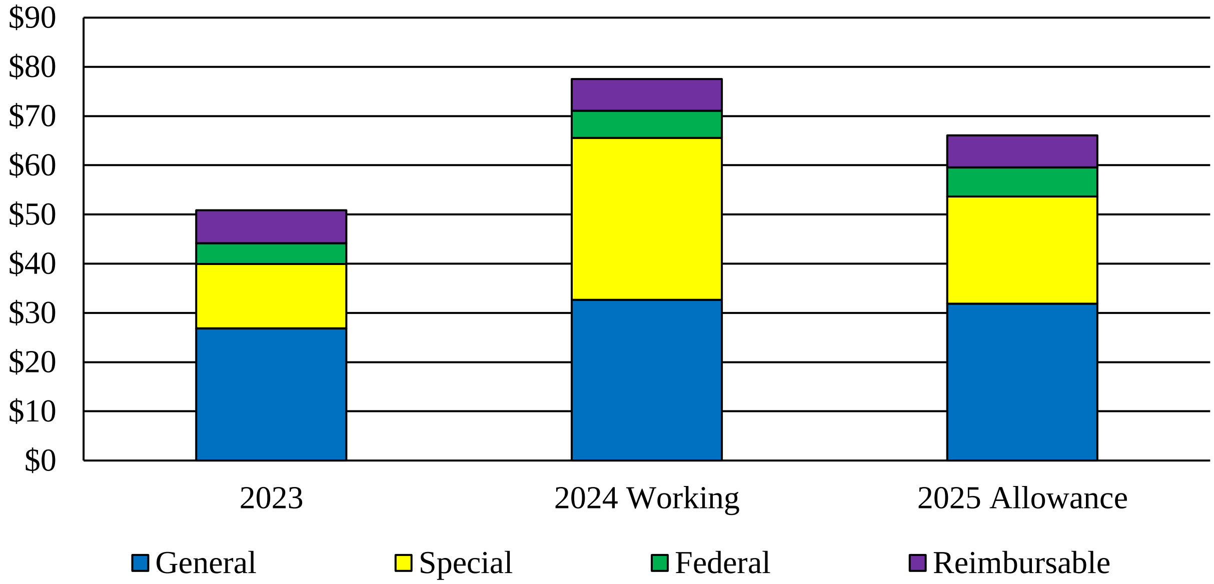
Office of the Attorney General

Program Description

The Attorney General acts as legal counsel to the Governor; the General Assembly; the Judiciary; and all departments, boards, and commissions (except the Maryland Commission on Civil Rights, the Public Service Commission, and the State Ethics Commission). The Office of the Attorney General (OAG) represents the State in all matters of interest to the State, including civil litigation and criminal appeals in all State and federal courts. The office also reviews legislation passed by the General Assembly prior to consideration by the Governor and oversees the expenditures of the Mortgage Loan Servicing Practices Settlement Fund. The office is currently supported by 15 divisions: Legal Counsel and Advice; Securities; Consumer Protection; Antitrust; Medicaid Fraud Control; Civil Litigation; Civil Rights; Criminal Appeals; Criminal Investigation; Educational Affairs; Correctional Litigation; Contract Litigation; People's Insurance Counsel; Independent Investigations; and the Juvenile Justice Monitoring Unit.

Operating Budget Summary

Fiscal 2025 Budget Decreases $11.5 Million, or 14.8%, to $66.1 Million
($ in Millions)



Note: Numbers may not sum to total due to rounding. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency's budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency's budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency's budget. The fiscal 2025 allowance accounts for contingent reductions.

