

C80B00
Office of the Public Defender

Operating Budget Data

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$83,672	\$85,446	\$91,681	\$6,235	7.3%
Special Fund	247	223	141	-83	-37.0%
Reimbursable Fund	<u>982</u>	<u>952</u>	<u>942</u>	<u>-10</u>	<u>-1.1%</u>
Total Funds	\$84,901	\$86,621	\$92,763	\$6,143	7.1%

- The Office of the Public Defender (OPD) allowance increases by \$6.1 million, or 7.1%, above the fiscal 2008 working appropriation. However, when you adjust the budget to reflect changes in the allocation of health insurance and Other Post Employment Benefits (OPEB), the fiscal 2009 allowance increases by \$1.6 million, or 2%.
- Personnel expenditures increase by \$7 million primarily due to (1) ongoing employee health insurance and OPEB (\$4.7 million); (2) employee increments, merit increases, and other pay adjustments (\$1.3 million); and (3) a reduction in turnover expectancy (\$1.1 million).
- Rent expenditures increase by \$332,151 due to (1) an underfunded lease liability in the current fiscal year; and (2) additional lease space acquired at several OPD locations.
- Contractual services expenditures decrease by \$830,927 mostly due to a reduction in transcript and information technology expenditures.
- Special funds decrease by \$82,708, or 37%, below the fiscal 2008 working appropriation due to the expiration of grant funds from the Baltimore County Juvenile Drug Court and the Prince George's County Adult Drug Court programs.

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

For further information contact: Chantelle M. Green

Phone: (410) 946-5530

Personnel Data

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>
Regular Positions	1,017.00	1,016.00	1,007.00	-9.00
Contractual FTEs	<u>79.90</u>	<u>82.60</u>	<u>47.40</u>	<u>-35.20</u>
Total Personnel	1,096.90	1,098.60	1,054.40	-44.20

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	50.65	5.03%
Positions Vacant as of 12/31/07	65.50	6.45%

- Statewide cost containment required the abolition of 500 positions statewide. As part of this action, OPD had 9 regular positions abolished (4 office clerks, 3 office secretaries, 1 paralegal, and 1 administrative aid) within OPD's General Administration and District Operations divisions. The allowance also eliminates 35.2 contractual full-time equivalents (FTE). The majority of the contractual FTE reduction is associated with 24 law clerk positions that were eliminated as a cost containment measure in fiscal 2008.
- As of December 31, 2007, the vacancy rate for regular employees was 6.45%. Twenty-five of these vacancies have subsequently been filled, thereby reducing the vacancy rate to 3.99%.
- Turnover expectancy for regular employees is reduced from 6.80% to 5.03%.

Analysis in Brief

Major Trends

The Percentage of Attorneys Meeting Maryland Caseloads Standards Is Projected to Remain the Same: In 2008, the percentage of circuit, juvenile, and District Court attorneys meeting caseload standards is projected to remain at 25, 25, and 50%, respectively.

Projected Increase in the Average Caseloads Per Attorney for Attorneys Assigned to the Collateral Review and Mental Health Divisions: OPD projects that none of the attorneys assigned to the agency's Collateral Review and Mental Health divisions will be in compliance with caseload standards by calendar 2008.

Issues

Status of Maryland's Statewide Panel Attorney List: The 2007 *Joint Chairmen's Report* directed OPD to submit a report on the status of Maryland's statewide panel attorney list. According to the report, 9 of the 12 districts reported that their individual panel attorney lists increased in size or remained the same. **OPD should comment to the committees on the fiscal impact of increasing the panel fee from \$50 to \$75 per hour. OPD should also comment on the anticipated time frame for implementing the \$75 per hour fee increase.**

Accounts Receivable: In December 2007, the Office of Legislative Audits (OLA) published the audit of OPD covering fiscal 2004 to 2007. The audit disclosed that as of June 30, 2007, client administrative fees totaling approximately \$10.2 million were not recorded in the agency's accounts receivable records. **The Department of Legislative Services (DLS) recommends that OPD comment to the committees on the current status of the administrative fee billings. DLS also recommends committee narrative requiring OPD to report to OLA regarding the status of client billings on an annual basis.**

Fiscal 2007 Closeout Audit: The Office of Legislative Audits' statewide review of budget closeout transactions for fiscal 2007 indicated that OPD reported \$840,715 in unprovided for payables. **OPD should comment to the committees as to why the agency overspent its fiscal 2007 appropriation. OPD should also comment on how the agency plans to absorb these expenditures within its fiscal 2008 working appropriation.**

Recommended Actions

1. Adopt committee narrative requiring the Office of the Public Defender to submit an annual report on administrative fee billings.
2. Adopt committee narrative requiring a report on the fiscal impact of fully funding the Office of the Public Defender's operating needs.

Updates

Lawsuit Alleging the Right to Counsel at Initial Bail Proceedings: In November 2006, a class action lawsuit was filed against the commissioners of the District Court for Baltimore City, and several others, challenging Maryland’s practice of denying indigent defendants the right to counsel when they first appear before a District Court commissioner. The lawsuit alleged that under Maryland law, criminal defendants are entitled to counsel at “all stages” of a criminal proceeding and that initial bail hearings before the District Court commissioner are subject to this requirement. The plaintiffs sought, among other things, that the court declare that an initial bail hearing before the District Court commissioner triggered the Maryland Public Defender Act whereby indigent defendants would have the right to have counsel appointed to represent them. OPD reports that arguments were heard in the Baltimore City Circuit Court in October 2007 and that the Attorney General’s motion for summary judgment to dismiss the case was granted. However, the lawsuit has not been fully resolved as the plaintiffs have noted an appeal.

