

DA.05.21
Criminal Justice Coordinating Council

Operating Budget Data

(\$ in Thousands)

	<u>FY 00</u> <u>Actual</u>	<u>FY 01</u> <u>Working</u>	<u>FY 02</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Funds	<u>\$0</u>	<u>\$250</u>	<u>\$250</u>	<u>\$0</u>	<u>0.0%</u>
Total Funds	\$0	\$250	\$0	\$0	0.0%

Analysis in Brief

Issues

Status of Improvements for the Baltimore Criminal Justice System: Circuit court criminal backlogs are reduced, and the Central Booking and Intake Facility (CBIF) courtroom is fully-utilized. On the other hand, the expedited disposition programs still lack clear objectives and performance measures. **The Department of Legislative Services (DLS) recommends that a representative of the Baltimore City Criminal Justice Coordinating Council (CJCC) update the committees on the status of criminal justice reforms.**

SB 165/HB 1091 Re-creates the Coordinating Council: Proposed legislation to formally establish the council leaves numerous questions about fiscal responsibility and oversight unresolved. **DLS recommends against State funding for the council; State funding is premature in light of the council's uncertain future.**

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Recommended Actions

1. Add budget bill language restricting expenditure of \$125,000 pending receipt of a letter of intent from Baltimore City.
2. Add budget bill language restricting expenditure of remaining \$125,000 pending submission of a fiscal 2002 budget and master plan.
3. Adopt committee narrative requesting an update on the use of the Central Booking and Intake Facility courtroom
4. Adopt committee narrative requesting a mid-year report on criminal case processing in Baltimore City Circuit Court.

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Operating Budget Analysis

Program Description

The Criminal Justice Coordinating Council for Baltimore City (CJCC) is an *ad hoc* volunteer group composed of the head of each city, State, and federal agency providing criminal justice services to Baltimore City. Since March 1999, CJCC has held public, monthly meetings to address systemic reforms of the Baltimore City criminal justice system. Members of the council serve on work groups to study specific problem areas and to make recommendations to the council.

Proposed legislation would establish CJCC formally and provide for an executive director compensated through the council's budget.

Governor's Proposed Budget

The fiscal 2002 allowance includes \$250,000 for CJCC. The fiscal 2001 appropriation for CJCC was also \$250,000, appropriated in Supplemental Budget Number Two. However, as an *ad hoc* volunteer group, an additional \$150,000 in fiscal 2001 funding for the council was included in the fiscal 2001 appropriation for the Judiciary. The only State funding for the council in the fiscal 2002 allowance is the \$250,000 allowance under budget code DA.05.21. **Exhibit 1** shows the fiscal 2002 allowance and the fiscal 2001 appropriation to CJCC.

No Fiscal 2002 Proposed Budget Submitted

The council has not submitted a formal budget of proposed fiscal 2002 expenditures. The council is in the process of recruiting an executive director at a proposed annual salary of approximately \$75,000. The council currently pays rent of approximately \$1,800 per year (\$150/month) to the Baltimore City Bar Association for courthouse space. The council expects rent to increase significantly, up to \$5,000 per year, if the council becomes a formal entity with State funding as proposed in SB165/HB1091. The council also spends approximately \$3,000 per year providing lunch for monthly council meetings and provides copy services and miscellaneous office supplies for council meetings.

Proposed new expenses include office equipment and supplies for the new executive director as well as possible support staff. These services are currently provided by a volunteer coordinator and his law firm. The council may also fund research trips for council members to U.S. cities with innovative approaches to the administration of criminal justice, similar to the San Diego excursion, undertaken with fiscal 2000 funds, which inspired the current Early Disposition Program.

Exhibit 1

Criminal Justice Coordinating Council for Baltimore City

Fiscal 2002 Allowance

	Funding Source <u>General Funds</u>	Fiscal 2001 <u>Working Appropriation</u>	Fiscal 2002 <u>Allowance</u>
DA.05.21	CJCC	\$250,000	250,000
CA.00.06	Judiciary/Administrative Office of the Courts	150,000	0
	Total General Funds	\$400,000	\$250,000

Source: Fiscal 2001 Budget Bill; 2000 *Joint Chairmen's Report*

Any proposed fiscal 2002 expenditures for the council are speculative. The constitution and nature of the council is in limbo, pending the outcome of proposed legislation which dictates the council's composition and focus and provides for an annual appropriation through the State budget. The council's direction is also likely to be affected by the new executive director.

