

PS COMMITTEE #4
April 17, 2012

Worksession

MEMORANDUM

April 13, 2012

TO: Public Safety Committee
FROM: Susan J. Farag, Legislative Analyst *SJF*
SUBJECT: **Worksession: FY13 Operating Budget -- State's Attorney**

Those expected for this worksession:

The Honorable John McCarthy, State's Attorney for Montgomery County
Lisa Russo, State's Attorney's Office
Bryan Hunt, Office of Management and Budget

Major Issue: The State's Attorney's Office is in danger of losing grant funding for three gang investigator positions in its Gang Prosecution Unit. If additional grant funds cannot be secured for FY13, alternative sources of funding will be required, or the positions will have to be abolished. See discussion below.

The Executive's recommendation for the State's Attorney's Office is attached at ©1-7.

Overview

For FY13, the Executive recommends total expenditures of \$12,793,241 for the State's Attorney, a 5.5% increase from the approved FY12 budget.

	FY11 Actual	FY12 Approved	FY13 CE Recommended	% Change FY12-FY13
Expenditures:				
General Fund	\$12,385,930	\$11,911,280	\$12,597,550	5.8%
Grant Fund	\$397,838	\$214,310	\$195,691	-8.7%
TOTAL Expenditures	\$12,783,768	\$12,125,590	\$12,793,241	5.5%
Positions:				
Full-time	117	115	114	-0.9%
Part-time	15	9	9	0.0%
TOTAL Positions	132	124	123	-0.8%

The FY13 CE recommendation is a net of \$667,651, which comes from the following identified same services adjustments:

Identified Same Service Adjustments	
Increase Cost: Retirement Adjustment	\$260,199
Increase Cost: Lump Sum Wage Adjustment	\$240,060
Increase Cost: Group Insurance Adjustment	\$191,838
Increase Cost: Restore Lapsed Assistant State's Attorney: Special Pros.	\$80,000
Increase Cost: Longevity Adjustment	\$39,776
Shift: Reallocation of Grant and General Funds (District Court Pros.)	\$18,612
Total Increases:	\$830,485
Shift: Help Desk - Desk Side Support to the Desktop Comp. Modernization	
NDA	(\$1,880)
Decrease Cost: Printing and Mail Adjustment	(\$1,960)
Decrease Cost: Motor Pool Rate Adjustment	(\$2,650)
Decrease Cost: Turnover Savings to Reallocate Grant and General Funds	(\$18,612)
Decrease Cost: Turnover Savings from Retiring/Resigning Employees	(\$119,113)
Decrease Cost: Misc. Grant Adjustments	(\$1,257)
Decrease Cost: Reduction of Hot Spot CSAFE Grant	(\$17,362)
Total Decreases:	(\$162,834)
NET SAME SERVICES ADJUSTMENT TOTAL:	\$667,651

FY13 Expenditure Issues

New Assistant State's Attorney Position:

In FY12, the State's Attorney's Office (SAO) lapsed two attorney positions and one support staff position because of ongoing County fiscal constraints. The FY13 recommended budget includes funding to restore one of these positions – an Assistant State's Attorney position. This position will be assigned to the Special Prosecutions Division, which currently has three attorneys carrying caseloads of approximately 20-25 cases each. The ideal caseload, according to the SAO, is about 10-15 due to the complexity of the cases.

Ongoing Funding Issues with Gang Investigator Positions:

Last year, the SAO was in danger of losing three gang investigator positions (1 full-time and two part-time investigators) because of the loss of grant funding. The ARRA JAG Recovery Gang Investigator Grant (\$150,430) was set to expire in FY12. During FY12 budget discussions, the SAO informed the Committee that it was seeking new funding under the Governor's Office Gun Violence Reduction program. The SAO was not able to secure funding from this program; however, it did continue funding for the three positions under the Bi-County Gang grant. In addition to the three gang investigator positions, the Bi-County Gang grant funds an Assistant State's Attorney positions. *The grant provides funding through October 2012 only.*

