

**C00A00
Judiciary**

Operating Budget Data

(\$ in Thousands)

	<u>FY 13</u> <u>Actual</u>	<u>FY 14</u> <u>Working</u>	<u>FY 15</u> <u>Allowance</u>	<u>FY 14-15</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$384,156	\$408,844	\$432,501	\$23,657	5.8%
Adjusted General Fund	\$384,156	\$408,844	\$432,501	\$23,657	5.8%
Special Fund	48,415	53,952	62,857	8,905	16.5%
Adjusted Special Fund	\$48,415	\$53,952	\$62,857	\$8,905	16.5%
Federal Fund	5,532	5,427	279	-5,148	-94.9%
Adjusted Federal Fund	\$5,532	\$5,427	\$279	-\$5,148	-94.9%
Reimbursable Fund	201	280	4,324	4,044	1444.6%
Adjusted Reimbursable Fund	\$201	\$280	\$4,324	\$4,044	1444.6%
Adjusted Grand Total	\$438,304	\$468,503	\$499,961	\$31,458	6.7%

- The Governor’s budget plan for fiscal 2014 and 2015 assumes \$3.5 million and \$3.9 million, respectively, in general fund reversions from the Judiciary. The reversion represents savings in funds for the Statewide Personnel information technology system, health insurance, and retirement reinvestment, and correcting a budgeting error.
- The Judiciary’s fiscal 2015 budget increases by \$31.5 million, or 6.7%, over the fiscal 2014 working appropriation.
- Personnel expenses increase by \$15.9 million, largely for 113 new regular positions as well as for other costs.
- The increase of \$4.0 million in reimbursable funds is due to the correction of a technical error where funds for child support enforcement units were previously budgeted as federal funds. This also explains the comparable decrease in federal funds for fiscal 2015.

Note: Numbers may not sum to total due to rounding.

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Personnel Data

	<u>FY 13 Actual</u>	<u>FY 14 Working</u>	<u>FY 15 Allowance</u>	<u>FY 14-15 Change</u>
Regular Positions	3,584.50	3,638.50	3,751.50	113.00
Contractual FTEs	<u>446.00</u>	<u>446.00</u>	<u>433.00</u>	<u>-13.00</u>
Total Personnel	4,030.50	4,084.50	4,184.50	100.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	145.18	3.99%
Positions and Percentage Vacant as of 12/31/13	247.40	6.80%

- The budget provides 113.0 new regular positions. Nineteen of these new positions are related to the creation of new judges in the circuit courts and District Court. Thirty-seven are contractual conversions, of which 21.0 are in the District Court, 13.0 are in various Clerks of the Circuit Court offices, and the other 3.0 are spread among the Court of Special Appeals, the Administrative Office of the Courts (AOC), and the court-related agencies. Further, 11.0 positions are in the District Court, 16.0 are in AOC, 29.0 are in Clerk of the Circuit Court offices, and 1 is in Judicial Information Systems.
- The budget includes 13.0 fewer contractual full-time equivalents (FTE), mainly due to the conversion of 37.0 FTEs and the addition of 24.0 FTEs for bailiffs in the District Court, of which 2.0 are related to the new judges in the District Court and 22.0 are to fulfill a desire to have 2 bailiffs in each courtroom.
- Turnover expectancy is set at 3.99% for fiscal 2015, which will require 146.0 vacancies. As of December 31, 2013, the Judiciary had 247.4 vacant positions, for a rate of 6.8%.

Analysis in Brief

Major Trends

Cases Terminated within the Time Standard Slip in Most Case Types for the District Court: The percentage of cases completed within the respective time standard in the District Court declined for most case types, although the disparity within and beyond standard average termination times also declined for most case types.

Circuit Courts' Metrics Exhibit Mixed Results: There were both increases and decreases in the total number of cases completed in a timely manner, as well as a disparity within and beyond standard average termination times.

Issues

The Policy and Fiscal Implications of the Second Richmond Decision: Following a second ruling of *DeWolfe v. Richmond* where the Court of Appeals found that all indigent defendants have a right to counsel during their initial appearance before a District Court commissioner, both the legislative task force and the judicial task force have put forward recommendations about how to reform the current pretrial system to conform to the new court ruling. **The Department of Legislative Services (DLS) recommends that the Judiciary comment on how its proposal would lower the costs of compliance with the *Richmond* decision for both the State and local jurisdictions and further elaborate on how the Judiciary would satisfy the right to counsel at initial appearances should the stay be lifted before any reforms are in place.**

The Land Records Improvement Fund and Information Technology Development: The Land Records Improvement Fund (LRIF) continues to maintain a structural imbalance that could potentially lead the fund to being insolvent in fiscal 2016. Further, the Judiciary has proposed new legislation to impose new filing fees for the Land Records Fund in order to cover some of the cost of major information technology (IT) development projects. **DLS recommends that both HB 102 and SB 32 be amended to credit any new revenues generated from these filing fees to a new special fund for that purpose. DLS further recommends that committee narrative be adopted instructing the Judiciary to migrate major IT development costs to the general fund in order to maintain the viability of the LRIF.**

Major IT Costs Continue to Climb for Large Projects: Major IT projects, especially the AOC Back Office and Maryland Electronic Court (MDEC) IT development projects, continue to escalate in costs due to augmentations of the projects and other cost overruns. **DLS recommends that funds be restricted within the major IT budget of the Judiciary so that the Department of Information Technology (DoIT) may procure Independent Verification and Validation studies on the system architecture and design of the Judiciary's major IT projects. DoIT should then report back to the budget committees any findings and recommendations that these studies produce. DLS further recommends that committee narrative be adopted requesting a report from the**

Judiciary which identifies the savings that the Judiciary expects to realize, especially in personnel, once the MDEC program is fully operational in light of the ever increasing costs of this IT development project.

New Judge Plan Enters Year Two: The 2014 session is the second year of a six-year plan by the Judiciary to create new judgeships for which the Judiciary has certified a need and for which there is current courtroom space and resources to accommodate a new judgeship. However, both HB 120 and SB 167 currently have 1 additional judgeship which is not included in the Judiciary’s fiscal 2015 budget and for which the Judiciary has indicated there is neither space nor the necessary local resources to accommodate.

Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Add budget bill language to make 19 new positions and general funds contingent upon the enactment of legislation creating new judgeships.		
2. Add budget bill language to reduce general funds to limit increases in operating expenditures.	\$3,979,842	
3. Reduce general funds to correct technical errors in the Judiciary’s allowance.	319,075	
4. Eliminate 9 new positions from the District Court.	309,437	9.0
5. Eliminate 22 full-time equivalents for new bailiffs in the District Court.	644,468	
6. Reduce general funds which were improperly encumbered in fiscal 2013.	618,000	
7. Eliminate 2 new positions in the Administrative Office of the Courts.	126,066	2.0
8. Eliminate funding for a security services contract.	1,083,925	
9. Adopt committee narrative to request a report on the savings that could potentially be realized through the implementation of the Maryland Electronic Court project.		

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10.	Add budget bill language reducing funding for the Clerks of the Circuit Court for contractual services, supplies and materials, and replacement and additional equipment.	3,037,621	
11.	Eliminate 26 new positions in the Clerks of the Circuit Court.	1,187,281	26.0
12.	Add language restricting special funds for the purpose of conducting Independent Verification and Validation studies of the Judiciary’s major information technology projects.		
13.	Adopt committee narrative expressing the intent of the budget committees for major information technology development costs to be funded from the general fund beginning in fiscal 2016.		
	Total Reductions	\$ 11,305,715	37.0

Updates

Funding for the Maryland Legal Services Corporation Improves Due to Legislative Action: Revenues for the Maryland Legal Services Corporation Fund increase due to the extension of the sunset on certain filing fees and an increase in the revenue diversion from the Abandoned Property Fund.

The Judicial Compensation Commission Recommends No Action for 2014: The Judicial Compensation Commission met during the 2013 interim and recommended that no further action be taken on either judicial salaries or pension contributions in the 2014 session.

The Judiciary and Child Support Enforcement Administration Satisfy the Repeat Audit Finding: The Office of Legislative Audits certified that the Judiciary appropriately set up an exchange of attorney information with the Child Support Enforcement Administration (CSEA) for the purpose of license suspension, thus satisfying part of a repeat audit finding for CSEA.

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Operating Budget Analysis

Program Description

The Judiciary is composed of four courts and seven programs which support the administrative, personnel, and regulatory functions of the Judicial Branch of the State government. Courts consist of the Court of Appeals, the Court of Special Appeals, circuit courts, and the District Court. The Chief Judge of the Court of Appeals is the administrative head of the State's judicial system. The Chief Judge appoints the State court administrator as head of the Administrative Office of the Courts (AOC) to carry out administrative duties which include data analysis, personnel policies, education, and training for judicial personnel.

Other agencies are included in the administrative and budgetary purview of the Judiciary. The Maryland Judicial Conference, consisting of judges of all levels, meets annually to discuss continuing education programs. Court-related agencies also include the Commission on Judicial Disabilities, the Mediation and Conflict Resolution Office, and the Maryland State Board of Law Examiners. The State Law Library serves the legal information needs of the State. The Family Law Division manages and administers programs in the Maryland Family Law Courts, including policy and program development. Judicial Information Systems manages information systems maintenance and development for the Judiciary. Major information technology (IT) development projects are in a separate program, while all production and maintenance of current operating systems are in the Judicial Information Systems program.

Performance Analysis: Managing for Results

1. Cases Terminated within the Time Standard Slip in Most Case Types for the District Court

Fiscal 2009 budget bill language directed the Judiciary to incorporate case flow standards adopted by the Maryland Judicial Council into its annual Managing for Results data in order to evaluate access to justice; expedition and timeliness; equity, fairness, and integrity; independence and accountability; and public trust and confidence.

The Judiciary utilized standards set by the American Bar Association that determine the amount of time it should take to process a particular type of case. Those standards were modified due to existing statutes and rules that impact the way in which Maryland courts are required to process certain cases as compared with other states. The statewide case flow assessment submitted by the Judiciary analyzes in depth cases that come through the District and circuit courts and, in particular, the timeliness with which those cases are terminated or otherwise disposed.

