

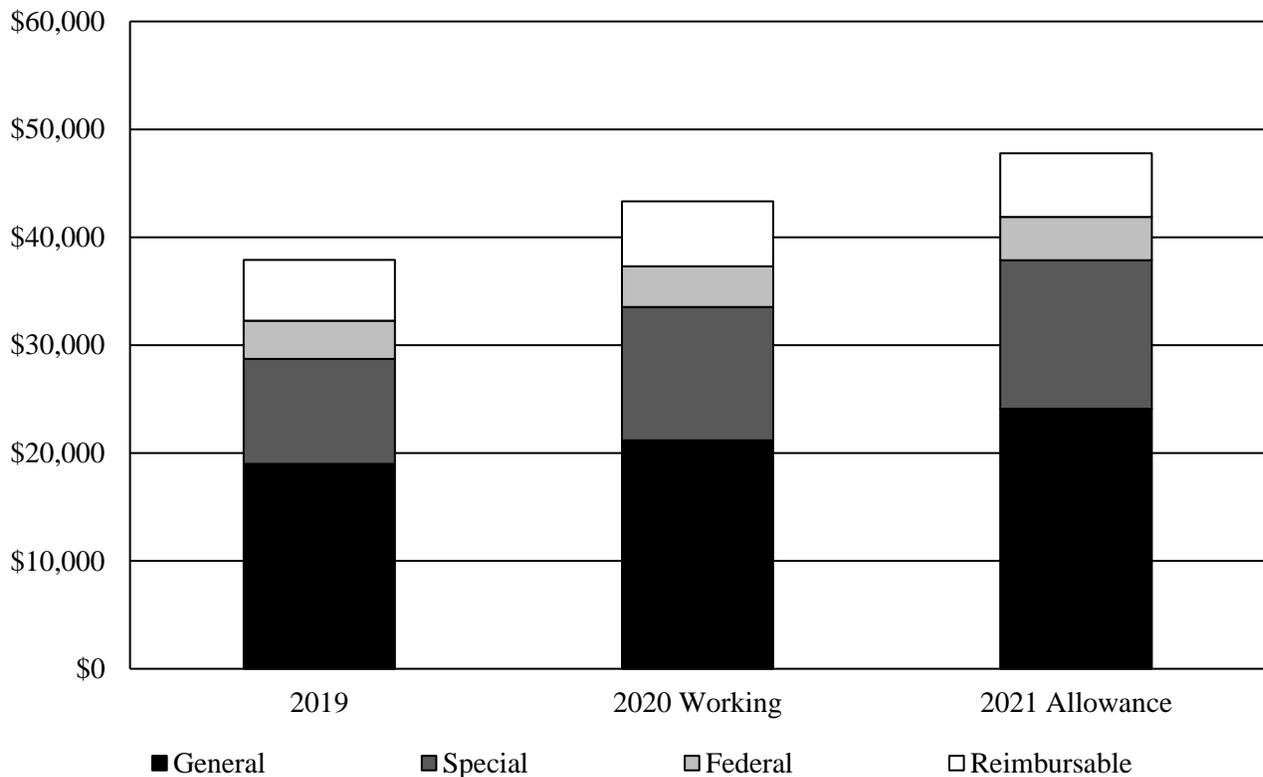
C81C
Office of the Attorney General

Executive Summary

The Office of the Attorney General (OAG) is the primary legal counsel for the State.

Operating Budget Summary

Budget Increases \$4.5 Million or 10.3% to \$47.8 Million in Fiscal 2021
(\$ in Thousands)



Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

- ***Fiscal 2020 Deficiencies Total \$300,000:*** The Governor’s budget includes fiscal 2020 deficiency funding for agency turnover relief.

Key Observations

- ***Agency Funding Increases, but OAG Responsibilities Continue to Grow:*** Because the OAG base budget has grown, fiscal 2021 may create an opportunity for the agency to be less constrained; however, the agency continues to have additional responsibilities that will contribute to its workloads and costs.
- ***New Baltimore City Prosecutors:*** The fiscal 2021 allowance includes 25 new positions and more than \$2.5 million in funding for the new Baltimore City Violent Crime Prosecution Division. While this new division’s anti-crime mandate is clear, its structure and relationship with the city needs to be more fully defined.
- ***OAG Recovers \$252 Million for the State Since 2015:*** OAG has a wide variety of duties, including enforcing the law in terms of consumer protection, antitrust, securities, and Medicaid provider fraud. Since fiscal 2015, the agency processed nearly 57,000 cases, complaints, and inquiries per year and generated a total of \$252 million in recoveries for the State.
- ***Federal Litigation Doubles:*** The agency’s Civil Litigation Division deals with many significant legal matters, particularly lawsuits at the federal level. These federal cases have doubled since fiscal 2018.

Operating Budget Recommended Actions

	<u>Funds</u>
1. Reduce funding for contractual positions due to the agency’s previous low hiring rate. Due to unfilled positions in this area, the agency reverted \$1.2 million in fiscal 2019.	\$ 300,000
2. Add language restricting funds pending a report on the new Baltimore City Violent Crime Prosecution Division.	
3. Adjust turnover to the standard 25% for new Baltimore City Violent Crime Prosecution Division positions.	640,985
Total Reductions	\$ 940,985

Updates

- ***Sexual Assault Evidence Kit Policy Committee Moves Forward:*** The committee began the implementation of \$2.6 million in federal grants, designed to assist Maryland with victim services, conducting a full inventory of sexual assault evidence kits (SAEK), and the creation of a statewide SAEK tracking system.

C81C
Office of the Attorney General

Operating Budget Analysis

Program Description

The Attorney General acts as legal counsel to the Governor; the General Assembly; the Judiciary; and all departments, boards, and commissions (except the Maryland Commission on Civil Rights, the Public Service Commission, and the State Ethics Commission). The Office of the Attorney General (OAG) represents the State in all matters of interest to the State, including civil litigation and criminal appeals in all State and federal courts. The office also reviews legislation passed by the General Assembly prior to consideration by the Governor and oversees the expenditures of the Mortgage Loan Servicing Practices Settlement Fund. The office is currently supported by 14 divisions as follows:

