICE, PROTECTING CIVIL RIGHTS, AND **PRESERVING** LIBERTY. OUR **WORK SPANS** CRIMINAL, JUVENILE, **PARENTAL** DEFENSE, AND **INVOLUNTARY** COMMITMENT PROCEEDINGS.

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Leadership

ADMINISTRATION

Public Defender
Paul DeWolfe

Chief Financial Officer Kathleen Mattis

Chief Information Officer Mark Six

Director of Assigned Counsel Scott Reid

Director of Assigned Counsel - PDD Vanita Taylor

Director of Diversity, Equity & Inclusion Patrick Orciani

Director of General Administration Tammy Jarnagin

Director of Human Resources Cynthia Knight

Director of Policy & Development Melissa Rothstein

Director of Recruitment Johanna Leshner

Director of Training Patrice Fulcher

General Counsel Donald Zaremba

DISTRICTS

DISTRICT 1 - BALTIMORE CITY District Public Defender, Kirsten Downs Deputy, Natasha Dartigue

DISTRICT 2 - DORCHESTER, SOMERSET, WICOMICO, WORCESTER District Public Defender, Chasity Simpson Deputy, Archibald McFadden

DISTRICT 3 — CAROLINE, CECIL, KENT, QUEEN ANNE'S, TALBOT District Public Defender, Tamara Stofa Deputy, Jason Ricke

DISTRICT 4 - CALVERT, CHARLES, ST. MARY'S
District Public Defender, Michael Beach

DISTRICT 5 - PRINCE GEORGE'S COUNTY District Public Defender, Keith Lotridge Deputy, Melissa Pryce

DISTRICT 6 - MONTGOMERY COUNTY District Public Defender, Allen Wolf Deputy, Theresa Chernosky

DISTRICT 7 - ANNE ARUNDEL COUNTY District Public Defender, Elizabeth Palan Deputy, Ellen Goodman

DISTRICT 8 - BALTIMORE COUNTY District Public Defender, James Dills Deputy, Gayle Robinson

DISTRICT 9 - HARFORD COUNTY
District Public Defender, Kelly Casper
Deputy, John Janowich

DISTRICT 10 - CARROLL, HOWARD District Public Defender, Louis Willemin Deputy, Allison Sayers

DISTRICT 11 - FREDERICK, WASHINGTON District Public Defender, Mary Riley Deputy, Eric Reed

DISTRICT 12 - ALLEGANY, GARRETT District Public Defender, Jessica Colwell

DIVISIONS

APPELLATE DIVISION Chief, Brian Zavin

MENTAL HEALTH DIVISION Chief, Carroll McCabe Deputy, M. Tim Scully

PARENTAL DEFENSE DIVISION Chief, Nena Villamar

POST CONVICTION DEFENDERS Chief, Initia Lettau Deputy, Nayda Kuachusri

DECARCERATION INITIATIVE Director, Brian Saccenti

FORENSICS DIVISION Chief, Jeffrey Gilleran

FORENSICS MENTAL HEALTH Director, Mary Pizzo

IMMIGRATION
Director, Nadine Wettstein

INNOCENCE PROJECT CLINIC Director, Erica Suter

JUVENILE PROTECTION DIVISION Chief, Deborah St. Jean

MAJOR CRIMES & COMPLEX LITIGATION Chief, Katy O'Donnell

SOCIAL WORK DIVISION Director, Terri Collins

From the Public Defender

Last year, we noted how extraordinarily challenging the first few months of the pandemic had been. Little did we know then how long these challenges would endure. As of this writing, approximately 18 months after the start of the pandemic, COVID outbreaks and exposures continue to occur at the jails, courthouses, and our offices. The reduced number of court proceedings have resulted in extended incarceration for clients, with prisons and jails too often relying on solitary confinement as their COVID response. Health issues, quarantines and closures have regularly impacted clients and staff.

Moving forward it is difficult to predict what the workplace of the near future will look like. As for now, we have settled into a hybrid model realizing that some of our work tasks can be performed remotely. Our District Public Defenders and Division Chiefs have been afforded the flexibility to determine which of their staff can effectively telework and for how long as we struggle to do our part to bring this pandemic under control.