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Fiscal 2024

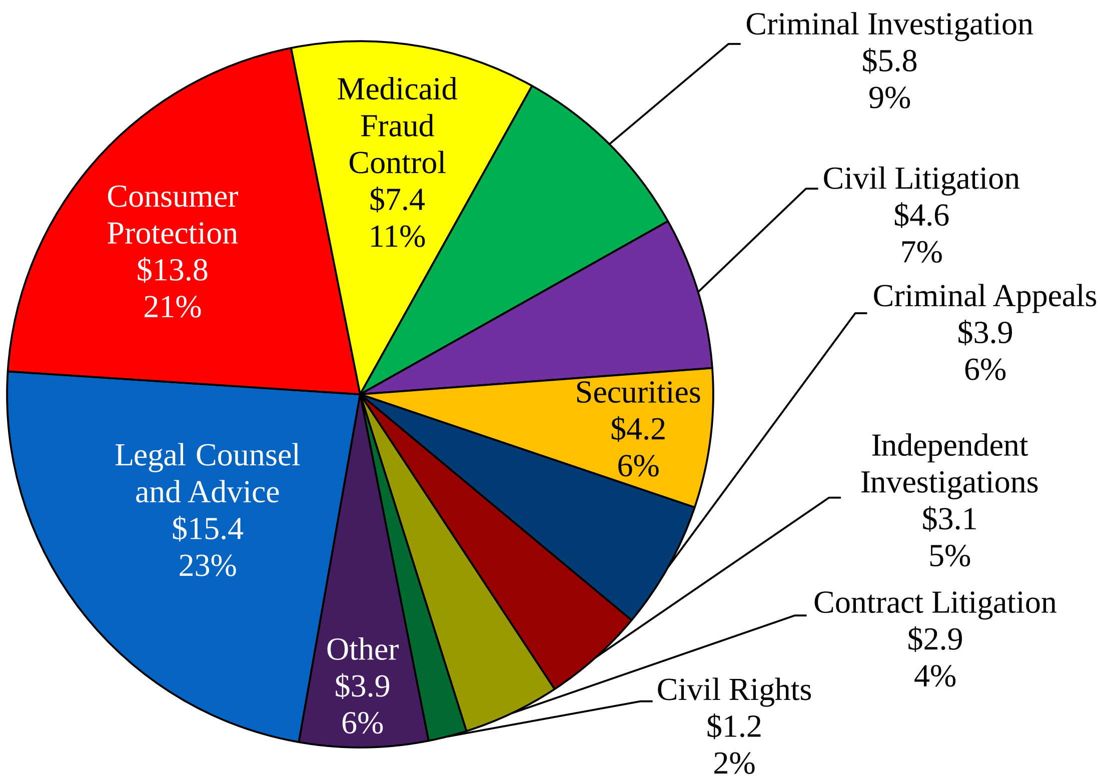
Implementation of Legislative Priorities

The fiscal 2024 budget included $548,900 in additional funds for OAG, contingent on the enactment of SB 290 or HB 857 of 2023; SB 290 was ultimately enacted into law as Chapter 632. This Act granted prosecutorial authority to OAG's Independent Investigations Division (IID). Prosecutions were formerly at the discretion of the State's Attorney in the jurisdiction of the investigation. The increase in workload for OAG created by this Act necessitated the additional funding included in the legislative appropriation, and the Board of Public Works (BPW) authorized the creation of 4 positions within OAG. Further discussion of IID may be found in Key Observation 1 of this analysis.

Fiscal 2025 Overview of Agency Spending

As shown in **Exhibit 1**, the fiscal 2025 allowance for OAG totals $66.1 million. The Legal Counsel and Advice program occupies 23% of the total budget, followed by Consumer Protection at 21%, and Medicaid Fraud Control at 11%.

Exhibit 1
Overview of Agency Spending
Fiscal 2025 Allowance
($ in Millions)



Note: The fiscal 2025 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency's budget.

Source: Governor's Fiscal 2025 Budget Books

Contingent Reduction

The fiscal 2025 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.

Proposed Budget Change

As shown in **Exhibit 2**, the fiscal 2025 allowance decreases by $11.5 million, or 14.8%. The removal of funding for the Maryland Legal Services Corporation's (MLSC) Access to Counsel in Evictions (ACE) program and the omission of a mandated appropriation to the ACE Special Fund decreases the budget by $14 million. Other significant changes include $4.7 million for salary increases, including the fiscal 2024 cost-of-living adjustment and increments, as well as increased rent expenses for the agency's office in Baltimore City.

