

**C80B00**  
**Office of the Public Defender**

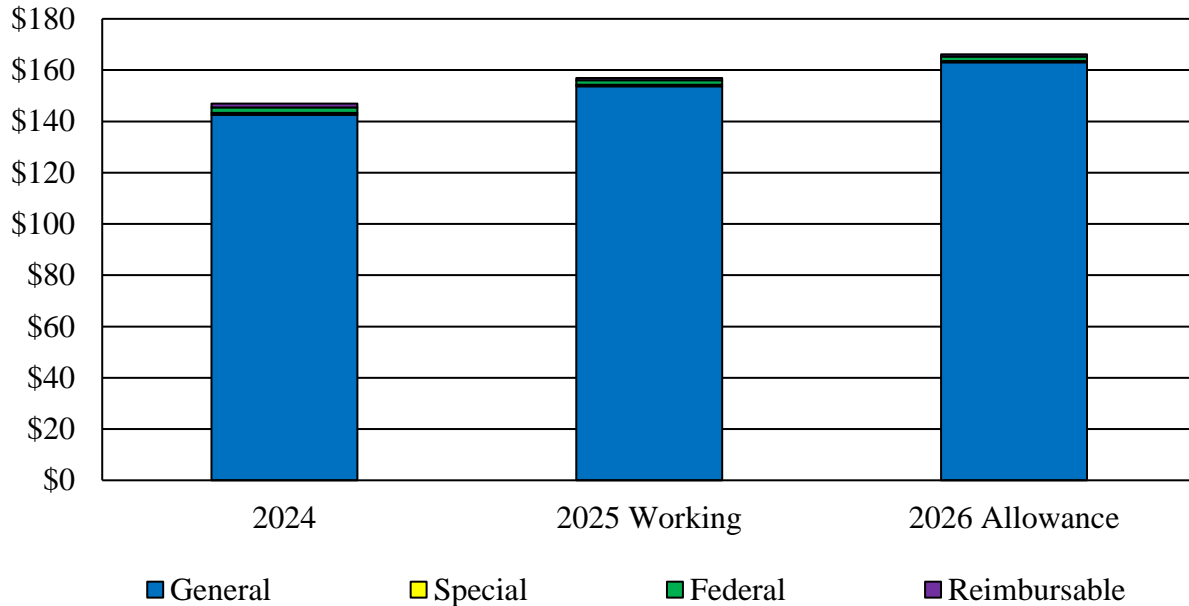
**Program Description**

The Office of the Public Defender (OPD) provides counsel and related services to indigent persons through 12 district operations, four divisions, and two specialized units. As defined in the Code of Maryland Regulations 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 General Administration, District Operations, Appellate and Inmate Services, and Involuntary Institutionalization Services.

***Operating Budget Summary***

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**Fiscal 2026 Budget Increases \$9.3 Million, or 5.9%, to \$166.2 Million**  
**(\$ in Millions)**



Note: The fiscal 2025 working appropriation accounts for deficiencies. The fiscal 2025 impacts of statewide salary adjustments are centrally budgeted in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2026 impacts of the fiscal 2025 statewide salary adjustments appear in this agency’s budget. The fiscal 2026 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

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- General funds increase by \$9.4 million, or 6.1%, in the fiscal 2026 allowance compared to the fiscal 2025 working appropriation. This increase is largely attributable to the creation of 51 new positions, along with various other expenses, which have increased to align with fiscal 2024 actual expenses.
- The fiscal 2026 budget includes one proposed deficiency appropriation in fiscal 2025 to fund fiscal 2024 shortfalls in the amount of \$2.2 million in general funds. Excluding this proposed deficiency appropriation, general funds increase between fiscal 2025 and 2026 by approximately \$11.5 million, or 7.5%.

### **Fiscal 2025**

#### **Cost Containment and Implementation of Legislative Priorities**

Section 21 of the fiscal 2025 Budget Bill added \$500,000 in general funds to OPD to increase salaries for existing positions. The salary increases were intended to promote the agency's employee retention rates in order to reduce the agency's longstanding issues with a higher than budgeted number of vacancies. In July 2024, the Board of Public Works (BPW) approved one cost containment action impacting OPD. The action reduced the agency's appropriation by approximately \$1.1 million in general funds appropriated for salary increases for existing staff as a retention initiative, including the \$500,000 in general funds that had been added to the appropriation by the General Assembly for this purpose.