Through it all, OPD staff have been resilient. Resilient in their commitment to our mission, our clients, our work, and each other. OPD attorneys ensure that constitutional rights are protected while COVID precautions are implemented, developing individualized and creative solutions to simultaneously promote due process and public safety. Social workers provide mitigation and reentry planning to promote the release of our vulnerable clients and reduce the high rate of incarceration. Core staff ensure that our offices remain productive and accessible to clients, whether virtually or in person, even when COVID outbreaks close courthouses, disrupt jail visits, and impact our office spaces. We also continue to prioritize training and professional development, with webinars and other virtual events hosted in-house and by allied partners.

As detailed further in this report, we have established a revitalized DEI taskforce and developed intra-agency workgroups. With regularly scheduled virtual meetings, these collaborations help foster a greater sense of community, encourage creative advocacy, and expand information sharing and strategizing.

We also substantially upgraded our technology to improve remote capabilities and reduce unplanned issues and server crashes. A significant component of our IT advancements has been the implementation of a new case management system, eDefender. With eDefender, we can more effectively gather and analyze individual and aggregate data. This has enhanced our supervisory capacity, and allows for a more accurate examination of workloads.

These efforts truly embody our agency pillars of culture of excellence, united in our mission, client-centered tenacious advocacy, and diversity and inclusion. We are proud to highlight our innovations and successes, and showcase the resilience of our staff.

Sincerely,

Paul B. DeWolfe Maryland Public Defender

Diversity Equity & Inclusion

OPD is committed to embedding Diversity, Equity and Inclusion (DEI) into the fabric of the agency. These efforts help building a more inclusive culture that better represents the communities that OPD serves. Last fall, OPD established the DEI Advisory Council, made up of employees from across the state and all levels of staff, including leadership from administration, line attorneys, and core staff.

The DEI Advisory Council has three subcommittees charged with creating best practices and key strategies that will build out the three pillars of the DEI Program:

- The Culture/Programming Subcommittee Working to improve workplace culture through various initiatives and create programming that will increase cultural awareness and ensure that employees' psychological safety is a priority. The subcommittee is also working on ways to expand community engagement and community relations.
- The Recruitment Subcommittee Working to create best practices that will infuse
 DEI into the entire recruitment process from sourcing to start date, removing bias
 from the hiring process and making it more accessible and inclusive to further
 improve the candidate experience.
- The Training & Professional Development Subcommittee Developing comprehensive training for OPD staff at all levels, including unconscious bias training, leadership training on handling DEI related matters, and cultural awareness training for employees.

Understanding and supporting the diversity within OPD's staff and clientele makes employees better advocates and colleagues. The work put forward by the DEI Program is a crucial component of an inclusive OPD. In the upcoming year, OPD will remain committed to hiring and supporting diverse talent, creating a more inclusive environment for professional development and legal representation, and launching various DEI campaigns.



OPD's diversity, equity and inclusion efforts are led by DEI Director Patrick Orciani. With almost 20 years of experience in the corporate sector, Patrick came to OPD with a vast knowledge and skill set surrounding DEI. His passion for DEI started in 2008, when Patrick was involved with building out the Diversity & Inclusion Program at Guidehouse consulting firm. Patrick believes DEI work takes passion, dedication, and a thick skin to challenge exclusionary norms wherever they show up.

Intra-Agency Teams

While the District Offices each operate within the local culture and practice of their jurisdiction, as a statewide agency, OPD attorneys increasingly collaborate across the agency to promote best practices, maximize success and efficiency, identify and address statewide systemic issues, and expand professional development and mentoring opportunities.

Police Violence and Misconduct Litigation Team

Six years since Freddy Gray was killed in Baltimore City, police violence continues to be a pressing civil rights issue throughout Maryland and around the country. The Police Violence and Misconduct Litigation team seeks to restore the justice system's role in police oversight and to protect the constitutional rights of defendants in criminal litigation. The team has four main goals: to increase access to police misconduct records via litigation records, to advocate for reforms that promote transparency, to improve the available data on police misconduct in Maryland, and to make it easier for clients to report misconduct and abuse. Through training and collaboration, team members share resources, brainstorm ideas, and provide a supportive environment.

The Maryland General Assembly prioritized police reform this past session, during which members of the Police Violence and Misconduct Team provided testimony in support of the proposed changes – including successfully advocating for repeal of the Law Enforcement Officers' Bill of Rights [LEOBR]. The LEOBR has been a significant barrier to transparency and accountability of police abuse.

"[Police violence] is not fixed, but we're certainly accomplishing the objective to more aggressively be litigating this throughout the state... It's really energizing to watch this develop across the state."

