

**DEPARTMENT OF THE PUBLIC ADVOCATE
OVERVIEW**

The Department of the Public Advocate, acting as protector of the constitutional due process rights of citizens and as a catalyst for reforms, has an important role in New Jersey government. Responsibilities include providing representation for citizens on a wide range of issues in their dealings with government agencies and regulated industries. Representation of those in need of mental health services and the interests of the handicapped are part of its nationally recognized role as governmental watchdog. The budget recommendation of \$47.4 million represents continuation funding for the department.

The largest component of the department, the Office of the Public Defender, provides constitutionally mandated legal representation to indigent adults and juveniles in criminal matters. As an integral part of the criminal justice system, legal defense is provided to over 85 percent of all defendants charged with a serious crime. The Appellate section handles all appeals which arise in the regional offices including every defendant sentenced in death penalty cases since the re-enactment of capital punishment in 1982.

Within the Advocacy programs of the department, there are two divisions which act as "ombudsman" for the mentally ill and the developmentally disabled. The Division of Mental Health Advocacy provides individual and class action representation for the mentally ill. The Division of Advocacy for the Developmentally Disabled protects the rights of persons with developmental disabilities and addresses issues such as accessibility, discrimination, training and special education.

The Office of Dispute Settlement provides mediation in order to resolve public disputes. Significant savings for the State, individuals and businesses are achieved through mediation and other negotiation processes, allowing for a less expensive and higher quality resolution of problems than traditional litigation.

The Division of Rate Counsel, funded through assessments upon utilities, insurance firms, hospitals, and health care providers seeking rate increases, represents the public interest by providing expert evaluation and argument before regulatory bodies in opposition to applications for increases in the cost of services to the consumer.

**SUMMARY OF APPROPRIATIONS BY PROGRAM
(thousands of dollars)**

| Year Ending June 30, 1992 | | | | | Year Ending June 30, 1994 | | | |
|---------------------------------|------------------------|------------------------------------|--------------------|----------|---|-----------------------------|-----------|------------------|
| Orig. & (S)Supple- mental | Reapp. & (R)Recpts. | Transfers & (E)Emer- gencies | Total Available | Expended | | 1993 Adjusted Approp. | Requested | Recom- mended |
| 1,767 | — | -58 | 1,709 | 1,709 | Management and Administration | | | |
| | | | | | Management and Administrative Services | 1,556 | 1,628 | 1,556 |
| 1,767 | — | -58 | 1,709 | 1,709 | <i>Subtotal</i> | 1,556 | 1,628 | 1,556 |
| | | | | | Protection of Citizens' Rights | | | |
| 1,987 | — | -14 | 1,973 | 1,973 | Mental Health Advocacy | 1,819 | 1,819 | 1,819 |
| 626 | — | -150 | 476 | 476 | Public Interest Advocacy | — | — | — |
| 599 | — | 58 | 657 | 657 | Dispute Settlement | 164 | 669 | 164 |
| 38,954 | 1,530 | -1,562 | 38,922 | 38,921 | Trial Services to Indigents and Special Programs | 37,586 | 40,724 | 37,586 |
| 5,766 | — | -369 | 5,397 | 5,397 | Appellate Services to Indigents | 5,508 | 5,508 | 5,508 |
| 809 | — | -12 | 797 | 797 | Public Defender Management | 737 | 737 | 737 |
| 526 | — | -244 | 282 | 282 | Advocacy for the Developmentally Disabled | 483 | 483 | 483 |
| 49,267 | 1,530 | -2,293 | 48,504 | 48,503 | <i>Subtotal</i> | 46,297 | 49,940 | 46,297 |
| 51,034 | 1,530 | -2,351 | 50,213 | 50,212 | <i>Total Appropriation</i> | 47,853 | 51,568 | 47,853 |

70. GOVERNMENT DIRECTION, MANAGEMENT AND CONTROL
76. MANAGEMENT AND ADMINISTRATION

| Year Ending June 30, 1992 | | | | | Year Ending June 30, 1994 | | | | |
|-------------------------------------|----------------------|-----------------------------|-----------------|----------|--|-----------------------|-----------|-------------|---|
| Orig. & (S) Supplemental | Reapp. & (R) Recpts. | Transfers & (E) Emergencies | Total Available | Expended | Prog. Class. | 1993 Adjusted Approp. | Requested | Recommended | |
| OTHER RELATED APPROPRIATIONS | | | | | | | | | |
| All Other Funds | | | | | | | | | |
| — | 26 | 13 | 39 | — | Management and Administrative Services | 99 | — | — | — |
| — | 26 | 13 | 39 | — | Total All Other Funds | | | | |
| 1,767 | 26 | -45 | 1,748 | 1,709 | GRAND TOTAL | | | | |
| | | | | | | 1,556 | 1,628 | 1,556 | |

