

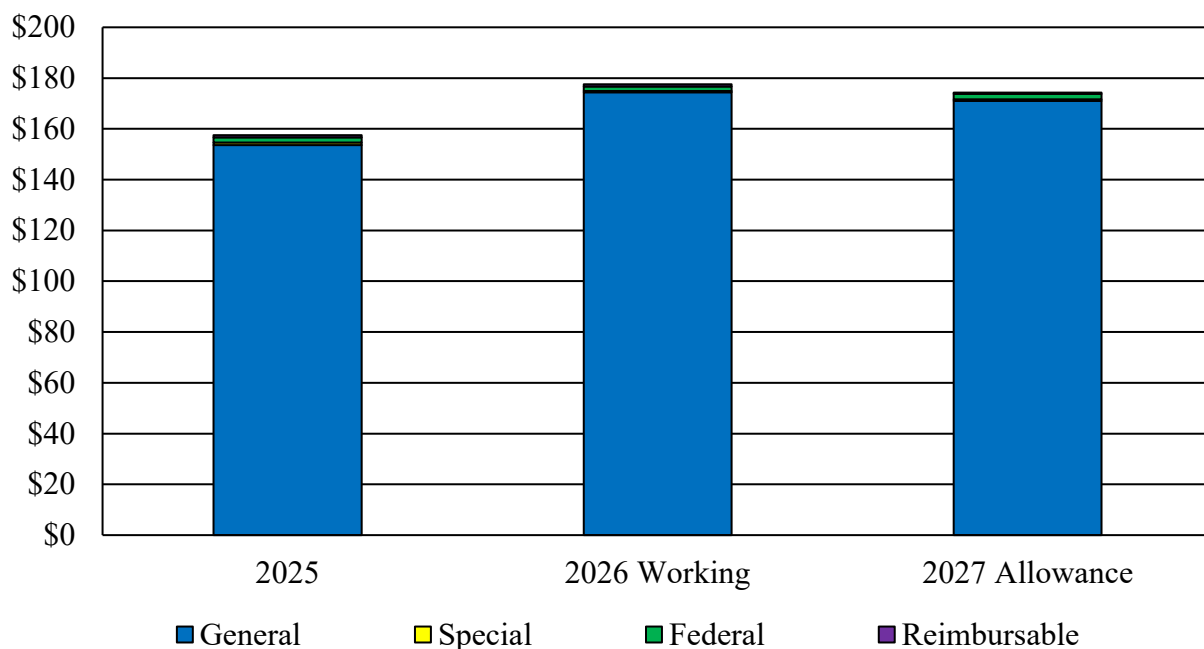
C80B00 Office of the Public Defender

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

**Fiscal 2027 Budget Decreases \$3.3 Million, or 1.8%, to \$174.3 Million
(\$ in Millions)**



Note: The fiscal 2026 working appropriation accounts for deficiencies. The fiscal 2027 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency’s budget.

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- The fiscal 2026 working appropriation includes a total of \$10.5 million in general funds for proposed deficiency appropriations to cover fiscal 2025 shortfalls. Excluding these costs, the fiscal 2027 allowance increases by \$7.2 million, or 4.3%, compared to the fiscal 2026 working appropriation.

