

LEGAL 15-00-00

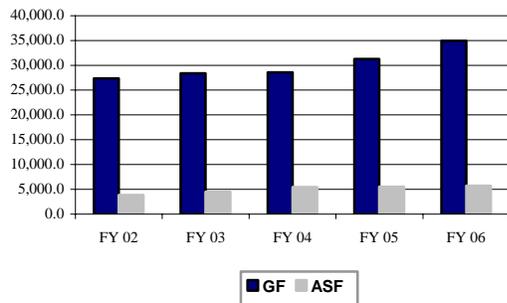
Legal

Office of Attorney General

Public Defender

Board of Parole

Five-Year Appropriation History



FUNDING

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	32,177.4	34,950.9	39,316.8
ASF	4,330.1	5,735.6	5,315.3
TOTAL	36,507.5	40,686.5	44,632.1

POSITIONS

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	398.6	427.5	437.5
ASF	54.9	57.9	58.9
NSF	52.4	42.6	48.6
TOTAL	505.9	528.0	545.0

FY 2007 BUDGET HIGHLIGHTS

OPERATING BUDGET:

Attorney General

- ◆ Recommend \$315.9 in Personnel Costs and 5.0 FTEs (3.0 Deputy Attorneys General, 2.0 Paralegal) for the Felony Unit to provide additional resources to handle growing caseloads.
- ◆ Recommend \$140.0 in Contractual Services for family violence programs.

Public Defender

- ◆ Recommend \$271.2 and 5.0 FTEs (4.0 Assistant Public Defender, Forensic Nurse) for the conversion

of contractual positions previously funded by expiring grants.

- ◆ Recommend \$39.0 in Contractual Services for costs related to new positions and lifecycle replacement for computers and software.

Board of Parole

- ◆ Recommend base level of funding to maintain Fiscal Year 2006 level of service.

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OFFICE OF ATTORNEY GENERAL

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MISSION

To provide successful prosecution of violations of criminal law; to provide legal services to state agencies, officials and instrumentalities; and to protect the public against fraud and deceptive trade practices.

KEY OBJECTIVES

- Ensure all criminal matters are fairly and efficiently resolved in a manner that safeguards the constitutional rights of the defendant and human rights of the victim.
- Provide timely and accurate information to victims and witnesses regarding the criminal cases that involve them.
- Reduce delays in the resolution of criminal cases.
- Improve the quality of the department's litigation through training.
- Improve and enhance client communication in litigation cases to assure the client is kept current on the progress of litigation.
- Enforce laws pertaining to youth access to tobacco and enforce the Master Settlement Agreement in an effort to prevent the loss of settlement dollars.
- Respond promptly and accurately to requests and complaints regarding applicability of the Freedom of Information Act.
- Execute the Attorney General's priorities through comprehensive planning, programming and budgeting and ensure the appropriate distribution of resources.
- Implement the Attorney General's priorities through comprehensive human resource management programs.
- Develop a capital equipment replacement schedule.
- Develop and implement a quality information technology training program.
- Prosecute health care providers who have defrauded or attempted to defraud the Delaware Medicaid Program.
- Complete determination of special investigations examinations within six months from the date of initial assignment.

- Process intakes and follow through on all consumer and business complaints in a timely and efficient manner.
- Ensure that registered financial professionals comply with the Delaware Securities Act.

BACKGROUND AND ACCOMPLISHMENTS

The Office of Attorney General is organized into five divisions: Criminal, Civil, Administrative, Fraud and Appeals. All divisions are directed by the Attorney General who serves as the chief law enforcement officer of the state. The Attorney General supervises and directs the overall administration of the department and is assisted by the Chief Deputy Attorney General.

CRIMINAL DIVISION

MISSION

To protect all citizens of Delaware by prosecuting violations of criminal and motor vehicle laws throughout the state in a just and efficient manner; to provide counseling, support referral, notification and information services to victims and witnesses of crime; and to provide legal assistance and training to other law enforcement agencies.

BACKGROUND AND ACCOMPLISHMENTS

The Criminal Division is responsible for processing criminal cases in Superior Court, Court of Common Pleas, Family Court and, to a lesser extent, Justices of the Peace Courts. To fulfill this responsibility, the division is organized into various units in all three counties. In New Castle County those units are the Felony Trial, Victim/Witness Service, Drug, Sex Crimes, Domestic Violence, Felony Screening, Family Court, White Collar Crime, Misdemeanor Trial and Career Criminal units. In Kent and Sussex counties, those units are the Felony Trial and Misdemeanor Trial units. In Fiscal Year 2006 Felony Screening and Sex Crime units were added in Kent and Sussex counties.