Audit Findings: OPD reports that it has addressed its December 2007 audit findings.

C80B00
Office of the Public Defender

Operating Budget Analysis

Program Description

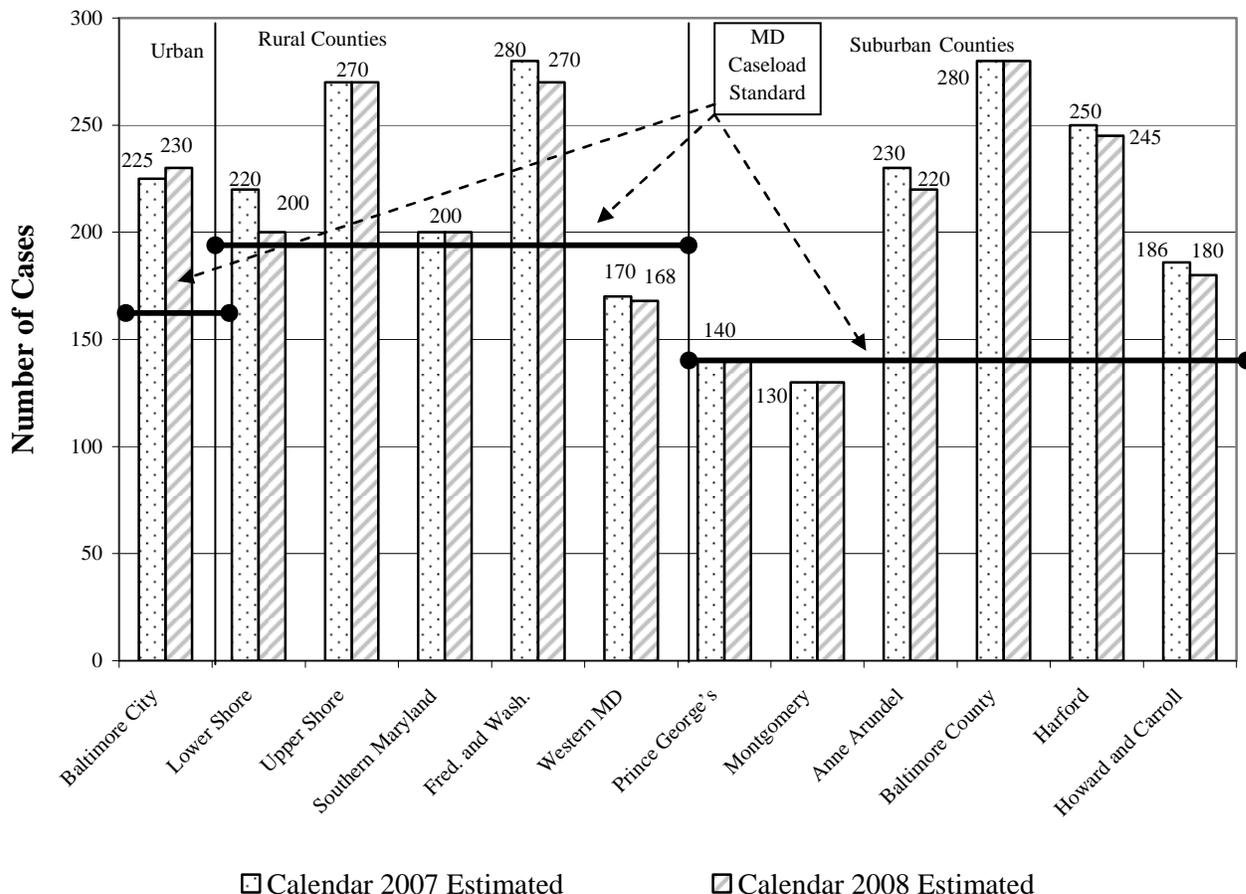
The Office of the Public Defender (OPD) provides counsel and related services to indigent persons. Representation is provided in criminal trials, appeals, juvenile cases, post-conviction proceedings, parole and probation revocations, and involuntary commitments to mental institutions. Five divisions support the office: (1) general administration; (2) district operations; (3) appellate and inmate services; (4) involuntary institutionalization; and (5) capital defense.

Performance Analysis: Managing for Results

During the 2006 legislative session, the General Assembly endorsed the implementation of Maryland-specific attorney caseload standards. Under the Maryland standard, the maximum number of cases that Maryland public defenders may handle each year without jeopardizing effective assistance of counsel varies based upon the geographic location and types of cases handled. Fiscal 2009 represents the second year that OPD has utilized these standards as part of its Managing for Results data.

Exhibit 1 illustrates the average annual caseload per circuit court attorney by region. The average caseload per attorney is 156, 191, and 140 for urban, rural, and suburban circuit court offices, respectively. OPD projects that only 25% of its district offices will satisfy the compliance rate set by the case weighting study by the conclusion of calendar 2008. Most notably, only Allegany, Garrett, Montgomery, and Prince George's counties are projected to satisfy the circuit court caseload standard by 2008.