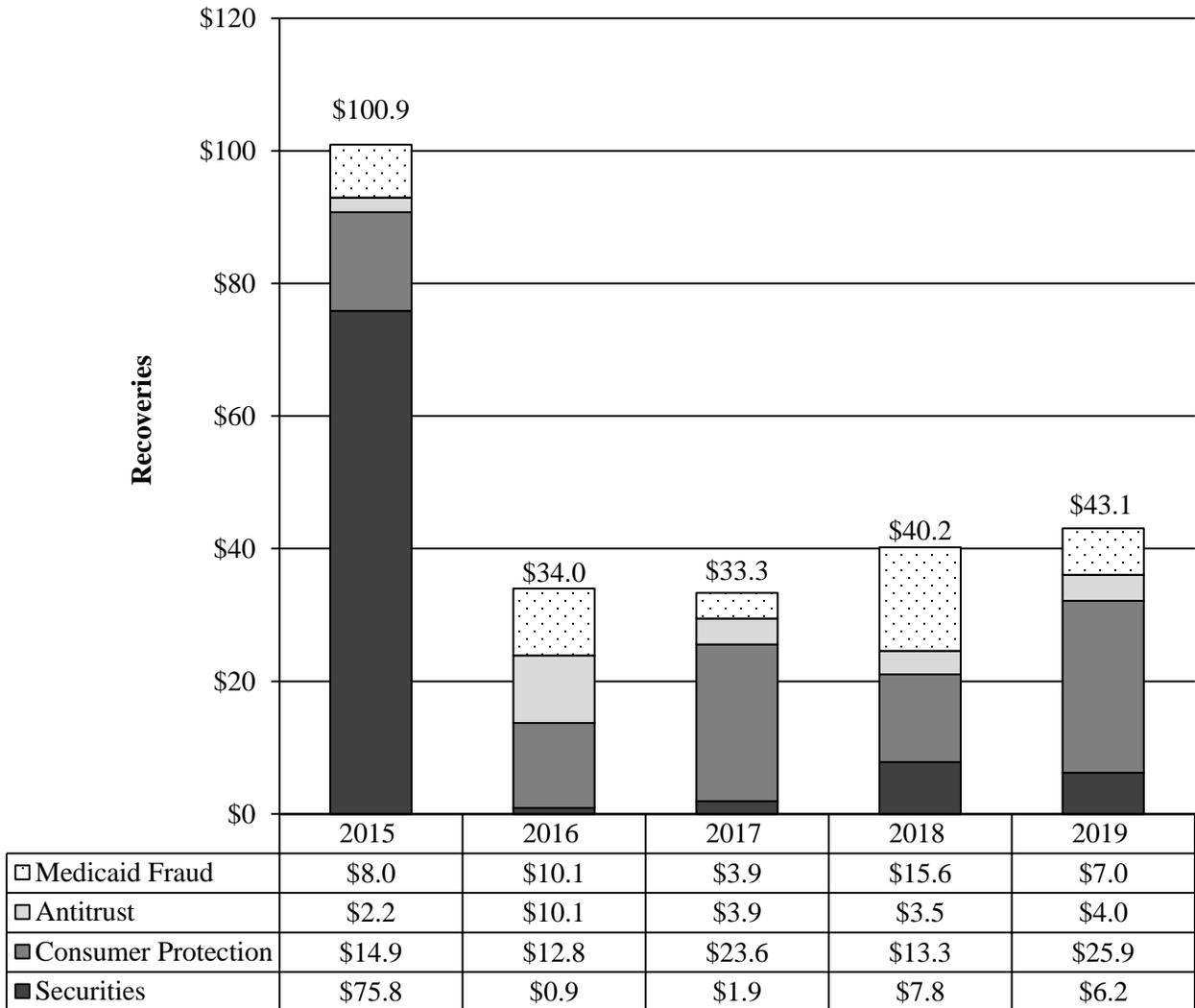
- Legal Counsel and Advice, Criminal Investigation, Criminal Appeals, Civil Litigation;
- Antitrust, Consumer Protection, Medicaid Fraud Control, Securities, Contract Litigation;
- Correctional Litigation, Educational Affairs, Juvenile Justice Monitoring Unit; the People’s Insurance Counsel; and
- the newly created Baltimore City Violent Crime Prosecution Division.

Performance Analysis: Managing for Results

1. OAG Litigation Recovers \$252 Million for the State Since Fiscal 2015

OAG has a wide variety of duties, not the least of which is enforcing State law in multiple key areas. These areas include resident-facing initiatives such as antitrust, consumer protection and securities law enforcement, as well as the prosecution of Medicaid provider fraud. Overall, multiple OAG divisions have processed nearly 57,000 cases, complaints, and inquiries per year since fiscal 2015 and generated a total of \$252 million in recoveries for the State. This represents an average of \$50.3 million each year, a total that exceeds the budget for the entire agency in fiscal 2021. **Exhibit 1** shows OAG financial recoveries (fines, restitution, and rescission) since fiscal 2015.

**Exhibit 1
Financial Recoveries
Fiscal 2015-2019
(\$ in Millions)**



Source: Department of Budget and Management

OAG financial recovery details include the following:

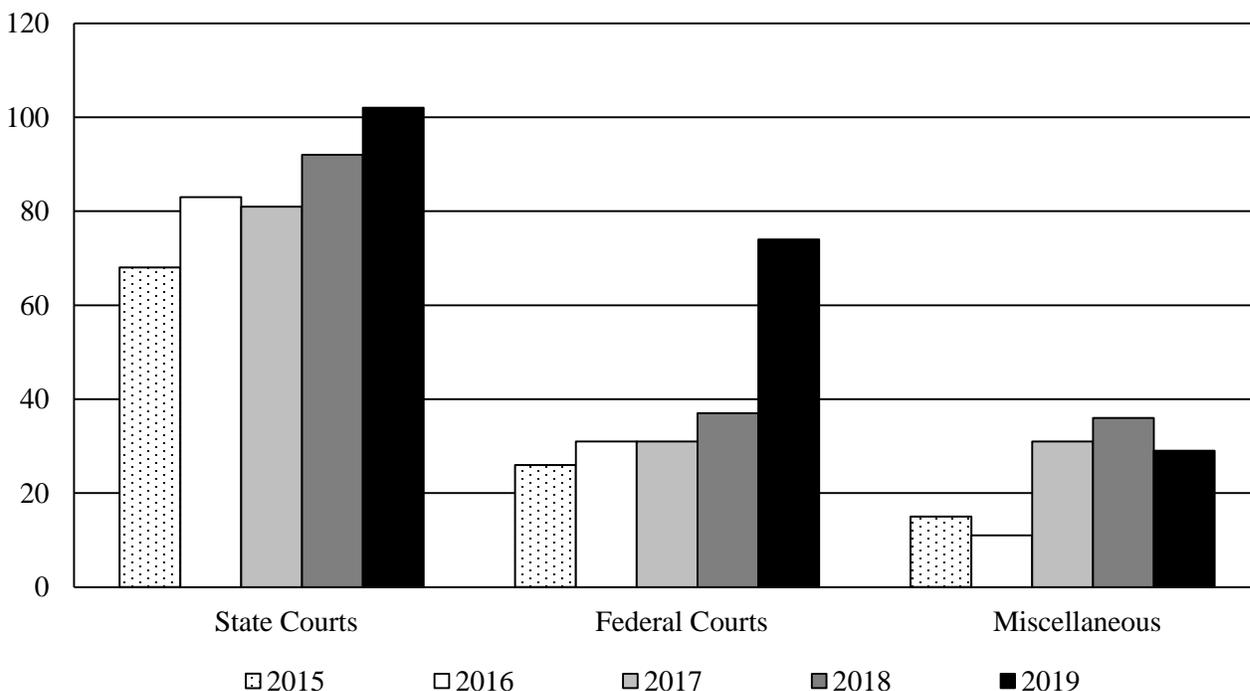
- **Antitrust:** In terms of cases regarding fair trade, corporate monopolies, and other acts that may restrain commerce and trade within the State, recoveries remain steady – up 12% since fiscal 2018.

