

Office of Defense Services (ODS)



**Joint Finance Committee
February 18, 2021**



What do we do?

Defend indigent adults accused of a crime, and children accused of a delinquent act

Right to counsel is guaranteed:

Sixth Amendment to the U.S. Constitution, Delaware Constitution (Article I, Section 7), and case law

The ODS represents

85%

**of justice involved individuals
in Delaware**

Who are we?



ORGANIZATIONAL CHART

Central Administration (CA)

Business operations

- Executive Team
- HR/Fiscal Department
- IT Department
- Training and Development
- Intake Unit

Public Defender's Office (PDO)

In FY 20, PDO lawyers defended clients in 31,881 cases statewide

Represent clients in the Court of Common Pleas, Family Court, Superior Court and the Delaware Supreme Court

PDO structure

Defense team consisting of:

Attorneys

Forensic Social Specialists

Mitigation Specialists

PFJ Advocates

Paralegals/Administrative Specialists

Investigators

Outside experts

Office of Conflicts Counsel

Contracts with private lawyers (34) to defend clients in cases in which the PDO is disqualified due to conflicts of interest. OCC handled over 4,083 cases in FY 20.

The OCC staff:

- 7 FTEs, including a managing attorney in each county;
- 2 casual/seasonal support staff;
- 3 contractual employees

OCC continued

Fixed costs for employees

Variable costs on a case-by-case basis:

- Attorneys' fees (hourly)

- Necessary services:

 - Experts

 - Investigators

 - Transcripts

 - Other

OCC continued

Outlier cases:

- A or B felonies with 4 or more co-defendants
- Murder cases within 60 days of trials
- Post-conviction cases
- Specific cases identified by OCC as particularly complex

Complex cases can be expensive, stressful and time consuming.

e.g. pending racketeering case – 40 defendants, 29 represented by OCC

Cost control measures

Highlights from the last year

- Task force contributions to LEATF and AATF
- Diversity and Inclusion Coordinator
- Special Litigation Attorney
- Young Adult Unit
- OCC Appellate Division
- Named one of Delaware Top Workplaces

Where do we go?

Concentrate on prevention and re-entry

- Policy advocacy
- Reform efforts

Shift toward holistic defense

- Partners for Justice Advocates expansion

Focus on diversity and inclusion

- Develop strategic plan
- Establish committee
- Officewide trainings

Future Needs/Unknowns

- Initial bail hearings
 - FTE positions (Assistant Public Defenders)
 - OCC contract line
- Recruitment and retention
 - Student loan repayment
 - Professional dues and development
 - Internships for legal and non-legal positions
 - Law clerks – Rule 55 attorneys

Body Worn Cameras (BWC)

- Implementation of BWC statewide will require additional resources for the ODS
- We believe we will need additional personnel, including attorneys, law clerks, and paralegals, as well as increases to the contractual line for the OCC
- We also anticipate storage costs associated with IT

The Cost to Defend

Budget is driven by mostly fixed costs, with 90+ percent for personnel

216 employees

- 155 FTEs

- 13 Casual Seasonal Positions

- 44 Contractors (mainly OCC)

- 4 Advocates

Budget Request for FY'22

Central Administration - \$3,779,700

Public Defender's Office - \$16,733,300

Office of Conflicts Counsel - \$7,028,600

Overall request - \$27,408,900

GRB total - \$27,220.200

Requests

1. Deputy Controller/HR Manager ✓
2. Partners for Justice funding ✓
3. Convert 2.0 Office of Conflicts Counsel paralegals (casual/seasonal) to FTE ✓
4. Convert 2.0 Casual/Seasonal to 2 FTE Admin Specialists ✓
5. Westlaw subscriptions/lease increases ✓
6. Replace CISCO port switches ✓
7. Post-Disposition Attorney for expungement ✓
8. Convert 1.0 Contract Mitigation Specialist to FTE
9. Convert 2.0 Forensic Social Specialists to FTE

✓ = included in the GRB

Deputy Controller/HR Director

One person performs the fiscal and HR functions for a staff of 216, including 155 FTEs.

A deputy is critical to managing the workload, including an increasing amount of retiring employees.

This is the only deficiency identified in the PHRST audit due to a lack of internal controls.

1.0 FTE - \$117,000 (**The GRB included this position and funding**)

Partners for Justice Advocates

PFJ advocates have opened 3,163 cases and closed 2,737 cases since their work began in 2018.

Issues addressed include housing, employment, immigration, and other collateral consequences associated with an arrest that remain after case is resolved.

Allocation of funds was needed to continue the program through the end of FY 22.

Contractual Funds - \$233,200
(The **GRB** included this funding)



**PARTNERS
FOR JUSTICE**

Convert OCC Paralegals to FTE

These paralegals are crucial support staff for the OCC managing attorneys in Kent and Sussex Counties.

The request converts them from their casual seasonal status to FTEs. The current total cost is \$55,600 a year.

The \$100,000 request is to make up the difference between the contractual cost and the cost to convert these positions to FTE status.

2.0 FTEs - \$100,000 (**The GRB included these positions and funding**)

Convert two PDO casual/seasonal to FTE

Complete multiple mail runs between different locations

Responsible for the ongoing maintenance, organization, purging and retention of ODS files

Report to Executive Secretary, perform general office duties and fill critical gaps Request was to convert current positions to FTEs as Admin. Specialist I.

2.0 FTE - \$95,500 (**The GRB included these positions and funding**)

Westlaw subscription/Lease increases

Annual increase for Westlaw subscription services (\$2,313). Westlaw is an online legal research service and proprietary database for lawyers.

Annual increases for the ODS rental properties at the Sussex 13 The Circle, the Sussex Annex (\$2,020) and the Kent Annex (\$1,311).

Contractual funds - \$5,644 (**The GRB included this funding**)

Replace CISCO port switches

Replace three “48 port switches” for Kent and Sussex offices that will be reaching their end of life on Oct. 31, 2021.

Essential to network connectivity

Each switch costs \$17,000

Contractual funds - \$51,000

(The GRB included this funding)

Post-disposition Attorney

Limited legal services available for adults after cases have been resolved

Post-disposition attorney would:

- Handle adult expungement matters
- Help plan statewide clinics, promote awareness, educate the public, and answer questions
- May help with pardons, commutations, sentence modifications, registry removal and other collateral matters.

1.0 FTE - \$127,341 (The **GRB** included this position and funding)

Convert Contract Mitigation Specialist to FTE

Assigned to defendants facing Murder in the First Degree which can result in mandatory life without parole.

For the last five years, the PDO contracted to provide services to clients in Kent and Sussex Counties.

We have two full-time employees in this position, but they serve New Castle County. When this downstate position goes unfilled, our office is stretched thin.

The contract is unfilled for months at a time. Difficult to attract and retain qualified applicants for a non-FTE position.

Request is the amount needed to convert the current position to FTE.

1.0 FTE - \$36,400

Convert Contract Forensic Social Specialists (FSS) to FTE

Key members of the ODS' defense team, each handling about 100 cases a year, assisting with mitigation and case resolution

Converts two contractual positions, one each in Kent and Sussex Counties, to full-time positions

Rapid turnover has caused an undue burden

Request is the amount needed to convert current positions to FTEs

2.0 FTE \$82,400

Conclusion

Gov. Carney's recommended budget included many of our requests.

We firmly believe that these additions will enhance our practice and continue our tradition of providing top-notch defense representation for the indigent.

An investment in ODS is an investment in the future and improves the justice system overall.