**Exhibit 1
Average Circuit Court Caseload Per Attorney by Region**



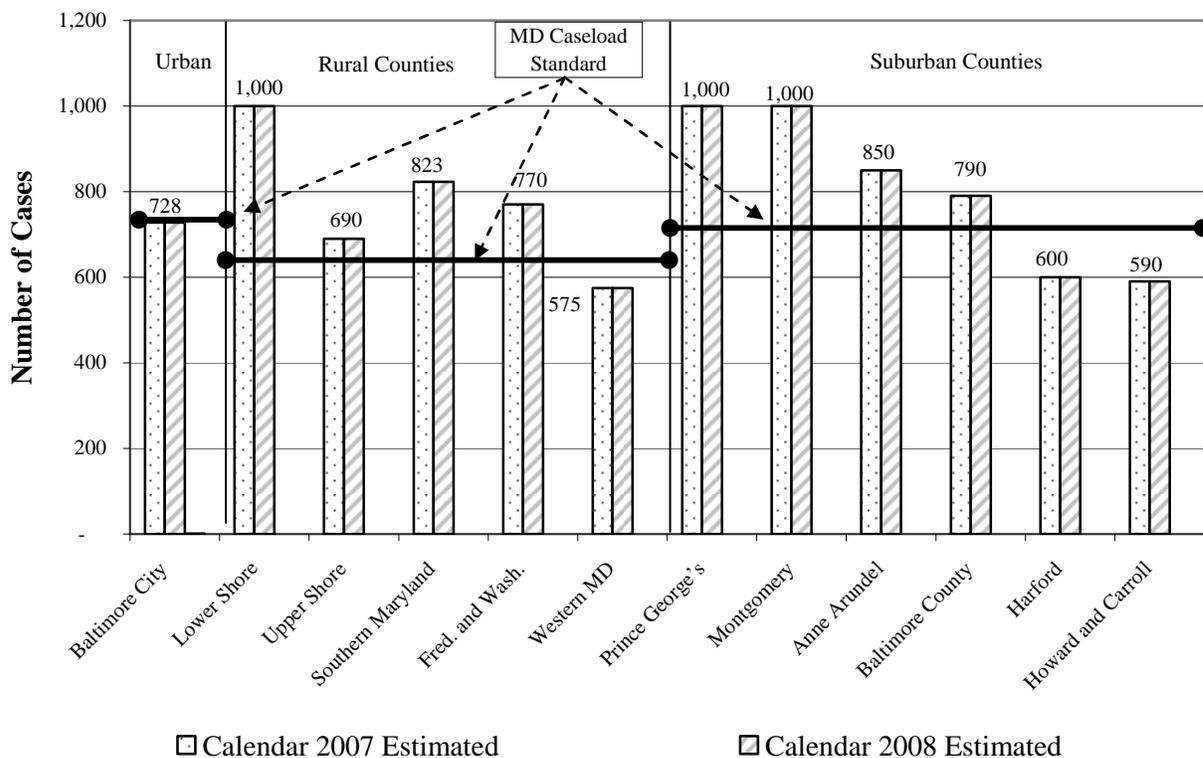
Maryland Caseload Standards: Urban Counties – 156 cases; Rural Counties – 191 cases; and Suburban Counties – 140 cases.

Note: Lower Shore constitutes Dorchester, Somerset, Wicomico, and Worcester counties; 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: Office of the Public Defender

Exhibit 2 illustrates the average annual caseload per District Court attorney by region. The average caseload per attorney is 728, 630, and 705 for urban, rural, and suburban circuit court offices, respectively. OPD projects that 33% of its district offices, including Baltimore City, will satisfy the compliance rate set by the case weighting study by the conclusion of calendar 2008. Of the remaining jurisdictions, only Allegany, Carroll, Garrett, Harford, and Howard counties are projected to satisfy the caseload standard by 2008.

Exhibit 2
Average District Court Caseload Per Attorney by Region



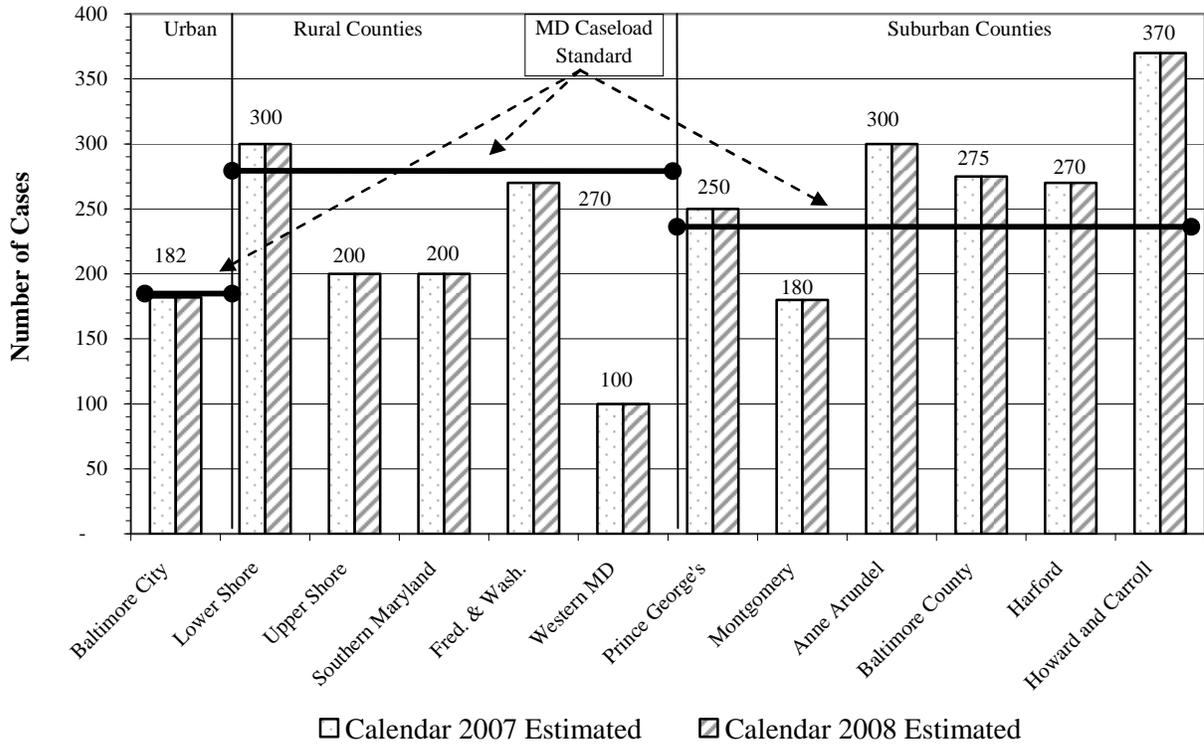
Maryland Caseload Standards: Urban Counties – 728 cases; Rural Counties – 630 cases; and Suburban Counties – 705 cases.