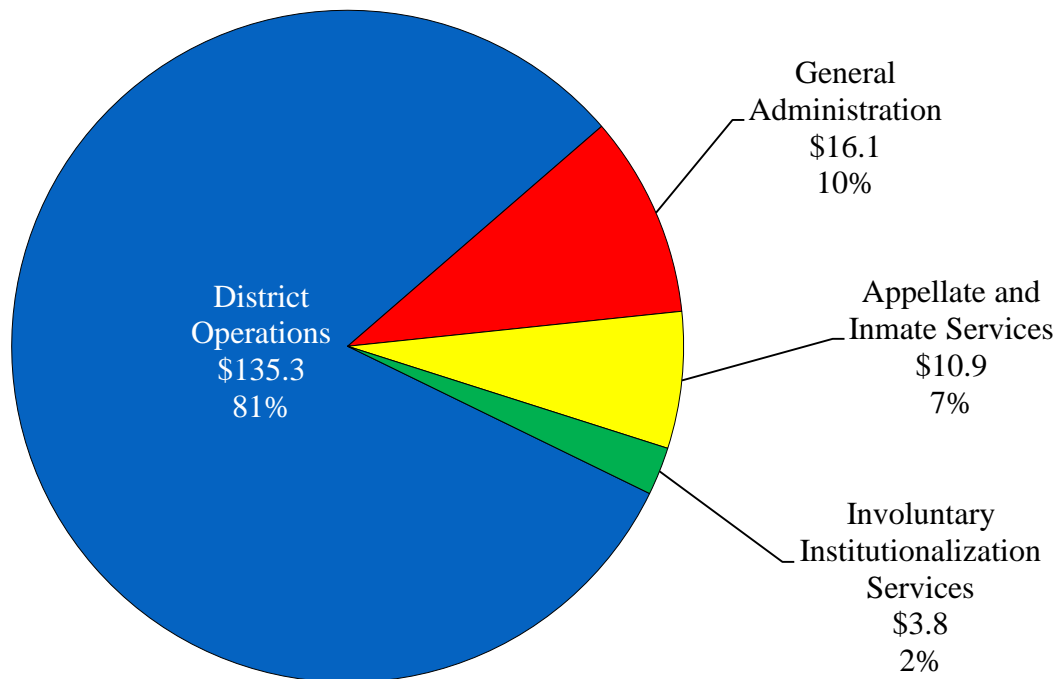
#### **Proposed Deficiency**

At fiscal 2024 closeout, OPD reported having insufficient appropriation to cover \$2,216,256 in expenditures. A proposed fiscal 2025 deficiency appropriation for OPD provides a general fund appropriation in fiscal 2025 to cover these fiscal 2024 expenditures. Of this appropriation, \$1,283,283 is to provide additional funding for panel attorneys and medical consultants for legal consultations and testimony. The remaining \$932,973 is added to provide additional funding for printing contracts, transcription services, and other contracted services.

### **Fiscal 2026 Overview of Agency Spending**

As depicted in **Exhibit 1**, OPD's fiscal 2026 allowance totals \$166.2 million, with 81% of the funding, or \$135.3 million, funding the District Operations program. The District Operations program contains most of the agency's assistant public defenders (APD) and is responsible for the majority of the representation provided by OPD.

**Exhibit 1**  
**Overview of Agency Spending**  
**Fiscal 2026 Allowance**  
**(\$ in Millions)**



Note: The fiscal 2026 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency's budget.

Source: Governor's Fiscal 2026 Budget Books

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### **Proposed Budget Change**

As shown in **Exhibit 2**, the fiscal 2026 allowance for OPD increases by \$9.3 million compared to the fiscal 2025 working appropriation. The largest change is \$7.8 million for fiscal 2025 statewide salary adjustments that are budgeted in the Department of Budget and Management in fiscal 2025 but in this agency's budget in fiscal 2026. The fiscal 2026 allowance includes \$5.2 million in funding related to salary and fringe benefit costs for new positions and to provide additional office furniture for new employees, trainings, and new laptops.

**Exhibit 2**  
**Proposed Budget**  
**Office of the Public Defender**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
Fiscal 2024 Actual	\$142,599	\$757	\$2,058	\$1,525	\$146,939
Fiscal 2025 Working Appropriation	153,655	634	1,707	884	156,879
Fiscal 2026 Allowance	<u>163,011</u>	<u>515</u>	<u>1,708</u>	<u>964</u>	<u>166,197</u>
Fiscal 2025-2026 Amount Change	\$9,356	-\$119	\$1	\$80	\$9,318
Fiscal 2025-2026 Percent Change	6.1%	-18.8%		9.1%	5.9%

**Where It Goes:**

**Change**

**Personnel Expenses**

Salary increases and associated fringe benefits, including fiscal 2025 cost-of-living adjustment and increments .....	\$7,828
Costs associated with 51 new positions, including 16 assistant public defenders; 5 intake specialists; and new paralegals, social workers, and other administrative positions .....	4,534
Turnover rate decreases from 6.46% to 6.41% .....	55
Workers' compensation premium assessment .....	-157
Employee and retiree health insurance .....	-1,747

**Other Changes**

Transcription services for legal proceedings .....	670
New office furniture and laptops for new employees .....	412
Turnover expectancy decreases for contractual personnel .....	297
Education and training contract expenses for new and existing employees .....	229
In-state travel expenses for operations, conferences, and trainings, including travel to meet with defendants in custody and training for new employees .....	205
Telephone expenses increase to align with fiscal 2024 actual expenses .....	144
Labor law consultation contract with a private law firm providing legal support in a specialized area of practice .....	130
Cost allocation .....	101
Client Protection fees for all eligible attorneys mandated by statute to be paid to the Client Protection Fund for the handling of claims against attorneys and licensure fees for all eligible social workers .....	100
Warranty payments for computer equipment .....	70
Temporary staff expenses increase to align with fiscal 2024 actual expenses .....	65

