



OUR VIRTUAL REALITY

Maryland Office of the Public Defender
2020 Annual Report

ADMINISTRATION

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OUR STORY



On March 18, 1963, the United States Supreme Court guaranteed the right to counsel to indigent defendants in criminal cases in the landmark case, *Gideon v. Wainwright*. On July 1, 1971, the Maryland Legislature created the Maryland Office of the Public Defender (OPD). OPD opened its doors in 1972.

OPD is an independent state agency. A Board of Trustees, composed of 13 members, studies, observes and advises on the operation of the public defender system. The Board appoints the Public Defender who serves a six-year term.

OPD has at least one district office in each county and Baltimore City. The District Trial Divisions provide felony, misdemeanor, traffic and juvenile delinquency defense for any offense where incarceration or detention is a possible penalty. Stages of representation include: arraignments, bail review, preliminary hearings, pre-trial motions, trial/disposition, sentencing/adjudication, post-sentencing motions, and violations of probation and parole.

OPD also has six divisions that provide direct client representation in different proceedings. The **Appellate Division** provides representation on direct appeals of criminal, juvenile and children in need of assistance (CINA) cases. The **Post Conviction Defenders Division** provides representation on post conviction petitions, parole revocation hearings, and writs of actual innocence. The **Parental Defense Division** protects parental rights in CINA and termination of parental rights (TPR) proceedings when children are removed from the home. The **Mental Health Division** provides representation to those who are involuntarily committed to mental health hospitals across the state and to those found not criminally responsible and incompetent to stand trial. The **Innocence Project** works in collaboration with the University of Baltimore School of Law, screens over 200 cases annually to assess whether an inmate claiming innocence may have a viable wrongful conviction claim, and litigates viable innocence claims through all stages of the process. The **Juvenile Protection Division** protects the individual rights of juveniles who are committed to the care and custody of the Department of Juvenile Services (DJS) by monitoring the conditions of confinement at DJS facilities and representing OPD juvenile clients to ensure the safety and appropriateness of their placements and the timely implementation of juvenile court orders.

OPD has five specialized divisions that provide litigation support to the Districts and Divisions: Forensics, Forensic Mental Health, Major Crimes & Complex Litigation, Social Work, and Immigration.

OPD Administration includes: Human Resources, Fiscal, Recruitment, Training, Information Technology, Government Relations, General Counsel, Policy, and Assigned Counsel.

Districts

DISTRICT 1 - BALTIMORE CITY

District Public Defender, Kirsten Downs
Deputy, Natasha Dartigue

DISTRICT 2 – DORCHESTER, SOMERSET WICOMICO, WORCESTER

District Public Defender, Chasity Simpson
Deputy, Archibald McFadden

DISTRICT 3 — CAROLINE, CECIL, KENT QUEEN ANNE’S, TALBOT

District Public Defender, Tamara Stofa
Deputy, Jason Ricke

DISTRICT 4 – CALVERT, CHARLES, ST. MARY’S

District Public Defender, Michael Beach

DISTRICT 5 – PRINCE GEORGE’S COUNTY

District Public Defender, Keith Lotridge
Deputy, Melissa Pryce

DISTRICT 6 – MONTGOMERY COUNTY

District Public Defender, Allen Wolf
Deputy, Theresa Chernosky

DISTRICT 7 – ANNE ARUNDEL COUNTY

District Public Defender, William Davis
Deputy, Elizabeth Palan

DISTRICT 8 – BALTIMORE COUNTY

Acting District Public Defender, James Dills
Deputy, Gayle Robinson

DISTRICT 9 – HARFORD COUNTY

District Public Defender, Kelly Casper
Deputy, John Janowich

DISTRICT 10 – CARROLL & HOWARD

District Public Defender, Louis Willemin
Deputy, Allison Sayers

DISTRICT 11 – FREDERICK & WASHINGTON

District Public Defender, Mary Riley
Deputy, Eric Reed

DISTRICT 12 – ALLEGANY & GARRETT

District Public Defender, James Elliott
Deputy, Jessica Colwell

Divisions

APPELLATE DIVISION

Chief, Brian Saccenti
Deputy, Brian Zavin

MENTAL HEALTH DIVISION

Chief, Carroll McCabe
Deputy, M. Tim Scully

PARENTAL DEFENSE DIVISION

Chief, Nena Villamar

POST CONVICTION DEFENDERS

Chief, Initia Lettau
Deputy, Nayda Kuachusri

FORENSICS DIVISION

Chief, Jeffrey Gilleran

FORENSICS MENTAL HEALTH

Director, Mary Pizzo

IMMIGRATION

Director, Nadine Wettstein

JUVENILE PROTECTION DIVISION

Chief, Deborah St. Jean

MAJOR CRIMES & COMPLEX LITIGATION

Chief, Katy O'Donnell

SOCIAL WORK DIVISION

Director, Terri Collins

PUBLIC DEFENDER'S letter

It is with profound gratitude and appreciation that I recognize the work of the attorneys, social workers, and core staff of the Office of the Public Defender during the past extraordinarily difficult year. To call this past year challenging is indeed an understatement. A worldwide pandemic shuttered our courthouses and offices, threatening the health of our staff and clients. Access to incarcerated clients was significantly impacted, requiring ongoing advocacy for the implementation of a COVID safety protocol at jails and prisons statewide. OPD also suffered an Information Technology (IT) event in March that triggered a complete rebuild of our entire IT infrastructure, leaving electronic documents and files inaccessible for months. During this time, policing and racial justice issues -- similar to what we see firsthand in Maryland every day -- received unprecedented attention and a renewed sense of urgency.