Other issues raised by the fiscal 2002 allowance and the Department of Legislative Services (DLS) recommendations are discussed in the issues section of this analysis.

Fiscal 2001 Expenditures

The council's primary expenditure in fiscal 2001 has been the installation of a fiber optic network through a \$400,000 contract with U.S. Canterbury. Funding for the network comes from both fiscal 2000 funds (approximately \$156,000) and fiscal 2001 funds (approximately \$244,000). The network connects all entities involved in the administration of criminal justice in Baltimore City. Although installation of the network is complete, communication via the network has not yet begun. As discussed above, additional fiscal 2001 expenditures include lunch and supplies for council meetings and rent for courthouse space. If hired in fiscal 2001, some remaining fiscal 2001 funds will be used to compensate a new executive director.

A representative of the council should brief the budget committees on the status of connectivity via the newly installed fiber optic network, discuss any remaining obstacles to communication via the network, and provide a timetable for complete connectivity and full utilization of the network. A representative of the council should also discuss the status of hiring an executive director for the council and the impact the enactment or failure of SB 165/ HB 1091 will have on the hiring decision.

Issues

1. Status of Improvements for Baltimore City Criminal Justice System

Circuit Court Case Backlog Reduced

Case postponements and the number of defendants awaiting trial both have declined significantly in calendar 2000 from 1999 measures, according to the Baltimore City Circuit Court's *Mid-Year Report* (June 2000). Case postponements have decreased from an average of 910.5 cases per month in 1998, to 635.8 cases per month in 1999, to an average of 506.2 cases per month for the first seven months of 2000. Actual monthly postponements are also lower than postponements in 1998 and 1999 for every month except July 2000.

The number of defendants with pending circuit court cases in each month is also reduced from 1998 and 1999 monthly figures for January through July 2000. The report notes that the defendant inventory in 2000 has remained lower than the lowest figure for the preceding two years. Similarly, the backlog in cases, as measured by the number of cases opened against the number of cases closed each year, is projected to have been reduced to 805 by the end of 2000 from a backlog in 1998 of 1,252 cases. It is not possible to determine how long pending cases have been open. The circuit court lacks the ability to determine whether pending cases are within or exceed the 180-day speedy trial requirement.

The Chief Judge for the Criminal Division of the Circuit Court for Baltimore City, or a representative of the Coordinating Council, should brief the committees on Circuit Court plans to develop the capacity to measure the length of time pending cases have been opened.

The circuit court's success in reducing postponements and case backlogs is primarily the result of two circuit court initiatives: differentiated case management and discovery court. The new case management technique recognizes that different kinds of criminal cases require different lengths of time to prepare and to try; case scheduling now accommodates those differences by setting realistic trial dates farther out for complex cases and allowing time in the schedule for longer trials. Discovery Court provides a forum for resolving discovery disputes and providing for the required exchange of evidence before discovery failures require trial postponements. The Coordinating Council reports that cases are no longer postponed in circuit court due to discovery abuses.

Reform in the way crimes are charged in Baltimore City should result in further criminal caseload reductions in both the circuit court and District Court. Beginning in June 2000, the State's Attorney for Baltimore City began reviewing all criminal charges brought by police. Charges are now officially filed by the State's Attorney rather than by police officers. Of the more than 18,000 cases reviewed by the State's Attorney as of October 2000, 15% resulted in no charges filed, 11% resulted in reductions from felony to misdemeanor, and 20% involved a substantive change by deleting or adding charges. The result should be fewer and more substantial cases brought to court.

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DLS recommends adoption of the following committee narrative:

Criminal Case Processing in Baltimore City Circuit Court: The budget committees request another mid-year report on the processing of criminal cases in the Circuit Court for Baltimore City by August 1, 2001.

