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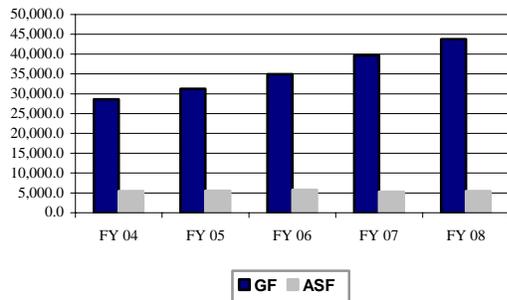
**Legal**

**Office of Attorney General**

**Public Defender**

**Board of Parole**

**Five-Year Appropriation History**



**FUNDING**

	FY 2007 ACTUAL	FY 2008 BUDGET	FY 2009 GOV. REC.
GF	41,614.2	43,751.3	45,590.4
ASF	4,283.0	5,451.1	5,528.5
<b>TOTAL</b>	<b>45,897.2</b>	<b>49,202.4</b>	<b>51,118.9</b>

**POSITIONS**

	FY 2007 ACTUAL	FY 2008 BUDGET	FY 2009 GOV. REC.
GF	440.5	452.5	457.5
ASF	58.9	60.4	60.4
NSF	48.6	47.7	53.7
<b>TOTAL</b>	<b>548.0</b>	<b>560.6</b>	<b>571.6</b>

**Board of Parole**

- ◆ Recommend base funding to maintain Fiscal Year 2008 level of service.

**FY 2009 BUDGET HIGHLIGHTS**

**OPERATING BUDGET:**

**Attorney General**

- ◆ Recommend \$45.4 and 2.0 FTEs for the Criminal Division, Misdemeanor Trial unit to provide six month funding for increased caseloads in Superior Court.
- ◆ Recommend \$94.4 in Contractual Services for increased lease costs and expert witness fees.

**Public Defender**

- ◆ Recommend \$130.0 and 2.0 FTEs to provide six month funding for increased caseloads in Superior Court.

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### OFFICE OF ATTORNEY GENERAL

#### 15-01-01

#### MISSION

To provide successful prosecution of violations of criminal law; provide legal services to State agencies, officials and instrumentalities; and 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 defendants and human rights of the victims.
- Provide timely and accurate information to victims and witnesses regarding the criminal cases that involve them.
- Reduce delays in the resolution of criminal cases.
- Initiate enforcement of the Delaware Nuisance Abatement Act.
- Enforce laws pertaining to youth access to tobacco and enforce the Master Settlement Agreement in an effort to prevent the loss of settlement dollars.
- Provide public accessibility to government documents and meetings under the Freedom of Information Act.
- Protect the interest of abused, neglected and dependent children and enhance the legal services provided to the Division of Family Services.
- Execute the Attorney General's priorities through comprehensive planning, programming and budgeting, and ensure the appropriate distribution of resources.
- Prosecute health care providers who have defrauded or attempted to defraud the Delaware Medicaid program, and recover damages for the program.
- Investigate possible violations of consumer protection laws and enforce the laws through cease and desist orders, consent agreements or filing of civil actions.
- Ensure that registered financial professionals comply with the Delaware Securities Act.

#### BACKGROUND AND ACCOMPLISHMENTS

The Office of Attorney General is organized into six divisions: Criminal, Civil, Family, Fraud, Administrative, 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 and Chief of Staff.

#### 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; provide counseling, support referral, notification and information services to victims and witnesses of crime; and provide legal assistance and training to other law enforcement agencies.

The Criminal Division is responsible for processing criminal cases in Superior Court, Court of Common Pleas, 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, Drug, Sex Crimes, Felony Screening, White Collar Crime, Misdemeanor Trial and Career Criminal. In Kent and Sussex counties, those units are the Felony Trial, Misdemeanor Trial, Felony Screening and Sex Crimes.

The Criminal Division is responsible for prosecuting the great majority of all the criminal cases heard by the Superior Court and the Court of Common Pleas.

#### CIVIL DIVISION

Mission - To provide exceptional, cost effective legal services to State agencies and departments in the best interest of the public.

