

C80B00
Office of the Public Defender

Operating Budget Data

(\$ in Thousands)

	<u>FY 15</u> <u>Actual</u>	<u>FY 16</u> <u>Working</u>	<u>FY 17</u> <u>Allowance</u>	<u>FY 16-17</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$96,728	\$96,921	\$103,294	\$6,373	6.6%
Deficiencies and Reductions	0	1,161	-263	-1,424	
Adjusted General Fund	\$96,728	\$98,081	\$103,031	\$4,950	5.0%
Special Fund	218	205	266	60	29.4%
Adjusted Special Fund	\$218	\$205	\$266	\$60	29.4%
Reimbursable Fund	883	890	897	8	0.8%
Adjusted Reimbursable Fund	\$883	\$890	\$897	\$8	0.8%
Adjusted Grand Total	\$97,829	\$99,176	\$104,194	\$5,018	5.1%

- The fiscal 2016 working appropriation includes deficiency appropriations totaling \$1.2 million for an information technology relocation and employee compensation. There is also a deficiency of \$4.9 million for case-related expenses incurred in fiscal 2015 that is not included in the above table.
- The fiscal 2017 allowance, net of back of the bill reductions, is \$104.2 million, an increase of \$5.0 million, or 5.1%, above the fiscal 2016 working appropriation. This growth is attributable to an increase in personnel expenditures, including \$2.0 million to reduce agency turnover expectancy.

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

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Personnel Data

	<u>FY 15 Actual</u>	<u>FY 16 Working</u>	<u>FY 17 Allowance</u>	<u>FY 16-17 Change</u>
Regular Positions	913.00	913.00	898.50	-14.50
Contractual FTEs	<u>4.00</u>	<u>10.00</u>	<u>10.00</u>	<u>0.00</u>
Total Personnel	917.00	923.00	908.50	-14.50

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	49.96	5.56%
Positions and Percentage Vacant as of 12/31/15	67.50	7.39%

- The fiscal 2017 allowance includes 898.5 regular positions, a decrease of 14.5 positions from the fiscal 2016 working appropriation. This reduction is due to the abolishment of 14.5 vacant intake positions in District Operations.
- The budgeted turnover rate is 5.56%, which requires 50.0 vacancies. As of December 31, 2015, the Office of the Public Defender (OPD) had 67.5 vacancies, for a rate of 7.39%. However, this vacancy count does include the 14.5 vacant positions abolished in the Governor's budget. Excluding those positions, the agency had a total of 53.0 vacancies and a vacancy rate of 5.9%.

Analysis in Brief

Major Trends

Circuit Court Caseloads Increase after Reassignment of Defenders: While the total number of circuit court cases handled by OPD in calendar 2014 fell by 2.4%, the reassignment of 8 public defenders to other areas of critical need within OPD lead to an increase in the average circuit court caseload. In calendar 2014, only 3 of 12 districts were in compliance with caseload standards.

District Court Caseloads Improve in Most Districts, Remain Above Standard: In calendar 2014, a total of three districts (Baltimore City, Frederick and Washington counties, and the Upper Shore) met caseloads standards, though most other districts showed progress. Caseloads are expected to remain essentially flat in all jurisdictions for calendar 2015.

Juvenile Court Caseloads Approach Target, While Some Districts Lag: In calendar 2014, 8 of 12 districts were within standards for juvenile courts, including Howard and Carroll counties, which were above standard in calendar 2013. For calendar 2015, OPD projects that 10 districts will meet the targets. However, the remaining districts, the Prince George’s County district and the Frederick and Washington counties district, are significantly above standard.

Mental Health and Post Conviction Division Caseloads Continue to Grow: OPD has three statewide units that represent clients: the Mental Health, Post Conviction, and Appellate divisions. In calendar 2014, the Appellate Division met its caseload standard, while the Mental Health and Post Conviction divisions did not. In calendar 2015, OPD projects that these units will exceed caseload targets by 27% and 35%, respectively.

Issues

Budget Constraints and Increasing Caseloads Place Indigent Defense in Peril: The General Assembly and the Executive Branch made significant investments in OPD from 2003 to 2008, including large increases in both funding and positions, as well as the adoption of caseload standards to establish benchmarks constitutionally adequate for indigent defense in the State. Since 2009, however, the OPD budget has been nearly flat, staff have been reduced, and caseloads have continued to increase. These factors have combined to put OPD significantly above caseload standards for most jurisdictions and led to frequent and significant deficiency appropriations. Cost overruns have also become common and, for fiscal 2015, the agency overspent its appropriation by \$4.9 million. Given this now chronic underfunding and the agency’s obligation to represent all indigent defendants in the State, it is likely that OPD will continue to be in significant fiscal distress. **The Department of Legislative Services (DLS) recommends that OPD comment on the importance of established caseload standards to agency decision making. DLS also recommends that narrative be adopted directing the agency to report on the adequacy of current standards, and whether they should be updated to reflect changes in the composition of the agency’s caseload and the practice of law. DLS further recommends that OPD comment on current agency attorney and non-attorney**

staffing levels, and how it manages increasing caseloads with a constrained budget and decreasing staff.

Recommended Actions

1. Adopt committee narrative requesting a report on the adequacy of current public defender caseload standards and whether those standards should be updated.

C80B00
Office of the Public Defender

Operating Budget Analysis

Program Description

The Office of the Public Defender (OPD) provides counsel and related services to indigent persons through 12 district operations, 4 divisions, and 2 specialized units. As defined in COMAR 14.06.03.01, indigent means “any person taken into custody or charged with a serious crime ... who under oath or affirmation subscribes and states in writing that he is financially unable, without undue hardship, to provide for the full payment of an attorney and all other necessary expenses of legal representation.” Legal representation is provided in criminal trials, bail reviews, appeals, juvenile cases, post-conviction proceedings, parole and probation revocations, and involuntary commitments to mental institutions. The four divisions that support the office are (1) general administration; (2) district operations; (3) appellate and inmate services; and (4) involuntary institutionalization.

Performance Analysis: Managing for Results

During the 2006 session, the General Assembly endorsed the implementation of Maryland-specific attorney caseload standards for public defenders. Under these standards, the maximum number of cases public defenders can handle each year, without jeopardizing the effective assistance of counsel, varies based on geographic location and type of case. OPD also uses these standards to measure agency performance and to inform its allocation of resources.