These investigator positions are responsible for screening every charging document that enters the office. The investigators determine whether the charged individual is a validated gang member, gather statistical information, and forward the validated cases to the attorneys assigned to handle gang prosecutions. The screening process also requires the investigators to access several police intelligence databases, which requires that the investigators have security clearance and appropriate training. In addition, investigators frequently locate witnesses and victims in the cases, interview them, and serve them with subpoenas to appear for trials. The loss of these positions would significantly impair the SAO's Gang Prosecution Unit's ability to prosecute cases. *The Committee may wish to ask whether the SAO has identified any other sources of funding to continue these positions through FY13, and what the operational impact would be if the positions were lost due to lack of funding.*

Loss of CSAFE Grant Funds:

In FY12, grant funding for the Collaborative Supervision and Focused Enforcement Initiative (CSAFE) grant was reduced from \$71,776 to \$54,414. At the time the Department submitted its budget, it was anticipated that the CSAFE program would continue into FY13. However, in March 2012 the SAO and the Police Department received notification that the Governor's Office on Crime Control and Prevention (GOCCP) was terminating the CSAFE grant program and moving to a new model. GOCCP has advised the departments that bridge funding is available for FY13 only, and after that, funding will cease. The SAO currently uses this grant to fund one Assistant State's Attorney in the Community Prosecution Unit.

Council Staff Recommendation

Council staff recommends approval of the FY13 budget as submitted by the Executive.

This packet contains
Recommended FY12 Operating Budget

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1-7

State's Attorney

MISSION STATEMENT

The State's Attorney is a constitutionally created independent agency. The mission of the Office of the State's Attorney is to serve the public interest through the fair and honest administration of justice by exercising its responsibilities to: prosecute criminal violations in Montgomery County; educate the public with regard to criminal justice issues; provide training to lawyers for future service; address inequality and promote fairness in the criminal justice system; ensure access to the criminal justice system; promote professional relations with judges and attorneys; and further the efficient use of criminal justice resources.

BUDGET OVERVIEW

The total recommended FY13 Operating Budget for the Office of the State's Attorney is \$12,793,241, an increase of \$667,651 or 5.5 percent from the FY12 Approved Budget of \$12,125,590. Personnel Costs comprise 95.7 percent of the budget for 114 full-time positions and nine part-time positions for 128.50 FTEs. Operating Expenses account for the remaining 4.3 percent of the FY13 budget.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ❖ **Safe Streets and Secure Neighborhoods**

DEPARTMENT PERFORMANCE MEASURES

Performance measures for this department are included below, with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY12 estimates reflect funding based on the FY12 approved budget. The FY13 and FY14 figures are performance targets based on the FY13 recommended budget and funding for comparable service levels in FY14.

ACCOMPLISHMENTS AND INITIATIVES

- ❖ **Under the all crimes approach to address gang activity, 493 cases were handled by the Gang Prosecution Unit in FY11, up from 330 in FY10.**
- ❖ **In FY12 the State's Attorney's Office was awarded a portion of the Bi-County Gang grant to fund three Investigators and one Assistant State's Attorney to work in the Gang Prosecution Unit. This is a one year award.**
- ❖ **In FY13, funding is provided for an Assistant State's Attorney position to prosecute cases of alleged fraud, identity theft, misappropriation by a fiduciary, and embezzlement in the unit (Special Prosecutions) responsible for protecting seniors and vulnerable adults.**
- ❖ **Productivity Improvements**
 - **In October 2010 Phase Two of the SAO's case management system, Justware, was launched. This included implementation of the District Court feed into Justware so that now the entire SAO staff uses the same system and documents for cases. Justware is part of the County's Integrated Justice Information System (IJIS) and will interface with other County public safety agencies to increase productivity, reduce printing costs, and enhance our ability to responsibly prosecute criminal cases.**
 - **The SAO continues to recruit undergraduate and law school students to volunteer as interns who screen District Court criminal cases, assist in preparing cases for trial, contact witnesses and gather evidence. During the spring 2011 semester the SAO had 25 interns who worked a total of 9,000 hours or the equivalent of 4.3 FTEs. In the summer of 2011 the office recruited 42 interns who worked on average 30 hours per week for 12 weeks. This equates to 15,120 hours or 7.3 FTEs.**

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PROGRAM CONTACTS

Contact Lisa Russo of the Office of the State's Attorney at 240.777.7407 or Bryan Hunt of the Office of Management and Budget at 240.777.2770 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Circuit Court Prosecution

