



DEPARTMENT OF PUBLIC ADVOCACY

PUBLIC DEFENDERS

Snapshot of DPA Personnel

570 Employees total (at full staffing)

- 331 Attorney Positions (286 Trial Division, 45 Post-Trial Division)
- 91 Administrative Staff Members
- 47 Alternative Sentencing Workers / Mitigation Specialists
- 45 Public Advocate Investigators
- 23 Employees – Law Operations (Fiscal, HR, IT) / Conflict Services
- 8 Employees – Education / Training
- 6 Employees – Office of Public Advocate
- 19 Employees – Protection and Advocacy Division

2022/23 Raises – THANK YOU!

- Thanks to Legislature for funding and authority
- Thanks to Personnel Cabinet for assistance in implementation
- Starting Attorney Salary Raised from \$48,000 to \$52,000
- Salary Schedule created recognizing experience and position
- Average raise – 22%

FY23 DPA Attorney Pay Schedule (Annual Compensation)

Staff Attorney I

Appointment/Probationary Period	\$52,000
Base Pay (off probation)	\$54,600
3 Years of Relevant Experience*	\$56,000

Staff Attorney II

Appointment/Probationary Period	\$56,190
Base Pay (off probation)	\$59,000
3 Years of Relevant Experience*	\$60,700
6 Years of Relevant Experience*	\$64,000
10 Years of Relevant Experience*	\$66,500
15 Years of Relevant Experience*	\$70,000
20 Years of Relevant Experience*	\$73,000