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<b>Where It Goes:</b>	<b><u>Change</u></b>
Funding for office supplies increases to align with fiscal 2024 actual expenses .....	36
Advertising expenses for hiring announcements .....	24
Rent expenses .....	-8
Contractual personnel expenses.....	-12
Information technology expenses, including website hosting, audio-visual services, and web conferencing subscriptions to align with fiscal 2024 actual expenses .....	-134
Panel attorney expenses .....	-182
Medical consultant expenses for legal consultations and testimony .....	-295
Investigator and forensic expert expenses for legal proceedings and consultations.....	-301
Funding for software licenses including Microsoft, cloud storage, and the eDefender case management software decreases to align with fiscal 2024 actual expenses.....	-525
One-time funding for fiscal 2024 shortfalls.....	-2,216
Other adjustments .....	-5
<b>Total</b>	<b>\$9,318</b>

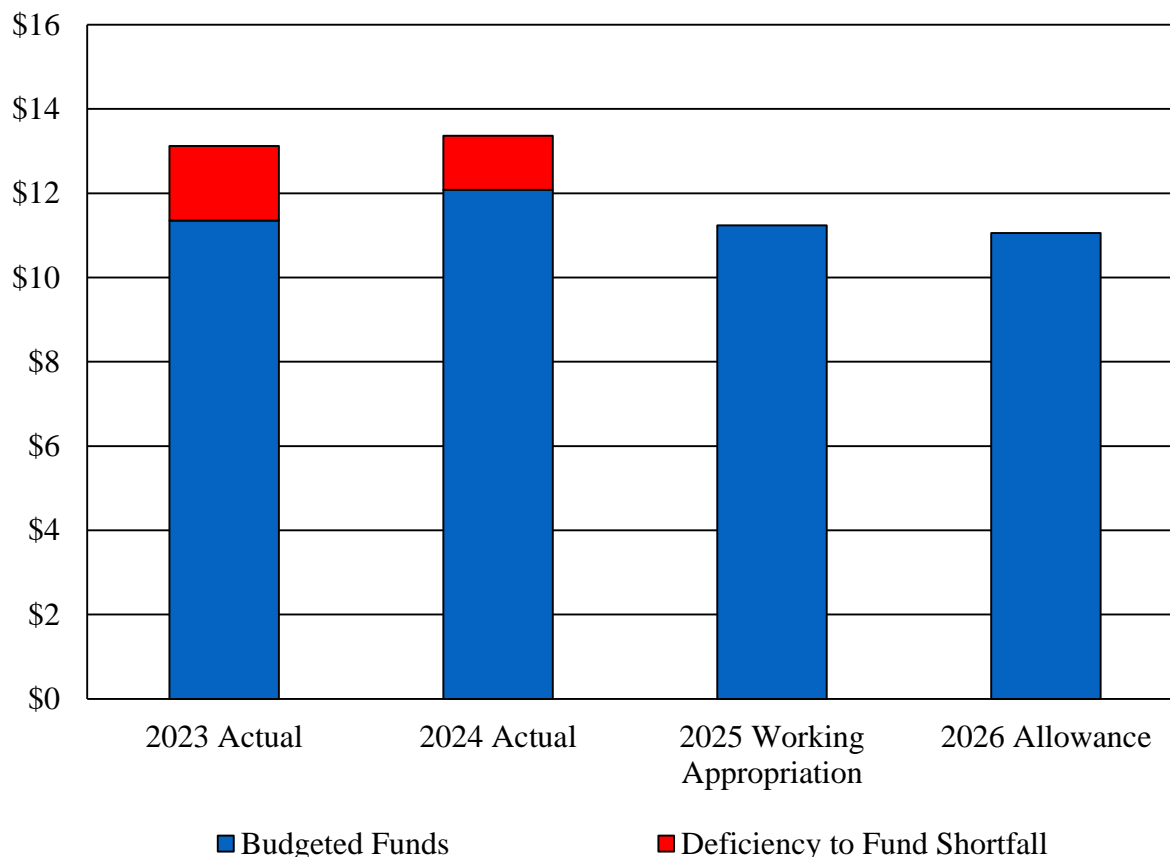
Note: Numbers may not sum to total due to rounding.