- **Consumer Protection:** This division within OAG assists residents by providing mediation and arbitration service to consumers to help resolve complaints against businesses and health insurance carriers. Recoveries nearly doubled, up 95%, due in part to a \$14.5 million settlement for Maryland students who were victimized by predatory for-profit colleges.
- **Medicaid Fraud:** This division is charged with investigating and prosecuting Medicaid provider fraud as well as cases of abuse and neglect of vulnerable adults. In fiscal 2019, recoveries declined by 55% due to a slight decline in total cases as well as a normal variance in financial payouts, as awards, fines, and settlements processed by the court system can vary substantially from case to case.
- **Securities:** The main purpose of this division is to protect Maryland investors from investment fraud. While total recoveries are down substantially from fiscal 2015 (due to a \$75 million settlement with Bank of America for the 2008 financial crisis), metrics have improved from nearly \$915,000 in fiscal 2016 to over \$6.2 million in fiscal 2020.

2. All Case Types Increase; Federal Cases Double

The OAG Civil Litigation Division has a total of 17 attorneys who handle major litigation for the State. Their workload includes multiple cases that are complex and in some cases have dealt with very significant legal matters, particularly at the federal level. Among other laws, the General Assembly passed the Maryland Defense Act (Chapter 26 of 2017) that directs the Attorney General to take certain actions on behalf of the State due to activity by the federal government; in addition, this division has been party to large multi-state lawsuits such as the recent action by 15 states to halt the U.S. Department of Agriculture rule that could limit the ability of states to extend food stamp benefits. **Exhibit 2** depicts the increase in cases for this division. Of note is that in fiscal 2019, federal cases grew 100%, from 37 to 74, and State cases have increased 11%. The increase in federal cases is due, in part, to growth in election-related cases associated with the State Board of Elections, correctional litigation, and Maryland State's Attorney's matters. All case types have increased significantly since fiscal 2015.

**Exhibit 2
Civil Litigation Cases by Type
Fiscal 2015-2019**



Source: Department of Budget and Management

3. Criminal Appeals and Investigation Conviction Rates Remain High

The agency’s Criminal Investigations Division reorganized to include an Organized Crime Unit that incorporates and expands the work of the Gun and Gang Units as well as a Fraud and Corruption Unit, which replaces the former Economic Crimes Unit. Overall, the Organized Crime Unit investigates and prosecutes crimes involving narcotics, weapons, conspiracies, serial offenders, human trafficking, and prison corruption. The Fraud and Corruption Unit investigates various crimes including tax fraud, procurement fraud, theft, and securities fraud. Including the Criminal Appeals Division, all three units have case conviction rates of over 82% dating back to fiscal 2016 with an average total conviction rate of 92% as seen in **Exhibit 3**.

Exhibit 3
Criminal Appeals and Investigation Conviction Rates
Fiscal 2016-2019

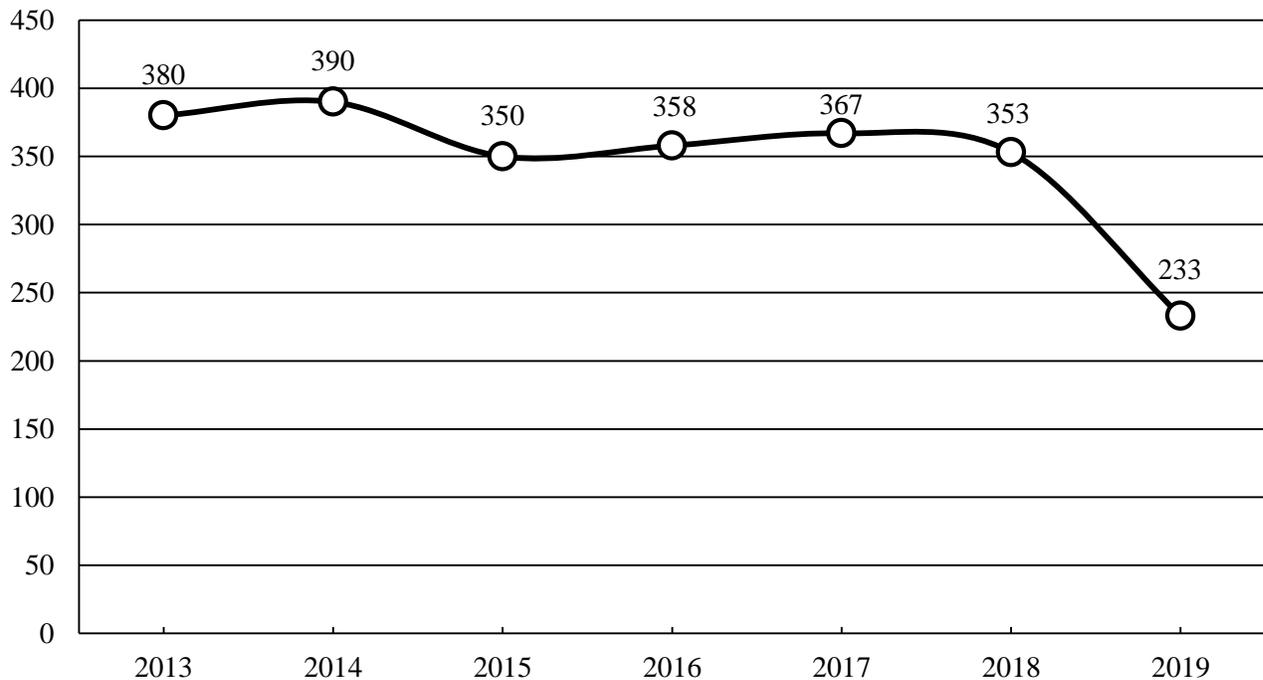
	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Criminal Appeals	87%	87%	88%	82%
Fraud	100%	95%	100%	100%
Organized Crime	94%	97%	98%	95%
Total Cases	125	143	165	205

Source: Department of Budget and Management

4. Juvenile Justice Monitoring Site Visits Decrease Significantly

The Juvenile Justice Monitoring Unit (JJMU) is an independent program within OAG that investigates the needs of children under the jurisdiction of the Department of Juvenile Services (DJS) and determines whether their needs are being met in compliance with State law. While the division visits as many DJS facilities as possible as part of its review, JJMU previously averaged nearly 10 visits a year per facility. In fiscal 2019, visits decreased from 353 to 233 – a 34% decline. **Exhibit 4** shows the number of visits to DJS youth offender facilities since fiscal 2013.

