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Defender System

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**REPORT OF THE PUBLIC DEFENDER
FISCAL YEAR 1990**

GRACE LONESOME

**Annual Report Editing,
Design, and Layout**

State of Maryland
Public Defender System
Statistical Abstract
FY 1990

PDS District	Persons Interviewed	Cases Accepted	Acceptance Ratio (%)
01	79481	45493	57.24
02	9782	5966	60.99
03	4246	3576	84.22
04	4844	4316	89.10
05	23385	12683	54.24
06	17757	12877	72.52
07	5880	5483	93.25
08	14588	12187	83.54
09	3321	2972	87.90
10	6019	5658	94.00
11	6759	5681	84.03
12	1671	1504	90.01

*** Total ***

177793

118396

DISTRICT NO.: 1
Baltimore City

DISTRICT PUBLIC DEFENDER:
Norman N. Yankellow

OFFICES:

201 Saint Paul Place
Baltimore, Maryland 21202

Edward J. Borgerding
District Court House
5800 Wabash Avenue, Room 154
Baltimore, Maryland 21215

District Court Division, 7th fl.
231 East Baltimore Street
Baltimore, Maryland 21202

Eastside District Court
1400 East North Avenue
Baltimore, Maryland 21213

TOTAL DISTRICT POPULATION:	745,000
NO. OF PANEL ATTORNEYS:	
NO. OF DISTRICT COURTS:	13 (8 Criminal, 5 Traffic)
NO. OF CIRCUIT COURTS:	12
NO. OF JUVENILE COURTS:	8 (7 Masters, 1 Judge)
NO. OF STAFF ASSIGNED:	69 Attorneys

The more things change, the more things seem to remain the same. The problems of the operation in District I never change. Last year Jail overcrowding was a primary concern of the Criminal Justice System, but it continues to appear that the other components of the system offer nothing but lip service to alleviate that problem. The States Attorney's Office requests exorbitantly high bails in many of the cases. The Court Commissioners set the bail in accordance with the States Attorney's wishes and the Judges assigned to bail reviews refuse to reduce the bail. The City Jail issues statistical reports indicating the number of days that an inmate has spent at the jail since his commitment date. This report is replete with inmates who have spent one hundred eighty (180) days for charges such as Failure to Appear, Violation of Probation, Escape, and Minor Theft. For years it has been this office's contention, that it is the responsibility of the States

Attorneys Office to monitor the Jail list to insure that any individual who has been incarcerated for more than ninety (90) days be scheduled for a hearing. To the best of our knowledge this has never been done.

Additionally, when defendants appear in Court without an attorney, the States' Attorneys have requested of Judges that the bail of the said individual be revoked "for the convenience of the Public Defender" to interview and accept that individual as a client of the Public Defender's Office.

It has been our experience that Judges are loath to try defendants who appear in court without counsel and frequently insist that the Public Defender's Office provide representation for such individuals with the suggestion that "a fee will be assessed against that individual at the conclusion of the case".

We see no let up in the number of multiple defendant drug cases in which every person at or near the location of the raided premises is charged with a whole series of crimes i.e. Possession of a Controlled Dangerous Substance, Possession with Intent to Distribute a Controlled Dangerous Substance and Conspiracy.

For economic reasons, we have requested of the States Attorney's Office that individual pleas be accepted so that the number of persons actually going to trial be reduced. This suggestion has been refused and the reason advanced for such refusal is the fear that if a defendant is offered and accepts a plea bargain, he will turn around in the Case in Chief and accept responsibility as a major participant to the detriment of the State's case.

In order to alleviate a bottleneck in case scheduling, this office has increased the responsibility of its District Court Staff to provide additional counsel in Violation of Probation Hearings.

As many as five lawyers may be assigned to a particular Circuit Court Judge for Hearings on Violations of Probations.

The Juvenile Courts Division continues to be plagued by the high number of CINA cases in the City of Baltimore and its resultant need for a high number of panel representations. We continue to muddle through, meeting crisis after crisis, and still continue to provide competent legal representation for our clients who we do not consider as a class, but rather as individuals who are entitled to be treated as human beings with respect and dignity.

STATISTICAL SECTION

BALTIMORE CITY

APPLICANTS INTERVIEWED:	79,481
CASES PANELLED:	2,204
APPLICANTS ACCEPTED:	45,493
TOTAL PANEL COSTS:	\$475,223.97
CASES OPENED:	51,343
CASES CLOSED:	53,200

JUVENILE-

Delinquency	7,495
CINA/CINS	

DISTRICT-

Criminal	33,344
Traffic	
VOP	

CIRCUIT-

Felony	2,971
JTP,DCA,VOP	7,533

JUVENILE-

Delinquency	7,368
CINA/CINS	

DISTRICT-

Criminal	33,511
Traffic	
VOP	

CIRCUIT-

Felony	3,815
JTP,DCA,VOP	8,506

FUTURE

This office does not expect any great drop in the number of clients accepted. Rather, it believes that the down turn in the economy will cause an increase in the number of clients accepted. We continue our efforts to provide services more efficiently and at a lesser per case unit cost. Unfortunately, as the last link in the Criminal Justice System, we are required to respond to the effects of more arrests and more charges. The continuing growth of drug-related crimes impacts upon us most severely.

DISTRICT NO.: 2
Dorchester, Somerset, Wicomico, Worcester

DISTRICT PUBLIC DEFENDER:
Robert B. Fine, Esq.

120 East Main Street
Salisbury, Maryland 21801

106 West Market Street
Snow Hill, Maryland 21863

Prince William Street
Princess Anne, Maryland 21853

414 Muir Street
Cambridge, Maryland 21613

TOTAL DISTRICT POPULATION: 165,000

NO. OF PANEL ATTORNEYS: 14

NO. OF DISTRICT COURTS: 5

NO. OF CIRCUIT COURTS: 7

NO. OF JUVENILE COURTS: 4

District #2 is comprised of Wicomico, Worcester, Somerset and Dorchester counties. The District is a large geographic area covering the entire lower Eastern Shore of Maryland.

In FY 1990 District #2 continued to provide quality legal representation and was able to deliver these services in an efficient manner.

WICOMICO COUNTY

The Office is comprised of the District Public Defender, three Assistant Public Defenders, one Intake Supervisor, two Investigators, one Law Clerk, one Administrative Aide and two Law & Legislative Stenographers. Additionally, there is one contractual receptionist. Many of the responsibilities of the Salisbury Office relate to the management of the entire District. Additionally, one of the aforementioned Investigators is currently assigned to assist our Somerset County office in handling the increased caseload as a result of the new prison in Princess Anne,

Somerset County.

The Wicomico County Office again continues to experience exceptional growth in caseload due to the rapid urbanization of the metropolitan Salisbury area. There continues to be a dramatic increase in the amount and seriousness of crime but to the widespread availability and use of the drug cocaine in crack form. Importation of crack into this area appears to be coming from all directions including the adjacent large cities, i.e. Baltimore, Philadelphia and New York and from migrant workers traveling north from Florida.

Our District Office will move into the new State Multi-Purpose Building in October, 1990 and the additional space will be most welcome.

CASELOAD ANALYSIS FOR WICOMICO COUNTY

	<u>1990</u>	<u>1989</u>	<u>Increase</u>	<u>% Increase</u>
<u>STAFF</u>				
Circuit	783	747	36	5%
District	1679	1451	228	16%
Juvenile	163	210	-47	-22%
TOTAL	2625	2408	217	9%
<u>PANEL</u>				
Circuit	29	30	-1	-3%
District	227	293	-66	-23%
Juvenile	1	1	0	0%
TOTAL	257	324	-67	-20%

Again in 1990 Circuit Court and District Court cases increased by 5% and 16% respectively. Despite these increases our panel cases were reduced by 20%.

WORCESTER COUNTY

Our Worcester County office is located in Snow Hill. The staff is composed of two Assistant Public Defenders, one Law & Legislative Stenographer, one Investigator and one part-time (two weeks per month) per diem Assistant Public Defender.

CASELOAD ANALYSIS FOR WORCESTER COUNTY

	<u>1990</u>	<u>1989</u>	<u>Increase</u>	<u>% Increase</u>
<u>STAFF</u>				
Circuit	292	293	-1	0%
District	580	608	-28	-5%
Juvenile	51	40	11	28%
TOTAL	923	941	-18	-2%
<u>PANEL</u>				
Circuit	6	13	-7	-5%
District	738	640	98	15%
Juvenile	5	8	-3	-4%
TOTAL	749	661	88	13%

Worcester County has two Circuit Courts which hears only criminal cases for the first two weeks of the month, and the District Court is in session in Snow Hill or Ocean City every week day (one day per week both Snow Hill and Ocean City are in criminal session). Both staff attorneys need to be in Circuit Court or available to Circuit Court during these two weeks, leave the District Court uncovered, hence the necessity to panel District Court cases. Since our part-time Assistant Public Defender (first two weeks of the month) has been hired in February 1987, paneled case in District Court have increased as our per diem contractual Assistant Public Defender is counted as a panel attorney and those cases assigned to him/her count as panel cases.

Worcester County again experience a small reduction of caseload in the past year. However, panel cases increased by

approximately 13% due to the coverage of the District Court.

DORCHESTER COUNTY

In Dorchester County, the office is located in Cambridge and is staffed by two Assistant Public Defenders and one contractual secretary and one Investigator (beginning in December 1989).

CASELOAD ANALYSIS FOR DORCHESTER COUNTY

	<u>1990</u>	<u>1989</u>	<u>Increase</u>	<u>% Increase</u>
<u>STAFF</u>				
Circuit	440	381	59	16%
District	421	497	-76	-15%
Juvenile	69	67	2	3%
TOTAL	930	945	-15	-16%
<u>PANEL</u>				
Circuit	60	13	47	36%
District	414	206	208	101%
Juvenile	8	22	-14	-6%
TOTAL	482	241	241	100%

Dorchester County continued to show an increase in cases in the past year. Total cases handled increased by approximately 20%. Panel cases increased significantly due to one of our staff attorneys taking extended medical leave.

SOMERSET COUNTY

In Somerset County the office is located in Princess Anne and is staffed by one Assistant Public Defender and one full part-time secretary.