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### **Funding for Panel Attorneys Is Potentially Insufficient**

Panel attorneys paid by OPD provide representation for clients when OPD attorneys are unable to do so due to scheduling constraints or conflicts of interest. OPD has required deficiency appropriations in two consecutive years to cover shortfalls for panel attorney fees in the most recently closed fiscal year. As shown in **Exhibit 3**, fiscal 2023 actual costs for panel attorneys were reported as \$11.4 million, and OPD required an additional \$1.8 million to fully fund costs for panel attorneys. In fiscal 2024, OPD reported actual expenses of \$12.1 million for panel attorneys, and a deficiency appropriation for the same purpose in fiscal 2024 increases the total cost to \$13.4 million. Despite these additional expenditures, the fiscal 2026 allowance slightly decreases the amount budgeted for panel attorneys. However, both the fiscal 2025 and 2026 budgeted amounts are notably lower than the recent expenditures.

**Exhibit 3  
Funding for Panel Attorneys  
Fiscal 2023-2026 Allowance  
(\$ in Millions)**



Source: Department of Budget and Management; Department of Legislative Services

Given the agency’s recent history of requiring additional funding to pay for shortfalls related to panel attorney fees, the fiscal 2025 working appropriation and fiscal 2026 allowance may require additional funding for this purpose. The total cost for panel attorneys grew by 2% between fiscal 2023 and 2024. If these costs continue to increase at the same rate each year, the fiscal 2025 working appropriation may be underfunded by \$1.1 million, and the fiscal 2026 allowance may require an additional \$2.9 million. **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.**

## ***Personnel Data***

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	<b><u>FY 24</u></b> <b><u>Actual</u></b>	<b><u>FY 25</u></b> <b><u>Working</u></b>	<b><u>FY 26</u></b> <b><u>Allowance</u></b>	<b><u>FY 25-26</u></b> <b><u>Change</u></b>
Regular Positions	938.50	981.50	1,032.50	51.00
Contractual FTEs	<u>125.50</u>	<u>65.08</u>	<u>59.58</u>	<u>-5.50</u>
<b>Total Personnel</b>	<b>1,064.00</b>	<b>1,046.58</b>	<b>1,092.08</b>	<b>45.50</b>

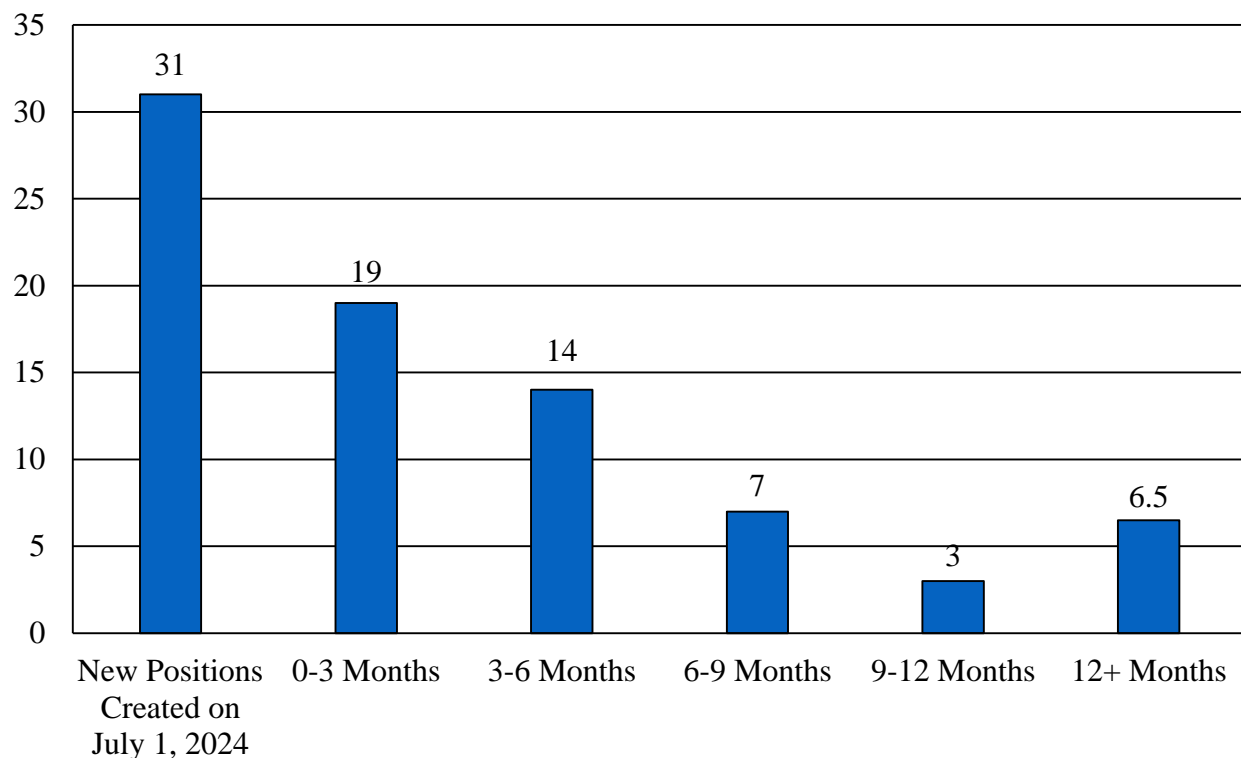
### ***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	62.91	6.41%
Positions and Percentage Vacant as of 12/31/24	80.50	8.20%
Vacancies Above Turnover	17.59	