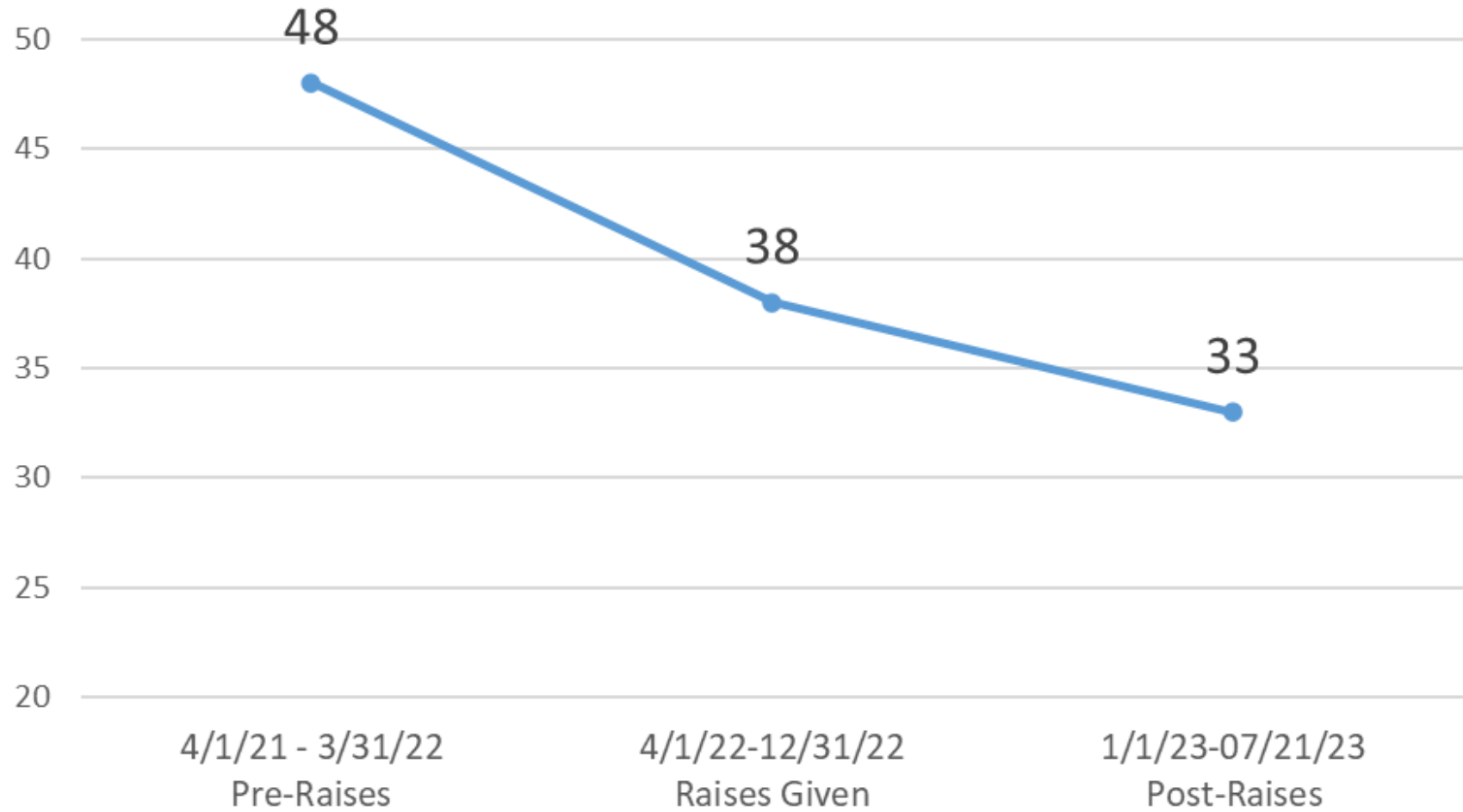
Staff Attorney III

Appointment/Probationary Period	\$60,761
Base Pay (off probation)	\$63,800
6 Years of Relevant Experience*	\$67,500
10 Years of Relevant Experience*	\$71,000
15 Years of Relevant Experience*	\$74,500
20 Years of Relevant Experience*	\$78,000