Note: Lower Shore constitutes Dorchester, Somerset, Wicomico, and Worcester counties; 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: Office of the Public Defender

Exhibit 3 illustrates the average annual caseload per juvenile court attorney by region. The average caseload per attorney is 182, 271, and 238 for urban, rural, and suburban circuit court offices, respectively. OPD projects that 50%¹ of its district offices will satisfy the compliance rate set by the case weighting study by the conclusion of calendar 2008.

**Exhibit 3
Average Juvenile Caseload Per Attorney by Region**



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

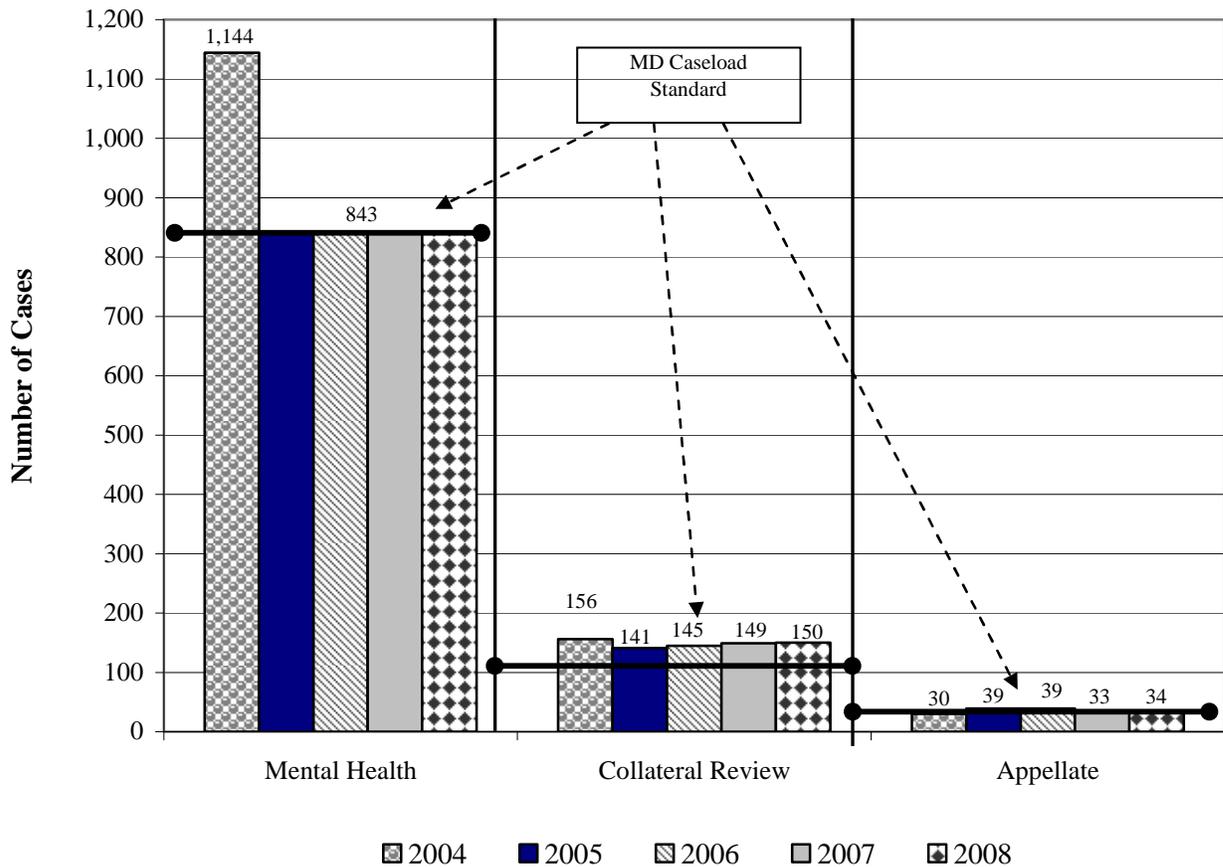
Note: Lower Shore constitutes Dorchester, Somerset, Wicomico, and Worcester counties; Upper Shore constitutes Caroline, Cecil, Kent, Queen Anne’s, and Talbot counties; Southern Maryland constitutes Calvert, Charles, and St. Mary’s counties; and Western Maryland constitutes Allegany and Garrett counties.