**Exhibit 4
Juvenile Offender Facility Visits
Fiscal 2013-2019**



Source: Department of Budget and Management

In recent years, previous budget reductions decreased the funding available to this division. In fiscal 2011, the division had 8 authorized positions; there are now 4 juvenile justice monitor positions, and the unit lost 1 employee in fiscal 2019. Currently, JJMU has 3 employees – 2 positions to monitor juvenile facilities, along with 1 director. **Considering the significant reduction in facility visits in fiscal 2019, the agency should comment on the size of the JJMU personnel complement and its ability to conduct adequate DJS monitoring in the upcoming fiscal year.**

Fiscal 2020

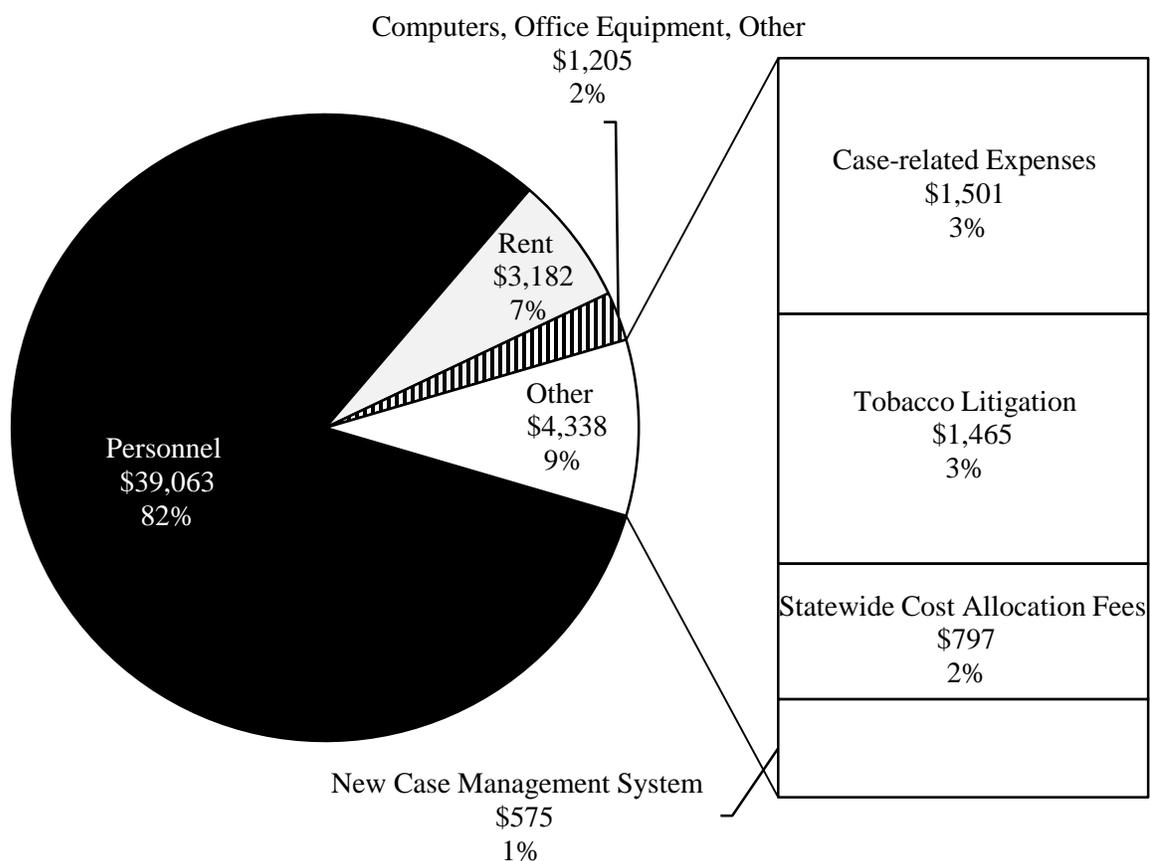
Proposed Deficiency

OAG receives a total fiscal 2020 deficiency appropriation of \$300,000 in general funds to provide funding for agency turnover relief.

Fiscal 2021 Overview of Agency Spending

The OAG budget and funding streams are fairly complex given the relatively small size of the agency. There are nine separate special fund accounts with various revenue sources as well as reimbursable funds from nine separate agency accounts for specified purposes. Despite this complexity, the agency budget by expenditure is very straightforward with 82% allocated for personnel. Aside from essentials such as rent and computer/office expenditures, OAG has approximately \$4.3 million, or 9%, of its budget to devote to specific case-related expenses, required State fees, and its new case management system, as illustrated in **Exhibit 5**.

Exhibit 5
Overview of Agency Spending
Fiscal 2021 Allowance
 (\$ in Thousands)



Source: Department of Legislative Services

Proposed Budget Change

As illustrated in **Exhibit 6**, the adjusted fiscal 2021 allowance increases by nearly \$4.5 million, or 10.3%, largely due to statewide salary enhancements and 26 new regular positions – 25 of which are attorneys and staff for the new Baltimore City Violent Crime Prosecution Division. Increases in rent and funding for the agency’s new case management system account for the remainder of the notable changes in fiscal 2021.