Note: (a) The fiscal year 1993 appropriation has been adjusted for the allocation of the salary program, has been reduced to reflect the transfer of funds to the Employee Benefits accounts and has been increased to reflect the transfer of funds from other appropriations in the department as authorized by language in the Appropriations Act.

80. SPECIAL GOVERNMENT SERVICES
82. PROTECTION OF CITIZENS' RIGHTS

OBJECTIVES

1. To provide representation for the citizens of New Jersey in their dealings with departments and agencies of State government, other governmental agencies and regulated industries.
2. To provide for the realization of the constitutional guarantees of counsel in criminal cases for indigent defendants (C2A:158A-1 et seq.).

PROGRAM CLASSIFICATIONS

01. **Mental Health Advocacy.** Provides representation for indigent individuals who are involuntarily committed to mental hospitals beyond an initial 20-day period. In addition, a class action unit litigates broad issues applicable to large segments of the mentally ill, such as the right to treatment, disposition of properties, availability of alternative placement and the statutory provisions for the placement of individuals in the confinement of a mental institution.
03. **Office of Dispute Settlement.** Provides mediation and other neutral dispute resolution services in order to resolve disputes involving important public issues such as the environment, housing and resource allocation. The office is based on the premise that alternative dispute resolution procedures such as mediation often allow for a faster, less expensive and higher quality resolution of public disputes than traditional litigation.
04. **Trial Services to Indigents and Special Programs.** Represents those indigent defendants who have been charged with indictable offenses and those indigent juveniles whose cases have been assigned to the formal calendar. The activity of the attorneys, investigative and clerical staff begins with this assignment. The court assignment is received and after indigency review, the case opened, interviews scheduled and investigation initiated. The assigned attorney prepares the case, enters into the necessary negotiations, trial and sentencing proceedings.

05. **Appellate Services to Indigents.** Provides that every adult and juvenile found guilty after trial is permitted a direct appeal from that conviction or adjudication. Most of the referrals to the Appellate section come from trial regions. In addition, direct applications are received for services at the appellate level. The Appellate section files notices of appeal within a court-mandated time period, orders transcripts and assigns an attorney who then reviews the transcript, interviews defendants, files motions and does the research necessary to identify the problems raised in the transcript. Representation is provided in both State and federal courts.
06. **Public Defender Management.** Provides the centralized supervision and policy planning for the Office of the Public Defender.
07. **Rate Counsel.** Represents the public interest before any State department, commission, authority or agency charged with the regulation or control of any business, industry or utility. The statute provides that Rate Counsel funds be obtained from the industry or business seeking a rate increase. Representation affects all citizens of New Jersey in that it presents expert evaluation and argument before regulatory bodies in opposition to applications for increases in the cost of services to the consumer.
08. **Advocacy for the Developmentally Disabled.** Originally functioning within the Division of Mental Health Advocacy, this program was elevated to divisional status in 1982 (N.J.S.A.52:27E-44.1). This program was established to protect and advocate the rights of the developmentally disabled and citizens with other severe disabilities in the areas of guardianship, habilitation, medical treatment, education, employment, protection from harm, transportation and other civil rights. It provides legal services, and responds to complaints from individuals and their families as well as community groups; it also provides training for handicapped people and their families to assist them to advocate for themselves.