Courtroom at Central Booking and Intake Facility Is Fully Utilized

Complying with fiscal 2001 budget bill language, the District Court submitted a December 2000 *Report on the Use of the Courtroom at the Central Booking and Intake Facility* (CBIF). Dockets and schedules included in the report document that the CBIF courtroom is utilized five days per week. The courtroom's schedule is reproduced in **Exhibit 2**.

Exhibit 2

Docket of Courtroom at the Central Booking and Intake Facility

	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
a.m.	Bail Review	Quality Case Review	Habeas Corpus	Quality Case Review	Quality Case Review
		Bail Review	Bail Review		Bail Review
p.m.	Bail Review	Bail Review	Bail Review	Bail Review	Bail Review
	Early Disposition	Early Disposition	Early Disposition	Early Disposition	Early Disposition

Source: *Report on the Use of the Courtroom at the Central Booking and Intake Facility*

Renovations at the CBIF courtroom, which provide for judge's chambers, public defender office space and interview space, and additional holding areas for defendants near the courtroom have been underway for several months, funded by a fiscal 2001 appropriation in the Department of Public Safety and Correctional Service's (DPSCS) budget. These renovations should be complete by the time of the CJCC budget hearing.

In addition, a visitor's policy should be in place which permits public access to the Office of the Public Defender (OPD) and the CBIF courtroom no less restrictive than public access to other courtrooms. The visitor's policy to the secure portion of the CBIF facility is highly restrictive because the main facility is not a public facility. Such a restrictive policy, which includes dress codes and potentially invasive body searches, is inappropriate for a public courtroom and public attorney offices.

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A representative of the council should brief the budget committees on the status of renovations at the CBIF courtroom and the guarantee of public access to the courtroom and public defender offices. In addition, DLS recommends adoption of the following committee narrative:

Central Booking and Intake Facility Courtroom: The budget committees request that the Judiciary submit a report by December 1, 2001, which quantitatively and qualitatively evaluates the use of the Central Booking and Intake Facility courtroom, which presents monthly case dockets, total number of defendants appearing, cases completed, and the disposition of each completed case by category, and which includes recommendations for alterations or improvements in the courtroom's use.

Expedited Disposition Programs Lack Objectives

Two expedited disposition programs are operating in the CBIF courtroom: Quality Case Review (QCR) and Early Disposition. Both programs seek to resolve selected non-violent misdemeanor cases quickly after arrest. The Judiciary, DPSCS, the State's Attorney for Baltimore City, and the OPD have all received significant funding and personnel in the last five fiscal years to implement these programs in an attempt to make full use of the CBIF courtroom and streamline criminal case management. DLS estimates that the State has invested between approximately \$10 and \$12 million in courtroom renovations, personnel, and operating expenses to support various programs at CBIF since fiscal 1996. Despite this investment, these programs lack objectives and, consequently, performance measures.

QCR began in fiscal 1996, after a study sponsored by DPSCS claimed the State could save \$21 million if misdemeanor cases were quickly resolved, eliminating extensive use of pretrial bed space at CBIF. Under this program, the State's Attorney reviews daily a list of all CBIF inmates who have been incarcerated for three or more days. From this list, the State's Attorney selects qualifying non-violent misdemeanor defendants to whom plea bargains are offered. Defendants who accept the offers are either released or transferred from pretrial status, thus providing pretrial bed-days savings at CBIF. Initial proposals for the QCR program stated that the program's goals were to (1) decrease the number of hearings from arrest to disposition per case; and (2) decrease the number of pretrial detention days per defendant. To date, no report on the QCR program has provided data relevant to either goal. There is no evidence that QCR is resulting in more efficient use of court-time or decreasing pretrial detention time. Furthermore, there is no evidence that this program has resulted in cost-savings.

The Early Disposition Program began full operation in October 2000. This program seeks to resolve non-violent misdemeanor cases within 48 hours of arrest. The ultimate goals of this program have never been articulated. There appears to be no consensus among council members as to the objectives of the Early Disposition Program: pretrial bed-date savings; reduction in case inventory; reduction in court time per case; alternatives to incarceration; or reduction in recidivism are all possible, yet are also potentially conflicting goals, each of which requires a different focus and different resources. Because objectives have not been established, \$1 million of the fiscal 2001 working appropriation for CJCC, in the budgets of District Court and Division of Pretrial Services, DPSCS, has not yet been approved for expenditure.