Exhibit 6					
Proposed Budget					
Office of the Attorney General					
(\$ in Thousands)					
How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2019 Actual	\$18,991	\$9,732	\$3,539	\$5,625	\$37,888
Fiscal 2020 Working Appropriation	21,170	12,370	3,776	6,013	43,328
Fiscal 2021 Allowance	<u>24,101</u>	<u>13,771</u>	<u>4,016</u>	<u>5,901</u>	<u>47,788</u>
Fiscal 2020-2021 Amount Change	\$2,931	\$1,402	\$240	-\$112	\$4,460
Fiscal 2020-2021 Percent Change	13.8%	11.3%	6.3%	-1.9%	10.3%
Where It Goes:					<u>Change</u>
Personnel Expenses					
New positions (25 for Baltimore City anti-crime initiative and 1 administrator).....					\$2,581
Regular employee compensation and agency turnover relief					652
Employee retirement system					365
Employee and retiree health insurance.....					270
Fiscal 2021 2% cost-of-living adjustment (COLA) effective January 1, 2021					234
Other fringe benefit adjustments					130
Net annualization of fiscal 2020 COLA.....					116
Position reclassifications					-164
Net turnover expectancy					-170
6 abolished positions					-595
Other Changes					
Case management system and other information technology spending.....					599
Legal services, expert witnesses, and case-related expenditures					474
Non-Department of General Services rent including office space for new prosecutors					464
Miscellaneous.....					57
Payments to the Office of Administrative Hearings					27
Consumer Protection interpreters; headquarters maintenance costs					-580
Total					\$4,460

Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

New Personnel, Information Technology, and Case-related Expenditures Increase Costs

Overall, the OAG fiscal 2021 budget grows due to significant increases in personnel. Additionally, the agency sees nearly \$600,000 in growth for a new case management system, and \$474,000 in case-related expenditures. As noted in the Performance Measures section of this analysis, case types in all categories (civil, criminal, and federal) are increasing; therefore, the agency has a greater need for expert witnesses, court transcription services, interpreters, and similar costs. Aside from these expenditures and rent increases, OAG's major spending categories are level-funded or nearly level-funded in the following areas: communications, travel, motor vehicles/garage spending, and agencywide costs for office equipment, supplies, and materials.

New Case Management System

Similar to the State's other legal/judicial agencies, OAG receives \$575,000 for its new case management system. The new system is a web-based system that will allow employees to track their cases online (including the location of physical files), improve document management, and check legal conflicts to provide full disclosure in cases as to whether attorneys have represented clients with adverse interests to newer clients. While the agency's previous case management system had limited access for those outside of OAG offices, the new system will allow for full access that will enable employees to work remotely and more efficiently. The system is scheduled for an internal deployment and final release in late fiscal 2020. More information about the new system can be found in **Appendix 3**.

Personnel Data

	FY 19	FY 20	FY 21	FY 20-21
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	269.50	275.50	295.50	20.00
Contractual FTEs	<u>17.45</u>	<u>49.40</u>	<u>51.90</u>	<u>2.50</u>
Total Personnel	286.95	324.90	347.40	22.50

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	18.60	6.90%
Positions and Percentage Vacant as of 12/31/19	30.70	11.14%
Vacancies Above Turnover	12.1	

Personnel Changes

In fiscal 2021, the budget provides for a net increase of 20 positions as follows:

- 25 prosecutors and staff for the new Baltimore City Violent Crime Prosecution Division;
- 1 administrator in the Legal Counsel and Advice Division; and
- 6 abolished positions (5 attorneys and 1 consumer protection administrative officer).

While the agency did have 6 abolished positions in fiscal 2021, a number of these were new employee positions awarded since fiscal 2018. OAG continues to report that it has been able to hold unused positions open and use the salary savings to increase flexibility in the face of a limited budget and rising attorney caseloads. **The agency should comment on its vacant positions and whether the increased funding in fiscal 2021 will allow it to address its personnel issues.**

Difficulty in Contractual Hiring Leads to Reversion of Unused Salaries

In recent years, OAG has noted that it needed more employees to handle its increasing duties and caseloads. Additionally, its ability to hire contractual employees to reduce workloads and increase agency flexibility has also been limited. In fiscal 2019, the agency had 17.45 contractual workers, or 6.4%, of its total personnel. While the agency's contractual employee totals and growth appear low (only 2.5 more than the fiscal 2020 working appropriation), the new totals are nearly three times higher than fiscal 2019 actuals. In other words, the agency has grown from just over 17 contractual employees to nearly 52 in the current allowance. In fiscal 2019, the agency reverted over \$1.2 million in special

funds for the Securities Division Asset Recovery for Exploited Seniors Program because of difficulty in hiring contractual staff. In fiscal 2021, the agency receives additional contractual full-time employees to assist various divisions, as shown in **Exhibit 7**.

Exhibit 7
Contractual Positions by Division
Fiscal 2019-2021

<u>Division</u>	<u>Actual</u> <u>2019</u>	<u>Working</u> <u>Appropriation</u> <u>2020</u>	<u>Allowance</u> <u>2021</u>
Legal Counsel and Advice	3.15	5.9	6.4
Securities	1.5	15.3	15.3
Consumer Protection	8.8	23.2	23.2
Criminal Investigation	3	0	2
Mortgage Foreclosure Settlement	1	5	5
Total	17.45	49.4	51.9

Source: Department of Legislative Services

Approximately 75% of these workers will go to the Securities and Consumer Protection Divisions. These divisions have vacancy rates of 19% and 9.5%, respectively. While the agency does need contractual help given higher caseloads, continued difficulty in hiring contractual employees means that if some positions remain unfilled, the agency will have to revert more funding at the end of fiscal 2021. **Given that the OAG contractual complement has grown substantially and the recent significant reversions in unused salary funding, the Department of Legislative Services (DLS) recommends reducing funding for this purpose.**

Fiscal 2021 Budget Provides \$2.5 Million for Baltimore City Violent Crime Prosecution Division

The fiscal 2021 budget establishes a new Baltimore City Violent Crime Prosecution Division within OAG to investigate and prosecute violent crimes, crimes related to firearms, and organized crime in Baltimore City. The fiscal 2021 allowance provides 25 new regular positions and more than \$2.5 million in funding for the program, which includes:

- 16 prosecutors;
- 8 staff members (6 administrator positions, 1 paralegal, and 1 legal secretary);

C81C – Office of the Attorney General

- 1 director;
- \$235,202 for rent;
- \$31,200 for computer equipment; and
- \$26,000 for office equipment.

Funding for the new positions does not reflect the standard 25% turnover rate typically applied to account for time to hire new staff. **Therefore, DLS recommends increasing turnover expectancy for the 25 new positions to 25%.** More information on this new division can be found in the Issues section of this analysis.

Issues

1. New Baltimore City Violent Crime Prosecution Division

Because of rising crime in Baltimore City, the fiscal 2021 budget provides over \$2.5 million to establish a new division within OAG to assist in the prosecution of criminal cases in the city. The new unit – officially called the Baltimore City Violent Crime Prosecution Division – has a stated mission to investigate and prosecute violent crimes, crimes related to firearms, and organized crime. With 25 new positions, the new division compares favorably with other OAG units in terms of size and funding. For example, while OAG currently has 8 of its 17 Criminal Investigation division staff dedicated to prosecuting violent crime at the State level, the new division will have a larger staff with twice the number of criminal law attorneys (16 compared to 8) and slightly more funding, as illustrated in **Exhibit 8**.