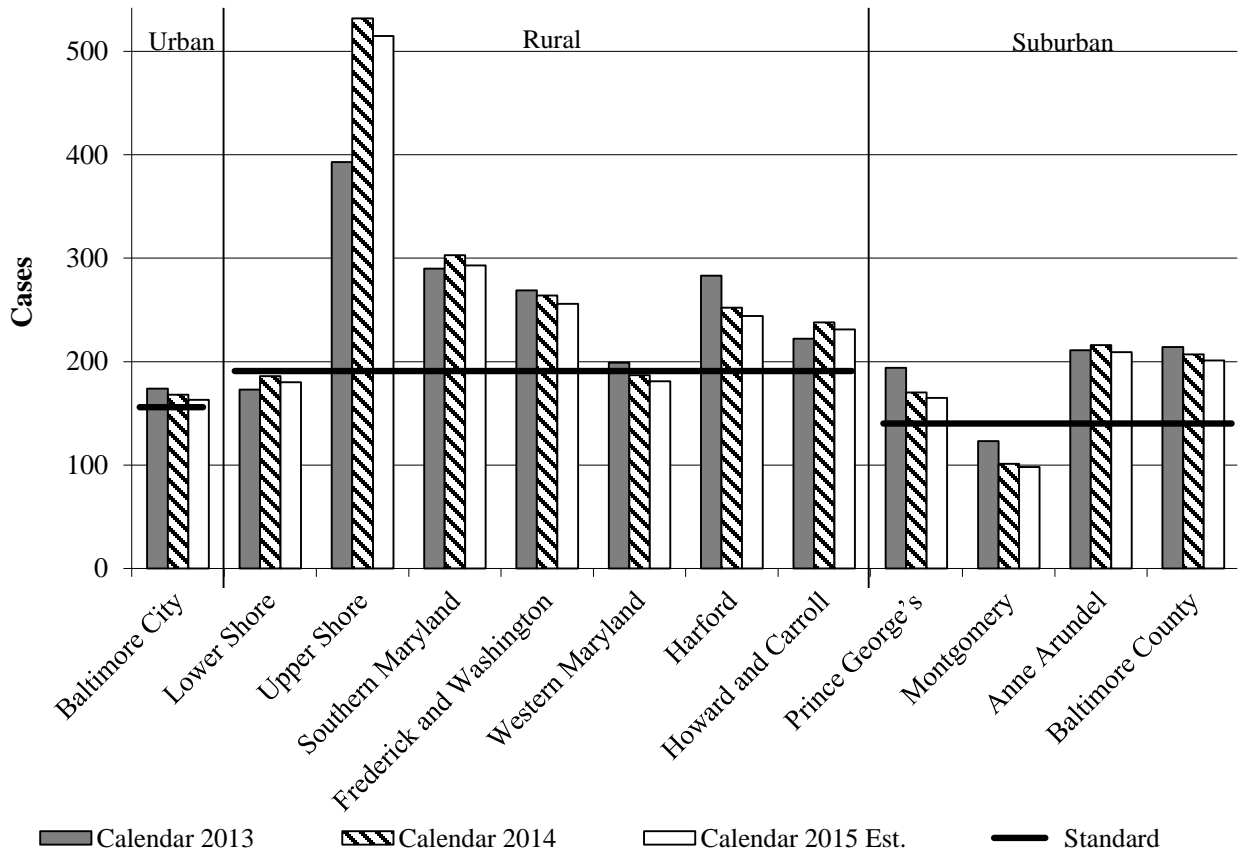
In calendar 2014, the full agency caseload was 232,720, a decrease of 1,832 cases, or 0.8%, from calendar 2013. Even accounting for this decline, caseloads have increased 16.0% since calendar 2006. The vast majority of OPD cases are handled by attorneys in the 12 district offices across the State. In calendar 2014, there were a total of 215,582 District, circuit, and juvenile court cases handled by district offices; a decrease of 2,561 cases, or 1.2%, from calendar 2013.

1. Circuit Court Caseloads Increase after Reassignment of Defenders

In order to address critical needs in calendar 2014, OPD reassigned 8 attorneys from circuit court dockets to other units in the agency. Therefore, despite a reduction in the statewide circuit court caseload of 1,210, or 2.4%, in calendar 2014, average caseloads increased in total across the State and in five districts. **Exhibit 1** illustrates the actual average annual caseload per circuit court attorney for calendar 2013 and 2014, and an estimate for calendar 2015. The caseload standards are 156, 191, and 140 for urban, rural, and suburban circuit court attorneys, respectively. In calendar 2014, 3 of 12 districts (the Lower Shore, Western Maryland, and Montgomery County) met these standards. This compliance rate of 25.0% is significantly below the agency goal that 50.0% of districts meet the caseload standards. Additionally, one district, the Upper Shore, saw a significant spike in caseloads

from 393 to 532 in calendar 2014. While OPD projects slight declines in all districts for calendar 2015, no other districts are expected to move into compliance with caseload targets.

Exhibit 1
Average Circuit Court Caseload Per Attorney by Region



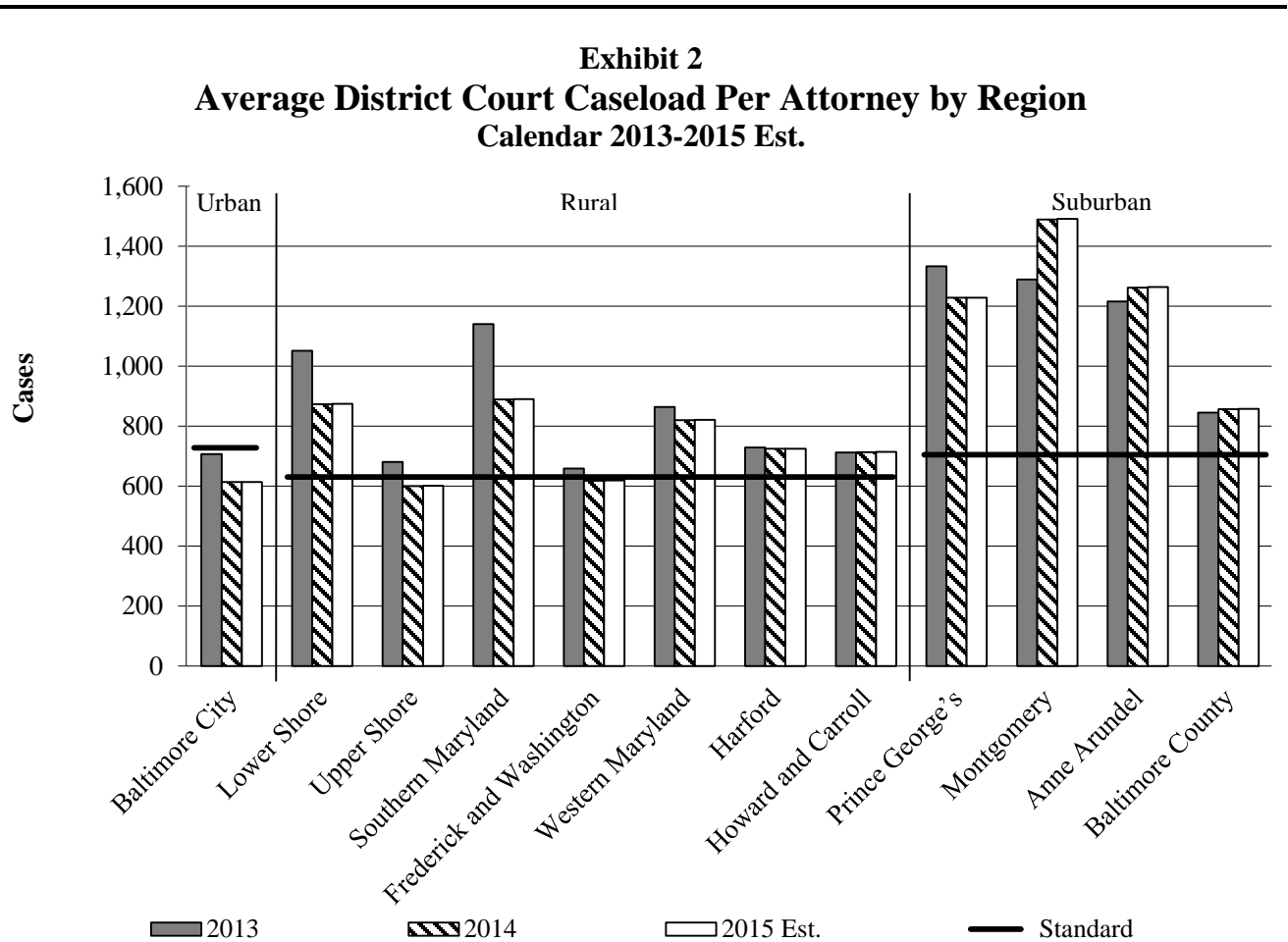
Maryland Caseload Standards: Urban Counties – 156 cases; Rural Counties – 191 cases; Suburban Counties – 140 cases.

