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Maryland Office of the Public Defender
Fiscal Year 2021 Operating Budget
Response to Department of Legislative Services Budget Analysis

Budget & Taxation Committee
Public Safety, Transportation, and Environment Subcommittee
Senator Cory V. McCray, Chair
February 7, 2020

Appropriations Committee
Public Safety and Administration Subcommittee
Delegate Keith E. Haynes, Chair
February 5, 2020

Good afternoon, Mr. Chairman and members of the subcommittee. I am Paul DeWolfe, Public Defender for the State of Maryland. And this is Kathy Mattis, our Chief Fiscal Officer. I want to thank Ken for his detailed and experienced analysis of OPD issues and progress. It is helpful to have a new "pair of eyes" on our operations to assist us as we face the coming challenges and opportunities in this year and next.

OPD has struggled with excessive caseloads for the past decade, primarily as a result of underfunding and deficient resources to support to the high volume of cases and increasing administrative responsibilities carried out by our staff attorneys. I'd like to address some underlying issues that we face at OPD in managing these caseloads.

As Ken points out, the Judiciary, through its court commissioners, has been responsible for OPD client eligibility determinations since 2017. This has resulted in an increase in eligible cases assigned to OPD because the commissioners see all potential applicants and offer OPD services to everyone with representation requirements covered under our Statute. Most of these

new cases are for lesser offenses for which applicants may not have known they were eligible for OPD representation. As a result, in 2018, OPD requested and was funded for a new program, called WRPP, which enables OPD to assign district court dockets, primarily traffic dockets, to panel attorneys. In 2019, under WRPP, panel attorneys covered approximately 3,500 dockets culminating in the resolution of more than 24,500 cases. This means that WRPP eliminated the impact of the increase in cases from the commissioners' work, significantly reducing caseloads. Further, WRPP, which is funded for $2 million a year, has saved as much as $3 million by eliminating the need for 38 more attorneys to meet caseload standards and minimizing per case costs for minor offenses that do not affect public safety. Morale has improved tremendously.

OPD calculates caseloads to advocate for funding and resources, but also to redeploy resources across the State and areas of law. The calculation of caseloads and comparison to standard is not yet scientific and is affected by the number of attorneys assigned to a jurisdiction versus the number of vacancies, whether or not district management is included, reassignments within districts that only affect part of the year, calendar versus fiscal year comparisons and the age of our caseload standards which were developed in 2005. For instance, the increase in circuit court caseloads in Western Maryland was affected by a reorganization of that office last year and the increase in juvenile caseloads in Baltimore City is related to the redeployment of vacant juvenile attorney positions to other jurisdictions and areas of law as a result of a decrease in juvenile cases in the City.

Management relies on caseload calculations to determine resource requirements and the use of OPD resources for the Agency, each District and Division by area of law, taking into account trends and projections. They are the basis for attorney deployment, but also for determining which external resources are required for each case, such as medical assessments, expert analysis and testimony, investigations, court reporting and social worker support,

correlating the use of resources with the outcome of the cases. To this end, OPD has developed a new case management system, eDefender, which will be launched in 2020, beginning with District 7 (Anne Arundel County) in April. This new system will support OPD management by providing reliable, accurate data on attorney assignments, the disposition of cases, the incidence and cost of external services, as well as support the time studies required to establish new caseload standards that reflect current attorney practices and processes, including the impact of administrative work and use of new evidence technologies. eDefender will include reporting that is robust, consistent and clear to support effective decisions by management and evaluate performance.

Over the past 18 months, OPD has reorganized its Information Technology group to meet the demands of the eDefender implementation, the deployment of new network and desktop hardware and software, including laptops for our attorneys, and upgrades in our IT systems, policies and practices to keep pace with this quantum leap into more efficient, secure and capable computing environment. We are proud of the new team and their progress.

In the end, though, caseloads are most affected by staffing. Since 2018, OPD has been funded for approximately 60 contractual administrative staff positions that are critical to offset some of the administrative workload adversely affecting our attorneys' time on cases. These positions, however critical, do not include social workers who impact our clients and work most significantly by advocating for reduced charges and sentencing, improving communication and engagement in the communities we serve and accommodating successful reentry and stability for our clients. We continue to request exemption waivers for these professionals and also for new attorneys to keep pace with the growth in specialty courtrooms throughout the state.

OPD has worked tirelessly to manage our resources to ensure effectiveness of counsel to needy clients in Maryland. We are grateful for these opportunities to report on our successes and discuss areas of opportunity to improve.

Thank you.