The Circuit Court Prosecution program reviews cases for possible filing in the Circuit Court by presenting these cases to the Grand Jury for indictment or filing a Circuit Court information (charging document). After charges are filed, the State's Attorney's Office litigates these cases to disposition. Senior Assistant State's Attorneys provide support and guidance to ongoing police investigations and conduct Grand Jury investigations of major felony cases, drug distribution, gang crimes, internet crimes, and environmental cases. The Family Violence Unit prosecutes crimes of domestic violence, child abuse, and elder abuse. Prosecutors in this unit have specialized training to attack these difficult and often devastating crimes. In addition, appeals and demands for jury trials in District Court cases are litigated in the Circuit Court.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	5,433,890	44.80
Increase Cost: Restore Lapsed Assistant State's Attorney: Special Prosecutions	80,000	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	363,177	5.34
FY13 CE Recommended	5,877,067	50.14

District Court Screening

The District Court Screening program resolves cases before the trial date by contacting victims and witnesses to determine what outcome they would like to obtain from the criminal justice system. This program relies on volunteers and is supervised by permanent staff. It provides victim/witness assistance by delivering information about the criminal justice system to victims and witnesses whose cases are expected to go to trial. The Pre-Trial Mediation program is designed to resolve non-violent disputes between individuals. Trained volunteers and a mediation specialist work to resolve issues and reduce to writing an agreement by which all sides will abide. The Bad Check Mediation Program gives merchants and receivers of checks a means for recovering their losses for bad checks passed for goods or services. In appropriate circumstances, criminal charges are filed when funds are not recovered through the mediation. The Rental Return and Restitution Program is an effort to assist the business community by providing merchants with a quick and effective way to recover their rental property and fees.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Bad Check Mediation Program Revenue ¹	4,965	5,235	6,000	3,500	3500
Rental Return Restitution Program Revenue ²	23,165	7,955	3,300	3,500	3,500

¹ The goal of this program is to provide the business community with a quick and effective way to recover their losses from bad checks through pretrial mediation without involving the court system.

² The goals of this program are to recover rental property and/or secure restitution to those merchants that provide rental services to the public without having to involve the criminal court system.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	326,420	4.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	165,254	2.00
FY13 CE Recommended	491,674	6.00

Notes: Multi-program adjustments include the shift of the Pre-Trial Mediation program (\$81,840, 1.00 FTE) here.

Juvenile Court Prosecution

The Juvenile Court Prosecution program prosecutes criminal violations committed by juvenile offenders in Montgomery County and performs a preliminary review of all cases in which a juvenile is charged with a violent crime. This includes cases which have been reviewed by the Juvenile Services Administration and then referred to the Office of the State's Attorney. In such cases, formal charges are filed where appropriate, and litigated to disposition in the Juvenile Court, attempting to obtain restitution for victims when possible. This program also provides administrative support to Teen Court, a countywide peer adjudication initiative for non-violent juvenile offenses.

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FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	1,193,170	13.50
Decrease Cost: Turnover Savings From Retiring/Resigning Employees	-119,113	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	66,964	0.50
FY13 CE Recommended	1,141,021	14.00

Pre-Trial Mediation

The Pre-Trial Mediation program is designed to resolve non-violent disputes between individuals which might enter the judicial system as criminal cases, or civil claims, or even escalate to violence if not otherwise resolved. Trained volunteers, working in conjunction with a mediation specialist, mediate various issues involved in disputes allowing the parties to reduce to writing an agreement by which all sides will abide. The Bad Check Mediation Program gives merchants and receivers of checks a means for recovering their losses for bad checks passed for goods or services. In appropriate circumstances, criminal charges are filed when funds are not recovered through the mediation. The Rental Return and Restitution Program is an effort to assist the business community. This program provides merchants with a quick and effective way to recover their rental property and fees.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	81,840	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	-81,840	-1.00
FY13 CE Recommended	0	0.00

Notes: Multi-program adjustments include the shift of this initiative to the District Court Screening program.

