

**Fiscal Year 2025 Operating Budget
Response to Department of Legislative Services Budget Analysis**

House Appropriations Committee
Public Safety and Administration Subcommittee
Chair Jazz Lewis
Thursday, February 29, 2024

Senate Budget and Taxation Committee
Public Safety, Transportation, and Environment Subcommittee
Chair Sarah k. Elfreth
Friday, March 1, 2024

Thank you for the opportunity to respond to the Department of Legislative Services' Fiscal Year 2025 budget analysis. We appreciate and support the dedicated work of the General Assembly.

As Maryland's Chief Legal Officer, I lead the Office of the Attorney General ("OAG") with a key focus on equity, justice, and fairness. I am deeply committed to ensuring that my Office has the resources it needs to deliver excellent services for our clients and Marylanders, this includes making sure that the members of my team have the tools they need to do their jobs well and grow in their professional roles and pursuits. It is because of our talented attorneys, investigators, paralegals, administrative and operational staff, clerks, and volunteers that the OAG makes a meaningful impact across our State.

My teams act as legal advisors and litigators for the agencies, boards, commissions, officials, and institutions of Maryland State Government. We also enforce the State's antitrust, consumer protection, civil rights, and securities laws, and conduct criminal prosecutions and appeals.

A Year-in-Review

During my first year as Attorney General, I set a bold agenda for my Office to protect Marylanders. From ramping up civil rights protection enforcement to building on police transparency and accountability efforts, to bringing environmental enforcement actions that protect Marylanders from pollution, to giving a voice to survivors of child sexual abuse. From fighting for reproductive freedoms for all to combatting unfair and abusive conduct in the consumer marketplace, to prosecuting criminal networks that threaten the safety of our communities, to expanding our OAG workforce by more than 220 new and promoted members. We continue to create positive change throughout our state.

In one year, because of the tremendous support from the General Assembly and Governor Moore, we've been able to:

- **Stand up our newly created Civil Rights Division (CRD).** In 2023, the Maryland General Assembly passed legislation empowering the Attorney General to investigate and address civil rights violations by non-governmental entities. The Office can now investigate violations of state and federal civil rights laws and violations of the U.S. and state constitutions, including discrimination in housing, employment, public accommodation, and the right to contract. The Office can also seek an injunction to stop an alleged civil rights violator from continuing its discriminatory actions. Through a dedicated and aggressive hiring effort, we have been able to nearly staff up CRD (8 attorneys, 3 investigators/outreach coordinators, 1 paralegal, and 1 Special Education Ombudsman).
- **Expand our Criminal Division, especially the Organized Crime Unit (OCU).** In just a year we have expanded and enhanced the Criminal Division to create an even bigger and better Division that has enough resources to handle the many cases that our local, state, and federal law enforcement partners ask us to take on each day. OCU 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. We have successfully hired the six (6) AAG positions provided to us and added some additional contractual support. This means OAG is a key partner in the fight against crime and supports our law enforcement partners, including our state and federal partners, in that fight.
- **Fully staff our Independent Investigators Division (IID) to implement IID' new expanded prosecutorial authority.** In 2023, the General Assembly gave the OAG's IID exclusive authority, beginning October 1, 2023, to prosecute police-involved fatalities and serious injuries likely to result in death. Building on the General Assembly's 2021 police reform agenda, which charged the Attorney General with conducting independent investigations of police involved fatalities, the new law increases transparency, independence, and community trust not only in the investigation of these cases, but also in the decisions as to whether they should be prosecuted. I am happy to say that we have hired the 4 positions (two AAGs and 2 support/investigative staff) to ensure our ability to take on this new authority.
- **Launched the Maryland Equitable Justice Collaborative.** In October 2023, in partnership with Public Defender Natasha Dartigue, we announced the creation of the Maryland Equitable Justice Collaborative (MEJC), a new first of its kind initiative dedicated to reducing the mass incarceration of African Americans and other marginalized groups in Maryland prisons and jails. The disproportionate mass incarceration of