Note: The Lower Shore constitutes Dorchester, Somerset, Wicomico, and Worcester counties; the Upper Shore constitutes Caroline, Cecil, Kent, Queen Anne’s, and Talbot counties; Southern Maryland constitutes Calvert, Charles, and St. Mary’s counties; and Western Maryland constitutes Allegany and Garrett counties.

Source: Department of Budget and Management; Governor’s Budget Books

2. District Court Caseloads Improve in Most Districts, Remain Above Standard

Exhibit 2 illustrates the actual average annual caseload per District Court attorney for calendar 2013 and 2014 and an estimate for calendar 2015. The caseload standards are 728, 630, and 705 per attorney for urban, rural, and suburban District Court attorneys, respectively. OPD has set a target of 40% of districts (5 of 12) in compliance with caseload standards. Several districts saw caseloads decrease significantly and two (the Upper Shore and Frederick and Washington counties) met the standards in calendar 2014 after missing in calendar 2013. Baltimore City also achieved the standard in calendar 2014. For calendar 2015, OPD projects that caseloads will remain essentially unchanged and no additional counties will move into compliance.



Maryland Caseload Standards: Urban Counties – 728 cases; Rural Counties – 630 cases; Suburban Counties – 705 cases.

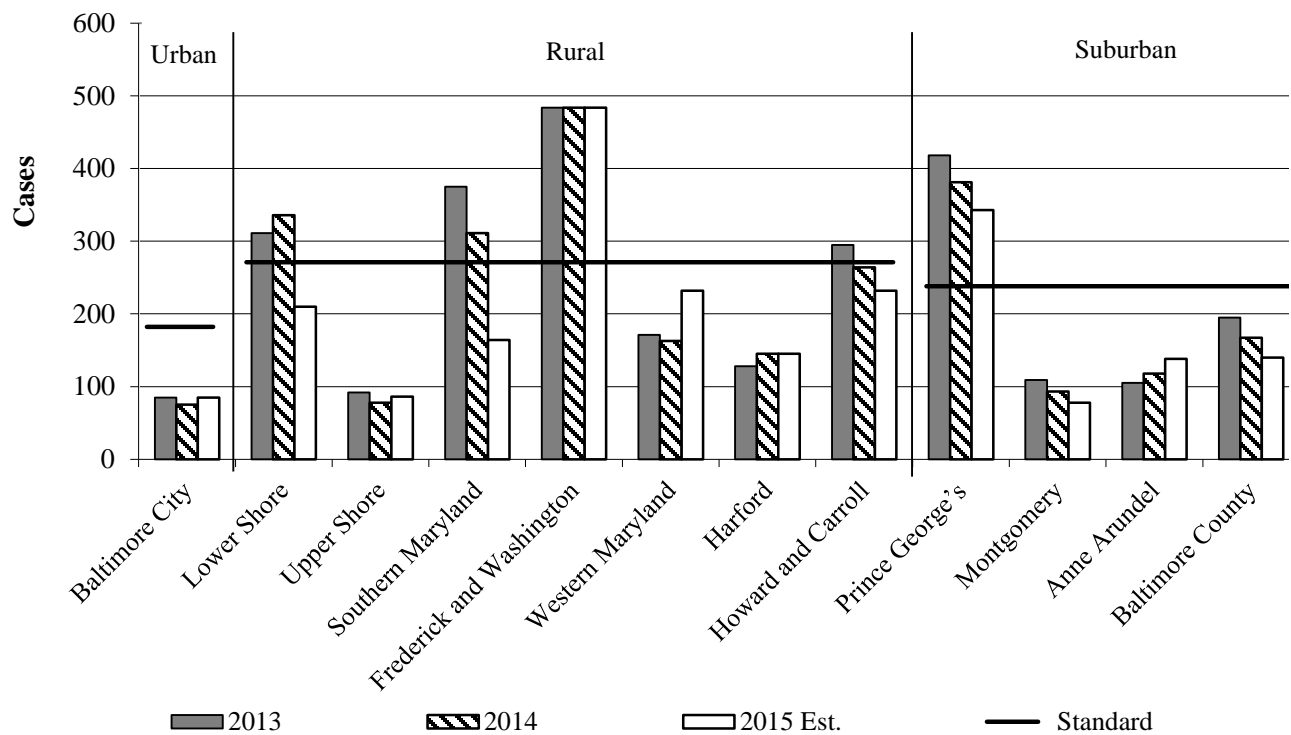
Note: The Lower Shore constitutes Dorchester, Somerset, Wicomico, and Worcester counties; the Upper Shore constitutes Caroline, Cecil, Kent, Queen Anne’s, and Talbot counties; Southern Maryland constitutes Calvert, Charles, and St. Mary’s counties; and Western Maryland constitutes Allegany and Garrett counties.