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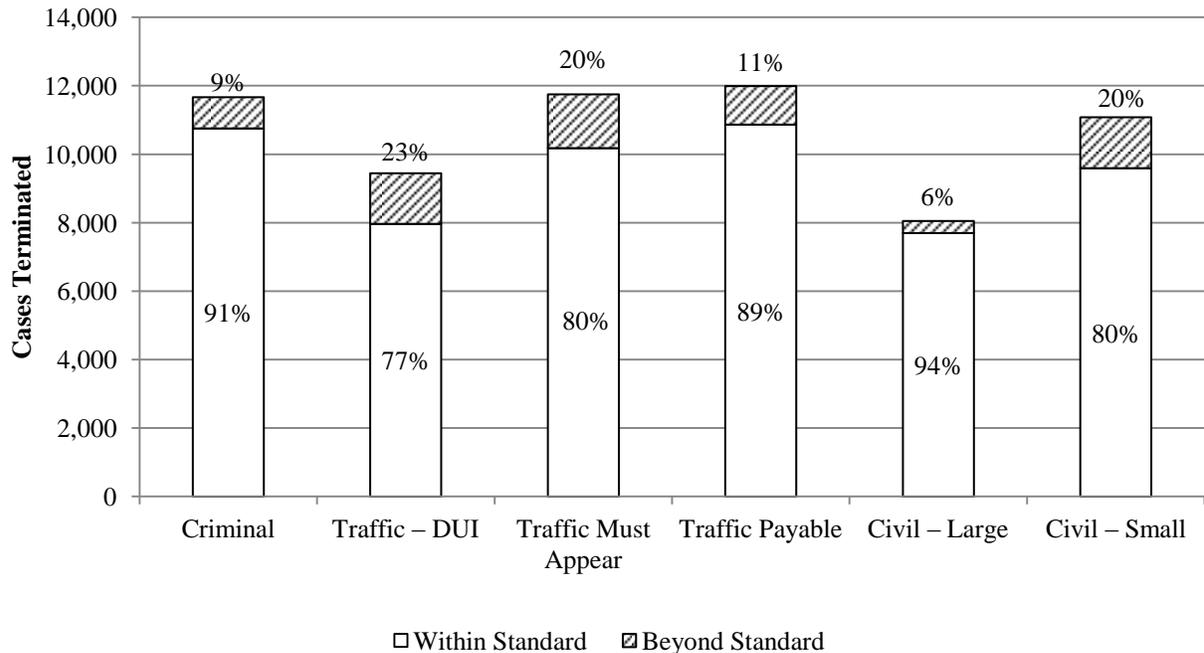
The time standards for District Court cases are set according to the following case types:

- **Criminal:** 180 days;
- **Traffic Driving Under the Influence (DUI):** 180 days;
- **Traffic Must Appear:** 180 days;
- **Traffic Payable:** 120 days;
- **Civil – Large:** 250 days; and
- **Civil – Small:** 90 days.

For each case type, the goal is to terminate 98% of cases within the time standard.

Exhibit 1 illustrates the number of District Court cases terminated within the time standard. While the majority of cases for each case type are disposed of within the established timeframe, in all categories, the District Court failed to meet the performance standard of 98%. Further, the timely termination of cases slipped in almost all categories from fiscal 2011 to 2012. The most dramatic decline was in Civil – Small cases, which exhibited a 5 percentage point decline, from 85 to 80% from fiscal 2011 to 2012. Traffic – DUI cases declined from 81 to 77%, which is the lowest rate of completion within the time standard of any case type. All other case types also saw a decline between 1 and 2 percentage points, with the exception of Criminal cases, which remained at 91%. However, while the percentage of cases completed within the time standard declined, the differences between the average termination times of within standard and beyond standard cases decreased for most case types.

Exhibit 1
Maryland District Court
Cases Terminated Within and Beyond Time Standard
Fiscal 2012

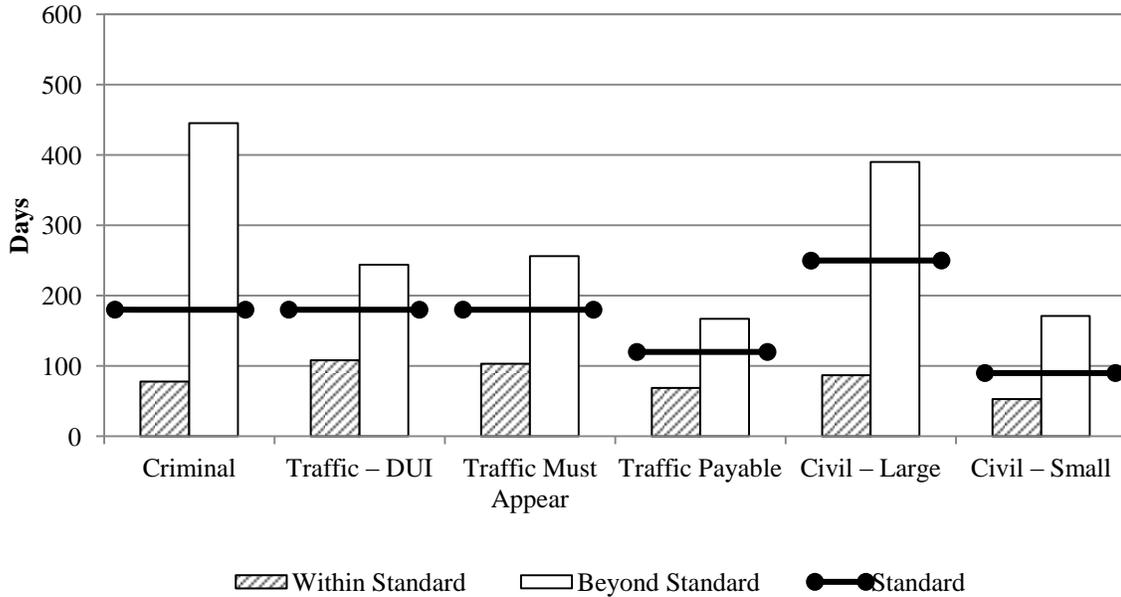


DUI: driving under the influence

Source: Maryland Judiciary

Exhibit 2 analyzes the average case processing time for District Court cases. In each case type, with the exception of Criminal cases, the difference between the average termination time for within and beyond standard cases declined. These declines ranged between 1 and 17%, and were a function of both declining beyond standard averages as well as increases in the within standard averages. For example, Traffic – DUI cases completed within the time standard averaged 108 days in fiscal 2012, which is up from an average of 96 days in fiscal 2011, while the average for cases completed over the time standard decreased from 259 to 244 between fiscal 2011 and 2012. This resulted in a net decline in the within/beyond standard average from 163 to 136 days between the two fiscal years. Again, every other case type exhibited a similar trend, with the exception of Criminal cases, where both the within and beyond standard averages increased, from 75 to 78 days and from 417 to 445 days, respectively. Further, the 445 day average for beyond standard Criminal cases means that these cases take 147% longer than the standard established for these cases.

Exhibit 2
Maryland District Court
Average Case Processing Time for Cases Within and Beyond Time Standard
Fiscal 2012



DUI: driving under the influence

Source: Maryland Judiciary

2. Circuit Courts’ Metrics Exhibit Mixed Results

The time performance standards for circuit court cases are set according to the following case types:

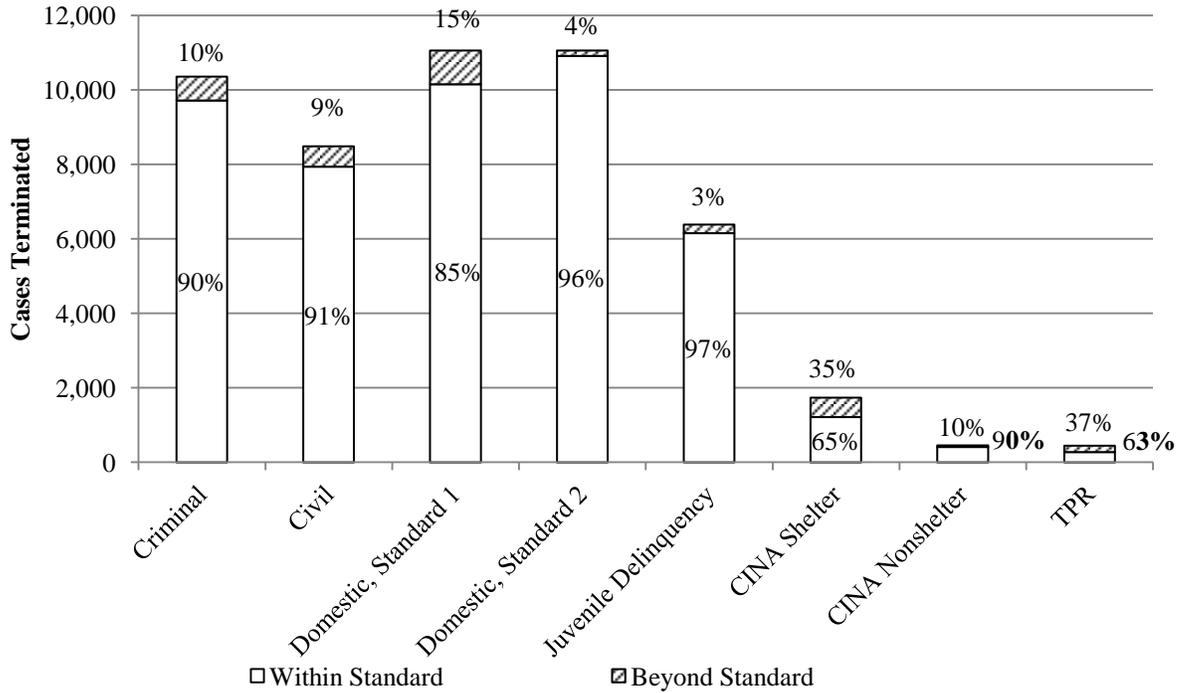
- **Criminal:** 180 days, 98%;
- **Civil:** 548 days, 98%;
- **Domestic Relations, Standard 1:** 365 days, 90%;
- **Domestic Relations, Standard 2:** 730 days, 98%;

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- **Juvenile Delinquency:** 90 days, 98%;
- **Children In Need of Assistance (CINA) Shelter:** 30 days, 100%;
- **CINA Nonshelter:** 60 days, 100%; and
- **Termination of Parental Rights (TPR):** 180 days, 100%.