Source: Office of the Public Defender

¹ Baltimore City, Allegany, Caroline, Calvert, Cecil, Charles, Garrett, Kent, Montgomery, Queen Anne’s, St. Mary’s, and Talbot counties.

In addition to its district operations, which generally comprises trial level work within the circuit and District Court, OPD maintains several statewide divisions. **Exhibit 4** illustrates the average annual caseload per attorney for OPD’s Mental Health, Collateral Review, and Appellate divisions. The average caseload per attorney is 843, 111, and 30, for the Mental Health, Collateral Review, and Appellate divisions, respectively. OPD projects that only its Mental Health Division will be in compliance with caseload standards by calendar 2008. **OPD should comment to the committees on the staffing levels within its district operations and statewide divisions. OPD should also comment on the amount of resources required to be in full compliance with Maryland caseload standards.**

Exhibit 4
Average Caseload Per Attorney for the
Mental Health, Collateral Review, and Appellate Divisions
Calendar 2004-2008



Source: Office of the Public Defender

Fiscal 2008 Actions

Impact of Cost Containment

OPD was required to reduce general fund expenses by \$332,914 for cost containment in fiscal 2008. This represents a 0.4% reduction in OPD's fiscal 2008 general fund legislative appropriation. In order to achieve this target, OPD eliminated an office secretary position and 24 contractual full-time equivalent law clerk positions. OPD reports that the loss of law clerk positions has adversely impacted felony trial attorneys in Baltimore City. Currently, Baltimore City law clerks are employed to assist attorneys in all areas of case preparation and research, including client visits at the Baltimore City Jail and the Baltimore Central Booking & Intake Center. OPD reports that without law clerk assistance, the amount of time required by attorneys to close felony cases has increased as it now takes additional time to adequately prepare for litigation.

Governor's Proposed Budget

As illustrated in **Exhibit 5**, OPD's fiscal 2009 allowance increases by \$6.1 million, or 7.1%, above the fiscal 2008 working appropriation. The net increase in expenditures is primarily attributed to the following: (1) a \$7 million increase in personnel expenditures primarily due to ongoing employee health insurance and Other Post Employment Benefits; (2) a \$332,151 increase in rent expenditures due to additional lease space acquired by the agency and an underfunded lease liability in the current fiscal year; and (3) a \$860,927 reduction in contractual services expenses primarily due to a reduction in transcript and information technology expenditures.

Exhibit 5
Governor’s Proposed Budget
Office of the Public Defender
(\$ in Thousands)

How Much It Grows:	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
2008 Working Appropriation	\$85,446	\$223	\$952	\$86,621
2009 Governor’s Allowance	<u>91,681</u>	<u>141</u>	<u>942</u>	<u>92,763</u>
Amount Change	\$6,235	-\$83	-\$10	\$6,143
Percent Change	7.3%	-37.0%	-1.1%	7.1%

Where It Goes:

Personnel Expenses

Abolished positions	-\$379
Health insurance – Other Post Employment Benefits.....	3,205
Health insurance – ongoing costs	1,463
Increments, merit increases, and other pay adjustments.....	1,347
Turnover adjustments	1,125
Social Security	198
Other	84

Other Changes

Contractual full-time equivalent reduction	-557
Rent.....	332
Computer equipment	94
Office supplies	80
Transcripts	-235
Information technology.....	-460
Other	-154

Total **\$6,143**

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

Issues

1. Status of Maryland’s Statewide Panel Attorney List

The 2007 *Joint Chairmen’s Report* (JCR) directed OPD to submit a report on the status of Maryland’s statewide panel attorney list. The report’s findings are summarized below.

Background

Panel attorneys are private practitioners who represent indigent defendants when OPD is barred from doing so by a legal conflict of interest. Until fiscal 2006, the rate of compensation for panel attorneys had not increased in over 16 years. Panel attorneys were paid \$30 per hour for out-of-court work and \$35 per hour for in-court work. Consequently, OPD experienced a dramatic loss of panel attorneys. In fiscal 2006, the Administrative, Executive, and Legislative Review Committee approved a regulatory panel attorney rate increase to \$50 per hour. This rate increase was the first step of a three-year proposal by OPD to restore parity with federal standards. The federal rate is now \$92 per hour for felony cases and up to \$163 per hour for capital cases.

OPD Findings

In response to the JCR request, OPD surveyed District Public Defenders and asked them to report on their panel attorney list. OPD asked questions which included (1) whether District Public Defenders were satisfied with their current panel attorney list; (2) whether District Public Defenders experienced an increase in their panel attorney list; and (3) whether retaining panel attorneys for felony cases posed a challenge for District Public Defenders.

District Operations

According to the report, 9 of the 12 districts reported that their individual panel attorney list increased in size or remained the same. Of the 3 district offices reporting a decline in the size of their panel attorney lists, 2 were from districts that were satisfied with their lists. OPD reports that the \$50 rate increase has stabilized the agency’s panel attorney list at the present time.

OPD also reported that 8 out of the 12 districts providing trial level representation reported being satisfied with the number of panel attorneys available to them. By contrast, the rural areas continue to struggle with attracting a sufficient number of qualified attorneys that are willing to take cases. OPD reports that despite this challenge, the rural districts have been able to retain panel attorneys to cover every conflict that has arisen during the past year.