CIVIL DIVISION

MISSION

The mission of the Civil Division is to provide quality, timely, cost effective legal services to state government.

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BACKGROUND AND ACCOMPLISHMENTS

The Civil Division is responsible for providing legal services to the Governor and General Assembly, as well as to officers, departments, boards, agencies, commissions, and instrumentalities of state government. The division provides formal and informal opinions of the Attorney General, represents the state's interest in civil litigation, conducts administrative prosecutions, acts as counsel to administrative bodies, provides representation to the public in child support cases and in certain labor matters, and provides legislative drafting and review services for members of the General Assembly and state agencies.

Deputies advise their clients regarding civil legal issues involving such diverse areas as environmental, contract, tort, civil rights, labor, finance, employment and administrative law. The Civil Division provides services through four working groups: Government Services, Departments and Agencies, Litigation and Family Services.

FRAUD AND CONSUMER PROTECTION DIVISION

MISSION

To protect the citizens of Delaware against consumer fraud, deceptive trade practices and securities fraud; to educate consumers and investors regarding consumer protection and securities investments; to prevent and investigate fraud in government welfare and Medicaid programs; to protect elders from abuse and exploitation; to protect citizens against antitrust violations; and to conduct special investigations of crimes against the state and local governments.

BACKGROUND AND ACCOMPLISHMENTS

The Fraud Division continues to provide services to the public through enforcement of laws, comprehensive investigatory practices, aggressive prosecution (when necessary) and a strong emphasis on community education to ensure that citizens are aware of their rights and protections under the laws.

The Fraud Division is divided into five units: Consumer Protection, Securities, Medicaid Fraud, Antitrust and Special Investigations.

ADMINISTRATIVE DIVISION

MISSION

The Administrative Division is responsible for providing customer-oriented operational support to Department of Justice employees. This division manages information systems, personnel programs, fiscal discipline, purchasing and supply, facilities, and oversees the immigration and naturalization related services provided to residents of Delaware.

BACKGROUND AND ACCOMPLISHMENTS

The division is divided into five groups: Human Resources, Extradition, Fiscal, Information Technology and Services for Foreign Born.

APPEALS DIVISION

MISSION

To represent the state in criminal appeals in the Delaware Supreme Court and the United States Supreme Court and in federal habeas corpus litigation

BACKGROUND AND ACCOMPLISHMENTS

The Appeals Division performs essentially three functions. First and foremost, it is responsible for persuading the Delaware Supreme Court to affirm criminal judgments of conviction. Along this same line, the division is also the state's advocate in a host of other criminal (or criminally related) appellate matters, including those relating to sentencing, adjudication of probation violations and pretrial and post-conviction relief matters.

The second function of the Appeals Division is to defend the federal constitutionality of state judgments of conviction from attack in federal court by prisoners in state custody. Such attacks are brought pursuant to the federal habeas corpus provisions of 28 USC §2254.

The third function of the division is to provide research assistance to the prosecutors in cases presenting highly complex legal issues, e.g., capital murder prosecutions. This consists of assisting with questions that arise, or are anticipated to arise, during trial. On occasion, the appellate attorneys are also responsible for preparing written memoranda at the trial level or conducting in-depth research assignments.

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FUNDING

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	20,630.2	22,644.7	25,685.6
ASF	4,330.4	5,685.6	5,315.3
TOTAL	24,960.6	28,330.3	31,000.9

POSITIONS

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	262.6	283.5	288.5
ASF	54.9	57.9	58.9
NSF	48.4	42.6	46.6
TOTAL	365.9	384.0	394.0

OFFICE OF ATTORNEY GENERAL

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ACTIVITIES

- Prosecute violations of Delaware criminal law.
- Provide legal services to state agencies, officials and instrumentalities.
- Protect the public against consumer and government fraud.
- Disseminate information and provide service to victims of crime.
- Counsel and advise victims of domestic violence and sexual assault.
- Undertake asset forfeitures.
- Extradite prisoners and process gun permits.
- Investigate allegations of police and other official misconduct.
- Develop legislative initiatives pertaining to criminal and civil justice matters.
- Administer the budgeting, payroll, clerical, technological and personnel components of the department.
- Intake, screen and refer consumer complaints.
- Provide training to staff, outside agencies and the public.
- Counsel and advise clients regarding immigration and naturalization matters.
- Draft legal opinions and reports, including advice concerning compliance with the Delaware Freedom of Information Act.