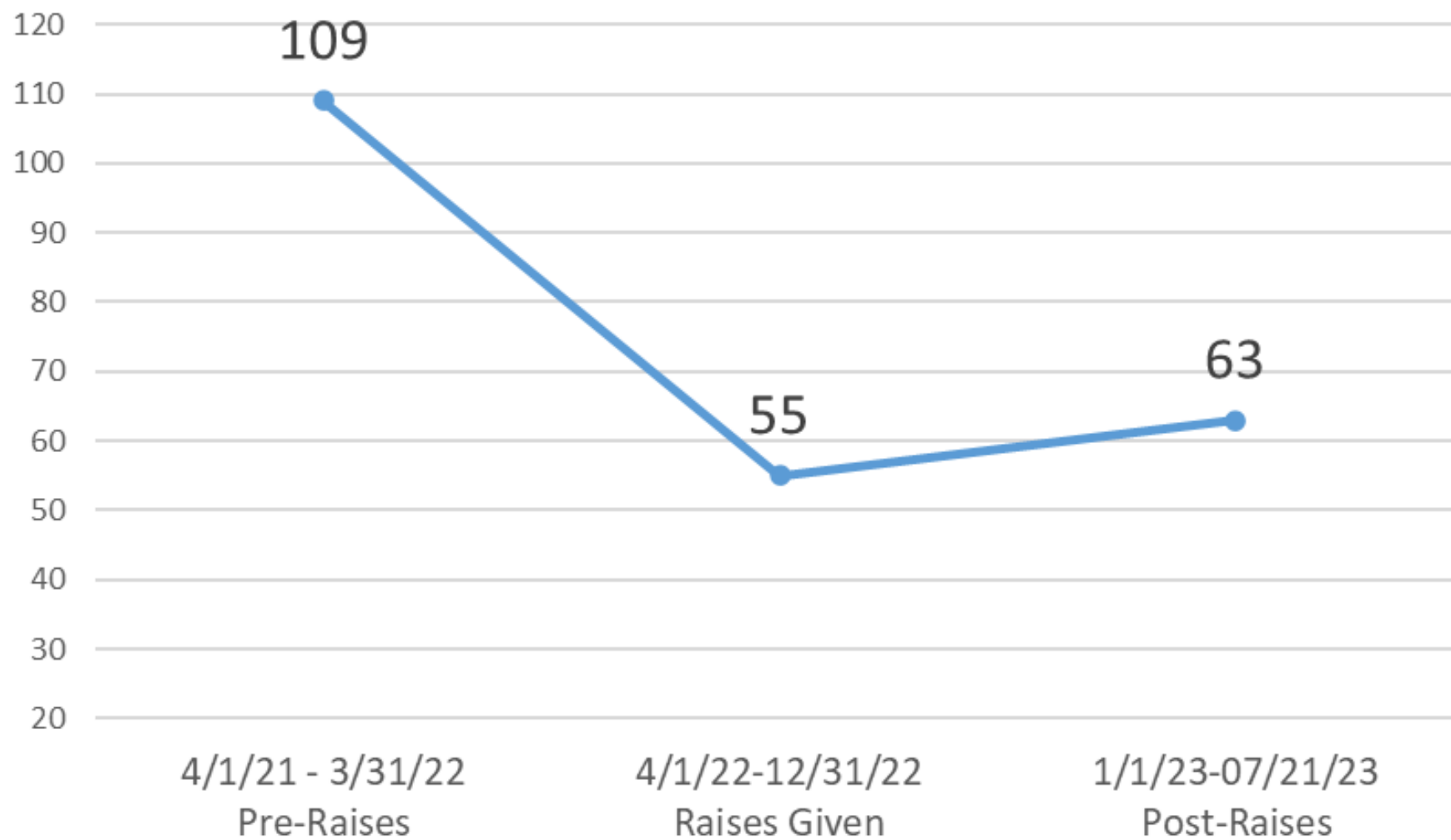
Staff Attorney Supervisor

Base Pay (Appointment / Off Probation)	\$72,000 / \$75,600
8 Years of Relevant Experience* (Appointment / Off Probation)	\$75,238 / \$79,000
15 Years of Relevant Experience* (Appointment / Off Probation)	\$78,500 / \$82,425

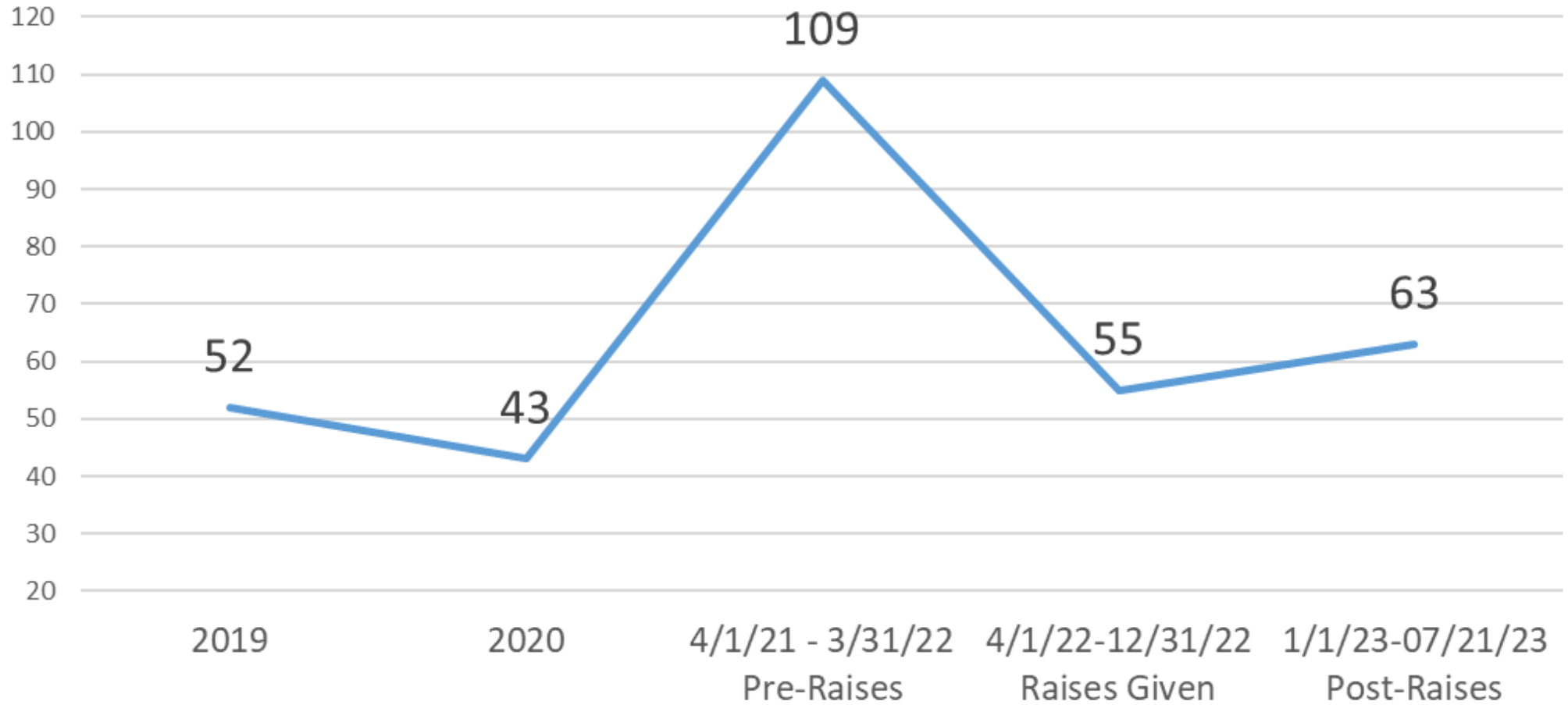
DPA Non-Attorney Turnover (annualized rate)