Exhibit 2
Proposed Budget
Office of the Attorney General
($ in Thousands)

How Much It Grows:	**General Fund**	**Special Fund**	**Federal Fund**	**Reimb. Fund**	**Total**
Fiscal 2023 Actual	$26,863	$13,090	$4,197	$6,732	$50,882
Fiscal 2024 Working Appropriation	32,653	32,895	5,512	6,495	77,556
Fiscal 2025 Allowance	31,857	21,793	5,949	6,469	66,069
Fiscal 2024-2025 Amount Change	-$796	-$11,102	$437	-$26	-$11,487
Fiscal 2024-2025 Percent Change	-2.4%	-33.7%	7.9%	-0.4%	-14.8%

Where It Goes:	**Change**
Personnel Expenses	
Salary increases and related fringe benefits including the fiscal 2024 COLA and increments	$4,227
Costs associated with the 11 new positions created in the fiscal 2025 allowance	567
Reclassification expenses including an increase in the Attorney General's salary authorized by legislative action and increased salaries for vacant positions	476
Workers' compensation premium assessment	-100
Turnover rate increases from 6.13% to 7.49%	-668
Other Changes	
Rent expenses	231
Agency share of statewide cost allocation	132
Discontinued federal funding for Legal Counsel Division grants	-75
Case management system expenses	-251
One-time funding in fiscal 2024 for an audit of the Office of the Chief Medical Examiner	-583
Contractual personnel expenses	-1,402

Where It Goes:	**Change**
Removal of funding for MLSC's Access to Counsel in Evictions program......	-14,000
Other adjustments..	-41
Total	**-$11,487**

BRFA: Budget Reconciliation and Financing Act
COLA: cost-of-living adjustment
MLSC: Maryland Legal Services Corporation

Note: Numbers may not sum to total due to rounding. The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency's budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency's budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency's budget.

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 2024, that funding was included in OAG's legislative appropriation. The mandated funding is not present in the fiscal 2025 allowance for OAG or any other agency. **OAG should work with the Department of Budget and Management (DBM) to fully fund the mandate through a supplemental budget.**

Personnel Data

	FY 23 Actual	FY 24 Working	FY 25 Allowance	FY 24-25 Change
Regular Positions	298.50	360.50	371.50	11.00
Contractual FTEs	37.50	36.40	25.45	-10.95
Total Personnel	**336.00**	**396.90**	**396.95**	**0.05**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	26.40	7.49%
Positions and Percentage Vacant as of 12/31/23	56.40	15.64%
Vacancies Above Turnover	30.00	

- BPW authorized the creation of 8 positions for OAG in fiscal 2024, which are reflected as existing positions in this analysis. These positions included 4 assistant Attorneys General and 4 administrative positions; 4 positions were contractual conversions, while the remaining positions were supported with funding added to OAG's fiscal 2024 appropriation by the General Assembly.

- The fiscal 2025 allowance adds 11 new positions, including 3 management associates and 8 administrative positions. Of these positions, 9 are in the Securities Division, while the remainder are in the Consumer Protection Division. The new positions result in an additional $567,000 in the fiscal 2025 allowance, with other funds being made available due to contractual positions being converted to regular positions.