Fiscal 2026

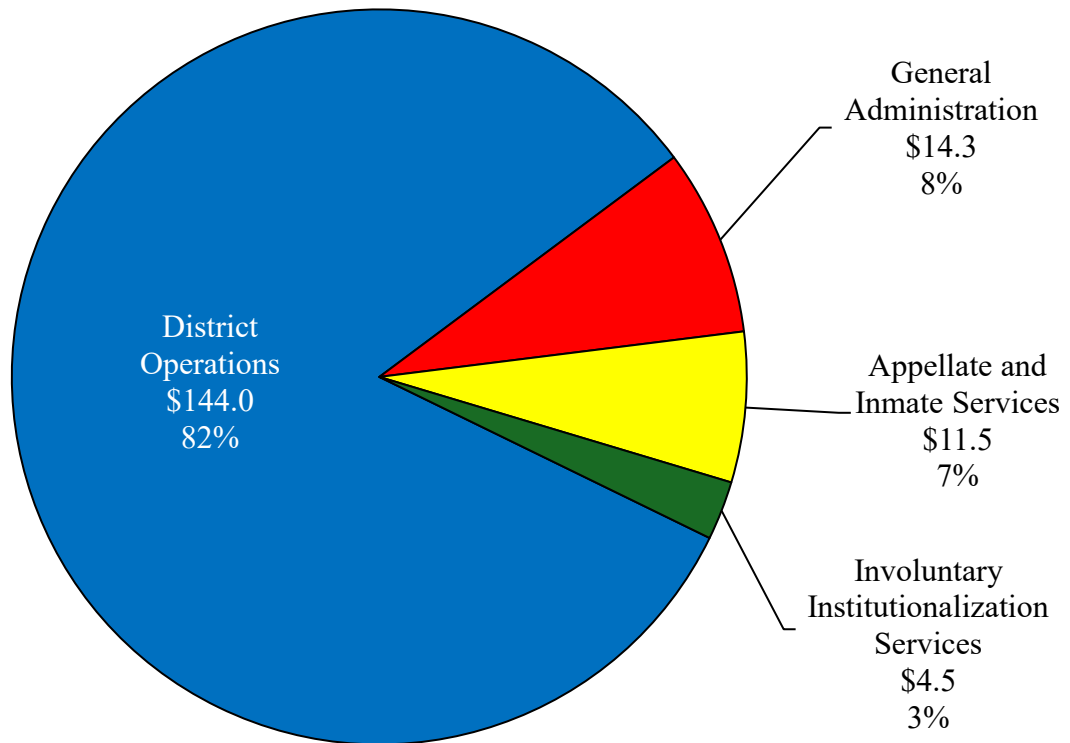
Proposed Deficiency

The fiscal 2027 allowance includes nine deficiency appropriations for OPD that provide a total of \$16.3 million in general funds, with \$5.8 million to adjust spending for fiscal 2026 costs and the remaining to cover fiscal 2025 expenditures. At the fiscal 2025 closeout, OPD reported having insufficient appropriations to cover \$10.5 million in expenditures. Four deficiency appropriations cover these shortfalls for the following uses: \$8.5 million for panel attorneys; \$644,084 for contractual transcription services; \$557,016 for software licenses such as Microsoft and eDefender; \$373,190 for medical service support; \$115,266 for information technology (IT) related contracts; and \$293,710 for various operational expenses. A deficiency appropriation adds \$2 million for software licenses in fiscal 2026 to align closer to the fiscal 2025 actual expenditure. OPD has four personnel deficiencies totaling \$3.8 million to cover shortfalls related to lower than expected vacancy savings.

Fiscal 2027 Overview of Agency Spending

As shown in **Exhibit 1**, OPD's fiscal 2027 allowance totals \$174.3 million, with 82% of the funding, or \$144.0 million, for 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 2027 Allowance
(\$ in Millions)

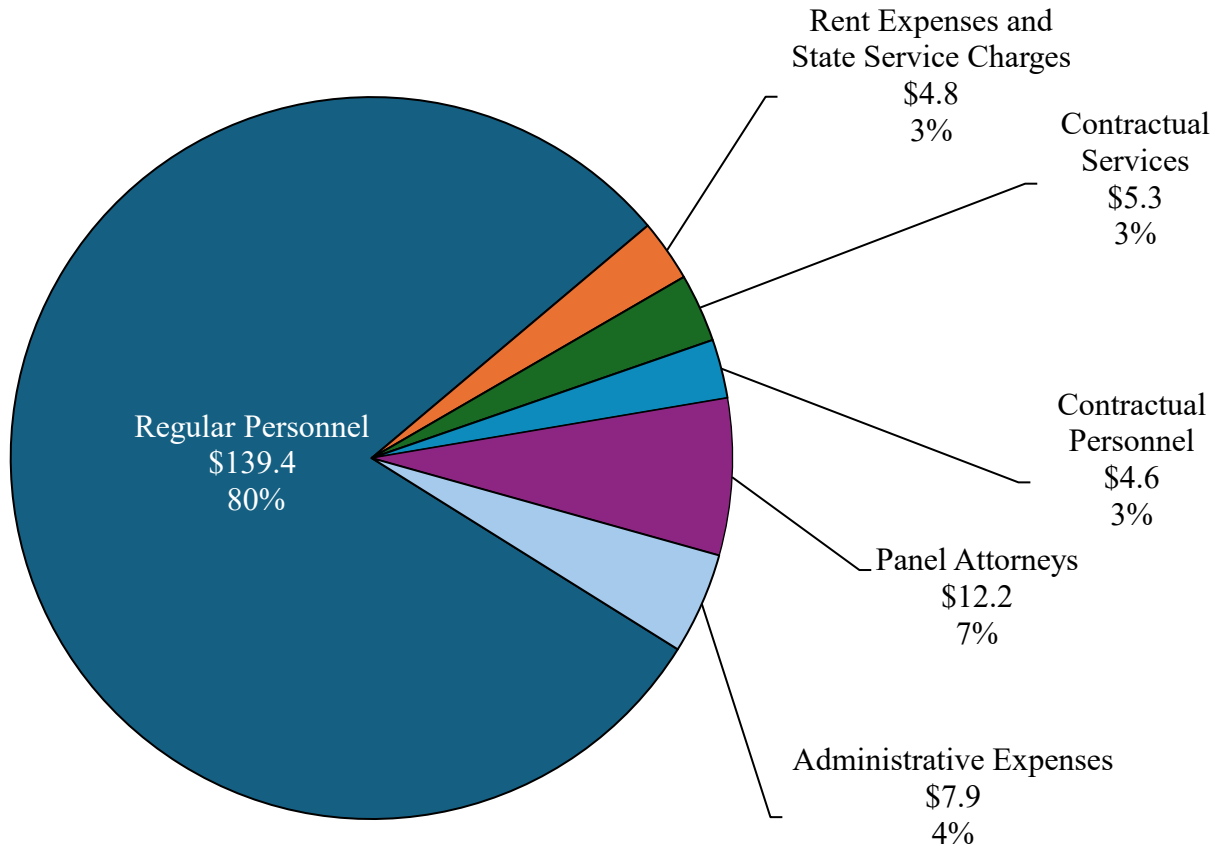


Note: The fiscal 2027 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency’s budget.

Source: Department of Budget and Management

As shown in **Exhibit 2**, OPD’s largest category of spending supports salaries and fringe benefits for 1,011.5 regular positions comprising 80%, or \$139.4 million, of the total allowance. The second largest category (7%, or \$12.2 million) is for panel attorneys who provide representation for clients when OPD attorneys are unable to do so due to factors such as scheduling constraints or conflicts of interest. Administrative expenses such as equipment and travel make up 4%, or \$7.9 million, of the total allowance.