Exhibit 8
Division Budgets and Positions
Fiscal 2021
(\$ in Thousands)

	<u>Actual</u> <u>Staff</u>	<u>Authorized</u> <u>Positions</u>	<u>2021</u> <u>Allowance</u>
Legal Counsel and Advice	46.7	52.7	\$10,989
Consumer Protection	54	59.7	9,639
Medicaid Fraud Control Unit	38	39	5,296
Securities Division	17	21	3,982
Civil Litigation	17	21	3,450
Criminal Appeals	22.1	22.1	2,955
Baltimore City Violent Crime Prosecution Division	25	25	2,548
Criminal Investigation	13	17	2,506
Contract Litigation	14	16	2,322
Antitrust Division	5	5	766
Correctional Litigation	4	6	765
People’s Insurance Counsel	3	4	661
Juvenile Justice Monitoring	4	4	499
Educational Affairs	2	3	352
Total	264.8	295.5	\$47,324

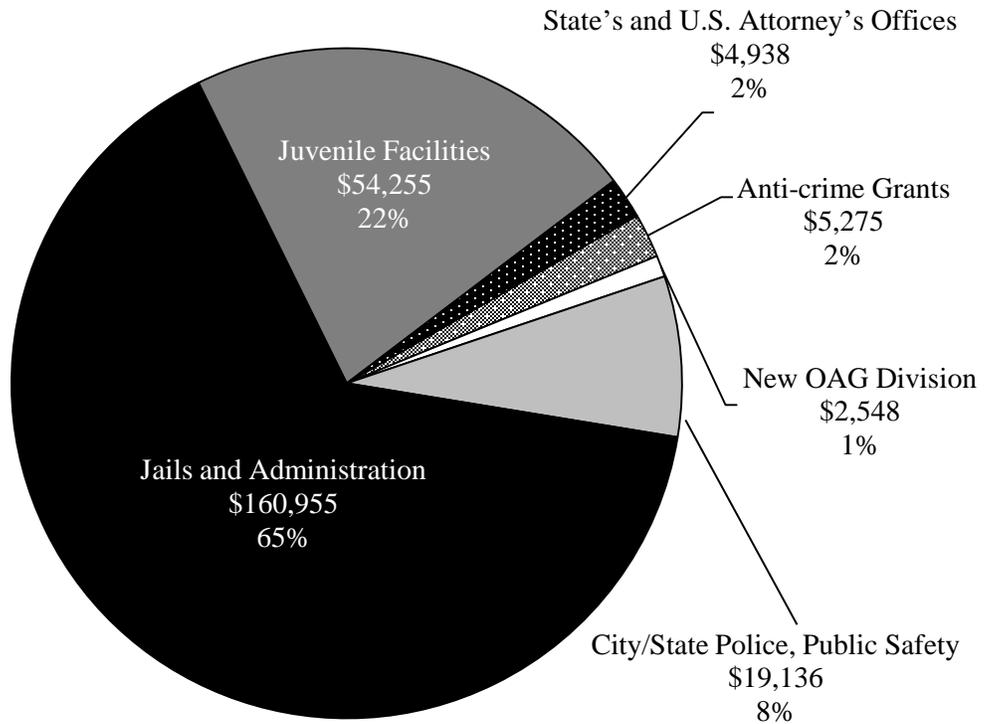
Note: Total funds include \$592,861 from the Mortgage Foreclosure Settlement Program.

Source: Department of Legislative Services

State Response to Violent Crime

In calendar 2019, Baltimore City had 348 homicides with a per capita rate of 57 per 100,000 people – the worst in the city’s history. In fiscal 2021, the State provides an estimated \$247.1 million to the city for the entire scope of public safety-related initiatives, from prison administration and police/intelligence assistance to community-facing educational programs. While the new division is substantial relative to its counterpart divisions within OAG, the Baltimore City Violent Crime Prosecution Division represents a small portion (1%) of the State’s anti-crime efforts and is the only new crime-related initiative in fiscal 2021 for Baltimore City included in the Governor’s allowance. **Exhibit 9** shows the entirety of State public safety-related aid for the city.

Exhibit 9
State Public Safety Aid to Baltimore City
Fiscal 2021
(\$ in Thousands)



OAG: Office of the Attorney General

Source: Governor’s Fiscal 2020 and 2021 Budget Books

C81C – Office of the Attorney General

Activity within OAG occurs in conjunction with a consistent slate of statutory duties, such as providing legal support to State agencies and reviewing nearly 900 bills each year for the General Assembly and Governor. Overall, OAG has a clear (though expanding) set of duties that it carries out to fulfill the agency's mission. With the new division, it is not clear what the specific goals, let alone expectations, are. Additionally, once the new division is operational, there are no current definitions of what the State's role will be in terms of oversight or governance. There are also other issues and concerns, as follows:

- ***The Baltimore State's Attorney's Office:*** Throughout the country, local prosecutors handle 95% of all criminal cases. They have fairly wide discretion over the prosecution of their cases, determine the bail amount sought against defendants, and decide whether to take a given case at all. The State's Attorney's Office in Baltimore City has over 200 attorneys and prosecutes over 40,000 cases each year. While the State's Attorney's Office and OAG work together on cases when necessary, it is unclear how these two offices – now sharing the same mandate – will initiate, process, and prosecute city cases. There is no indication as to how either agency will be able to make decisions in an arrangement that is, in both jurisdiction and policy, completely new. Both agencies also have high workloads per attorney. As was mentioned in the Managing for Results section of this analysis, cases of all types are growing for OAG. Similarly, State's Attorney's Office homicide prosecutors have caseloads of 54 per attorney.
- ***The Specifics of Baltimore City Crime:*** In calendar 2019, Baltimore City had 348 homicides with a clearance rate of just 31%. Clearance rates are calculated by dividing the number of crimes with criminal charges by the total number of crimes recorded. This means that the ability to even put suspects on trial is extremely low; in other American cities with 500,000 or more residents, the homicide clearance rate is 57%, more than twice as high as Baltimore's. In addition, arrests are down 63% since fiscal 2010; if arrest rates or clearance rates rise just a few percentage points, the caseloads for attorneys could grow exponentially. Also, both homicide victims and suspects in the city averaged over 8 arrests per suspect and 10 arrests per victim, while over 60% in both groups had at least 3 prior drug arrests. This means that nearly all of the city's homicide victims and perpetrators have a history with the criminal justice system; as a result, efforts along with prosecution will need to incorporate parole/probation, law enforcement, prison/jail, and offender re-entry stakeholders. The Baltimore City Police Department, the Department of Public Safety and Correctional Services (DPSCS), and the State's Attorney's Office will be key stakeholders in the new division's operations going forward.
- ***A Changing Criminal Justice Environment:*** All of this is taking place against a backdrop of a record number of expungements, the effects of marijuana decriminalization, and statewide, fewer individuals jailed and imprisoned due to the Justice Reinvestment Act and other related and associated rule changes. Finally, there are over 1,700 potentially tainted cases in the city due to the corruption in the city's Gun Trace Task Force. All of these items will further complicate the situation in which the new division will be operating.

