

CONNECTICUT DIVISION OF PUBLIC DEFENDER SERVICES
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**ANSWERS TO QUESTIONS AND INFORMATION REQUESTS FROM THE
APPROPRIATIONS COMMITTEE**

MARCH 11, 2021

The following information is provided by the Office of Chief Public Defender in response to questions from the Committee at the public hearing.

The Committee requested current caseloads and an explanation on how lack of staffing in field offices may be resulting in slower services to clients, which in turn increases costs to DOC and Judicial.

Chart A shows the current caseloads by practice area as of March 1, 2021. DPDS is still observing capacity limits, since most offices are crowded and staff would not be able to maintain social distancing if everyone was in the office full time. In offices where there is not full staff or where the staff is mostly newer hires, cases move more slowly. Even during normal court operations, there is a finite number of cases one lawyer can handle in a given day. Due to the pandemic, most court proceedings are done over a video platform, which also limits the number of cases and clients that can be serviced. We also delayed some hiring due to the pandemic. The Governor's proposed budget allows us to fill those positions. This will be critically important as the backlog of cases from the pandemic are docketed and jury trials resume.

The recent wave of retirements will also impact how quickly cases can be addressed. 7 lawyers will leave DPDS services by the end of June, 2021. **Chart B** gives the breakdown of staff eligible to retire by June 30, 2022. This includes 55 lawyers, including 14 office heads who are eligible to leave by June 30, 2022. As our experienced staff starts to retire, they will be replaced with individuals who need to be trained and who cannot handle as many cases effectively.

The Committee requested the Public Defender eligibility guidelines.

Chart C shows the current income guidelines, adopted by the Public Defender Services Commission.

The Committee requested a breakdown of staff by race and gender.

Chart D gives this information.

The Committee requested a list of collaborative trainings with DCJ and Judicial.

Chart E gives this information.

The Committee requested assigned counsel rate history including a comparison of the rates that other states are paying.

Chart F and **Chart G** provide this information.

CHART A

DIVISION OF PUBLIC DEFENDER SERVICES CASELOADS AS OF 3/1/21

Branch	Pending Cases 7/1/20	Cases Appointed 7/1/20 - 3/1/21	Cases Transferred 7/1/20-3/1/21	TOTAL
GA	39113	23563	4555	58121
JD	2078	1529	426	3181
Juvenile Delinquency	1780	1963	400	3343
Child Protection	523	75	18	580
Magistrate	91	21	1	111
Housing Courts	3	0	0	3
CTIP*	73	45	0	118
CTIP - Habeas	3833	170	0	4003
JPC	54	8	0	62
Appellate				0
TOTAL	47548	27374	5400	69522

CHART B

DPDS ANTICIPATED RETIREMENTS 6/2022 FULLY ELIGIBLE

ATTORNEYS	55 (14 OFFICE HEADS)	
SOCIAL WORKERS	9	
INVESTIGATORS	12	
SUPPORT STAFF	11	
MANAGERS	4	TOTAL 91 OR 23% OF WORKFORCE

Systems Manager
Legal Counsel
Chief Investigator
Director Of Human Resources

CHART C

DPDS INCOME ELIGIBILITY GUIDELINES

Income Eligibility Guidelines for Public Defender Services

Effective November 1, 2020 (revised October 6, 2020)

An accused whose gross annual income is at or below the following amounts may be found eligible for public defender services

Accused without dependents	\$25,524
Accused with one dependent	\$34,480
Accused with two dependent	\$43,440
Accused with three dependent	\$52,400
Each additional dependent	\$ 8,960

CHART D

STAFF BREAKDOWN BY RACE AND GENDER

	ASIAN		Total	BLACK		Total	HISPANIC		Total	WHITE		Total	Grand Total
TITLE	F	M		F	M		F	M		F	M		
ATTORNEY	5		5	9	9	18	4	5	9	86	94	180	212
INVESTIGATOR			0	2		2	2	11	13	23	18	41	56
OCPD ADMIN	1	1	2	3		3	2		2	9	9	18	25
SOCIAL WORKER	1		1	9		9	1		1	26	3	29	40
SUPPORT	1	1	2	15	2	17	16	2	18	30		30	67
Grand Total	8	2	10	37	11	48	24	18	42	173	124	297	397

CHART E

JOINT TRAININGS

- DPDS Trainings open to other state agencies, including DCJ
 - Poverty Simulation
 - Racial Justice program
- Joint Programs with DCJ
 - Eyewitness Identification
- Joint Programs with Judicial
 - Guardian ad litem Certification
- Judicial Training
 - Racial Justice Program presented by Chief Justice Robinson and Justice Kahn
 - DPDS staff participate in Judicial Diversity Week programming when space is available

CHART F

DIVISION OF PUBLIC DEFENDER SERVICES ASSIGNED COUNSEL RATE HISTORY

Most work is paid at an initial flat rate. This rate covers payment for all work done on the case except for in court trial time and out of court trial preparation. Trial prep is generally capped at 20 hours unless special approval is obtained from the Director of Assigned Counsel Flat rates. Prior to the Rivera v. Rowland settlement, work was done at an hourly rate.