A representative of the council should brief the committees on whether data will be collected to measure the success of the QCR program in reducing pretrial detention time and the number of court hearings per case; on the status of developing agreed-upon objectives for the Early Disposition Program; and on early disposition data currently being collected.

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DLS recommends against any increased funding in support of the Early Disposition Program until objectives, relevant performance measures, evaluation methods, and cost projections have been developed and reviewed by the budget committees.

Community Court Cancelled

Community Court in Baltimore City, long-delayed, has been cancelled. Attention has been diverted to the Early Disposition Program which involves the same non-violent misdemeanor cases Community Court anticipated handling. Community Court proponents would like to incorporate the resources and holistic, accountability-focused approach of Community Court into the expedited programs, Early Disposition and Quality Case Review, which are already operating.

A representative of the council should brief the committees on the status of plans to incorporate the Community Court's resources and approach into extant expedited disposition programs and should discuss with the committees current cost projections for such an incorporation. Accordingly, DLS recommends deleting funding for Community Court from the fiscal 2002 budgets of the participating agencies.

CBIF Video Bail Equipment Constitutionally Defective

In December 2000, the District Court ruled that the video bail equipment at CBIF was of such poor quality that it was impossible to conduct constitutional bail reviews with it. A consent order issued by the court allows DPSCS time to replace the equipment. Video bail equipment is used to broadcast between defendants sitting in a room at CBIF and a judge sitting in Wabash District Courthouse. However, a judge, prosecutor, public defender, and courtroom are all available at CBIF. All participants seem to agree that live bail reviews are preferable to video bail reviews, as noted in the District Court's December 2000 CBIF report. The expenditure of additional State funds on replacement video bail equipment is hard to explain in light of the significant State investment in making use of the CBIF courtroom.

A representative of the Council should explain to the budget committees why video bail reviews are necessary when there is a courtroom and all related personnel located at CBIF.

Future Reforms May Include Expanded Drug Treatment and Reorganization of Circuit Court and District Court Roles

Although the council's plans may change with a new Executive Director and statutory mandate, current reforms being explored by council working groups include expanding available drug treatment for Early Disposition cases and restructuring the roles of the District Court and the circuit court in criminal case management. The Mayor of Baltimore City has announced that the city will devote \$2 million in fiscal 2002 to provide drug treatment to Early Disposition defendants. Additional drug treatment slots should allow expansion of the Early Disposition Program.

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A representative of the council should address how conflict will be avoided between drug treatment slots for Early Disposition participants and Drug Court defendants.

The council is also exploring ways to reallocate the roles of the District Court and the circuit court. Preliminary hearings in felony cases are heard in the District Court, although the District Court has no authority to resolve those cases, take pleas, or impose sentences. On the other hand, the District Court has no authority to conduct misdemeanor jury trials; those cases are transferred to the circuit court. The result of this division of authority is increased time to resolve cases because no single judge has authority over a whole case and because every transfer involves opening and scheduling a new case.

2. SB 165/HB 1091 Re-creates Coordinating Council

Proposed Legislation

Proposed legislation will formally establish a Baltimore City Criminal Justice Coordinating Council as an advisory body to address issues affecting the administration of criminal justice in Baltimore City in order to solve systemic problems and improve the quality of the Baltimore City criminal justice system.

Membership

The 15-voting-member composition of the council is provided by the legislation and includes the following:

- Mayor of Baltimore City;
- Administrative Judge of the Circuit Court for Baltimore City;
- Chief Judge of the Criminal Division of the Circuit Court for Baltimore City;
- District Court Administrative Judge for District 1;
- Clerk of the Circuit Court for Baltimore City;
- District Court Administrative Clerk for District 1;
- U.S. Attorney for the District of Maryland;
- State's Attorney for Baltimore City;
- State Public Defender;
- Baltimore City Public Defender;

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- Commissioner for the Division of Pretrial and Detention Services (DPSCS);
- Director of the Division of Parole and Probation (DPSCS);
- Baltimore City Regional Administrator for the Division of Parole and Probation, (DPSCS);
- Police Commissioner for Baltimore City; and
- Sheriff of Baltimore City.