- The fiscal 2026 allowance includes new positions for all four programs within OPD, which includes 16 APDs, 11 secretaries, 9 office clerks, 5 intake specialists, 2 social workers, and 2 paralegals that are added for the District Operations program. The additional secretaries and clerks are to support the new APD positions. The social workers, paralegals, and intake specialists are all added to reduce the workloads for existing employees in these positions, as OPD has stated that workloads for core staff are a contributing factor to the agency’s issues with vacancies. The General Administration program receives 2 new administrative staff and 2 information technology employees. The Appellate and Inmate Services and Involuntary Institutionalization Services programs receive 1 new position each, gaining a paralegal and a secretary, respectively.
- The fiscal 2026 allowance includes 5.50 fewer contractual positions than the fiscal 2025 working appropriation. OPD has elected to eliminate these positions due to a lack of current need. The positions were 1 APD, 1 peer recovery specialist, 2.5 social worker positions, 1 part-time office secretary position, and 1 part-time family services caseworker.

OPD has had consistently high vacancy rates for several years. Of the 80.50 current vacancies, 31 were newly created in the fiscal 2025 appropriation, including 12 APD positions and 9 secretaries. **Exhibit 4** shows the existing vacancies broken down by the length of time for which the vacancy has existed. While the total number of vacancies at OPD has decreased over the past 12 months, the agency’s difficulty with filling newly created positions serves to increase the severity of the vacancy problem.

**Exhibit 4**  
**Vacancies by Length of Vacancy**  
**As of December 31, 2024**

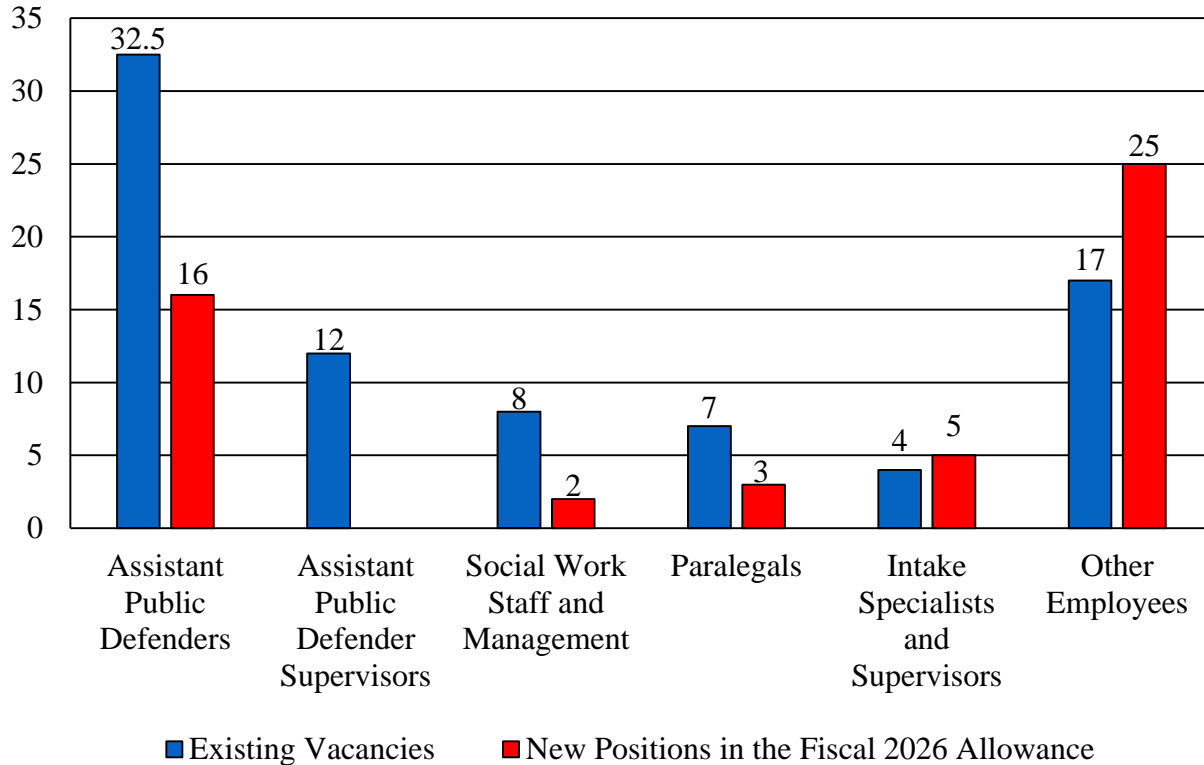


Source: Department of Budget and Management; Department of Legislative Services

The 51 new positions added in the allowance include positions for which there are already a high number of vacancies, including APDs, social workers, paralegals, and administrative staff, as shown in **Exhibit 5**.



