



Testimony of Chief Counsel Anthony J. Benedetti

House and Senate Committee on Ways and Means

Budget Request Fiscal Year 2026

March 28, 2025

I. Introduction

Good afternoon, Chair Kilcoyne, Chair Cronin, and Members of the House and Senate Committees on Ways and Means. My name is Anthony Benedetti, Chief Counsel of the Committee for Public Counsel Services, and I thank you for the opportunity to testify today on the Fiscal Year 2026 Budget.

CPCS deeply appreciates the Legislature's longstanding commitment to CPCS and to ensuring that indigent individuals across the Commonwealth receive the high-quality legal representation they are constitutionally and statutorily entitled to. In recent years, the funding you have allocated our agency has enabled us to improve our recruitment and retention of both staff and private attorneys, implement critical initiatives and maintain the overall integrity of the system. Your ongoing support has transformed CPCS into one of the nation's premier public defender agencies.

II. Fiscal Year 2026 Request & The Governor's Proposal

The Fiscal Year 2026 budget proposed by Governor Healey, which falls more than \$30 million short of our maintenance request, threatens the process CPCS has made throughout the years. A budget shortfall of this magnitude would cause lasting - and potentially irreversible - damage, forcing CPCS to make significant cuts. This would lead to real harm to our clients, public safety and the legal system.

We recognize and are mindful of the fiscal challenges facing the Commonwealth, which are closely tied to unpredictable decisions at the federal level. As a result, we have submitted a revised request, specifically in our 1500 line-item, for your consideration with these realities in mind. I am here today to urge this Ways and Means Committee to adopt our revised request and provide a level of funding that ensures our ability to continue providing high-quality legal representation to those who need it most.

Specifically, we are requesting \$356,405,024.95 for Fiscal Year 2026, which would allow us to maintain our operations at current levels. This would provide us with sufficient funds to compensate private attorney representation, sustain staffing levels, implement annual salary increases, address standard attrition, and cover the costs associated with case management, existing office space and essential non-payroll expenses. We are also requesting a modest increase in hourly rates for private attorneys – private attorneys who are the backbone of the public defense system in Massachusetts handling approximately 80% of the overall caseload. This hourly rate increase is critical to our ongoing efforts to retain the 2,800 lawyers serving on our various bar panels, and to recruit new attorneys.

III. The Consequences of Underfunding Public Defense

The Governor's budget proposal, if adopted, would require us to consider extremely harmful cuts that would not save money overall and would harm clients who require representation.

First, CPCS would have to consider rescinding job offers for 17 new attorneys set to begin training in August 2025. Twelve of these attorneys are slated to handle adult criminal cases in the Public Defender Division, where each attorney carries between 150 and 190 cases annually, and five attorneys have been hired to represent children and families in care and protection cases in the Children and Family Law Division, where each attorney handles an average of 64 cases per year. Combined, these 17 attorneys represent approximately 2,200 cases, when factoring in the typical ramp-up period for new attorneys as they gain experience and build toward a full caseload. These 2,200 cases would need to be covered by members of the CPCS private bar panel, where we already struggle with capacity issues in certain geographic regions and practice areas.

CPCS would need to consider closing our Holyoke Public Defender Division office, which was opened in 2022 using ARPA funding to address ongoing counsel capacity issues in Western Massachusetts. Taking this office out of a community in dire need of public defenders would require eliminating or moving 14 full-time attorney positions and shifting an additional 2,660 criminal cases to the private bar. This would reverse the progress we have made in reducing caseload burdens and further exacerbate access-to-justice challenges for clients.

We would be unable to backfill staff positions lost through normal attrition, a cost that typically amounts to \$1 million annually and affects approximately 12 full-time attorney positions. These vacancies, primarily in the criminal division, would add approximately 1,880 cases to the private bar's responsibility, further compounding the capacity issue.

The bottom line is that CPCS must handle the cases that come into the system and provide representation. Reducing the number of full-time staff attorneys simply moves cases to the private side of the agency, resulting, not in savings, but costs shifted to a different line-item. We have been able to manage capacity issues through various initiatives and incentive programs, but these budget cuts would likely transform a relatively stable situation back into full-blown counsel crisis.