Exhibit 3 illustrates the number of circuit court cases terminated within the time standard. Similar to the District Court, while the majority of cases for each case type are disposed of within the timeframe, the circuit court failed to meet the established time standard in all categories. However, there was some improvement in the amount of cases terminated within the time standard. Criminal, Juvenile Delinquency, CINA Nonshelter, and TPR cases all had increases in the amount of cases completed within the time standard, ranging from 1 to 10 percentage points. The largest increase was in TPR cases, which saw a 10 percentage point increase, from 53 to 63%. However, there were also some declines in performance in both Domestic Relations standards, while Civil and CINA Shelter cases remained the same.

**Exhibit 3
Maryland Circuit Courts
Cases Terminated Within and Beyond Time Standard
Fiscal 2012**

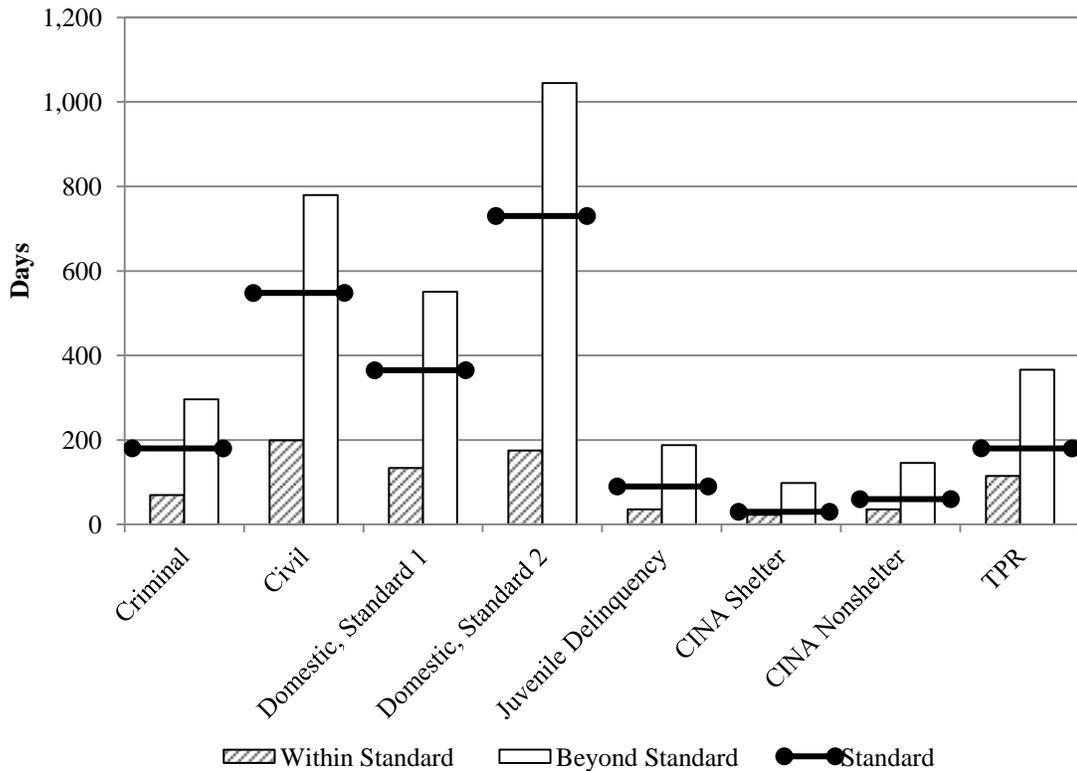


CINA: Children in Need of Assistance
TPR: Termination of Parental Rights

Source: Maryland Judiciary

Exhibit 4 analyzes the average case processing time for circuit court cases. As opposed to the District Court, the disparities between the average termination time for within standard and beyond standard cases in the circuit courts increased for most case types. These increases ranged between 1 and 90%, with CINA Nonshelter cases having the largest disparity increase. This is mostly due to the fact that the beyond standard average termination time increased from 89 to 146 days, which is 2.4 times longer than the standard for those cases. However, some case types saw declines in the disparity, including Criminal and Domestic Relations cases, with a decrease between 4 and 19%.

**Exhibit 4
Maryland Circuit Courts
Average Case Processing Time for Cases Within and Beyond Time Standards
Fiscal 2012**



CINA: Children in Need of Assistance
TPR: Termination of Parental Rights

Source: Maryland Judiciary

Fiscal 2014 Actions

Cost Containment

The Governor’s budget plan for fiscal 2014 assumes \$3,510,956 in general fund reversions from the Judiciary’s budget. These reversions would be for employee and retiree health insurance, retirement reinvestment, and funding for a new Statewide Personnel IT system. The Department of Legislative Services (DLS) is recommending these reductions in the Department of Budget and Management (DBM) – Personnel analysis.

Proposed Budget

The fiscal 2015 budget for the Judiciary totals \$500.0 million, of which approximately 86.5% is general funds. Compared against fiscal 2014, the budget grows by \$31.5 million, or 6.7%, as seen in **Exhibit 5**. The main cost driver of increased spending is for personnel-related expenditures.

Exhibit 5 Proposed Budget Judiciary (\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
2014 Working Appropriation	\$408,844	\$53,952	\$5,427	\$280	\$468,503
2015 Allowance	<u>432,501</u>	<u>62,857</u>	<u>279</u>	<u>4,324</u>	<u>499,961</u>
Amount Change	\$23,657	\$8,905	-\$5,148	\$4,044	\$31,458
Percent Change	5.8%	16.5%	-94.9%	1,444.6%	6.7%

Where It Goes:

Personnel Expenses

Annualized salary increases	\$8,966
New positions	5,880
Increments and other compensation	4,415
Employee retirement contributions	2,987
Turnover adjustments	1,226
Social Security contributions	1,060
Other fringe benefit adjustments	355
Judicial retirement contributions	-3,541
Employee and retiree health insurance.....	-5,419

Contractual employment

Bailiffs.....	703
Contractual conversions	-1,292

Information Technology Costs

Major information technology development projects	7,397
Richmond funds.....	1,891
Judicial Information Systems building upgrade.....	750
Software maintenance	513
Court of Appeals video equipment.....	297

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Where It Goes:

Grants

Maryland Legal Services Corporation	500
Family Law Division.....	325
Office of Problem Solving Courts.....	260
Masters salary.....	229
Mediation and Conflict Resolution Office (MACRO).....	106

Other Changes

Security contract.....	1,084
Postage	817
Other.....	648
Rent non-Department of General Services.....	481
Utilities	307
Travel costs	305
MACRO study.....	208

Total **\$31,458**

Note: The fiscal 2014 working appropriation reflects negative deficiencies and contingent reductions. The fiscal 2015 allowance reflects back of the bill and contingent reductions. Numbers may not sum to total due to rounding.

Personnel

Personnel-related expenditures increase by \$15.9 million in fiscal 2015 over the fiscal 2014 working appropriation. Within personnel, the largest increase is the annualization of the cost-of-living adjustment (COLA) and increment payments from fiscal 2014, which increases the budget by \$9.0 million. The next largest increase is for new positions at \$5.9 million. These positions break down as follows:

- 19 positions are tied to the proposed legislation increasing the number of judges across the circuit courts and District Court. This includes both the judges and the support staff necessary for them. The current plan for this fiscal year is to add 5 circuit court judges for Baltimore, Charles, Montgomery, and Prince George’s counties and Baltimore City, as well as 2 District Court judges for Montgomery and Prince George’s counties. These positions increase the fiscal 2015 budget by \$1.6 million.
- 55 new positions are being added for various agencies within the Judiciary, with a total increase of \$2.5 million. These include:
 - 29 new positions for the various Clerks of the Circuit Court offices;
 - 16 new positions for AOC, of which 14 are for security personnel for the Annapolis Complex;

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- 11 new positions for the District Court, mainly consisting of clerk positions; and
- 1 new position for Judicial Information Systems (JIS) to deal with audit issues related to network security.
- 37 other positions are for the conversion of currently contractual full-time equivalent (FTE) positions to regular positions. Of these conversions, 21 are in the District Court, 13 are in the various Clerks of the Circuit Court offices, and the other 3 are spread among the Court of Special Appeals, AOC, and the Court Related Agencies. The conversion of these FTEs increases regular personnel expenses by \$1.8 million, with a corresponding decline in contractual employment expenses of \$1.3 million.

Other major personnel-related changes include pension contributions, which increase \$3.0 million for regular employees, while contributions for the judicial pension system decrease by \$3.5 million. Costs for employee and retiree health insurance also decline by a combined \$5.4 million, which is partially offset by increases in both the turnover adjustment at \$1.2 million and Social Security contributions at \$1.1 million.

Contractual Employment

As mentioned, costs for contractual employment decline greatly due to the fact that the fiscal 2015 budget contains 13 fewer contractual FTEs. While the conversion of 37 FTEs lowers this amount by \$1.3 million, there are 24 new bailiff FTEs included in the budget, at a cost of \$703,056. Of these, 2 are for the proposed new District Court judges, while the rest are to fulfill a Judiciary desire to have 2 bailiffs assigned to every courtroom in the State.

Information Technology Costs

Funding for major IT development increases by \$7.4 million in the fiscal 2015 budget. This is due to a new IT project included in the fiscal 2015 budget, as well as major cost overruns in the AOC Back Office project. Other large costs include \$1.9 million for new technology related to the *Richmond* decision for the procurement of Court Smart technology to record all District Court commissioner proceedings in the State. Funding is also increasing for JIS to build upgrades into its existing building, for increased software maintenance costs, and for new video equipment for the Court of Appeals.

Grant Funding

Changes in grant funding account for \$1.4 million of the change in the Judiciary budget. Major funding increases include:

- \$500,000 to realign the appropriation for the Maryland Legal Services Corporation (MLSC) due to changes passed in the 2013 session;

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- \$325,000 for increases for the Family Law Division programs;
- \$260,000 for increases for the Office of Problem Solving Courts;
- \$229,000 for County Master salaries; and
- \$106,000 for the Mediation and Conflict Resolution Office.

Other Changes

Other large changes include an increase of \$1.1 million for a security contract for the Court of Appeals Annapolis Complex, which was double funded in the fiscal 2015 budget, as well as various increases for postage, rent, communications, travel, and other operating costs.