**Exhibit 5  
Existing Vacancies and New Positions by Job Type**



Source: Department of Budget and Management; Department of Legislative Services

OPD’s vacancy issues contribute to the caseloads issue discussed in Key Observation 2 of this analysis. When attorneys leave OPD, they cite a variety of reasons, including higher rates of pay or lower caseloads available in other State agencies, federal agencies, or the private sector. OPD has historically filled higher level positions by promoting staff in lower level positions. This method of filling a vacancy by creating a new lower level vacancy allows for OPD to hire a greater number of applicants for entry-level positions; however, OPD has stated previously that the agency often fails to recruit graduating law students due to competition from other employers, which results in continued issues with vacancies, particularly for APD positions. Data provided by the agency demonstrates the need for additional attorneys, paralegals, and social workers. However, OPD’s struggles to fill vacancies make it prudent to reduce the number of new positions in other job categories.

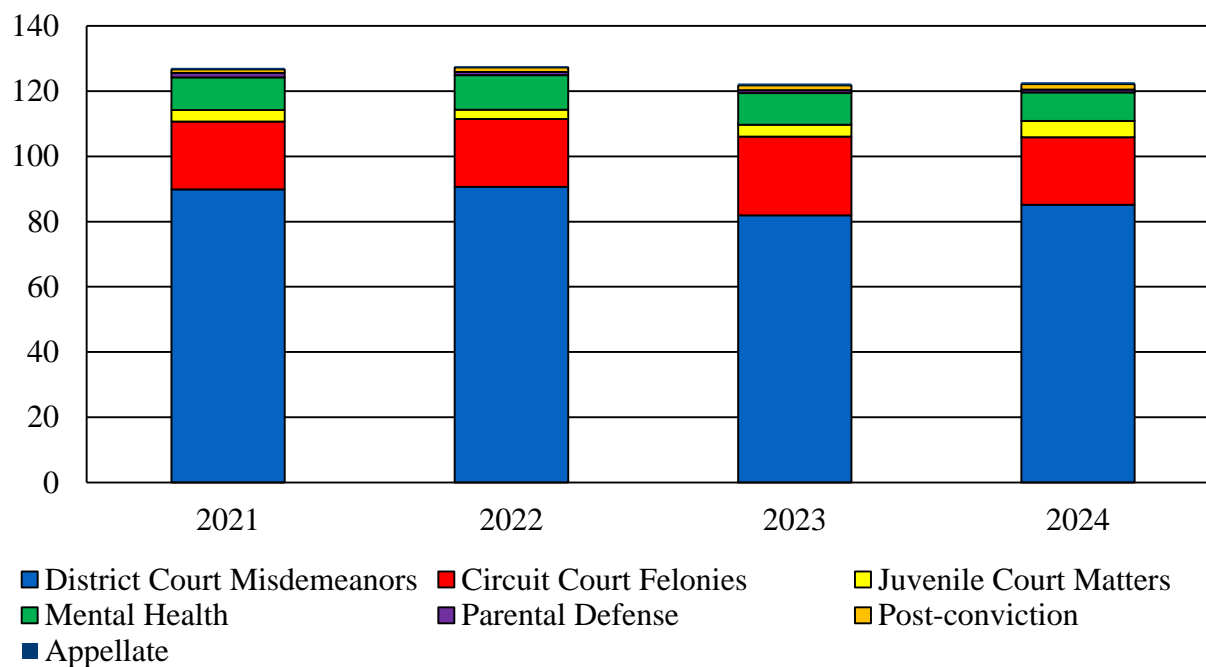
**The Department of Legislative Services (DLS) recommends reducing \$1,697,000 in general funds and deleting 12 new office secretary positions, 9 new office clerk positions, 2 new administrative positions, and 2 new information technology related positions.**

## Key Observations

### 1. Agencywide Caseload Remains Steady

OPD has handled a fairly static caseload over the most recent four fiscal years. Excluding cases that were handled by panel attorneys in each year between fiscal 2021 and 2024, the agency handled between 122,351 to 127,660 total cases each year. As shown in **Exhibit 6**, in fiscal 2024, 69.4% of these cases were District Court misdemeanors. This represents a statistically normal year for OPD, as District Court misdemeanors have historically been the largest practice area each year.

**Exhibit 6**  
**Office of the Public Defender Case Statistics by Category**  
**Fiscal 2021-2024**  
**(in Thousands)**



Note: Does not include cases sent to panel attorneys.