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. Among other responsibilities, 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 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 environment, contract, tort, civil rights, labor, finance, employment, and administrative law. The Civil Division provides services

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through three working groups: Government Services, Departments and Agencies, and Litigation.

### **FAMILY DIVISION**

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Mission - To protect Delaware's families by prosecuting violations of criminal and civil laws throughout the State in a just and efficient manner which best serves the interest of the public, and which seeks to always protect children and the family.

In Fiscal Year 2007, the Attorney General established a sixth division in the Department of Justice, the Family Division. The Division consists of four units: Child Support, Child Protection, Juvenile Delinquency and Truancy, and Domestic Violence and Child Abuse. The Division was formed by blending employees from both the Civil and Criminal divisions that handle Family Court cases. These legal issues involve child support enforcement, child protective services, juvenile delinquency, and domestic violence cases. The Division has responsibility for handling cases in all courts in the State.

The Family Division, the first of its kind in the nation, will take an aggressive role in enforcing the criminal law as it applies to those who neglect their financial responsibilities toward their families.

### **FRAUD AND CONSUMER PROTECTION DIVISION**

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Mission - To protect the State and its citizens from fraud, unfair and deceptive trade practices; fraud committed by Medicaid providers and abuse, neglect, mistreatment and financial exploitation of infirmed individuals; persons or firms who violate the Delaware Securities Act; and public corruption while ensuring the public benefits from a competitive environment based upon free enterprise.

The Fraud Division continues to provide invaluable 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 understand protections under the relevant laws. Consumer education and outreach efforts are proving successful as demonstrated by the growing demand on the Consumer unit's resources, particularly in connection with victim contact and public education demands. Significant efforts have been invested in the areas of predatory lending and manufactured housing.

The Antitrust unit participates in multi-state antitrust investigations and litigation. Through these multi-state

actions, the unit has been successful in obtaining injunctive and monetary relief for the State and its consumers.

### **ADMINISTRATIVE DIVISION**

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Mission - The Administrative Division is responsible for providing customer-oriented operational support to Department of Justice employees. The 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.

The Division is divided into six units: Human Resources, Fiscal, Supply and Purchasing, Information Technology, Extradition, and Service for Foreign Born.

### **APPEALS DIVISION**

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Mission - To represent the State in criminal appeals in the Delaware Supreme Court, United States Supreme Court and in federal habeas corpus litigation.

The Appeals Division represents the State's interest in criminal and appellate matters, primarily in the Delaware Supreme Court, U.S. District Court, U.S. Court of Appeals, and U.S. Supreme Court.

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. 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 appeal in federal court by prisoners in State custody. Such appeals 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 such as 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 2007 ACTUAL	FY 2008 BUDGET	FY 2009 GOV. REC.
GF	27,438.9	28,440.0	29,614.5
ASF	4,283.0	5,451.1	5,528.5
<b>TOTAL</b>	<b>31,721.9</b>	<b>33,891.1</b>	<b>35,143.0</b>

### POSITIONS

	FY 2007 ACTUAL	FY 2008 BUDGET	FY 2009 GOV. REC.
GF	290.5	299.5	302.5
ASF	58.9	60.4	60.4
NSF	46.6	45.7	48.7
<b>TOTAL</b>	<b>396.0</b>	<b>405.6</b>	<b>411.6</b>

### 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 services to victims of crime.
- Counsel and advise victims of domestic violence and sexual assault.
- Seek additional federal and state funding to aggressively enforce Child Predator laws.
- Increase prosecution and initiatives with the creation of the Family Division.
- Respond to community leaders, legislators and police agencies with community prosecution and crime deterrent initiatives and enforce the Nuisance Abatement Act for drug and social vices.
- Undertake drug 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 budgeting, payroll, clerical, technological and personnel components of the Department.
- Intake, screen and refer consumer complaints.
- 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 2007 Actual	FY 2008 Budget	FY 2009 Gov. Rec.
# of average Superior Court filings per prosecutor	191	179	193
# of average Court of Common Pleas filings per prosecutor	9,096	9,423	8,200
# of average Family Court filings per prosecutor	975	926	925
% of Delaware Supreme Court appeals with State's brief filed within 60 days	100	100	97

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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 maintain its outstanding national reputation and 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 psycho-forensic evaluators (PFEs) to produce a minimum of 60 court plans each 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 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 to prepare their defense.