DPA Attorney Turnover (annualized rate)



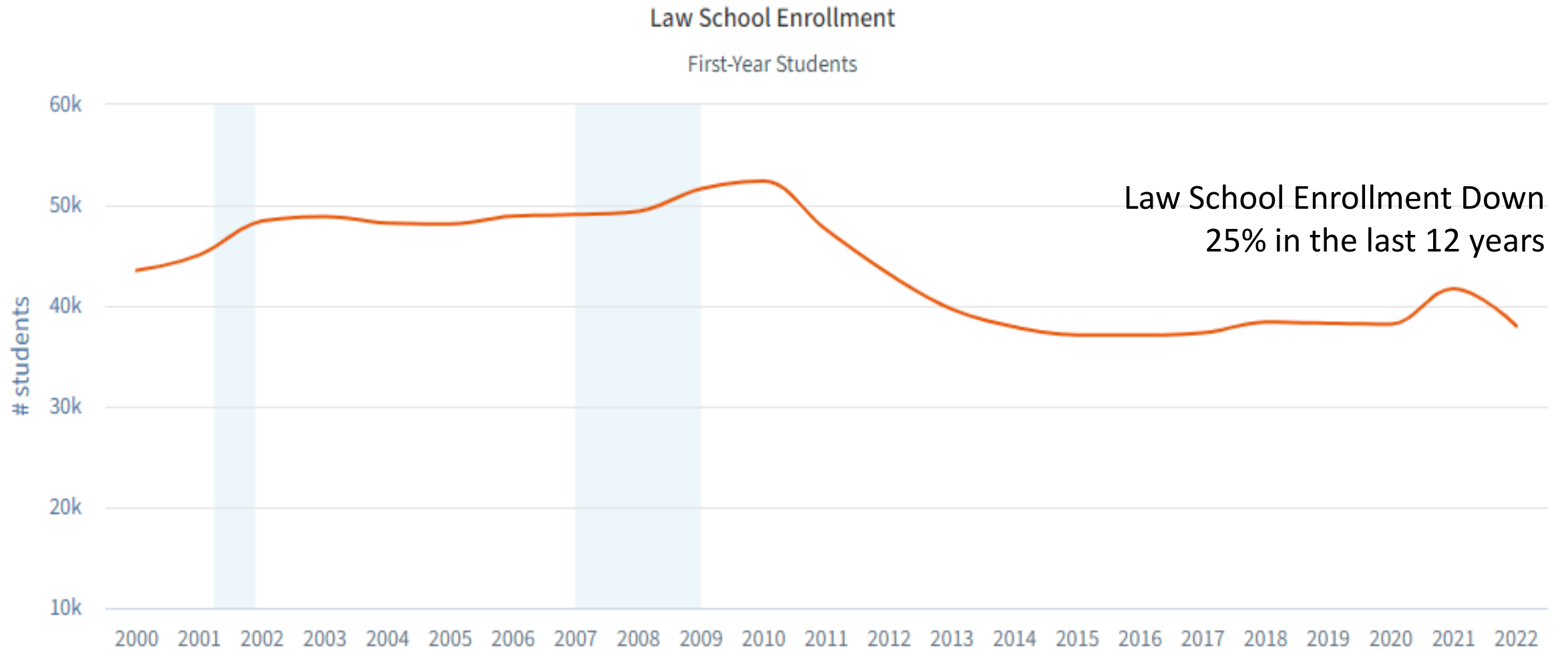
DPA Attorney Turnover (annualized rate)