PERFORMANCE MEASURES

	FY 2005 Actual	FY 2006 Budget	FY 2007 Gov. Rec.
# of average Superior Court filings per prosecutor	225	196	183
# of average Court of Common Pleas filings per prosecutor	9,759	9,047	9,000
# of average felony cases assigned to each social worker	234	142	140
% of Delaware Supreme Court appeals with state's brief filed within 60 days	98	100	100

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PUBLIC DEFENDER

15-02-01

MISSION

29 Del. C. c. 46 creates the Office of the Public Defender to preserve the constitutional rights of indigent defendants through the assistance of counsel in criminal cases at every stage of the adjudication process. In addition, case law has established that the Public Defender, as an officer of the court, has the professional duty to assist the court in every reasonable way in the improvement of justice.

KEY OBJECTIVES

To ensure that the Office of the Public Defender provides effective assistance of counsel to its clients while responsibly using the agency's personnel resources, the Public Defender has identified the following objectives:

- Reduce attorney caseloads to guarantee compliance with the national standards established by the National Advisory Commission;
- Require Superior Court psycho-forensic evaluators to produce 60 court plans per year;
- Conduct intake interviews with incarcerated individuals within two days of their imprisonment and make attorney assignments within one day thereafter;
- Make full use of the Judicial Information Center (JIC) and Delaware Justice Information System (DELJIS) to open client files; and
- Require attorneys to contact incarcerated clients in person or by videophone.

BACKGROUND AND ACCOMPLISHMENTS

The Office of the Public Defender is directed by the Public Defender. It is currently organized into three sections: Legal, Administrative, and Technology Services.

Legal Services

The Legal Services section provides legal representation to indigents accused of a crime at all phases of criminal proceedings, including representation at the pre-trial, trial and post-conviction stages of the adjudication process. Legal services are provided statewide to the Supreme Court, Superior Court, Court of Common Pleas and Family Court. The office also provides services to

the Newark Alderman's Court, Justice of the Peace Court 20 and Board of Pardons.

Investigators assist staff attorneys by conducting initial interviews with defendants to determine indigency based on financial resources and the client's account of events that led to his or her arrest. They also gather facts about the alleged offense(s) and incorporate these facts into written reports for reference by staff attorneys. It is also the responsibility of the investigator to conduct polygraph examinations; interview witnesses; serve subpoenas; collect, preserve and evaluate evidence; and conduct surveillance.

The psycho-forensic evaluators aid staff attorneys in their representation of clients. The unit conducts psychological assessments of defendants upon referral by assistant public defenders. The unit supplies written reports, including information obtained on clients from interviews and tests. These reports help attorneys in assessing a client's legal competence as well as in making recommendations for bail, pre-trial intervention and sentencing alternatives. Psycho-forensic evaluators also assist attorneys in the hiring of, communication with and presentation of expert witnesses.

Paralegals assist with case management, legal research and attorney schedule maintenance. Support staff makes necessary entries in JIC and DELJIS and opens and assigns client files to attorneys.

The Public Defender, as Vice Chairman of the Delaware Criminal Justice Council, chairs the Videophone Committee for the Criminal Justice Council, which has authority over a statewide videophone system in 95 locations. The Office of the Public Defender has attorneys assigned to videophone locations at Baylor Correctional Institution, Delaware Correctional Center, Howard R. Young Facility, Sussex Correctional Institution and New Castle County Detention Center.

Administrative Services

The Administrative Services section has executive and administrative support staff. The executive staff establishes and enforces the policies and goals and is responsible for daily administration, assigning cases, supervising personnel and drafting programs. The administrative support staff maintains office inventory and financial and personnel records; processes financial and personnel transactions; and prepares federal and state reports.

Technology Services

The Technology Services section is responsible for installing and maintaining the computer and videophone

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systems. This section also provides computer training and technical assistance to attorneys and support staff.

The Office of the Public Defender will continue its on-going efforts to develop an integrated statewide case tracking system. The use of Delaware Uniform Case (DUC) numbers in New Castle County among the police, courts, prosecution, defense and corrections is a first step. The office will continue to work closely and share relevant computer information with the other components of the criminal justice system. The development of an integrated statewide case tracking system will effectively enable all criminal justice components to track cases through the system from issuance and execution of the warrant to release from supervision by the Department of Correction. It is another means for the criminal justice system to reduce case processing time and become more cost efficient.