Exhibit 2
Overview of Agency Spending by Use of Funds
Fiscal 2027 Allowance
(\$ in Millions)



Note: The fiscal 2027 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency's budget.

Source: Department of Budget and Management

Proposed Budget Change

As shown in **Exhibit 3**, the fiscal 2027 allowance for OPD decreases by 1.8%, or just under \$3.3 million, compared to the fiscal 2026 working appropriation after accounting for proposed deficiencies. The decrease in OPD’s fiscal 2027 allowance is due to the four deficiency appropriations to cover \$10.5 million in fiscal 2025 shortfalls. Excluding these prior year costs, OPD’s fiscal 2027 allowance increases by \$7.2 million in general funds, or 4.3% overall, compared to fiscal 2026. The largest increases include regular personnel costs increasing by \$7.8 million, driven by employee and retiree health insurance costs increasing by \$5.0 million. Panel attorneys are the largest increase other than personnel costs, increasing by \$1.2 million due to funding for an hourly rate increase. Spending decreases in fiscal 2027 include \$1.2 million for statewide cost allocations, \$640,000 for contractual transcription services for legal proceedings, and \$355,000 for rent for OPD’s offices across Maryland.

Exhibit 3
Proposed Budget
Office of the Public Defender
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2025 Actual	\$153,655	\$948	\$2,077	\$906	\$157,586
Fiscal 2026 Working	174,410	513	1,706	964	177,593
Fiscal 2027 Allowance	170,979	644	2,157	549	174,329
Fiscal 2026-2027 \$ Change	-\$3,432	\$131	\$451	-\$415	-\$3,264
Fiscal 2026-2027 % Change	-2.0%	25.6%	26.4%	-43.0%	-1.8%
Where It Goes:					<u>Change</u>
Personnel Expenses					
Employee and retiree health insurance					\$4,998
Salary increases and associated fringe benefits					1,573
Turnover rate decreases from 6.41% to 5.67%.....					921
Deferred compensation match due to change in budgeting					285
Workers’ compensation premium assessment					64
Other Changes					
Panel attorney expenditures increase due to hourly rate adjustments.....					1,168
Contractual personnel expenses					819
Staff laptops and office servers to align with actual expenditures					357
Communications and printing expenses					147

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Where It Goes:	<u>Change</u>
External information technology consulting services after accounting for a fiscal 2026 deficiency	32
One-time funding in fiscal 2026 for an unidentified contract.....	-65
Funding for temporary employees to align with actual expenditures	-77
Routine in-state and out-of-state travel	-100
Education and training contracts for all personnel to align with actual expenditures	-229
Software licenses including Microsoft, cloud storage, and eDefender case management software after fiscal 2026 deficiency to align closer with actual expenditures	-300
Rent expenses to align with actual expenditures.....	-355
Contractual transcription services for legal proceedings	-640
Cost allocations	-1,229
One-time funding for fiscal 2025 shortfalls	-10,519
Other adjustments.....	-116
Total	-\$3,264

Note: Numbers may not sum to total due to rounding. The fiscal 2026 working appropriation accounts for deficiencies. The fiscal 2027 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency’s budget.

Unidentified Contract for IT Services

The fiscal 2026 working appropriation includes \$65,000 in general funds for an unidentified contract. OPD was unable to explain what the funds would be used for or if a contract had been procured. **The Department of Legislative Services (DLS) recommends reducing the fiscal 2026 deficiency appropriation that supplements the IT appropriation by \$65,000 as the funds for the unidentified contract can be repurposed.**