Victim/Witness Court Assistance

This program assists victims in criminal cases that have been designated as "victim-intensive" by virtue of the vulnerability of the victim or the type of crime. Victims receive direct court assistance from a Victim/Witness Coordinator. The Coordinator guides the victim through the judicial process, provides assistance where necessary, and makes referrals to other County agencies as needed. In all other cases, Assistant State's Attorneys provide information and assistance to victims and witnesses. This program is staffed with permanent and volunteer personnel.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	324,420	4.60
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	26,887	-0.60
FY13 CE Recommended	351,307	4.00

Special Prosecutions Division

The Special Prosecutions Division program investigates allegations of complex financial crimes such as real estate and other business investment fraud schemes for which the Department of Police is unable to provide investigative resources. The program also investigates allegations of thefts involving attorneys stealing from clients, financial exploitation of elderly victims, and misconduct by public officials. When these investigations support criminal charges, the cases are charged, generally in the Circuit Court, and litigated to disposition by Senior Assistant State's Attorneys. A significant part of this program is attempting to obtain restitution for victims and businesses that have lost money in these complex cases. Program staff also provide guidance to police officers and investigators from other agencies in situations where financial crimes may be suspected.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	498,780	5.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	-42,433	0.00
FY13 CE Recommended	456,347	5.00

Prosecution Management

Prosecution Management staff coordinate case loads; schedule docket assignments; receive visitors; direct phone calls; and enter and audit data in the Criminal Justice Information System (CJIS) for the Circuit, District, and Juvenile Courts.

3

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	991,710	9.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	54,860	-0.50
FY13 CE Recommended	1,046,570	8.50

Administration

Staff provide central services in areas of budget, personnel, automated systems management, general office management, and public information. In addition, staff coordinate efforts and initiatives with other criminal justice agencies.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	851,430	6.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	33,657	1.00
FY13 CE Recommended	885,087	7.00

District Court Prosecution

The District Court Prosecution program prosecutes criminal cases including misdemeanor arrests, citizen complaints, and serious or incarcerable traffic offenses. The State's Attorney's Office has also implemented a Domestic Violence docket in District Court to ensure that assault cases of a domestic nature and violations of protective orders are given special attention.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	2,423,930	34.50
Shift: Reallocation of Grant and General Funds	18,612	0.21
Decrease Cost: Miscellaneous Grant Adjustments	-1,257	0.00
Decrease Cost: Reduction of Hot Spots Wheaton CSAFE Grant Award	-17,362	-0.26
Decrease Cost: Turnover Savings to Reallocate Grant and General Funds	-18,612	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	138,857	-0.59
FY13 CE Recommended	2,544,168	33.86

4

BUDGET SUMMARY

	Actual FY11	Budget FY12	Estimated FY12	Recommended FY13	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	9,097,568	8,916,140	9,099,148	9,024,530	1.2%
Employee Benefits	2,757,780	2,529,680	2,651,713	3,022,050	19.5%
County General Fund Personnel Costs	11,855,348	11,445,820	11,750,861	12,046,580	5.2%
Operating Expenses	530,582	465,460	460,521	550,970	18.4%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	12,385,930	11,911,280	12,211,382	12,597,550	5.8%
PERSONNEL					
Full-Time	114	112	112	111	-0.9%
Part-Time	10	8	8	8	—
FTEs	117.60	119.70	119.70	126.06	5.3%
REVENUES					
Discovery Materials	51,063	66,000	66,000	66,000	—
Miscellaneous Revenues	92	0	0	0	—
Other Charges/Fees	36,615	15,300	15,300	16,300	6.5%
County General Fund Revenues	87,770	81,300	81,300	82,300	1.2%
GRANT FUND MCG					
EXPENDITURES					
Salaries and Wages	342,343	179,820	179,820	159,289	-11.4%
Employee Benefits	54,163	34,490	34,490	36,402	5.5%
Grant Fund MCG Personnel Costs	396,506	214,310	214,310	195,691	-8.7%
Operating Expenses	1,332	0	0	0	—
Capital Outlay	0	0	0	0	—
Grant Fund MCG Expenditures	397,838	214,310	214,310	195,691	-8.7%
PERSONNEL					
Full-Time	3	3	3	3	—
Part-Time	5	1	1	1	—
FTEs	6.50	2.70	2.70	2.44	-9.6%
REVENUES					
Federal Grants	241,741	77,970	77,970	75,000	-3.8%
State Grants	156,097	136,340	136,340	120,691	-11.5%
Grant Fund MCG Revenues	397,838	214,310	214,310	195,691	-8.7%
DEPARTMENT TOTALS					
Total Expenditures	12,783,768	12,125,590	12,425,692	12,793,241	5.5%
Total Full-Time Positions	117	115	115	114	-0.9%
Total Part-Time Positions	15	9	9	9	—
Total FTEs	124.10	122.40	122.40	128.50	5.0%
Total Revenues	485,608	295,610	295,610	277,991	-6.0%