According to OPD, the need for experienced panel attorneys willing to handle serious felonies (*e.g.*, major life felonies such as capital offenses) continues to be a growing problem. Seven out of 12 districts reported having to retain panel attorneys outside of their jurisdictions for serious felony cases. OPD reports that while retaining attorneys outside of a District Public Defender’s district solves the immediate need for panel attorneys, such a solution ultimately increases the agency’s expenditures (*e.g.*, travel time and mileage reimbursement).

Statewide Divisions

OPD reports that the five statewide divisions have encountered difficulty recruiting and retaining panel attorneys in their particular areas of practice. Particularly, the Mental Health and Appellate divisions have reported having difficulty retaining qualified attorneys in such specialized areas of the law.

OPD should comment to the committees on the fiscal impact of increasing the panel fee from \$50 to \$75 per hour. OPD should also comment on the anticipated time frame for implementing the \$75 per hour fee increase.

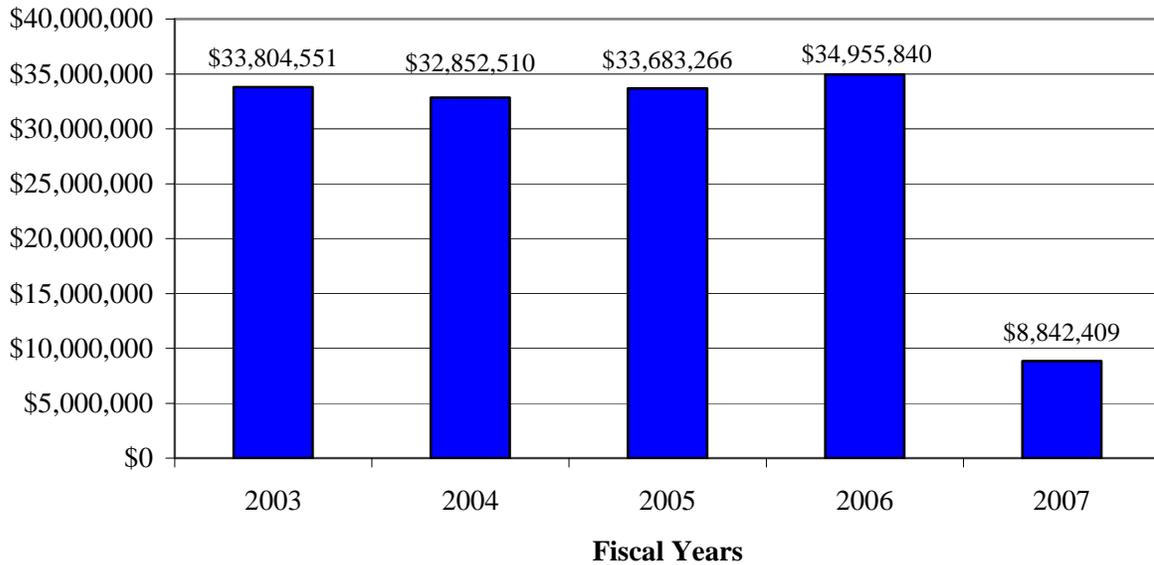
2. Accounts Receivable

In December 2007, the Office of Legislative Audits (OLA) published its audit of OPD covering fiscal 2004 to 2007. The audit disclosed that as of June 30, 2007, client administrative fees totaling approximately \$10.2 million were not recorded in the agency's accounts receivable records. Additionally, OPD estimated that it had a backlog of approximately 30,000 client billings for administrative fees related to cases opened prior to July 2005. According to the report, OPD's untimely recordation of administrative fee billings was commented upon in four previous audit reports dating back to December 1995.

Eligibility for the services of OPD is determined based on the need of the person seeking legal representation. Pursuant to the *Code of Maryland Regulations* 14.06.03.07(B)(2), OPD charges administrative fees of \$50 for adults and \$25 for juvenile clients. As shown in **Exhibit 6**, administrative fees outstanding ranged between a high of \$33.8 million in fiscal 2003 to a low of \$8.8 million² in fiscal 2007. While data received from OPD suggests that the agency does in fact refer delinquent accounts to the State's Central Collections Unit for collection on a regular basis, such an action does not alleviate the need for timely recordation of administrative fee billings; untimely recordation of administrative fees adversely impacts the State's general fund revenues.

² The Central Collections Unit authorized OPD to write off \$27.8 million in fiscal 2007.

**Exhibit 6
Administrative Fees Outstanding
Fiscal 2003-2007**



Note: The Central Collections Unit authorized OPD to write off \$27.8 million in fiscal 2007.

Source: Office of the Public Defender

The Department of Legislative Services (DLS) recommends that OPD comment to the committees on the current status of the administrative fee billings. DLS also recommends committee narrative requiring OPD to report to OLA regarding the status of client billings on an annual basis.

3. Fiscal 2007 Closeout Audit

The Office of Legislative Audits' statewide review of budget closeout transactions for fiscal 2007 indicated that OPD reported \$840,715 in unprovided for payables. According to the agency, approximately 80% of its carryover expenditures reflected normal payables such as panel attorney, medical expert, and transcript fees.

OPD should comment to the committees as to why the agency overspent its fiscal 2007 appropriation. OPD should also comment on how the agency plans to absorb these expenditures within its fiscal 2008 working appropriation.