CASELOAD ANALYSIS FOR SOMERSET COUNTY

	<u>1990</u>	<u>1989</u>	<u>Increase</u>	<u>% Increase</u>
<u>STAFF</u>				
Circuit	323	178	145	81%
District	253	242	11	5%
Juvenile	45	27	18	7%
TOTAL	621	447	174	39%
<u>PANEL</u>				
Circuit	25	4	21	53%
District	265	214	51	24%
Juvenile	1	1	0	0%
TOTAL	291	219	72	33%

In the past this county paneled very few cases. However, the almost doubling of Circuit Court cases handled by this office has caused us to panel a significant portion of our District Court cases on a per diem basis.

COST OF PANEL CASES

<u>COUNTY</u>	<u>1990</u>	<u>1989</u>
Wicomico	\$14,832.75	\$14,786.00
Worcester	\$30,399.86	\$30,389.84
Somerset	\$ 6,396.00	\$ 6,138.75
Dorchester	\$24,586.56	\$24,030.65
TOTAL	\$76,215.17	\$75,345.24

Looking back over this past year, District #2 experienced continued growth and was able to continue the delivery of efficient legal services despite the fact that we carried the highest caseload per lawyer in the State. I want to thank all out staff for their professional, dedicated performance and also my thanks go out to the Public Defender and the Deputy Public Defender for their continued support. We look forward to the upcoming year and the challenges and opportunities it presents.

DISTRICT NO.: 3
Queen's Anne, Kent, Cecil, Caroline, Talbot

DISTRICT PUBLIC DEFENDER:
Stefan R. Skipp, Esquire

120 Broadway
Centreville, Maryland 21617

19 Federal Street
Easton, Maryland 21601

170 East Main Street
Elkton, Maryland 21921

110 Franklin Street
Denton, Maryland 21629

115 Court Street
Chestertown, Maryland 21620

TOTAL DISTRICT POPULATION:

NO. OF PANEL ATTORNEYS:	12
NO. OF DISTRICT COURTS:	6
NO. OF CIRCUIT COURTS:	6
NO. OF JUVENILE COURTS:	6
NO. OF STAFF ASSIGNED:	9

INTRODUCTION

Caroline, Cecil, Kent, Queen Anne's and Talbot Counties comprise District three of the Office of the Public Defender. Each of the five counties has its own separate Circuit, Juvenile and District Courts, State's Attorney's office, police agencies and court support systems, such as probation and juvenile agencies.

The Office of the District Public Defender and the administrative office for the entire district are now both located in the Centreville office. Each of the other four counties have offices with resident Public Defenders and staff.

Both Talbot and Caroline Counties have an Assistant Public Defender with a Secretary to handle the entire caseload for District Juvenile, and Circuit Courts. Kent and Queen Anne's

Counties have one Assistant Public Defender with an office and secretary in both counties to handle both county's caseloads. Cecil County started the year with four part-time Assistant Public Defenders but when one Assistant took maternity leave, another full-time Assistant Public defender was assigned to that office. The Office now comprises of two full-time Assistant Public Defenders and three part-time Assistant Public Defenders with three secretaries. There are 4 investigators for the entire district, with 2 in Cecil County and 2 in the Centreville office to service the lower four counties. Due to overwork of secretaries, the investigators in each county do much of the intake work which takes away investigative and case preparation activities.

Since Stefan R. Skipp was appointed District Public Defender on March 21, 1990, all Public Defender activities within the District are coordinated in the Office in Centreville. This Office is staffed by the District Public Defender, the Office Manager, an Assistant Public Defender, a Secretary, and two Investigators. Administrative matters relating to employees of the Office within the District are handled there, as are matters relating to the assignment and payment of "panel attorneys" - private attorney retained on a contractual, per case, basis. Applications for appointment of counsel are made at all five locations and then channelled here for final determination with respect to eligibility.

In cases where eligibility is found to exist, attorney assignments are made by notifying the client and the appropriate Court and State's Attorney. Applicants who do not qualify for representation are promptly notified of that fact and of their right to retain private counsel, similar notice is given to the appropriate Court at the same time. Frequent inquiries are received by the Office from the various Courts, State's Attorney's Police Agencies, and Probation and Juvenile personnel concerning matters involving, or potentially involving, the Office of the

Public Defender. A matter already assigned is referred to the appropriate attorney; otherwise, it is handled by beginning the application procedure, or taking other appropriate action.

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	4246	CASES PANELLED:	601
APPLICANTS ACCEPTED:	3576	TOTAL PANEL COSTS:	\$110,477
CASES OPENED:	3576	CASES CLOSED:	3094
JUVENILE-		JUVENILE-	
Delinquency:	203	Delinquency:	
CINA/CINS:		CINA/CINS:	
DISTRICT-		DISTRICT-	
Criminal:		Criminal:	
Traffic:	2379	Traffic:	
VOP:		VOP:	
CIRCUIT-		CIRCUIT-	
Felony:		Felony:	
JTP, Appeals:	994	JTP, Appeals:	
VOP:		VOP:	

ELIGIBILITY DETERMINATIONS

The factors considered by the District Public Defender in determining eligibility include not only the income and asset resources of the applicant, but the complexity of the case, and the anticipated cost of retaining private counsel in the matter. The District Defender also determines counsel assignment, including whether or not the case should be assigned to panel counsel.

In fiscal 1990, 4,246 applicants were processed in the District. Of those applications, 3,576 were accepted and 670 were denied. This amounts to a rejection rate of 16%. The trends in this regard can be seen by reference to figure 1:

Acceptance v. Denials

	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>	<u>1985</u>
Applications	4246	3682	3605	3750	3333	3076
Accepted	3576	3167	2760	3192	2832	2632
Denied	670	515	845	558	501	444
Rejection rate	16%	16%	30%	15%	15%	14%

Persons whose applications have been rejected by the Office are advised that they may seek further review of their application by the District Public Defender, or by the Court before whom their case is pending. All applicants are now advised if they wish further review of their application they should first contact two private attorneys in an effort to arrange terms for private representation. This plan not only encourages the applicant to seek counsel in the marketplace, but also provides the District Public Defender with constant update of fees being charged by the private bar. If the applicant is unsuccessful in this endeavor, he is usually offered an opportunity to obtain the services of the Public Defender on a contractual basis, i.e., the client agrees to reimburse the Office for its services, regardless of the outcome of the case, and usually on a time payment plan which is commensurate with his assets and income.

It should be noted that the amount which the client agrees to reimburse the Public Defender's Office is based, not upon the cost of providing counsel to the client, but upon the prevailing rate for comparable services in the marketplace. This serves two objectives. Initially, it encourages the client to seek private counsel on a similar time payment basis. Secondly, it insures that the Office of the Public Defender is not, in effect, competing with private counsel in the marketplace by providing attorneys to criminal defendants at a severely discounted rate, even though those defendants may ultimately be able to pay for the services of their attorneys.

CASELOAD ANALYSIS

The Office has accepted 3,576 cases in the past year. The distribution of those cases by county is set forth, and compared to previous years, in the following Figure:

New Case Distribution:

	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Caroline	560(16%)	625(20%)	551(20%)	617(19%)	510
Cecil	1455(40%)	1311(41%)	1098(40%)	1340(42%)	1235
Kent	313(09%)	255(08%)	326(12%)	302(09%)	272
Queen Anne's	564(16%)	429(14%)	299(11%)	370(12%)	349
Talbot	<u>684(19%)</u>	<u>547(17%)</u>	<u>486(18%)</u>	<u>563(18%)</u>	<u>466</u>
Total	3576	3167	2760	3192	2832

The overall caseload in the District has increased by 13% over last year. This increase is due to standardized and more objective eligibility determination. The 1990 caseload is further broken down by County and by court as follows:

	<u>District</u>	<u>Circuit</u>	<u>Juvenile</u>	<u>Total</u>
Caroline	413	125	22	560
Cecil	962	424	69	1455
Kent	214	74	25	313
Queen Anne's	348	162	54	564
Talbot	<u>442</u>	<u>209</u>	<u>33</u>	<u>684</u>
	2379(66%)	994(28%)	203(6%)	3576

While Cecil county still accounts for a large portion of the total District (40%), the growth of caseload in Cecil county over the last 5 years has actually been the slowest of the 5 counties.

Since staff assignments are divided comparably between Cecil County and the remaining four lower counties, it is appropriate to compare caseload trends between those two areas. The following

figure sets forth the distribution of new cases in Cecil County and in the combined lower 4 counties:

New case Distribution: Cecil v. Lower Counties

	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>
Cecil	1455(40%)	1311(41%)	1098(40%)	1340(42%)	1235(44%)
Lower Co.	2121(60%)	1856(59%)	1662(60%)	1852(58%)	1597(56%)

It is clear from the statistics set forth above that the lower 4 counties continue to account for a large share of the total caseload in the District. This fact, coupled with the large number of courts and vast areas to be covered in the lower 4 counties explains the proportionally high usage of panel attorneys in the lower counties.

PANEL ATTORNEYS

Cases assigned to panel in 1990 represented 17% of the total caseload. The trends in this area are reflected in the following figure:

	Panel Share of Caseload					
	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>	<u>1985</u>
Total new cases	3576	3167	2760	3192	2832	2632
Assigned to panel	601	814	496	602	342	303
Panel % of total	<u>17%</u>	<u>26%</u>	<u>18%</u>	<u>19%</u>	<u>12%</u>	<u>12%</u>
\$ paid out to panel	110,477	78,962	60,470	38,386	21,918	18,690

Although there was a marked decrease in the percentage of panel cases, the amount paid out to panel attorneys increased. this can be explained by the increase of fees paid to panel attorneys accounting from July 1989 and to the fact that both Caroline and Talbot Counties were without staff public defenders because of a vacancy and leave of absence leaving all cases in those Counties having to be paneled for several months. also, with no other staff attorneys available to pick up conflicts of interest

and scheduling conflicts, no alternative to paneling exists.

COSTS RECOUPMENT

Through court ordered reimbursement, or contracts entered into with clients, the District office is able to recoup some funds for the State of Maryland each year. It must be noted that these funds are returned directly to the General Fund and are credited neither to the District 3 Budget, nor to the funds allocated to the State Public Defender's Office. In Fiscal 1990, District 3 was able to recoup \$14,833.00 for return to the State General Fund.