-Deborah Levi, Director of Special Litigation

Immigration Liaisons

When OPD clients are not citizens, their immigration status can be impacted by their legal case. Judicial proceedings and their verdicts can potentially result in visa issues, complications travelling, or deportation. As a result, the U.S. Supreme Court recognized in Padilla v. Kentucky that effective assistance of counsel requires defense attorneys to advise noncitizen clients about the immigration consequences of their case. In keeping with its client-centered approach, OPD embraced the Padilla decision and retained an experienced immigration attorney to establish in-house expertise, with a team of public defenders who serve as Immigration Liaisons.

Representing every district in the state, Immigration Liaisons receive specialized training and support as they keep their colleagues up-to-date on how immigration law may affect their cases and clients, and facilitate referrals to OPD's Immigration Division for detailed consultation. In addition to keeping abreast of litigation developments, Immigration Liaisons must also adapt to shifting federal enforcement priorities and conduct, which have been impacted by the COVID-19 pandemic and the change in federal administration, allowing them to better advise clients.

"The importance of accurate legal advice for noncitizens accused of crimes has never been more important. These changes [in immigration law] confirm our view that, as a matter of federal law, deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes."

- Padilla v. Kentucky, 559 U.S. 356 (2010)

Government Relations

Like other criminal justice stakeholders, OPD shares its knowledge and information with legislators and other policymakers. To provide these stakeholders with on-the-ground information and expertise, and to address systemic concerns impacting our clients and practice, OPD established a government relations team to allow public defenders with passion for specific issues to advocate for systemic change. Team members provide testimony, serve on legislative task forces, gather data, and otherwise help share information on relevant issues considered by the General Assembly. This past year, OPD efforts supported the passage of the Juvenile Restoration Act, the Maryland Police Accountability Act, automatic expungement, and other reforms.

Juvenile Advocacy Team

The Juvenile Advocacy Team is a statewide collaboration of juvenile defenders working to address the systemic issues that negatively impact our youngest clients. Efforts include organizing in local communities, partnering with local organizations and individuals who are allied with our efforts, educating lawmakers and other stakeholders, and supporting clients and families who seek to publicly share their experience. The team connects onthe-ground courtroom advocacy with larger efforts for systemic reform, giving clients and their families a chance to turn their experience with the legal system into meaningful change.

This past year, the team submitted research, data, and recommendations to the Juvenile Justice Reform Council (JJRC) on high level issues aligned with the Council's priorities. This included advocating for raising the minimum age of juvenile court jurisdiction from seven to 13 for most offenses, banning the use of out-of-home confinement for low level offenses, limiting terms of probation, and increasing opportunities for diversion.

"Advocating for systemic change is a central function of being a juvenile defender... [This year] we had so many OPD juvenile defenders engaged in this process and doing incredible work. It was a true team effort."

-lan Augarten, Juvenile Division Supervising Attorney

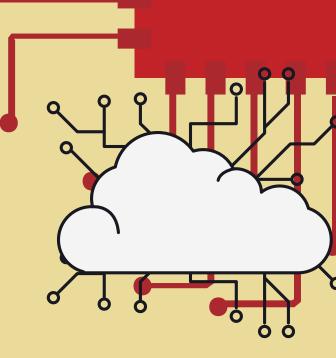
Lone Juvenile Defenders

The diversity of Maryland's counties results in equally diverse OPD offices. While larger jurisdictions, such as Baltimore City and Prince George's County, have dedicated juvenile divisions, rural offices often have one attorney who represents all of OPD's young clients in their jurisdiction's juvenile proceedings. The Lone Juvenile Defenders meet monthly for a virtual lunch to talk about cases and issues that have come up and to share information and ideas. The team helps to build a sense of community and a support network among colleagues in rural areas, allowing them to better share resources, ideas, and best practices.

Technology IT Developments

Over the past year and a half, OPD has brought its technology firmly into the twenty-first century while responding to the changing needs brought on by COVID. The sudden transition to working remotely happened alongside a massive IT overhaul, in which new leadership helped modernize IT employees' skill sets, placing an emphasis on stability and consistency.

Aging hardware and infrastructure were replaced by 40 new servers and over 1000 new laptops with updated software. This allowed for staff to work seamlessly whether at home, in the office, or in court. The updated equipment has also reduced unplanned issues and server crashes.

