FY2013 Performance and Accountability Report

Montgomery County
Office of the County Attorney

CountyStat

OCA Alignment to County Priority Objectives

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- **A Responsive and Accountable Government**
- Affordable Housing in an Inclusive Community
- An Effective Transportation Network
- Children Prepared to Live and Learn
- Healthy and Sustainable Communities
- Safe Streets and Secure Neighborhoods
- A Strong and Vibrant Economy
- Vital Living for All of Our Residents

OCA Headline Performance Dashboard

Headline Performance Measure	FY12 Results	FY13 Results	Performance Change
Self-insurance fund litigation - Win/Loss Ratio	83%	89%	↑
Ratio - Amount paid by County vs. amount demanded by the plaintiff	0.31%	0.31%	↔
Worker's compensation - Total net gain to the County	$2,411,433	$2,045,675	↓
Debt Collection - Collected/Total Referred Ratio	116.3%	150.0%	↑
Debt Collection - Cost/Revenue Ratio	3.0%	3.0%	↔
Child Welfare Litigation - ratio of TPR/CINA adjudicated granted/denied	96.1%	97.8%	↔
Percent of appeals in the Circuit Court won	87.50%	45%	↓
Code Enforcement - Win/Loss ratio	97.3%	97.8%	↔
Average rating from Internal Customer Satisfaction Survey - all areas	3.2	2.97	↓
Average rating from Internal Customer Satisfaction Survey - Timeliness	3.18	3.23	↔

OCA At A Glance

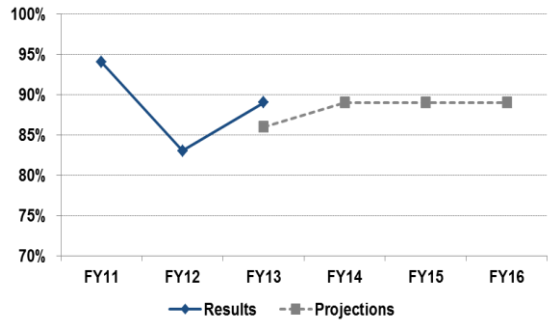
What Department Does and for Whom	How Much/How Many
▪ *The Office of the County Attorney enables County Government to carry out its policies and operations in a manner that:* – *minimizes legal and economic risk; and* – *complies with applicable federal, state, and local regulation; and* ▪ *provides legal services to County Government, primarily litigation, that promote public safety, health, and welfare*	*Total Operating Budget: $9.96M* *Total Work Years (WYs): 73.7*
Transactional Support • *Procurement Contracts -- DGS* • *Memoranda of Understanding and Agreements – All Departments* • *Real Estate Transactions and Condemnations – DOT, DGS, DHCA, DED, CEX.*	*Budget: $ 1.15M* *Work Years (WYs): 9.0*
General Counsel/ Advisory Support • *Wraparound General Counsel Service -- All County Departments* • *Drafting Legislation/Regulations – All County Departments* • *Advice on County Operations/Policies – All County Departments*	*Budget: $1.592M* *Work Years (WYs): 9.0*
Internal Support • *Information Technology Support; Budget and Personnel Management*	*Budget: $675K* *Work Years (WYs): 5.0*

Department At A Glance

What Department Does and for Whom	How Much/How Many
Litigation • *Represent the Self-Insurance Fund - Liability Cases and Workers' Compensation* • *Code Enforcement – DHCA, DED, DFRS, DPS, MCPD* • *Forfeiture – Police Department* • *Subrogation – Risk Management* • *Other Affirmative Litigation – Multiple Departments*	*Budget: $ 2.7M* *Work Years (WYs): 20.0*
• *Commercial Litigation - All County Departments*	*Budget: $ 250K* *Work Years (WYs): 1.5*
• *Personnel and Human Resources Including Litigation and Collective Bargaining – OHR and all County Departments*	*Budget: $ 1.197M* *Work Years (WYs): 8.0*
• *Non-personnel Administrative Litigation – All County Departments*	*Budget: $ 81K* *Work Years (WYs): 0.4*
Child Welfare Litigation – Department of Health and Human Services	*Budget: $ 1.2M* *Work Years (WYs): 10.0*
Debt Collection – Department of Finance	*Budget: $ 1.15M* *Work Years (WYs): 9.55*

Headline Performance Measure 1: Self-Insurance Litigation – Win/Loss Ratio

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	94%	83%	89%			
Projections			86%	89%	89%	89%