FUTURE

It is believed that changes in the distribution of personnel have lead to a greater decentralization of the operation of the District, providing more local communication between the Court, clerical staff, and local Assistant Public Defenders. Shorter processing time of applications, earlier applications, and local availability of counsel to clients should serve the Courts and our clients better.

DISTRICT NO.: 4
Charles, Calvert, St. Mary's

DISTRICT PUBLIC DEFENDER:
William R. Walter

Courthouse, Room 237 20646 Courthouse, Room 208
La Plata, Maryland 20646 Prince Frederick, Maryland 20678

Carter Building, Room 1069
B. O. 19
Leonardtown, Maryland 20650

TOTAL DISTRICT POPULATION:	235,443
NO. OF PANEL ATTORNEYS:	15
NO. OF DISTRICT COURTS:	4
NO. OF CIRCUIT COURTS:	6
NO. OF JUVENILE COURTS:	3
NO. OF STAFF ASSIGNED:	16 1/2

CHARLES COUNTY

Staffed by DPD and three APD's, Administrative Aide, 2 Secretaries, 1 contract clerk-typist, 1 P.D. Aide and 1 Investigator. The PD Aide and the Investigator both work 2 days a week in Calvert County. We have three Circuit Courts and two District Court. For the last few years there has been a growing increase in crime in this county, especially drug cases, murder cases and robbery cases. A new shopping Mall, one of the largest on the East Coast was opened this year in Waldorf. The opening of this Mall is expected to generate a spurt of additional housing developments and accelerate the already-high rate of population growth and crime in the County. The increase in crime already experienced from the rapid population growth of the County over the last few years has created quite a burden on our limited staff--sometimes they are scheduled to be in Circuit, District and Juvenile Court all on the same day and at the same time. It is almost impossible to handle the extra burden of two more courtrooms

with our present staff.

District--

Criminals:	939
Traffic:	296
VOP:	95

Circuit--

Felony	418
JTP/App:	110
VOP:	47

Juvenile--

Delinquent:	185
CINA/CINS:	35

Charles County represented approximately 47% of the Caseload for the District this fiscal year.

CALVERT COUNTY

The Calvert County Public Defender Office is staffed by one Assistant Public Defender and one Secretary. We use a PD Aide and Investigator from Charles County 2 days a week.

Juvenile

Delinquent:	80
CINA/CINS:	0

District

Criminal:	334
Traffic:	260
VOP:	44

Circuit

Felony:	177
JTP/App.	145
VOP:	44

Calvert County represented approximately 25% of the caseload this fiscal year.

ST. MARY'S COUNTY

The St. Mary's Office is staffed by three Assistant Public Defenders, One Secretary and one Part-time Law Clerk and one Investigator.

Juvenile

Delinquent: 78

CINA/CINS 27

District

Criminal: 598

Traffic: 164

VOP: 24

Circuit

Felony: 197

JTP/App: 120

VOP: 37

St. Mary's County represented approximately 28% of the case load this fiscal year.

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	4844	CASES PANELLED:	135
APPLICANTS ACCEPTED:	4316	TOTAL PANEL COSTS:	\$18,684.46
CASES OPENED:	4450	CASES CLOSED:	4253
STAFF:	97%	PANEL:	3%
Average Panel Atty. Fee:	\$222.00		
Avg. Case Per Month:			
Accepted per Staff Atty.:	54		
Fees or Fee Agreement:	\$22,881.00		

DISTRICT NO. 5
Prince George's County

DISTRICT PUBLIC DEFENDER:
E. Allen Shepherd, Esq.

Main Administrative Office
15050 Buck Lane
Upper Marlboro, Maryland 20772

Juvenile Court Division
Court House
Upper Marlboro, Maryland 20772

Maryland District Court
Court House
Upper Marlboro, Maryland 20772

Maryland District Court
County Service Building
5012 Rhode Island Avenue
Hyattsville, Maryland 20782

TOTAL DISTRICT POPULATION:	719,880
NO. OF PANEL ATTORNEYS:	105
NO. OF DISTRICT COURTS:	10
NO. OF CIRCUIT COURTS:	13
NO. OF JUVENILE COURTS:	3
NO. OF STAFF ASSIGNED:	28

The Office of the Public Defender in District No. 5 is finally noticing a levelling off in the caseload in Prince George's County after many years of large increases. Tightening of eligibility requirements and a levelling in the number of arrests both contribute to this trend.

In the District Court, the Office of the Public Defender entered appearances in 6784 cases. Staff attorneys handled 58.1% of these cases. Per-diem attorneys covered court rooms when necessary. A large percentage of the caseload continues to be drug related.

The number of cases handled in the Juvenile Division remains constant. Circuit Court Judges sit in Juvenile Court on a rotating basis. Most Judges retain cases for further proceedings. This practice means that on any given day juvenile cases can be set on

as many as four different floors of the court house in front of many different judges. A per-diem attorney is usually utilized to cover the cases that are scattered throughout the court house.

The State's Attorney's Office continues to indict as many juveniles as possible. Circuit Court attorneys handle reverse waiver hearings in Juvenile Court when appropriate.

The Circuit Court staff continues to carry a heavy caseload. In F.Y.'90 only 1.5% of Circuit Court cases were panelled because of overload. Conflicts resulted in the panelling of another 12.8%.

The Office of the State's Attorney seeks enhanced and mandatory sentences in almost every possible case, forcing many cases to trial, that might have otherwise been resolved.

Notice of Intention to Seek the Penalty of Death was filed in two cases in F.Y.'90. Both cases are pending trial at this time. A case was remanded from the Court of Appeals and is pending re-sentencing. Another case was complete at the trial level and is pending appeal.

The State also filed Notice of Intention to Seek Life Without Parole in six cases where death penalty was not appropriate or not sought.

Two attorneys were moved from District Court to Circuit Court at the beginning of F.Y.'90 to facilitate handling the heavy caseload without large panel costs.

District No. 5, at the close of F.Y.'90, had a dedicated staff of sixty-one employees. The twenty-eight staff attorneys include a District Public Defender, a Deputy District Public Defender and twenty-six full time Assistant Public Defenders. The office staff includes an Administrative Specialist, four Stenographer-Law and

Legislative, three Office Secretaries, and one Office Assistant. The Public Defender Aide staff consists of seven full-time permanent Public Defender Aides, four full-time contractual Public Defender Aides and two part time contractual Public Defender Aides. Two Intake Supervisors, four Investigators, two Legal Assistants and three full time contractual Law Clerks complete the support staff.

The attorney staff increased by four from the previous fiscal year. All attorneys were permanent employees by year end. The additional attorneys allowed the office to reduce the Circuit Court cases panelled due to overload to 57 cases. The only other addition to the staff during F.Y.'90 was one full-time Public Defender Aide to assist with intake procedures.

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	23,385	CASES PANELLED:	4,060
APPLICANTS ACCEPTED:	12,683	PANEL COSTS:	\$518,569.48
CASES OPENED:	12,683	CASES CLOSED:	12,542
JUVENILE-			
Delinquency:	1675		
CINA/CINS:	346		
DISTRICT-			
Criminal:	5056		
Traffic:	1390	VOP:	338
CIRCUIT-			
Felony:	2432		
JTP, Appeals:	614	VOP:	833

FUTURE

As F.Y.'91 begins, District No. 5 has been allotted new positions for attorneys, secretaries, investigator, and intake staff. These new positions will alleviate overloading at all

levels.

The panelling of cases will continue to be reduced in F.Y.'91 therefore reducing the expenditure of funds for panelled cases.

District No. 5 expects to relocate all Upper Marlboro offices to the new Prince George's County Justice Center in F.Y.'92. This move will provide a more cohesive operation.

District No. 5 completed a successful F.Y.'90 providing quality legal representation to the indigent through the team work of a dedicated staff.

DISTRICT NO.: 6
Montgomery

DISTRICT PUBLIC DEFENDER:
J. Theodore Wieseaman

27 Courthouse Square	8675 Georgia Avenue
Rockville, MD 20850	Silver Spring, Maryland 20910

TOTAL DISTRICT POPULATION:	750,816
NO. OF PANEL ATTORNEYS:	133
NO. OF DISTRICT COURTS:	9 (at two locations)
NO. OF CIRCUIT COURTS:	13
NO. OF JUVENILE COURTS:	2
NO. OF STAFF ASSIGNED:	30 Attorneys in 27-1/2 positions

MONTGOMERY COUNTY

In FY 90 District 6 experienced a leveling out of the high rate of caseload increase. After a 51% increase in the preceding three years, there was a 3% increase in FY 90. Indicted cases and Jury Demands/District Court Appeals each decreased 2%. Juvenile cases increased 33%.

The most significant factor affecting the low rate of the caseload increase in Montgomery County was change in the handling of drug offenses. There was a 17% decrease in narcotics cases from FY 89 to FY 90 after a phenomenal 61% increase from FY 88 to FY 89. A massive effort by the police and the community has substantially reduced the drug trade conducted in open air markets in the county. Local corrections and police officials believe that the drug trade has been driven underground. Police now must use more labor intensive methods to arrest drug dealers resulting in fewer overall drug arrests and fewer arrests of small time dealers who tend to be our clients. The wealthy drug dealers are not found eligible for P.D. representation. The State's Attorney's office did not receive an attorney staff increase proportionate to the

increase in narcotics offenses and tough prosecution policies became unenforceable. In FY 90 the State's Attorney began more carefully screening narcotics cases. Montgomery County also instituted a diversion program for minor drug offenders with a strong emphasis on evaluation, treatment, and education. Accordingly many of these cases never reached our office.

There were other less significant factors which contributed to the caseload slowdown. Montgomery County instituted a diversion program for first offender DWI's which removed some of those cases from the courts. All staff and panel attorneys were required to explain in writing why a jury demand was made. Although in practice there is no such thing as an "instant jury trial" in Montgomery County, the threat of one may have motivated some clients to try their cases in District Court.