Cost Containment

The Governor's budget plan for fiscal 2015 assumes \$3,941,718 in general fund reversions from the Judiciary's budget. Of this amount, \$2,729,449 is for reductions relating to lower employee and retiree health insurance payments and for retirement reinvestment. DLS is recommending reductions for these costs in DBM – Personnel analysis. Further, \$1,212,269 is assumed due to overfunding for certain positions by DBM. However, DLS has identified other positions that were underfunded and is recommending a reduction of \$319,075, which is the net difference.

Issues

1. The Policy and Fiscal Implications of the Second *Richmond* Decision

DeWolfe v. Richmond, No. 34 (September Term 2011), is a case which has been heard by the Maryland Court of Appeals twice, where the plaintiffs have argued that indigent defendants have a right to counsel during an initial appearance before a District Court commissioner when the issue of bail is being determined. In the first ruling on January 4, 2012, the Maryland Court of Appeals held that under the then-effective Maryland Public Defender Act, no bail determination may be made by a District Court commissioner concerning an indigent defendant without the presence of counsel, unless representation by counsel is waived. This ruling required the Office of the Public Defender (OPD) to provide counsel to all indigent defendants at the initial appearance.

Typically, the initial appearance before a commissioner involves the defendant and the commissioner, and the appearance must occur within 24 hours of arrest. At that time, the commissioner makes a determination of probable cause and, if probable cause is found, the commissioner must then determine whether the defendant is eligible for release from custody prior to trial. Initial appearances normally take between 15 to 30 minutes to complete. A defendant who is denied pretrial release or remains in custody 24 hours after the commissioner has set the conditions of release is entitled to a bail hearing before a judge. Historically, approximately 50% of people who appear before a commissioner are released on personal recognizance.

Following the Court of Appeals decision, the Maryland General Assembly passed Chapters 504 and 505 of 2012, which repealed the requirement that legal representation be provided by OPD at the initial appearance, while at the same time requiring OPD to provide representation to an indigent defendant at a bail hearing before a District Court or circuit court judge beginning June 1, 2012. The law also made other changes in response to the *Richmond* ruling, such as making statements made before a District Court commissioner inadmissible in court, and created the Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender (legislative task force). The legislative task force was instructed to (1) study the adequacy and cost of State laws and policies relating to representation of indigent criminal defendants by OPD; and (2) consider and make recommendations regarding options for and costs of improving the system of representation of criminal defendants and the District Court commissioner and pretrial release systems.

On August 22, 2012, the Court of Appeals issued an order stating its intention to rule on the issue of whether the plaintiffs in the *Richmond* case are entitled, under the recently amended Public Defender Act, to relief on the basis of the federal and/or State constitutional right to counsel. Following briefing and oral argument, on September 25, 2013, the Court of Appeals issued an opinion in the *Richmond* case holding that, under the Due Process component of Article 24 of the Maryland Declaration of Rights, an indigent defendant has a right to State-furnished counsel at an initial appearance before a District Court commissioner. In the

wake of the new decision in *Richmond*, the Judiciary created a Task Force on Pretrial Confinement and Release (judicial task force) to examine recommended rule changes for implementing the decision.

Following the various rulings, an injunction was issued from the Baltimore City circuit court on January 13, 2014, which required the right to counsel at initial appearances to be placed into effect. The State then appealed the injunction with a writ of certiorari to the Court of Appeals once again. On January 23, 2014, the Court decided to hear the case on the grounds of the writ and the properness of the injunction. Subsequently, enforcement of the *Richmond* case has been stayed until March 7, 2014, pending the outcome of the current appeal.

Legislative Task Force Recommendations

The legislative task force submitted a final report of its findings and recommendations on December 13, 2013. The final report included a total of 16 recommendations. Some of the most consequential recommendations include:

- the use of follow-up surveys on the effectiveness of citations;
- the elimination of the monetary bail system;
- the adoption of a validated pretrial release risk assessment tool;
- the creation of a statewide pretrial services agency; and
- that all initial appearances happen before a judge within 24 hours of arrest.

Judicial Task Force Recommendations

On January 6, 2014, the judicial task force issued its recommendations for reforming the pretrial process during a meeting of the legislative task force and further provided informational briefings on its recommendations to the Senate Budget and Taxation, Senate Judicial Proceedings, House Appropriations, and House Judiciary committees. These recommendations included:

- the elimination of commissioner bail hearings during weekdays in favor of a single bail hearing before a judge;
- the retention of the commissioner system for the purpose of conducting initial appearances on weekends and holidays, as well as reforming commissioner duties to include duties more akin to pretrial services agents;

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- the further study of risk assessment tools and further expansion of having judges conduct more initial hearings; and
- continued study and participation in efforts to expand the use of citations and the conversion of minor victimless offenses to civil infractions.

These recommendations come with a cost of approximately \$6.0 million in fiscal 2015 for the Judiciary alone, of which only \$1.9 million is currently in its fiscal 2015 budget for another purpose. However, it should be noted that this plan would still require OPD to increase its ability to provide representation at the weekday initial hearings, as well as the weekend commissioner hearings. These costs are estimated to be approximately \$8.8 million in fiscal 2015, none of which is currently included in the Governor's allowance. Further, local jurisdictions could also incur increased costs under this plan, including the costs of having to retrofit local correctional facilities to house arrestees overnight temporarily, as well as other issues.

Further, the Judiciary claims that it would be able to implement its recommendations by January 1, 2015. However, the current stay is only in effect until March 7, 2014, with no guarantees that the stay would be extended beyond that date. Should the stay not be extended, there would be a gap between the date of the end of the stay and either task force's recommendation implementation date. During this gap, indigent defendants would have the right to counsel at initial appearances no matter what the new pretrial system looks like. Having to satisfy this right would require additional funding for the Judiciary, OPD, and other State and local agencies in both fiscal 2014 and 2015.

DLS recommends that the Judiciary comment on how its proposal would lower the costs of compliance with the *Richmond* decision for both the State and local jurisdictions and further elaborate on how the Judiciary would satisfy the right to counsel at initial appearances, should the stay be lifted before any reforms are in place.

2. The Land Records Improvement Fund and Information Technology Development

The Circuit Court Real Property Records Improvement Fund, also known as the Land Records Improvement Fund (LRIF), is a nonlapsing fund that supports all personnel and operating costs within the land records offices of the Clerks of the Circuit Court. It further supports the maintenance costs of the Electronic Land Record Online Imagery system and the website making images accessible to the public. During the 2007 special session, legislation was adopted to expand the scope of the fund to include the Judiciary's major IT development projects.

The LRIF Still Retains a Structural Imbalance

Revenues for the LRIF are generated primarily through a recordation surcharge fee on all real estate transactions. Accordingly, revenues to the fund are largely driven by home sales. As the housing climate deteriorated, revenues to the fund declined similarly. Chapter 397 of 2011 increased the land records surcharge from \$20 to \$40 for fiscal 2012 through 2015 only. This was in response to concerns over the structural imbalance of the fund and the possibility that the fund balance would be depleted as early as fiscal 2012, threatening the fund source for the operations of the land records offices of the Clerks of the Circuit Court, as well as for major IT projects. The purpose of the fee increase was to provide sufficient funds for these endeavors. As shown in **Exhibit 6**, the fund expects to remain viable through at least fiscal 2015. The main reason that the LRIF is not expected to be viable past fiscal 2015 is because the surcharge put in place in 2011 would sunset following fiscal 2015. This would lead to an estimated 50% reduction in revenue projections. Should the sunset on the surcharge be extended, the LRIF would be viable on a cash-flow basis, but the structural deficit would continue to exist in fiscal 2016 and beyond.

Large structural deficits have occurred each year since 2009, with the exception of fiscal 2013, which just ended with a structural surplus. This was due to an approximately \$6.5 million increase in revenues for the LRIF, which is most likely the result of the housing market picking up again. Further, the relatively high number of vacancies in the land records office continued in fiscal 2013, as seen in Exhibit 6, where recent spending in the offices has averaged around \$12.5 million per year. The fiscal 2014 through 2017 estimates, however, are based on full funding for the personnel complement of the land records offices since the ability to hold enough positions vacant should be affected by the housing market picking back up. While improved home sales have meant more revenue for the fund, this increase in revenue could be mostly offset by the need to hold fewer land record office positions vacant, beginning in fiscal 2014.

Exhibit 6
Land Records Improvement Fund
Fiscal 2011-2017
(\$ in Thousands)

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Working App. 2014</u>	<u>Projected 2015</u>	<u>Projected 2016</u>	<u>Projected 2017</u>
Starting Balance	\$47,005	\$40,054	\$32,666	\$40,724	\$36,876	\$24,534	-\$3,688
Total Revenue	\$15,821	\$31,835	\$38,370	\$33,800	\$33,800	\$16,900	\$16,900
Expenses							
Land Records							
Offices	\$12,291	\$12,490	\$12,496	\$17,304	\$18,266	\$19,180	\$20,139
mdlandrec.net	5,000	5,000	5,000	5,000	5,000	5,000	5,000
ELROI							
Maintenance	1,700	1,426	1,735	2,012	2,147	2,254	2,367
Major IT Projects	2,169	10,308	11,081	13,331	20,729	18,688	12,037
One-time Interest							
Repayment	2,169						
General Fund							
Transfer		10,000					
Encumbrance							
Reconciliation	-558						
Total Expenses	\$22,772	\$39,223	\$30,312	\$37,648	\$46,142	\$45,122	\$39,543
Ending Balance	\$40,054	\$32,666	\$40,724	\$36,876	\$24,534	-\$3,688	-\$26,331
Structural							
Imbalance	-\$6,952	-\$7,388	\$8,058	-\$3,848	-\$12,342	-\$28,222	-\$22,643

ELROI: Electronic Land Records On-line Imagery

IT: Information Technology

Source: Maryland Judiciary; Department of Legislative Services

New Legislation

Currently, the sole source of revenue for the LRIF comes from the land records surcharge attached to home sales. However, this year, the Judiciary requested that bills be introduced which would allow the State Court Administrator to assess a surcharge to certain filing fees in all four courts. In a letter to the chairs of the House Judiciary and Senate Judicial Proceedings committees requesting the introduction of Judicial Conference legislation, this particular bill is referred to as the Maryland Electronic Court (MDEC) Filing Fee bill. These fees would be permanent, and revenue from these fees would be credited to the LRIF as opposed to a separate

special fund or the general fund. These bills have been introduced as SB 32 and HB 108, and the fees are projected to raise approximately \$4.7 million in revenue for the LRIF.