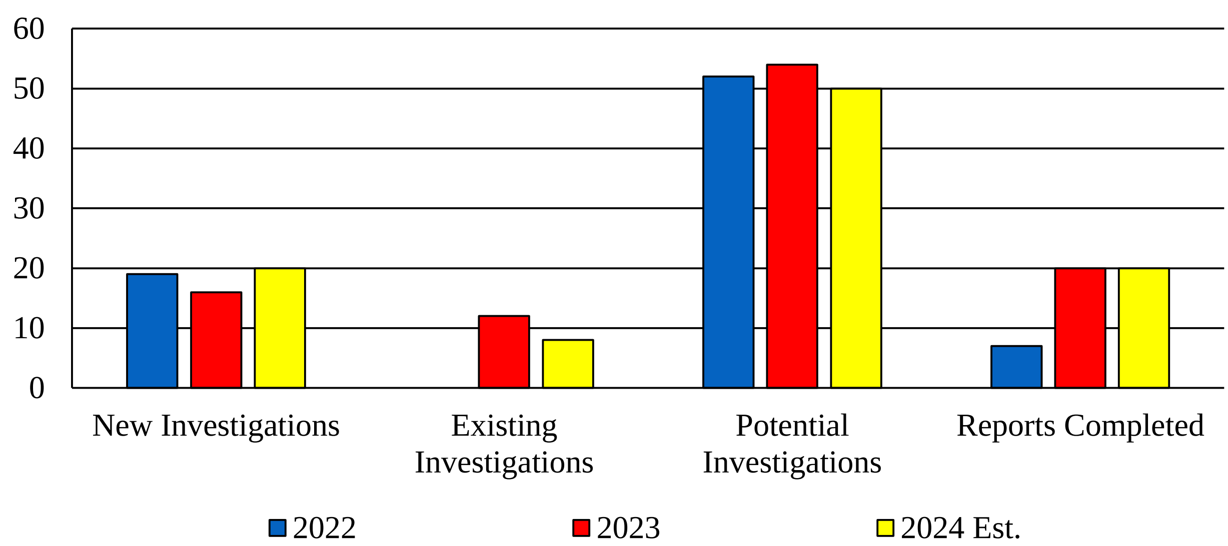
- OAG's vacancy rate is currently more than double the budgeted turnover rate. Additionally, the 11 new positions are duplicative of existing vacant positions. Funding is included in the fiscal 2025 allowance for the reclassification of vacant positions to allow for hiring at a higher step for vacant positions. Given that OAG's vacancy rate has been above the budgeted turnover rate for several years, it is prudent to increase the rate. Increasing the budgeted turnover rate from the 7.49% present in the allowance to 9.5% reduces the budgeted amount for OAG by $990,678. **The Department of Legislative Services (DLS) recommends that the budgeted turnover adjustment for OAG be reduced by $990,678 for existing regular positions in order to align the budgeted amount more closely with the agency's vacancy rate.**

Key Observations

1. Independent Investigations Division Continues Work, Gains Prosecutorial Authority

Chapter 132 of 2021 established IID, which is tasked with investigating any police-involved death of a civilian in the State or any case involving serious injury. Chapter 632 expanded IID's investigatory purview to include serious injuries regardless of whether a death was likely to occur; the division had previously been limited to investigating injuries where death was likely. Chapter 632 also granted IID prosecutorial power in cases that it investigates, whereas prior to this change prosecutorial authority was solely in the purview of the State's Attorney. In fiscal 2023, IID began work on 16 new investigations, in addition to continuing work on 12 preexisting investigations. The annual report on the work of IID submitted to the budget committees as requested by the 2023 *Joint Chairmen's Report* (JCR) indicated that IID responded to 54 cases where investigations were possible in fiscal 2023. Further data regarding IID's performance between fiscal 2022 through 2024 can be found in **Exhibit 3**.

Exhibit 3
Independent Investigations Division Caseload
Fiscal 2022-2024 Est.