Offsetting the decrease in narcotics cases was the 33% increase in our juvenile caseload. In an effort to cope with this increase we added an additional attorney to our juvenile staff and we used an experienced well-respected panel attorney who worked approximately 1-1/2 days per week on a per diem basis. The juvenile caseload exploded primarily because of the legislative changes and the administrative interpretations by J.S.A. of Sect. 3-810 of the Courts and Judicial Proceedings Article. The changes in law and policy have caused many juvenile cases which used to be handled informally at intake by J.S.A. to be petitioned by the State's Attorney. Cases we used to never see are now a regular part of our caseload. Juvenile cases also tend to have a high percentage of conflicts present. Another factor in the increase was the Department of Social Services greater emphasis on CINA investigations. We will need to assign another attorney to juvenile court in FY 91 to handle the rapidly increasing caseload.

Montgomery County has the highest number of non-English speaking clients in the State. Although we have been fortunate to

recently add three Spanish speaking attorneys to our staff, we are in urgent need of Spanish speaking investigators, intake workers, and other support staff. With the opening of the District Court in Silver Spring where a large portion of our Spanish speaking clients reside, we must have a Spanish speaking employee to staff that location.

We face FY 91 short several investigators and with no law clerk positions. This short staffing forces each felony trial attorney to do the work traditionally done by support staff. Although the dedicated staff of District 6 has always been able to handle its caseload and provide quality representation while maintaining high standards of professionalism, our greatest test will occur in FY 91.

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	17,757	CASES PANELLED:	1,401
APPLICANTS ACCEPTED:	12,877	PANEL COSTS:	\$548,765
CASES OPENED:	12,977	CASES CLOSED:	12,512

MONTGOMERY:

JUVENILE-

Delinquency:	728
CINA/CINS:	786

JUVENILE-

Delinquency:	682
CINA/CINS:	968

DISTRICT-

Criminal:	5,067
Traffic:	2,546
VOP:	702

DISTRICT-

Criminal:	5,327
Traffic:	2,154
VOP:	0

CIRCUIT-

Felony:	1,499
JTP, Appeals:	953
VOP:	599

CIRCUIT-

Felony:	2,022
JTP, Appeals:	1,296
VOP:	0

DISTRICT NO.: 7
Anne Arundel

DISTRICT PUBLIC DEFENDER:
Alan R. Friedman

60 West Street
Annapolis, Maryland 21401

580 Taylor Avenue
Annapolis, Maryland 21401

7500 Ritchie Highway
Glen Burnie, Maryland 21061

TOTAL DISTRICT POPULATION: 432,500

NO. OF PANEL ATTORNEYS: 63

NO. OF DISTRICT COURTS: 2 LOCATIONS - 8 JUDGES

NO. OF CIRCUIT COURTS: 1 LOCATION - 9 JUDGES

NO. OF JUVENILE COURTS: 3 MASTERS - 1 JUDGE

NO. OF STAFF ASSIGNED: 13

During Fiscal 1990, District Seven was staffed by the District Public Defender, Deputy District Public Defender, twelve Assistant Public Defenders, an Office Manager, six secretaries, an Intake Supervisor, four Investigators, one full time law clerk and two part-time law clerks. This staff level remains unchanged from Fiscal 1989.

Despite the strict enforcement of the Office of the Public Defender's Eligibility Policy, the caseloads for staff attorneys, in the District and Circuit Courts continues to far exceed the minimum standards set by the National Advisory Commission Criminal Justice Standards and goals. In fact, a recent State audit commended the District's Intake and Investigative Staff's consistent application of this Policy to insure that only those applicants who meet the eligibility requirements are accepted for representation. In an attempt to maintain manageable caseloads, yet still provide for representation for those rejected by this office the District Public Defender and the County Bar Association are developing a "grey" panel of private attorneys who are willing

to accept such cases at reduced rates.

These policies and practices help maintain a manageable caseload for the OPD office and insure that those who do qualify for OPD services can receive the time and attention that their case deserves. A unique situation does, however, arise in our Juvenile Court, where application of the Eligibility Policy results in a large number of juveniles not receiving assistance from our office. The staff attorney in that Court, who also serves as the Deputy District Public Defender, has more than a decade of experience with such cases and often provides guidance and counseling even though the juvenile is not formally accepted as an OPD client.

In the Circuit Courts, the application of the mandatory sentence provisions of the drug law, has resulted in an increased number of cases going to trial. Fortunately, in many of those cases, our staff attorneys have been able to secure acquittals on those charges which would trigger mandatory sentences. This increase in the number of trials could have caused a serious overload on our staff were it not for the strict monitoring of applications from prospective clients.

Our inability to provide a staff assistant in each courtroom operated by the District Court continues to be a cause for concern. The District Public Defender, while sharing this concern, has attempted to balance the need for attorneys in this court with demands on our Circuit Court staff and the commitment to conduct the District's operations within budget allocations. Thus, the resolution of this problem must await allocation of additional staff.

While the district has been able to receive suitable offices at both the Annapolis and Glen Burnie District Court locations, our main office in Annapolis has been housed in the same space since 1975. The number of people working in that location has more than

doubled and the working area is now 46% below the minimum standards set by the Department of General Services. We are hopeful that the coming fiscal year will bring approval of our request to expand into adjoining space.

Despite heavy caseloads and severe overcrowding, District Seven has been able to continue to provide quality representation because of the commitment and dedication of our attorneys and support staff. Their efforts, which begin early in the morning and continue far into the evening, are uniformly recognized and praised by all those in the criminal justice system in Anne Arundel County.

In those cases where a conflict arises between clients, the District utilizes the services of panel attorneys. Again, this Anne Arundel County fiscal year, our panel costs (\$7,378.69) were extremely low, averaging less than \$100 per case. We have been able to recoup more than three times these expenses through our District collection of fees from clients, which totalled, \$22,605.

Unfortunately, the close of Fiscal 1990 also saw the departure of the District Public Defender, whose leadership over the past eleven years established the tradition of excellence that has marked the District's operations, and the Office Manager, who has served the District since its creation, and whose efforts were the key to its day-to-day operation.

Fortunately, District Seven's loss is the entire Office of the Public Defender's system's gain and the District Staff is looking forward to working with the new State Public Defender and his administration.

STATISTICAL SECTION

INTERVIEWED: 5880	CASES PANELLED: 80
ACCEPTED FOR SERVICES: 5483	TOTAL PANEL COSTS: \$7378.69
CASES OPENED: 5483	CASES CLOSED: 54
JUVENILE-	JUVENILE-
Delinquency: 214	Delinquency:
CINA/CINS: 18/5	CINA/CINS:
DISTRICT-	DISTRICT-
Criminal: 2549	Criminal:
Traffic: 1039	
VOP: 97	VOP:
CIRCUIT-	CIRCUIT-
Felony: 742	Felony:
JTP, Appeals: 392/8	
VOP: 419	VOP:

FUTURE

With the continued cooperation of the entire staff, District Seven will continue to be a model of efficiency despite adverse working conditions. The District's main office is looking forward to approval of its request for additional office space so that attorneys will not have to share offices and our support staff will have adequate areas to serve our clients.

We remain committed to strict enforcement of the Eligibility Policy to insure stabilized caseloads in the absence of additional staff attorneys. However, we recognize that prosperous economic conditions in Anne Arundel County may have played a part in helping control the number of new cases. A downturn in the economy will undoubtedly put pressure on our system and we may again find ourselves looking at an increased number of qualified applicants for our services.

DISTRICT NO.: 8
Baltimore County

DISTRICT PUBLIC DEFENDER:
Thomas J. Saunders

500 Virginia Avenue
Towson, Maryland 21204

TOTAL DISTRICT POPULATION:	680,691
NO. OF PANEL ATTORNEYS:	122
NO. OF DISTRICT COURTS:	12
NO. OF CIRCUIT COURTS:	14
NO. OF JUVENILE COURTS:	2
NO. OF STAFF ASSIGNED:	22

We are seeing moderate increases in District and Juvenile court cases, with additional dockets and court days developing in Essex and Towson locations. Additionally the county has begun instant jury trials which has resulted in the reassignment of staff to handle an additional courtroom.

Circuit court remains stable in sheer numbers of opened cases but the numbers of capital cases and mandatory sentencing cases cause ongoing staffing problems. This unit maintained records for the last fiscal year which show that we expended approximately 4500 staff attorney hours in capital litigation alone, and we expect that commitment to continue rising unless the State's Attorney's Office changes their policies.

Despite the pressures of major litigation and the opening of two new courtrooms at District Court this unit expended 95.1% of its budgeted allocation for per diem and fee petitions saving \$16,136.98.

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	14,588		
CASES PANELLED:	7,661		
APPLICANTS ACCEPTED FOR SERVICES:	12,187		
TOTAL PANEL COSTS:	\$311,863.02		
CASES OPENED:	12,187	CASES CLOSED:	10,843

JUVENILE-

Delinquency:	1063
CINA/CINS:	162
VOP:	23

JUVENILE-

Delinquency:	775
CINA/CINS:	116
VOP:	15

DISTRICT-

Criminal:	5068
DWI:	561
Traffic:	980
VOP:	563

DISTRICT-

Criminal:	3943
DWI:	456
Traffic:	754
VOP:	386

CIRCUIT-

Felony:	720
JTP, Appeals:	1955
VOP:	1093

CIRCUIT-

Felony:	800
JTP, Appeals	2375
VOP:	1223

FUTURE

Our expectation is that capital cases will increase and consume over 6000 attorney hours in FY 91 and result in substantial expenditures for investigations, experts, etc. As presently budgeted we will manage again this year to meet budget limitations while providing competent service to the clients and the courts.

DISTRICT NO.: 9
Harford County

DISTRICT PUBLIC DEFENDER:
Henry C. Engel, Jr.

2 South Bond Street,
Bel Air, Maryland 21014

TOTAL DISTRICT POPULATION: 181,000

NO. OF PANEL ATTORNEYS:	20
NO. OF DISTRICT COURTS:	3 (2 locations)
NO. OF CIRCUIT COURTS:	4
NO. OF JUVENILE COURTS:	1
NO. OF STAFF ASSIGNED:	5 Staff Attorneys 1 Contract Attorney

Fiscal year 1990 saw an increase in the caseload of our District and it would appear that this is a trend that will continue. As the County keeps getting less rural in its character and more suburban, and even urban, the nature of our criminal activity is also changing. We have noticed a small decrease in crimes against property but a big jump in serious crimes against person. In the course of the year, our office was involved in ten homicide cases, including one capital punishment case, ten rape and serious sex offense cases, 17 child abuse cases and 23 aggravated assaults with intent to maim, murder, rape or rob. These types of cases tend to require more work in the preparation on the part of both the attorneys and the investigators in that there are more witnesses to contact and more crime scenes to visit and less availability of client for interviews due to the fact that most of them are incarcerated.