However, while these fees could improve the structural imbalance of the LRIF, the permanency of these fees and their apparent connection to MDEC connects them more with the ever increasing IT needs of the Judiciary than with any land records function. In addition to the growing costs for major IT development, the cost of maintaining the Judiciary's current IT infrastructure is also increasing, including by approximately \$500,000 in the fiscal 2015 budget. Further, while the growing costs of IT development continue to place a heavy burden upon the fund balance of the LRIF, the increasing costs for IT maintenance are funded by general fund revenues. Given these increased costs, any new revenues that are generated for the sake of funding IT projects should be credited to a new special fund for that purpose. Further, the costs for major IT development should be migrated back to the general fund beginning in fiscal 2016.

DLS recommends that both SB 32 and HB 102 be amended to credit any new revenues generated from these filing fees to a new special fund for that purpose. DLS further recommends that committee narrative be adopted instructing the Judiciary to migrate major IT development costs to the general fund in order to maintain the viability of the LRIF.

3. Major IT Costs Continue to Climb for Large Projects

Exhibit 7 displays a comparison between the IT Master Plans (ITMP) for fiscal 2014 and 2015. As seen in the exhibit, funding for major IT is increasing in fiscal 2015 by approximately \$7.4 million. This is mainly due to \$3.9 million for a brand new project to build-out an IT infrastructure recovery and redundancy system due to the increasing reliance upon IT systems by the Judiciary. Both the project description and the business/need justification, however, indicate that this is mainly a project that is now needed in order to support MDEC. As such, it can be viewed as an increased cost that is the result of the MDEC project, although it is a separate project.

More troubling than the need for a new project is the fact that both the MDEC and the AOC Back Office projects have increased in projected cost by a combined total of \$41.8 million from the fiscal 2012 ITMP to the current ITMP, as shown in **Exhibit 8**. This represents a 52% increase in the total projected cost for MDEC and a 189% increase for the AOC Back Office project. Overall, the total projected costs through the last year of funding in the fiscal 2015 ITMP are \$43.3 million, or 66% higher than the total projected costs in the fiscal 2012 ITMP, despite the fact that while one project has been added, two projects are not included in the most current ITMP due to their completion.

**Exhibit 7
Major IT Funding
IT Master Plan Comparison**

Fiscal 2015 ITMP

	<u>Prior Years</u>	<u>Actual 2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Est. at Comp. 2015</u>	<u>Difference to 2014</u>
MDEC	\$10,451,892	\$5,417,875	\$6,318,491	\$9,343,841	\$11,009,379	\$11,837,270	\$11,089,865	\$65,468,613	\$9,611,859
ELROI	25,672	0	1,548,000	1,600,000	1,185,800	200,000	0	4,559,472	0
AOC Back Office	5,022,568	5,660,554	5,225,910	5,874,924	4,537,531	0	0	26,321,487	5,854,070
Revenue Collection	3,622,782	201,816	239,000	0	0	0	0	4,063,598	0
Infra. Recov & Red.	0	0	0	3,910,000	1,955,000	0	0	5,865,000	5,865,000
Total	\$19,122,914	\$11,280,245	\$13,331,401	\$20,728,765	\$18,687,710	\$12,037,270	\$11,089,865	\$106,278,170	\$21,330,929

Fiscal 2014 ITMP

	<u>Prior Years</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Est. at Comp. 2014</u>
MDEC	\$10,451,892	\$10,564,192	\$6,126,824	\$9,723,707	\$10,003,429	\$8,986,710	\$0	\$55,856,754
ELROI	25,672	0	1,548,000	1,600,000	1,185,800	200,000	0	4,559,472
AOC Back Office	5,022,568	6,330,422	5,225,910	3,888,517	0	0	0	20,467,417
Revenue Collection	3,622,782	201,816	239,000	0	0	0	0	4,063,598
Total	\$19,122,914	\$17,096,430	\$13,139,734	\$15,212,224	\$11,189,229	\$9,186,710	\$0	\$84,947,241

AOC: Administrative Office of the Courts
IT: information technology

ELROI: Electronic Land Records On-line Imagery
MDEC: Maryland Electronic Court Management Build-out

Source: Maryland Judiciary Information Technology Master Plan, Fiscal 2014 and 2015

Exhibit 8
Judiciary Major Information Technology Projects
Change in Total Project Costs through the Last Year of Funding
2012-2015

<u>Project</u>	<u>ITMP</u> <u>2012</u>	<u>ITMP</u> <u>2013</u>	<u>ITMP</u> <u>2014</u>	<u>ITMP</u> <u>2015</u>	<u>\$ Change</u>	<u>% Change</u>
Maryland Electronic Court	\$47.7	\$52.0	\$55.9	\$72.3	\$24.6	52%
ELROI	4.6	4.8	4.6	4.6	0	0%
AOC Back Office	9.1	20.2	20.5	26.3	17.2	189%
Revenue Collection	3.6	4.0	4.1		0.5	14%
ePayment	0.8	0.6			-0.2	-25%
Infra. Recov. & Red.				5.9	5.9	100%
Total	\$65.8	\$81.6	\$85.1	\$109.1	\$43.3	60%

AOC: Administrative Office of the Courts
ELROI: Electronic Land Records On-line Imagery
ITMP: Information Technology Master Plan

Source: Maryland Judiciary

These cost increases, in particular for MDEC and AOC Back Office, are due to augmentations to the projects during their development, which increases the need for further support for any new program modules or changes being made during the development phase. Numerous delays are also extending both the timeline and costs for these projects, especially MDEC, where the initial pilot phase for Anne Arundel County continues to be pushed further back, and the full project roll-out has been extended from the end of fiscal 2017 into 2019. These delays and cost increases could be mitigated with stronger oversight of these projects. While JIS does conduct project oversight, including Independent Verification and Validation (IV&V) studies, it would be of benefit to the budget committees to know about what findings, if any, these studies are producing. Further, these kinds of cost overruns are not seen in projects that have more stringent oversight by the Department of Information Technology (DoIT). DoIT procures IV&V studies for all of the State's other major IT projects, and with this oversight these projects typically have fewer cost overruns and are procured and implemented on-time and closer to their initial budgets. It would be beneficial to the State if DoIT and the Judiciary worked more closely together in this regard.

DLS recommends that funds be restricted within the major IT budget of the Judiciary so that DoIT may procure IV&V studies on the system architecture and design of the Judiciary’s major IT projects. DoIT should then report back to the budget committees any findings and recommendations that these studies produce.

DLS further recommends that committee narrative be adopted requesting a report from the Judiciary which identifies the savings that the Judiciary expects to realize, especially in personnel, once the MDEC program is fully operational in light of the ever increasing costs of this IT development project.

4. New Judge Plan Enters Year Two

Since 1979, the Chief Judge of the Court of Appeals has annually certified to the General Assembly the need for additional judges in the State’s District and circuit courts. During the 2012 session, the budget committees adopted narrative requesting the Judiciary to develop a multi-year plan to request new circuit court and District Court judges, so that workloads can be addressed gradually without having a significant impact on State finances. In fall 2012, the Judiciary submitted this plan, along with the fiscal 2014 certification of judgeships. The Judiciary certified a need for 38 trial court judges. According to the Judiciary’s certifications, 13 counties in Maryland are in need of 21 new circuit court judgeships, while 7 of those counties are also in need of 17 District Court judges as well. From these certifications of need, the Judiciary also considered whether each jurisdiction also had the required space available as well as the necessary funding to support the circuit court judges. Based on the availability of space and local funding within each county, as well as taking into consideration the jurisdictions last receiving additional judgeships in the 2009 session (Anne Arundel, Baltimore, and Montgomery counties and Baltimore City circuit courts), the Judiciary came up with the Judgeship Deployment Plan, which recommends the creation of 26 new judgeships between fiscal 2014 and 2019. Furthermore, in the fiscal 2014 certification, the Judiciary certified a need for 4 additional Court of Special Appeals judges. However, the Judiciary only requested 2 at-large judgeships for fiscal 2014 in order to permit the Judiciary to assess the impact that these additional judges would have on the court’s workload.

During the 2013 session, Chapter 34 of 2013 created a total of 11 new judgeships, including 2 at-large judgeships in the Court of Special Appeals, 5 circuit court judgeships with 1 each in Calvert, Carroll, Cecil, Frederick, and Wicomico counties, and 4 District Court judgeships with one each for Charles, Montgomery, and Prince George’s counties and Baltimore City. This, in effect, enacted the first year of the Judgeship Deployment Plan.

In fall 2013, the Judiciary submitted a new certification and, with it, a revised Judgeship Deployment Plan based on changes in the indicated need for judges in the new certification. As displayed in **Exhibit 9**, the certification was updated not only to account for the new judgeships added but also was revised due to changes in the certified need for judges in multiple jurisdictions.

Exhibit 9
Certified Need for Judgeships – Circuit and District Court
Fiscal 2015

<u>Jurisdiction</u>	<u>Judge Need</u>		<u>Space Available</u>		<u>Funding for Staff (Circuit Court)</u>
	<u>Circuit Court</u>	<u>District Court</u>	<u>Circuit Court</u>	<u>District Court</u>	
Anne Arundel	2		No		No
Baltimore City	3		Yes for 1		Yes
Baltimore County	3	5	Yes for 2	Possibly in fiscal 2017 or 2018	Yes
Charles	2		Yes for 1		Yes
Frederick	1		No		No
Harford	2		No		No
Howard	1		Yes		Yes
Montgomery	3	1	Yes	Yes	Yes
Prince George's	1	4	Yes	Yes for 1	Yes
Washington	1	1	Possibly	No	Not at this time but will be pursued
Wicomico		1		Yes	Yes

Source: Maryland Judiciary

The new plan calls for 25 new judgeships from fiscal 2014 through 2019. In the circuit courts, three jurisdictions saw their judicial need increase by one judgeship, including Charles, Frederick, and Howard counties. However, none of these judgeships were added to the Judgeship Deployment Plan. In the District Court, the overall need for new judges decreased by one judgeship.