The Governor's budget proposal, if adopted, would likely result in a freeze of staff salaries, preventing necessary cost-of-living adjustments, and indefinitely delay the implementation of classification and compensation adjustments recently recommended by outside consultants following an in-depth audit.

Over the last several years, this Ways and Means Committee and the entire Legislature have been extremely responsive to our advocacy on staff salaries, which has allowed us to incrementally increase salaries across the board over the last few years. This has dramatically improved recruitment efforts and reduced salary-related attrition. Please do not let us lose ground on what has been a tremendous success story.

Beyond staffing cuts and salary adjustments, CPCS would need to reduce non-payroll expenses by \$1 million. This would require cutting training programs, eliminating third-party contracts, scaling back on IT investments, and trimming facility-related costs. Nationally and here in Massachusetts, public defenders are miles behind the technological advancements of prosecutors

and law enforcement, but our IT team is always working to close that gap. These reductions, which could include case management, discovery, research, and trial-preparation tools, would hinder that progress and weaken the infrastructure that supports quality legal representation and attorney retention, further diminishing our ability to provide constitutionally required defense services.

Even after these painful cuts, we would still fall \$500,000 short of the Governor's proposed budget, forcing us to consider additional attrition, furloughs, and further reductions in expenses. These drastic cost-saving measures will have a trickle-down effect on the legal system at large:

- **Attorney Shortages and Case Backlogs:** Already, we are dealing with a reduction in the number of experienced private attorneys willing to accept CPCS cases, a problem that is especially acute in western Massachusetts. Reducing the number of staff attorneys would push an approximate 6,740 additional cases onto the private bar, with whom CPCS already has retention, recruitment, and workload issues. This will stretch the private bar too thin with unmanageable caseloads, weaken the public defense workforce, erode trust in the justice system and disproportionately impact those with the least resources. Finally, this estimate does not even factor in an overall increase in caseloads, which would exacerbate the situation.
- **Ripple Effects on the Entire Legal System:** Underfunding CPCS does not just affect our clients, it disrupts the entire legal ecosystem. Public defenders play a critical role in ensuring the efficiency of the courts. When our resources are constrained, cases move more slowly, court dockets become backlogged, and the costs associated with prolonged incarceration and delayed justice rise exponentially. Judges, prosecutors, and court staff all feel the strain of a public defense system that is stretched too thin.
- **Denial of Justice for Indigent Clients:** CPCS represents individuals in criminal defense, juvenile justice, child welfare, and mental health cases, as well as a number of specialty areas. Reduced funding will mean fewer attorneys available, leaving indigent individuals, many of whom are already marginalized, waiting to be assigned legal counsel.

IV. Critical CPCS Divisions at Risk

Each CPCS division plays a vital role in ensuring justice for Massachusetts residents. Budget cuts would significantly impact:

- **The Public Defender Division (PDD):** Increased caseloads can and do diminish the quality of legal representation, contributing to burnout, higher turnover, and reduced advocacy for the accused.
- **The Private Counsel Division (PCD):** Private attorneys are essential to our ability to handle the sheer volume of indigent cases. A funding shortfall will make it more difficult to retain experienced attorneys, particularly in regions and practice areas already struggling with capacity. Without sufficient funding, fewer attorneys will take fewer cases, leaving more individuals waiting for timely representation. This will lead to

prolonged incarceration for pretrial detainees, more case delays and increased costs elsewhere in the system.

- **The Youth Advocacy Division (YAD):** YAD represents children and adolescents in delinquency and youthful offender proceedings. These young clients often face deeply personal and complex challenges, including trauma, poverty, and systemic inequities. Reduced funding means fewer resources to provide holistic legal representation for children and adolescents, leading to worse outcomes and higher recidivism rates. Investing in strong legal representation for youth not only protects their rights but also helps prevent future involvement in the criminal justice system.
- **The Mental Health Litigation Division (MHLD):** MHLD provides representation for individuals facing civil commitment, guardianship, and other proceedings related to mental health. Many of our clients suffer from severe psychiatric conditions, and ensuring they receive fair and humane treatment is a fundamental part of our justice system. A reduction in funding would leave many of these vulnerable individuals without proper legal protection, increasing the likelihood of unjust or inappropriate institutionalization.
- **The Children and Family Law Division (CAFL):** CAFL attorneys represent parents and children in care and protection cases, termination of parental rights proceedings, and other child welfare matters. A budget cut would further strain an already overburdened system, reducing our ability to provide meaningful advocacy for families in crisis. The consequences of inadequate legal representation in child welfare cases can be life-altering, leading to unnecessary family separations and long-term harm to children.