Factors Contributing to Current Performance

- OCA hires and retains high-quality attorneys
- OCA provides on-going training to attorneys
- OCA coordinates closely with client departments
- OCA's approach to settlement avoids costs of litigation and bad outcome risks
- OCA attorneys are highly respected by the bench and bar

Factors Restricting Performance Improvement

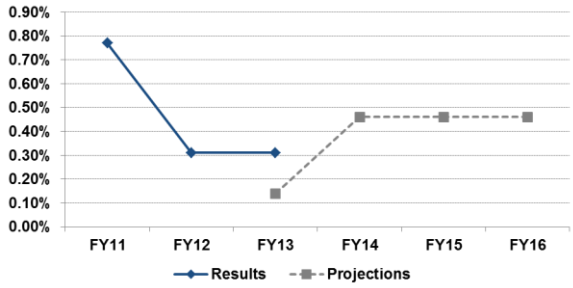
- Area of legal uncertainty

Performance Improvement Plan

Without compromising the County's responsibility and commitment to appropriately compensate those who are injured and to adhere to the law in its affirmative litigation practices, County Attorney litigation activities will display a stable or downward trend in defensive litigation and a stable or upward trend in affirmative litigation areas.

Headline Performance Measure 2: Ratio - Amount paid by County vs. amount demanded by the plaintiff

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	0.77%	0.31%	0.31%			
Projections			0.14%	0.46%	0.46%	0.46%

Factors Contributing to Current Performance

- OCA hires and retains high-quality attorneys
- OCA provides on-going training to attorneys
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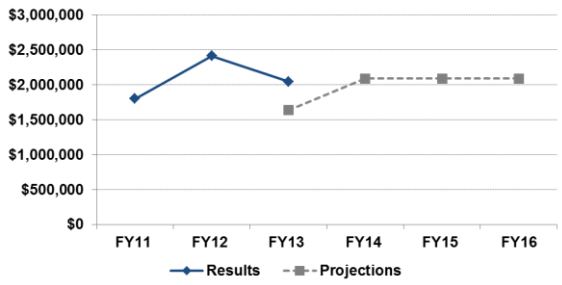
Performance Improvement Plan

Without compromising the County's responsibility and commitment to appropriately compensate those who are injured and to adhere to the law in its affirmative litigation practices, County Attorney litigation activities will display a stable or downward trend in defensive litigation and a stable or upward trend in affirmative litigation areas.

Headline Performance Measure 3: Worker's compensation - Total net gain to the County

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	$1,798,340	$2,411,433	$2,045,675			
Projections			$1,632,056	$2,085,149	$2,085,149	$2,085,149

Factors Contributing to Current Performance

- OCA hires and retains high-quality attorneys
- OCA provides on-going training to attorneys
- OCA coordinates closely with client departments
- OCA's approach to settlement avoids costs of litigation and bad outcome risks

Factors Restricting Performance Improvement

Workers' Compensation Issues

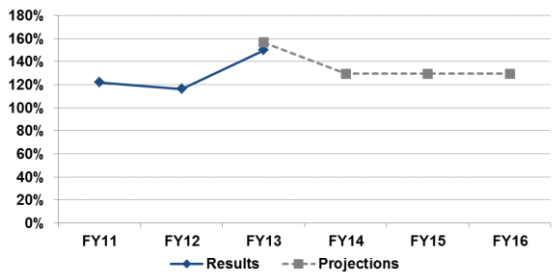
- Legislative presumptions increase compensation
- Fraud
- Procedural rules and practices that may disadvantage County in litigation

Performance Improvement Plan

Workers' Compensation – Legislative strategy will focus on opportunities to improve procedural conditions before the Maryland Workers' Compensation Commission.

Headline Performance Measure 4: Debt Collection - Collected/Total Referred Ratio

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	122.1%	116.3%	150.0%			
Projections			156.8%	129.5%	129.5%	129.5%

Factors Contributing to Current Performance

- Very experienced and efficient Debt Collection Unit
- Skilled and motivated workforce

Factors Restricting Performance Improvement

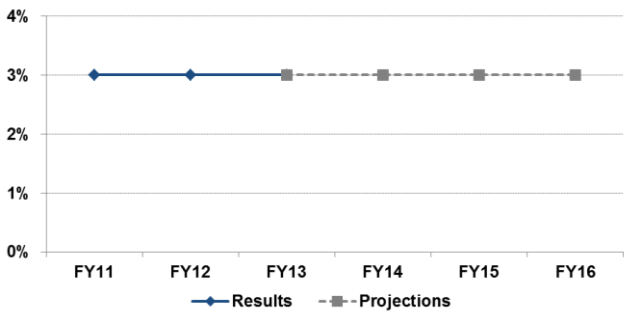
- Code Enforcement – Heavy Caseload
- Increased costs of labor

Performance Improvement Plan

- Continue current efforts to achieve higher ratio of Total Collected against Total Referred.
- Continue to achieve work efficiency using technologies: DCU staff can quickly scan incoming documents on their desktop and add the electronic documents to the Enterprise imaging system. OCA is replacing the case management system in FY14 – FY15 and the new system will greatly enhance the debt collection, data collection and reporting functions.