Recommended Actions

1. Adopt the following narrative:

Submission of an Annual Report on Administrative Fee Billings: The budget committees are concerned about the Office of the Public Defender’s (OPD) untimely recordation of administrative fee billings. By October 1, 2008, and annually thereafter, OPD shall submit a report to the committees and the Office of Legislative Audits outlining the status of the agency’s accounts receivable, including any unrecorded client billings.

Information Request	Author	Due Date
Status report on administrative fee billings	OPD	October 1, 2008, and annually thereafter

2. Adopt the following narrative:

Report on the Fiscal Impact of Fully Funding the Office of the Public Defender’s (OPD) Operating Needs: OPD shall submit a report to the budget committees regarding the fiscal impact of fully funding the agency’s operating needs in fiscal 2010. The report shall include the fiscal impact of (1) reducing the agency’s turnover rate to 3%; (2) bringing attorney caseloads into full compliance with Maryland caseloads standards; and (3) increasing the panel attorney fee from \$50 to \$75 per hour.

Information Request	Author	Due Date
Report on the fiscal impact of funding OPD’s operating needs	OPD	August 1, 2008

Updates

1. Lawsuit Alleging the Right to Counsel at Initial Bail Proceedings

Background

In November 2006, a class action lawsuit was filed against the commissioners of the District Court for Baltimore City, and several others, challenging Maryland’s practice of denying indigent defendants the right to counsel when they first appear before a District Court commissioner. The lawsuit alleged that under Maryland law, criminal defendants are entitled to counsel at “all stages” of a criminal proceeding and that initial bail hearings before the District Court commissioner are subject to this requirement. The plaintiffs sought, among other things, that the court declare that an initial bail hearing before the District Court commissioner triggered the Maryland Public Defender Act³ whereby indigent defendants would have the right to have counsel appointed to represent them.

Recent Developments

OPD reports that arguments were heard in the Baltimore City Circuit Court in October 2007 and that the Attorney General’s motion for summary judgment to dismiss the case was granted. However, the lawsuit has not been fully resolved as the plaintiffs have noted an appeal. To date, OPD has not been named a party to the lawsuit. According to OPD, if the plaintiffs were to prevail, the agency would experience a significant increase in operating expenditures to employ the additional staff that would be needed to represent indigent clients 24 hours per day, 7 days a week.

2. Audit Findings

OPD’s December 2007 audit disclosed several findings: (1) OPD failed to account for and pursue the collection of administrative fees for cases opened during fiscal 2006 and 2007; (2) OPD estimated to have a backlog of 30,000 unrecorded administrative fee billings for cases opened prior to July 2005; and (3) OPD failed to refer two instances of possible criminal or unethical employee conduct to the appropriate agency for further investigation. **Exhibit 7** provides a tabular representation of OLA’s audit findings and OPD’s response to those findings.

³ See Article 27A §4, *Annotated Code of Maryland*.

Exhibit 7
The Office of the Public Defender’s December 2007
Audit Findings and Responses

Office of Legislative Audits Findings

The Office of the Public Defender (OPD) failed to account for and pursue client administrative fees totaling approximately \$10.2 million for cases opened during fiscal 2006 and 2007. Additionally, OPD estimated to have a backlog of 30,000 unrecorded administrative fees billings for cases opened prior to July 2005.

OPD failed to refer two instances of possible criminal or unethical employee conduct to the appropriate agency for further investigation pursuant to Executive Order 01.01.2007.01 (effective February 14, 2007).

Office of the Public Defender Responses

OPD reports that the backlog of unprocessed administrative billings have been entered and recorded in the accounts receivable records. Additionally, the agency’s Administrative Services Unit has taken steps to ensure that administrative fees are properly recorded in the future.

OPD acknowledges that Executive Order 01.01.2007.01 requires the agency to refer instances of criminal or unethical conduct by its employees to the Office of the Attorney General and the Chief Legal Counsel to the Governor. With regard to the two matters cited, OPD referred both matters to the appropriate parties on October 31, 2007.

Source: Office of Legislative Audits; Office of the Public Defender

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 2007					
Legislative Appropriation	\$83,766	\$212	\$0	\$998	\$84,976
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-93	180	0	0	87
Reversions and Cancellations	-1	-145	0	-16	-162
Actual Expenditures	\$83,672	\$247	\$0	\$982	\$84,901
Fiscal 2008					
Legislative Appropriation	\$84,534	\$220	\$0	\$952	\$85,706
Cost Containment	-333	0	0	0	-333
Budget Amendments	1,245	3	0	0	1,248
Working Appropriation	\$85,446	\$223	\$0	\$952	\$86,621

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

Fiscal 2007

In fiscal 2007, the total budget for OPD decreased by \$75,850. This decrease was the net result of a \$86,844 increase in OPD's general and special fund accounts and a \$162,694 decrease in OPD's general, special, and federal fund accounts due to reversions and cancellations.

The general fund appropriation decreased by \$92,970 due to the following: (1) a \$1,163,189 reduction in health insurance pursuant to Section 40 of the fiscal 2007 budget bill; (2) a \$1,085,053 cost-of-living adjustment (COLA) that was centrally budgeted in the Department of Budget and Management (DBM); and (3) a \$14,834 general fund reallocation to DBM to conduct a salary study pursuant to Section 40 of the fiscal 2007 budget bill. OPD also had a general fund reversion of \$1,340 due to a purchase order cancellation.