V. Strengthening the Private Attorney Panel: Investing in Solutions

This Committee and the Legislature provided meaningful increases to the hourly rates in FY22 and FY23 and for that, we are extremely grateful. However, despite these increases, already depressed rates have not kept pace with inflation, disincentivizing attorneys to join panels and attorneys who are on panels to take more cases.

In order to put together an appropriate recommendation for increased hourly rates, our Committee reviewed a number of factors. They considered rates paid in similar jurisdictions, listened to staff debriefings from meetings with private bar leaders and weighed the overall state of the economy. Acknowledging the current fiscal status, the Committee proposed an increase over a two-year period. Movement on the hourly rate is critical to keeping an appropriate compliment of attorneys engaged in the program. One of the main factors that has allowed us to assign timely counsel despite capacity challenges is paying incentives to get attorneys to take cases when many clients in a particular area have been waiting for appointment of counsel. We cannot continue to operate in this manner, and thus, we urge you to consider our hourly rate proposal.

In addition to our advocacy efforts on hourly rate compensation, CPCS has implemented several initiatives to support our 2,800 private attorneys who take cases in various practice areas and to recruit new attorneys to join our bar panels:

- **Loan Forgiveness Assistance:** CPCS has provided private attorneys with training, resources and technical assistance to successfully navigate complicated federal loan forgiveness programs, securing over \$4.2 million in loan forgiveness.
- **E-Bill Travel Upgrade:** CPCS recently introduced an improved billing system that will allow attorneys to bill additional time for travel based on real-time traffic data, replacing outdated mileage calculations. This change, set to roll out within two months, will ensure more accurate and fair compensation.
- **Health Connector Initiative:** In partnership with the Commonwealth's Health Connector, CPCS is in the process of developing a tailored program to help private attorneys access discounted health insurance premiums and receive dedicated assistance in navigating benefits. The program will launch this spring.
- **Ongoing Support for Private Bar Attorneys:** CPCS continues to refine policies and procedures to better support private panel attorneys, including increasing the maximum hour cap to 2,000 hours for all practice areas, removing office location requirements, updating outdated billing systems, and advocating for improved access to office space, Wi-Fi and other resources in courthouses. By removing obstacles and addressing administrative burdens, private bar attorneys can spend more of their time and effort on CPCS casework.
- **CPCS Private Attorney Landing Page:** CPCS recently launched its new Private Attorney Landing Page - a one-stop hub where attorneys can access application, certification and training information, review employment opportunities, access the Assigned Counsel Manual, and utilize e-billing and other attorney resources.

We believe these steps demonstrate our commitment to addressing the private attorney crisis with tangible, forward-thinking solutions. However, these reforms will not be enough without your support for an increase and full funding in our line items. Appropriate funding is critical to allow these initiatives to work effectively and to ensure private attorneys remain a viable part of the indigent defense system.

VI. Conclusion

Public defense is not a luxury - it is a constitutional mandate. The Legislature's commitment to indigent defense has long been a hallmark of Massachusetts' dedication to justice. By approving our full budget request, the Legislature can prevent devastating service cuts, ensure timely legal representation for indigent individuals, and uphold the fundamental rights that define our legal system.

The consequences of an underfunded CPCS extend beyond our clients. The ripple effects will be felt across courtrooms, law enforcement agencies, correctional facilities, and communities throughout the Commonwealth. Slower case resolutions, increased incarceration periods, and a weakened public defense workforce will destabilize the legal system and compromise public safety. Quite frankly, a cut of this magnitude to CPCS would lead to increased costs across the

system.

We recognize that these are uncertain times and that none of us can predict what will happen with federal funds in the near future. That is why we are coming to you with what we believe is a reasonable and conservative budget that - paired with our various initiatives - will allow us to continue effectively representing the many people feeling the full weight of the government.