Personnel Data

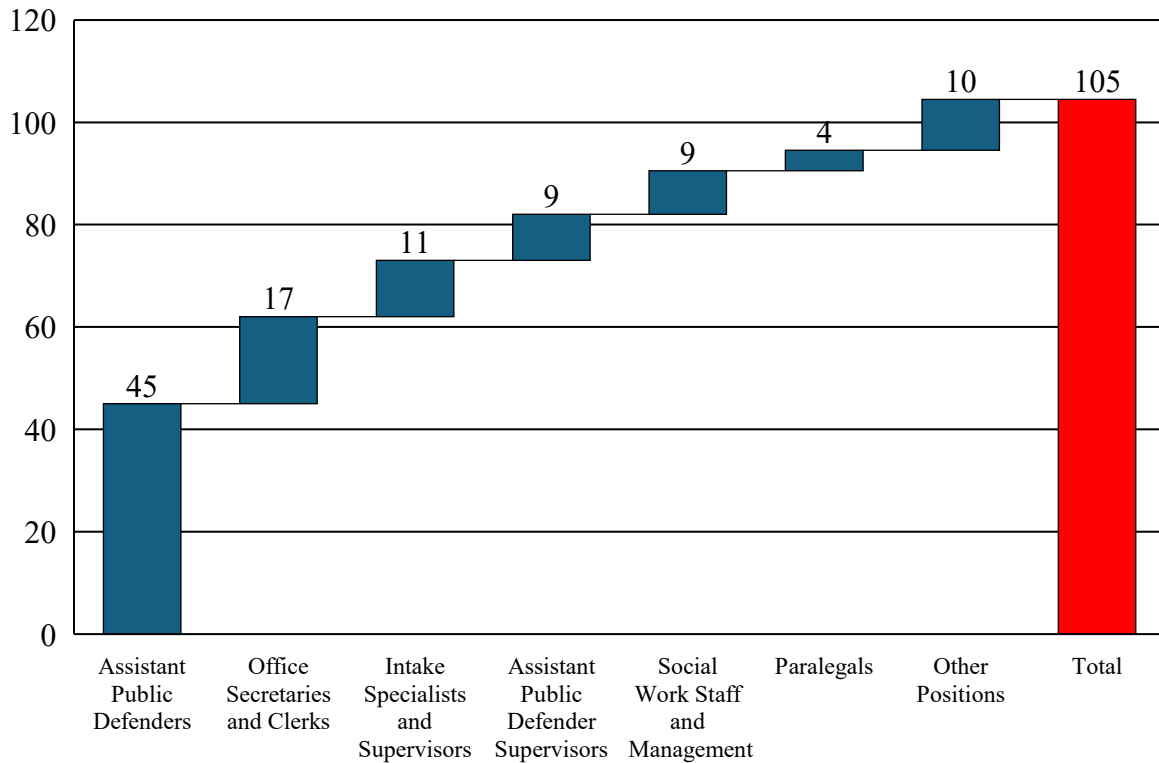
	FY 25	FY 26	FY 27	FY 26-27
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	981.50	1,011.50	1,011.50	0.00
Contractual FTEs	<u>125.27</u>	<u>59.58</u>	<u>60.00</u>	<u>0.42</u>
Total Personnel	1,106.77	1,071.08	1,071.50	0.42

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	57.40	5.67%
Positions and Percentage Vacant as of 12/31/2025	104.50	10.33%
Vacancies Above Turnover	47.10	

- In October 2025, the Board of Public Works (BPW) approved the abolition of 502.7 positions statewide, including 170.7 vacant positions and 332.0 positions associated with the Voluntary Separation Program (VSP). In OPD, a total of 21 positions were abolished. This included 12.0 vacant positions: 4 officer clerks; 3 intake specialists; 2 secretaries; 1 APD headquarters supervisor; 1 paralegal; and 1 IT programmer analyst. Another 9 positions were abolished due to the VSP: 3 intake specialists; 2 administrative officers; 1 administrative aide; 1 office secretary; 1 APD supervisor; and 1 human resources officer.
- OPD has had high vacancy rates for several years. Of the 104.5 vacancies as of December 31, 2025, 8.5 of them have been vacant for over a year. Job offers have been accepted for 12.0 vacant positions, with position start dates scheduled between January 7, 2026, and February 18, 2026. Another 22.0 open positions are in various states of recruitment, and OPD anticipates these positions to be filled by the end of February 2026. Due to a multi-year request, 25.0 positions that were allocated to OPD in fiscal 2026 remain vacant as part of OPD’s budget reduction plan. With these positions unable to be filled, this leaves 45.5 vacancies to be filled during the remainder of fiscal 2026. **Exhibit 4** shows the breakdown of existing vacancies within OPD, with APDs making up the largest share at 39.0% of all vacancies.

Exhibit 4
Existing Vacancies by Job Type
As of December 31, 2025



Source: Department of Budget and Management

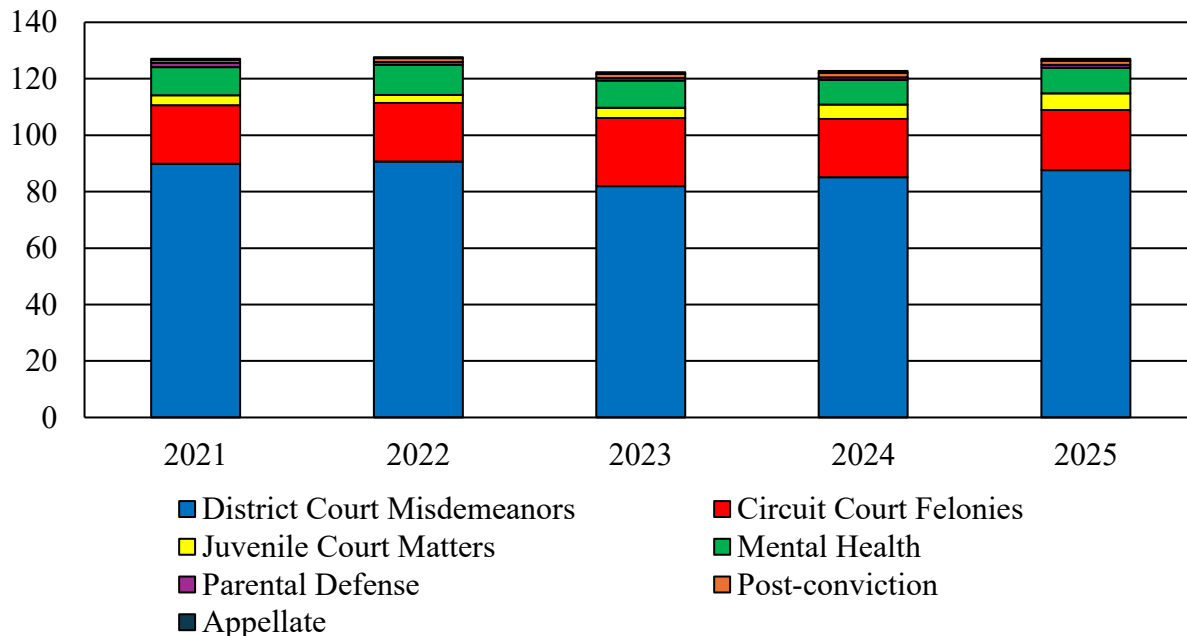
When attorneys leave OPD, they cite a variety of reasons, including higher rates of pay or lower caseloads available in other State agencies, federal agencies, or the private sector. OPD has historically filled higher level positions by promoting staff in lower level positions. This method of filling 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. The fiscal 2027 allowance reduces the turnover rate for OPD from 6.41% in fiscal 2026 to 5.67%, adding an additional \$920,904 in general funds to OPD’s budget. This adjustment is despite the current vacancy rate being 10.33%, 3.92% higher than the fiscal 2026 rate. Assuming OPD hires staff for the 34.0 regular positions they expect to, the rate will remain 0.56% higher than the fiscal 2026 turnover rate. **Given the higher vacancy level than is budgeted, DLS recommends that the budgeted turnover adjustment for OPD be reduced by \$920,904 for existing regular positions in order to align the budgeted amount more closely with the agency’s current vacancy rate.**