**80. SPECIAL GOVERNMENT SERVICES
82. PROTECTION OF CITIZENS' RIGHTS**

EVALUATION DATA

| | Actual FY 1991 | Actual FY 1992 | Revised FY 1993 | Budget Estimate FY 1994 |
|---|---------------------------|---------------------------|----------------------------|--|
| PROGRAM DATA | | | | |
| Mental Health Advocacy | | | | |
| Regional Representation (Civil Commitment) | | | | |
| Cases Added | 17,434 | 17,289 | 16,943 | 16,943 |
| Cases Closed | 17,353 | 17,271 | 16,421 | 16,421 |
| Percentage of dispositions successful | 84.1 | 83.7 | 84.1 | 84.1 |
| Dispositions per staff attorney | 910 | 1,016 | 1,026 | 1,026 |
| Class Action | | | | |
| Cases July 1 | 60 | 60 | 62 | 64 |
| Added | 17 | 5 | 5 | 5 |
| Closed | 15 | 3 | 3 | 3 |
| Cases June 30 | 62 | 62 | 64 | 66 |
| Public Interest Advocacy | | | | |
| Cases July 1 | 409 | 456 | — | — |
| Added | 140 | 101 | — | — |
| Closed | 93 | 44 | — | — |
| Cases June 30 | 456 | 513 | — | — |
| Dispositions per staff attorney | 13.3 | 12.1 | — | — |
| Dispute Settlement | | | | |
| Cases July 1 | 96 | 195 | 350 | 360 |
| Added | 9,342 | 9,617 | — | — |
| Closed | 9,243 | 9,502 | 350 | 360 |
| Cases June 30 | 195 | 310 | — | — |
| Dispositions per representative | 1,320 | 1,320 | — | — |
| Trial Services to Indigents and Special Programs | | | | |
| Cases open (July 1) | 71,987 | 56,494 | 49,340 | 43,871 |
| Added | 78,434 | 76,765 | 76,765 | 76,765 |
| Closed | 93,927 | 83,919 | 82,234 | 75,584 |
| Private pool | 7,639 | 5,628 | 3,541 | 3,400 |
| Staff | 82,889 | 75,651 | 76,410 | 69,901 |
| Conflict | 3,399 | 2,640 | 2,443 | 2,283 |
| Open (June 30) | 56,494 | 49,340 | 43,711 | 45,052 |
| Closed cases per staff attorney | 290 | 283 | 283 | 283 |
| Staff attorneys | 286 | 267 | 270 | 247 |
| Backlog (months) | 8.6 | 7.7 | 6.8 | 7.0 |
| Conflict attorneys | 47 | 37 | 36 | 32 |
| Child abuse | | | | |
| Cases open (July 1) | 5,684 | 5,785 | 6,107 | 6,422 |
| Added | 1,293 | 1,959 | 1,917 | 1,917 |
| Closed | 1,192 | 1,637 | 1,602 | 1,602 |
| Open (June 30) | 5,785 | 6,107 | 6,422 | 6,737 |
| Institutional Abuse investigations (DYFS) | 92 | 89 | 87 | 87 |
| Parole Revocation | | | | |
| Cases Opened | | | | |
| Adult | 1,244 | 7 | — | — |
| Juvenile | 307 | — | — | — |
| Total | 1,551 | 7 | — | — |
| Cases Closed | | | | |
| Adult | 1,249 | 270 | — | — |
| Juvenile | 472 | 67 | — | — |
| Total | 1,721 | 337 | — | — |