Source: Department of Budget and Management; Department of Legislative Services

The consistent number of cases each year has allowed OPD to determine which divisions are in need of more attorneys to bring caseloads within standards for every attorney. The decreased number of cases over the last four years as compared to prior years has allowed OPD to decrease its usage of panel attorneys, which reduces the total amount of fees that the State pays to

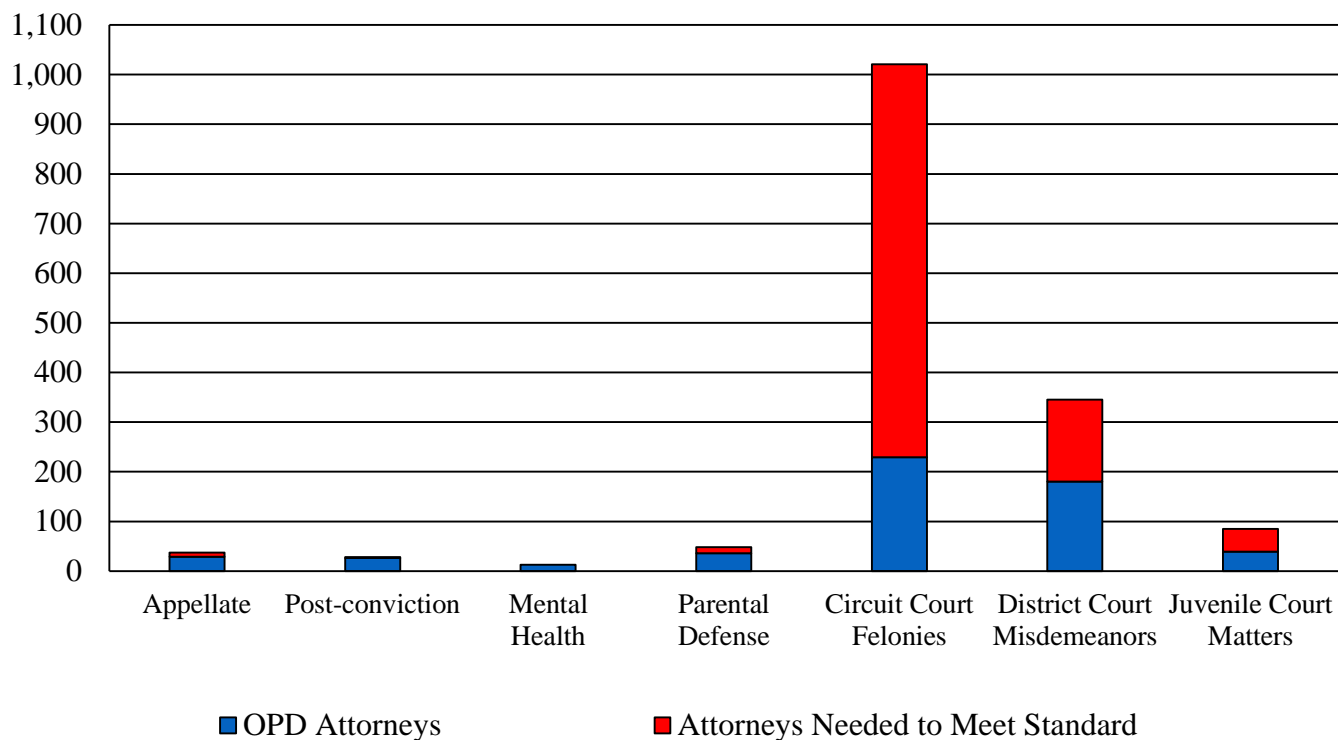
private attorneys to cover the cases that OPD is unable to handle. In calendar 2019, OPD needed to panel a total of 54,417 cases to private attorneys; in fiscal 2024, panel attorney usage decreased to 12,193 cases. OPD should continue to work to balance the workloads for its regular and contractual APDs to ensure that the use of panel attorneys is kept as low as possible in order to stay within the funds budgeted in the allowance for those attorneys.

## **2. Attorney Caseloads Remain a Focus and Exceed Current Standards**

OPD began utilizing nationally recognized caseload standards in fiscal 2024. These standards were calculated by a group consisting of the American Bar Association, RAND Corporation, and the National Center for State Courts to calculate standard workloads for attorneys. OPD has since begun a process to alter these standards to better reflect circumstances specific to Maryland, which will in turn better reflect appropriate caseloads for public defenders in the State. OPD solicited proposals for a contractor to assist with the process of altering the national standards, and the contract was awarded to RAND Corporation and approved by BPW at the meeting on November 20, 2024. Until the adjusted standards are approved by OPD and adopted for use in the agency's annual Managing for Results (MFR) submission, the agency is continuing to use the national standards. OPD currently anticipates that the adjusted standards will be completed by February 2026. In December 2024, OPD submitted a report on attorney hiring, separation, and caseloads, as requested by the 2024 *Joint Chairmen's Report* (JCR). This report highlighted that OPD is understaffed in terms of attorneys, paralegals, and social workers. The caseloads issue is further exacerbated by OPD's difficulty retaining attorneys. The report stated that in fiscal 2024, OPD lost 45 attorneys to resignation, 9 to retirement, and 13 to transfers, while 1 attorney was terminated. These 68 attorneys lost were replaced by 104 hired attorneys, making fiscal 2024 the first year since fiscal 2020 where more attorneys were hired than separated from OPD.