Marylanders, felt most starkly in the African American community, is a devastating trauma in our State that demands our immediate and abiding attention and resolve. African Americans constitute approximately 30% of Maryland's population but make up a staggering 72% of our prison population – the highest percentage of imprisoned African Americans in the country. MEJ's goal is to examine and assess the scope and causes of this crisis, and to develop a data-driven approach to addressing it. The Collaborative is in full motion and is comprised of Committees focused on the issues that drive incarceration rates. I am grateful to our partners for answering the pressing call to action, including the Maryland Office of the Public Defender, the University System of Maryland through the Judge Alexander Williams, Jr. Center for Education, Justice & Ethics at University of Maryland College Park, and the Institute for Restorative Justice and Practices at Bowie State University. I was able to quickly staff the support for this critical initiative and hire an AAG for Strategic Initiatives in 2023.

These are only a few important examples of the work that we have done this last year. We have also been keenly focused on staffing up our Consumer Protection Division, Securities Division, and Medicaid Fraud Control Unit.

OAG's Strategic Path – Institutionalizing Operational Excellence and Ensuring Right-sized Resources for the Office of the Attorney General

The OAG continues to demonstrate the effective use of budgeted dollars and maximizes a return to not only the State, but to Marylanders. Without the necessary funding, our ability to carry out the legal and operational responsibilities of the Office may be in jeopardy. The reality is also that none of these accomplishments would be possible without a strong and well-resourced operations team.

The OAG has more than 900 employees, both attorneys and professional staff in our Central Divisions and at Agency Client Units. OAG's current limited operations infrastructure provides full-cycle human resources services to all OAG employees, as well as working closely across the OAG footprint to provide employees with assistance on administrative, facilities, contractual, and data needs. As the agency has expanded, unfortunately, operational resources have not or in some cases have been reduced to meet budget cuts in prior years. This has led to tremendous strain on current operational staff, often limiting the agency's ability to operate efficiently and effectively and provide employees with adequate support. My focus in 2024 has been to right-size our critical operational needs to ensure effective management of the agency and ensure optimal legal and professional services on behalf of the State and our clients.

My team and I have spent significant time assessing the needs of an agency that has struggled for far too long without much needed resources. Our focus continues to be on:

1. Providing the highest-level legal representation and services for the State and Marylanders;
2. Modernizing critical systems of the agency in support of our mission and charge;
3. Determining an optimal re-organizational structure and achieving efficiencies across all service areas; and,
4. Right-sizing critical operational supports.

In 2023, without seeking any additional external resources, I have been able to mobilize my internal resources to bring on board a new Chief Operating Officer, General Counsel, Director of Human Resources, and Director of Information Technology. I have been able to do this by leveraging my own resources and being able to solve my Office's internal needs within existing resources.

With an enhanced operations team, to name a few, we have been able to improve our hiring processes and work to implement a new hiring system; roll out a new case management system for the Consumer Protection Division to more effectively receive and process consumer complaints; assess our agency-wide e-discovery, document management, and case management needs; develop and update office policies; develop a facilities modernization plan; set a vision for professional and organizational development; and set in motion longer-term plans to more effectively support the work of our attorneys and in turn, make the OAG a more efficient agency. For this reason, I know I must work within my means, and to guard my resources, to ensure our sustained progress.

In other instances, I have been able to hire quickly for Divisions most desperate for additional resources such as the case of our Criminal Appeals Division (CAD), which represents the State in all criminal matters in the appellate courts of Maryland and in the Federal courts at all levels. The Division also offers advice and counsel to the State's Attorneys' offices in Maryland as well as other State agencies. CAD's overwhelming caseload demanded that I route additional AAGs to the Division, and I accomplished this without seeking additional PINs, but by effectively managing my personnel resources.

As the 47th Attorney General for the State of Maryland, I am extraordinarily proud of the work that my Office has done this past year, but the progress of my Office is in jeopardy.