**80. SPECIAL GOVERNMENT SERVICES
82. PROTECTION OF CITIZENS' RIGHTS**

| | Actual FY 1991 | Actual FY 1992 | Revised FY 1993 | Budget Estimate FY 1994 |
|---|-------------------|-------------------|--------------------|-------------------------------|
| Hearings Held | | | | |
| Adult | 793 | 42 | — | — |
| Juvenile | 249 | 19 | — | — |
| Total | 1,042 | 61 | — | — |
| Appellate Services to Indigents | | | | |
| Cases open (July 1) | 2,444 | 1,864 | 2,091 | 2,591 |
| Added | 1,936 | 1,907 | 1,907 | 1,907 |
| Closed | 2,516 | 1,680 | 1,407 | 1,871 |
| Private Pool | 1,003 | 744 | 499 | 963 |
| Staff | 1,513 | 936 | 908 | 908 |
| Open (June 30) | 1,864 | 2,091 | 2,591 | 2,627 |
| Closed cases per staff attorney | 36.9 | 26.0 | 26.0 | 26.0 |
| Staff attorneys | 41 | 36 | 35 | 35 |
| Backlog (months) | 11.6 | 12.9 | 16.3 | 16.5 |
| Excessive Sentence Program Dispositions | 912 | 462 | 462 | 462 |
| Briefs filed | 1,424 | 1,037 | 1,009 | 1,473 |
| Dismissals | 199 | 181 | 181 | 181 |
| Reversals and modifications | 160 | 177 | 177 | 177 |
| Percent appeals from adverse trial decisions | 7.1% | 7.1% | 7.1% | 7.1% |
| Rate Counsel | | | | |
| Cases open (July 1) | 2,399 | 2,166 | 2,119 | 274 |
| Added | 413 | 217 | 178 | 211 |
| Closed | 646 | 264 | 2,023 | 257 |
| Cases open (June 30) | 2,166 | 2,119 | 274 | 228 |
| Advocacy for the Developmentally Disabled | | | | |
| Cases open (July 1) | 3,182 | 2,920 | 2,946 | 2,981 |
| Added | 1,808 | 1,279 | 1,727 | 1,727 |
| Closed | 2,070 | 1,253 | 1,692 | 1,692 |
| Cases Open (June 30) | 2,920 | 2,946 | 2,981 | 3,016 |
| PERSONNEL DATA | | | | |
| Position Data | | | | |
| Budgeted Positions | 902 | 899 | 853 | 846 |
| Mental Health Advocacy | 50 | 49 | 49 | 49 |
| Public Interest Advocacy | 16 | 15 | — | — |
| Citizens' Complaints and Dispute Settlement | 24 | 18 | 18 | 17 |
| Trial Services to Indigents and Special Program | 666 | 674 | 679 | 673 |
| Appellate Services to Indigents | 78 | 79 | 78 | 78 |
| Public Defender Administration | 12 | 13 | 12 | 12 |
| Rate Counsel | 39 | 35 | — ^(a) | — |
| Advocacy for the Developmentally Disabled | 17 | 16 | 17 | 17 |
| Positions Budgeted in Lump Sum Appropriations | 109 | 109 | 101 | 101 |
| Authorized Positions—Federal | 68 | 68 | 73 | 28 |
| Authorized Positions—All Other | 2 | 2 | 40 | 40 |
| Total Positions | 1,081 | 1,078 | 1,067 | 991 |

Note: (a) Beginning in FY 1993 the Division of Rate Counsel is a dedicated fund. Positions are reflected in Authorized Positions—All Other.

80. SPECIAL GOVERNMENT SERVICES
82. PROTECTION OF CITIZENS' RIGHTS

APPROPRIATIONS DATA
(thousands of dollars)

| Year Ending June 30, 1992 | | | | | Year Ending June 30, 1994 | | | | |
|---------------------------|----------------------|-----------------------------|-----------------|---------------|--------------------------------|-----------------------------|---------------|---------------|--|
| Orig. & (S) Supplemental | Reapp. & (R) Recpts. | Transfers & (E) Emergencies | Total Available | Expended | Prog. Class. | 1993 Adjusted Approp. | Requested | Recommended | |
| | | | | | Distribution by Program | | | | |
| 1,987 | — | -14 | 1,973 | 1,973 | 01 | 1,819 | 1,819 | 1,819 | |
| 626 | — | -150 | 476 | 476 | 02 | — | — | — | |
| 599 | — | 58 | 657 | 657 | 03 | 164 | 669 | 164 | |
| 38,954 | 1,530 | -1,562 | 38,922 | 38,921 | 04 | 37,586 | 40,724 | 37,586 | |
| 5,766 | — | -369 | 5,397 | 5,397 | 05 | 5,508 | 5,508 | 5,508 | |
| 809 | — | -12 | 797 | 797 | 06 | 737 | 737 | 737 | |
| 526 | — | -244 | 282 | 282 | 08 | 483 | 483 | 483 | |
| 49,267 | 1,530 | -2,293 | 48,504 | 48,503 | | 46,297^(a) | 49,940 | 46,297 | |
| | | | | | Distribution by Object | | | | |
| | | | | | Personal Services: | | | | |
| 34,611 | — | -1,259 | 33,352 | 33,352 | | 32,384 | 32,384 | 32,236 | |
| 34,611 | — | -1,259 | 33,352 | 33,352 | | 32,384 | 32,384 | 32,236 | |
| 640 | — | -30 | 610 | 610 | | 559 | 559 | 559 | |
| 7,280 | — | — | — | — | | 6,765 | — | — | |
| 3,559 ^S | — | -619 | 10,220 | 10,220 | | 3,500 ^S | 10,156 | 10,156 | |
| 302 | — | -41 | 261 | 261 | | 244 | 244 | 244 | |
| | | | | | Special Purpose: | | | | |
| — | — | — | — | — | 03 | — | 405 | — | |
| — | — | — | — | — | 03 | — | 100 | — | |
| 2,587 | — | 208 | 2,795 | 2,795 | 04 | 2,587 | 2,587 | 2,587 | |
| — | — | — | — | — | 04 | — | 154 | — | |
| — | — | — | — | — | 04 | — | 774 | — | |
| — | — | — | — | — | 04 | — | 2,062 | — | |
| — | 11 | — | — | — | | — | — | — | |
| — | 342 ^R | -353 | — | — | 04 | — | — | — | |
| — | 958 ^R | 1 | 959 | 959 | 04 | — | — | — | |
| — | 187 ^R | -187 | — | — | 04 | — | — | — | |
| — | 30 ^R | -30 | — | — | 04 | — | — | — | |
| 2,587 | 1,528 | -361 | 3,754 | 3,754 | | 2,587 | 6,082 | 2,587 | |
| 288 | 2 | 17 | 307 | 306 | | 258 | 515 | 515 | |