We respectfully urge you to stand with us in this critical moment. Do not let budgetary constraints force us to choose between access to justice and financial feasibility. The cost of underfunding CPCS far outweighs the investment required to sustain a fair and equitable legal system.

Don't Defund Defense - protect Massachusetts' model indigent defense delivery system.

Thank you again for the opportunity to testify today. We truly appreciate your ongoing support for CPCS and the right to counsel in Massachusetts. I am happy to answer questions.

Don't Defund & Destabilize Defense

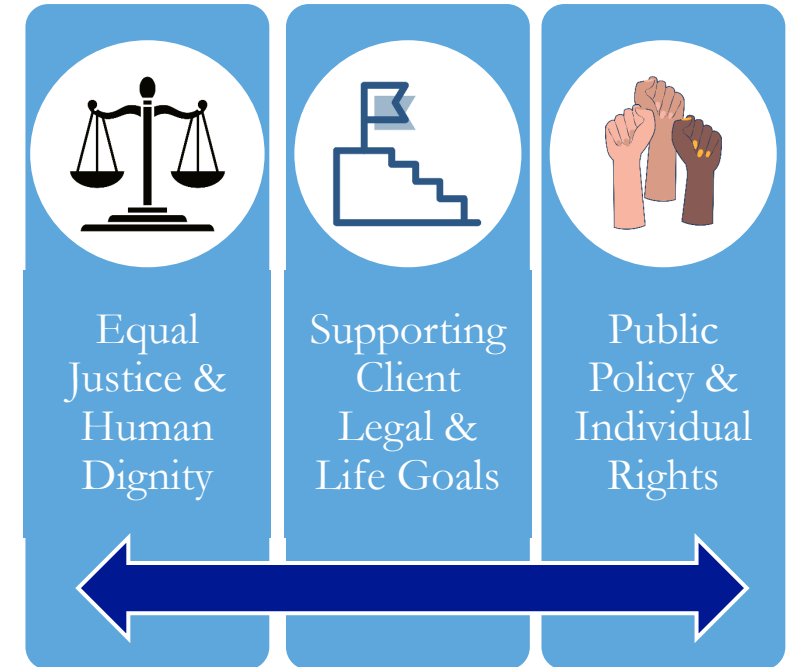
Budget Request FY2026

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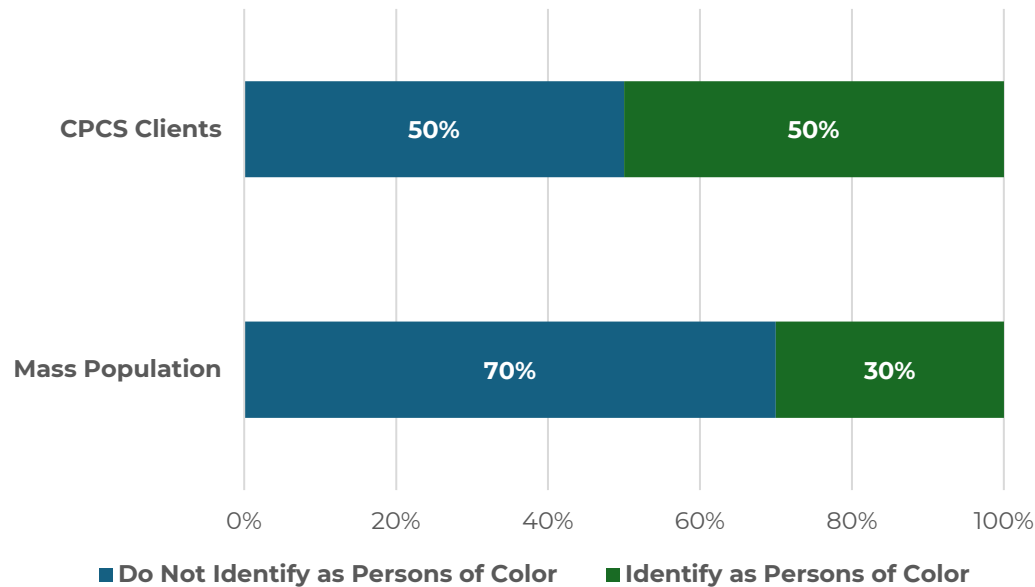
Who We Are & Our Mission

- The Committee for Public Counsel Services (CPCS) is a state agency.
- We are responsible for providing legal services to indigent persons in criminal and civil matters.
- We fight for equal justice and human dignity by supporting our clients in achieving their legal and life goals.
- We defend our assigned clients through zealous advocacy, community-oriented defense, and the fullness of excellent legal representation.