Furthermore, the updated Judgeship Deployment Plan in **Exhibit 10** has two adjustments from the prior year. First, the additional judgeship that was prioritized for Wicomico County, which would have been included in the 2014 legislative session, has been removed, due to the fact that the Chief Judge of the District Court reports that the judicial workload is currently being adequately met with the assistance of other judges from District 2 (Dorchester, Somerset, Wicomico, and Worcester counties). Second, the request for an additional District Court judgeship for Montgomery County has been shifted from the 2015 session to 2014.

Exhibit 10
Judgeship Deployment Plan
2013-2018

Spring Legislative Session	<u>Circuit Courts</u>	<u>District Courts</u>	<u>Total</u>
2013	<i>Calvert (1), Carroll (1), Cecil (1), Frederick (1), Wicomico (1)</i>	<i>Baltimore City (1), Charles (1), Montgomery (1), Prince George's (1)</i>	9
2014	Baltimore City (1), Baltimore County (1), Charles (1), Montgomery (1), Prince George's (1)	Prince George's (1), Montgomery (1)	7
2015	Baltimore County (1), Montgomery (1), Washington (1)		3
2016	Montgomery (1)		1
2017		Baltimore County (3)	3
2018		Baltimore County (2)	2
	Total		25

Source: Maryland Judiciary

Mismatch Judgeship Bill

As mentioned, there are a total of 19 new positions in the fiscal 2015 budget for the proposed new judges this session. However, the current bill, as introduced, has 1 more judge than the budget contains. A new judge for Anne Arundel County is added in both HB 120 and SB 167, which is not funded in the current budget. Further, the Judiciary has indicated that the Anne Arundel Circuit Court has neither the space nor the resources necessary to accommodate this additional judgeship. While there is a certified need for 2 additional judgeships in that particular circuit court, adding a judgeship for which there is not the requisite space or support at the circuit court level would hinder rather than improve the operations of that court. Further, adding this additional judge would require increased appropriations totaling \$270,184 in general funds for the additional judgeship and related clerks.

Recommended Actions

1. Add the following language:

Provided that 19 positions and \$1,945,511 in general funds are contingent upon the enactment of HB 120 or SB 167.

Explanation: This action makes the funding for these positions contingent upon the enactment of HB 120 or SB 167. Included in the amount are 19 new positions as well as 2 contractual bailiff full-time equivalents and supply costs, which will support the creation of 5 circuit court and 2 District Court judges.

2. Add the following language:

Further provided that a \$3,979,842 general fund reduction is made for operating expenditures. This reduction shall be allocated across the following divisions and fund types:

<u>Program</u>	<u>Comptroller Subobject</u>	<u>Amount</u>
<u>C00A00.01</u>	<u>0401 – In State/Routine Operations</u>	<u>\$18,020</u>
	<u>0402 – In State/Conferences/Seminars/Training</u>	<u>\$17,649</u>
	<u>0802 – Agriculture</u>	<u>\$23,752</u>
	<u>0805 – Bookbinding/Photographic</u>	<u>\$14,998</u>
	<u>0819 – Education/Training Contracts</u>	<u>\$41,625</u>
	<u>0821 – Management Studies and Consultants</u>	<u>\$20,000</u>
	<u>0899 – Other Contractual Services Non-DP</u>	<u>\$147,170</u>
	<u>1006 – Duplicating Equipment</u>	<u>\$95,825</u>
	<u>1206 – Grants to other St. Gov’t Prog./Agen.</u>	<u>\$60,000</u>
	<u>1207 – Grants to Non-Governmental Entities</u>	<u>\$15,000</u>
<u>C00A00.02</u>	<u>0301 – Postage</u>	<u>\$4,361</u>
	<u>0401 – In State/Routine Operations</u>	<u>\$7,322</u>
	<u>0402 – In State/Conferences/Seminars/Training</u>	<u>\$30,000</u>
	<u>0821 – Management Studies and Consultants</u>	<u>\$8,000</u>
	<u>0902 – Office Supplies</u>	<u>\$5,500</u>
	<u>1015 – Office Equipment</u>	<u>\$5,430</u>
<u>C00A00.03</u>	<u>0401 – In State/Routine Operations</u>	<u>\$8,565</u>

C00A00 – Judiciary

<u>C00A00.04</u>	<u>0301 – Postage</u>	<u>\$477,454</u>
	<u>0821 – Management Studies or Consultants</u>	<u>\$50,000</u>
	<u>1031 – Data Processing Equipment – Mainframe</u>	<u>\$88,480</u>
<u>C00A00.06</u>	<u>0301 – Postage</u>	<u>\$15,797</u>
	<u>0402 – In State/Conferences/Seminars/Training</u>	<u>\$10,000</u>
	<u>0809 – Equipment Repairs and Maintenance</u>	<u>\$39,689</u>
	<u>0813 – Janitorial Services</u>	<u>\$42,594</u>
	<u>1006 – Duplicating Equipment</u>	<u>\$30,900</u>
	<u>1015 – Office Equipment</u>	<u>\$15,525</u>
	<u>1099 – Other Equipment</u>	<u>\$242,450</u>
	<u>1299 – Other Grants, Subsidies, and Contributions</u>	<u>\$259,500</u>
<u>C00A00.07</u>	<u>0821 – Management Studies and Consultants</u>	<u>\$207,800</u>
	<u>1206 – Grants to other St. Gov’t Prog./Agen.</u>	<u>\$106,244</u>
<u>C00A00.08</u>	<u>0873 – Outside Services – Other</u>	<u>\$30,000</u>
<u>C00A00.09</u>	<u>0812 – Building/Road Repairs and Maintenance</u>	<u>\$255,000</u>
	<u>0892 – Data Processing – Academic/Research</u>	<u>\$30,000</u>
	<u>0912 – Wearing Apparel – Uniforms Employees</u>	<u>\$97,863</u>
	<u>1415 – Buildings, Additions, and Other Major Infra</u>	<u>\$750,000</u>
<u>C00A00.11</u>	<u>0401 – In State/Routine Operations</u>	<u>\$9,029</u>
	<u>0804 – Printing/Reproduction</u>	<u>\$7,000</u>
	<u>0819 – Education/Training Contracts</u>	<u>\$21,300</u>
	<u>1206 – Grants to other St. Gov’t Prog./Agen.</u>	<u>\$257,141</u>
	<u>1207 – Grants to Non-Governmental Entities</u>	<u>\$412,859</u>

Explanation: This action reduces the Judiciary’s fiscal 2015 allowance for various operating expenses in the Court of Appeals, Court of Special Appeals, Circuit Court Judges, District Court, Administrative Office of the Courts, Court Related Agencies, State Law Library, Judicial Information Systems, and the Family Law Division. This action will limit the growth of spending with the operating costs of various programs.

C00A00 – Judiciary

		<u>Amount Reduction</u>		<u>Position Reduction</u>
3.	Reduce general funds to correct technical errors in the Judiciary’s allowance. This reduction is the net of the planned reversion for the Judiciary offset by personnel underfunding for various other positions.	\$ 319,075	GF	
4.	Eliminate funding for 9 new positions in the District Court. These new positions are being denied due to the fiscal condition of the State.	309,437	GF	9.0
5.	Eliminate 22 full-time equivalents for new bailiffs. These funds were requested so the Judiciary could staff each courtroom with at least 2 bailiffs. Current resources should be used to fulfill this requirement.	644,468	GF	
6.	Reduce general funds for the District Court which were improperly encumbered at the fiscal 2013 closeout. These funds should have reverted to the general fund at the end of fiscal 2013 since the contract for which they were to be spent against expired at the end of that fiscal year.	618,000	GF	
7.	Eliminate 2 new positions in the Administrative Office of the Courts. These new positions are being denied due to the fiscal condition of the State.	126,066	GF	2.0
8.	Eliminate funding for a security services contract for the Judiciary’s Annapolis Complex. This initiative is double funded in the fiscal 2015 budget and will be met through the use of new regular personnel.	1,083,925	GF	
9.	Adopt the following narrative:			

Information on Savings from the Maryland Electronic Court Project: The budget committees are concerned about the ever increasing costs associated with the Maryland Electronic Court (MDEC) major information technology development project. Since this project is supposed to make the Judiciary more efficient by reducing the support costs necessary in the current systems, the committees request that the Judiciary submit a report outlining what efficiencies and fiscal savings, especially in personnel, that the Judiciary expects to realize once the MDEC project is fully operational. A report should be submitted to the budget committees by November 1, 2014.

C00A00 – Judiciary

Information Request	Author	Due Date
MDEC savings report	Judiciary	November 1, 2014

10. Add the following language to the general fund appropriation:

, provided that this appropriation is reduced by \$3,037,621 for contractual services, supplies and materials, and replacement and additional equipment.

Explanation: This action reduces the operating expenditures for the Clerks of the Circuit Court offices across the contractual services, supplies and materials, and replacement and additional equipment comptroller objects. This reduction will align spending to the average of the actual spending for the last three fiscal years.

	<u>Amount Reduction</u>		<u>Position Reduction</u>
11. Eliminate 26 new positions across the various Clerks of the Circuit Court offices. These positions are being denied due to the fiscal condition of the State.	1,187,281	GF	26.0

12. Add the following language to the special fund appropriation:

, provided that \$1,000,000 of this appropriation may only be expended for the purpose of conducting Independent Verification and Validation studies on the system architecture and design of the Maryland Electronic Court and Administrative Office of the Courts Back Office projects. These studies should be procured by the Department of Information Technology, and the findings and recommendations reported to the budget committees. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall be cancelled.

Explanation: This language restricts \$1,000,000 for the purposes of conducting Independent Verification and Validation (IV&V) studies on the system architecture and design of the Judiciary’s Maryland Electronic Court and Administrative Office of the Courts Back Office projects. The Department of Information Technology (DoIT) shall procure the study on behalf of the Judiciary and further report back to the budget committees on any findings and recommendations produced by these studies. Any funds not used for this purpose shall be cancelled at the end of the fiscal year.

