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**Maryland Office of the Public Defender  
Fiscal Year 2026 Operating Budget**

**Senate Budget & Taxation Committee  
Public Safety, Transportation, and Environment Subcommittee  
Senator Michael A. Jackson, Chair  
February 27, 2025**

**House Appropriations Committee  
Public Safety and Administration Subcommittee  
Delegate Jazz M. Lewis, Chair  
March 3, 2025**

Thank you for this opportunity to discuss the FY26 Budget for the Office of the Public Defender (OPD) and to respond to the Department of Legislative Services' Fiscal Year 2026 budget analysis. We recognize and thank Jacob Pollicove, OPD's DLS budget analyst, for his expertise and thorough, insightful analysis.

Since the publishing of the 2005 Maryland Work-study Standards for the Agency, OPD has continually reported on the growing crisis of excessive workloads for our attorneys and core staff and advocated for additional staff and resources. Over the past two decades, as the number of OPD staff attorneys remained relatively static and core staff positions in the districts were eliminated, time commitments for client representation exploded. This is due to new investigative technologies, electronic and DNA evidence expansion, and resource growth for policing and judiciary. OPD has fallen behind year after year in terms of resources and the ability to affect excessive workloads.

As indicated in last year's budget presentation, The [National Public Defense Workload Study](#) (National Study) was released on September 12, 2023. The National Study establishes guidelines for how many cases a public defender should handle based on the number of hours a specific category of cases requires. The National Study stresses maintaining manageable workloads and ensuring lawyers devote sufficient time to each client. The study was led by a team of attorneys and researchers from nationally known organizations, including the RAND Corporation, the National Center for State Courts, the Law Office of Lawyer Hanlon, and the American Bar Association Standing Committee on Legal Aid and Indigent Defense.

The National Study focuses exclusively on attorneys providing adult criminal trial representation. As a result, it does not address OPD's entire practice of law (appellate, juvenile, mental health, parental defense, and post-conviction), nor does it account for non-attorney needs (secretaries, clerks, social workers, paralegals, intake, investigators). By its nature, the National

Study is not explicitly tailored to Maryland practice and left several key components unaddressed. Nonetheless, the National Study clearly shows excessive workloads are a pervasive problem. The study provides a roadmap for improving an overtaxed public defense system, offers a data-backed basis for funding and staffing estimates, and creates a framework for conducting appropriate oversight and establishing workload expectations.

Our analysis indicates that OPD requires 2.5 to 3 times the current number of adult criminal attorneys to grapple with the problems revealed by the National Study. We have a multi-pronged strategy to close, if not shorten, the gaps of representation, workload, and time for Maryland public defenders’:

## RECRUITMENT

Renewed recruitment efforts (hiring fairs, campus visits, community events, and targeted advertising) have resulted in many offers to qualified individuals. For FY24, OPD attorney hires totaled 104. To date, for FY25, OPD has hired 96 attorneys.

	Attorney Hires	Core Staff Hires	Contract Hires	Total Hires			Attorney Hires	Core Staff Hires	Contract Hires	Total Hires
<b>FY 2023</b>						<b>FY 2024</b>				
Jul - Sep 2022	24	8	11	43	Jul - Sep 2023	27	22	6	55	
Oct - Dec 2022	6	7	8	21	Oct - Dec 2023	39	18	16	73	
Jan - Mar 2023	17	5	9	31	Jan - Mar 2024	20	13	8	41	
Apr - June 2023	10	9	8	27	Apr - Jun 2024	18	7	14	39	
	57	29	36	122		104	60	44	208	

	Attorney Hires	Core Staff Hires	Contract Hires	Total Hires			Attorney Hires	Core Staff Hires	Contract Hires	Total Hires
<b>FY 2025</b>						<b>FY 2026</b>				
July - Sep 2024	37	10	4	51	July - Sep 2025	16	0	0	16	
Oct - Dec 2024	24	6	7	37	Oct - Dec 2025	0	0	0	0	
Jan - Mar 2025	33	4	2	39	Jan - Mar 2026	11	0	0	11	
Apr - Jun 2025	2	0	0	2	Apr - Jun 2026	0	0	0	0	
	96	20	13	129		27	0	0	27	

***Status of vacancies:***

As of January 31, 2024, there are 41.5 vacant attorney positions (6.78% vacancy rate), 37.0 vacant Core Staff positions (10.03% vacancy rate), and 8.0% overall vacancy rate. On July 1, 2024, OPD received 43 PINS. It is important to note that with the addition of new attorney PINS, the attorney vacancy rate rose to 15.92%. The current attorney vacancy rate of 6.78% reflects a **57.4% decrease from July 2024.**

