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Fiscal Year 2024 Operating Budget  
Response to Department of Legislative Services Budget Analysis

House Appropriations Committee  
Public Safety and Administration Subcommittee  
Delegate Antonio (Tony) Bridges  
February 22, 2023

Senate Budget and Taxation Committee  
Public Safety, Transportation, and Environment Subcommittee  
Senator Sarah Elfreth  
February 23, 2023

Thank you for the opportunity to respond to the Department of Legislative Services' Fiscal Year 2024 budget analysis. We appreciate the thorough analysis by our DLS budget analyst and the continuing work of your Committees.

**New Positions and Vacancies**

The Office of the Attorney General (OAG) currently has 37.4 vacancies. Eight of the vacant positions have been offered and accepted and will be filled in the next few weeks. We are in the process of making offers on seven more of the vacant positions. This will bring the total vacancies down to 22.4, with a vacancy rate of 7.6%. We are currently actively recruiting for many of the remaining vacant positions.

The new positions are needed to enable the OAG to continue the commitment to public safety, protection of Maryland citizens from consumer fraud and financial exploitation, and to support the Office's ability to provide the highest legal representation for Maryland. Our attorneys litigate cases where tens of millions of dollars, and, more importantly, the lives of vulnerable citizens, are at stake.

The OAG has struggled for too long without much needed resources. We will briefly highlight two of the areas for which we have requested additional positions and address the need for contractual conversions.

## **New Positions for the Organized Crime Unit**

The Organized Crime Unit (OCU) of the Attorney General's Criminal Division handles large, complex investigations and prosecutions of multi-defendant criminal conspiracy and gang cases related to organized crime in the State of Maryland. The cases handled by OCU typically involve the following categories of crimes: gang activities, firearms violations, human trafficking, prison/jail corruption, high-level drug trafficking especially related to the opioid epidemic, fatal overdose deaths, witness intimidation and obstruction of justice, and violent felonies from serial robberies to multiple homicides.

The OCU is already desperate for more resources to support its current caseload, but additionally there is a genuine and steadily increasing need for the OCU to take on more cases, and this demand would require many more resources. Attorneys are working well over the standardized work week, which they fully expect when they sign up for this job, but doing so without any breaks is not sustainable and will certainly lead to burn out.

Given the very clear need for the OCU to continue operating as it has been and given the increase in volume of cases that law enforcement is bringing, the OCU desperately needs additional resources. Through this requested expansion, i.e., an additional 18 positions to include AAGs, investigators, victim-witness advocates, and analysts, the OCU can make an even more meaningful and measurable impact on violent crime, gang-related crime, the opioid epidemic, and more.

## **New Positions for the Medicaid Fraud Control Unit**

At present, the Medicaid Fraud Control Unit (MFCU) has 39 positions and is charged with oversight of the Maryland Medicaid program with its budget of \$13.5 billion and network of over 80,000 providers. This means that each MFCU investigative team is responsible for the oversight of 10,000 providers. And although the Medicaid program has continued to grow every year, the MFCU has not. Despite these odds, over the past five years, the Unit has recovered \$80,974,829.17 for the State Medicaid program. The MFCU is funded with 75% federal funds and 25% general funds. Thus, for every \$1 spent by Maryland on the MFCU, the Unit has returned \$12 to the State.

The proposed increase in the MFCU budget for FY2024 is primarily directed toward the expansion of the Unit by two investigative teams with an additional investigator to back up the newly created digital forensics lab. The dual goals of this expansion are to better address the opioid crisis in Maryland and to increase the Unit's capacity to handle the large volume of abuse and neglect cases it receives.

## **Contractual Conversions**

Filling contractual positions remains a serious challenge. Attorneys often leave law school with significant debt and will not apply for contractual positions if permanent positions are available. If we are able to hire contractual attorneys and staff, they continue to look for permanent, full time positions and leave as soon as they get one. This happens after we have

devoted substantial time and resources toward their training. Therefore, it is critical that these contractual positions be converted to regular positions.

### **Access to Counsel in Evictions (ACE) Quarterly Reports**

Under the statute, MLSC is primarily responsible for implementing the Access to Counsel in Evictions Program. The OAG's role is to appoint members to and provide staffing for the Access to Counsel in Evictions Task Force. Therefore, we respectfully request that you reject the recommendation that we be required to submit quarterly reports on the ACE Program.

### **Antitrust Division**

The Antitrust Division has only three attorney positions, which includes the Division Director. The decrease in the number of investigations, inquiries and advice given in cases was due primarily to the Division having only two lawyers from January 2021 until March 2022. Also, we have not had a settlement in any of our large antitrust multistate cases recently. That is the typical source of our significant recoveries.

### **Salaries**

OAG employees perform a diverse range of sophisticated legal work in areas ranging from public finance, real estate, and information technology, to public private partnerships and complex environmental work. Our attorneys litigate cases where tens of millions of dollars, and, more importantly, the lives of vulnerable citizens, are at stake. Our enforcement divisions, such as Consumer Protection, Securities, and Antitrust, bring in recoveries that eclipse the salaries of their attorneys and staff. We are, in all of these areas, trying to compete against the private sector and other governmental entities to recruit and retain experienced attorneys, legal assistants, and investigators.

Unfortunately, there is not only a pronounced gap between OAG salaries and attorney salaries at private firms, even small firms, but also a substantial gap between OAG salaries and other government sector employers. This is true at the federal, state, and local level.

The Office regularly loses employees to the federal government. We also lose personnel to other State entities with independent salary authority which pay their attorneys more than the OAG.

OAG salaries also seriously lag behind county law offices in surrounding jurisdictions, and we regularly lose personnel to those offices. The most dramatic difference in salaries exists for attorneys with 5 or more years of experience, including management and supervising attorneys.

Qualified attorneys with a desire to engage in public service want to work for the OAG, but often cannot afford to do so. Qualified OAG attorneys leave the Office for better paying positions, including with nearby governments. This is not in the best interest of the State, our clients agencies, or the citizens we serve.

Many candidates in the recruitment process who want to join the Office of the Attorney General cannot afford to do so. This includes applicants who currently work in neighboring local jurisdictions.

For Fiscal Year 2024, we worked with the Department of Budget and Management (DBM) on this salary issue, and a one grade increase for OAG lawyers was included in the Governor's Fiscal Year 2024 budget. We hope to continue discussions with the Department of Budget and Management on the salaries for our lawyers.

We have also had difficulties recruiting certain support staff positions, in particular auditors and investigators, due to the salaries we are able to offer. We are working with DBM to address this problem.

Thank you for your attention to these matters.