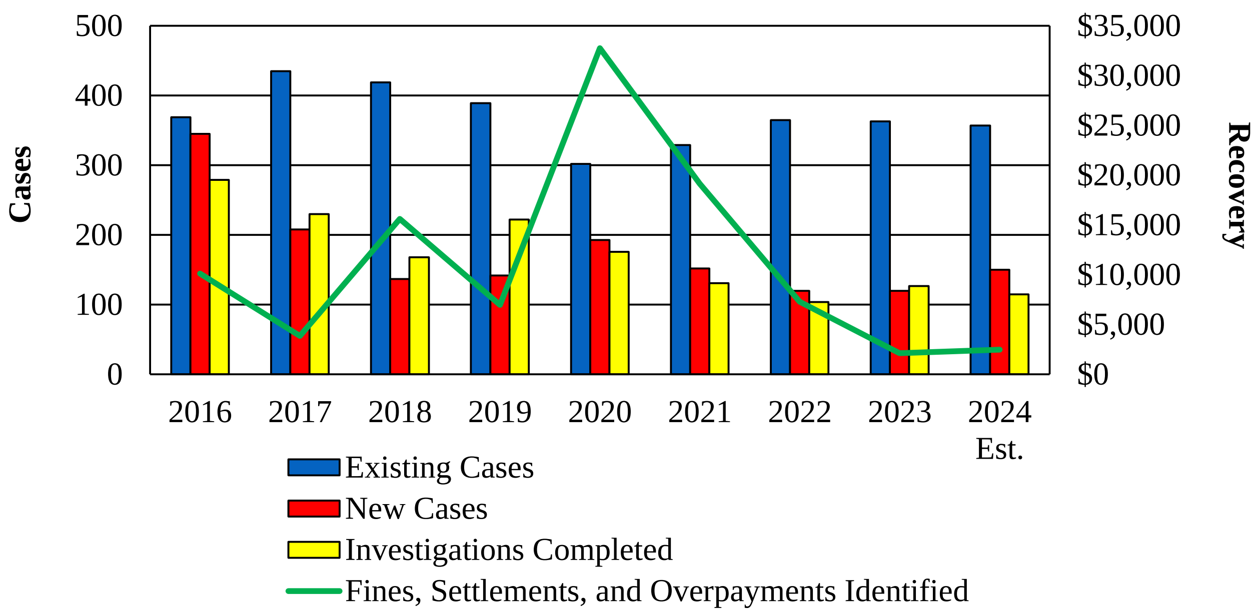
Source: Department of Budget and Management; Department of Legislative Services

IID gained prosecutorial authority at the start of fiscal 2024 and has not yet been able to estimate how many cases may be prosecuted in fiscal 2024. Reporting on the number of prosecutions and the results of those prosecutions will be helpful in evaluating the ability of the division to conduct its work with the positions that it has and will also help with overall analysis of the unit. **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.**

2. Medicaid Fraud Control Unit Recoveries Decrease for a Second Consecutive Year

The federally required Medicaid Fraud Control Unit (MFCU) within OAG investigates and prosecutes fraud involving the Medicaid system by providers and Medicaid administrators. MFCU also investigates and prosecutes crimes involving the abuse and neglect of vulnerable adults as well as crimes involving the ongoing opioid use epidemic. This unit is funded mostly with federal funds and prosecutes civil and criminal cases. In fiscal 2023, MFCU completed 115 total investigations and cases resulted in $2.5 million in fines, settlements, and overpayments. Data regarding MFCU cases and financial recoveries can be found in **Exhibit 4**.

Exhibit 4
Medicaid Fraud Control Unit Cases and Recoveries
Fiscal 2016-2024 Est.
($ in Thousands)