Source: Department of Budget and Management; Governor’s Budget Books

3. Juvenile Court Caseloads Approach Target, While Some Districts Lag

Exhibit 3 illustrates the actual average annual caseload per juvenile court attorney for calendar 2013 and 2014, and an estimate for calendar 2015. The caseload standards are 182, 271, and 238 per attorney for urban, rural, and suburban juvenile court attorneys, respectively. The OPD target for juvenile court attorneys is that at least 75% of districts (9 of 12) meet caseload standards. In calendar 2014, 8 of 12 districts were within target and OPD projects that in calendar 2015 the Lower Shore and Southern Maryland districts will also move into compliance. If this occurs, 10 out of 12 districts will be in compliance. However, the remaining districts, the Prince George’s County district and the Frederick and Washington counties district, have caseloads that are projected to significantly exceed standards through calendar 2015.

Exhibit 3
Average Juvenile Court Caseload Per Attorney by Region
Calendar 2013-2015 Est.



Maryland Caseload Standards: Urban Counties – 182 cases; Rural Counties – 271 cases; Suburban Counties – 238 cases.

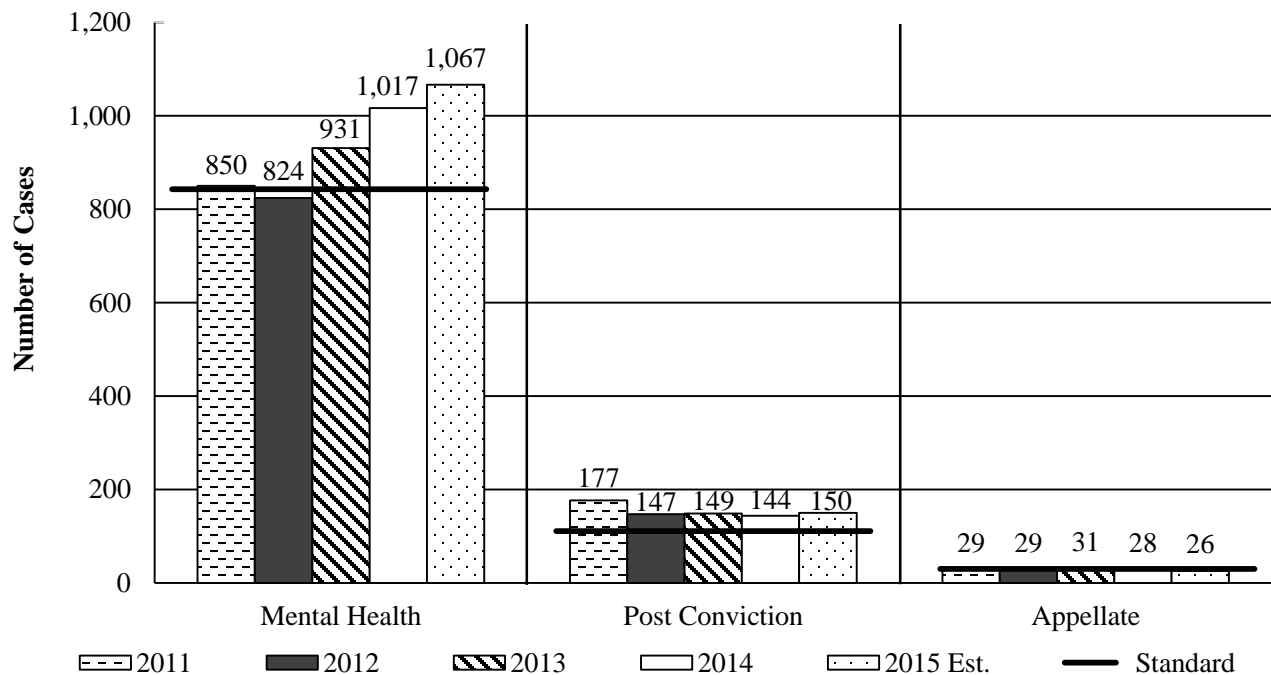
Note: The Lower Shore constitutes Dorchester, Somerset, Wicomico, and Worcester counties; the Upper Shore constitutes Caroline, Cecil, Kent, Queen Anne’s, and Talbot counties; Southern Maryland constitutes Calvert, Charles, and St. Mary’s counties; and Western Maryland constitutes Allegany and Garrett counties.

Source: Department of Budget and Management; Governor’s Budget Books

4. Mental Health and Post Conviction Division Caseloads Continue to Grow

In addition to district operations, which consist mostly of trial-level work in the State’s District and circuit courts, OPD also maintains statewide divisions handling specialized dockets. The Mental Health Division represents clients subject to involuntary commitment in mental health facilities. The Appellate Division represents OPD clients on direct appeals from the circuit court to the Court of Special Appeals and higher courts. The Post Conviction Defenders Division (formerly the Collateral Review Division) provides representation to incarcerated individuals in select circumstances. **Exhibit 4** illustrates average annual caseloads for these three divisions for calendar 2011 to 2014, as well as estimates for calendar 2015. The caseload standards per attorney for the Mental Health, Post Conviction Defender, and Appellate divisions are 843, 111, and 30, respectively. The Appellate Division met this standard in calendar 2014 and is projected to do so again in 2015. The Post Conviction Defender Division anticipates a small increase in average caseloads for calendar 2015 and will exceed the caseload standard by 35%. The Mental Health Division has seen a 14% growth in total cases since 2013, causing a similar increase in average caseloads, which now exceed the target by 27%.

Exhibit 4
Average Caseload Per Attorney for the Mental Health, Post Conviction, and Appellate Divisions
Calendar 2011-2015 Est.



Source: Department of Budget and Management; Governor’s Budget Books

Fiscal 2016 Actions

Proposed Deficiency

The Governor's budget includes three deficiency appropriations for OPD, totaling \$6.0 million. Two of these deficiencies, \$1.0 million to decrease turnover expectancy and \$160,706 for a relocation of agency information technology (IT) functions will fund additional expenditures for fiscal 2016. The third deficiency, totaling \$4.9 million is necessary to cover fiscal 2015 expenses for panel attorneys and accrued leave payouts that were in excess of the agency appropriation. The fiscal 2016 working appropriation for panel attorneys is \$6.5 million, which is \$858,900 below panel attorney charges accrued in fiscal 2015, according to the agency. The first two deficiencies, totaling \$1.2 million, are included in the agency's fiscal 2016 working appropriation, while the third is excluded because it funds fiscal 2015 expenditures only.