Key Observations

1. Agencywide Caseload Remains Steady

OPD has handled a fairly static caseload over the most recent five fiscal years. Excluding cases that were handled by panel attorneys in each year between fiscal 2021 and 2025, the agency handled between 122,351 and 127,660 total cases each year. Total caseloads have remained well below prepandemic levels, with calendar 2019 having a total of 204,247 cases. OPD has cited a few factors for the substantial decrease in the agency’s caseload since calendar 2019, including pandemic-related court disruptions and the decriminalization of marijuana offenses. Data for total caseloads and other performance metrics were originally reported using calendar years, but in fiscal 2021, the agency officially switched to using fiscal years for administrative reasons. As shown in **Exhibit 5**, in fiscal 2025, 69.0% 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 5
Case Statistics by Category
Fiscal 2021-2025
(in Thousands)



Note: Does not include cases sent to panel attorneys.

Source: Department of Budget and Management

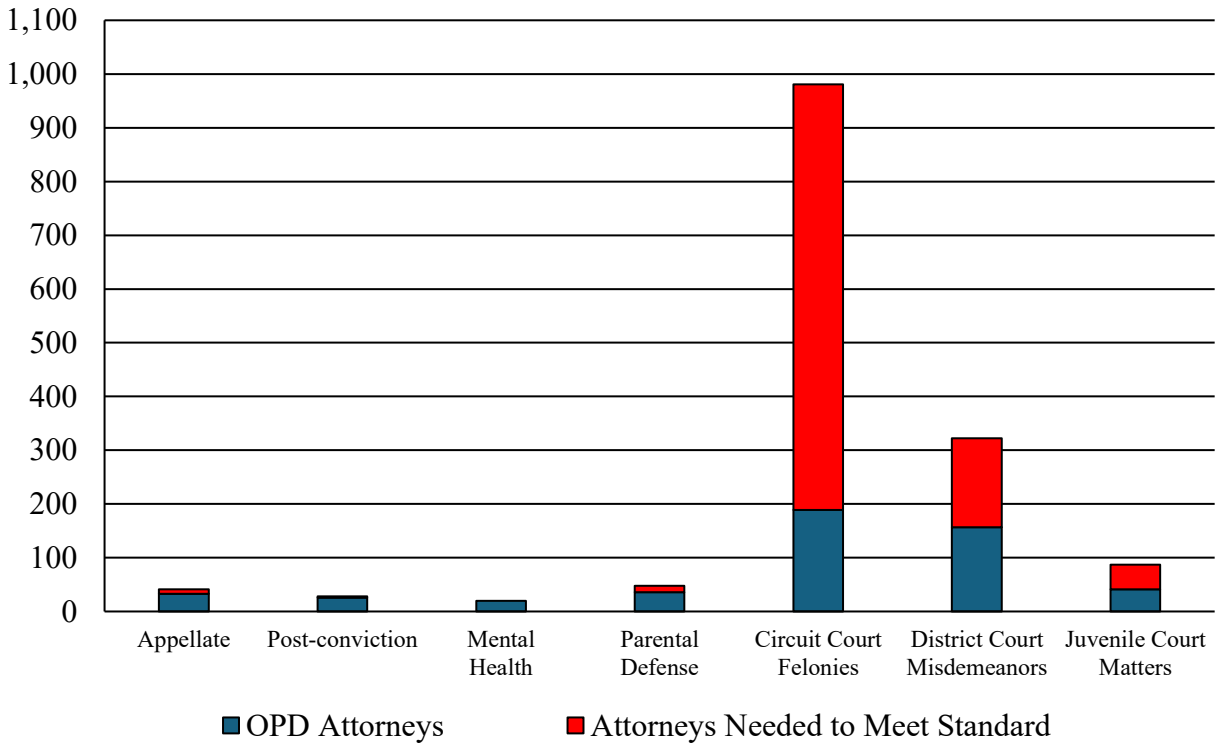
Despite the decrease in cases since calendar 2019 and the consistent number of cases since fiscal 2021, OPD efficiency has not improved given the additional time and resources required to handle cases. Changes to traffic and marijuana laws have reduced the number of less complex cases; the remaining cases have become more complex through the inclusion of new forms of evidence, particularly body camera footage and cell phone data. As a result, the time that public defenders require to prepare for a case has significantly increased. OPD indicates that preparation time for cases now may require a more thorough review of materials, such as watching body camera footage in full, which has doubled or even tripled the required preparation time. **OPD should discuss actions that are being taken to (1) increase efficiency of managing more complex caseloads with current resources and (2) monitor the hours spent on each case.**