FUNDING

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	11,093.0	11,753.2	13,044.4
ASF	--	50.0	--
TOTAL	11,093.0	11,803.2	13,044.4

POSITIONS

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	128.0	136.0	141.0
ASF	--	--	--
NSF	4.0	--	2.0
TOTAL	132.0	136.0	143.0

ACTIVITIES

The Office of the Public Defender is responsible for representing each indigent person accused of a crime in Delaware from the inception of a case through its conclusion. To meet this responsibility, attorneys and support staff perform the following activities:

- Intake Services conducts eligibility screening and preliminary factual investigation interviews for incarcerated and non-incarcerated individuals and makes appropriate referrals to psycho-forensic evaluators;
- All personnel use JIC, DELJIS and Public Defender databases to open and close client files and to make necessary entries in the systems to reflect pertinent information;
- Investigators conduct defense investigations of witnesses and/or crime scenes as requested by the assigned attorney;

- Psycho-forensic evaluators develop client-specific plans for conditional pre-trial release and alternatives to incarceration and sentencing; assist in case preparation by providing relevant background information on clients; and develop capital case mitigation evidence for every death penalty case;
- Attorneys and psycho-forensic evaluators make referrals for forensic, psychological, medical or psychiatric examinations and for interpreters or other experts as needed;
- The Forensic Services Education Coordinator provides in-house expert consulting services for cases involving forensic issues, autopsy reports, sexual assault reports, medical records and other scientific studies;
- Attorneys prepare felony cases for trial, post-conviction motions and appeals. Trial or appellate attorneys conduct at least two attorney/client interviews per client;
- Investigators conduct internal polygraph examinations to verify information for use in negotiations with prosecutors;
- Attorneys in the Appellate Unit handle appeals for indigent clients represented by the Public Defender and for those formerly represented by a private attorney at trial who have become indigent as a result of incarceration. They also counsel with trial attorneys to apprise them of those appellate procedures that relate to trial work;
- Technology personnel manage the day-to-day information resources, including network administration, hardware and software support, mainframe systems, video conferencing, programming and computer training;
- Financial personnel provide fiscal management of financial resources including budgeting, recordkeeping, financial reporting, financial transactions, auditing and payroll; and
- Administrative personnel provide supervision of staff, assign cases, coordinate caseloads with court schedules and maintain personnel records.

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PERFORMANCE MEASURES

	FY 2005 Actual	FY 2006 Budget	FY 2007 Gov. Rec.
Appeals closed statewide	77	79	80
Superior Court – average felony caseload per attorney per year	411	388	356
Court of Common Pleas – average misdemeanor caseload per attorney per year	1,391	1,419	977
Family Court – average juvenile caseload per attorney per year	510	478	359
JP Court 20 - average misdemeanor caseload per attorney per year	1,365	1,392	947
Average # of plans produced per psycho-forensic evaluator	167	157	136
Average days from imprisonment to intake interview for incarcerated clients	3.4	2	2
Average days from interview to date client file is opened	1	1	1

Attorney caseloads consist of closed cases, violations of probation (VOPs), amenability hearings, preliminary hearings and capias hearings. Closed cases include trials, pleas, nolle prosequis, dismissals, diversions, probation before judgment, inactive capiases, and mediated cases.

Fiscal Year 2005 attorney averages are based on actual attorneys assigned per court and actual caseloads in each court. Fiscal Year 2006 averages are based on current attorney assignments per court and a projected two percent increase in caseloads. Fiscal Year 2007 averages are based on additional attorneys in each court and a projected two percent increase in caseloads.

BOARD OF PAROLE 15-03-01

MISSION

To protect the public by conducting informed hearings to make careful and equitable parole decisions and credible recommendations to the courts and the Board of Pardons.

KEY OBJECTIVES

- **Public Safety:** Select individuals for transition from prison who will succeed as law-abiding citizens.
- **Victims/Public Input:** Notify 100 percent of crime victims and the public, as required by statute, of hearings at least 30 days prior to hearing and of decisions within ten days of decision.
- **Efficiency:** Hold a number of hearings each fiscal year that will satisfy statutory requirements, utilizing information systems technology to improve the process.
- **Training and Development:** Ensure that all board members and staff are granted at least one training opportunity each fiscal year to improve skills needed to meet the mission.
- **Public Information:** Respond to 100 percent of public information requests within five working days of receipt.

BACKGROUND AND ACCOMPLISHMENTS

The Board of Parole is an independent agency within the Executive Branch of state government, with the chairperson serving as the agency director. Field supervision is conducted by the Bureau of Community Corrections of the Department of Correction.

Under current law, the Board of Parole consists of four members - one from each county plus one from the City of Wilmington - and a chairperson. The Board of Parole is responsible for conducting hearings, making release and revocation decisions, and providing sentence commutation and modification recommendations to the Board of Pardons and the courts. The board also issues warrants and orders, prepares reports for the courts and the Board of Pardons, and decides supervision level changes and early discharges from supervision.