OAG Responsibilities Grow

Aside from the new division in Baltimore City, OAG is taking on new responsibilities against a growing backdrop of duties across the board for all agency attorneys. In recent years, the agency has taken on multiple responsibilities with various task forces, commissions, committees, and councils; it is also a member of many longstanding organizations and commissions in the State. Some of these responsibilities are depicted in **Exhibit 10**.

Exhibit 10 Select Agency Commissions and Organizations Fiscal 2021

- **Legislation and Mandates:** The Prescription Drug Affordability Board; duties under the Public Information Act; the Maryland Defense Act (to counter action or inaction by the federal government that may affect Maryland residents); the Financial Consumer Protection Act (Chapters 731 and 732 of 2018); the Maryland Lynching Truth and Reconciliation Commission, as well as the mandate from the Governor regarding the Baltimore City Violent Crime Prosecution Division.
- **State Agency and Criminal Justice Commissions:** Multiple opioid-related organizations; the Commission on Correctional Standards; the Correctional Training Commission; the Task Force to Study Maryland’s Criminal Gang Statutes; the Criminal Justice Information Advisory Board; the State Commission on Criminal Sentencing Policy; the Governor’s Family Violence Council; the Justice Reinvestment Oversight Board; the Juvenile Justice Reform Council; the Maryland Police Training and Standards Commission; and the State Board of Victim Services; and the State’s Attorneys’ Coordination Council.
- **Consumer, Health-oriented, and Other Organizations:** The Council for the Procurement of Health, Educational and Social Services; the Maryland Health Insurance Coverage Protection Commission; the School Safety Subcabinet; and the Board of State Canvassers.

Source: Office of the Attorney General

While membership in some organizations may not necessarily consist of enforcement measures and may only consist of attorneys attending meetings, assisting in writing reports, or approving shared documents or rules promulgated by such groups, the agency’s attorneys continue to do more work and perform more functions.

New Division Agenda Needs to Be Defined

Again, while there are new agency positions for the Baltimore anti-crime initiative, these positions are not available to reduce current agency caseloads; they are designed to address and prosecute an entirely new group of offenders in Baltimore City and will therefore increase caseloads. This does place OAG in a unique position. Quite often, new laws or mandates will require the agency to pursue a new agenda without additional staff. With the new prosecutors, OAG finally has the staff to address caseloads, but they will be required to conduct a completely new set of duties, and the scope and scale of these duties are not fully defined. **The agency should brief the budget committees on the Baltimore City Violent Crime Prosecution Division and its expected resources, mission, and hiring timeline. Additionally, the agency should report back to the committees in approximately one year regarding the new division’s caseloads, challenges, and activities.**

Operating Budget Recommended Actions

- | | <u>Amount
Reduction</u> |
|--|-----------------------------|
| 1. Reduce funding for contractual positions due to the agency's previous low hiring rate for Securities Division contractual employees. Due to unfilled positions in this area, the agency reverted \$1.2 million in fiscal 2019. | \$ 300,000 SF |
| 2. Add the following language to the general fund appropriation:

<u>, provided that \$100,000 of this appropriation shall be restricted until the Office of the Attorney General (OAG) submits a report on the new Baltimore City Violent Crime Prosecution Division. While the new division's caseloads, activities, partners, and other key details are not currently clear, it is in the interest of the budget committees that OAG present a full update after the division is operational. Therefore, OAG should provide a report that includes, but is not limited to, the following information:</u> | |
| <ul style="list-style-type: none">• <u>total matters litigated;</u>• <u>the total number of cases, both filed and assigned;</u>• <u>cases by crime committed;</u>• <u>the total number of indictments along with conviction rates as well as any other relevant performance measures; and</u>• <u>to the extent possible, complete information on division activity including cooperation with local stakeholders including the Baltimore Police Department and State's Attorney's Office, attorney caseload workload data, division structure and organizational charts, any pertinent data regarding organized crime/narcotics investigations, and information about the division of labor, decision making and chain of command between the new unit and all State, federal, and local agencies in terms of how cases are received, processed, adjudicated, and closed.</u> | |
| <u>OAG shall provide a written report to the budget committees no later than January 1, 2021. The budget committees shall have 45 days to review and comment following receipt of the report. Funds restricted pending receipt of a report may not be transferred by budget amendment or otherwise and shall revert to the General Fund if the report is not submitted to the budget committees.</u> | |

Explanation: This action requires OAG to present a report to the budget committees explaining the overall structure of the new anti-crime division in Baltimore City. Due to a significant increase in crime in Baltimore, OAG receives 25 new positions for this division with a special emphasis on prosecuting violent crimes, crimes related to firearms, and organized crime. Given that the new division must prosecute crimes within a local jurisdiction, there are concerns about how it will operate and interface with city agencies. There is also a need for details regarding the future activities of the division, its caseloads, and how success will be determined. This information will assist OAG and the General Assembly in monitoring the division and its effect on crime in Baltimore City.

Information Request	Author	Due Date
Baltimore City Violent Crime Prosecution Division report	OAG	January 1, 2021

	<u>Amount Reduction</u>	
3. Adjust turnover to the standard 25% for new Baltimore City Violent Crime Prosecution Division positions. Currently, these positions are allocated zero turnover expectancy.	640,985	GF
Total Reductions	\$ 940,985	
Total General Fund Reductions	\$ 640,985	
Total Special Fund Reductions	\$ 300,000	

Updates

1. Sexual Assault Evidence Kit Policy and Funding Committee

The Sexual Assault Evidence Kit (SAEK) Policy and Funding Committee recently submitted its 2020 annual report, which includes new policies and procedures for State agency testing, tracking, and retention of SAEK. In calendar 2019, SAEK legislation helped create uniform testing standards for SAEK and fund the expanded testing of current kits at agencies in the State. Finally, the committee started the implementation of \$2.6 million in federal grants, designed to assist Maryland with victim services, conducting a full inventory of SAEK, testing previously unsubmitted kits, and for the creation of a statewide SAEK tracking system.

Appendix 1
2019 Joint Chairmen’s Report Responses from Agency

The 2019 *Joint Chairmen’s Report* (JCR) requested that the Office of the Attorney General prepare one report. Electronic copies of the full JCR response can be found on the Department of Legislative Services Library website.

