

Office of Defense Services (ODS)



OMB FY'22 Budget Hearing
November 19, 2020



What do we do?

Provide representation to:

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

Right to counsel is guaranteed:

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

The ODS represents

85%

**of justice involved individuals
in Delaware**

Where do we go?

Focus on prevention and re-entry

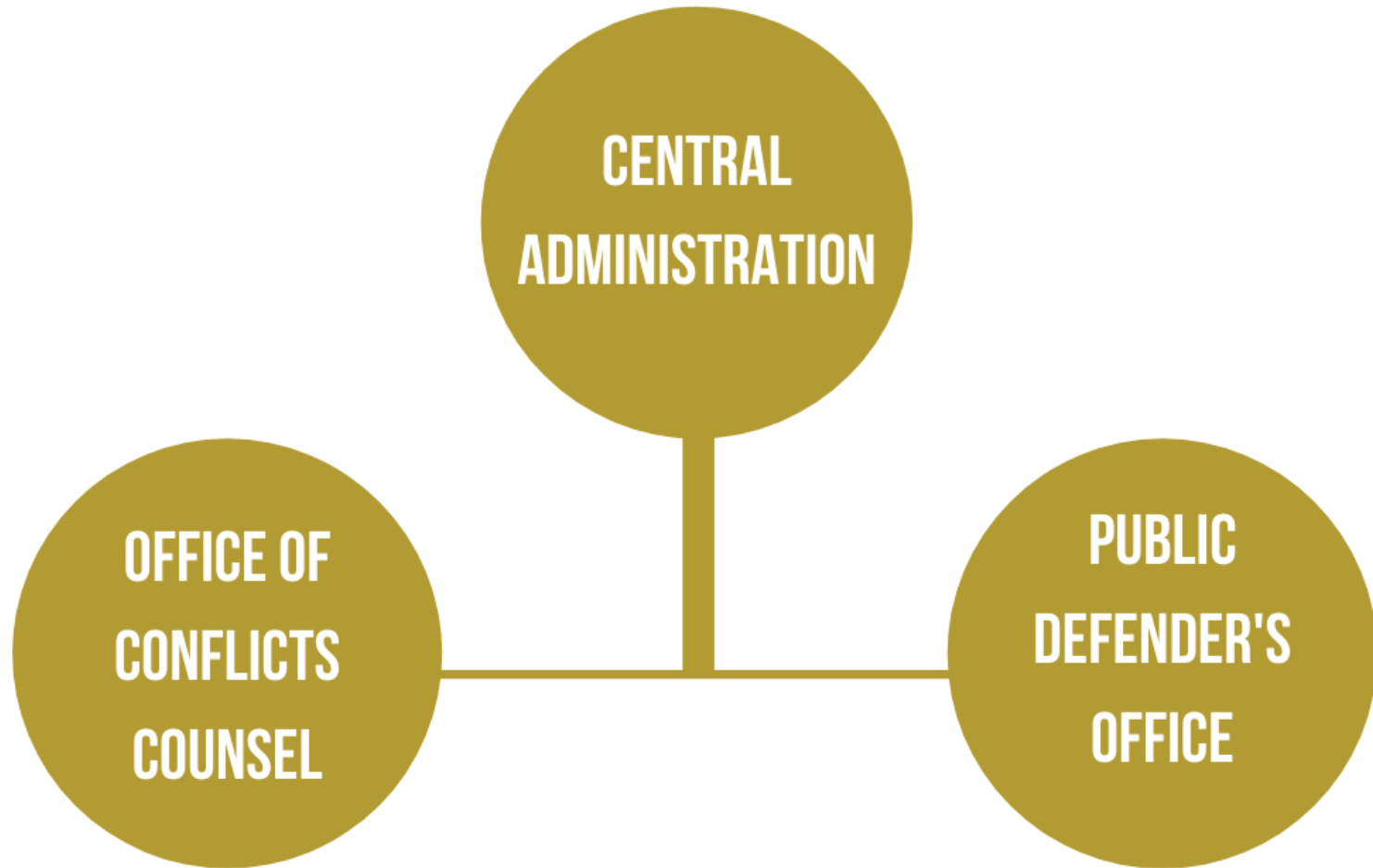
Policy advocacy

Reform efforts

Shift toward holistic defense

Partners for Justice Advocates

Who are we?



Central Administration (CA)

Business operations

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

Public Defender's Office (PDO)

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

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

PDO structure

Defense team consisting of:

Attorneys

Forensic Social Specialists

Mitigation Specialists

PFJ Advocates

Paralegals/Administrative Specialists

Investigators

Outside experts

Office of Conflicts Counsel

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

The OCC staff:

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

OCC continued

Fixed costs for employees

Variable costs on a case-by-case basis:

- Attorneys fees (hourly)

- Necessary services:

 - Experts

 - Investigators

 - Transcripts

 - Other

OCC continued

Outlier cases:

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

Complex cases can be expensive, stressful and time consuming.

e.g. pending racketeering case – 19 defendants, 14 represented by OCC

Cost control measures

The Cost to Defend

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

216 employees

155 FTEs

13 Casual Seasonal Positions

44 Contractors (mainly OCC)

4 Advocates

Future Needs/Unknowns

1. Body worn cameras
2. Initial bail hearings
3. Sentencing reforms

Budget Request for FY'22

Central Administration - \$3,779,700

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

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

Overall total - \$27,408,900

Bottom Line

This budget request is similar to what was presented last year.

The top requests, the Deputy Controller and the Partners for Justice funding, were included in the GRB from earlier this year but removed due to COVID.

Requests

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

Deputy Controller/HR Director

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

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

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

1.0 FTE - \$117,000

Partners for Justice Advocates

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

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

Need an allocation of additional contractual funds to continue the program through the end of FY 22. This funding allows us to expand critical services statewide.

Contractual Funds - \$233,200

Convert OCC Paralegals to FTE

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

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

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

2.0 FTEs - \$100,000

Convert two PDO casual/seasonal clerks to FTE

Complete multiple mail runs between different locations

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

Report to Executive Secretary, perform general office duties and fill critical gaps

Request is to convert current positions to FTEs as Admin. Specialist I

2.0 FTE - \$95,500

Westlaw subscription/Lease increases

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

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

Contractual funds - \$5,644

Replace CISCO port switches

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

Essential to network connectivity

Each switch costs \$17,000

Contractual funds - \$51,000

Convert Contract Forensic Social Specialists (FSS) to FTE

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

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

Rapid turnover has caused an undue burden

Request is the amount needed to convert current positions to FTEs

2.0 FTE \$82,400

Post-disposition Attorney

Limited legal services available for adults after cases have been resolved

Post-disposition attorney would:

- Handle adult expungement matters

- Help plan statewide clinics, promote awareness, educate the public, and answer questions

- May help with pardons, commutations, sentence modifications, registry removal and other collateral matters.

1.0 FTE - \$127,341

Convert Contract Mitigation Specialists to FTE

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

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

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

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

Request is the amount needed to convert current positions to FTEs

1.0 FTE - \$36,400

Conclusion

What we are asking for is not so different than last year's request, including two items that were approved in the previous GRB.

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

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