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PUBLIC DEFENDER

**Maryland Office of the Public Defender
Fiscal Year 2022 Operating Budget
Response to Department of Legislative Services Budget Analysis**

**Budget & Taxation Committee
Public Safety, Transportation, and Environment Subcommittee
Senator Cory V. McCray, Chair
March 1, 2021**

**Appropriations Committee
Public Safety and Administration Subcommittee
Delegate Keith E. Haynes, Chair
March 1, 2021**

Good afternoon, Mr. Chairmen and members of the subcommittees. I am Paul DeWolfe, Public Defender for the State of Maryland. Kathy Mattis, our Chief Fiscal Officer, is also in the meeting.

I want to thank Madelyn for her detailed analysis of the OPD budget. We have just started working together and we look forward to her support for the unprecedented challenges we face this year and next.

The past year has been treacherous for OPD, beginning with a cyberattack in March 2020, exclusive to OPD, which shut down our systems for three months, destroyed records, and necessitated the replacement of hardware at 50 sites across the State. Our newly-formed IT management team quickly and successfully installed new switches and servers, accelerated the deployment of laptops to all personnel and launched eDefender, the new case management system which was under development. OPD was able to turn the shutdown into an opportunity to upgrade systems, train staff and enhance system and user security, none of which would have

been possible without the support and expertise of DoIT. OPD has implemented their security recommendations.

At the same time that the cyberattack occurred, the State shut down due to COVID and OPD mobilized efforts to obtain releases for clients that were being held in detention centers, advocate for safety measures for those who remained incarcerated, and negotiate new protocols and systems for communication and access to clients. While detention centers have been hit particularly hard during COVID, court closures and delays have extended the retention periods for our clients being held or incarcerated. OPD's investment in teleworking, including the deployment of laptops and the launch of web-based eDefender, ensured continuity of representation for our clients.

The safety of our employees is paramount and we are proud to report that the effects of COVID on our organization have been minimal, thanks to safety innovations, especially in the courtroom, and the focus and hard work of our HR group under Cynthia Knight. She has been relentless in distributing communications, coordinating meetings, enforcing safety protocols, reallocating human resources and integrating facilities management in the safety process. With our Directors of Training and Diversity, OPD has held virtual town meetings open to all employees to discuss the implications of COVID, Black Lives Matter, OPD policies and practices and other issues affecting work success, staff retention, and job satisfaction. These meetings have been especially important given the effort to unionize employees at OPD.

Court operations continue to be adversely affected by COVID, resulting in indefinite delays for cases in certain areas of law and a significant number of rescheduled hearings and jury trials. The Judiciary does not report cases that are delayed, so OPD has no mechanism for tracking the backlog or determining the timing of the resumption of these cases. As a result, we

cannot predict the effect on caseloads or the future resources required to support the backlog, including for panel attorneys, investigators, and experts. While OPD will likely operate within Appropriation for FY21, as we did in FY20, and caseloads will appear within standard for both years, the resumption of normal court operations plus the backlog will cause caseload and resource issues for OPD in the future. When that impact will be felt and what the fiscal impact will be are difficult to predict, but could occur by or in FY22, as the country emerges from the pandemic.

Of course, OPD will work to absorb the required cuts to core staff and funding imposed for FY22, but we must be prepared to surge our efforts as the courts return to full operations. This includes continuity of the WRPP Program, under which panel attorneys are engaged to support traffic dockets, thereby reducing OPD caseloads, and the engagement of significantly more panel attorneys to meet the demands of the backlog. To this end, OPD has asked for funding to address the disparity in panel attorney fees Maryland pays compared to the rest of the country, especially neighboring states and the federal government, by increasing the hourly rate paid to panel attorneys from \$50 per hour to \$75 per hour. This is a significant increase, still below many other jurisdictions, but one which must be borne to ensure quality representation for our clients, and the availability and retention of critical panel attorney support, as the backlog of cases is released and we return to normal caseloads.

While the WRPP Program is not fully operational at this time because of the changes in court operations, we continue to prioritize the available resources to lower caseloads in those jurisdictions where there is the greatest excess to standards. We will advocate for full funding as soon as it is available to continue the momentum of this successful investment.

OPD routinely redeploys open positions across functions and geography to meet our changing needs. eDefender affords us additional opportunities for changes in our efficiency, so we do not foresee the vacant positions abolished in the budget having a significant impact on our operations. We are fortunate to have increased our grant funding in recent years, too, specifically with the addition of contractual social workers who have significant impact on our success and the lives of our clients.

OPD is dedicated to meeting the needs of indigent clients in Maryland as we traverse the current COVID environment and emerge from the crisis. We work tirelessly to manage our resources to ensure effectiveness of counsel for our clients and the optimal environment for our organizational success. We are grateful for this opportunity to report on the challenges we face and discuss areas of opportunity to improve.

Thank you.