Since March, we have had to learn how to effectively run the biggest law firm in the state, with over 50 offices, almost entirely remotely. We were, and are still, extremely concerned for the health and well-being of our clients, colleagues, and families. The risks for our detained clients were especially high. Hundreds of news reports across the U.S. highlighted the extreme dangers of disease spread in prisons and detention centers. So, while we have always advocated strongly for our incarcerated clients' release, the filing and litigating of motions to release our clients pending trial took on a greater sense of urgency. This advocacy work continues, but we are proud that we were able to reduce juvenile detention rates over 50% across the state and adult pre-trial detention rates were reduced in almost all counties.

The safety and well-being of our employees is paramount. Cynthia Knight, Director of Human Resources, Dawn Kouneski, Assistant Director of Human Resources, and the rest of the Human Resources (HR) staff deserve our gratitude and admiration for navigating the directives from the Department of Budget and Management and the Governor's Office regarding work-from-home orders. HR also had to interpret the ever-changing CDC guidelines regarding testing, shutdowns, cleaning, social distancing and contact tracing for nearly one thousand employees.

Our Fiscal Division, led by Chief Financial Officer Kathleen Mattis, successfully closed the 2020 fiscal year on time, despite the loss of operations during the shutdown, submitted the FY2022 budget and two years of reduction planning for the State and managed the tri-annual OLA audit that started in June, all while maintaining on-going operations. None of this would have been possible without flexible teamwork, in addition to a Herculean effort from Dolores Villena to structure and manage the necessary reporting.

Special recognition and thanks also need to go to Mark Six, Chief Information Officer, and the rest of his extraordinary Information Technology team. I cannot overstate the difficulty faced by our newly-appointed CIO and his newly-hired staff when the IT incident and pandemic forced the Agency to work remotely simultaneously to our entire network being rebuilt. These events required the deployment of laptops to employees, the transition of email services to a new platform, the configuration and deployment of virtual private network access, the installation of new servers in over 30 locations to replace aging equipment, upgrades to our internet connection increasing our bandwidth by a factor of 10, the deployment of a new firewall solution with increased security controls, and videoconferencing in detention centers and prisons. It now seems second nature to hold meetings with staff on Google Meets, to interview an incarcerated client by videoconferencing, to attend a virtual court hearing, or to attend a virtual training session. None of this would have been possible without the skill, knowledge, and experience of the IT staff.

Also at this time, we rolled out the new case management system, eDefender, which has been planned for several years. Kudos to our eDefender Leadership Team of Becky Feldman, Mark Six, Charles Quansah, Gary Offutt, Jason Ricke, Hope Sendra, Tammy Jarnagin, Cathie Copper, and our partner, Journal Technologies, for shifting our strategy and rolling out the new system statewide months in advance of prior plans. Our prior case management system was outdated, lacked needed functionality, and was incredibly challenging to use. We are all excited about this new platform and how it will transform work processes and data tracking and reporting.

Our Training Division, led by Director of Training, Patrice Fulcher, and Attorney Trainer, Renee Brodsky, seamlessly pivoted from holding hundreds of in-person workshops per year in our Training Center to meeting the training needs of our employees on virtual platforms. Attorneys hired before the pandemic, for start dates in the spring and fall were able to be onboarded and our Certified *Gideon's Promise* New Hire Training went off without a hitch on Zoom for our Spring and Fall 2020 Classes. Chief of Major Crimes and Complex Litigation Katy O'Donnell's *ADvanced Litigation Training* was successfully held remotely. Additionally, we rolled out our new OPD University, which is a catalogue of live and recorded training on various technology applications, led by Core Staff & Technology Applications Trainer, Mary Hotovy. The Training Division also provided live training sessions for all OPD employees; helped to facilitate our agency-wide Town Halls on racial injustice and police brutality; and created a shared training drive with a vast number of legal, race equity, mental/physical health, and leadership resources. The Training Division also made multiple legal skills sessions produced by the National Association for Public Defense (NAPD), the National Association of Criminal Defense Lawyers (NACDL), the National Legal Aid and Defenders Association (NLADA), the Maryland State Bar Association (MSBA), and other partner organizations accessible to our staff.

National racial justice issues resulting from police killings of black men and women had local meaning for us, personally and professionally. This year marks the 5th anniversary of the death of Freddie Gray in Baltimore. And yet, it feels like there has been little progress nationwide on police reform and racial justice issues. The Special Litigation Unit in Baltimore City's Felony Division, headed by felony attorney Deborah Levi, has zealously and successfully litigated access to internal files that for years were kept out of reach and exposed persistent patterns of abuse and misconduct by officers regularly relied upon by the prosecution. Building on this success, and responding to the current momentum, this project has grown statewide. Dozens of attorneys volunteered to become part of the Police Violence and Misconduct Litigation Team to improve transparency and accountability of police misconduct through litigation, policy reform, and partnership with civil legal groups and community organizations.



Our commitment to addressing racial injustice and disparities did not end at the courthouse doors. We continued to address issues of racial equality in our own house, too. With the assistance of our new Diversity, Equity and Inclusion (DEI) Director, Patrick Orciani, we hosted several town halls, published resources, and revamped our DEI Advisory Council, which includes three subcommittees focused on the three pillars of the DEI Program: 1) Culture, 2) Recruiting, and 3) Training & Professional Development. These subcommittees will be implementing strategies that help create and improve an inclusive workplace, increase the diversity of our talent, and provide top-notch training related to DEI.

The rippling effects of COVID are far-reaching and some of them are still unknown. Obviously, our state has and will suffer significant budget shortfalls. All state agencies will have to continue to work with even fewer resources. As you can see in this year's report, the success of the Workload Reduction Panel Program, which funded paneling approximately 24,000 district court cases to private attorneys, nearly brought all districts within caseload standards. Unfortunately, budgetary constraints for the current fiscal year resulted in the discontinuation of the program at this time. Circuit court and post-conviction workloads still exceed standards and remain a serious concern.