#### BACKGROUND AND ACCOMPLISHMENTS

The agency enjoys an outstanding national reputation as reflected by the Public Defender's receipt of the American Bar Association's 2006 Dorsey Award; the National Legal Aid and Defender Association's 2006 Reginald Heber Smith Award and the International Association of Forensic Nurses 2005 Vision Award.

The Dorsey Award, which honors an outstanding public defender or legal aid lawyer, is designed to recognize the extraordinary achievements of public defenders or legal aid lawyers and to inform the general public about the outstanding work performed and the positive impact made by our nation's public lawyers.

The Reginald Heber Smith Award celebrates the outstanding achievements and dedicated services of an attorney for contributions made while employed by an organization providing civil legal or indigent defense services. It is one of the highest national awards that a public defender can receive.

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 through 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 in 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 the Board of Parole.

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 interview witnesses; serve subpoenas; collect, preserve and evaluate evidence; and conduct surveillance.

PFEs aid staff attorneys in their representation of clients. PFEs conduct psychological assessments of defendants upon referral by assistant public defenders. The unit provides 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. PFEs also assist attorneys in the hiring, communication and presentation of expert witnesses.

Mitigation specialists perform all PFE functions in death penalty cases and also assist attorneys in the development and presentation of mitigation evidence in death penalty cases. Paralegals assist with case management, document preparation, client and court communication, legal research, as well as attorney schedule maintenance. Other support staff open and assign client files to attorneys and make necessary entries in the JIC, DELJIS and Public Defender database systems.

The Public Defender chairs the Videophone Subcommittee of the Delaware Criminal Justice Council

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(CJC). The Videophone Sub-Committee has authority over the statewide system of videophones. The Public Defender and his employees provide oversight and maintenance at all of the sites. The Public Defender assigned attorneys to videophone locations at Delores J. Baylor Correctional Institution, Delaware Correctional Center, Howard R. Young Correctional Institution, Sussex Correctional Institution and New Castle County Detention Center.

**Administrative Services**

The Administrative Services section contains 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; maintains and processes financial and personnel transactions; and prepares federal and state reports.

**Technology Services**

The Technology Services section is responsible for developing, implementing and maintaining all aspects of computer technology, which includes the statewide CJC videophone system.

The Office of the Public Defender will continue its ongoing 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.

**FUNDING**

	FY 2007 ACTUAL	FY 2008 BUDGET	FY 2009 GOV. REC.
GF	13,627.5	14,658.8	15,316.0
ASF	--	--	--
<b>TOTAL</b>	<b>13,627.5</b>	<b>14,658.8</b>	<b>15,316.0</b>

**POSITIONS**

	FY 2007 ACTUAL	FY 2008 BUDGET	FY 2009 GOV. REC.
GF	142.0	145.0	147.0
ASF	--	--	--
NSF	2.0	2.0	5.0
<b>TOTAL</b>	<b>144.0</b>	<b>147.0</b>	<b>152.0</b>

**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:

- Conduct eligibility screening and preliminary factual investigation interviews for incarcerated and non-incarcerated individuals and make appropriate referrals to PFEs;
- Utilize JIC, DELJIS and in-house databases to open and close client files and make necessary entries in the systems to reflect pertinent information;
- Conduct investigations of witnesses and/or crime scenes;
- Develop client-specific plans for conditional pre-trial release and alternatives to incarceration and sentencing and assist in case preparation by providing relevant background information on clients;
- Develop capital case mitigation evidence for every death penalty case;
- Provide referrals for forensic, psychological, medical or psychiatric examinations, and for interpreters or other experts as needed;
- Provide in-house expert consulting services for cases involving forensic issues, autopsy reports, sexual assault reports, medical records and other scientific studies;
- Prepare felony and misdemeanor cases for trial, post-conviction motions and appeals;
- 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;
- Manage and maintain the day-to-day information resources of the agency including network administration, hardware and software support, mainframe systems, video conferencing, programming and computer training;
- Manage and maintain the statewide videophone system;
- Provide fiscal management of resources including budgeting, recordkeeping, financial reporting, financial transactions, auditing and payroll; and
- Provide supervision of staff, assign cases, coordinate caseloads with court schedules and maintain personnel records.