As the County has grown, so have the seven principal law enforcement organizations located within our borders. A multi-force drug enforcement team has been organized and some results from their efforts are beginning to be seen. The drug traffic

through the County in the I-95, Rt. 40, etcetera, transportation corridor has also had its impact. Although in some cases it is hard to see that the charge is justified, possession with intent to distribute is becoming a very common charge even where quantity and packaging would indicate that it should be a misdemeanor case. As a result, these cases, many with multiple defendants, many non-English speaking, are going to the Circuit Court and in many instances presenting true conflicts between the parties charged. DWI enforcement has become a "crusade" with Harford County police agencies and dispositions are becoming less lenient. Plea bargaining is also becoming more difficult as the State's Attorney's Office has become more aware of mandatory sentences and enhanced punishment situations.

As it became more apparent that the increasing caseload was creating a burden upon our staff, coupled with changes in scheduling situations in both the Circuit and District Courts, and each judge's desire to have his own private Public Defender stationed in his courtroom at all times, several emergency meetings were scheduled with representatives from our office, the Courts, the State's Attorneys Office, and the Public Defender and his Deputy. As a result, we were assigned an additional contract attorney on October 1, 1989 to assist in managing the District Court caseload. This helped considerably and enabled us to begin to substantially reduce our overload paneling to a point that the end of the year saw little but conflicts going to panel attorneys. It is also becoming more and more difficult to obtain competent panel attorneys to handle our cases, even though we try to keep the most difficult in staff, because of the budget constraints and the unrealistic fee structure paid by our office. For the first time it became necessary to go outside of the District to obtain some panel assistance and the results have not been totally satisfactory. We closed the fiscal year with the staff consisting of the aforementioned contract attorney, five staff attorneys, an office manager-Administrative Specialist II, two Office

Secretaries, an Office Assistant, one full-time and one part-time Investigator, and one Law Clerk, Senior. whose primary function was as an intake specialist. Of the attorneys, two opted to continue with their private practice and left us on June 30th, one after 17 1/2 years service with this office after his transfer from the State's Attorney's Office.

HARFORD COUNTY

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	3381	CASES PANELLED:	470
APPLICANTS ACCEPTED:	2972	TOTAL PANEL COSTS:	\$27,837.94
CASES OPENED:	3044	CASES CLOSED:	2863

OPENED

CLOSED

JUVENILE-

Delinquency: 182
CINA/CINS: 9

JUVENILE-

Delinquency: 169
CINA/CINS: 1

DISTRICT-

Criminal: 1027
Traffic: 660
VOP: 198

DISTRICT-

Criminal: 1061
Traffic: 561
VOP: 170

CIRCUIT-

Felony: 282
JTP, Appeals: 446
VOP: 240

CIRCUIT-

Felony: 281
JTP, Appeals: 387
VOP: 233

Review of the statistical information would indicate that when 80 interviews for other districts are added, our intake people interviewed 230 additional clients when compared to the prior year and accepted 306 more cases and declined 156 less. Our panel and per diem assignments increased by 158 and the fees paid to panel

and per diem attorneys increased by \$1725.00. Our staff attorneys managed to close 173 more District Court cases than the prior year and 77 more Circuit Court cases, establishing new highs in both areas. In spite of our efforts, the number of cases on hand increased by 181 to 1328 at the end of the fiscal year.

FUTURE

The coming year should be a year of transition for District 9 as several new attorneys and support staff members should be joining us. At this point, it would appear that our caseload will continue to increase and, as part of the increase, more difficult cases will develop. We have been promised an austere, but adequate, budget to do our job and hopefully, we will be able to acquire some additional equipment, including computer hardware, to allow us to perform more efficiently. Our district has always strived to provide the highest quality of service to our clients at the least possible cost to the State and it is my belief that we can continue, as we have for the past many years of our existence, to operate within our budgetary constraints. We are facing the prospect of staffing an additional District Court and, within the year, an additional Circuit Court judge is being requested from the legislative delegation. We also plan to continue our involvement in educational programs for school students, Community College students, police agencies and others and participate in various community activities to enhance the image of the Office of the Public Defender. We have been quite impressed by the quality of the new attorneys that we have interviewed that we expect to join our staff, as well as two expected additions to our wonderful support staff, both clerical and investigative--intake.

DISTRICT NO.: 10
Howard and Carroll Counties

DISTRICT PUBLIC DEFENDER:
Carol A. Hanson, Esq.

OFFICES:

3451 Courthouse Drive
Ellicott City, MD 21043

55 North Court Street
Westminister, Maryland 21157

TOTAL DISTRICT POPULATION: 314,000

NO. OF PANEL ATTORNEYS:	25
NO. OF DISTRICT COURTS:	6
NO. OF CIRCUIT COURTS:	7
NO. OF JUVENILE COURTS:	2
NO. OF STAFF ASSIGNED:	10

District 10 experienced an overall increase in caseload of 17% this year. Both Howard and Carroll Counties continue to grow rapidly. In addition to the population increase, the character of the counties is becoming less and less rural. Howard County, in particular, has seen a substantial increase in violent crimes including murders. The nature of the caseload, especially the felony cases, has become increasingly complicated with substantial preparation required, including investigations, consultations with experts and pretrial research for motions and trial.

The State's Attorney's Offices continue to press for mandatory, no-parole sentences and are less likely to plea bargain in high profile cases.

HOWARD COUNTY

The staffing levels in Howard County for 1990 remain the same as for 1989:

6 Attorneys 1 Intake Worker 2 Secretaries

2 Investigators 1 Law Clerk 1 Receptionist

Statistics reveal a significant increase in all types of cases in this county, with a nineteen percent increase in caseload overall (see appendix for complete figures). Population growth, increasing urbanization and more vigorous prosecution all impact the number and types of cases being handled by the office.

In Howard County, the prosecution maintains a special unit of attorneys and support staff for drug cases. In contrast, our office cannot afford the luxury of such specialization due to staffing limitations.

The State has adopted a policy of seeking the death penalty in all death eligible cases regardless of obvious mitigation. This policy severely impacts on our office in that all potential death penalty cases are extremely time consuming.

Cases involving conflicts of interest continue to account for the vast majority of panel cases. Although less experienced panel attorneys are readily available, it is increasingly difficult to find panel attorneys for serious cases. This is due to the panel attorney pay rate of \$30 an hour in court and \$35 an hour out of court. Many local attorneys indicate to me that this is not even sufficient to cover the overhead involved when they take a case. If the panel attorney rate remains the same, the quality of services to the indigent accused may be adversely affected.

CARROLL COUNTY

The staffing levels in Carroll County for 1990 have increased since 1989:

4 Attorneys 1 Investigator 2 Secretaries
1 Clerk Typist 1 Legal Assistant

The State's Attorney in Carroll County also maintains a specialized unit for drug cases which our office is unable to accommodate.

STATISTICAL SECTION

APPLICANTS INTERVIEWED:	6,019	CASES PANELLED:	299
APPLICANTS ACCEPTED:	5,658	PANEL COSTS:	\$75,991.34
CASES OPENED:	6,019	CASES CLOSED:	5,747

Howard County

JUVENILE-

Delinquency: 213
CINA/CINS: 16

DISTRICT-

Criminal: 1,159
Traffic: 715
VOP: 127

CIRCUIT-

Felony: 507
JTP, Appeals: 347
VOP: 154

Carroll County

JUVENILE-

Delinquency: 212
CINA/CINS: 29

DISTRICT-

Criminal: 811
Traffic: 339
VOP: 33

CIRCUIT-

Felony: 302
JTP, Appeals: 508
VOP: 155

FUTURE

Concerns for the future include office space availability in Howard and Carroll Counties to accommodate the increased staff made necessary by the growing caseload, the retention of highly qualified and experienced panel attorneys to provide quality representation of our clients, and the allocation of resources required by increasingly complicated and more numerous felony cases. Additional storage space is a pressing need in Carroll County.

Additional training in Search and Seizure law is necessary to defend drug cases where the prosecutors have specialized units. In Carroll County, forfeiture has become a frequent component of plea agreements in criminal cases and training in forfeiture law is also needed.

Appendix

<u>District</u>	Howard	Carroll	Total
1989	1,673	1,049	2,722
1990	2,001	1,183	3,184

<u>Circuit</u>	Howard	Carroll	Total
1989	889	753	1,642
1990	1,008	965	1,973

<u>Juvenile</u>	Howard	Carroll	Total
1989	165	294	459
1990	246	255	501

<u>Overall</u>	Howard	Carroll	Total
1989	2,727	2,096	4,823
1990	3,255	2,403	5,658

Howard Statistics

District	20% increase
Circuit	13% increase
Juvenile	49% increase
Overall	19% increase

Carroll Statistics

District	13% increase
Circuit	28% increase
Juvenile	13% decrease
Overall	15% increase

Total District Stats

District	17% increase
Circuit	20% increase
Juvenile	9% increase
Overall	17% increase

DISTRICT NO.: 11
Frederick and Washington Counties

DISTRICT PUBLIC DEFENDER:
William R. Leckemby, Jr.

OFFICES:

100 West Patrick Street
Frederick, Maryland 21701

100 West Franklin Street
Hagerstown, Maryland 21740

TOTAL DISTRICT POPULATION:	271,611
NO. OF PANEL ATTORNEYS:	15
NO. OF DISTRICT COURTS:	4
NO. OF CIRCUIT COURTS:	6
NO. OF JUVENILE COURTS:	2
NO. OF STAFF ASSIGNED:	7 1/2 3 50% Contractual

There has been a 38.2% increase of population within the District in the last decade. Frederick City, being the third largest city in the State, increased 42.9% and Hagerstown's population grew by 3.8%. Cases opened by this District increased 135% within the same time period and cases closed more than doubled. For the same time period District #11 gained three full time attorneys, one staff part time and one 50% contractual attorney. Support staff grew by one 50% contractual Public Defender Aide, one Secretary, and two 50% employees.