2. Attorney Caseloads Exceed Current Standards

OPD began utilizing nationally recognized caseload standards in fiscal 2024 for its annual reports and efforts within the agency to help determine the number of attorneys needed per practice area. These nationally recognized 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. Outside of OPD, the nationally recognized standards have not been adopted as adjustments need to be made to reflect circumstances specific to Maryland, which will in turn better reflect appropriate caseloads for public defenders in the State. The standards created in calendar 2005 continue to be used in the Managing for Results (MFR) submissions; this is to allow for accurate comparisons to be made across practice areas until the new standards are completed and approved. The agency has since begun a process to alter the nationally recognized standards through a contract awarded to the RAND Corporation that was approved by BPW in fiscal 2025. OPD anticipates that the adjusted standards will be completed by May 2026, and the office will use the new standards in its fiscal 2028 MFR submission.

The data provided with the fiscal 2027 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 6**. The area with the greatest calculated need is circuit court felony matters where OPD estimates a need for 792 additional attorneys so that each attorney will have an appropriate caseload. 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.

**Exhibit 6
Authorized Attorney Positions Needed to Meet Standard Caseloads
Fiscal 2025**



OPD: Office of the Public Defender

Source: Department of Budget and Management

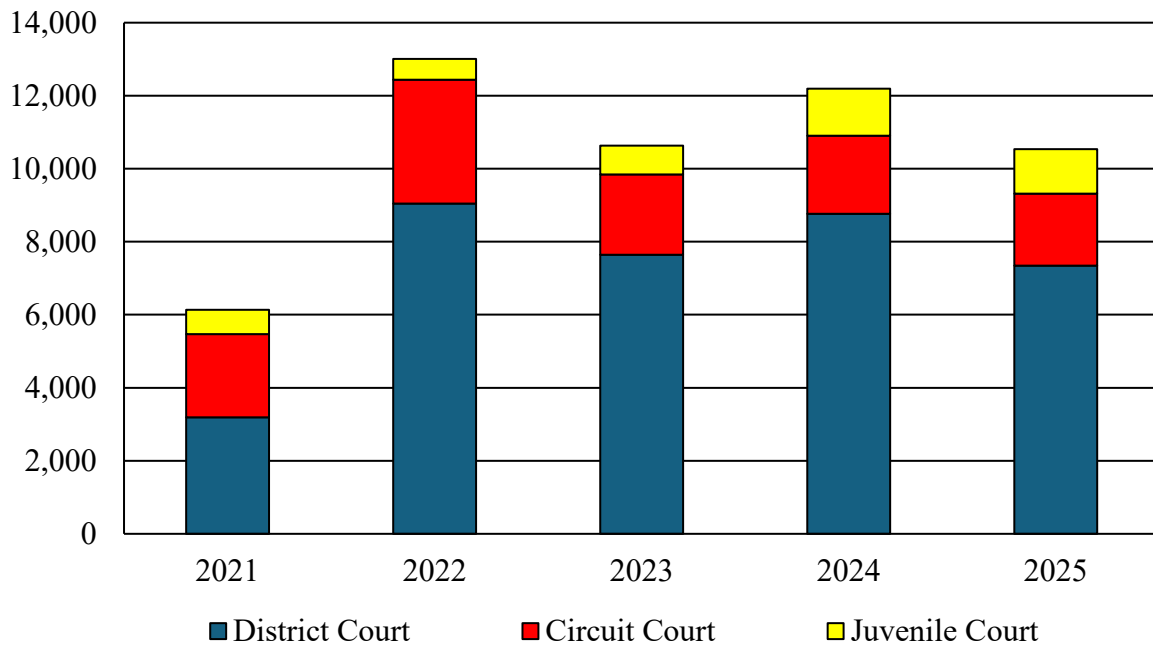
Current workloads are unsustainable for many attorneys as the increasing complexity of cases has meant fewer but longer cases for attorneys to manage. This issue has contributed to low employee morale, high turnover, and extensive reliance on panel attorneys along with other consequences. Prior to the pause in hiring, OPD had taken steps to improve recruitment such as focusing on targeted recruitment and hosting agency job fairs to establish spring and fall attorney hiring classes.

3. OPD Reports Repeated Shortfalls for Panel Attorney Costs

Panel attorneys paid by the agency provide representation for clients when OPD attorneys are unable to do so due to factors such as scheduling constraints or conflicts of interest. These

factors vary greatly depending on OPD’s caseload and the potential ethical considerations for each case. As discussed in Key Observation 1, OPD has handled a fairly static caseload that has remained below prepandemic levels, which has decreased the need to panel cases to private attorneys. In calendar 2019, OPD needed to panel a total of 54,417 cases to private attorneys. As shown in **Exhibit 7**, the use of panel attorneys decreased from 12,193 cases in fiscal 2024 to 10,534 cases in fiscal 2025. Of the practice areas that require panel attorneys, District Court cases make up 69.8% of the total caseload in fiscal 2025.