FY13 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY12 ORIGINAL APPROPRIATION	11,911,280	119.70
Other Adjustments (with no service impacts)		
Increase Cost: Retirement Adjustment	260,199	0.00
Increase Cost: Lump Sum Wage Adjustment	240,060	0.00
Increase Cost: Group Insurance Adjustment	191,838	0.00
Increase Cost: Restore Lapsed Assistant State's Attorney: Special Prosecutions [Circuit Court Prosecution]	80,000	0.00
Increase Cost: Longevity Adjustment	39,776	0.00
Shift: Reallocation of Grant and General Funds [District Court Prosecution]	18,612	0.21
Technical Adj: Conversion of WYs to FTEs in the New Hyperion Budgeting System; FTEs are No Longer Measured for Overtime and Lapse	0	6.04
Technical Adj: Workforce FTE adjustment	0	0.11
Shift: Help Desk - Desk Side Support to the Desktop Computer Modernization NDA	-1,880	0.00
Decrease Cost: Printing and Mail Adjustment	-1,960	0.00
Decrease Cost: Motor Pool Rate Adjustment	-2,650	0.00
Decrease Cost: Turnover Savings to Reallocate Grant and General Funds [District Court Prosecution]	-18,612	0.00

	Expenditures	FTEs
Decrease Cost: Turnover Savings From Retiring/Resigning Employees [Juvenile Court Prosecution]	-119,113	0.00
FY13 RECOMMENDED:	12,597,550	126.06
GRANT FUND MCG		
FY12 ORIGINAL APPROPRIATION	214,310	2.70
Other Adjustments (with no service impacts)		
Decrease Cost: Miscellaneous Grant Adjustments [District Court Prosecution]	-1,257	0.00
Decrease Cost: Reduction of Hot Spots Wheaton CSAFE Grant Award [District Court Prosecution]	-17,362	-0.26
FY13 RECOMMENDED:	195,691	2.44

PROGRAM SUMMARY

Program Name	FY12 Approved		FY13 Recommended	
	Expenditures	FTEs	Expenditures	FTEs
Circuit Court Prosecution	5,433,890	44.80	5,877,067	50.14
District Court Screening	326,420	4.00	491,674	6.00
Juvenile Court Prosecution	1,193,170	13.50	1,141,021	14.00
Pre-Trial Mediation	81,840	1.00	0	0.00
Victim/Witness Court Assistance	324,420	4.60	351,307	4.00
Special Prosecutions Division	498,780	5.00	456,347	5.00
Prosecution Management	991,710	9.00	1,046,570	8.50
Administration	851,430	6.00	885,087	7.00
District Court Prosecution	2,423,930	34.50	2,544,168	33.86
Total	12,125,590	122.40	12,793,241	128.50

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY12		FY13	
		Total\$	FTEs	Total\$	FTEs
COUNTY GENERAL FUND					
Police	County General Fund	87,140	0.50	87,140	0.50
Sheriff	Grant Fund MCG	138,700	2.00	0	0.00
Total		225,840	2.50	87,140	0.50

FUTURE FISCAL IMPACTS

Title	CE REC.					
	FY13	FY14	FY15	FY16	FY17	FY18
(\$000's)						
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY13 Recommended	12,598	12,598	12,598	12,598	12,598	12,598
No inflation or compensation change is included in outyear projections.						
Elimination of One-Time Lump Sum Wage Adjustment	0	-240	-240	-240	-240	-240
This represents the elimination of the one-time lump sum wage increases paid in FY13.						
Subtotal Expenditures	12,598	12,357	12,357	12,357	12,357	12,357

16

ANNUALIZATION OF PERSONNEL COSTS AND FTES

	FY13 Recommended		FY14 Annualized	
	Expenditures	FTEs	Expenditures	FTEs
Increase Cost: Restore Lapsed Assistant State's Attorney: Special Prosecutions [Circuit Court Prosecution]	80,000	0.00	100,000	0.00
Total	80,000	0.00	100,000	0.00

7