At this writing, our attorneys are returning to court and getting ready for jury trials to resume in October. Our District Public Defenders and Division Chiefs have been phenomenal in responding to this crisis, navigating the different protocols, and supporting their teams. We continue to engage the Judiciary in discussions to ensure safety measures are enforced. This includes masking, social distancing, temperature checks and other safety measures, as needed. There is no predicting when this crisis will be over. But not enough can be said about the work of OPD attorneys, social workers, and core staff who continued to bring the same commitment to excellence and tenacious advocacy despite the novel coronavirus that has changed the world as we know it.

Sincerely,

Paul B. DeWolfe, Public Defender

WORKLOAD REDUCTION

panel program

The State allocated funding to OPD for a panel program designed to reduce attorney workloads by paneling cases to the private bar. OPD designed Workload Reduction Panel Program (WRPP) to panel district court dockets at a set rate per docket (average docket = 7 clients), from January through December 2019. Districts that were above district court caseload standards in 2018 were selected to participate. Unfortunately, this program was suspended in July 2020 because of budget constraints.

Number of Cases Resolved by District*

In a 12-month timeframe, OPD was able to reduce the district court caseload by over 24,000 cases with \$2M general funding. This equates to the work of approximately 24 public defenders.

1965

DISTRICT 2 - LOWER SHORE

1708

DISTRICT 3 - UPPER SHORE

1131

DISTRICT 4 - SOUTHERN MARYLAND

6636

DISTRICT 5 - PRINCE GEORGE'S

3441

DISTRICT 6 - MONTGOMERY

5177

DISTRICT 7 - ANNE ARUNDEL

2266

DISTRICT 8 - BALTIMORE COUNTY

1637

DISTRICT 11 - FREDERICK & WASHINGTON

555

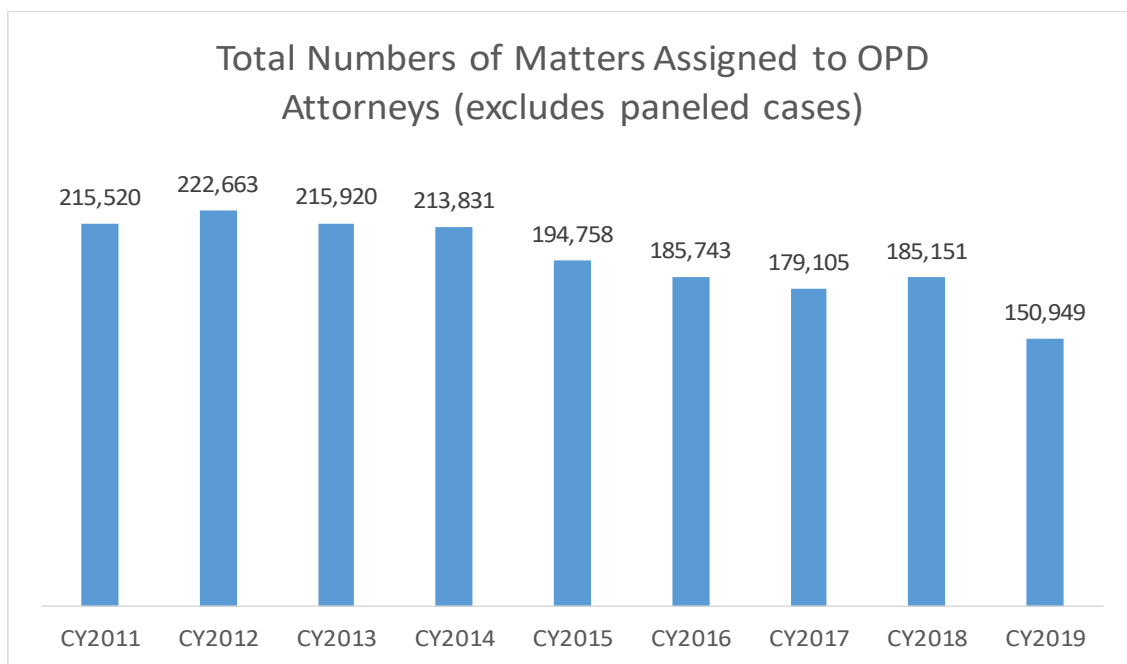
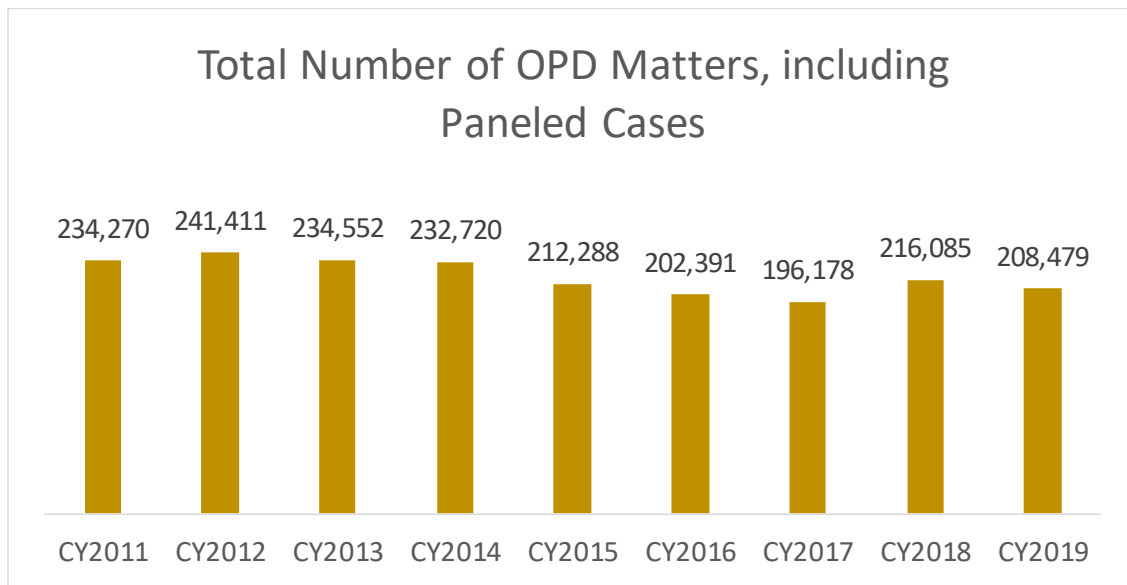
DISTRICT 12 - ALLEGANY & GARRETT