Cost Containment

The 2015 budget bill included a 2% across-the-board general fund reduction in fiscal 2016. The OPD share of this reduction was \$2,019,000. The agency has reported that it will attempt to achieve these reductions as follows: \$1.4 million by holding open positions; \$625,000 in savings by adopting statewide best practices to reduce the number of cases paneled to private attorneys; and \$12,000 for postage. However, OPD has also reported that it may be unable to meet critical staffing needs and achieve this \$1.4 million in personnel savings, which may result in the agency exceeding its fiscal 2016 appropriation. **The Department of Legislative Services (DLS) recommends that OPD comment on its efforts to achieve these savings and how much it can realistically reduce expenditures in fiscal 2016.**

Underlying Funding for Public Defender Has Declined Since Fiscal 2015

In addition to cost containment actions reducing the agency appropriation, when OPD spending is adjusted to account for deficiency expenditures in the year in which they were incurred and to remove statewide health insurance and retirement rate increases, the agency budget has decreased since fiscal 2015. **Exhibit 5** shows the real impact of the two most recent budgets on the underlying budget of OPD. Excluding statewide insurance and retirement adjustments, the fiscal 2016 working appropriation provides \$4.5 million less funding than fiscal 2015. While the agency may be able to achieve some savings, particularly for panel attorneys, it is a near certainty that the agency is underfunded in the current year and may require a deficiency appropriation in fiscal 2017 to cover those expenses. **DLS recommends that OPD comment on the impact of the fiscal 2016 working appropriation and fiscal 2017 allowance on agency operations and provide the committees with an estimate of how much it will actually spend in fiscal 2016.**

Exhibit 5
Office of the Public Defender Adjusted Funding
Fiscal 2015-2017
(\$ in Millions)

	<u>2015</u>	<u>2016</u>	<u>2017</u>
Spending	\$97.8	\$99.2	\$104.2
Fiscal 2016 Deficiency to Cover Fiscal 2015 Costs	4.9		
Fiscal 2014 Costs Paid from Fiscal 2015 Budget	-1.9		
Subtotal Adjusted Spending	\$100.8	\$99.2	\$104.2
Less Fiscal 2016 Growth in Health Insurance and Retirement Costs		-2.9	-2.9
Less Fiscal 2017 Growth in Health Insurance and Retirement Costs			-3.3
Fiscal 2017 Savings from regular Positions Abolitions			0.8
Adjusted Funding	\$100.8	\$96.3	\$98.8
Change from Fiscal 2015 Actual		-\$4.5	-\$2.0

Source: Governor’s Budget Books; Department of Legislative Services

Proposed Budget

As shown in **Exhibit 6**, the fiscal 2017 allowance for OPD is \$104.2 million, an increase of \$5.0 million, or 5.1%, above the fiscal 2016 working appropriation. This increase is largely attributable to a \$2.0 million decrease in turnover expectancy. The allowance also abolishes 14.5 regular positions, with a commensurate reduction of \$780,624. The Governor’s budget also includes an appropriation for employee increments totaling \$1,411,085, all from the General Fund, for this agency. This funding and associated expenses are included in the budget of the Department of Budget and Management and will be distributed to each agency by budget amendment at the start of the fiscal year.

Exhibit 6
Proposed Budget
Office of the Public Defender
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2015 Actual	\$96,728	\$218	\$883	\$97,829
Fiscal 2016 Working Appropriation	98,081	205	890	99,176
Fiscal 2017 Allowance	<u>103,031</u>	<u>266</u>	<u>897</u>	<u>104,194</u>
Fiscal 2016-2017 Amount Change	\$4,950	\$60	\$8	\$5,018
Fiscal 2016-2017 Percent Change	5.0%	29.4%	0.8%	5.1%

Where It Goes:

Personnel Expenses

Turnover expectancy reduced	\$2,024
Employee and retiree health insurance	1,756
Retirement.....	1,554
Other fringe benefit adjustments.....	-2
Employee compensation	-495
Abolishment of 14.5 positions	-781

Other Changes

Department of Information Technology IT realignment	344
Transcription services	200
Non-Department of General Services rent.....	154
Capital lease program	108
Medical experts.....	97
Office assistance	96
Other	84
Education and training contracts.....	40
Removal of fiscal 2016 IT deficiency.....	-161

Total **\$5,018**

IT: information technology

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

Across-the-board Reductions

The fiscal 2017 budget bill includes an across-the-board reduction for employee health insurance, based on a revised estimate of the amount of funding needed. This agency's share of these reductions is \$263,021 in general funds. There is an additional across-the-board reduction to abolish positions statewide, but the amounts have not been allocated by agency.

Personnel

Personnel expenditures increase by a total \$4.1 million over the fiscal 2016 working appropriation. This increase is driven by a reduction in turnover expectancy for the agency totaling \$2.0 million to address chronic underfunding of agency operations, as well as \$1.8 million for health insurance and \$1.6 million for retirement contributions. These increases are offset by a reduction of \$780,624 for the abolishment of 14.5 vacant intake specialist positions.

Other

The most significant other changes to the OPD budget include increases of \$344,445 for IT costs associated with the Department of Information Technology realignment of State IT functions and \$200,000 for transcription services. The budget also includes a reduction \$161,706 to remove a fiscal 2016 deficiency for IT expenses.

Issues

1. Budget Constraints and Increasing Caseloads Place Indigent Defense in Peril

In calendar 2003, as part of a larger effort to ease the workload of OPD staff, the General Assembly directed the agency to develop Maryland-specific caseload standards for public defenders that could be used by OPD and the General Assembly when evaluating staffing levels and funding for the agency. Working with the National Center for State Courts (NCSC), OPD developed these caseload standards, which are detailed in the 2005 report *Maryland Attorney and Staff Workload Assessment [Workload Assessment]*. Since their development, OPD has adopted the standards as the primary benchmarks in its Managing for Results reports.

During the 2006 legislative session, the budget committees adopted language endorsing the standards as adequate to ensure constitutionally required effective assistance of counsel in the State. The budget committees also directed OPD to use the new standards as the benchmark for agency performance evaluation and strategic planning. While the General Assembly explicitly chose not to create a funding mandate based on these standards, it did continue to support significant increases to the OPD budget for this purpose in fiscal 2008.

The Standards

NCSC and OPD developed individual caseload standards for all public defenders, including those handling the appellate and special dockets in the agency's headquarters, as well as staff in key non-attorney functions. NCSC began by determining the composition of the OPD caseload and conducting a time study to determine how long it took OPD public defenders and support staff to handle different types of cases. Analysts were able to use the results of these two studies to create caseload standards based on the total number of cases the typical public defender or staff could effectively handle in a year. Additionally, the study separated the State into rural, suburban, and urban districts, with separate standards for each based on their unique characteristics. While many of the new standards called for public defenders to handle fewer cases than previous agency guidelines, standards for some categories did increase. **Exhibit 7**, provides an overview of the annual attorney caseloads under the *Workload Assessment*.

DLS recommends that OPD comment on the importance of established caseload standards to agency decision making. DLS also recommends that narrative be adopted directing the agency to report on the adequacy of current standards, and whether they should be updated to reflect changes in the composition of the agency's caseload and the practice of law since the standards were adopted.