Who We Serve



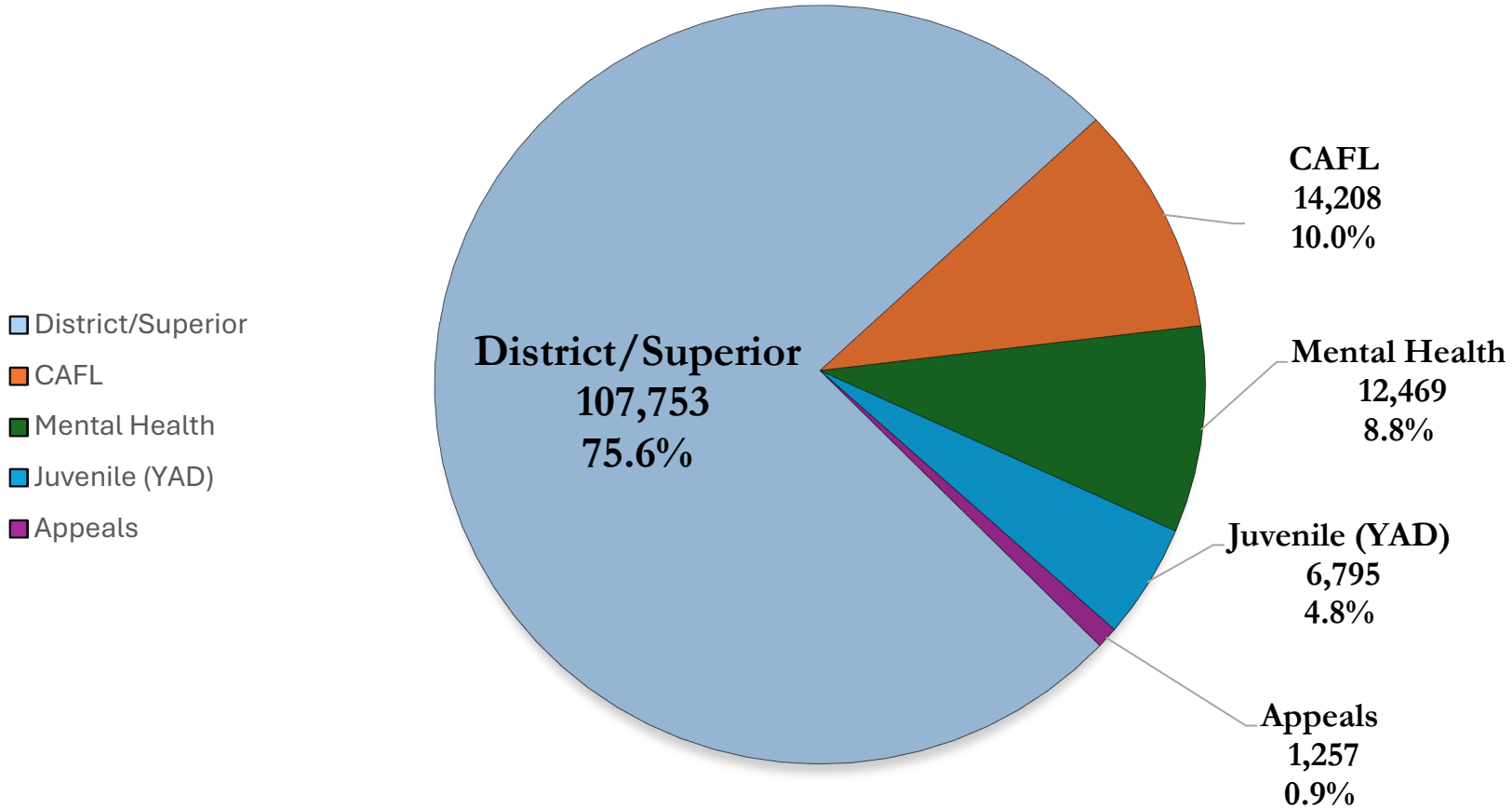
- CPCS represents indigent clients.
- An individual who either (A) receives public assistance from a state program; or (B) has an income, after taxes, that does not exceed 125% of the current Federal Poverty Line is eligible for indigency.²
- As of 2024, 10.4%¹ of the general population living in Massachusetts lives in poverty.
- According to the Center for American Progress (CAP), people of color are more likely to live in poverty or face economic hardships.
- Nearly 50% of our clients identify as people of color while roughly 30%¹ of the general population in Massachusetts identify as people of color.