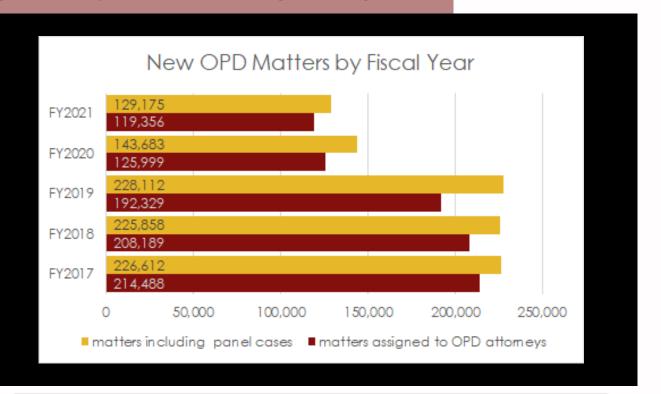


In spring 2020, OPD introduced a new case management system, eDefender, which has allowed for data collection that offers a fuller picture of workload effort. In addition to improved data collection, this cloud-based system helps to streamline and modernize key components of case management, allows for computability with the court's MDEC system, and ultimately replaces printed case files with electronic ones in a secure environment that can be accessed wherever staff are.

OPD also secured new tools for virtual collaboration, so that employees can safely exchange documents online, participate in video conferencing, and secure electronic signatures. Through grant funding, OPD worked with several county jails and the state Department of Public Safety and Correctional Services to secure dedicated laptops for remote attorney-client IT communications.

Transitioning OPD staff to a hybrid work environment required a significant amount of training and guidance. As OPD joined the State's Google Suite system, employees learned how to use its technologies and participated in mandated security training each month. A helpline is also available to troubleshoot problems and answer specific questions.

New OPD Matters

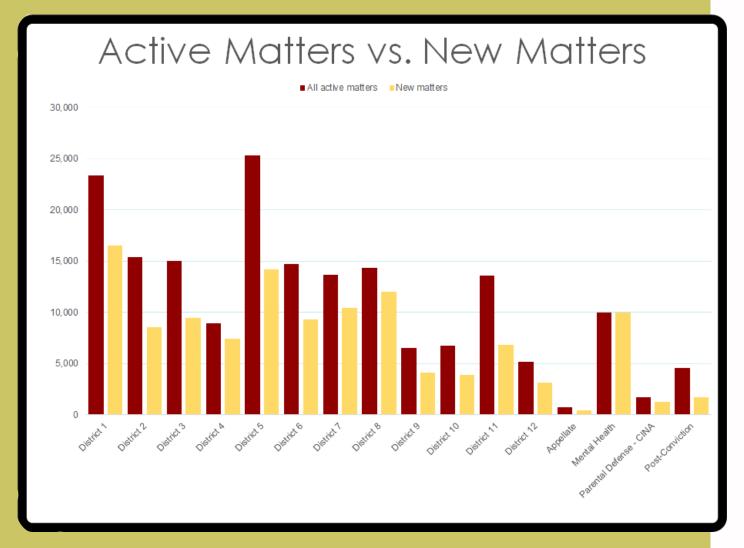


The number of new matters opened in Fiscal Year 2021 was lower than in previous years, due to the coronavirus pandemic. A dramatic dip in new proceedings began in March 2020, when the COVID shutdown began.

In the past, OPD's Annual Report has used new matters as a proxy for workload. While never fully accurate, this measure is particularly inapplicable this year. While the number of new matters has been low, the number of cases that remained pending from Fiscal Year 2020 or earlier is notably higher. The suspension of jury trials and the reduction in court dockets required increased pretrial practice, particularly for clients who remained incarcerated for months without the opportunity to have their day in court. The risk of COVID is exceptionally high in the jail setting, many OPD clients have health conditions making them especially vulnerable, and jail officials often relied on solitary confinement as a social distancing or quarantining measure -- increasing the urgency for OPD advocacy.

With the implementation of our new case management system, eDefender, we began capturing data on open active matters to better reflect the staff workload. The following page depicts the difference between the new and active matters. (The methodology for workload calculations is included on page 17.)

Active Matters



While the number of new matters decreased, the number of active matters remained high throughout the state.

Matters that were initiated in prior fiscal years represented approximately one third of OPD attorney workloads.