Post-Raises – Continuing Challenges

- Unchanged Midpoints create compression
- Other agencies, prosecutors, and private legal market have also raised salaries
- Inflation
- Stressful job is more stressful when coworker positions vacant

Challenge – Less Lawyers, Less Applicants

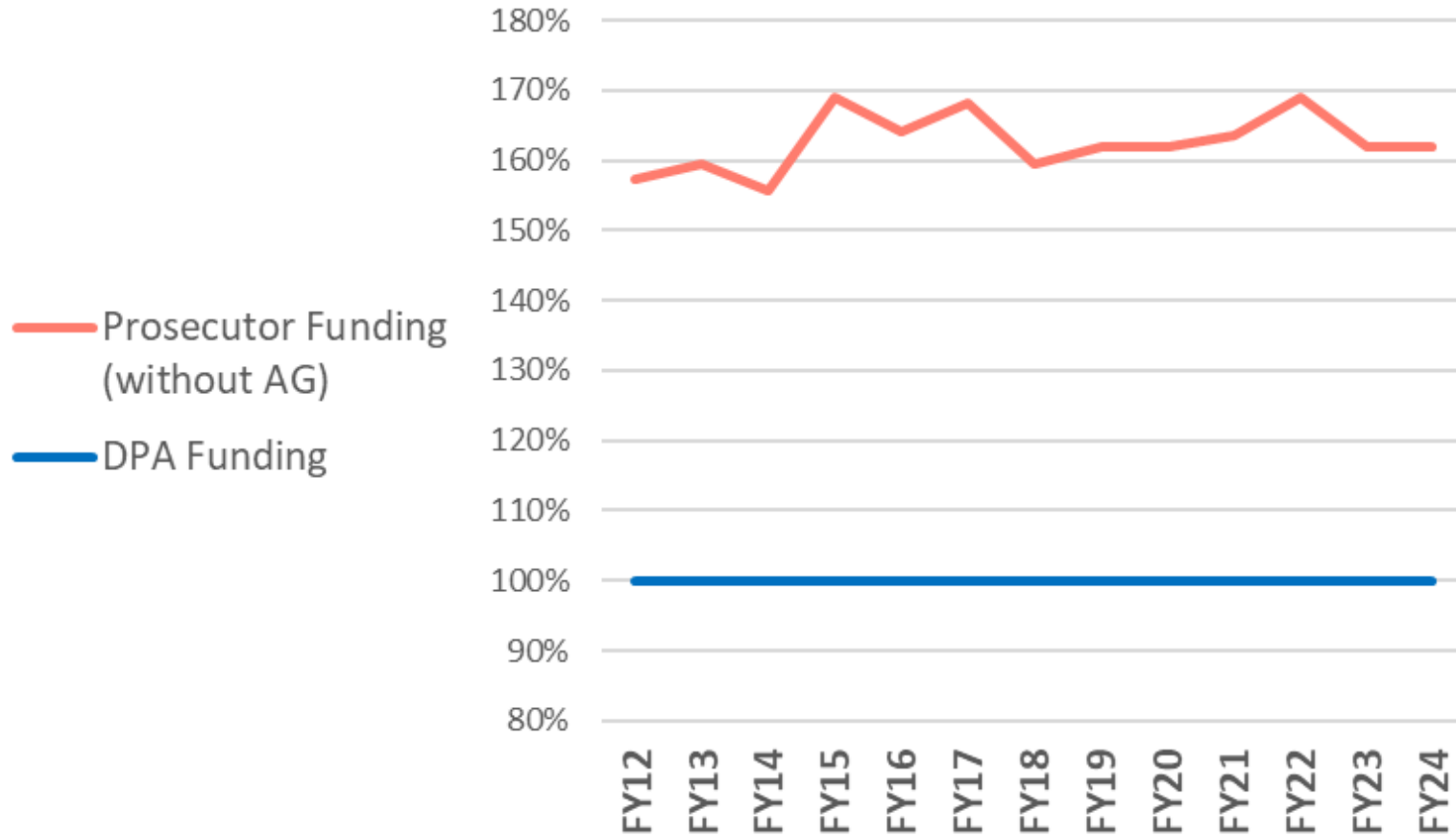


Turnover Created Vacancies, We Can't Catch Up in Current Legal Market

The Need? Round Two

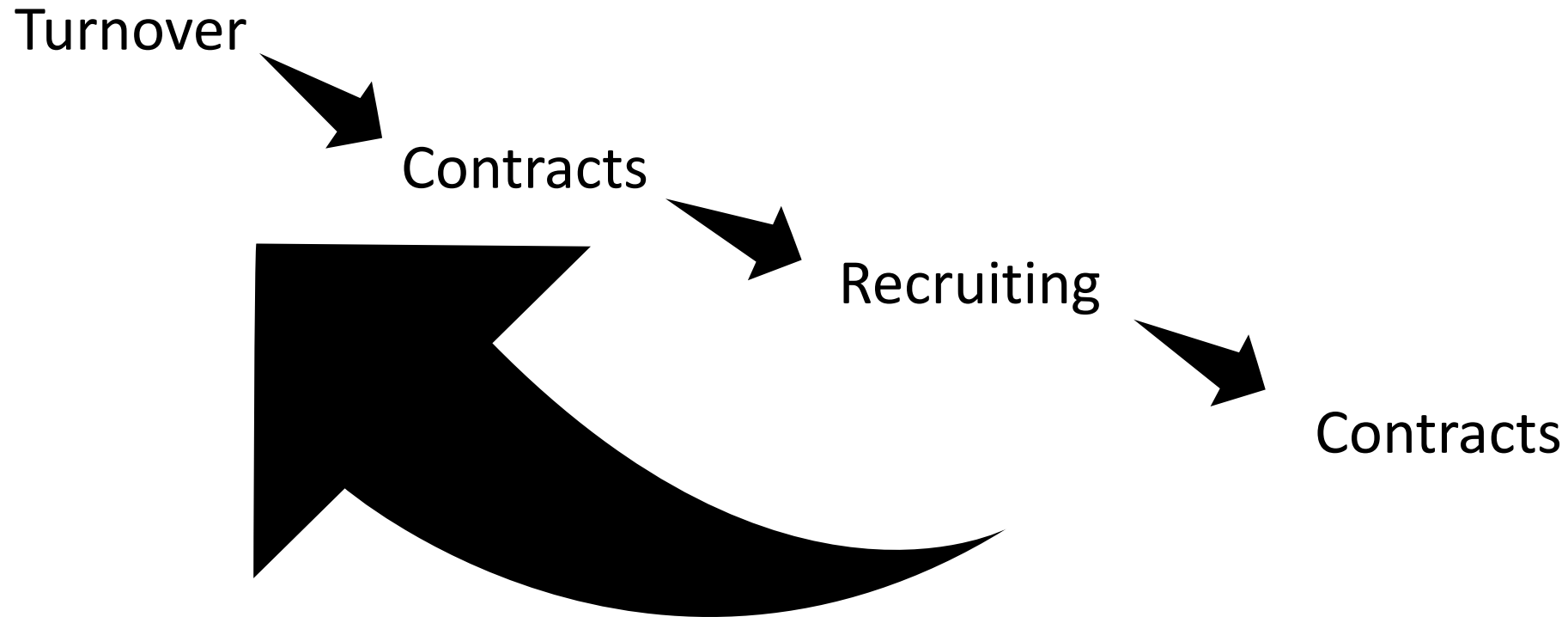
- Being “competitive” is no longer enough.
- Public defense is a state constitutional obligation.
- State should incentivize being and staying a public defender
- Need to standardize Defender and Prosecutor salaries:
 - Starting Salary - \$70,000

Total Prosecutor Funding Exceeds Indigent Defense Funding by More than 60%



About 1 in 4 departing DPA attorneys leave for prosecutor positions at higher salaries

Public Defender vs Defender Contractor vicious cycle



We can't cancel the contracts until we fill vacancies, but our ability to fill the vacancies is impeded by the attractiveness of the contracts.