Source: Department of Budget and Management; Department of Legislative Services

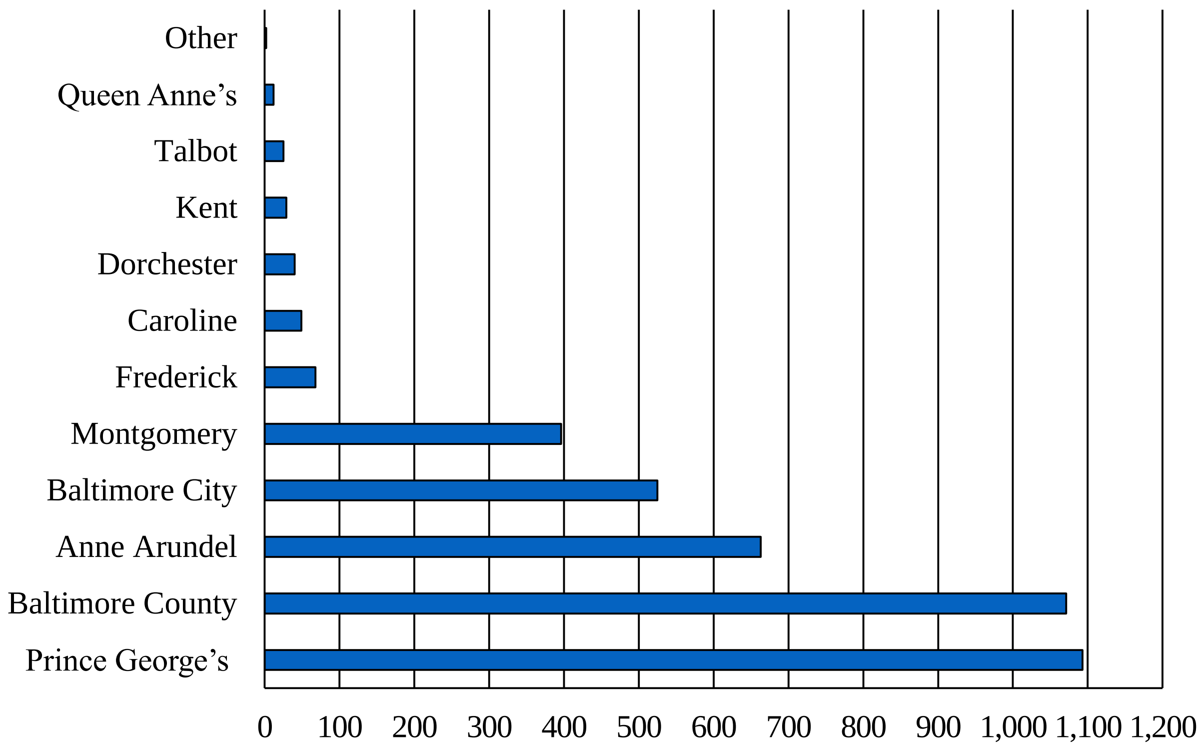
MFCU recorded more than $30 million in fines, settlements, and overpayments in fiscal 2020 due to several large opioid cases. Many of the opioid cases have since concluded, resulting in a decrease in funds recovered in fiscal 2021 through 2023. OAG anticipates that smaller cases that occur with greater frequency will continue to result in approximately $2.5 million per year in fiscal 2024 and successive years. Smaller spikes in funds recovered are seen in years prior to fiscal 2020, including fiscal 2018 where $15.6 million was recovered. OAG is not currently anticipating any cases that would result in an increase in funds recovered; however, based on prior experience, data indicates that existing personnel and resources will be sufficient to handle any such cases.

3. Access to Counsel in Evictions Program Continues Rollout Process

Chapter 746 of 2021 established the ACE Program, which provides a right to counsel in cases of evictions for qualifying individuals, along with the ACE Special Fund, both of which are administered by MLSC. The same legislation also established the ACE Task Force, which has 15 members appointed by OAG. This task force is responsible for studying potential funding sources, making recommendations to improve the implementation of the ACE program, and evaluating the provision of services provided under the scope of the program. The rollout of the ACE program is a three-year process, with final implementation to be completed by October 1, 2025. The first phase of the rollout included counsel being offered via the program to qualifying tenants in counties that had previously operated their own access to counsel in evictions programs. The current phase of the rollout involves geographic expansion to the counties that did not previously offer an access to counsel in evictions program, as well as the implementation of a coordinated intake program. The coordinated intake program allows tenants to call a hotline to request counsel in an eviction proceeding, then being referred directly to a provider serving their area who has capacity to take on their case.

In fiscal 2023, 3,973 tenants were provided with counsel via the program. Prince George’s County and Baltimore County residents used the program most frequently, with 1,093 tenants and 1,071 tenants receiving counsel, respectively. A full listing of the number of cases by county may be found in **Exhibit 5**.