Non-voting members can be appointed by the chairman with council approval.

Leadership

The chairman of the council is to be appointed by the Mayor and the Administrative Judge for the Baltimore City Circuit Court and confirmed by a majority of the voting members. An executive director is to be appointed by the council, to provide administrative support and be compensated as provided in the council's budget. The proposed legislation requires an annual report on the council's activities.

Budget

The bill provides that the executive director shall be compensated as provided in the council's budget. It also provides that no member of the council shall receive compensation for duties performed as a member. It does, however, authorize reimbursement for expenses under the standard State travel regulations, as provided in the State budget or under the city budget. Travel expenses aside, the bill does not identify the source of the council's budget.

Issues Presented by the Proposed Legislation

Other Coordinating Councils Are Not Statutorily-mandated or State-funded

Criminal justice coordinating councils operate in several other jurisdictions: Anne Arundel, Montgomery, and Prince George's counties have criminal justice coordinating councils. The Judiciary has recently reported that coordinating councils also have been established in Baltimore, Charles and Washington counties as well as the First Judicial Circuit comprised of Dorchester, Somerset, Wicomico and Worcester counties.

The organization and funding of these bodies appears to vary as much as their geography. For instance, both the Anne Arundel and Montgomery County coordinating councils are established by order of the county executives; an administrator employed by the county executive provides leadership and administrative support; the costs for these councils' initiatives are absorbed by participating members with *ad hoc* assistance provided by county budgets or grants obtained through the county executives. Other councils are coordinated through the Judiciary and function more informally on an *ad hoc* basis.

Will State Funding Undermine Participant Accountability?

Currently, initiatives promoted by the *ad hoc* Baltimore City CJCC are funded primarily through the State and city budgets of council members. This arrangement ensures initiatives are endorsed by consensus; it ensures shared fiscal responsibility between the city and State; and it provides an incentive for each agency to examine cost-effectiveness, as each agency will have to defend costs as part of its annual budget request process. Providing for State funding directly to a formal council will relieve each participating member of direct responsibility for fiscal prudence and may eliminate strong leverage for consensus-building among participants. Increased State scrutiny of council activities may rob the council of the flexibility it needs to pursue cooperative and innovative reforms.

On the other hand, direct State funding of council activities will make State oversight of council expenditures more convenient, as funds will not be disbursed throughout agency budgets. Ultimately, however, the council may function better with more direct participant accountability rather than oversight by the more removed legislature.

Legitimate Council Expenditures Are Not Identified

The bill does not identify how fiscal responsibility for council initiatives is to be distributed between the council from its budget and council members. Arguably, authorization is provided only for compensation of the executive director and reimbursement for travel expenses, with the implication that any other expenses are borne by participating agencies accordingly. Expenses like rent and office equipment are not mentioned in the proposed legislation and could generate significant operating expenses.

Should Funding Be Shared by City and State?

The bill is silent as to the source of funding for the council. The commitment of Baltimore City to provide financial support to the council remains an open question. Relieving Baltimore City of any fiscal obligation for the council may fatally undermine the council's capacity to promote necessary involvement of local participants.

Given the uncertainty surrounding the council's future and the significant unresolved questions bearing directly on fiscal responsibility and oversight, DLS recommends adoption of the following budget bill language:

, provided that \$125,000 of this appropriation may not be expended until Baltimore City has submitted to the budget committees, on or before May 15, 2001, a letter of intent clarifying its commitment to support the Criminal Justice Coordinating Council for Baltimore City (CJCC). The letter should state the

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amount of funding the city intends to provide directly to CJCC in fiscal 2002 and the funding and other resources it intends to provide directly or indirectly to support CJCC reform initiatives. The letter should also describe the city's proposed ongoing commitment of resources beyond fiscal 2002. The budget committees shall have 45 days to review and comment upon the letter of intent.

