

DEPARTMENT OF THE PUBLIC ADVOCATE

1. The Department of the Public Advocate is mandated to provide consumer protection and advocacy on behalf of the indigent, the elderly, children and other persons unable to protect themselves as individuals or a class. Under this mandate, the Public Advocate is authorized to identify and to represent the public interest in any proceeding depending upon the importance and the extent of the public interest involved and whether that interest would be adequately represented without the action of the department.

• Question: How does the Public Advocate determine which issues are in "the public interest"? What criteria are used to determine if the Public Advocate would enter into a dispute? What skills and training are necessary for departmental staff?

The Department of the Public Advocate has a statutory obligation to advocate on behalf of a broad range of constituencies in New Jersey who might not have access to effective advocacy. These constituencies include consumers, the poor, the elderly, children, the mentally ill, and the developmentally disabled. With such broad statutory there are a great number of issues the Department could potentially address. The Department tries to prioritize issues that have a significant impact – both in terms of the number of people they affect and in terms of the depth with which they impact people's lives. The Department also prioritizes issues on which we feel our voice is needed because a certain constituency we are charged with serving doesn't already have access to effective advocacy on a particular issue.

Staff is our most important resource, and our diverse mandate requires that all our employees are highly-skilled and dedicated individuals. We are working very hard to also have a diverse staff, with a variety of experiences and backgrounds. We also will be implementing an aggressive training protocol that will ensure that our staff meets the highest levels of performance.

2. Budget evaluation data indicate that the Division of Mental Health Advocacy will close 15,401 civil commitment cases and 253 sexual offender civil commitment cases in FY 2007, the same number as in FY 2006. Personnel data indicate that the division had 46 positions on the payroll in FY 2006. The FY 2007 budget provides funding for an additional 14 positions, for a total number of 60 positions.

• Question: Since it appears that the division's caseload and productivity will remain the same in FY 2007, what additional duties will be performed by the expanded division staff in FY 2007?

The Division of Mental Health Advocacy includes both the existing Mental Health Advocacy unit that is being transferred from the Office of the Public Defender (representing individuals in civil commitment proceedings), and new staff to fulfill the broad statutory mission of the new Division. Specifically, the legislation provides the Division with broad authority to advocate on behalf of individuals with mental illness,

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including conducting investigations, holding hearings and responding to individual complaints. Currently, the existing Mental Health Advocacy and Guardianship unit has a number of vacancies that need to be filled as well.

3. The department's new Division of Public Interest Advocacy is recommended to receive \$1.4 million in FY 2007, an increase of \$875,000 over the FY 2006 adjusted appropriation. Adjusting for the fact that the FY 2006 appropriation constituted six months of funding, the FY 2007 appropriation represents an increase of \$304,000 above the FY 2006 annualized funding level, a 27 percent increase.

• Question: Please comment on the increased budget and activities of the Division of Public Interest Advocacy in FY 2007, and explain why the funding increase noted above is justified.

This figure reflects an effort by the Public Advocate to make the department more efficient and better managed. Under the old Department of Public Advocate, each division had a significant number of attorneys and legal staff that would provide advocacy services and bring litigation against a range of defendants. At the same time, the old department also had a team of lawyers in the Division of Public Interest Advocacy that created a degree of competition within the department to file litigation.

Public Advocate Chen, in contrast, is recommending creating a centralized litigation team where divisions (e.g. elder advocacy) would refer all systemic litigation cases to the Division of Public Interest Advocacy. This will eliminate the need to create separate legal teams and support staff in each division. It does not apply to Rate Counsel functions or units that provide direct representation.

OFFICE OF THE CHILD ADVOCATE

4. P.L.2005, c.155, which re-established the Department of the Public Advocate, established the Office of the Child Advocate as an independent office *in but not of* the Department of the Public Advocate.

• Question: Please comment on the interaction of the Office of the Child Advocate and other State agencies charged with child protection functions such as the new Department of Children and Families and the Judiciary's Kinship Legal Guardian program. What would be the role of the Office of the Child Advocate?

The Department is committed to working with the Office of Child Advocate to effectuate the statutory obligation to consult on issues affecting children on an ongoing basis. Since January, the Department of Public Advocate and the Office of Child Advocate have been working together to ensure children receive a range of advocacy services. For example, the Public Advocate recently coordinated with the Office of Child Advocate on the filing of *Amicus Curie* brief with the New Jersey Supreme Court in a case regarding the liability of paint manufacturers under the state's public nuisance law. The public advocate also

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assisted the Office of the Child Advocate in arranging legal representation for oral arguments before the Supreme Court in *New Jersey Division of Youth & Family Services v. S.S., In the Matter of the Guardianship of A.M.S.*, Supreme Court Docket No. 58,147. Clearly, lead paint is a major children's health issue and the Public Advocate discussed the case with the Acting Child Advocate and invited Child Advocate staff to a meeting on the issue. As the Department grows, we also expect to have a positive working relationship with the new Department of Children and Families and the Judiciary's Kinship Legal Guardian program.

5. Evaluation data indicate that the Office of the Child Advocate will increase its staffing level by 10 positions in FY 2007 while the caseload carried by the office will remain the same as last year's level.

• **Question: Please comment on the added responsibilities to be undertaken by this increased staff.**

The Office of Child Advocate recently experienced some significant staffing reductions due to the departure of the Child Advocate and many of their senior staff. The FY07 budget provides for flat funding with the vision that the Office of Child Advocate will return to its former size once the Governor nominates and the Legislature approves the state's next Child Advocate.

DIVISION OF RATE COUNSEL

6. In December, 2004, Exelon Corporation, one of the nation's largest electric utility companies and Public Service Group, parent company of Public Service Electric & Gas (PSE&G) announced intentions to merge to create Exelon Electric and Gas, the nation's largest utility. The merger process involves seeking the approval of federal and state regulatory bodies. In New Jersey that regulatory agency is the Board of Public Utilities (BPU), and PSE&G Exelon merger matter is presently before the BPU.

• **Question: If the BPU approves the impending merger of PSE&G and Exelon, what are the likely short and long term effects on New Jersey ratepayers?**

The Division of Rate Counsel is involved in the ongoing litigation surrounding the merger of PSE&G and Exelon. This merger could impact energy rates, customer service, the reliability of energy service, New Jersey's economy and our environment. The Division of Rate counsel is engaged in this process to ensure that if this merger is approved that it benefits New Jersey ratepayers.