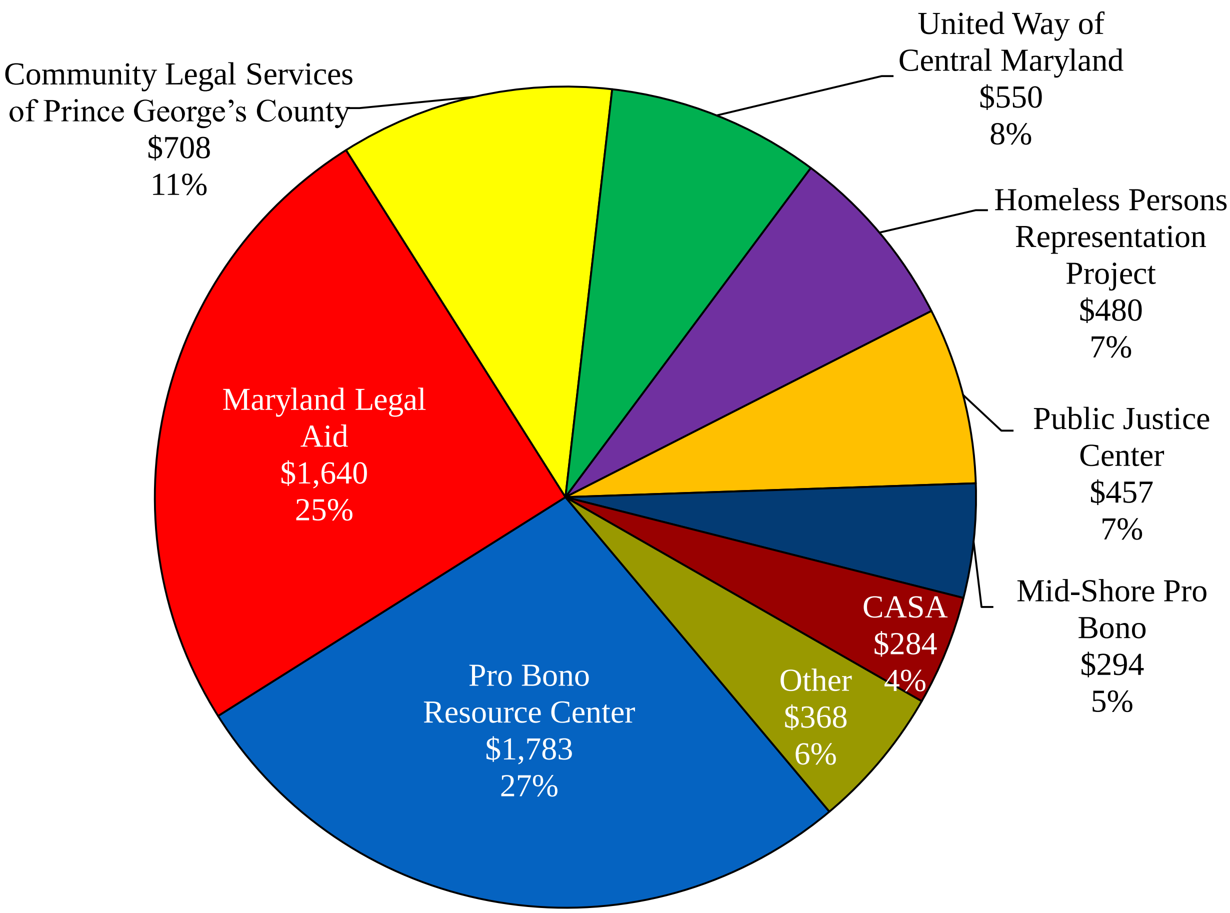
Exhibit 5
Eviction Cases Closed with Access to Counsel in Evictions Assistance
By County
Fiscal 2023



Source: Maryland Legal Services Corporation; Department of Legislative Services

Funding provided to the ACE program is used mainly to fund legal services grants to providers participating in the program. Funds are also used for administrative costs and tenant outreach and education. The program provided funding to 11 legal services providers in fiscal 2023, totaling $6.6 million. A full breakdown of funds provided to legal services providers in fiscal 2023 can be found in **Exhibit 6**.

Exhibit 6
Funding for Participating Legal Services Providers
Fiscal 2023
($ in Thousands)



CASA: court-appointed special advocate

Source: Maryland Legal Services Corporation; Department of Legislative Services

As the program expands to all counties in the next phase of the rollout process, MLSC will be adding more legal services providers, and the funds distributed to providers will increase as the number of cases increases. Chapter 40 mandates that the Governor appropriate $14 million per year to the ACE Special Fund in revenues diverted from the Unclaimed Property Fund. This mandate expires after fiscal 2027. These funds were appropriated to MLSC in fiscal 2024 via the OAG's appropriation. MLSC currently estimates that the program will require more than $25 million for its rollout in fiscal 2025, which greatly exceeds the mandated $14 million, which is not included in the Governor's allowance. If the rollout is not fully funded in fiscal 2025, there is a risk that the process of rolling out the program will be delayed beyond the originally planned completion date of October 1, 2025. Even with the $14 million, the program is at risk of not being fully funded in fiscal 2025, and MLSC needs to work closely with the ACE Task Force to identify alternative sources of funding for fiscal 2025 and future years.