DLS Recommended Cut

DLS has recommended a **nearly \$1M cut to my budget**. \$984,763 in General Funds, \$223 in Special Funds, and \$5,692 in Federal Funds. DLS has stated that this is "to align with increased turnover expectancy among existing positions at the agency" and that my Office is authorized to allocate this reduction across the agency's programs. DLS further explains that this reduction is made to increase the turnover rate for existing positions within OAG from 7.49% to 9.50%. DLS concludes that the budgeted turnover adjustment for OAG be reduced by a total of \$990,678 for existing regular positions in order to align the budgeted amount more closely with the agency's vacancy rate.

I am asking the Committee not to adopt this recommendation. The OAG simply cannot absorb this reduction. It will hinder my ability, as a Constitutional Officer, to effectively run my Office. The OAG, our clients, and Marylanders cannot afford for our budget to be reduced at such a critical time in the agency's turnaround efforts. As the Attorney General for the State of Maryland, my ability to lead my Office and to provide the highest legal representation for Maryland heavily depends on having the adequate resources to operate efficiently and at service-level.

Explaining OAG's Hiring Efforts

OAG hires and backfills positions across the entire OAG footprint, which includes new positions or vacancies at the Client Agencies in addition to those allocated within the OAG budget. This accounts for almost 900 OAG employees. Between January 2023 and January 2024, the OAG hired and promoted a total of **220 employees into new positions**, which we consider significant in our efforts to hire as quickly as possible. This is especially remarkable for an HR team of 4 employees that provide full-service HR services across recruitment/hiring, performance management, employee relations, EEO/workplace investigations, FMLA/ADA requests, processing personnel actions, supporting new employee initiatives, and enforcing office policies.

In FY2024, the OAG was provided with 58 regular PINs, 9 of which were contractual conversions, leaving 49 to be filled. As noted above, we have been working tirelessly to fill these new positions, including in our Civil Rights Division, Criminal Division, Securities Division, Medicaid Fraud Control Unit, and Consumer Protection Division. We've made tremendous progress. We have also hired or promoted over 30 new Principal Counsel, Chiefs, and Deputies – all critical leadership positions that require a thoughtful and thorough vetting and hiring process.

OAG's current vacancy rate is 9% (not including agency client vacancies as those rates are reflected within the agency client unit rates). This represents 35 current vacancies, all at various active stages of recruitment. Vacancies with outstanding offers are not included in this number. If we keep our pace, by the end of the Fiscal Year in June, OAG will have filled most of its vacant positions.

In collaboration with DBM, and at their guidance, I am currently working with my operations team to convert and reclassify remaining vacant positions to support our skeletal operations functions and to provide additional paralegal and administrative supports to our legal enforcement Divisions.

Additional Critical Compounding Issues

The OAG's FY2025 allowance **already includes a reduction of \$1,229,675 in General Funds**. This reduction in the Securities Division eliminated the entire General Funds appropriation and

there was a fund swap with Special Funds. These Special Funds are restricted and therefore reduce my ability to allocate resources as crucial needs arise. An example of this is when I was able to route positions from the Criminal Division to create the new Civil Rights Division without seeking any additional PINs last year.

In addition, as noted in the analysis, the FY2025 allowance is reduced by \$700,000 in General Funds contingent on enactment of a provision in the Budget Reconciliation and Financing Act (BRFA) of 2024 that repeals the mandate requiring that the Governor provide \$700,000 in General Funds for the Consumer Protection Division in OAG.

I hope you will support me and my Office by not reducing our FY2025 allowance.

Access to Counsel in Evictions Special Fund

Chapter 40 of 2022 requires that the Governor include \$14 million in special funds from the Unclaimed Property Fund in the budget each year for the ACE Special Fund, which is utilized by MLSC to operate the ACE program. In Fiscal Year 2024, that funding was included in OAG's legislative appropriation. The mandated funding is not present in the Fiscal Year 2025 allowance for OAG or any other agency. DLS has asked that OAG works with the Department of Budget and Management (DBM) to fully fund the mandate through a supplemental budget.

It is our understanding that DBM has fully funded the mandate in the OAG's FY2025 budget through a supplemental budget, and that the funds will be again placed within the OAG budget. I welcome the funds back in the OAG budget.