C00A00 – Judiciary

Information Request	Author	Due Date
Report on findings and recommendations of IV&V studies	DoIT	As completed

13. Adopt the following narrative:

Migrating Major Information Technology Development Costs to General Fund: Given the structural imbalance that exists in the Circuit Court Real Property Records Improvement Fund, it is the intent of the budget committees that the Judiciary plan for the costs for major information technology development to be funded from the general fund beginning in fiscal 2016.

Total General Fund Reductions	\$ 11,305,715	37.0
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Updates

1. Funding for the Maryland Legal Services Corporation Improves Due to Legislative Action

MLSC was established in 1982 to make grants to organizations providing legal services to indigent residents of the State. Grant revenue is generated by the MLSC Fund and stems from the following sources:

- **Interest on Lawyer Trust Accounts (IOLTA):** Maryland Rule 16-604 requires that all Maryland attorneys deposit funds received from a client or third person into an attorney trust account with an approved financial institution. The interest on those accounts is paid into the MLSC Fund.
- **Filing Fees:** In accordance with § 7-202 and 7-301 of the Courts and Judicial Proceedings article, a surcharge on certain circuit and District Court filing fees is deposited into the MLSC Fund.
- **General Funds:** Section 17-317 of the Commercial Law Article requires that the Governor transfer \$1,500,000 annually from abandoned property funds to the MLSC Fund. Absent this diversion, the money would be credited to the general fund and is not appropriated.
- **MLSC Reserve Fund:** Any revenues in excess of expenses may be deposited to the MLSC Reserve Fund regardless of the source. MLSC is permitted to transfer MLSC Fund revenues into the MLSC Reserve Fund rather than grant it to legal services organizations. However, when revenues exceed the legislative appropriation, the money remains in the MLSC Fund. It is MLSC policy to maintain at least 50% of its total anticipated grant commitments in the MLSC Reserve Fund; however, it has dropped below that threshold in recent years due to transfers to the MLSC Fund that were necessitated by declining IOLTA revenue.
- **Donations:** While not a significant revenue, MLSC receives donations to support its mission.

The funds collected from the IOLTA, the filing fees, and the Abandoned Property Fund are deposited by AOC into the MLSC Fund, which MLSC then grants out to various organizations which perform the legal assistance services. In fiscal 2013, operating grants of \$16.6 million were awarded to 34 legal services providers that opened more than 168,000 new cases in fiscal 2013, a record high, and provided legal assistance in matters such as foreclosure, eviction, elder care, domestic violence, child custody, employment, food stamps, veterans benefits, and other issues. **Exhibit 11** contains the revenue and expenditure figures for MLSC from fiscal 2009 through its projection for fiscal 2015.

Exhibit 11
Maryland Legal Services Corporation
Operating Revenues and Expenses
Fiscal 2009-2015

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014 Est.</u>	<u>2015 Est.</u>
Revenues							
Interest on Lawyers Trust							
Accounts	\$3,951,000	\$2,276,000	\$2,524,000	\$2,547,333	\$2,155,770	\$1,900,000	\$1,900,000
Filing Fee Surcharge	7,898,000	8,091,722	12,942,300	12,792,952	13,115,867	12,900,000	12,900,000
Abandoned Property Fund	500,000	500,000	500,000	500,000	500,000	1,500,000	1,500,000
MLSC Fund Carryover from prior year	1,073,000	0	0	0	0	841,672	891,391
Interest Paid to State				-8,572	1,011		
Total MLSC Fund Revenue	\$13,422,000	\$10,867,722	\$15,966,300	\$15,831,713	\$15,772,648	\$17,141,672	\$17,191,391
Transfers							
Transfer from Reserve Fund ¹	\$800,000	\$1,507,000	\$646,120	\$1,475,217	\$0	\$0	\$0
Cy Pres Award ²					1,133,372		
Total Revenue & Transfers	\$14,222,000	\$12,374,722	\$16,612,420	\$17,306,930	\$16,906,020	\$17,141,672	\$17,191,391
Expenses							
Grants	\$15,000,000	\$11,740,000	\$15,904,977	\$16,394,822	\$15,334,891	\$15,487,557	\$15,537,557
Operating Expenses	722,488	703,743	707,443	717,962	729,457	762,724	762,724
MAHT Refund ³				194,146			
Total Expenses	\$15,722,488	\$12,443,743	\$16,612,420	\$17,306,930	\$16,064,348	\$16,250,281	\$16,300,281
<i>Dividends, Market Value Available Reserves on June 30</i>			1,001,289				
	\$5,380,000	\$4,592,000	\$5,593,550	\$4,245,903	\$5,087,575	\$5,978,966	\$6,870,076

MAHT: Maryland Affordable Housing Trust

MLSC: Maryland Legal Services Corporation

¹ The exact dollar amount of reserve transfer funds is up to the MLSC Board of Directors.

² Cy Pres award is a one-time payment out of a national class action lawsuit in Washington State.

³ The Maryland Affordable Housing Trust refund reflects funds mistakenly paid to MLSC.

Source: Maryland Legal Services Corporation

Filing Fee Surcharges and 2013 Actions

As a result of the economic recession and the subsequent decline in interest rates, revenues from IOLTA earnings began to decline in fiscal 2009, resulting in a structural imbalance of \$2.3 million in that fiscal year. As a result, MLSC transferred \$800,000 from its Reserve Fund to maintain grant activity levels. In fiscal 2010, the structural imbalance improved slightly due to a decrease in grants; however, MLSC still needed to transfer \$1.5 million in reserves to address the gap in revenues.

Due to declining IOLTA revenue, as well as an increasing demand for legal services, the General Assembly passed Chapter 486 of 2010, which increased the maximum surcharge on civil cases filed in circuit courts from \$25 to \$55. In the District Court, the maximum authorized surcharge also increased, from \$5 to \$8 for summary ejectment cases and from \$10 to \$18 for all other civil cases. The higher maximum surcharge increased filing fee revenue between fiscal 2010 and fiscal 2011, which allowed MLSC to increase grant funding levels to pre-2010 levels while relying less heavily on its reserve fund. It should be noted, however, that MLSC has spent from its reserve every year since fiscal 2009.

The increases in the surcharges from 2010 were set to expire at the end of fiscal 2013. The expiration of the surcharge increases, coupled with the fact that the number of case filings eligible under this surcharge have been declining as well, could have lead to an estimated 45% drop in filing fee revenue for MLSC in fiscal 2014 and an estimated 40% overall drop in total MLSC Fund revenue. However, in the 2013 session, the General Assembly passed two measures that were designed to increase revenues for MLSC. Chapters 71 and 72 of 2013 extended the sunset on the surcharges until the end of fiscal 2018, while Chapters 552 and 553 of 2013 increased the revenue distribution that the MLSC Fund receives from Abandoned Property from \$500,000 to \$1,500,000. These changes have stabilized the MLSC Fund, as it also appears that the downward trend in IOLTA interest rates has also stabilized in the previous fiscal year.

2. The Judicial Compensation Commission Recommends No Action for 2014

The Judicial Compensation Commission, established in 1980, consists of seven members and is charged with studying and making recommendations regarding all aspects of judicial compensation in order to ensure that highly qualified persons will be attracted to the bench and will continue to serve without undue economic hardship. Chapter 484 of 2010 (the Budget Reconciliation and Financing Act (BRFA)) altered the meeting schedule of the commission to allow for a review of salaries in 2011 and 2013, then every four years thereafter.

In 2011, the commission met twice and voted to submit recommendations increasing judicial salaries through fiscal 2016. However, the commission did not recommend a salary increase in the first fiscal year (fiscal 2013). Instead, the commission recommended a salary increase of \$29,006 over a three-year period. Specifically, the joint resolution proposed the following annual increases for all judges at each of the seven salary levels: (1) \$9,111 beginning July 1, 2013;

(2) \$9,658 beginning July 1, 2014; and (3) \$10,237 beginning July 1, 2015. In the 2012 session, the General Assembly amended the resolution submitted by the commission so that the annual salaries for all judges increase as follows: (1) \$4,556 beginning July 1, 2013; (2) \$4,692 beginning July 1, 2014; and (3) \$4,833 beginning July 1, 2015. In addition, since judges did not receive a salary increase in fiscal 2013, they received the 2% COLA that was effective December 31, 2012, for all State employees.

The commission also made recommendations in its 2011 report on appropriate retirement benefit and member contribution levels, which took into account the sustainability of pension systems, based on instructions included in Chapter 397 of 2011 (the BRFA). The commission voted to include in its report a recommendation that the contribution rate for judges appointed after July 1, 2012, increase from 6 to 8%. Chapter 485 of 2012 increased the member contribution rate from 6 to 8% of earnable compensation for all members of the Judges' Retirement System (JRS), and further added a five-year vesting requirement for individuals who become JRS members on or after July 1, 2012.

In 2013, the commission met once to examine salaries paid to Maryland officials, State's Attorneys, federal judges, and judges in all other states and received information or presentations from the Department of Legislative Services and the Judiciary. While the commission continues to believe that further salary increase are merited and necessary in order to assure that qualified individuals will be attracted to serve as judges, the commission is acutely aware of the economic crisis before the State, and accordingly did not recommend any further increases in judicial salaries, nor did the commission propose any additional changes to JRS.

3. The Judiciary and Child Support Enforcement Administration Satisfy the Repeat Audit Finding

In September 2011, a fiscal compliance audit of the Department of Human Resources' (DHR) Child Support Enforcement Administration (CSEA) was released containing 11 findings, including 5 findings repeated from the previous report. Despite the fact that the number of audit findings and repeat findings decreased from previous fiscal compliance audits, the audit of CSEA contained several findings of concern to the General Assembly, including the failure to establish electronic data exchanges with State agencies for the purpose of professional license suspensions. As a result of the General Assembly's concerns over CSEA's ongoing audit issues and the number of repeat findings, budget bill language was added to the fiscal 2013 budget bill (Chapter 148 of 2012) withholding \$100,000 of the general fund appropriation for the administrative expenses of the State offices of CSEA until DHR completed all actions planned to resolve audit findings.

In a letter dated January 3, 2013, the budget committees reiterated their concern that actions necessary to resolve some findings, including the full implementation of an electronic data exchange for the purpose of professional license suspensions, were not yet complete. One agency where no established electronic data exchange had been either implemented or agreed upon was with the Judiciary for the purposes of attorney license suspensions.