The major focus of criminal activity of Frederick and Washington County remains on the drug and drug related crimes. This past year we have seen specific targeted operations: Operation Crackdown, Zero Tolerance, Multi Agency Drug Task Force, State Police Task Force, and Reverse Sting Operations, with each operation concentrating on it's own goal, i.e., one arrest per day, the seller, the buyer. Frederick remains an "Open Drug Market" at it's public housing facilities and Washington County shows an

increase in the influx of controlled dangerous substances, in particular, crack.

FREDERICK COUNTY

Personnel at the District Office include the District Public Defender, three Assistant Public Defenders and one 50% contractual Assistant Public Defender. Support staff consists of one Investigator, one Public Defender Aide, one full time Steno Law and Legislative, one part time Office Secretary II and one full time contractual Office Secretary I. From last Fiscal Year, the office has increased by one 50% contractual attorney and one contractual Office Secretary I. In comparison the State's Attorney's Office has hired 13 additional persons.

The amount of felony jury trials are on the rise as the repeat offenders are facing a mandatory sentence without parole. The Courts are considering treatment as an alternative or with, sentencing, therefore, extensive paperwork and time is required to fulfil the bed dates for our clients.

WASHINGTON COUNTY

Washington County staff increased by one Public Defender Aide and a part time clerical position became full time.

This County has three DoC facilities as well as the local Detention Center. The institutions create a unique problem wherein if an inmate is involved in a violent infraction, he is transported to another facility, usually in Baltimore, as well any witnesses may be dispersed throughout the system. This creates a logistical and time-consuming problem for the attorneys and investigators to prepare for trial with their caseload. Requests for inmate interviews for other District Offices continue to keep the investigators busy.

The Office is finding that with the creation of the Jail Substance Abuse Program and the Courts willingness for treatment, the follow up necessary on cases is extensive. When the Court recommends the program or any other treatment program for a defendant, the attorney files a motion to be held sub curia until such time that the person successfully completes his treatment. Approximately 50% of the cases are then returned to the Court for a determination of modification of sentence.

STATISTICAL SECTION

APPLICANTS INTERVIEWED: 6759
 APPLICANTS ACCEPTED: 5681
 CASES OPENED: 5681

CASES PANELLED: 716
 PANEL COSTS: \$75,375.66
 CASES CLOSED: 5320

FREDERICK COUNTY:

JUVENILE-

Delinquency: 275
 CINA/CINS: 52

DISTRICT-

Criminal: 989
 Traffic: 581
 VOP: 140

CIRCUIT-

Felony: 592
 JTP, Appeals: 114
 VOP: 103

WASHINGTON COUNTY:

JUVENILE-

Delinquency: 149
 CINA/CINS: 118

DISTRICT-

Criminal: 952
 Traffic: 500
 VOP: 96

CIRCUIT-

Felony: 386
 JTP, Appeals: 170
 VOP: 209

FUTURE

To look ahead, the District needs to supplement it's attorney staff as well as the necessary support staff to continue providing

competent and professional representation. The staff has done a commendable job working within the constraints of increased caseloads, lack of personnel and sharing of equipment. Additional telephone lines and equipment, desks, and computers are necessary for staff to maintain a prideful atmosphere and to perform their duties.

DISTRICT NO.: #12
Allegany, Garrett Counties

DISTRICT PUBLIC DEFENDER:
Michael R. Burkey, Esquire

ASSISTANT DISTRICT PUBLIC DEFENDER:
John R. Toston, Esquire

ASSISTANT PUBLIC DEFENDER:
James P. Donahue, Jr., Esquire

OFFICES:

59 Prospect Square
Cumberland, Maryland 21502

105 South Second Street
Oakland, Maryland 21550

TOTAL DISTRICT POPULATION: 102,000

Allegany County
Garrett County

74,000
28,000

NO. OF PANEL ATTORNEYS:

Allegany County
Garrett County

7
2

NO. OF DISTRICT COURTS: 3

NO. OF CIRCUIT COURTS: 3

NO. OF JUVENILE COURTS: 3

NO. OF STAFF ASSIGNED: 3

District #12, comprising the two westernmost counties of Maryland, was staffed by the Office of the Public Defender in FY 1990 by two full-time staff attorneys and one contractual Assistant Public Defender, one full-time attorney in each of the counties comprising the District. The District Public Defender, one full-time secretary, one investigator and one part-time secretary comprised the staff of the Cumberland Office, while an Assistant Public Defender, one secretary, and one part-time investigator comprised the Oakland office.

The District has, as indicated in the population section above, a relatively small population, however, Garrett County is largely tourist industry oriented and many persons, not residents, reside there during the summer and winter months; this, of course, reflects in the caseload of Garrett County. Both areas are otherwise somewhat economically depressed, though recent developments by federal and state officials may beneficially affect the economy. One effort by the Federal government to locate a medium and minimum security prison in Allegany County is already underway and though the economy, again, will benefit, this office will likely see a considerable increase in activity. Further efforts to located a state penal facility here will have even greater affect on caseload.

The caseload of 1,426 has been divided as follows:

District Public Defender	505 closed
Cumberland Assistant Public Defender	41 closed
Assist Public Defender (Garrett County)	<u>353</u> closed
Total Staff	899 closed

The number of staff cases closed constituted a little better than 63% of the total caseload. Of the remaining 527 cases, 252 were closed by a per diem attorney at \$14,300 or at \$56.00 per case. The remaining 275 cases were closed by the nine panel attorneys at a cost of \$28,470.75, an average of less than \$105.00 per case. The full caseload analysis is attached hereto.

A further breakdown by type of case, court and county is as follows:

ALLEGANY COUNTY

Juvenile	DELQ./VOP	34
	CINA/CINS	<u>44</u>
	Total	78
District	CRIMINAL	510
	TRAFFIC	208
	VOP	<u>49</u>
	Total	767
Circuit	FELONY	79
	JURY TRIAL	78
	VOP	14
	APPEALS	<u>12</u>
	Total	183

GARRETT COUNTY

Juvenile	DELQ./VOP	35
	CINA/CINS	<u>11</u>
	Total	46
District	CRIMINAL	165
	TRAFFIC	112
	VOP	<u>12</u>
	Total	289
Circuit	FELONY	49
	JURY TRIAL	9
	VOP	3
	APPEALS	<u>2</u>
	Total	63

With FY 1991 came the addition of a full-time Assistant Public Defender and the loss of an 80% contractual attorney, so the District anticipates little change in the number of cases paneled. With the addition of the full-time Assistant District Public Defender came significant logistical problems - there is no office located in the present quarters for the new attorney. Two attorneys, the District Public Defender and the new Assistant Public Defender, have to share a single desk and one must leave while the other interviews clients - obviously an intolerable

situation. The problem was previously averted by the use of the part-time (80%) staff attorney who used his private office. An immediate remedy is necessary and efforts are now being made to acquire additional office space. The real need of District #12, at present, is to expedite this acquisition.

STATEWIDE SERVICE DIVISIONS

DIVISION
Inmate Services Division

DIVISION CHIEF
Dene L. Lusby

201 Saint Paul Place, 3rd Floor
Baltimore, Maryland 21202

ANNUAL REPORT

The Inmate Services Division of the Office of the Public Defender is responsible for providing indigent inmates with legal representation in a wide range of collateral post-trial proceedings; i.e., post conviction applications, parole revocation, habeas corpus proceedings (including extradition), interstate and intrastate detainers and requests for credit for time spent in prison prior to trial and sentencing. Informally, without recourse to litigation, the Division also involves itself in resolving complaints and personal problems of inmates as the result of incarceration. In appropriate circumstances such matters are referred to the Prisoners Assistance Project of the Legal Aid Bureau, Inc. and to the Maryland Inmate Grievance Commission. Referrals are made to the Legal Aid Bureau of civil matters where the Office of the Public Defender does not have the authority or jurisdiction to afford representation pursuant to Article 27A of the Annotated Code of Maryland. Referrals are made to the Inmate Grievance Commission of complaints of an administrative nature about conditions of confinement and incarceration.

The staff of the Inmate Services Division consists of eight attorneys, three secretaries, one legal assistant, six law clerks and a receptionist. The Division occupies the third floor of the Public Defender Building at 201 Saint Paul Place in Baltimore City. With statewide responsibility, the Division conducts its business in all 23 counties and Baltimore City. The day-to-day operation of the Division involves it extensively with the District Public Defender offices, the State Judiciary at all levels, the Maryland

Parole Commission (and the parole authorities of other states), the Maryland Division of Parole and Probation and the Maryland Division of Correction.

Maryland's burgeoning prison population manifests itself increasingly in the Inmate Services Division workload, which has grown 75% in the past three years, 50% in the past two years. The average post conviction attorney caseload is 121. Serious consideration must be given to an increase in staff.

POST SENTENCE ASSISTANT UNIT

A subdivision of the Inmate Services Division, the Post Sentence Assistant Unit, (PSAU) located at the Maryland Reception, Diagnostic and Classification Center in Baltimore City, provides inmates newly received into the Division of Correction with information regarding post-sentence remedies and detainers by means of individual interviews conducted upon request of the inmates. The PSAU also facilitates statewide public defender operations related thereto by providing coordinating legal services, assists mentally handicapped inmates who may require or qualify for alternative commitment, and develops and reports data relevant to statewide sentence profiles. In Fiscal Year 1990 the Unit provided orientation to 9,670 inmates, and provided individual consultation to 3,338 inmates. Upon arrival at the Reception Center inmates are furnished an orientation booklet composed and printed by the Office of the Public Defender, which set forth the processes and procedures involved in appeals, review and reconsideration of sentence, post conviction petitions and requests for speedy trials under the Intrastate and Interstate Detainer Acts. The Unit is staffed by an attorney, a legal assistant, three law clerks. It is essential that a secretarial position be added as soon as possible.