RATES

1960 \$12.50/hour

1983 \$20/hour

1999-FY 2008 Rates were mandated to be increased in the settlement of the Rivera v Rowland class action lawsuit. This is the new breakdown of rates pursuant to the settlement. The settlement also mandated biennial review of the rates. OCPD does a biennial review and has requested additional funding. Because no funding was available, the rates have remained unchanged since 2007/8.

1999-FY2008 Flat Rates (paid per docket number)

Judicial District (Part A) \$500

This would involve all Class A felonies and other cases, mostly Class B felonies, as determined to be serious by the prosecutor and judge.

Geographical Area (Part B) \$250

This represents the bulk of the criminal cases and will include all misdemeanors and most U,E,D,C, and many B felonies

Juvenile Delinquency (non-SJO) \$250

Assigned Counsel (then Special Public Defenders) had the option to bill hourly for B felony work in the G.A. and for Serious Juvenile offense (SJO) cases in juvenile court.

Counsel are able to bill hourly for in court trial work and out of court trial preparation. Additional Hourly billing can also be approved by the Director of Assigned Counsel for time consuming or complicated cases.

<u>1999-FY2008 Hourly Rates</u>	In Court	Out of Court
• Misdemeanor cases:	\$35	\$25
• Felony, Habeas, Appeals	\$60	\$40
• Death penalty all work	\$60	
• Delinquency	\$35	\$25

2007/08 – present. The same hourly rate is paid for in court and out of court work.

Flat Rates

- | | |
|----------------------------------|---------|
| • Judicial District (Part A) | \$1,000 |
| • Geographical Area (Part B) | \$350 |
| • Juvenile Delinquency (non-SJO) | \$350 |
| • Child Protection(2012) | \$500 |
| • Family/GAL(2012) | \$500 |
| • Habeas Appeals | \$4,000 |

Hourly Rates

- | | |
|---|-------------------|
| • Judicial District Part A
and GA Class B Felonies | \$75 |
| • Geographical Area cases | \$50 |
| • Juvenile Delinquency | \$50 |
| • Death Penalty | \$100 |
| • Habeas | \$75 (some \$65) |
| • Appeals | \$75 |
| • Child Protection (2012) | \$50 |
| • Family/GAL(2012) | \$50 |

CHART G

ASSIGNED COUNSEL RATES FOR NEIGHBORING STATES

ADULT CRIMINAL

- **Federal:** Nationwide rate, hourly rate of \$148 in non-capital cases, and, in capital cases, a maximum hourly rate of \$190
- **Surrounding State's Rates**

Maine:	\$60 /hour for all cases. Some caps apply.
Massachusetts	\$55/hour no cap, for misdemeanors and non-serious juvenile \$68 for felonies and serious juvenile,
New Hampshire	\$50/hour with a cap of \$1400, \$450 /delinquency case
New York	\$50/hour with a cap of \$2400
Rhode Island	\$50/hour with a cap of \$1500
Vermont	\$50 per hour with a cap of \$1000

JUVENILE AND CHILD WELFARE

MASSACHUSETTS

District and Delinquency Cases: **\$53.00/hour = \$87,450/yr max**

Superior and YO Cases: **\$68.00/hour = \$112,200/yr max)**

1650 hourly limits/yr., 10/hour daily limit

MAINE

Maine has a fixed rate of **\$60/hour** for all cases, juvenile and adult, felony and misdemeanor cases. 10 hours per day limit. All case-related work is eligible for hourly billing. There are caps but the Commission on Indigent Legal Services routinely allows attorneys to exceed the cap if the attorney writes a note explaining the reason for the need for the excess time. Compensation for 40 hours/week = **\$124,800/yr.**

VERMONT

VT has a contracted flat rate for the year with 3 different contract "tiers" based on a "target" of \$85,000 per full time lawyer equivalent. They calculate the contract rate each year by looking at the last three years of caseload data for that contract tier in that county, calculating an expected caseload, and then figuring that caseload as a percentage of a "full time" caseload (100 cases).

RHODE ISLAND

Del/Neg/Abuse - \$30/Hr (\$1000 max/case); \$60 flat for reviews (\$1000 max/case) = \$2000/case

TPR Cases - \$50/hr (\$2500 max/case); \$60 flat for reviews (\$1500 max/case) = \$4000/case

GAL for CP/Del - \$50/hr (\$2000 max/case)

Waiver of Jurisdiction/Certification Hearing - \$50/hr (\$3500 max/case)

NEW HAMPSHIRE

Delinquency Proceeding - **\$450/case**

Juvenile Review Hearing - **\$99/case**