Exhibit 7
Office of the Public Defender
Attorney Caseload Standards

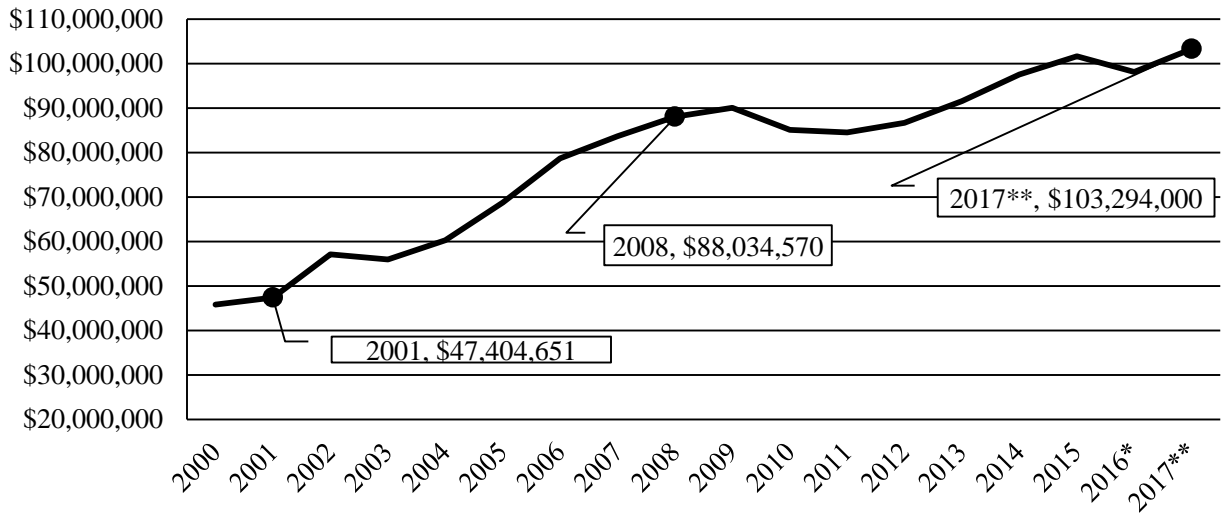
<u>Jurisdiction</u>	<u>Standard</u>
District Courts	
Urban	728
Suburban	705
Rural	630
Circuit Courts	
Urban	156
Suburban	140
Rural	191
Juvenile Courts	
Urban	182
Suburban	238
Rural	271
Special Dockets	
Appellate	30
Post Conviction	111
Mental Health	843

Source: Department of Budget and Management

2001-2008: Increased Funding Leads to Decreased Caseloads

Appropriations for OPD increased significantly between fiscal 2002 and 2008. **Exhibit 8** illustrates agency appropriations (including deficiencies) since fiscal 2000, highlighting key years. In fiscal 2001, the OPD appropriation was \$47.4 million. By fiscal 2008 it had increased to \$88.0 million, an annual growth rate of 9.2%. The total State general fund budget increased by 5.1% annually during the same period. As a result of this increased investment, OPD staff increased by 28.6% to a peak of 1,097 in fiscal 2007 and the agency made significant progress toward meeting the newly established caseload targets through calendar 2008.

**Exhibit 8
Office of the Public Defender General Fund Appropriations
Fiscal 2000-2017**



*Working Appropriation
**Allowance

Note: Includes deficiency appropriations and other adjustments.

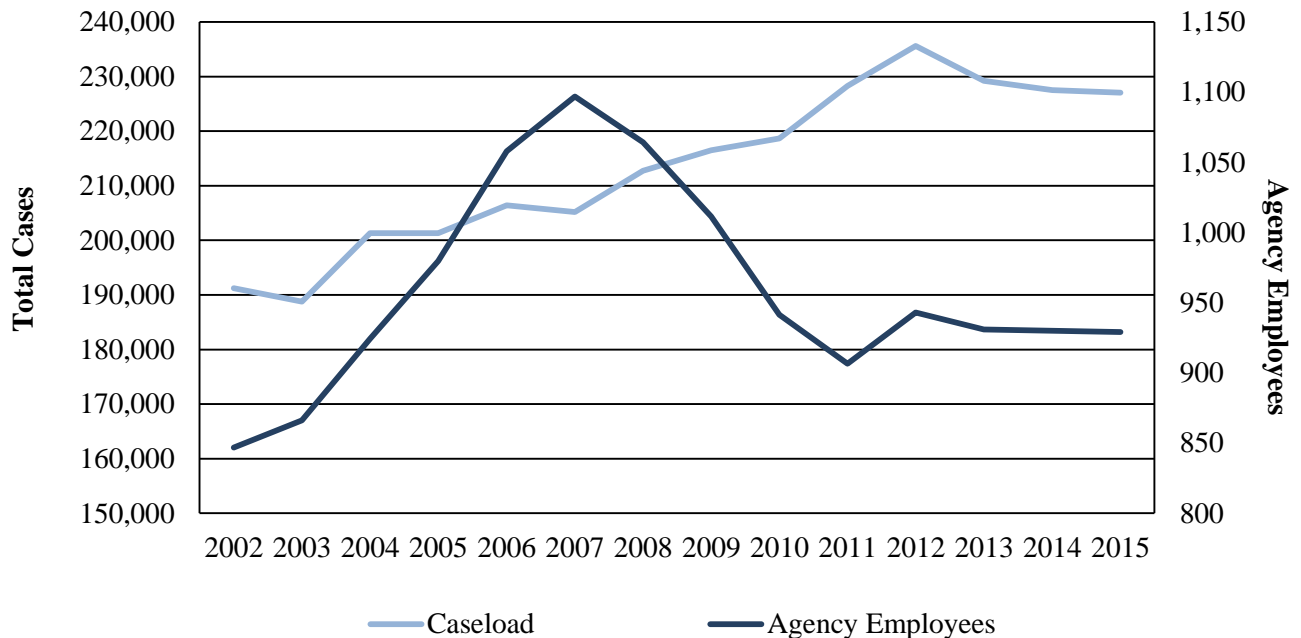
Source: Governor’s Budget Books

2009-2016: Level Funding and Increasing Demand Drive Attorney Caseloads Higher

As shown in Exhibit 8, between fiscal 2008 and 2017, the annual general fund appropriation for OPD has increased \$15.3 million, representing a growth rate of 1.8% per year. The recession was the driving force in the State budget during much of this period and OPD was not alone in seeing its fiscal position dramatically change. The overall general fund growth rate during this period fell to 2.0%, putting OPD in line with the overall growth rate. The impact of this relatively flat funding for an extended period can be seen in the staffing level of OPD, which has already fallen 15.2% from its peak in 2007, with a commensurate increase in caseloads. A further 14.5 positions are abolished in the fiscal 2017 allowance. The agency has not had so few staff since fiscal 2003, when OPD had 20.3% fewer cases. The agency has managed this decrease largely by reducing non-attorney staff. This has allowed OPD to employ nearly as many public defenders as it did in 2007, but has also increased the workload for those public defenders, who must now take on more tasks that were previously handled by others.