1. <https://www.census.gov/quickfacts/MA>

2. <https://www.mass.gov/info-details/eligibility-requirements-for-indigency-waiver-of-fees>



FY24 Newly Assigned Cases



*These numbers are based on **new** assignments only.
*There are an additional **74,956** carryover cases from FY23 resulting in **217,438** total cases in FY24.



FY26 CPCS Budget Line Items



0321 - 1500 Operations & Oversight

CPCS staff, payroll, administrative, space, utilities, IT - software, and programming costs.



0321 - 1510 Private Counsel

Hourly rate payments to the 2,800 private attorneys working with CPCS are completed through our electronic payment system.



0321 - 1520 Court Costs & Experts

Payments to court cost vendors & experts (e.g., social workers, investigators, forensic experts) through CPCS' electronic billing system.



FY26 CPCS Budget Line Items - Request

APPROPRIATION	2025 GAA	2025 FORECAST	GOV H1 (01.22.25)	2026 CPCS MAINTENANCE REQUEST (REVISED)	2026 CPCS INITIATIVE REQUEST	GOV H1 vs. CPCS MAINT. REQUEST	GOV H1 vs. CPCS INITIATIVE REQUEST
0321 CPCS - ADMINISTRATION / 1500 OVERSIGHT	89,000,000	89,000,000	86,684,554	94,086,004	94,086,004	(7,401,451)	(7,401,451)
0321 CPCS - PRIVATE COUNSEL 1510	215,000,000	219,810,000	210,292,128	224,319,021	238,763,465	(14,026,893)	(28,471,337)
0321 CPCS - COURT COSTS / 1520 EXPERTS	35,000,000	38,000,000	25,172,236	38,000,000	38,000,000	(12,827,764)	(12,827,764)
GRAND TOTAL	339,000,000	346,810,000	322,148,918	356,405,025	370,849,469	(34,256,107)	(48,700,552)



Impact of Governor's Budget

Line Item 0321-1500

\$-7.4M

Maintenance

Jeopardizes:

- Honoring outstanding offers to 17 new attorneys posed to begin in August 2025.
- Continued operation of newly opened Western MA office (14 Attorney FTEs).
- Annualizing salary increases to current attorneys.
- Backfill hires across practice areas and departments (~12 Attorney FTEs).
- Necessary non-payroll expenses (e.g., training, consultants, IT investments, facilities).

Line Item 0321-1510

\$-14M

Maintenance

\$-28.4M

Initiative

Maintenance jeopardizes:

- Full year coverage of cases because attorneys would be disincentivized to continue to cover duty days for fear of not being paid.

Initiative jeopardizes:

- Recruitment and retention of already dwindling panels of private attorneys able and willing to take CPCS cases without an hourly rate increase.
- Progress in combatting a decade-long, statewide counsel crisis.
- Access to justice, particularly in rural and underserved areas.

Line Item 0321-1520

\$-12.8M

Maintenance

Jeopardizes:

- The availability of private vendor contracts (e.g., social workers, investigators, forensic experts) if CPCS is unable to pay expenses as they come due.
- Resources available to appointed counsel to provide quality representation to clients.