Recruiting – A Tough Market

DPA recruits in-state and nationally

In-State

- Internships/Externships at all three law schools

Nationally

- Job Fairs (Equal Justice Works, etc.)
- Gideon's Promise
- Reputation

Law Schools of DPA Attorneys

UK (Rosenberg)	22%
NKU (Chase)	18%
Louisville (Brandeis)	16%
IN-STATE	56%
OUT-OF-STATE	44%

Recruiting – Flexibility and Authority Needed

Every year, DPA loses recruits because public-service minded law graduates can't afford to move to and start for DPA.

After Graduation in May

Bar Prep in June - \$

Bar Exam in July - \$

Moving in August - \$

Up-Front Housing Costs - \$

Delayed First Paycheck - \$

Public Defender Salary – ¢

Authority for Recruiting or Retention Expenditures - Notwithstanding any other provision of law, the Public Advocate is authorized to spend up to \$500,000 of the funds appropriated to the Department of Public Advocacy for a Recruiting and Retention Program that may include one-time payments to incoming or current employees of the Department for the purpose of improving recruiting and retention of public defenders.

Costs of Inaction

- Unreliable and Delayed Court System
 - Frequent reassignment of cases
 - Cases handled by less experienced, unprepared attorneys
 - Increased courts with no defender
 - Complex cases delayed, harder to resolve
 - Outcomes open to questions and challenges
 - Reduced confidence in the system
- Increased Waste of State Resources
 - Constant recruiting and training
 - Overworked attorneys get more work
 - Temporary inefficient contracts required to fill gaps
- Growing Possibility of System Ceasing to Function
 - No Defenders Available in Some Areas
 - No Leaders to Take Responsibility for Cases
 - No Qualified Defenders for Capital and Complex cases
 - Justice System would grind to a halt
 - Very Expensive to fix in absence of staffed DPA



LOUISVILLE | JEFFERSON COUNTY

**PUBLIC
DEFENDER**

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The Louisville-Jefferson County Public Defender Corporation

The Louisville-Jefferson County Public Defender Corporation is a non-profit organization rendering legal services in the largest jurisdiction in the state of Kentucky to indigent adults and juveniles accused of crimes and status offenses, and to those who are subjected to involuntary hospitalization due to mental illness.

The office functions as a full-service law firm providing defense representation in all state courts at every level, as well as appellate and post-conviction advocacy in both the state and federal courts.

Louisville Metro Public Defenders – FY24

DPA - \$6,067,902 (56%) (\$5,531,379 in cash, \$536,523 in non-cash)

Louisville Metro Government - \$4,843,800 (44%)

Full Staffing – 129 Employees, 78 Attorneys

Actual Staffing – 90-100 Employees, 50ish Attorneys

Temporary Workload Reduction Program – Private Attorney Contracts

FY22 Case Assignments – 21,542 new cases

HB 568 – Transition Progress

- Collaboration with Louisville leadership
- On-Site Meetings with Staff
- DPA/Louisville Transition Advisory Group
- Informational Webinars
- Legislative Meetings/Discussions

Priorities

#1 – Funding

Estimated Funding Request: \$10,854,440

Assumptions:

- Full Staffing (129 Employees)
- All Employees in State Retirement System
- No moving, Increase in rent no more than 20%

\$10,854,440 > \$4,843,800 WHY?

- Substantial increase in Retirement (7.25% to 66%)
- Double cost for health insurance
- Estimated 20% increase in rent
- Increase in Personnel expenses to match DPA pay schedule
- COT Network, Hardware, phone system upgrades

- DOES NOT INCLUDE: Any additional personnel for DPA beyond Louisville employees

Priorities

#2 – Employee Retention

Doomsday Scenario

20,000 clients have no attorney on July 1, 2024

We must retain the dedicated qualified staff of the Louisville Metro Public Defender's Office.