This fiscal pressure is also compounded by increasing demand for the agency’s services. In calendar 2015, OPD estimates it handled 21,869 more cases than calendar 2007, as shown in **Exhibit 9**. While this equates to a relatively modest growth rate of 1.3% per year, coupled with budget pressure and reduced staff, it has added up over time, and OPD has been unable to achieve its caseload standards in most jurisdictions since 2008. This budget pressure came to a head in fiscal 2015, when the agency was forced to carry forward a total of \$4.9 million in fiscal 2015 expenditures, which are included in the current budget as a fiscal 2016 deficiency. OPD has reported, even with a 5.1% increase in its fiscal 2017 allowance, another cost overrun is likely to occur.

Exhibit 9
Office of the Public Defender Total Cases and Employees
Calendar 2002-2015



Source: Office of the Public Defender

As discussed in the Performance Analysis section, OPD has been able to make some progress in reducing caseloads since 2012, due to the total number of cases leveling off and better deployment of staff resources to areas of critical need. While proactive management may help stabilize public defender workloads, the agency will not be able to reach its caseload targets at the current funding levels. This gap is illustrated by **Exhibit 10**, which breaks down by jurisdiction the OPD estimate that 151 additional defenders are needed to meet caseload standards for the District and circuit courts. **Exhibit 11** shows the impact of this increasing budget and caseload pressure on panel attorney costs, which increased by 68.8% from fiscal 2010 to fiscal 2015. Additionally, fiscal 2015 panel attorney expenditures were \$7.3 million, while the fiscal 2016 working appropriation and fiscal 2017 allowance each provide only \$6.5 million for this purpose.

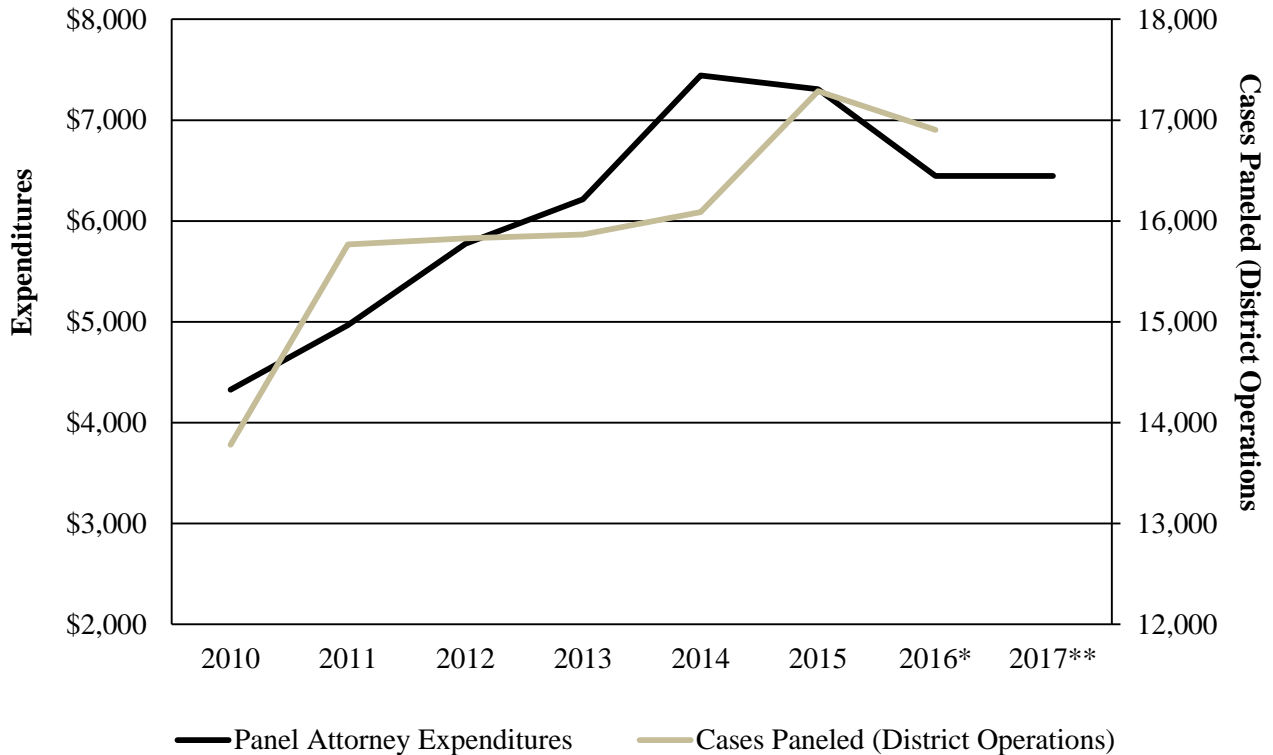
Exhibit 10
Attorneys Needed to Meet Standards
Calendar 2014 Caseloads

District	District Court					Circuit Court				
	<u>Attorneys¹</u>	<u>Eligible Cases</u>	<u>Standard Caseload</u>	<u>Number of Cases Handled Beyond Standard</u>	<u>Attorneys Needed to Meet Standard</u>	<u>Attorneys¹</u>	<u>Eligible Cases</u>	<u>Standard Caseload</u>	<u>Number of Cases Handled Beyond Standard</u>	<u>Attorneys Needed to Meet Standard</u>
1 Baltimore City	49	31,860	728	-3,448	-5	81	15,270	156	2,634	17
2 Lower Shore	8	9,454	630	4,257	7	12	2,263	191	-29	0
3 Upper Shore	11	7,785	630	698	1	7	3,613	191	2,324	12
4 Southern MD	10	11,195	630	4,895	8	11	3,404	191	1,303	7
5 Prince George's	16	20,213	705	8,933	13	30	5,559	140	1,359	10
6 Montgomery	11	17,268	705	9,513	13	14	1,936	140	-24	0
7 Anne Arundel	5	15,322	705	11,797	17	13	3,014	140	1,194	9
8 Baltimore	16	14,044	705	3,117	4	24	5,581	140	2,221	16
9 Harford	6	4,442	630	662	1	7	2,130	191	793	4
10 Howard and Carroll	11	8,996	630	2,066	3	10	2,784	191	874	5
11 Frederick and Washington	12	8,591	630	1,031	2	10	3,234	191	1,324	7
12 Allegany and Garrett	5	3,506	630	671	1	4	868	191	104	1
Total	159	152,676		44,191	65	223	49,656		14,077	86

¹Filled full-time equivalents as of December 31, 2014.