POST -SENTENCE ASSISTANT UNIT
ANNUAL ACTION SUMMARY
July 1, 1989 through June 30, 1990

Appeals:

District Court	94
Circuit Court	143
Post Convictions	23
Sentence Modification/Review	496
Interviews Pending Charges (Referrals to OPD)	521
Other PSAU Actions	<u>4,552</u>
Subtotal of Above	5,829
Inmate Orientation	9.670
Inmate Consultation	<u>3,338</u>
Total PSAU Actions	18,837

FISCAL YEAR 1990 INMATE SERVICES DIVISION STATISTICS

Post Convictions	861	950	974	837
Habeas Corpus	1	2	1	2
Parole Revocation Hearings	18	909	883	44
Referrals to Legal Aid	0	21	21	0
Civil Grievances	0	71	71	0
Referrals from Legal Aid	0	5	5	0
Referrals Other than District #1	0	327	327	0
Extraditions	<u>9</u>	<u>3</u>	<u>2</u>	<u>10</u>
Total	889	2285	2282	893

Application for Leave to Appeal - 8

DIVISION
Appellate Division

DIVISION CHIEF
Dennis M. Henderson

201 St. Paul Place
Baltimore, MD 21202

The Appellate Division has statewide responsibility for all appellate litigation involving Public Defender clients and provides research and consultation on legal issues for staff and panel attorneys throughout the twelve Public Defender Districts. The Division also publishes a monthly Digest which contains a cumulative summary of all reported Maryland appellate court and U. S. Supreme Court opinions relating to criminal law as well as comments and articles on procedure, trial tactics and changes in rules of procedure and criminal statutes.

The Appellate Division staff consists of sixteen lawyers, nine secretaries, one investigator, three law clerks and two part-time Xerox machine operators.

During the past four years the Appellate Division caseload has risen nearly 30 per cent with the greatest increase occurring during the last year. From Fiscal Year 1987 to Fiscal Year 1990 the number of cases opened has grown from 833 to 1137, an increase of 304 cases. The caseload last year rose by 173 cases. The brunt of this dramatic increase in new cases has been felt in the form of sharply climbing individual caseloads for appellate staff lawyers. No new attorney positions have been added to the Division since 1984. From that time until the present the number of appeal cases assigned annually to staff has risen from 42 per attorney to 64 per attorney. These figures do not include petitions for writ of certiorari. Staff attorneys provide representation in about 90 per cent of the cases with the balance handled by panel and pro bono representation. There is no indication that the number of new appeals will not continue to increase during the next several

years. These growing demands can no longer be met without making provision for additional staff lawyers and increased panel attorney funds.

Although there were important U. S. Supreme Court decisions in two Appellate Division cases during the year, it was not a year of significant case law development in the Court of Special Appeals and Court of Appeals. The Supreme Court in Department of Social Services v. Bouknight, 493 U.S. ____ (1990) held that where a child in CINA proceedings cannot be located, the child's parent may be compelled on pain of contempt to reveal the child's location. In Maryland v. Buie, 110 S.Ct. 1093, (1990) the Supreme Court announced new search and seizure law in holding that police may conduct a protective sweep of a dwelling following a lawful arrest when they have a reasonable, articulable suspicion that the house is harboring a person who poses a danger to those on the arrest scene. The Court of Appeals filed opinions in three death penalty cases during the year, reversing the conviction and ordering a new trial in Robert Bedford v. State, 317 Md. 659 (1989), vacating the death sentence and ordering a new sentencing in Kirk Bruce v. State, 318 Md. 706 (1990), and affirming the conviction and sentence of death in Kenneth Collins v. State, 318 Md. 269 (1990). Six additional capital cases were pending on appeal at the close of the fiscal year.

Appellate Division attorneys have continued to provide support in other areas. The Public Defender Library Review Committee under the direction of and staffed by Appellate Division members completed a statewide analysis of library and research resources presently existing in the Public Defender system and submitted a detailed report containing recommendations intended to guide the development of an adequate and comprehensive library and legal research system to meet the needs of all Public Defender districts and divisions. Appellate staff members also provided continuing legal education programs at the statewide Public Defender conference held in Ocean City last November and are developing

similar programs for this Fall's conference. Division attorneys, in addition, conducted training sessions that were requested to assist particular units on specific topics.

Plans for Fiscal Year 1991 include the development of a more extensive computer-based research system for the Division. Such a system will be made possible by the installation of new computer/word-processing equipment that will be compatible with a wide range of research resources and also with individual computers presently being used by staff members and PC equipment being installed in Public Defender offices throughout the state.

FISCAL YEAR 1990 APPELLATE STATISTICS

	<u>STAFF</u>	<u>PANEL</u>	<u>TOTAL</u>
Cases open as of 7/1/89	793	57	850
Case Referrals Received	1202	---	1202
Referrals Rejected at Intake	111	---	111
Cases Opened in FY 1990	1005	132	1137
Cases Closed in FY 1990	802	122	924
Cases Open as of 6/30/90	996	67	1063

Certiorari Review

Total Options

Reviewed.....	628
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Certiorari Petitions Filed in Court of Appeals:

Petitions Pending as of 7/1/89	62
Petitions filed FY 1990	90
Petitions granted	52
Petitions denied	61
Petitions pending 6/30/90	39

Certiorari Petitions Filed in U.S. Supreme Court:

Petitions pending as of 7/1/89	1
Petitions filed FY 1990	1
Petitions granted	0
Petitions pending as of 6/30/90	2

DIVISION
Mental Health Division

DIVISION CHIEF
George M. Lipman

231 East Baltimore Street
Baltimore, Maryland 21202

Attorneys from this division represent clients civilly committed to mental institutions and criminal clients in cases where mental health and like issues are present. The civil commitment representation takes place at hospitals throughout the state and in related court proceedings. Regarding criminal cases, division staff assist virtually every district and division in the Public Defender system and appear in cases from the Court of Appeals through the Circuit Courts to the District and Juvenile Courts.

General civil commitment cases constitute the greatest volume. There are scheduled civil commitment dockets weekly or bi-weekly at three large facilities - Springfield, Spring Grove and Crownsville. In addition, there were thirty smaller hospital hearing locations during the last fiscal year, usually with weekly scheduled hearings.¹ The need to provide representation at these numerous locations throughout the State defines much of the staffing pattern of the division.² In addition to the Central Office in Baltimore, four satellite offices are maintained at

¹These hospitals include: Brooklane, Calvert Memorial, Carter Center, Chestnut Lodge, Clifton T. Perkins, Eastern Shore, Finan Center, Franklin Square, Frederick Memorial, Gundry, Highland Health, Johns Hopkins, Leland, Liberty-Ashburton, Liberty-Liberty Heights, McCready, North Arundel, Psychiatric Institute of Montgomery County, Prince George's General, St. Mary's Co., Sheppard Pratt, Sinai, Southern Maryland, Taylor Manor, University, Upper Shore, Veteran's Administration, Washington Adventist, Washington County, Waterside.

²The staff of twenty includes the Chief Attorney, Deputy Chief Attorney, a Chief Investigator, Office Manager, 5 Assistants, 5 Investigators, 4 Secretaries and a Paralegal. In addition per case, per docket and per hospital, "panel attorneys" are utilized.

Springfield, Spring Grove, Crownsville and Clifton T. Perkins Hospitals.

During the 1980's the Health Department reduced bed capacity at the large state hospitals and transferred patients to smaller public and private facilities. Likewise, general hospitals with excess medical beds expanded psychiatric units and accepted involuntary patients. While the number of the division's involuntary civil commitment clients has remained relatively constant during the last decade, between 6,000 and 7,000 clients per year, increased hearing locations required additional staff. In fiscal year 1988, there was an expansion of the division's professional staff to accommodate these increased hearing locations. At present, the civil commitment hearing schedule appears relatively constant. Only a few new hospital locations appear contemplated for this fiscal year and can be accommodated by current staff.

While stability may have been achieved in the civil commitment area, demands upon this division's staff and for mental health expert witnesses continue in the criminal area. Death penalty litigation proceeds with ever increasing sophistication by both the defense and prosecution. The constitutional mandate for the defense to pursue mitigation has necessitated a continual need for expert witnesses and mitigation specialists of all sorts - psychiatrists, psychologists, neurologists, social workers, sociologists, pharmacologists, etc. The state's expanded use of forensic evidence, eg. DNA and the like, have necessitated more staff time in investigating these areas as well as the utilization of non-mental health experts, eg. microbiologists, pathologists, etc.

The last few years have witnessed case law developments clarifying the admissibility of mental health evidence, increased awareness of mental health issues by district staff attorneys,

limited forensic bed space in state facilities and an apparent higher incidence of irrational behavior caused in part by more powerful drugs. Tougher positions by State's attorneys and mandatory sentences have decreased plea bargaining and increased trials. These factors have combined to heighten demand for mental health division staff and expert witness time. The management challenge for this division as well as district operations is to effectively concentrate time and expert witness resources on the most appropriate cases.

As in past years, division attorneys have continued to address legislative committees, the Rules Committee of the Court of Appeals, Executive Branch and Health Department policy groups and professional associations regarding issues in this area. At long last, it appears that computers are on order for the regional hospital offices, which should not only simplify statistics gathering, word processing etc., but should allow us to save time in searching our clients mental health history and provide valuable demographic material for study regarding the characteristics of persons committed to mental hospitals in Maryland.