Headline Performance Measure 5: Debt Collection – Cost/Revenue Ratio

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	3.00%	3.00%	3.00%			
Projections			3.00%	3.00%	3.00%	3.00%

Factors Contributing to Current Performance

- Very experienced and efficient Debt Collection Unit
- Skilled and motivated workforce

Factors Restricting Performance Improvement

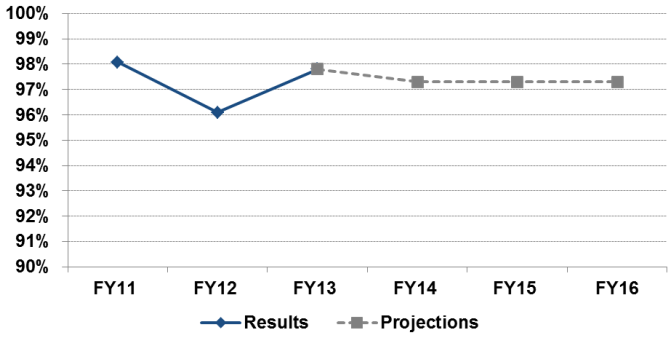
- Code Enforcement – Heavy Caseload
- Increased costs of labor

Performance Improvement Plan

- Continue current efforts to achieve higher ratio of Total Collected against Total Referred.
- Continue to achieve work efficiency using technologies: DCU staff can quickly scan incoming documents on their desktop and add the electronic documents to the Enterprise imaging system. OCA is replacing the case management system in FY14 – FY15 and the new system will greatly enhance the debt collection, data collection and reporting functions.

Headline Performance Measure 6: Child Welfare Litigation - ratio of TPR/CINA adjudicated granted/denied

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	98.07%	96.10%	97.8%			
Projections			97.8%	97.3%	97.3%	97.3%

Factors Contributing to Current Performance

- High-quality OCA staff and high-quality corps of contract attorneys
- Diligence in achieving timely service in Guardianship proceedings
- Excellent coordination with client agency
- OCA attorneys highly-respected by bench and bar

Factors Restricting Performance Improvement

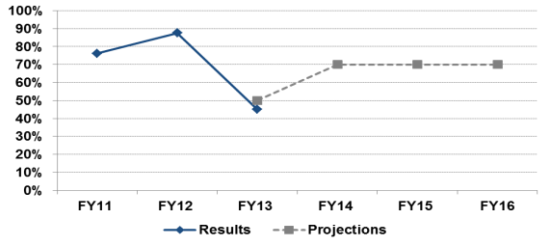
- OCA lawyers assigned to Child Welfare case also handle HHS general counsel matters, placing considerable pressure on our ability to handle both missions

Performance Improvement Plan

- All TPR/CINA Petitions will be granted
- All TPR/Guardianship Petitions will be resolved in a timely manner
- Faster resolution – Overall litigation strategy will focus on bringing finality to matters more expeditiously. Continuing to improve compliance with statutory deadlines for resolution through diligent service efforts
- One judge/one family – Advocacy strategy will continue to focus on one-judge/one-family approach

Headline Performance Measure 7: Percent of appeals in the Circuit Court won

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	76.19%	87.50%	45%			
Projections			50%	70%	70%	70%

Factors Contributing to Current Performance

- High-level of experience among attorneys at all levels of practice
- Legal positions are carefully researched and thought through
- OCA lawyers highly respected by bench and bar

Factors Restricting Performance Improvement

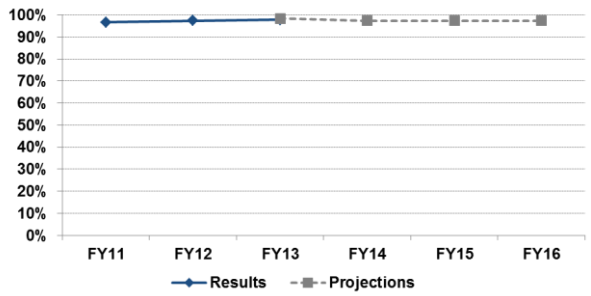
- Areas of legal uncertainty
- FY13 presented a number of challenging appellate issues

Performance Improvement Plan

- OCA has a high measure of success in appeals, which evidences sound legal advice and positions taken during trial.
- FY13 presented a number of challenging appellate issues. In addition, some of the results were over-reported as a result of record keeping processes in our case management system. For example, the appeal regarding the County Executive's authority to recommend an annual operating budget is actually reported as three separate cases because each union filed a separate appeal. There are other similar circumstances.