Assigned Counsel Challenges

Factors constraining our ability to deliver services:

High Rates of Attrition in Private Bar

- A growing number of attorneys are retiring or leaving indigent representation for other lines of legal work.
- The rising cost of living makes it difficult to devote a substantial part of a law practice to appointed cases at current hourly rates, without dependable incremental increases.
- All our practice areas are overly dependent on an aging population and lose attorneys to retirement every year without enough younger attorneys signing on to take their place.

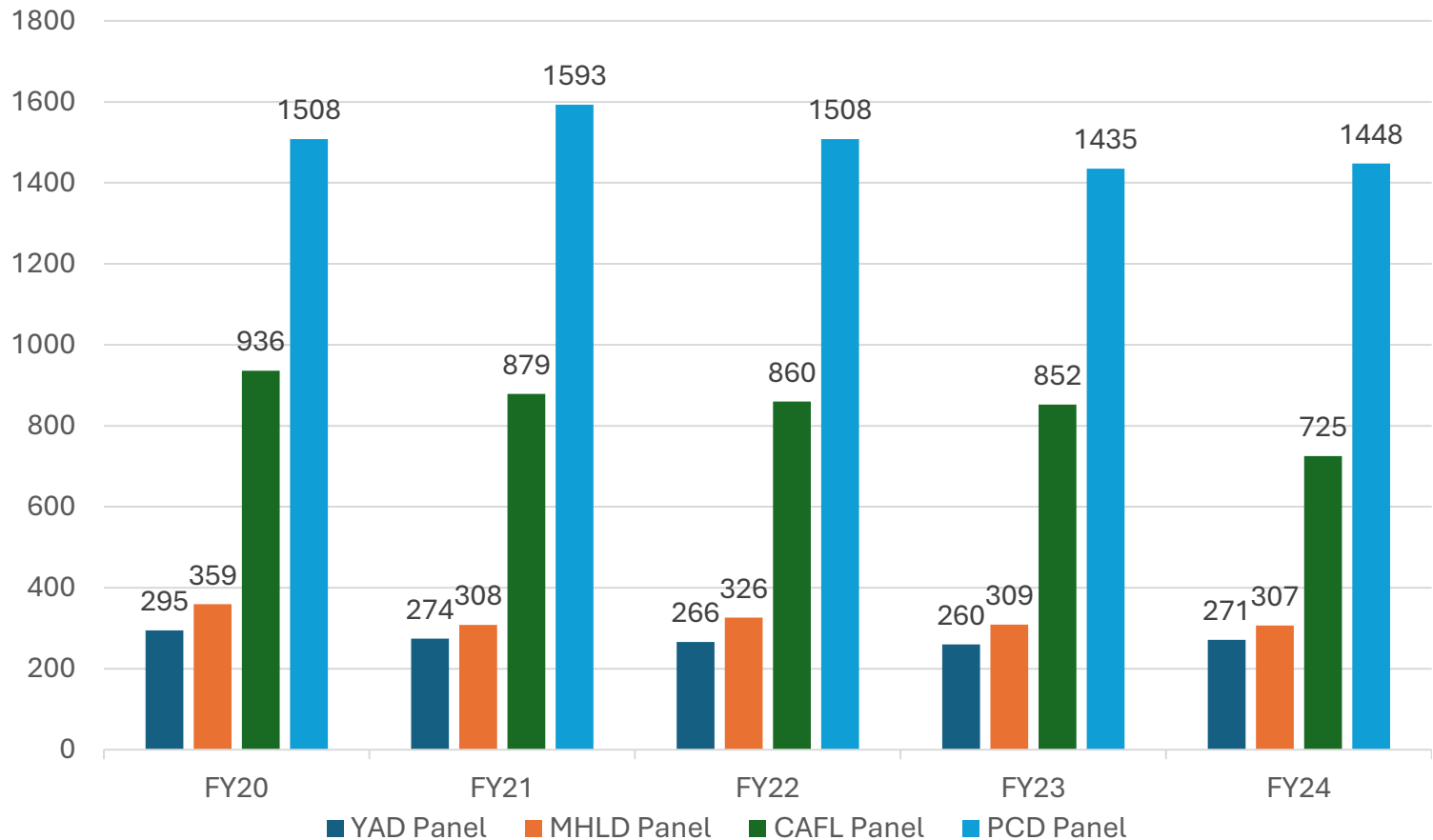
Heightened competition for recruitment of young attorneys

- Average student loan debt after law school graduation is \$138K, with many new attorneys choosing more lucrative opportunities over public defense.
- The cost of living in Massachusetts is 46% higher than the national average, with housing costs being 108% higher.