24516

TOTAL district court matters resolved by panel attorneys from Jan 1 – Dec 31, 2019

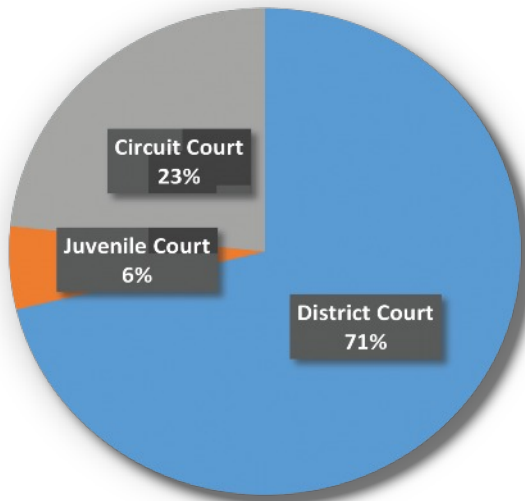
*Cases Resolved are cases that were finally adjudicated by the panel attorney by either a sentencing event, *nolle prosequi*, or stet. Cases that were ultimately handled by OPD attorneys (i.e. the case was postponed), were not counted as "cases resolved." Also, cases in which private counsel was retained were not counted in any workload statistic.

WORKLOAD TRENDS



CY = Calendar Year (January 1, 2019 - December 31, 2019)

Number of Matters Assigned to OPD Attorneys in 2019 *by District*



District court cases represent the majority of the districts' workload.

Juvenile matters dropped 14% from 2018 to 2019

District court matters dropped 21% from 2018 to 2019, due largely to Workload Reduction Panel Program.

Circuit court matters dropped 10% from 2018 to 2019. However, 8 of 12 districts still exceed circuit court caseload standards.