Headline Performance Measure 8: Code Enforcement – Win/Loss ratio

Performance Trends



	FY11	FY12	FY13	FY14	FY15	FY16
Results	96.55%	97.33%	97.8%			
Projections			98.33%	97.3%	97.3%	97.3%

Factors Contributing to Current Performance

- Proper field preparation by inspectors and officers enforcing the County Code influences outcome determination of these cases
- Solid understanding built upon training and field management of enforcement staff and communication by enforcement staff with the attorneys who prosecute these violations
- Continuing training of attorneys and enforcement staff is essential to success

Factors Restricting Performance Improvement

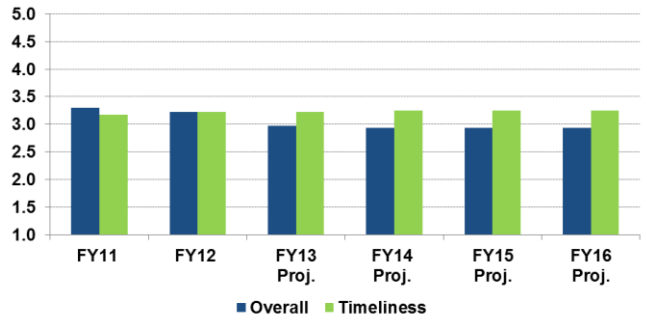
- Training is restricted by the available time to contribute to the task
- Experience of the enforcement staff and retention of this staff affects the outcomes of code cases
- Variability of judges who hear code cases can also affect outcomes in both positive and negative ways

Performance Improvement Plan

OCA produces a high level of success due to preparation for trial with code inspectors and officers, communications of code enforcement goals with enforcing departments, on-going training of the inspectors and officers by OCA, and finally coherent presentation before the District Court

Headline Performance Measures 9-10: Average rating from Internal Customer Satisfaction Survey – All Areas and Timeliness

Performance Trends



	FY11	FY12	FY13	FY14 Proj.	FY15 Proj.	FY16 Proj.
Overall	3.30	3.23	2.97	2.93	2.93	2.93
Timeliness	3.18	3.23	3.23	3.25	3.25	3.25

Factors Contributing to Current Performance

- OCA has a strongly-embedded culture of responsiveness and client support
- Responsiveness to clients is viewed as an important performance measure by OCA supervisors
- Senior managers are also involved in facilitating the client relationship
- General counsel plan seeks to further strengthen client relationships
- Many of our internal clients understand the role of the lawyer and the importance of risk minimization and accept the importance of our mission
- Timeliness of service is given significant weight in performance evaluations
- OCA management will intervene where timeliness issues arise
- High-level of professionalism and commitment from OCA staff at all levels
- Internal clients generally understand our process

Factors Restricting Performance Improvement

- Isolated pockets of bad customer service
  - Failure to return telephone calls;
  - Inadequate explanation of legal positions;
  - Failure to offer alternatives
- Isolated pockets of inadequate preparation
  - Legal advice based on impression of the law rather than understanding of the law
- Lawyer client communication failures
- Inadequate understanding of OCA's role and the importance of preventing financial risk and non-compliance with the law
- Occasional failure to keep client informed leads to perception of untimeliness
- Novel and complex issues
- Loss of experienced personnel in county agencies

Performance Improvement Plan

- A high proportion of internal clients will rate their satisfaction with our responsiveness and the quality of our legal work product at the level of "very satisfied"
- Continue to focus on training and education of both attorneys and clients in the legal and operational issues that arise in our work
- Increase proactive attention to the quality of client relationships through regular consultation

Responsive and Sustainable Leadership:

Responsive and Sustainable Leadership has been the cornerstone of the County Executive's vision for Montgomery County government. To advance this vision, we have identified eight overarching goals for all County departments:

1) Effective and Productive Use of the Workforce/Resources:
Department actively works to effectively and productively use its workforce/resources, including, but not limited to, better management of overtime, implementation of productivity improvements, reduction of ongoing costs, and efficient use of other resources.