Decrease in Private Bar Panels

Number of Attorneys on Panels



Panel membership has decreased over the years and despite vigorous recruitment, growth remains flat. Conversely, caseloads are increasing.

Non-Monetary Efforts To Incentivize Private Bar

CPCS has made significant efforts to retain existing attorneys and recruit new ones to join the private bar, including:

Loan Forgiveness Assistance. CPCS has worked with private attorneys to successfully navigate complicated federal loan forgiveness programs, securing over \$4.2M in loan forgiveness.

Health Connector Initiative. CPCS is currently working with the Commonwealth's Health Connector to develop a program tailored to private bar attorneys. This initiative will provide streamlined, customized service to help identify discounted premiums for small firms and provide a dedicated representative to assist attorneys with accessing benefits.

Private Bar Support. CPCS continues to refine policies and procedures to better support private panel attorneys, including increasing the maximum hour cap to 2,000 hours for all practice areas, removing office location requirements, updating outdated billing systems, and advocating for access to office space, Wi-Fi and other resources in courthouses.

Private Bar Landing Page. CPCS just launched its Private Attorney Landing Page – a one-stop hub where attorneys can access application, certification and training information, review employment opportunities, access the Assigned Counsel Manual, and utilize e-billing and other attorney resources.

However, without sufficient funding and meaningful, consistent hourly rate increases, these reforms will not be enough.



Private Bar Rate History

COURT	FY15 (07/14)	FY16 (07/15)	FY17 (07/16)	FY18 (07/17)	FY19 (07/18)	FY20 (07/19)	FY21 (07/20)	FY22 (07/21)	FY23 (07/22)	Current Eff (07/23)
District Court	\$50	\$50	\$53	\$53	\$53	\$53	\$53	\$60	\$65	\$65
CAFL	\$50	\$50	\$55	\$55	\$55	\$55	\$55	\$75	\$85	\$85
Appeals	\$60	\$60	\$60	\$60	\$68	\$68	\$68	\$75	\$85	\$85
Superior Court	\$60	\$60	\$60	\$60	\$68	\$68	\$68	\$75	\$85	\$85
Mental Health	\$50	\$50	\$50	\$50	\$53	\$53	\$53	\$60	\$65	\$65
Juvenile Court	\$50	\$50	\$53	\$53	\$53	\$53	\$53	\$60	\$65	\$65
Murder	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$110	\$120	\$120
CRAs	\$50	\$50	\$53	\$53	\$53	\$53	\$53	\$60	\$65	\$65

REFERENCE	
TYPE OF CASE	\$ IMPACT PER \$1/HR INCR
District Court	1,210,000
Superior Court	275,000
Appeals	205,000
Juvenile Court	85,000
CAFL	715,000
Mental Health	150,000



Private Bar Rate Initiative

Court	Current Rates	Proposed Rates	FY26 Rate (Yr 1)	FY27 Rate (Yr 2)
District Court	\$65/hr	\$73/hr	\$68/hr	\$73/hr
CAFL	\$85/hr	\$90/hr	\$88/hr	\$90/hr
Appeals	\$85/hr	\$105/hr	\$95/hr	\$105/hr
Superior Court	\$85/hr	\$105/hr	\$95/hr	\$105/hr
Mental Health	\$65/hr	\$90/hr	\$75/hr	\$90/hr
Juvenile Court	\$65/hr	\$80/hr	\$80/hr	\$80/hr
Murder	\$120/hr	\$150/hr	\$140/hr	\$150/hr
CRAs	\$65/hr	\$73/hr	\$68/hr	\$73/hr
IMPACT	-	\$29,011,095	\$14,444,444	\$14,566,651



Don't Defund & Destabilize Defense

Do not let budgetary constraints force us to choose between access to justice and financial feasibility.

We ask for the Legislature's support so we can continue providing high-quality legal representation to those ***who need it most.***

Thank you for your thoughtful consideration.