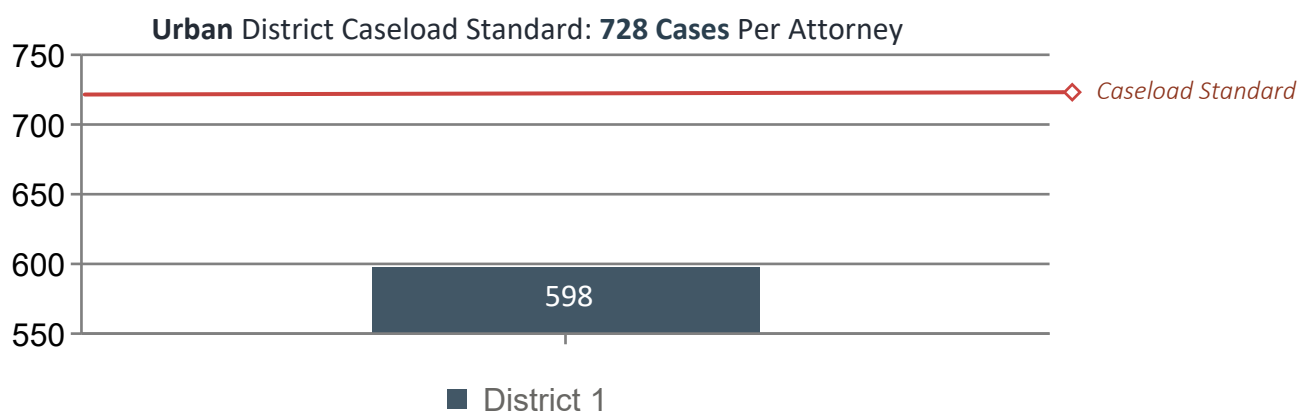
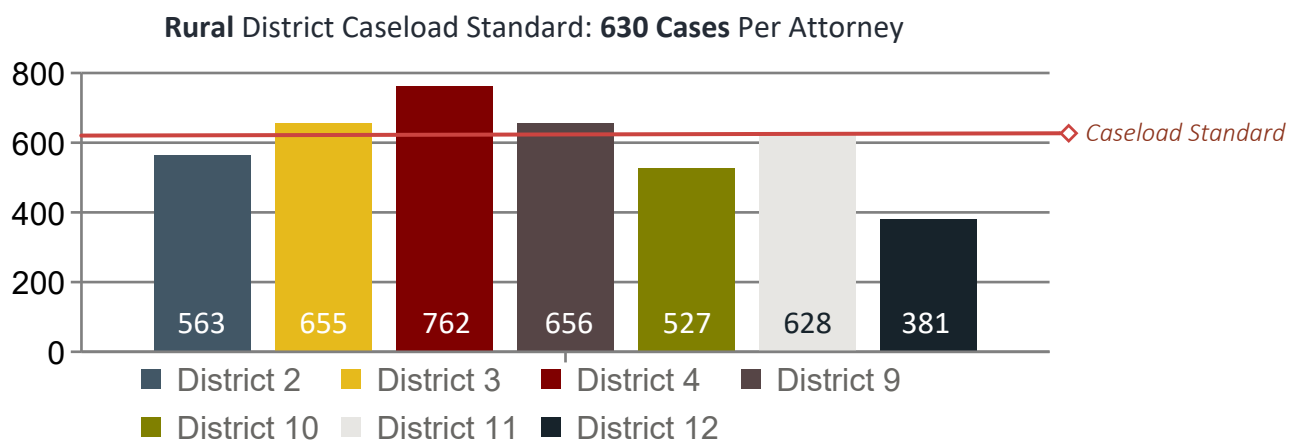
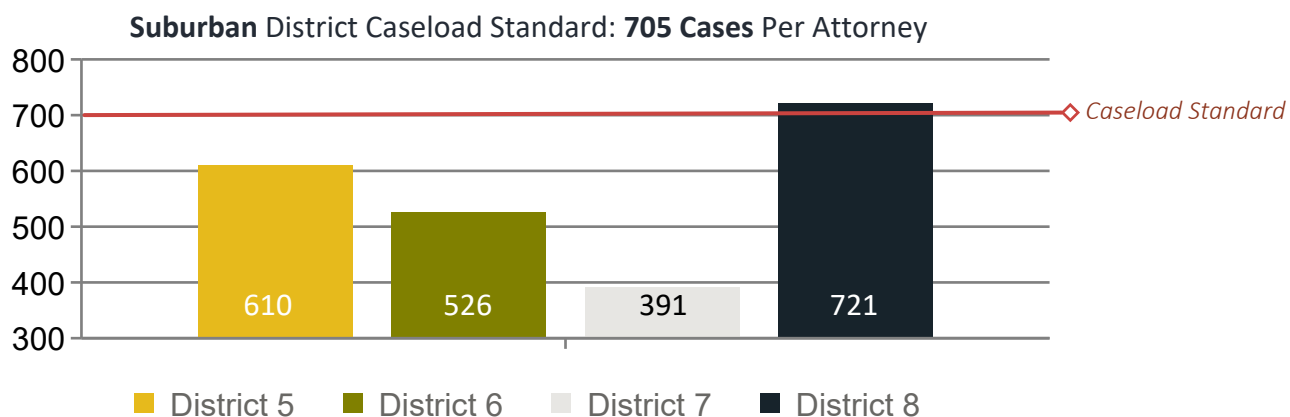
	District Court	% Change from 2018	Circuit Court	% Change from 2018	Juvenile	% Change from 2018	TOTAL	Percentage Change from 2018
District 1	22115	-4%	8836	-0.07	1724	-28%	32675	-6%
District 2	5068	-38%	2399	-2%	592	-12%	8059	-29%
District 3	6875	-15%	2999	12%	262	-25%	10136	-9%
District 4	7996	-16%	1750	-25%	232	-43%	9978	-18%
District 5	10681	-37%	2482	-32%	1054	9%	14217	-34%
District 6	8415	-29%	1124	-3%	806	-30%	10345	-27%
District 7	5859	-52%	2286	-12%	834	39%	8979	-41%
District 8	12253	-14%	3964	-17%	874	-10%	17091	-15%
District 9	4595	5%	1506	-11%	187	-30%	6288	0%
District 10	5266	-6%	1763	1%	275	-21%	7304	-5%
District 11	7541	-16%	2296	-6%	665	5%	10502	-13%
District 12	1903	-32%	917	-19%	105	-19%	2925	-28%
TOTAL	98567	-21%	32322	-10%	7610	-14%	138499	-19%