With the exceptions of those offenders serving less than one year and sentences specifically excluded from parole

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consideration by statute, persons committed to the custody of the Department of Correction for crimes committed prior to June 30, 1990 are eligible for release on parole. As of June 30, 2005, 619 offenders were under parole supervision. However, an unknown number of offenders released from prison upon reaching their good-time release date are subject to return before the board for violation of the conditions of release until the maximum expiration date of their sentence. For Fiscal Year 2005, 17 parolees (0.3 percent of parolees in the community) were returned to prison following a hearing by the board for violation of parole.

Under the Truth-in-Sentencing Act, parole was abolished for all offenses committed on or after June 30, 1990. According to Department of Correction statistics, as of September 22, 2005, the number of parole-eligible inmates remaining in prison was 315. However, upon receipt of an application for sentence modification from the Department of Correction which shows "good cause" and certifies that the offender does not pose a substantial risk to the public, the Board of Parole shall hold a hearing to provide the sentencing judge with a recommendation. During Fiscal Year 2005, the board heard 70 cases for parole consideration and 70 cases for sentence modification.

Under Delaware law, the Board of Parole also serves as a review board for the Board of Pardons whenever the Board of Pardons seeks advice from the Board of Parole as to the state of rehabilitation of an individual who has applied for commutation. Thirty commutation cases were heard by the parole board during Fiscal Year 2005.

During Fiscal Year 2005, the board continued its partnership with the Department of Correction, Attorney General's Office and Superior Court to address the issue of prison overcrowding. As a result, 188 offenders were reviewed during the pre-screening process. Of those offenders, 38 were selected to move forward in the sentence modification process.

ACCOMPLISHMENTS

Public Safety: During Fiscal Year 2005, risk assessments were completed on 100 percent of cases considered for parole release; 22 warrants were issued for retaking offenders into custody; and 100 percent of the warrants were issued within five days of request.

Victims/Public Input: Pursuant to 11 Del. C. §9416 (Victims' Bill of Rights), the Board of Parole must inform the victim in writing, of his/her right to address the board in writing or in person and the decision of the board. Also, pursuant to 11 Del. C. §4347, the board shall notify victims and issue public notices of hearings at least 30 days prior to scheduled parole hearings for

inmates convicted of a felony offense and decisions no more than ten days after a decision resulting in parole for the same offender. The board's Victims Input Coordinator arranges for victim input hearings before the board. In Fiscal Year 2005, 25 victims appeared before the board. A total of 218 pre-hearing notifications and 151 post-hearing notifications were sent to victims during this period.

Efficiency: Computer system enhancements have improved the board's response time for completing various operations tasks. Planned improvements include further automation, continued standardization of the processes, and system upgrades.

Training and Development: All board members and staff participated in professional training programs during Fiscal Year 2005.

Public Information: During Fiscal Year 2005, the board partnered with the Department of Technology and Information to standardize its website. The update is expected to be completed in Fiscal Year 2006. The website is maintained to improve public access to information on the role and function of the Delaware Board of Parole.

FUNDING

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	455.3	553.0	586.8
ASF	--	--	--
TOTAL	455.3	553.0	586.8

POSITIONS

	FY 2005 ACTUAL	FY 2006 BUDGET	FY 2007 GOV. REC.
GF	8.0	8.0	8.0
ASF	--	--	--
TOTAL	8.0	8.0	8.0

ACTIVITIES

The following activities represent the strategies used by the board to accomplish the objectives:

Public Safety:

- Conduct risk assessments employing risk-related guidelines when considering offenders for release from prison into the community.
- Issue warrants for the arrest and detention of any paroled or mandatory-released offender who presents a risk to the public.
- Track information with respect to an offender's return to the community and successful discharge.

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Victims/Public Input:

- Provide newspapers and victims with written notification of an offender's hearing date and with the decision resulting from that hearing.

Efficiency:

- Monitor budget to ensure board does not exceed funds allocated.
- Review information-tracking systems annually.

Training and Development:

- Identify appropriate training and development opportunities for staff and board members.

Public Information:

- Respond to all requests for information on Board of Parole functions and activities.

PERFORMANCE MEASURES

	FY 2005 Actual	FY 2006 Budget	FY 2007 Gov. Rec.
% of warrants issued within 5 days of request	100	100	100
% of victim notifications/decisions sent	100	100	100
% of public notices submitted for publication at least 30 days prior to hearing and within 10 days of hearing	100	100	100
% of public information requests answered within 5 working days	100	100	100
# of actions processed	1,290	1,300	1,300