80. SPECIAL GOVERNMENT SERVICES
82. PROTECTION OF CITIZENS' RIGHTS

| Year Ending June 30, 1992 | | | | | Year Ending June 30, 1994 | | | | |
|-------------------------------------|---------------------------|-----------------------------|-----------------|---------------|--|-----------------------|---------------|---------------|---------------|
| Orig. & (S) Supplemental | Reapp. & (R) Recpts. | Transfers & (E) Emergencies | Total Available | Expended | Prog. Class. | 1993 Adjusted Approp. | Requested | Recommended | |
| OTHER RELATED APPROPRIATIONS | | | | | | | | | |
| Federal Funds | | | | | | | | | |
| — | 2 418 ^R | -1 | 419 | 419 | Mental Health Advocacy | 01 | 475 | 497 | 497 |
| — | 1 13 ^R | 1,830 | 1,844 | 1,843 | Trial Services to Indigents and Special Programs | 04 | 2,442 | — | — |
| — | 28 739 ^R | -4 | 763 | 763 | Advocacy for the Developmentally Disabled | 08 | 693 | 721 | 721 |
| — | 1,201 | 1,825 | 3,026 | 3,025 | Total Federal Funds | | 3,610 | 1,218 | 1,218 |
| All Other Funds | | | | | | | | | |
| — | 138 107 ^R | — | 245 | 195 | Dispute Settlement | 03 | 256 | 262 | 262 |
| — | — | — | — | — | Indigent Defense Fund | 04 | 1,125 | 3,490 | 3,490 |
| 3,744 | 533 2,038 ^R | -1 | 6,314 | 6,288 | Rate Counsel | 07 | 4,857 | 4,987 | 4,987 |
| 3,744 | 2,816 | -1 | 6,559 | 6,483 | Total All Other Funds | | 6,238 | 8,739 | 8,739 |
| 53,011 | 5,547 | -469 | 58,089 | 58,011 | GRAND TOTAL | | 56,145 | 59,897 | 56,254 |

Note: (a) The fiscal year 1993 appropriation has been adjusted for the allocation of the salary program and has been reduced to reflect the transfer of funds to the Employee Benefits accounts.

LANGUAGE PROVISIONS

It is recommended that receipts from clients and the unexpended balance as of June 30, 1993 of such receipts be appropriated.

It is further recommended that sums provided for legal and investigative services be available for payment of obligations applicable to prior fiscal years.

It is further recommended that funds appropriated to the Department of the Public Advocate be available for expenses associated with the defense of pool attorneys hired by the Public Advocate for the representation of indigent clients.

It is further recommended that in addition to the amount hereinabove for the operation of the Public Defender's office there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

It is further recommended that notwithstanding any provision of section 2 of P.L. 1974, c. 33 (C. 2A:158A-5.1), or any other provision of law, or any other provision of this appropriations act, no State funds are appropriated to fund the expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.

It is further recommended that receipts of the Rate Counsel be appropriated for the Rate Counsel to defray the costs of this activity.

| | | | | | | | | |
|--------|-------|--------|--------|--------|--|--------|--------|--------|
| 51,034 | 1,530 | -2,351 | 50,213 | 50,212 | Total Appropriation, Department of the Public Advocate | 47,853 | 51,568 | 47,853 |
|--------|-------|--------|--------|--------|--|--------|--------|--------|