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### PERFORMANCE MEASURES

	FY 2007 Actual	FY 2008 Budget	FY 2009 Gov. Rec.
# of appeals closed statewide	127	130	133
Average caseload per attorney, per year:			
- Superior Court	419	388	360
- Court of Common Pleas	1,364	1,345	1,029
- Family Court	461	480	374
- JP Court 20 (misdemeanor)	1,047	1,067	726
# of plans produced per PFE	69	69	69
# of days from imprisonment to intake interview for incarcerated clients	3.2	2.0	2.0
# of days from interview to date client file is opened	1.1	1.0	1.0

*Attorney caseloads consist of cases closed during the fiscal year, violations of probation (VOP), 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 2007 attorney averages are based on actual attorneys assigned per court and actual caseloads in each court. Fiscal Year 2008 averages are based on current attorney assignments per court and a projected two percent increase in caseloads. Fiscal Year 2009 averages are based on additional attorneys requested 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 in order to make fair and equitable decisions for the controlled release of offenders and to make 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 the 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 Department of Correction, Bureau of Community Corrections.

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 exception 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, 2007, there were 230 parole-eligible inmates remaining in prison. An additional 197 offenders were under parole supervision in the community. 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 their release. For Fiscal Year 2007, 12 parolees (less than 0.6 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. 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 for a sentence modification. During Fiscal Year 2007, the Board heard 49 cases for parole consideration and 13 cases for sentence modification.

Under Delaware law, the Board of Parole also serves as a review board for the Board of Pardons when the Board of Pardons seeks advice as to the state of rehabilitation of an individual who has applied for commutation. Twenty-one commutation cases were heard by the Board of Parole during Fiscal Year 2007.

**Public Safety:** During Fiscal Year 2007, risk assessments were completed on 100 percent of cases considered for parole release; 23 warrants were issued for bringing offenders back into custody; and 100 percent of the warrants were issued within five days of request.

Pursuant to 11 Del. C. §4348, the Board has jurisdiction over persons upon their conditional release and shall maintain said jurisdiction until the maximum term. As a result of this jurisdiction, the Board conducted status hearings for 60 offenders who were scheduled to be released on their good time within 18 months and had been identified by the Board as high-risk offenders. The purpose of the status hearing is to evaluate the individual being released and make recommendations to ensure that his/her last months of incarceration can be used to better prepare them for transition back into society.

**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. 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. The Board must provide public notice of decisions within ten days of a decision resulting in parole for the same offender. The Board also arranges for victim input hearings. In Fiscal Year 2007, 21 victims appeared before the Board. In addition, 32 victims provided written statements and 6 victims provided statements through telephone interviews. A total of 200 pre-hearing and 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 2007.

**Public Information:** During Fiscal Year 2007, the Board, with the assistance of the Department of Technology and Information, maintained a standardized website. The website provides public access to information on the role and function of the Delaware Board of Parole.

	<b>FUNDING</b>		
	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
	<b>ACTUAL</b>	<b>BUDGET</b>	<b>Gov. REC.</b>
GF	547.8	652.5	659.9
ASF	--	--	--
<b>TOTAL</b>	<b>547.8</b>	<b>652.5</b>	<b>659.9</b>

	<b>POSITIONS</b>		
	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
	<b>ACTUAL</b>	<b>BUDGET</b>	<b>Gov. REC.</b>
GF	8.0	8.0	8.0
ASF	--	--	--
NSF	--	--	--
<b>TOTAL</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>

### ACTIVITIES

- 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.
- Provide public notice announcements to newspapers and victims with written notification of an

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offender's hearing date and with the decision resulting from that hearing.

- Review information-tracking systems.
- Identify appropriate training and development opportunities for staff and board members.
- Respond to all requests for information on Board of Parole functions and activities.

**PERFORMANCE MEASURES**

	<b>FY 2007 Actual</b>	<b>FY 2008 Budget</b>	<b>FY 2009 Gov. Rec.</b>
% 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	1,025	1,200	1,200