C00A00 – Judiciary

In the 2012 interim, the Joint Audit Committee focused on the prevalence of repeat audit findings within various State agencies. The committee was concerned that many agencies were having numerous findings repeated in successive audits, and one such agency included CSEA. In the 2013 session, the Joint Audit Committee requested that budget bill language be added for each unit of State government that has four or more repeat audit findings in its most recent fiscal compliance audit. Each such agency was to have a portion of its administrative budget withheld pending the adoption of corrective action by the agency, and a determination by the Office of Legislative Audits (OLA) that each finding was corrected. Since the failure to establish electronic data exchanges with State agencies was a repeat finding with CSEA for which DHR would be held responsible for resolving in fiscal 2014, and since it required action by both DHR and the Judiciary to resolve this finding, the budget committees withheld \$1,000,000 of the general fund appropriation from the Judiciary until corrective action was taken concerning the electronic exchange of data for the purpose of license suspensions.

In a letter dated July 25, 2013, OLA reported that the Judiciary and DHR had taken corrective action to resolve the finding. Specifically, on July 22, 2013, CSEA received a data file from the Judiciary containing the names of approximately 37,000 Maryland attorneys and their Social Security numbers. According to CSEA, this file is in a format that will allow it to identify attorneys who have not satisfactorily addressed child support they owe for possible license suspension. OLA reviewed the data file and concluded that the file appeared reasonably complete and contained the appropriate information. On July 31, 2013, DLS recommended the release of these funds, and the budget committees authorized this release on August 5, 2013.

Current and Prior Year Budgets

Current and Prior Year Budgets Judiciary (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2013					
Legislative Appropriation	\$387,400	\$56,265	\$3,443	\$141	\$447,249
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	2,318	4,143	207	6,669
Reversions and Cancellations	-3,244	-10,169	-2,054	-148	-15,614
Actual Expenditures	\$384,156	\$48,415	\$5,532	\$201	\$438,304
Fiscal 2014					
Legislative Appropriation	\$405,235	\$53,722	\$4,178	\$141	\$463,275
Budget Amendments	3,610	230	1,250	139	5,227
Working Appropriation	\$408,844	\$53,952	\$5,427	\$280	\$468,503

Note: The fiscal 2014 working appropriation does not include deficiencies or contingent reductions. Numbers may not sum to total due to rounding.

Fiscal 2013

The Judiciary completed fiscal 2013 \$8,945,406 below its legislative appropriation.

General Funds

Actual expenditures were \$3,243,807 below the legislative appropriation due to reversions which included:

- \$3,017,941 from District Court due to vacancies and delays in hiring new interpreters;
- \$136,261 related to the assessed fee for the development of a new Statewide Personnel System which spent approximately 48% of this major IT project's appropriated budget; and
- \$89,605 in other reversions, mainly related statewide-controlled subobjects.

Special Funds

Actual expenditures were \$7,850,400 below the legislative appropriation, mainly due to \$10,168,798 in cancelled funds including:

- \$4,408,926 due to land record positions within the circuit court clerk offices being held vacant due to the slowing economy and the housing crisis;
- \$4,363,098 in delays for major IT projects due to technical issues and other programmatic reasons;
- \$827,353 in cancelled funds due to underattainment in the MLSC Fund;
- \$566,248 related to maintenance and replacement of equipment for the land records systems; and
- \$3,172 due to a difference between revenues generated and expended for the Law Library public copier.

These cancelled funds were partially offset by \$2,318,397 in added special funds for the COLA from the Budget Restoration Fund.

Federal Funds

Actual expenditures were \$2,089,167 above the legislative appropriation. Budget amendments added \$4,143,068 in federal funds, which included:

- \$2,491,259 related to various family administration, foster care, and drug court programs;
- \$880,000 for Child Support Enforcement Unit masters and clerks salaries;
- \$548,173 for the Foster Care Coordination Improvement Project in the Court of Appeals;
- \$200,391 for a study of the Alternative Dispute Resolution program; and
- \$23,245 related to the COLA associated with the Budget Restoration Fund.

However, \$2,053,901 was unspent at the end of fiscal 2013, with a majority of these funds being carried over into fiscal 2014.

Reimbursable Funds

Actual expenditures were \$59,635 above the legislative appropriation, mainly due to a budget amendment for \$207,197 in reimbursable funds related to Governor's Office of Crime Control and Prevention grants. However, \$147,562 was unspent at the end of fiscal 2013, with a majority of this money being carried over into fiscal 2014.

Fiscal 2014

To date, \$5,227,470 has been added through budget amendments to the legislative appropriation for fiscal 2014. Of this amount, the COLA and increment payments account for \$3,609,529 in general funds, \$229,509 in special funds, and \$53,497 in federal funds. Another budget amendment added \$1,196,014 in federal funds and \$138,921 in reimbursable funds for grant programs related to the Foster Care Coordination Improvement Project and other Family Law Division programs.

Audit Findings

Audit Period for Last Audit:	October 19, 2009 – June 30, 2012
Issue Date:	July 2013
Number of Findings:	2
Number of Repeat Findings:	1
% of Repeat Findings:	50%
Rating: (if applicable)	n/a

Finding 1: **The Judiciary lacked adequate controls over equipment. The Judiciary concurs with the finding and is implementing the recommendations.**

Finding 2: Certain computer equipment was discarded without complying with established policies. The Judiciary concurs with the finding and is implementing the recommendations.

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

**Object/Fund Difference Report
Judiciary**

<u>Object/Fund</u>	<u>FY 13 Actual</u>	<u>FY 14 Working Appropriation</u>	<u>FY 15 Allowance</u>	<u>FY 14 - FY 15 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	3,584.50	3,638.50	3,751.50	113.00	3.1%
02 Contractual	446.00	446.00	433.00	-13.00	-2.9%
Total Positions	4,030.50	4,084.50	4,184.50	100.00	2.4%
Objects					
01 Salaries and Wages	\$ 291,387,551	\$ 308,093,418	\$ 324,022,817	\$ 15,929,399	5.2%
02 Technical and Spec. Fees	13,963,202	15,868,928	15,279,842	-589,086	-3.7%
03 Communication	12,469,706	12,227,504	13,021,062	793,558	6.5%
04 Travel	1,485,987	1,264,743	1,569,361	304,618	24.1%
06 Fuel and Utilities	980,393	725,022	1,032,179	307,157	42.4%
07 Motor Vehicles	159,399	158,749	237,246	78,497	49.4%
08 Contractual Services	50,610,187	56,905,293	63,772,054	6,866,761	12.1%
09 Supplies and Materials	5,134,081	5,499,273	5,776,410	277,137	5.0%
10 Equipment – Replacement	2,648,967	5,395,118	8,217,086	2,821,968	52.3%
11 Equipment – Additional	3,114,783	2,087,846	5,165,669	3,077,823	147.4%
12 Grants, Subsidies, and Contributions	42,278,899	44,495,779	45,247,463	751,684	1.7%
13 Fixed Charges	13,976,375	15,631,184	15,769,975	138,791	0.9%
14 Land and Structures	94,226	150,000	850,000	700,000	466.7%
Total Objects	\$ 438,303,756	\$ 468,502,857	\$ 499,961,164	\$ 31,458,307	6.7%
Funds					
01 General Fund	\$ 384,156,426	\$ 408,844,136	\$ 432,501,024	\$ 23,656,888	5.8%
03 Special Fund	48,414,813	53,951,765	62,857,012	8,905,247	16.5%
05 Federal Fund	5,531,882	5,427,035	279,421	-5,147,614	-94.9%
09 Reimbursable Fund	200,635	279,921	4,323,707	4,043,786	1444.6%
Total Funds	\$ 438,303,756	\$ 468,502,857	\$ 499,961,164	\$ 31,458,307	6.7%

Note: The fiscal 2014 appropriation does not include deficiencies. The fiscal 2015 allowance does not include contingent reductions.

**Fiscal Summary
Judiciary**

<u>Program/Unit</u>	<u>FY 13 Actual</u>	<u>FY 14 Wrk Approp</u>	<u>FY 15 Allowance</u>	<u>Change</u>	<u>FY 14 - FY 15 % Change</u>
01 Court of Appeals	\$ 15,237,670	\$ 16,865,799	\$ 16,900,974	\$ 35,175	0.2%
02 Court of Special Appeals	9,808,460	10,048,583	10,538,486	489,903	4.9%
03 Circuit Court Judges	60,952,759	61,781,224	65,904,496	4,123,272	6.7%
04 District Court	145,764,428	155,817,772	161,992,553	6,174,781	4.0%
05 Maryland Judicial Conference	209,011	107,650	210,750	103,100	95.8%
06 Administrative Office of the Courts	44,009,098	42,933,825	46,346,830	3,413,005	7.9%
07 Court Related Agencies	5,379,803	5,774,991	6,257,465	482,474	8.4%
08 State Law Library	2,431,741	2,759,167	2,917,607	158,440	5.7%
09 Judicial Information Systems	41,066,392	43,897,129	46,154,164	2,257,035	5.1%
10 Clerks of the Circuit Court	87,456,286	100,185,296	106,600,745	6,415,449	6.4%
11 Family Law Division	14,907,014	15,000,020	15,408,329	408,309	2.7%
12 Major IT Development Projects	11,081,094	13,331,401	20,728,765	7,397,364	55.5%
Total Expenditures	\$ 438,303,756	\$ 468,502,857	\$ 499,961,164	\$ 31,458,307	6.7%
General Fund	\$ 384,156,426	\$ 408,844,136	\$ 432,501,024	\$ 23,656,888	5.8%
Special Fund	48,414,813	53,951,765	62,857,012	8,905,247	16.5%
Federal Fund	5,531,882	5,427,035	279,421	-5,147,614	-94.9%
Total Appropriations	\$ 438,103,121	\$ 468,222,936	\$ 495,637,457	\$ 27,414,521	5.9%
Reimbursable Fund	\$ 200,635	\$ 279,921	\$ 4,323,707	\$ 4,043,786	1444.6%
Total Funds	\$ 438,303,756	\$ 468,502,857	\$ 499,961,164	\$ 31,458,307	6.7%

Note: The fiscal 2014 appropriation does not include deficiencies. The fiscal 2015 allowance does not include contingent reductions.