	Active Matters	New Matters
District 1	23,35	16,506
District 2	15,408	8,543
District 3	15,05	9,432
District 4	8,94	7,402
District 5	25,29	14,225
District 6	14,709	9,320
District 7	13,642	10,451
District 8	14,359	12,014
District 9	6,558	4,108
District 10	6,76	7 3,924
District 11	13,60	6,831
District 12	5,15	3,137
Appellate	743	2 435
Mental Health	10,012	10,012
Parental Defense	1,686	3 1,262
Post-Conviction	4,54	3 1,754
TOTAL	179,838	119,356

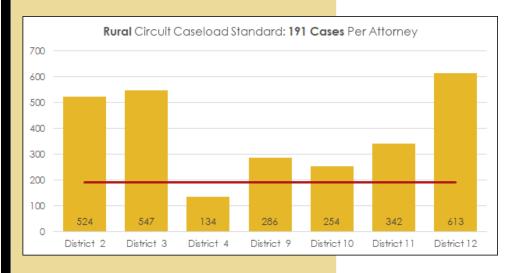
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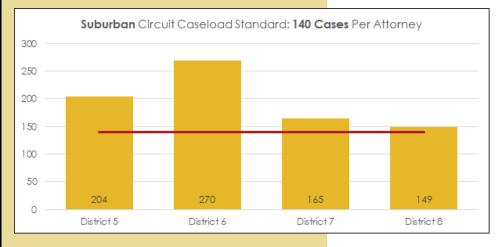
Circuit Court

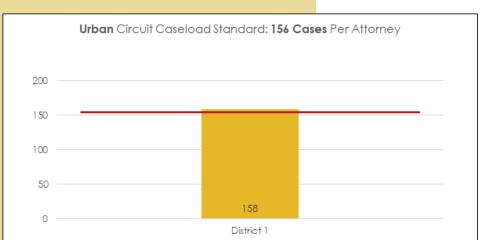
Because trials were suspended for many months, Circuit Court matters remained pending for much longer periods of time. As a result, Circuit Court attorneys had workloads well above the 2005 standards.

All but one district had workloads above standards. Rural districts were particularly impacted as the number of new matters did not decrease as significantly as in the larger jurisdictions. The Eastern Shore (Districts 2 and 3) and Western Maryland (District 12) had workloads more than double the standards.

Attorney Workloads







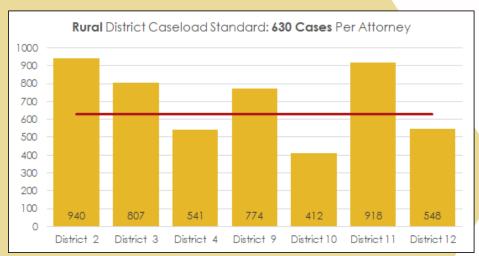
District Court

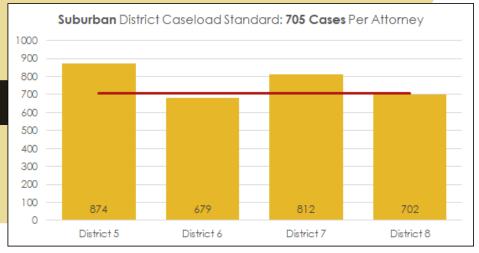
Attorney Workloads

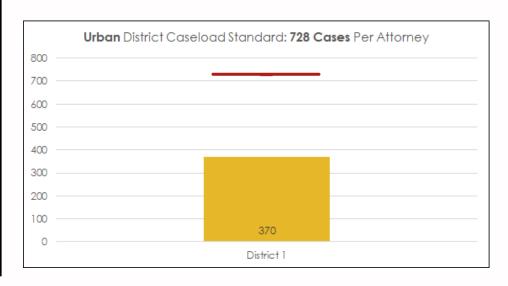


District Court practice fared better than Circuit Court in terms of the impact of pending cases on actual workloads.

Nonetheless, six of the twelve jurisdictions had active workloads above standards.





