

LEGAL 15-00-00

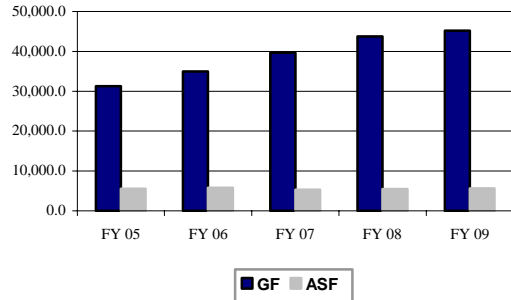
Legal

Office of Attorney General

Public Defender

Board of Parole

Five-Year Appropriation History



FUNDING

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	44,758.8	45,203.8	44,641.5
ASF	4,956.5	5,576.4	6,023.4
TOTAL	49,715.3	50,780.2	50,664.9

POSITIONS

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	452.5	452.0	450.0
ASF	60.4	60.9	64.9
NSF	47.7	53.2	53.2
TOTAL	560.6	566.1	568.1

Board of Parole

- ◆ Recommend (\$3.9) in Strategic Reduction/ Investment Target to identify additional expenditure reductions and/or revenue enhancements necessary due to deteriorating economic conditions.
- ◆ Recommend (\$8.0) in Contractual Services to reflect a reduction in operating expenditures.

FY 2010 BUDGET HIGHLIGHTS

OPERATING BUDGET:

Attorney General

- ◆ Recommend \$143.5 ASF in Personnel Costs and 2.0 ASF FTEs to provide staff for the Retail Property Crime unit.
- ◆ Recommend \$25.0 to support the Delaware Internet Crimes Against Children Task Force.
- ◆ Recommend (\$270.0) in Contractual Services to reflect a 15 percent reduction in pass through funding for family violence programs.

Public Defender

- ◆ Recommend (\$132.4) in Strategic Reduction/ Investment Target to identify additional expenditure reductions and/or revenue enhancements necessary due to deteriorating economic conditions.

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OFFICE OF ATTORNEY GENERAL

15-01-01

MISSION

To fairly and effectively prosecute violations of the criminal law; provide timely and accurate legal services to state agencies, officials and instrumentalities; educate and protect the public against fraud and deceptive trade practices; and, respond to situations that compromise the welfare of families and Delaware's most vulnerable residents.

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.
- Defend convictions and sentences against post-conviction challenges, whether by way of appeal or collateral challenge.
- Initiate comprehensive enforcement of the Delaware Nuisance Abatement Act to re-vitalize properties throughout the State which are havens for drug and vice activities.
- Enforce laws pertaining to youth access to tobacco products and monitor the Master Settlement Agreement to maximize revenues.
- 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 through prosecution of criminal cases and effective enforcement of civil proceedings to determine permanency.
- 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 aggressively enforce consumer protection

laws through cease and desist consent agreements or filing of civil law enforcement actions.

- 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, Family, Fraud, and Administrative. 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.

No matter how one looks at it, crime is increasing at a steady pace. From the period of fiscal years 2000 and 2001 to the period of fiscal years 2007 and 2008, Superior Court arrests have increased 30.9 percent. The increase in misdemeanor crimes has grown faster. The number of new Court of Common Pleas (CCP) criminal filings in Fiscal Year 2007 was 59,157 and in Fiscal Year 2008 it was 62,482, for an increase of 5.6 percent.

The growth in crime affects not only the trial prosecutors, but also the Appellate unit, which defends the convictions on appeal and post-conviction litigation in both state and federal courts. Fiscal Year 2008 has seen the caseload increase by 7 percent over Fiscal Year 2007 and by 18 percent over Fiscal Year 2000.

CIVIL DIVISION

Mission - To provide the best, cost-effective legal services to state agencies and departments to enable them to serve the public interest.

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

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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.

The Delaware Drug Nuisance and Social Vices Abatement Act authorizes the Department of Justice to restrict or seize real properties that experience recurring criminal activity. In conjunction with the community prosecution initiative, the nuisance abatement project potentially serves as a critical deterrent to criminal activity.

In June 2007, there were 50 target locations identified for investigation. Due to the success of this initiative, since March 2008, 119 new target locations have been identified and 20 require aggressive litigation. Many legislators and police agencies throughout the State have approached the office for help and have expressed a keen interest in supporting efforts to help constituents. The Department has been successful in litigating these cases in the courts and efforts have met with discernable success in the crime fight.

FAMILY DIVISION

Mission - To aggressively protect Delaware's families by enforcing child support obligations and neglect cases; prosecuting delinquency, truancy, domestic violence, and child abuse crimes; ensuring compliance with federal and state safe family laws; reviewing and implementing federal and state child support laws; and, prosecuting those who have committed crimes against seniors.

The Family division consists of four units: Child Support, Child Protection, Juvenile Delinquency and Truancy, and Domestic Violence and Child Abuse. Since its inception, the Family division has had to respond to significant external factors that affect workload, such as the change in protection from abuse statute that extends protection past the traditional nuclear family. The Family division, the first of its kind in the nation, plans to take a more aggressive role in enforcing the criminal law as it applies to those who neglect their financial responsibilities toward their families. Pragmatically, the division has joined with the Criminal division in the community prosecution effort.