Office of the Public Defender				Office of the Public Defender			
Vacancy Data - Total Staff PINS				Turnover Rates			
	Attorney	Core Staff	Combined		Attorney	Core Staff	Combined
<b>FY 2025</b>				<b>FY 2025</b>			
July 2024	97.5	40	137.5	July 2024	15.92%	10.84%	14.01%
Aug 2024	83.5	38	121.5	Aug 2024	13.63%	10.30%	12.38%
Sept 2024	79.5	39.0	118.5	Sep 2024	12.98%	10.57%	12.07%
Oct 2024	72.5	37.0	109.5	Oct 2024	11.84%	10.03%	11.16%
Nov 2024	63.5	36.0	99.5	Nov 2024	10.37%	9.76%	10.14%
Dec 2024	67.5	36.0	103.5	Dec 2024	11.02%	9.76%	10.55%
Jan 2025	41.5	37.0	78.5	Jan 2025	6.78%	10.03%	8.00%
Feb 2025	0	0.0	0	Feb 2025	0.00%	0.00%	0.00%
Mar 2025	0	0.0	0	Mar 2025	0.00%	0.00%	0.00%
Apr 2025	0	0.0	0	Apr 2025	0.00%	0.00%	0.00%
May 2025	0	0.0	0	May 2025	0.00%	0.00%	0.00%
June 2025	0	0.0	0	June 2025	0.00%	0.00%	0.00%

**RETENTION**

OPD continues to face retention challenges due to salary inequities with other similarly situated State agencies and minimal employee incentives. OPD’s current workload and retention challenges are due to:

- No pay parity with the Office of the Attorney General.
- No salary increases for Core Staff employees to address historical salary inequities.
- Lack of sustained paid legal intern and law clerk program.
- Lack of Core Staff positions growth proportionately to other criminal justice stakeholders

## **WORKLOAD STUDY**

The 2023 National Study has shown that OPD's current attorney staff level is inadequate, and all staff members are dangerously overworked. The National Study necessitates a threefold increase in OPD's attorney workforce to meet recognized standards. To meet the national public defense standard in district and circuit courts alone, OPD would need to obtain an additional 873 new attorney positions. When we factor in other areas of law, this number climbs to 920 new positions. This profound understaffing directly impacts morale, job satisfaction, and the legal representation our attorneys can provide. OPD aims to tackle the problem over three to five years.

The efficiency and effectiveness of OPD operations are dependent on the legal expertise, staffing levels, and retention of qualified attorneys and non-attorney staff members. Without sufficient staff, attorneys are required to perform administrative and additional tasks that further adversely affect workloads. Competitive salaries for Core Staff are key to maintaining a strong workforce. Core Staff handle time-consuming and non-legal tasks, allowing attorneys to focus on providing quality legal defense. This will not only reduce stress and burnout but also enhance the efficiency of our legal teams. Core Staff allows for streamlining operations, reducing paperwork bottlenecks, and improving organizational productivity.

The data from the National Public Defense Workload Study makes it clear that OPD is facing a staffing crisis that threatens the quality of legal defense and the well-being of dedicated professionals. It is imperative that a Maryland-specific workload study is conducted. The National Study is an essential tool to assess current conditions. Still, it does not include significant areas of Maryland criminal law practice, necessary non-attorney positions, all categories of offenses, differentiation of courts, or OPD's different divisions. To address this, OPD published an RFP for a Maryland (specific) Public Defense Workload Study. The Rand Corporation was the successful bidder, and a contract for the study was finalized in late 2024. The study is in the beginning stages, and OPD anticipates completing and publishing the report in February 2026.

### **Responses to the DLS Budget Analysis**

***(OPD should discuss) the reason for the lower funding in fiscal 2025 and 2026 for this purpose compared to recent actual experience and how it would cover any shortfalls in this spending.***

OPD reduced funding in fiscal year 2026 as part of the statewide budget reduction mandate. At the time of budget submission, OPD intended to augment state funding by seeking the availability of federal funds. Federal funds would supplement resources for the payment of panel attorneys. Additionally, the anticipation of prospective juvenile legislation may reduce OPD's need for panel attorneys in juvenile matters.