Exhibit 7
Cases Panelled to Private Attorneys
Fiscal 2021-2025

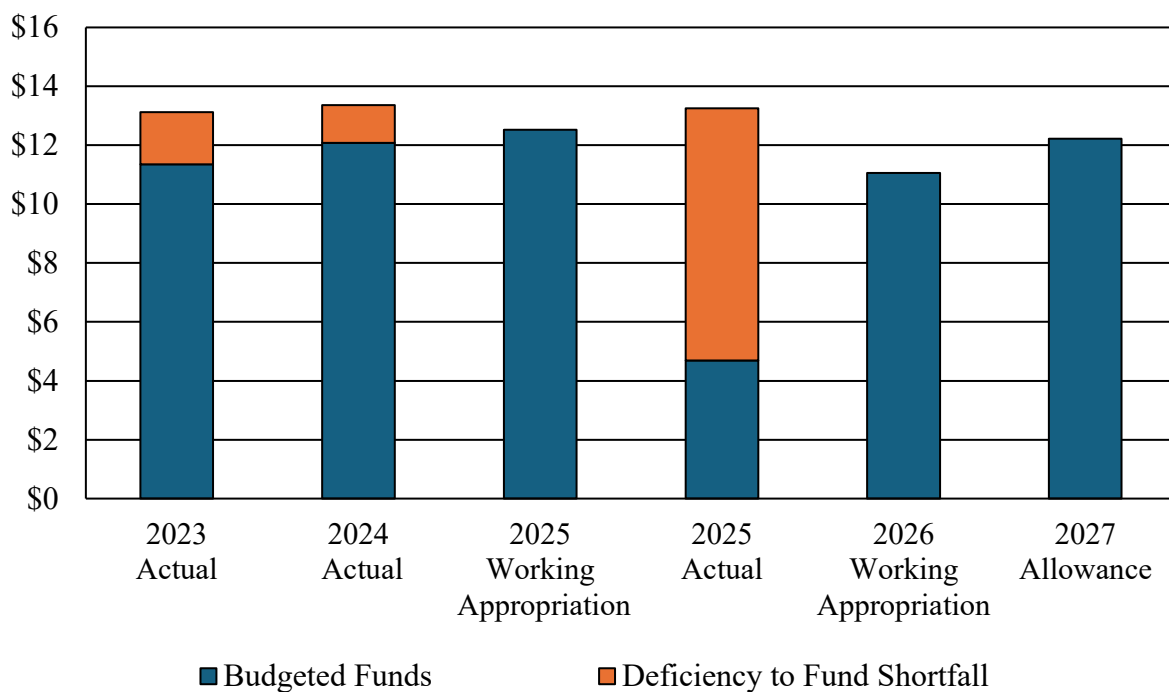


Source: Department of Budget and Management

OPD has received deficiency appropriations in three consecutive years to cover prior year shortfalls for panel attorney fees. As shown in **Exhibit 8**, fiscal 2023 actual costs for panel attorneys were reported as \$11.4 million but required an additional \$1.8 million to fully fund panel attorneys. In fiscal 2024, OPD reported actual expenses of \$12.1 million for panel attorneys, and required a deficiency appropriation of \$1.3 million for the same purpose in fiscal 2025, increasing the total cost to \$13.4 million. Although OPD similarly requires a fiscal 2026 deficiency to cover a shortfall for panel attorneys in fiscal 2025, the amount of the shortfall grew considerably to \$8.6 million, bringing total costs to \$13.3 million. The fiscal 2025 working appropriation contained \$12.5 million for panel attorneys; however, OPD indicated that it used funds for other

expenses to balance its budget. OPD should specify how the funding originally budgeted for panel attorney expenses in fiscal 2025 was used and discuss the reason for realigning those funds to other purposes. DLS recommends adding budget bill language restricting funds budgeted for panel attorney expenses in the fiscal 2026 deficiency appropriation and in the fiscal 2027 allowance to that purpose only.

Exhibit 8
Funding for Panel Attorneys
Fiscal 2023-2027 Allowance
(\$ in Millions)



Source: Department of Budget and Management

The fiscal 2026 deficiency appropriation does not include additional funds to adjust the fiscal 2026 working appropriation for panel attorney expenses from \$11.1 million, despite actual spending exceeding \$12 million each year since fiscal 2023. Additionally, the fiscal 2027 allowance of \$12.2 million remains lower than fiscal 2025 actual expenditures totaling \$13.3 million. OPD indicates the fiscal 2027 allowance includes an increase of \$1.2 million to increase the hourly rate for panel attorneys. Currently the rate is set at \$60 an hour, or \$75 in cases with possible life sentences, but OPD is planning to increase the hourly rates by \$5 per hour over the next three fiscal years. OPD has determined that the current rates are both inadequate and

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unsustainable as private attorneys have a minimum market rate of \$250 an hour, making it increasingly difficult to recruit private attorneys. By gradually raising the hourly rates to \$75 and \$90 an hour beginning in fiscal 2029, an increase in private attorney recruitment would help to prevent a backlog in cases possible due to the scheduling constraints associated with the workload of OPD attorneys. However, based on recent actual spending and multiple reported shortfalls at fiscal year closeout, the fiscal 2026 and 2027 budgets for panel attorneys do not appear sufficient to cover current services, and plans to raise hourly rates appear underfunded. **OPD should discuss (1) the reason for the lower funding in fiscal 2026 and 2027 for this purpose compared to recent actual experience; (2) how it would cover any shortfalls in this spending; and (3) how it would adjust hourly rates if costs of current services outpace the budgeted amounts.**

DLS recommends adopting committee narrative requesting that OPD submit two reports on the use of panel attorneys. The reports should include data regarding cases paneled to private attorneys and actual panel attorney expenditures in fiscal 2026 and 2027 year to date.