Other Recommendations

- I support DLS's recommendation that OAG should work with DBM to add metrics tracking prosecutions by IID to its annual Managing for Results data submission, including total prosecutions and the results of prosecutions.
- I understand that all Access to Counsel in Evictions (ACE) recommendations were appropriately provided to the Maryland Legal Services Corporation (MLSC), and that MLSC has filed their responses.



MLSC

MARYLAND LEGAL SERVICES CORPORATION

IOLTA - INTEREST ON LAWYER TRUST ACCOUNTS

FY25 Office of the Attorney General Budget Analysis

Maryland Legal Services Corporation Comment

Access to Counsel in Evictions Program

Contact: Michelle Siri, Executive Director, msiri@mlsc.org, 410-576-9494 x1009

Maryland Legal Services Corporation is a legislatively created nonprofit organization with a mission to ensure low-income Marylanders have access to stable, efficient and effective civil legal assistance through the distribution of funds to nonprofit legal services organizations. The Maryland General Assembly recognized the importance of civil legal services in landlord-tenant cases by passing the Access to Counsel in Evictions Program during the 2021 session. The General Assembly named MLSC as the administrator of this important program.

MLSC should comment on recommendations made by the ACE Task Force for additional funding sources. MLSC should also comment on the amount of funding it expects to need to operate the program on a yearly basis after the conclusion of the rollout process. DLS recommends the adoption of committee narrative requesting quarterly reports on the implementation of the ACE program in fiscal 2025.

Response:

The ACE Task Force, of which MLSC is a member, issued a 60-page Report on the Access to Counsel in Evictions Taskforce in January 2024. This report contained findings regarding the implementation, funding, and progress of the ACE Program, as well as recommendations to MLSC, the Judiciary, the Legislature, and other stakeholders. The report covered outreach and education, program design and implementation, program assessment and evaluation, and program funding.

The Task Force found that funding is the most urgent and critical need for the success of the program. Specifically, the Task Force recommended the Governor and/or General Assembly provide \$6 million dollars in funding in addition to the mandated funding for FY25 in order to achieve expansion and full implementation of the ACE program by 2025. The Governor's budget for FY25 did not include the funds mandated in statute. We expect that this will be rectified in a supplemental budget.

MLSC agrees with the Task Force's forecast. Currently, MLSC is expected to receive \$14 million from the Abandoned Property Fund for FY25. Those funds, combined with the remainder of one-time ERAP funding and anticipated ACE Special Funds carry-over funding, provides a budget of approximately \$20 million for the ACE Program in FY25. MLSC anticipates grant awards for FY25 of approximately \$19 million, plus an additional million dollars for outreach and education contracts and the administrative costs of the program, including evaluation. Thus, as currently budgeted, ACE will be able to continue at its current capacity, with only a modest increase to existing grantees for the purposes of increasing salaries and assisting with recruitment and retention of staff attorneys. Without the additional recommended funding, MLSC is concerned that the ACE Program will not be able to expand capacity or entertain applications from additional grantees.



MLSC

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IOLTA - INTEREST ON LAWYER TRUST ACCOUNTS

MLSC is committed to working closely with the Task Force to secure permanent funding for the ACE Program. This includes a removal of the sunset provision for the funding provided via the Abandoned Property Fund, as well as an additional permanent revenue stream, such as that proposed in legislation to increase filing fee surcharges in eviction matters.

1. **Adopt the following narrative:**

Access to Counsel in Evictions (ACE) Quarterly Reports: The committees remain interested in the progress of the implementation of the ACE program. The committees request quarterly reports on the progress of the rollout of the ACE program. The first report should be submitted no later than October 15, 2024. Each report should provide, at a minimum, the following information:

- **quarterly expenditures by purpose of expense;**
- **a list of legal services providers participating in the program in each county;**
- **the number of cases with representation by attorneys in the program;**
- **the amount of funds paid to legal services providers; and**
- **the number of tenants rejected by the program and the reason for rejection.**

Information Request	Author	Due Date
ACE quarterly reports	Maryland Legal Services Corporation	October 15, 2024
		January 15, 2025
		April 15, 2025
		July 15, 2025

Response: MLSC concurs with the recommendation and is happy to provide quarterly reports on the progress of the program.