FRAUD AND CONSUMER PROTECTION DIVISION

Mission - To protect the citizens of Delaware from fraud in its various forms. It protects consumers from fraudulent, unfair and deceptive trade practices. It

enforces laws against Medicaid fraud by health-care providers and nursing homes, including enforcement of the laws prohibiting abuse, neglect, mistreatment, and the financial exploitation of senior citizens. It prosecutes violations of the Delaware Securities Act. It also prosecutes cases involving public corruption. Overall, it strives to provide Delawareans with the advantages brought about by a competitive free-market environment, with sufficient regulation and oversight to prevent abuse, particularly of those least able to fend for themselves.

The Fraud division protects the citizens of Delaware against consumer, securities, Medicaid, welfare, and other instances of fraud, deceptive trade practices and elder abuse.

The Fraud division continues to provide invaluable services to the public through enforcement of laws, comprehensive investigatory practices, aggressive prosecution, and a strong emphasis on community education to ensure that citizens are aware of their rights and understand protections under the relevant laws.

ADMINISTRATIVE DIVISION

Mission - To provide customer-oriented operational support to Department of Justice employees. The division manages fiscal discipline, human resources, information systems, purchasing and supply, facilities, extraditions, public information, legislative and external affairs, and oversees the immigration and naturalization-related services provided to Delaware residents.

FUNDING

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	29,592.6	29,403.8	28,944.9
ASF	4,956.5	5,576.4	6,023.4
TOTAL	34,549.1	34,980.2	34,968.3

POSITIONS

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	299.5	300.0	298.0
ASF	60.4	60.9	64.9
NSF	45.7	48.2	48.2
TOTAL	405.6	409.1	411.1

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.

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- Counsel and advise victims of domestic violence and sexual assault.
- Continue Anti-Child Predator initiatives by seeking additional federal and state funding, and aggressively enforcing child predator laws.
- Increase prosecution and initiatives with the creation of the Family division and its four units.
- 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 2008 Actual	FY 2009 Budget	FY 2010 Gov. Rec.
# of average Superior Court filings per prosecutor	179	193	212
# of average Court of Common Pleas filings per prosecutor	4,162	4,200	4,200
# of average Family Court filings per prosecutor	926	925	1,000
% of Delaware Supreme Court appeals with State's brief filed within 60 days	97	97	100

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 (PFE) 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.

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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 Board of Parole. Public Defender attorneys provided legal representation in almost 50,000 matters in Fiscal Year 2008.

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 Sub-Committee of the Delaware Criminal Justice Council (CJC). The Videophone Sub-Committee has authority over a statewide system of videophones located at 104 sites. The Public Defender and his employees provide oversight and maintenance at all of the 104 sites. The Public Defender assigns 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 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	14,624.6	15,151.1	15,056.8
ASF	--	--	--
TOTAL	14,624.6	15,151.1	15,056.8

POSITIONS

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	145.0	145.0	145.0
ASF	--	--	--
NSF	2.0	5.0	5.0
TOTAL	147.0	150.0	150.0

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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 to make necessary entries in the systems;
- Conduct defense investigations of witnesses and/or crime scenes as requested by the assigned attorney;
- 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;
- 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, which includes over 150 computers through 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.

PERFORMANCE MEASURES

	FY 2008 Actual	FY 2009 Budget	FY 2010 Gov. Rec.
# of appeals closed statewide	93	95	97
Average caseload per attorney, per year:			
- Superior Court	403	387	390
- Court of Common Pleas	1,336	1,363	1,375
- Family Court	483	448	450
# of plans produced per PFE	77	77	77
# of days from imprisonment to intake interview for incarcerated clients	3.8	2.0	2.0
# of days from interview to date client file is opened	0.8	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.

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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. Maintain a website that provides information that will outline the Board's commitment to public safety.

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 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, 2008, the Department of Correction reported that there were 266 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 2008, only one parolee (less than 0.03 percent of parolees in the community) was 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 2008, the Board heard 47 cases for parole consideration and 14 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. Forty-four commutation cases were heard by the Board of Parole during Fiscal Year 2008.

Public Safety: During Fiscal Year 2008, 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 47 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. Recommendations for the appropriate release of 45 of those offenders have been forwarded to the Department of Correction for consideration.

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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 2008, 38 victims appeared before the Board. In addition, seven victims provided written statements and 10 victims provided statements through telephone interviews. A total of 141 pre-hearing and 91 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 and a paperless hearing process.

Training and Development: All Board members and staff participated in professional training programs during Fiscal Year 2008.

Public Information: During Fiscal Year 2008, 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.

FUNDING

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	541.6	648.9	639.8
ASF	--	--	--
TOTAL	541.6	648.9	639.8

POSITIONS

	FY 2008 ACTUAL	FY 2009 BUDGET	FY 2010 GOV. REC.
GF	8.0	7.0	7.0
ASF	--	--	--
NSF	--	--	--
TOTAL	8.0	7.0	7.0

ACTIVITIES

- Conduct risk assessments employing risk-related guidelines when considering offenders for release from prison into the community.

- Request specialized evaluations (psychosexual and Abel assessments, extensive mental health evaluations and psycho-forensic reports) on offenders identified as high risk.
- 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 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

	FY 2008 Actual	FY 2009 Budget	FY 2010 Gov. Rec.
% of warrants issued within 5 days of request	100	100	100
# of victim notifications/decisions sent	450	500	500
# of community outreach activities	65	80	80
% of eligible applicants heard within 3 months	97	100	100
# of actions processed	1,337	1,500	1,500
# of psychosexual/mental health evaluations conducted on offenders identified as high risk	8	25	25