PANELED	45775*	6879	1695	54,349
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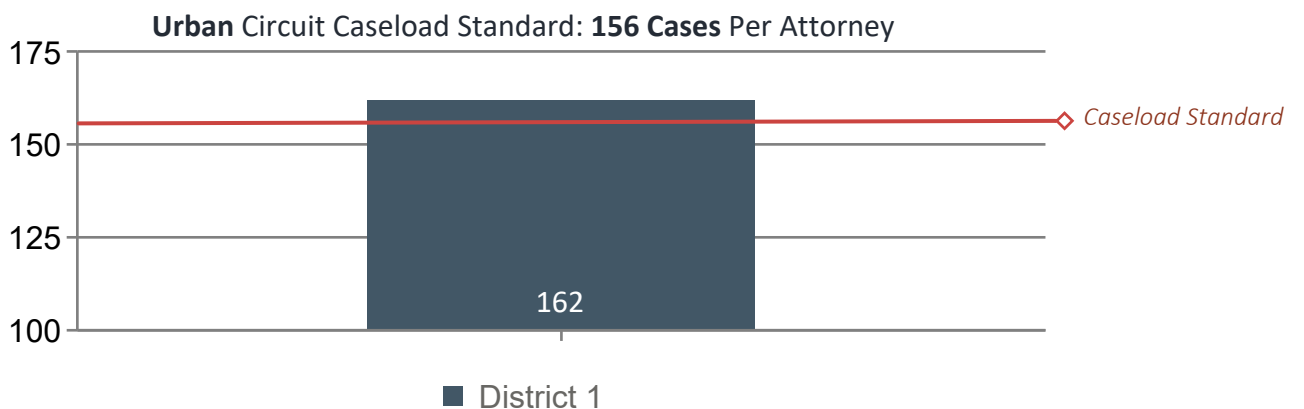
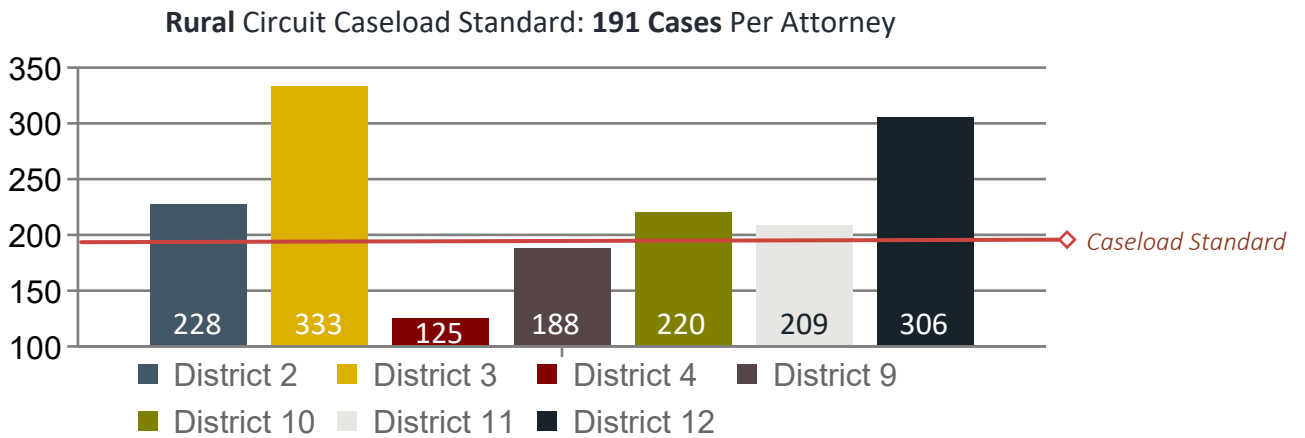
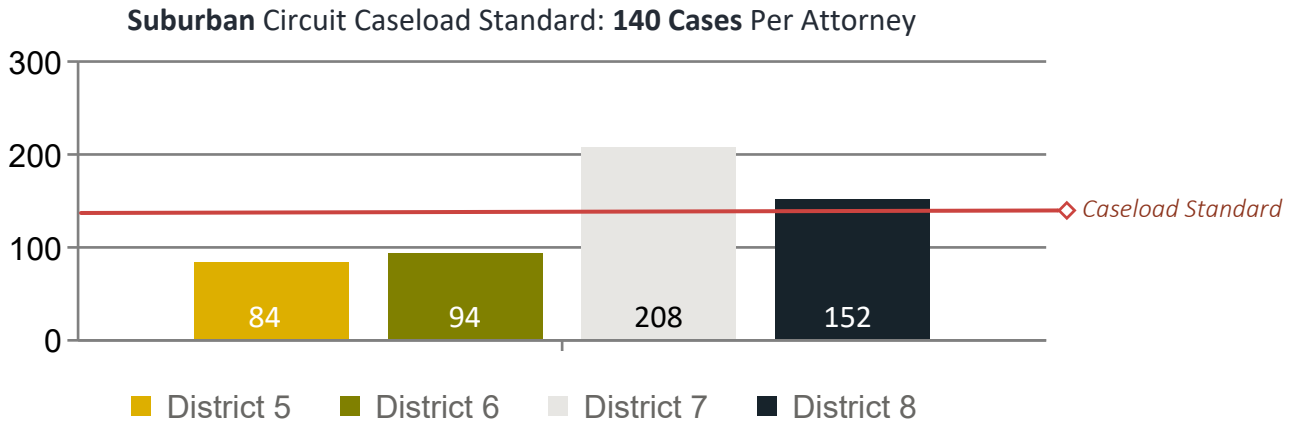
*24,516 of the 45,775 district court paneled cases were paneled pursuant to WRPP.

District Court Matters ▶ *by District*

To assess caseloads, OPD relies on case standards developed for OPD in 2005 (See Appendix 1). With the assistance of the Workload Reduction Panel Program, we were able to panel over 24,000 cases to private attorneys. Now, all districts are within caseload standards, except for Districts 3, 4, 8 & 9, which are close to being within standards.