The data contained with the fiscal 2026 MFR submission indicates that with the current total number of budgeted APD positions, including vacancies, OPD is understaffed for its current workload by approximately 1,025 attorneys, as shown in **Exhibit 7**. The area with the greatest calculated need is circuit court felony matters, where OPD estimates a need for 792 additional attorneys in order for each attorney to have an appropriate caseload. This calculated need represents an increase from the estimate provided for fiscal 2025, when OPD estimated that 677 additional attorneys were needed for circuit court felony matters. The data indicates that OPD is understaffed in every practice area, with the exception being mental health matters. The gap between the number of attorneys OPD has versus what is needed according to standards represents a significant issue. Current workloads are unsustainable for many attorneys, which can lead to low employee morale, high turnover, and extensive use of panel attorneys, along with other consequences. OPD should continue to focus on enhancing its recruitment and retention methods, as filling vacant positions would decrease caseloads for all attorneys and has the potential to aid in retention efforts even absent additional positions. **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.**

**Exhibit 7  
Authorized Attorney Positions Needed to Meet Standard Caseloads  
Fiscal 2024**



OPD: Office of the Public Defender

Note: OPD Attorneys represents all authorized positions, which include some positions that are currently vacant.

Source: Department of Budget and Management; Department of Legislative Services

During the process of adjusting the national caseload standards to better reflect Maryland, OPD should work to determine if procedures can be adjusted to reduce the number of additional attorneys needed for every attorney to have a caseload that meets standards. Procedures to be examined may include how administrative staff and paralegals contribute to casework and whether different cases can be weighted differently in workload calculations based on complexity.

## Operating Budget Recommended Actions

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	<u>Amount</u> <u>Change</u>		<u>Position</u> <u>Change</u>
1. Reduce \$94,198 in general funds made for the purpose of increasing the turnover expectancy for contractual positions to 10.00%.	-\$ 94,198	GF	
2. Reduce \$1,697,900 in general funds and delete 12 new office secretary positions, 9 new office clerk positions, 2 new administrative positions, and 2 new information technology related positions.	-\$ 1,697,900	GF	-25.0
<b>Total General Fund Net Change</b>	<b>-\$ 1,792,098</b>		<b>-25.0</b>

**Appendix 1**  
**2024 Joint Chairmen’s Report Responses from Agency**

The 2024 JCR requested that OPD prepare one report. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***Hiring, Separation, and Caseloads Report:*** OPD submitted a report detailing the average caseloads for its attorneys along with statistics on hiring and separations in December 2024. Further discussion of this report can be found in Key Observation 2 of this analysis.

**Appendix 2  
Object/Fund Difference Report  
Office of the Public Defender**

<u>Object/Fund</u>	<u>FY 24 Actual</u>	<u>FY 25 Working Appropriation</u>	<u>FY 26 Allowance</u>	<u>FY 25 - FY 26 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	938.50	981.50	1,032.50	51.00	5.2%
02 Contractual	125.50	65.08	59.58	-5.50	-8.5%
<b>Total Positions</b>	<b>1,064.50</b>	<b>1,046.58</b>	<b>1,092.08</b>	<b>45.50</b>	<b>4.3%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 112,969,795	\$ 122,046,811	\$ 132,559,364	\$ 10,512,553	8.6%
02 Technical and Special Fees	21,526,386	20,480,297	20,077,488	-402,809	-2.0%
03 Communication	518,806	370,960	520,900	149,940	40.4%
04 Travel	280,587	76,760	310,000	233,240	303.9%
06 Fuel and Utilities	116,568	97,366	117,000	19,634	20.2%
07 Motor Vehicles	74,049	137,504	140,920	3,416	2.5%
08 Contractual Services	6,543,318	6,132,741	6,768,361	635,620	10.4%
09 Supplies and Materials	492,812	178,235	249,914	71,679	40.2%
10 Equipment – Replacement	493,297	484,496	492,105	7,609	1.6%
11 Equipment – Additional	920,289	263,372	695,766	432,394	164.2%
13 Fixed Charges	3,003,018	4,394,031	4,265,237	-128,794	-2.9%
<b>Total Objects</b>	<b>\$ 146,938,925</b>	<b>\$ 154,662,573</b>	<b>\$ 166,197,055</b>	<b>\$ 11,534,482</b>	<b>7.5%</b>
<b>Funds</b>					
01 General Fund	\$ 142,599,130	\$ 151,438,406	\$ 163,010,768	\$ 11,572,362	7.6%
03 Special Fund	756,946	633,506	514,576	-118,930	-18.8%
05 Federal Fund	2,058,005	1,706,661	1,707,504	843	0%
09 Reimbursable Fund	1,524,844	884,000	964,207	80,207	9.1%
<b>Total Funds</b>	<b>\$ 146,938,925</b>	<b>\$ 154,662,573</b>	<b>\$ 166,197,055</b>	<b>\$ 11,534,482</b>	<b>7.5%</b>

Note: The fiscal 2025 appropriation does not include deficiencies. The fiscal 2026 allowance does not include statewide salary adjustments budgeted within the Department of Budget and Management.