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.

Operating Budget Recommended Actions

1. Add the following language:

   <u>Provided that this appropriation shall be reduced by $984,763 in general funds, $223 in special funds, and $5,692 in federal funds to align with increased turnover expectancy among existing positions at the agency. The Office of the Attorney General is authorized to allocate this reduction across the agency's programs.</u>

   Explanation: This reduction is made in order to increase the turnover rate for existing positions within the Office of the Attorney General from 7.49% to 9.50%.

2. 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

Appendix 1
2023 *Joint Chairmen's Report* Responses from Agency

The 2023 JCR requested that OAG prepare two reports. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***ACE Quarterly Reports:*** MLSC has submitted the first two quarterly reports for fiscal 2023. The remaining reports are due to be submitted in April and July 2024. Further discussion of these reports can be found in Key Observation 3 of this analysis.

- ***IID:*** OAG submitted a report on the work of IID in fiscal 2023 in October 2023. Further discussion of this report can be found in Key Observation 1 of this analysis.

Appendix 2
Audit Findings

Audit Period for Last Audit:	May 9, 2018 – June 15, 2022
Issue Date:	May 2023
Number of Findings:	2
Number of Repeat Findings:	0

Finding 1: OAG did not adequately monitor certain critical components of the case management system contract to ensure that all critical deliverables were received. As of September 2022, the system had not been fully implemented, and OLA noted that certain payments were not made in accordance with the contract.

Finding 2: OAG did not ensure all outstanding payroll errors and discrepancies were resolved and that adjustments to employee leave balances were subject to independent review and approval.

*Bold denotes item repeated in full or part from preceding audit report.

Appendix 3
Object/Fund Difference Report
Office of the Attorney General

Object/Fund	FY 23 Actual	FY 24 Working Appropriation	FY 25 Allowance	FY 24 - FY 25 Amount Change	Percent Change
Positions					
01 Regular	298.50	360.50	371.50	11.00	3.1%
02 Contractual	37.50	36.40	25.45	-10.95	-30.1%
Total Positions	**336.00**	**396.90**	**396.95**	**0.05**	**0%**
Objects					
01 Salaries and Wages	$ 38,981,906	$ 50,502,919	$ 55,462,188	$ 4,959,269	9.8%
02 Technical and Special Fees	2,873,437	3,227,283	2,013,693	-1,213,590	-37.6%
03 Communication	124,399	340,710	280,710	-60,000	-17.6%
04 Travel	268,397	123,419	123,419	0	0%
07 Motor Vehicles	462,675	156,425	156,785	360	0.2%
08 Contractual Services	4,172,706	5,105,555	4,426,331	-679,224	-13.3%
09 Supplies and Materials	340,181	439,077	379,077	-60,000	-13.7%
11 Equipment – Additional	384,092	122,201	122,201	0	0%
12 Grants, Subsidies, and Contributions	457,831	14,548,899	574,112	-13,974,787	-96.1%
13 Fixed Charges	2,816,464	2,989,187	3,230,103	240,916	8.1%
Total Objects	**$ 50,882,088**	**$ 77,555,675**	**$ 66,768,619**	**-$ 10,787,056**	**-13.9%**
Funds					
01 General Fund	$ 26,863,130	$ 32,653,463	$ 32,557,190	-$ 96,273	-0.3%
03 Special Fund	13,089,825	32,894,859	21,793,121	-11,101,738	-33.7%
05 Federal Fund	4,196,782	5,512,347	5,949,292	436,945	7.9%
09 Reimbursable Fund	6,732,351	6,495,006	6,469,016	-25,990	-0.4%
Total Funds	**$ 50,882,088**	**$ 77,555,675**	**$ 66,768,619**	**-$ 10,787,056**	**-13.9%**

Note: The fiscal 2025 allowance does not include contingent reductions or cost-of-living adjustments.