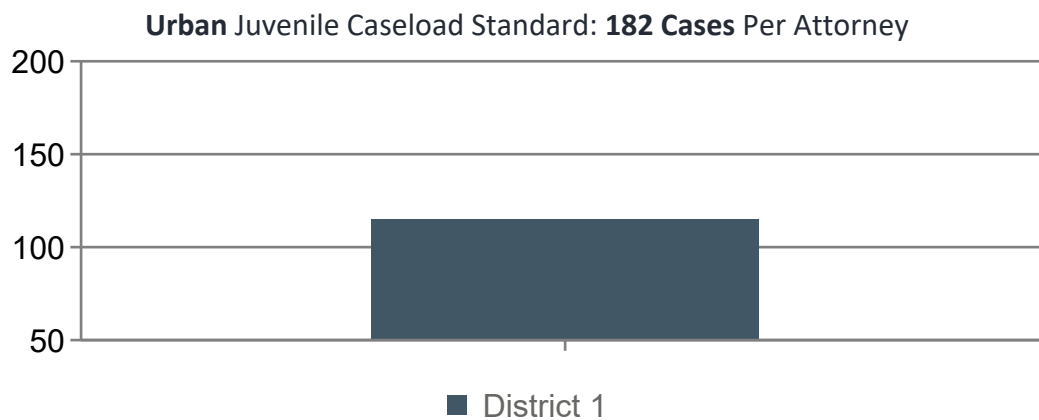
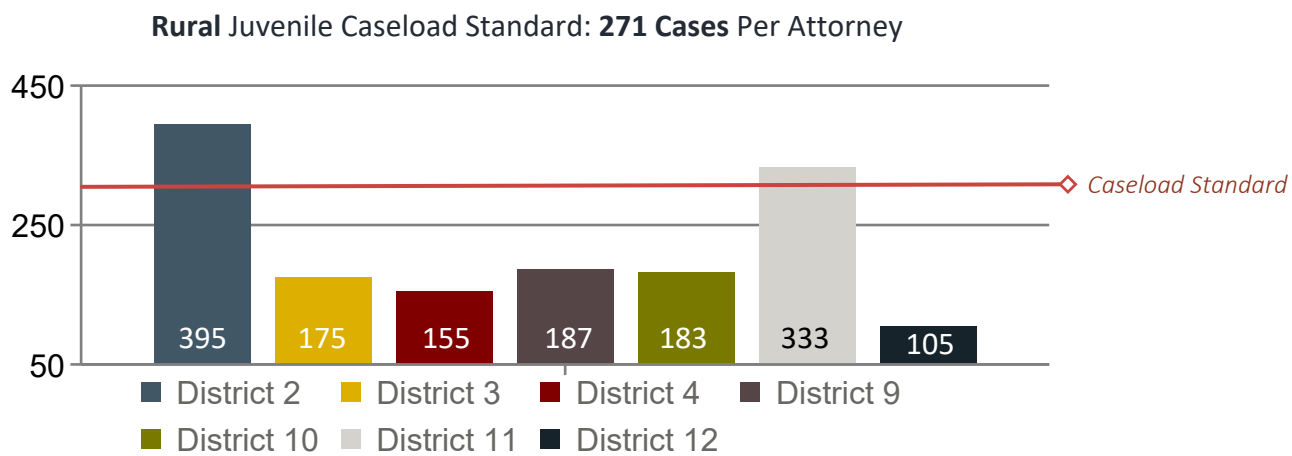
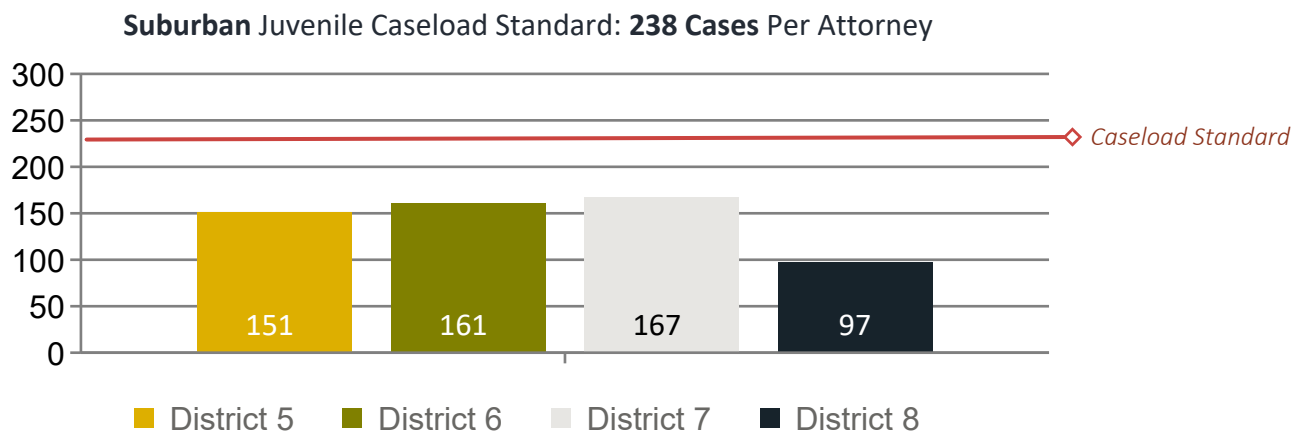


In 2019, eight of the twelve districts carried circuit court workloads in excess of workload standards.



Juvenile Court Matters ▶ *by District*

In 2018, OPD managed to bring juvenile caseloads within standards for all districts, except Districts 2 and 11.



PARENTAL DEFENSE

Parental Defense workloads are below the workload standards established in 2005. However, this assessment does not account for all proceedings now required for a CINA or TPR case. Since 2005, the relevant statute has been modified to require two additional hearings, as well as ancillary court-ordered mediation, family recovery drug courts, and truancy courts. Also, Department of Social Services has added mandatory family involvement/team decision making meetings for all open cases. Additionally, OPD is now responsible for representing both the custodial and non-custodial parent.

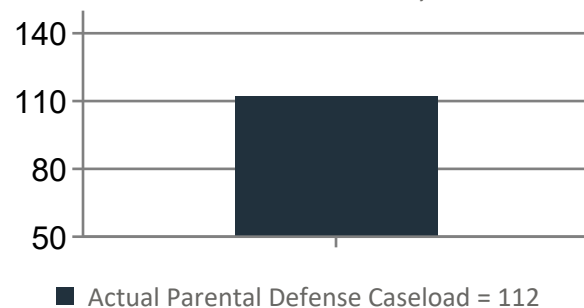
Parental Defense Matters in 2019

- 2936 CINA cases
- 167 TPR cases
- 44 Guardianship Reviews
- 237 Drug Court

3387 Total Matters Assigned

*3024 Additional Matters Paneled
Number of Attorneys & Supervisors: 27
(Does not include Chief & Deputy)

Parental Defense Caseload Standard 169 Per Attorney



MENTAL HEALTH

With the transfer of two attorney positions to the Mental Health Division last year, workloads are now within standards. However, more mental health beds are opening in Maryland on a regular basis, requiring more resources to provide representation at involuntary commitment hearings.

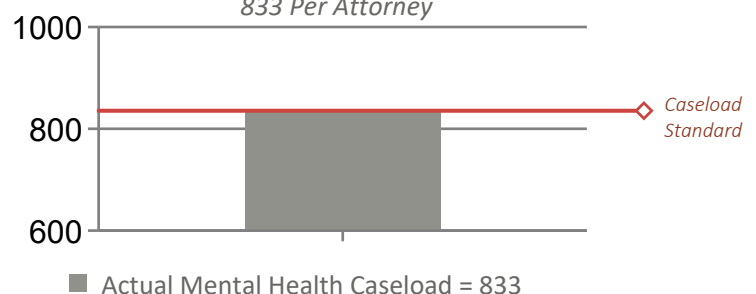
Mental Health Matters in 2019

- 6754 Involuntary Commitments
- 465 Incompetent to Stand Trial
- 203 Not Criminally Responsible
- 72 Commitment Reviews

7494 Total Matters Assigned

*42 Additional Matters Paneled
Number of Attorneys & Supervisors: 8
(Does not include Chief & Deputy)

Mental Health Caseload Standard 833 Per Attorney



DIVISION WORKLOADS

APPELLATE

Appellate workloads are within standards.