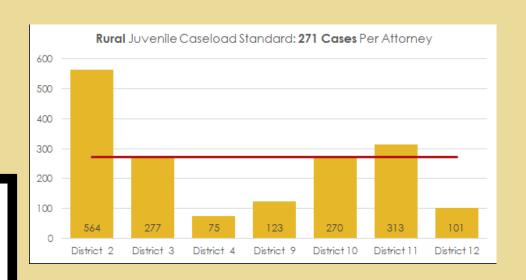


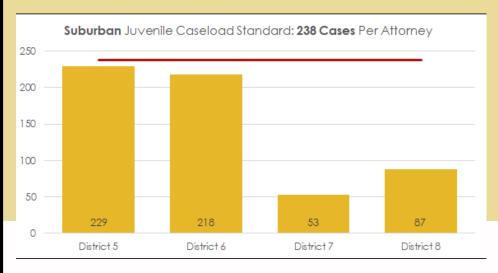
Juvenile Court

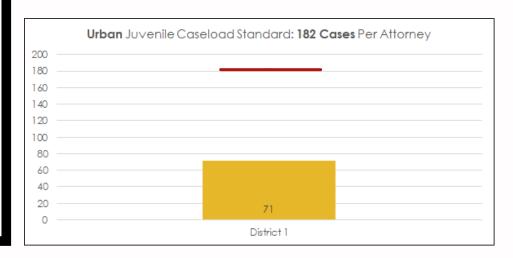
Attorney Workloads

Juvenile matters
have decreased
dramatically
system-wide over
the course of the
pandemic, and our
juvenile workloads
have remained
below standards.

Matters
concerning
juveniles charged
as adults in Circuit
Court are not
included in these
workloads, even
though juvenile
defenders are part
of the
representation
team in those
cases.



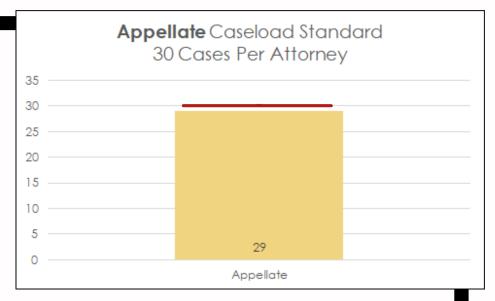




Division Workloads



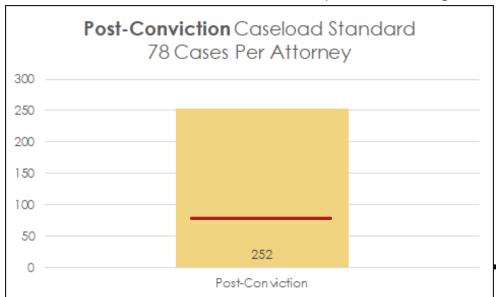
The Appellate
Division was
among the least
impacted by the
COVID pandemic
and remained
within standards
for its attorney
workloads.



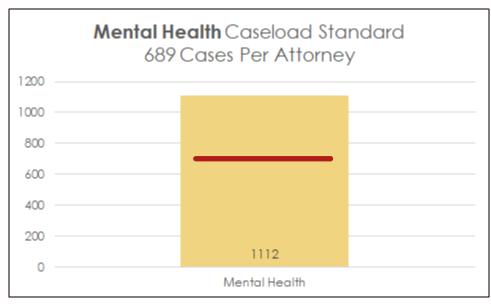
The Court of Appeals and the Court of Special Appeals shifted to virtual arguments fairly early in the pandemic.

POST-CONVICTION DEFENDERS

The Post-Conviction Division workloads continue to exceed standards, at an increasing rate. In addition to post-conviction petitions, the Division's portfolio includes parole revocation proceedings, sentencing modifications, illegal sentencing motions, writs of actual innocence, other post-sentencing hearings, petitions for



DNA testing, and applications for leave to appeal. The 2005 standards do not account for sentencing modifications, illegal sentence motions, and other postsentencing hearings...



MENTAL HEALTH

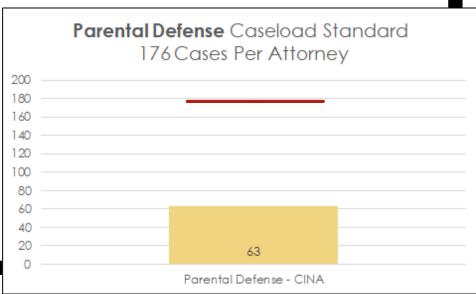
The Mental Health Division's workload dramatically increased this past fiscal year, resulting in workloads above standards. New inpatient psychiatric facilities have

opened, and a number of hospitals have added inpatient psychiatric units or have increased the number of inpatient psychiatric beds, resulting in significantly more involuntary civil commitment hearings. A change in Maryland law also provided OPD with notice of involuntary admission applications while the patient is still at the emergency department, allowing for representation prior to inpatient hospital admission, which was not previously tracked or measured.