Further provided that \$125,000 of this appropriation may not be expended until the CJCC has submitted to the budget committees, on or before November 15, 2001, a fiscal 2002 budget and fiscal 2002 master plan. The fiscal 2002 budget shall include any proposed new regular or contractual personnel with proposed salary and fringe benefits compensating each position, the allocation of remaining funds to operating expenses, and a justification of proposed fiscal 2002 expenditures. The master plan shall include a statement of goals and objectives for the Early Disposition Program and performance standards and measures for both the Early Disposition Program and the Quality Case Review Program, in addition to a discussion of any additional fiscal 2002 CJCC initiatives. The budget committees shall have 45 days to review and comment upon the proposed budget and master plan.

Recommended Actions

1. Add the following language:

. provided that \$125,000 of this appropriation may not be expended until Baltimore City has submitted to the budget committees, on or before May 15, 2001, a letter of intent clarifying its commitment to support the Criminal Justice Coordinating Council for Baltimore City (CJCC). The letter should state the amount of funding the city intends to provide directly to CJCC in fiscal 2002 and the funding and other resources it intends to provide directly or indirectly to support CJCC reform initiatives. The letter should also describe the city's proposed ongoing commitment of resources beyond fiscal 2002. The budget committees shall have 45 days to review and comment upon the letter of intent.

Explanation: This proposed budget bill language restricts the first half of the CJCC appropriation pending receipt of a letter of intent from Baltimore City clarifying its fiscal commitment and commitment of other resources to the CJCC.

Information Request	Authors	Due Date
Letter of intent regarding Baltimore City's commitment to support CJCC operations and initiatives	Mayor of Baltimore City	May 15, 2001

2. Add the following language:

Further provided that \$125,000 of this appropriation may not be expended until the CJCC has submitted to the budget committees, on or before November 15, 2001, a fiscal 2002 budget and fiscal 2002 master plan. The fiscal 2002 budget shall include any proposed new regular or contractual personnel with proposed salary and fringe benefits compensating each position, the allocation of remaining funds to operating expenses, and a justification of proposed fiscal 2002 expenditures. The master plan shall include a statement of goals and objectives for the Early Disposition Program and performance standards and measures for both the Early Disposition Program and the Quality Case Review Program, in addition to a discussion of any additional fiscal 2002 CJCC initiatives. The budget committees shall have 45 days to review and comment upon the proposed budget and master plan.

Explanation: This budget bill language restricts expenditure of the second half of the CJCC appropriation pending submission of a fiscal 2002 budget and fiscal 2002 master plan describing proposed CJCC fiscal 2002 operations. It requires a statement of goals and objectives for the Early Disposition Program as well as performance standards and measures for both expedited dockets operating in Baltimore City, the Early Disposition Program and the Quality Case Review Program.

Information Request	Authors	Due Date
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Fiscal 2002 budget and master plan Criminal Justice Coordinating Council for Baltimore City November 15, 2001

3. Adopt the following narrative:

The budget committees request that the Judiciary submit a report by December 1, 2001, which quantitatively and qualitatively evaluates the use of the Central Booking and Intake Facility courtroom, which presents monthly case dockets, total number of defendants appearing, cases completed, and the disposition of each completed case by category, and which includes recommendations for alterations or improvements in the courtroom's use.

Information Request	Authors	Due Date
Update to the December 2000 <i>Report on the Use of the Courtroom at the Central Booking and Intake Facility.</i>	Judiciary	December 1, 2001

4. Adopt the following narrative:

The budget committees request another mid-year report on the processing of criminal cases in the Circuit Court for Baltimore City by August 1, 2001.

Information Request	Authors	Due Date
Mid-year report on criminal case processing in Baltimore City Circuit Court	Judiciary	August 1, 2001

**Object/Fund Difference Report
Criminal Justice Coordinating Council**

Object/Fund	FY01		FY02	FY01 - FY02	Percent Change
	FY00 Actual	Working Appropriation	Allowance	Amount Change	
Objects					
08 Contractual Services	\$0	\$250,000	\$250,000	\$0	0%
Total Objects	\$0	\$250,000	\$250,000	\$0	0%
Funds					
01 General Fund	\$0	\$250,000	\$250,000	\$0	0%
Total Funds	\$0	\$250,000	\$250,000	\$0	0%