FY 1990 MENTAL HEALTH DIVISION STATISTICS

I. CIVIL COMMITMENTS

Patient Contacts at Hospital

Large State Facilities

Observation Status 2,592

Six Month and Annual 884

Smaller Facilities 2,888

TOTAL 6,364

Cases Concluded Without Hearing:

Released Prior to Hearing

Large State Facilities 523

Smaller Facilities 0

TOTAL 523

Voluntaries

Large State Facilities 1,387

Smaller Facilities 1,554

TOTAL 2,941

Other

Large State Facilities 28

Smaller Facilities 66

TOTAL 94

Hearings

Released:

Large State Facilities 111

Smaller Facilities 335

TOTAL 446

Retained:

Large State Facilities 1,421

Smaller Facilities 939

TOTAL 2,360

GRAND TOTAL 6,364

JUDICIAL HEARINGS

Dorseys, Judicial Release, Violation of Conditional Release Hearings	196
Juvenile	39
Other	<u>116</u>
TOTAL	351

FY 1990 MONTHLY STATISTICS - REGIONAL HOSPITALS

	Spring Grove	Springfield	Crownsville
July, 1989	102	106	68
August, 1989	94	178	63
September, 1989	108	130	65
October, 1989	94	139	63
November, 1989	68	143	75
December, 1989	71	96	54
January, 1990	97	121	47
February, 1990	96	144	62
March, 1990	112	139	89
April, 1990	91	136	61
May, 1990	107	141	54
June, 1990	110	107	45
TOTAL	1,150	1,580	746
GRAND TOTAL	<u>3,476</u>		

FY 1990 MONTHLY STATISTICS FOR EACH HOSPITAL

	Jul	Aug.	Sep	Oct	Nov	Dc	Jn	Feb	Mar	Ap.	May	Jn
Univer.	13	17	9	7	17	22	9	16	20	23	27	17
Carter Center	11	17	20	25	29	29	21	25	34	22	42	31
Taylor Manor	6	3	11	6	7	5	9	12	4	5	6	8
Chestnut Lodge	2	2	2	2	3	1	4	0	2	2	6	3
PIMC	8	20	10	7	22	9	13	2	8	9	13	6
Sheppard Pratt	16	20	27	29	30	32	22	28	17	26	27	32
Wash Adv	10	10	9	7	10	3	12	4	7	7	8	8
Leland	14	9	10	10	8	11	5	9	11	15	10	9
P.G. Gen	14	5	14	10	12	17	12	8	4	14	5	6
Sth. Md.	7	4	4	5	4	5	1	4	5	4	1	5
Water- side	0	1	0	1	0	3	0	2	2	0	1	0
McCreedy	2	0	0	0	0	0	2	0	0	0	0	0
Franklin Square	5	9	6	3	7	3	8	1	5	4	8	6
VA	0	1	2	0	0	2	2	1	2	1	0	0
Gundry	3	8	6	2	1	3	6	1	9	3	4	9
Brook- lane	0	0	1	0	0	0	0	0	1	0	0	0
Wash Co.	1	1	0	1	1	0	0	0	2	4	3	1
Fred. Mem.	0	2	2	1	3	2	0	1	0	4	1	1
Finan	0	0	59	1	6	0	47	0	48	0	0	0
North Arundel	3	10	4	3	3	5	4	9	8	6	7	8

FY 1990 MONTHLY STATISTICS FOR EACH HOSPITAL

	Jly	Aug	Sep	Oc.	Nv.	Dc.	Jan	Fb	Mar.	Apr	May	Jun
Upper Shore	10	12	11	9	13	9	12	0	0	0	0	0
Calvert Memorial	0	6	2	0	3	2	0	0	0	0	2	0
Sinai	3	2	3	5	2	5	1	1	4	1	0	4
Liberty	0	0	4	0	0	0	1	1	0	1	2	5
Liberty Ash.	5	8	2	2	9	7	11	9	8	15	6	4
Johns Hopkins	5	2	5	2	5	4	8	4	6	3	4	6
Eastern Shore	33	54	37	44	19	23	33	16	29	35	28	26
St. Mary	5	0	6	0	3	1	0	0	0	0	11	8
CTP	0	7	12	9	6	6	10	8	0	17	8	7
Highland	30	36	29	13	24	15	25	22	21	16	20	18

TOTALS

University	197	Carter Center	306
Taylor Manor	82	Chestnut Lodge	29
PIMC	127	Sheppard Pratt	306
Wash Adv.	95	Leland	121
P.G. Gen	121	Sthn Md.	49
Waterside	10	McCready	4
Franklin Square	65	Veterans Adm.	11
Gundry	55	Brook Lane	2
Washington Co.	14	Frederick Mem.	17
Finan Center	161	North Arundel	70
Upper Shore	76	Calvert Memorial	15
Sinai	31	Liberty Heights	14
Liberty-Ashburton	86	Johns Hopkins	54
Eastern Shore	377	St. Mary's	34
Clifton T. Perkins	90	Highland	269

GRAND TOTAL 2,888

CAPITAL DEFENSE DIVISION
FISCAL YEAR 1990 ANNUAL REPORT

The Capital Defense Division is responsible for providing trial and post-conviction representation to clients throughout the State who have been charged with capital murder. The objective of the Division is to identify, manage and supervise all death eligible cases in the State. Although Division attorneys litigate capital cases from time to time, the primary function of the Division and its attorneys is to provide resources and trial support to the various panel and staff attorneys assigned to death penalty cases throughout the State. To meet this goal, the Division tracks death eligible cases in the State, assigns counsel to those cases in which a Notice of Intention to Seek Penalty of Death is expected. Division attorneys locate expert witnesses and investigators to explore the facts and develop mitigation evidence in all death penalty cases; consult with appointed attorneys in all death penalty cases on legal issues, case theories and trial tactics as well as perform legal research and prepare pleadings, jury instructions and memoranda for them. As part of its function as a resource center on capital punishment issues, the Division produces several publications: Capital Case Digest, Litigation Report, Motions Manual, and Protocols (for attorneys, investigators and social workers engaged in capital cases). Additionally, the Division generally serves as a Death Penalty litigation resource center for the defense bar (private and staff) by both monitoring relevant developments in death penalty litigation in other states and on the federal level and amassing information from other states which may impact on death penalty litigation in Maryland.

Unlike other District Offices and Divisions, the Capital Defense Division has responsibilities and duties outside that of representation of criminal clients. Located at the Maryland Bar

Center within the University of Maryland at Baltimore complex, the Division is a teaching clinic of the University of Maryland School of Law and the Chief Attorney and the part-time attorney serve as adjunct faculty at the University of Maryland School of Law. All clinic salaries earned by Division attorneys are paid directly to the Office of the Public defender and are applied to payment of Division office rent.

Currently, the Division is staffed with one staff APD IV, one staff APD III, one contractual APD III and one staff, part-time APD III (17.5 hrs./wk.), one Investigator II, one Secretary III, one full time and one part-time Law Clerk and one Legal Assistant. With the Division's expanded teaching responsibilities, however, come various staffing and office benefits, including the use of many facilities at the University's Schools of Law, Medicine and Social Work. As a result of its unique relationship with the University as well as a cooperative relationship with Morgan State, the Division enjoys the free assistance in jury studies and mitigation development of students at College Park's School of Criminal Justice as well as Morgan State's undergraduate social work program.

Fiscal year 1990 saw a 24% increase in the number of death penalty cases handled at the trial level, from 21 in FY 89 to 26 in FY 1990. This rise can be attributed to several factors: (1) an increase in drug related murders, multiple victim homicides as well as multiple defendant homicides; (2) the aftermath of the Booth and Mills cases, which mandate resentencing proceedings in many previously tried death penalty cases; and (3) the adherence of certain State Attorneys' offices to a policy of seeking the death penalty whenever an aggravating factor exists.

For the first time in five years, the number of persons on Maryland's "death row" increased. At the end of FY 90, there were

thirteen people under sentence of death, five of which will or should ultimately have their sentences vacated as a result of Mills v. Maryland.

Post conviction hearings or other court proceedings were held in 13 ¹ cases during this fiscal year. Five ² capital cases were argued in the Court of Appeals of Maryland and six ³ decisions on capital cases were issued by the Court. By the end of FY 90 four ⁴ cases were pending for state post conviction review, and six ⁵ were at the direct appeal stage.

FY 90 saw several significant developments that substantially affected capital cases in Maryland. On July 1, 1989 the General Assembly enacted a law exempting mentally retarded individuals from the death penalty. While this provision decreases the number of persons subject to the death penalty, it will increase the cost of litigation in some death penalty cases by requiring IQ testing and possible litigation of the issue of retardation to preclude imposition of the death penalty. Although not restricted to death penalty cases, the Legislature's decision to permit the

¹ Darryl Alston (trial), Eugene Dale (trial), Al Doering (sentencing), Perry Everett (trial), Antonio Gaskins (trial), Tyrone Gilliam (trial), Rico Marzano (sentencing), Bruce Palmer (trial), Duane Richardson (trial), Donald Thomas (trial), Derrick White (trial), Kevin Wiggins (trial), Shawn Woodson (trial).

² Marselle Bowers, Kirk Bruce, Kevin Collins, Tyrone Gilliam, Flint G. Hunt.

³ Robert Bedford, Marselle Bowers, Kirk Bruce, Kevin Collins, Tyrone Gilliam, Flint Hunt.

⁴ Eugene Colvin, Vernon Evans, John Huffington, Donald Thomas.

⁵ Flint G. Hunt, Ian Henry, Derrick White, Kevin Wiggins, Shawn Woodson, Kevin Collins, Robert Bedford.

introduction of forensic DNA analysis impacts many death penalty cases, especially those with a rape or sexual offense aggravator. The admissibility of DNA evidence pursuant to Ct. & Jud. Pro. Art sec 10-915, effective July 1, 1989, will encourage many State's Attorney's to use forensic DNA analysis to prove capital crimes and rape and sexual offense aggravators, and will make defending these cases extremely difficult and costly when the results are positive.

In Fiscal year 1990, the Capital Defense Division became a separate, Statewide Division. As such, it will be better able to determine case needs and to improve its ability to monitor spending and accurately record expenditures attributable to capital cases.

Fiscal years 1991 and 1992 will likely witness an even greater increase in the number of death penalty cases filed and tried in Maryland than noted in FY 1990. A substantial portion of this projected increase will represent retrials or resentencing proceedings required under the Supreme Court's Mills or Booth decisions. Maryland, however, has not been immune to the alarming nationwide increase in homicide, including drug related murders and multiple victim homicides, all of which will increase the number of death qualified cases and hence the number of death penalty notices filed throughout the State. This conclusion is based in part on what the Division recognizes as the unsettling trend in a number of State's Attorney's offices to file for the death penalty in all qualifying cases. In addition to the increased number of death penalty cases being pursued, there is a continuing trend in the Court of Appeals and the Supreme Court to affirm capital convictions and sentences. The combination of these two factors places, and will continue to place, a greater burden and expense upon the Division to prevail at the trial level in all death penalty cases and to succeed at the trial level in all post-conviction proceedings.

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