***(OPD should comment on) The Department of Legislative Services (DLS) recommends reducing \$1,697,000 in general funds and deleting 12 new office secretary positions, 9 new office clerk positions, 2 new administrative positions, and 2 new information technology related positions.***

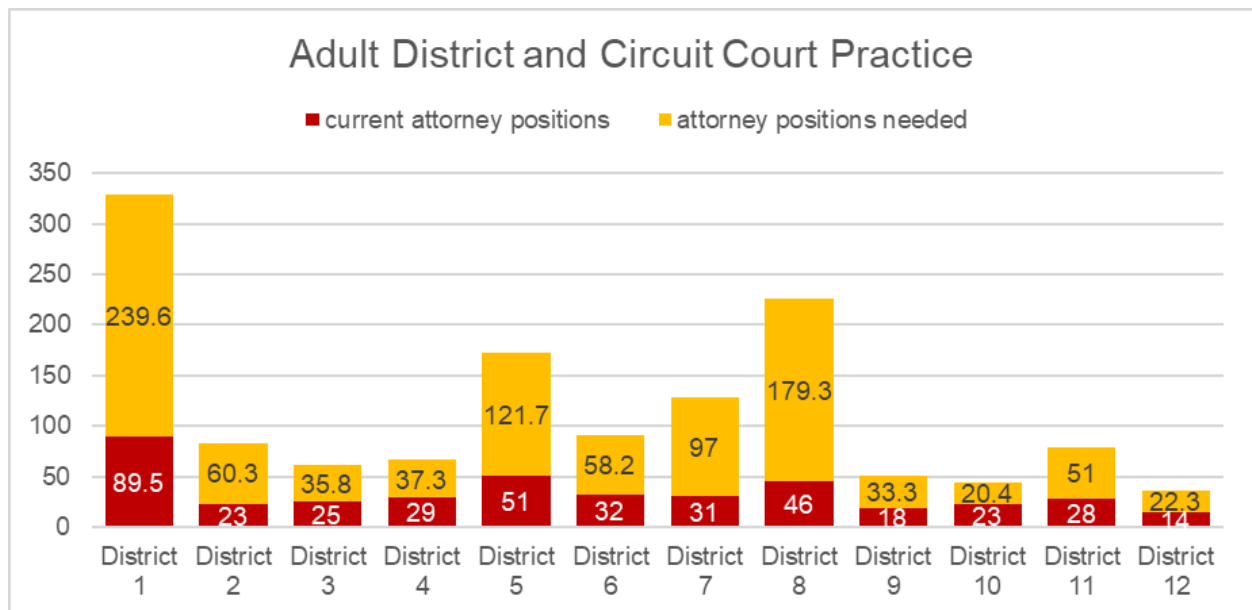
OPD strongly disagrees with the recommendation for reduced funding and eliminating staff positions. Each one of these persons is necessary to satisfy OPD’s constitutional duties to our clients. Our critical understaffing is not just of attorneys but at all levels. For instance, our IT HELP desk currently has only five (5) staff. A conservative national standard would require OPD (approx. 1029 staff members) to have a minimum of ten (10) IT professionals for its IT HELP desk. According to the 2024 IT Key Metrics National Report by Gartner Inc., this is a minimum requirement. This level of understaffing is unsustainable and applies not only to IT but across every employee classification.

***(OPD should comment on) The Department of Legislative Service (DLS) reduction of \$94,198 in general funds for the purpose of increasing the turnover expectancy for contractual positions to 10.00%.***

OPD is working towards establishing a strong and robust workforce, which is also in line with Article 44 of the Memorandum Of Understanding (MOU) between the State and AFSCME. Contractual employees play a vital role in OPD’s day-to-day operations by bridging staffing gaps and providing flexibility to our statewide operations. Over the last decade, contractual staffing has become an essential tool.

***(OPD should comment on) which case types the new APD positions created in the fiscal 2026 allowance will be assigned to and if these assignments will result in standard caseloads for any of the case types where attorneys do not currently have standard caseloads.***

The chart below is taken from OPD’s 2024 annual report. This shows OPD’s current attorney staffing and needs as of July 1, 2024.



In almost every district, OPD requires additional attorneys to handle excessive workloads. Currently, OPD seeks to use the new attorney pins to address the dire shortage in District 1 (Baltimore City), District 8 (Baltimore County), and District 5 (Prince George’s County). Note, however, that workloads are fluid; placing attorneys in one area may alleviate the most critical

workload issues today. However, fast forward six months, and the circumstances may differ. At present, our most urgent need is for seasoned attorneys (APD III).