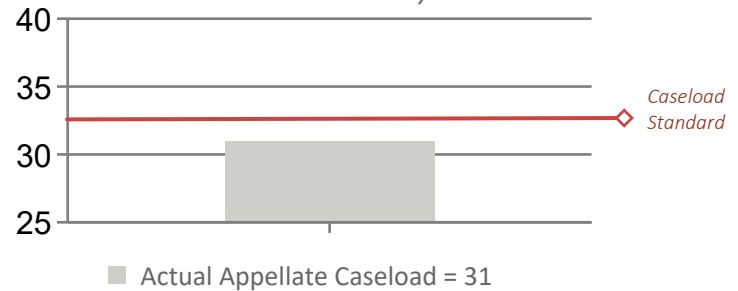
Appellate Matters in 2019

- 601 Criminal Appeals
- 90 TPR/CINA Appeals
- 64 Applications for Leave to Appeal
- 18 Writs of Certiorari
- 1 Amicus
- 25 Other

799 Total Matters Assigned

*97 Additional Matters Paneled
Number of Attorneys & Supervisors: 25.5
(Does not include Chief & Deputy)

Appellate Caseload Standard:
33 Per Attorney



POST CONVICTION DEFENDERS

Post Conviction Division (PCD) workloads still exceed standards. It should be noted that the workload standards did not include a portion of PCD's work. The 2005 standards did not estimate time values for sentencing modifications, illegal sentence motions, and other post sentencing hearings.

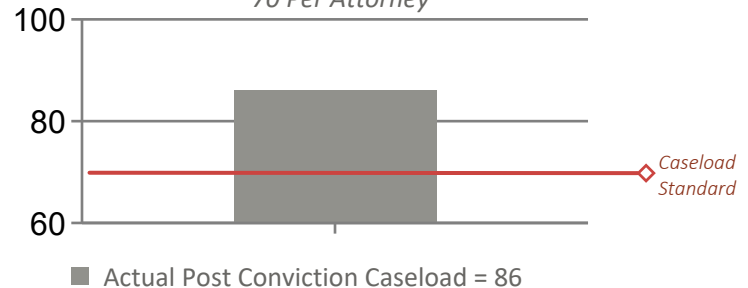
Post Conviction Matters in 2019

- 1141 Post Conviction Petitions
- 429 Parole Revocation Proceedings
- 194 Sentencing Modifications
- 13 Applications for Leave to Appeal
- 8 Illegal Sentence Motions
- 13 Writs of Actual Innocence
- 29 Other Post Sentencing Hearings
- 1 Petitions for DNA Testing

1888 Total Matters Assigned

*18 Additional Matters Paneled
Number of Line Attorneys & Supervisors: 22
(Does not include Chief & Deputy)

Post Conviction Caseload Standard:
70 Per Attorney



RESOURCE NEEDS

Additional attorneys needed to meet workload standards

02 Trial attorneys

05 Post Conviction Attorneys

OPD constantly assesses resources and needs for each District and Division, and redistributes resources when possible. Even with reallocated positions through attrition, OPD still needs an additional 8 attorneys to meet workload standards.

Additional attorneys needed for CY 2020 with suspension of WRPP

24 Trial attorneys (*needed in D2, D3, D4, D5, D6, D7, D8, D11, D12)

Additional paralegals needed:

24 Paralegals

The core staff standards provide for 1 paralegal for every 11 attorneys. Currently, OPD has 21 paralegals to support approximately 500 attorneys.

Additional social workers needed:

18 Social Workers

The core staff standards outlined in the Maryland Attorney and Staff Workload Assessment (2005) (Appendix 1) provide for 1 social worker for every 8 attorneys. Currently, OPD has 27 social workers to support approximately 500 District & Division attorneys.

MARYLAND ATTORNEY AND STAFF WORKLOAD ASSESSMENT, 2005

Excessive workloads for public defenders jeopardize the constitutional rights of the accused. Providing effective assistance of counsel is directly related to the number of public defenders and core staff available to handle nearly 200,000 cases opened by OPD each year. As a result of high workloads, we are increasingly challenged to meet constitutional and statutory obligations.

In 2005, the Maryland legislative and executive branches requested that OPD develop caseload standards upon which to base its operating budget. The “Maryland Attorney and Staff Workload Assessment” was published later that year.

With the assistance of the National Center for State Courts (NCSC), an assessment resulted in workload standards that provide uniform and comparable measures of the number of attorneys and support staff needed to ensure that Maryland fulfills its constitutional obligation to provide effective assistance of counsel. Examples of these recommended standards, as compared with the American Bar Association (ABA) standards, are shown below for the OPD’s District Operations:

Final Recommended Caseloads

	<u>Rural</u>	<u>Suburban</u>	<u>Urban</u>	<u>ABA</u>
Felony (including Homicide)	191	140	156	150
Misdemeanor (including traffic)	630	705	728	400
Juvenile	271	238	182	200

For the purposes of this report, OPD has equated felony cases with circuit court matters and misdemeanor and traffic cases with district court matters. At the current time, OPD does not distinguish between felony or misdemeanor in its actual caseload statistics. However, OPD will soon begin the process of updating our workload standards to keep with best practices in this ever-changing law and technology environment.



Justice, Fairness & Dignity for All