a) 12% increase *in average overtime hours used by all full-time, non-seasonal employees.* (Source: CountyStat)*

b) 1.4 percentage point decrease in average Net Annual Work hours for all full-time, non-seasonal employees. (Source: CountyStat)*

**Values are based on the employee's HR Organization and not assigned Cost Center(s)*

2) Internal Controls and Risk Management:
Department actively assesses its internal control strengths, weaknesses, and risks regarding compliance with laws, regulations policies and stewardship over County assets. Department reviews and implements Internal Audit recommendations in a systematic and timely manner, and proactively manages risk pertaining to improving workplace safety, decreasing work-related injuries, and reducing County exposure to litigation.

a) XX% of Audit report recommendations were fully implemented since issuance of the audit report. N/A – no audits completed within the last 12 months. (Source: Internal Audit will provide to CountyStat)

b) 0% change in work related injuries (2 in FY12 to 2 in FY13). (Source: Risk Management)

3) <u>Succession Planning</u>:
Department actively plans for changes in its workforce, in order to maintain continuity of services, develop staff capabilities, maintain and/or transfer knowledge, and enhance performance.

a) *List all the key positions/functions in your department that require succession planning (Source: Department Survey)*
- County Attorney III – Retirement and Benefits Council

b) *0% of those identified key position/functions have developed and implemented long-term succession planning (0 out of 1 identified position) (Source: Department Survey)*

In process of assessing cost/benefits of contracting out publication of County Code

4) <u>Mandatory Employee Training:</u>
Department systematically monitors and actively enforces employees' mandatory and/or required trainings.

85% of department's employees who have fulfilled mandatory County/State/Federal training requirements (Source: Department)

- Participation in continuing legal education CLE and in the International Municipal Lawyer's Association
- Mandatory training as required for supervisors and employees offered by OHR

5) Workforce Diversity and MFD Procurement:

Department actively participates in the recruitment of a diverse workforce and enforcement of MFD procurement requirements.

Workforce Diversity: refer to or attach summary yearly report prepared by OHR (Source: ERP, Personnel Management Review Assignment Dashboard)

	African Amer	Native Amer	White	Asian	Hispanic	Other
OCA	8%	0%	76%	7%	3%	6%

MFD Procurement: refer to or attach summary yearly report prepared by DGS (Source: Department provides and CountyStat validates) (Link to report)

- OCA does not meet the expenditure criteria for inclusion in the DGS yearly report on MFD Procurement.
- We actively participate in specialty bar association activities to promote a diverse applicant pool for our staff.
- Train "Project Search" volunteers to work light duties for Debt Collection Unit and Director's Office.

6) Innovations:

Department actively seeks out and tests innovative new approaches, processes and technologies in a quantifiable, lean, entrepreneurial manner to improve performance and productivity.

Total number of innovative ideas/project currently in pipeline for your department, including the ones initiated in coordination with the Montgomery County Innovation Program. (Source: Department)

Expected (or achieved) return on investment for each of those innovative ideas/projects, quantified in terms of at least one of the following measures: increased effectiveness/efficiency, cost savings/avoidance, increased transparency/accountability, or increased customer satisfaction. (Source: Department)

- Perform system analysis and procure case management system in FY14.
- Develop plan to convert current Debt Collection system to the proposed new case management system.
- Upgrade fax server for cloud-based incoming faxes.
- Streamlined debt collection workflow process.
- Develop plan to implement eDiscovery system for preservation and production.
- Enhance enterprise imaging system

7) <u>Collaborations and Partnerships</u>:
Department actively participates in collaborations and partnerships with other departments to improve results beyond the scope of its own performance measures. Please only list accomplishments that had positive results for other department(s) as well.

a) Total $$ saved by through collaborations and partnerships with other departments (Source: Department)

b) List your accomplishments and/or expected results (Source: Department)

- OCA's work is inherently collaborative as we support the efforts of all County agencies
- Risk management – Training
- Ethics training for County agencies
- Procurement training for managers and procurement personnel

8) <u>Environmental Stewardship:</u>
Department actively makes appropriate changes to workplace operations, workflow, employee behavior, equipment use, and public interactions to increase energy-efficiency, reduce its environmental footprint, and implement other environmentally responsible practices.

a) 6% increase in print and mail expenditures (Source: CountyStat)
b) 32% increase in paper purchases (measured in total sheets of paper) (Source: CountyStat)
c) List your accomplishments and/or expected results (Source: Department)

- Telecommuting
- Received Montgomery's Best Safety Award for Exemplary Injury Prevention