The special fund appropriation increased by \$179,814 due to the following: (1) a \$140,306 grant from the Judiciary to establish an agencywide mediation and conflict resolution (MACRO) program; (2) a \$21,161 grant from the Open Society Institute to assist with providing competent indigent defense in the diverse communities served by OPD; (3) a \$17,500 grant from the Circuit Court for St. Mary's County to assist with providing legal services for the county's Juvenile Drug Court program; and (4) a \$847 COLA. Additionally, OPD had a special fund cancellation of \$145,149. This amount reflects funding that will be carried over into fiscal 2008 because of differences in the timing of funding cycles for Open Society and MACRO grants as well as unrealized expenditures for the Baltimore City and St. Mary's County Juvenile Drug Court programs.

Lastly, OPD had a reimbursable fund cancellation of \$16,206. The cancellation was due to unrealized expenditures for the War Room Initiative. The "War Room" was created to aid Baltimore City's criminal justice agencies in sharing data to identify and track violent recidivists.

Fiscal 2008

The general and special fund appropriations increased by \$911,948 and \$3,464, respectively. The net increase in general funds was due to a 2% COLA centrally budgeted in DBM offset by a \$332,914 cost containment reduction. The special fund appropriation increased due to a 2% COLA that was centrally budgeted in DBM.

Audit Findings

Audit Period for Last Audit:	June 10, 2004 – April 30, 2007
Issue Date:	December 2007
Number of Findings:	2
Number of Repeat Findings:	2
% of Repeat Findings:	100%
Rating: (if applicable)	n/a

Finding 1: **OPD failed to account for and pursue administrative fees for cases opened during fiscal 2006 and 2007. Additionally, OPD estimated that it had a backlog of 30,000 unrecorded administrative fee billings applicable to cases opened prior to July 2005.**

Finding 2: **OPD did not refer for further investigation two instances of possible criminal or unethical employee conduct as required by a related Executive Order.**

*Bold denotes item repeated in full or part from preceding audit report.

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

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	1017.00	1016.00	1007.00	-9.00	-0.9%
02 Contractual	79.90	82.60	47.40	-35.20	-42.6%
Total Positions	1096.90	1098.60	1054.40	-44.20	-4.0%
Objects					
01 Salaries and Wages	\$ 70,891,114	\$ 72,908,419	\$ 79,951,523	\$ 7,043,104	9.7%
02 Technical and Spec. Fees	6,975,321	6,985,789	6,649,049	-336,740	-4.8%
03 Communication	776,806	957,583	921,175	-36,408	-3.8%
04 Travel	328,758	283,730	270,907	-12,823	-4.5%
06 Fuel and Utilities	97,607	112,900	107,284	-5,616	-5.0%
07 Motor Vehicles	93,557	107,486	93,854	-13,632	-12.7%
08 Contractual Services	2,694,708	2,784,507	1,953,580	-830,927	-29.8%
09 Supplies and Materials	447,168	365,455	461,573	96,118	26.3%
10 Equip. – Replacement	15,134	0	93,570	93,570	N/A
11 Equip. – Additional	477,091	222,125	62,408	-159,717	-71.9%
13 Fixed Charges	2,103,798	1,892,556	2,198,309	305,753	16.2%
Total Objects	\$ 84,901,062	\$ 86,620,550	\$ 92,763,232	\$ 6,142,682	7.1%
Funds					
01 General Fund	\$ 83,672,089	\$ 85,445,689	\$ 91,681,088	\$ 6,235,399	7.3%
03 Special Fund	246,767	223,250	140,542	-82,708	-37.0%
09 Reimbursable Fund	982,206	951,611	941,602	-10,009	-1.1%
Total Funds	\$ 84,901,062	\$ 86,620,550	\$ 92,763,232	\$ 6,142,682	7.1%

Note: The fiscal 2008 appropriation does not include deficiencies.

**Fiscal Summary
Office of the Public Defender**

<u>Program/Unit</u>	<u>FY07 Actual</u>	<u>FY08 Wrk Approp</u>	<u>FY09 Allowance</u>	<u>Change</u>	<u>FY08-FY09 % Change</u>
01 General Administration	\$ 7,229,763	\$ 6,664,000	\$ 6,753,503	\$ 89,503	1.3%
02 District Operations	69,577,802	71,877,040	78,118,446	6,241,406	8.7%
03 Appellate and Inmate Services	5,579,608	5,546,147	5,431,206	-114,941	-2.1%
04 Involuntary Institutionalization Services	1,489,721	1,491,777	1,501,598	9,821	0.7%
05 Capital Defense Division	1,024,168	1,041,586	958,479	-83,107	-8.0%
Total Expenditures	\$ 84,901,062	\$ 86,620,550	\$ 92,763,232	\$ 6,142,682	7.1%
General Fund	\$ 83,672,089	\$ 85,445,689	\$ 91,681,088	\$ 6,235,399	7.3%
Special Fund	246,767	223,250	140,542	-82,708	-37.0%
Total Appropriations	\$ 83,918,856	\$ 85,668,939	\$ 91,821,630	\$ 6,152,691	7.2%
Reimbursable Fund	\$ 982,206	\$ 951,611	\$ 941,602	-\$ 10,009	-1.1%
Total Funds	\$ 84,901,062	\$ 86,620,550	\$ 92,763,232	\$ 6,142,682	7.1%

Note: The fiscal 2008 appropriation does not include deficiencies.