A “Smooth Transition Statute” is Needed

Section 1: A new section of KRS Chapter 31

- (1) Personnel employed by the Louisville & Jefferson County Public Defender Corporation shall be transferred with status into the Department of Public Advocacy and be subject to all the provisions of the KRS Chapter 18A personnel system.
- (2) With approval of the Public Advocate, employees transferred to the Department of Public Advocacy shall retain their salaries and leave time balances accumulated as of the transfer date. Leave time accumulated in leave types different from that in KRS Chapter 18A shall be transferred into a comparable KRS Chapter 18A leave type as determined by the Personnel Cabinet.

Priorities

#3 – Pension System

Louisville has private fully-funded pension plan through Vanguard Investments.

Many have sufficient experience to be Tier 1 or Tier 2 state employees if credited.

For Tier 3, how could years in Louisville be credited towards state “Rule of 87”?

Can state time be “purchased” with pension funds (or by one-time state funding)?

Priorities

#4 – Building at 719 West Jefferson Street



Restructuring

- DPA Personnel will grow by 22%, so restructuring is needed:
 - To create the Louisville offices, and
 - Increase infrastructure to support agency growth.
- Because the Louisville Defender's Office already has infrastructure personnel, no additions should be needed beyond existing funded Louisville positions.

Restructuring Needed – Trial

- Elevate Trial Division to Office of Trial Services
- Create 2 or 3 Divisions to provide oversight of DPA's 40+ trial units
- Add Louisville Branch to Eastern, Bluegrass, Western, Northern, Central, Southern and Capital Trial Branches
- Create Multiple Work Sections/Units Within Louisville Branch

Restructuring Needed – Post-Trial

Create a new Appeals Section for existing Louisville appellate attorneys

Restructuring Needed – Education

- Elevate Education Branch to Education and Recruitment Division
- Create new Branches to reflect additional education needs of Louisville staff
- Create a Defender Recruitment Branch to improve recruiting for the now-statewide system

Restructuring Needed – Conflicts/Contracts

- Elevate Conflicts Division to Office of Conflict and Contract Services
- Create new Divisions to focus on services/support in conflict cases and all service contracts for attorneys providing indigent defense representation
- Louisville's existing TWRP program would be placed in this Office for as long as necessary

Resources Needed – Central Office Space

DPA's Central Office is at full capacity, even before additional employees relating to Louisville are added.

Solutions:

1. Additional funding for additional space, or
2. Spin off Protection and Advocacy to an independent non-profit agency (as recommended for several years, without known opposition)

142,749

**Total New
Trial Cases**

375.5

**Average Caseload
Per Attorney**

\$435

**Funding Per
New Trial Case**

BREAKDOWN OF REPRESENTATION TYPE

29,585 Circuit Court Felony Cases (Non-Revocations)

34,964 District Court Felony Cases

39,862 District Court Misdemeanor Cases

18,293 Court Revocation Cases

3,845 Juvenile Cases

4,899 Involuntary Commitment Cases

3,357 Contempt Cases

6,081 Conflict Cases

1,800 Parole Revocation Cases

63 Other Types of Cases

Caseloads **136%** of National Standards *

Challenge – Travel for Attorneys Representing Children

Currently, the most vulnerable clients we represent are the most unlikely to see their attorney in advance of court.

Juvenile clients are no longer housed at the closest juvenile facility.

To see clients in person, attorneys must spend entire days on the road for one or two clients.

Challenge – Senate Bill 90 – Barrier Relief Program

- BHDID proposes that DPA hire Barrier Relief Administrators, who would work with our existing Alternative Sentencing Workers to assist Behavioral Health Conditional Dismissal Program participants.
- Funding would be provided through a grant from BHDID, but hiring 11 additional social workers may raise collateral costs (i.e. office space).
- DPA is willing to play this role but would need legislative authorization and all necessary funding.

Possible Structural Improvements

- Requirement of at least one DPA office in every Judicial Circuit (currently DPA has an office in 36 of 57 circuits)
- Increased presence in rural counties
- Authorization for Public Advocate to set salaries for all DPA employees without Personnel Cabinet or Governor's Office approval
- Provide Alternative (Non-DPA) Counsel in non-criminal matters such as Involuntary Commitment and Tim's Law (KRS Chapter 202A)

Making a Difference



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