Operating Budget Recommended Actions

- | | Amount
Change |
|---|--------------------------|
| 1. Reduce funding to increase the budgeted turnover rate from 5.67% to 6.41%. | -\$920,904 GF |

2. Add the following language to the general fund appropriation:

, provided that \$8,530,154 of this appropriation made for the purpose of panel attorney fees may be expended only for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund.

Explanation: This language restricts a portion of the deficiency appropriation under District Operations budgeted for panel attorney fees to be used only for that purpose.

3. Add the following language to the general fund appropriation:

, provided that \$36,531 of this appropriation made for the purpose of panel attorney fees may be expended only for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund.

Explanation: This language restricts the deficiency appropriation for Appellate and Inmate Services within the Office of the Public Defender to be used only for fees associated with panel attorneys.

4. Add the following language:

Provided that \$11,477,415 in general funds, \$358,100 in special funds, and \$350,000 in federal funds of this appropriation made for the purpose of panel attorney fees may be expended only for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall be reverted or canceled.

Explanation: This action restricts funds within the Office of the Public Defender for panel attorney fees to be used only for that purpose.

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5. Adopt the following narrative:

Panel Attorney Caseload and Expenditures Reports: The Office of the Public Defender (OPD) has had recent shortfalls involving panel attorneys that have required deficiency appropriations. The committees request two reports from OPD that provide data on the use of panel attorneys in fiscal 2026 and 2027 year to date. Each report should include the number of cases paneled to private attorneys by case type, overall caseloads for attorneys in each division, actual spending on panel attorneys, total funds remaining in fiscal 2027 for panel attorneys, and anticipated costs for the remainder of the year. The first report should include an overview of actual fiscal 2026 expenditures relating to panel attorneys.

Information Request	Author	Due Date
Panel attorney caseload and expenditures reports	OPD	August 15, 2026 January 15, 2027

Total Net Change to Fiscal 2027 Allowance **-\$920,904**

- | | Amount
Change |
|--|--------------------------|
| 6. Reduce \$65,000 in general funds from a proposed deficiency appropriation that supplements fiscal 2026 information technology related expenses to account for an unidentified contract budgeted in fiscal 2026. | -\$65,000 GF |

Total Net Change to Fiscal 2026 Deficiency **-\$65,000**

**Appendix 1
Audit Findings**

Audit Period for Last Audit	July 1, 2020 – January 15, 2025
Issue Date	May 2025
Number of Findings	0
Number of Repeat Findings	0
% of Repeat Findings	0%
Rating: (if applicable)	N/A

The Office of Legislative Audits did not report any findings.

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

<u>Object/Fund</u>	<u>FY 25</u> <u>Actual</u>	<u>FY 26</u> <u>Wrk Approp</u>	<u>FY 27</u> <u>Allowance</u>	<u>FY 26-27</u> <u>\$ Change</u>	<u>% Change</u>
Positions					
01 Regular	981.50	1,011.50	1,011.50	0.00	0.0%
02 Contractual	125.27	59.58	60.00	0.42	0.7%
Total Positions	1,106.77	1,071.08	1,071.50	0.42	0.0%
Objects					
01 Salaries, Wages, and Fringe Benefits	\$127,049,776	\$131,574,313	\$139,415,792	\$7,841,479	6.0%
02 Technical and Special Fees	15,029,641	29,049,852	21,964,691	-7,085,161	-24.4%
03 Communications	698,144	535,607	487,326	-48,281	-9.0%
04 Travel	303,288	273,725	180,553	-93,172	-34.0%
06 Fuel and Utilities	157,859	127,764	117,000	-10,764	-8.4%
07 Motor Vehicle Operation and Maintenance	192,897	144,516	143,824	-692	-0.5%
08 Contractual Services	8,421,131	10,183,749	6,595,440	-3,588,309	-35.2%
09 Supplies and Materials	408,275	249,914	237,427	-12,487	-5.0%
10 Equipment – Replacement	570,169	492,105	350,967	-141,138	-28.7%
11 Equipment – Additional	1,397,325	695,766	1,033,146	337,380	48.5%
13 Fixed Charges	3,357,048	4,265,608	3,802,835	-462,773	-10.8%
Total Objects	\$157,585,553	\$177,592,919	\$174,329,001	-\$3,263,918	-1.8%
Funds					
01 General Funds	\$153,654,662	\$174,410,374	\$170,978,759	-\$3,431,615	-2.0%
03 Special Funds	947,886	512,748	644,111	131,363	25.6%
05 Federal Funds	2,077,125	1,705,590	2,156,772	451,182	26.5%
09 Reimbursable Funds	905,880	964,207	549,359	-414,848	-43.0%
Total Funds	\$157,585,553	\$177,592,919	\$174,329,001	-\$3,263,918	-1.8%

Note: The fiscal 2026 appropriation includes proposed deficiency appropriations. The fiscal 2027 allowance does not include statewide salary adjustments budgeted within the Department of Budget and Management.