PARENTAL DEFENSE

Parental defense workloads, which include children in need of assistance (CINA) proceedings, termination of parental rights (TPR) cases, guardianship reviews, and family drug court, remain below the 2005 standards. Statutory changes made since the 2005 standards were developed mandate two

additional hearings, ancillary mediation, family recovery drug court, and truancy court. The Department of Social Services also added mandatory family involvement, team decision making meetings.

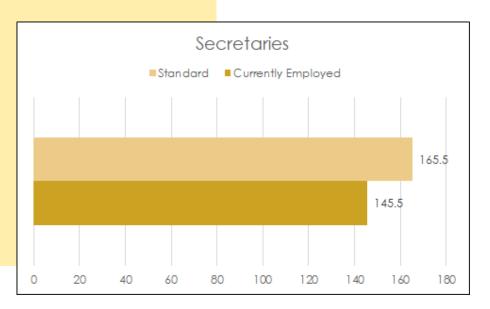


Core Staff

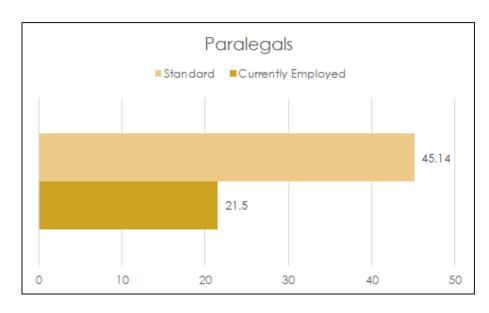
SECRETARIES AND ADMINISTRATIVE

clerks: Clerical support is critical to agency efficiency, and has become increasingly important with electronic filing and remote operations. Without a sufficient core of secretaries and clerks.

attorneys are required to

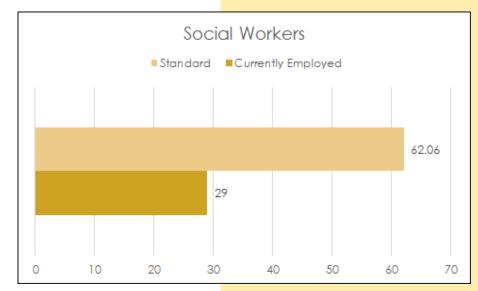


take on more clerical tasks, amplifying the impact of excessive workloads on case management and district operations. The 2005 standards recommended a ratio of one secretary for every three attorneys. OPD would need 20 more positions to meet this standard.



PARALEGALS: The massive increase in ediscovery, particularly from police body worn cameras and video surveillance, requires extensive hours of evidence review even in misdemeanor cases. While State's Attorneys Offices are often provided with paralegal positions in conjunction

with police funding for body-worn cameras, public defenders receive no such support. The 2005 standards, which predate this need, recommended one paralegal for every eleven attorneys. Current staffing provides for only one paralegal for every 23 attorneys.



SOCIAL WORKERS:

Social worker engagement on the defense team is a best practice that improves efficiency with court proceedings and results in better outcomes for clients and the community. In the past few years, OPD has been able to

supplement its social work pins with grant-funded positions focused on specific client needs, such as substance abuse or chronic mental illness. Even with these additions, our social work capacity remains below the standards. The 2005 standards recommend one social worker for every eight attorneys; OPD currently has one social worker for every 17 attorneys.

Workload Calculations

To calculate the average annual workload per attorney, we relied upon the ratio between the number of open active matters and the number of attorneys in that district/division and practice. The resulting workloads are then compared to the workload standards created in 2005, in collaboration with the National Center for State Courts (NCSC). The NCSC standards were created to provide uniform and comparable measures of the number of attorneys and support staff needed to ensure that Maryland fulfills its constitutional obligation to provide effective assistance of counsel. The standards distinguish between felony (including homicide), misdemeanor (including traffic) and juvenile cases. For the purposes of this report, OPD has equated felony cases with Circuit Court matters and misdemeanor and traffic cases with District Court matters.

The NCSC Standards, established in 2005, do not accurately reflect the full scope of current practice. Body worn cameras and other forms of e-discovery require many hours for review and barely existed 16 years ago, but are commonplace now even in misdemeanor practice. The American Bar Association (ABA) standards recommend lower workloads, and other states have conducted recent caseload studies with more exacting methodologies and also have lower recommended standards. OPD plans to update our workload standards to keep with best practices in this ever-changing law and technology environment.



Justice, Fairness, & Dignity for All