Source: Office of the Public Defender

Exhibit 11
Panel Attorney Expenditures
Fiscal 2010-2017
(\$ in Thousands)



*Working Appropriation.

**Allowance.

Source: Office of the Public Defender

The agency is asked to do more with less each year, while maintaining the quality of its services. Although increasing appropriations through fiscal 2008 allowed OPD to make significant progress, nearly a decade of resource constraints have placed the agency in the same situation it faced in the late 1990s and early 2000s, when decision makers last decided action was necessary.

DLS recommends that OPD comment on current agency attorney and non-attorney staffing levels, and how it manages increasing caseloads with a constrained budget and decreasing staff.

Recommended Actions

1. Adopt the following narrative:

Public Defender Caseload Standards: Caseload standards for employees of the Office of the Public Defender have not been updated in almost a decade and the current targets have been met only rarely and inconsistently. The committees request a report on the adequacy of the current standards and whether the standards should be updated to reflect the agency’s present workload and standards for the practice of law.

Information Request	Author	Due Date
Caseload standards review	Office of the Public Defender	October 1, 2016

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 2015					
Legislative Appropriation	\$97,107	\$212	\$0	\$893	\$98,212
Deficiency Appropriation	2,467	0	0	0	2,467
Cost Containment	-3,377	0	0	0	-3,377
Budget Amendments	531	51	0	0	582
Reversions and Cancellations	0	-45	0	-10	-56
Actual Expenditures	\$96,728	\$218	\$0	\$883	\$97,829
Fiscal 2016					
Legislative Appropriation	\$95,523	\$191	\$0	\$890	\$96,604
Budget Amendments	1,398	14	0	0	1,412
Working Appropriation	\$96,921	\$205	\$0	\$890	\$98,016

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. Numbers may not sum to total due to rounding.

Fiscal 2015

OPD finished fiscal 2015 \$383,577 below its legislative appropriation. Cost containment actions reduced the appropriation by \$3,377,129. This decrease was partially offset by a deficiency appropriation of \$2,467,341 and budget amendments increased the appropriation by \$581,923.

General Funds

Actual expenditures were \$379,087 below the legislative appropriation due to cost containment actions totaling \$3,377,129. This reduction was partially offset by deficiency appropriations and budget amendments including:

- \$2,467,341 deficiency appropriation for case-related expenses and carryover operating expenses from fiscal 2014;
- \$699,470 increase for the cost-of-living adjustment (COLA);
- \$97,603 increase for telecommunications; and
- \$266,372 decrease for the Voluntary Separation Program.

Special Funds

Actual expenditures were \$5,987 above the legislative appropriation. Budget amendments increased the appropriation by \$51,222, including \$50,000 for a public defender for the problem solving courts in Prince George's County and \$1,222 for the COLA. This increase was partially offset by the cancelation of \$45,235 in unspent funds.

Reimbursable Funds

Actual expenditures were \$10,477 below the legislative appropriation. This decrease is due to the cancelation of unspent funds.

Fiscal 2016

The fiscal 2016 working appropriation is \$1,412,000 above the legislative appropriation. This increase is attributable to two budget amendments, one for \$1.4 million to restore employee salaries which would have been reduced 2% on July 1, 2015, and a second for \$12,000 for social workers.

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

<u>Object/Fund</u>	<u>FY 15 Actual</u>	<u>FY 16 Working Appropriation</u>	<u>FY 17 Allowance</u>	<u>FY 16 - FY 17 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	913.00	913.00	898.50	-14.50	-1.6%
02 Contractual	4.00	10.00	10.00	0.00	0%
Total Positions	917.00	923.00	908.50	-14.50	-1.6%
Objects					
01 Salaries and Wages	\$ 83,844,147	\$ 82,411,768	\$ 87,732,225	\$ 5,320,457	6.5%
02 Technical and Special Fees	7,014,675	9,290,216	9,385,637	95,421	1.0%
03 Communication	938,439	861,520	803,642	-57,878	-6.7%
04 Travel	213,215	183,500	195,000	11,500	6.3%
06 Fuel and Utilities	57,618	63,020	62,003	-1,017	-1.6%
07 Motor Vehicles	38,064	43,360	34,688	-8,672	-20.0%
08 Contractual Services	3,370,809	2,917,110	3,577,318	660,208	22.6%
09 Supplies and Materials	311,535	267,648	322,668	55,020	20.6%
10 Equipment – Replacement	103,947	78,921	187,055	108,134	137.0%
11 Equipment – Additional	60,375	35,000	72,570	37,570	107.3%
13 Fixed Charges	1,876,084	1,863,552	2,084,085	220,533	11.8%
Total Objects	\$ 97,828,908	\$ 98,015,615	\$ 104,456,891	\$ 6,441,276	6.6%
Funds					
01 General Fund	\$ 96,727,900	\$ 96,920,608	\$ 103,294,000	\$ 6,373,392	6.6%
03 Special Fund	218,408	205,348	265,677	60,329	29.4%
09 Reimbursable Fund	882,600	889,659	897,214	7,555	0.8%
Total Funds	\$ 97,828,908	\$ 98,015,615	\$ 104,456,891	\$ 6,441,276	6.6%

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. The fiscal 2017 allowance does not include contingent reductions.

**Fiscal Summary
Office of the Public Defender**

<u>Program/Unit</u>	<u>FY 15 Actual</u>	<u>FY 16 Wrk Approp</u>	<u>FY 17 Allowance</u>	<u>Change</u>	<u>FY 16 - FY 17 % Change</u>
01 General Administration	\$ 7,093,180	\$ 6,980,134	\$ 7,861,146	\$ 881,012	12.6%
02 District Operations	82,448,770	83,433,246	88,681,601	5,248,355	6.3%
03 Appellate and Inmate Services	6,762,643	6,219,574	6,479,211	259,637	4.2%
04 Involuntary Institutionalization Services	1,524,315	1,382,661	1,434,933	52,272	3.8%
Total Expenditures	\$ 97,828,908	\$ 98,015,615	\$ 104,456,891	\$ 6,441,276	6.6%
General Fund	\$ 96,727,900	\$ 96,920,608	\$ 103,294,000	\$ 6,373,392	6.6%
Special Fund	218,408	205,348	265,677	60,329	29.4%
Total Appropriations	\$ 96,946,308	\$ 97,125,956	\$ 103,559,677	\$ 6,433,721	6.6%
Reimbursable Fund	\$ 882,600	\$ 889,659	\$ 897,214	\$ 7,555	0.8%
Total Funds	\$ 97,828,908	\$ 98,015,615	\$ 104,456,891	\$ 6,441,276	6.6%

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. The fiscal 2017 allowance does not include contingent reductions.