- ***Final Report on the Public Information Act (PIA):*** The PIA is Maryland’s chief open records law and establishes the public’s right to access records created or maintained by State and local government agencies. This report studied the implementation of new State programs designed to resolve PIA issues and act as neutral, independent groups that could review and issue binding (and in some cases, nonbinding) decisions on these matters.

**Appendix 2
Audit Findings**

Audit Period for Last Audit:	July 18, 2014 – May 8, 2018
Issue Date:	March 2019
Number of Findings:	2
Number of Repeat Findings:	1
% of Repeat Findings:	50%
Rating: (if applicable)	n/a

Finding 1: The Office of the Attorney General (OAG) could not document that it had properly procured certain services and goods totaling approximately \$2.1 million.

Finding 2: **OAG did not effectively safeguard, account for, and ensure timely deposit of collections.**

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

Appendix 3
Major Information Technology Project
Office of the Attorney General
Case Management Replacement Project

New/Ongoing: Ongoing								
Start Date: Fiscal 2019					Est. Completion Date: Fiscal 2021			
Implementation Strategy: Waterfall								
(\$ in Millions)	Prior Year	2020	2021	2022	2023	2024	Remainder	Total
GF	\$0.325							\$0.325
RF	1.775	\$0.575	\$0.575					\$2.925
Total	\$2.100	\$0.575	\$0.575					\$3.250

- **Project Summary:** The Office of the Attorney General’s (OAG) new case management project is a web-based information technology system that will provide multiple ways for OAG to track case information, manage legal cases, determine legal conflicts, and exchange data with its current slate of applications.
- **Need:** This project replaces the agency’s 15-year-old case management system. The current system is inefficient and cannot be accessed outside of the OAG’s office by its attorneys. Additionally, the new system will enable OAG to simplify its business processes, conduct real-time data exchanges, track physical files, improve document management, and enable employees to connect remotely and will also help OAG expand its services to external customers and consumers of Maryland.
- **Observations and Milestones:** The project rolled out planned functionality to most of the civil division and plans to complete its rollout in the third quarter of fiscal 2020. Additionally, the project is planned to deploy eProsecutor to the OAG Medicaid Fraud and Criminal divisions in fourth quarter fiscal 2020. The project team has experienced some delays in developing all of the required documentation and anticipates intermittent delays due to the availability of resources.
- **Concerns:** Resource constraints continue to be a risk. OAG is onboarding additional resources to assist in the completion of integration documentation. As a result, the agency will be dedicating 1 full-time employee to complete all document-related processes before project deployment.

**Appendix 4
Object/Fund Difference Report
Office of the Attorney General**

<u>Object/Fund</u>	<u>FY 19 Actual</u>	<u>FY 20 Working Appropriation</u>	<u>FY 21 Allowance</u>	<u>FY 20 - FY 21 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	269.50	275.50	295.50	20.00	7.3%
02 Contractual	17.45	49.40	51.90	2.50	5.1%
Total Positions	286.95	324.90	347.40	22.50	6.9%
Objects					
01 Salaries and Wages	\$ 29,142,606	\$ 31,270,223	\$ 34,639,217	\$ 3,368,994	10.8%
02 Technical and Spec. Fees	1,220,331	3,980,631	3,958,971	-21,660	-0.5%
03 Communication	170,480	297,596	297,596	0	0%
04 Travel	203,356	139,224	134,874	-4,350	-3.1%
07 Motor Vehicles	144,967	158,076	157,895	-181	-0.1%
08 Contractual Services	3,261,500	3,257,636	3,760,754	503,118	15.4%
09 Supplies and Materials	458,325	380,877	380,877	0	0%
10 Equipment – Replacement	0	0	26,000	26,000	N/A
11 Equipment – Additional	32,324	93,201	124,401	31,200	33.5%
12 Grants, Subsidies, and Contributions	723,235	624,486	660,849	36,363	5.8%
13 Fixed Charges	2,531,326	2,710,900	3,182,335	471,435	17.4%
Total Objects	\$ 37,888,450	\$ 42,912,850	\$ 47,323,769	\$ 4,410,919	10.3%
Funds					
01 General Fund	\$ 18,991,459	\$ 20,796,127	\$ 23,803,314	\$ 3,007,187	14.5%
03 Special Fund	9,732,354	12,340,382	13,653,354	1,312,972	10.6%
05 Federal Fund	3,539,243	3,763,815	3,966,400	202,585	5.4%
09 Reimbursable Fund	5,625,394	6,012,526	5,900,701	-111,825	-1.9%
Total Funds	\$ 37,888,450	\$ 42,912,850	\$ 47,323,769	\$ 4,410,919	10.3%

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.

**Appendix 5
Fiscal Summary
Office of the Attorney General**

<u>Program/Unit</u>	<u>FY 19 Actual</u>	<u>FY 20 Wrk Approp</u>	<u>FY 21 Allowance</u>	<u>Change</u>	<u>FY 20 - FY 21 % Change</u>
01 Legal Counsel and Advice	\$ 9,671,818	\$ 10,256,214	\$ 10,989,277	\$ 733,063	7.1%
04 Securities Division	2,824,024	3,970,530	3,982,262	11,732	0.3%
05 Consumer Protection Division	7,397,538	8,998,078	9,639,341	641,263	7.1%
06 Antitrust Division	855,631	753,181	766,037	12,856	1.7%
09 Medicaid Fraud Control Unit	4,746,247	5,021,887	5,296,170	274,283	5.5%
10 People's Insurance Counsel Division	607,850	649,601	661,347	11,746	1.8%
12 Juvenile Justice Monitoring Program	525,826	484,208	499,290	15,082	3.1%
14 Civil Litigation Division	3,246,966	3,561,320	3,450,093	-111,227	-3.1%
15 Criminal Appeals Division	3,004,550	3,023,137	2,954,689	-68,448	-2.3%
16 Criminal Investigation Division	1,896,097	2,237,548	2,505,564	268,016	12.0%
17 Educational Affairs Division	378,550	379,635	352,002	-27,633	-7.3%
18 Correctional Litigation Division	474,408	852,247	764,824	-87,423	-10.3%
20 Contract Litigation Division	2,070,916	2,261,179	2,322,139	60,960	2.7%
21 Mortgage Foreclosure Settlement Program	188,029	464,085	592,861	128,776	27.7%
22 Baltimore City Violent Crime Prosecution Unit	0	0	2,547,873	2,547,873	0%
Total Expenditures	\$ 37,888,450	\$ 42,912,850	\$ 47,323,769	\$ 4,410,919	10.3%
General Fund	\$ 18,991,459	\$ 20,796,127	\$ 23,803,314	\$ 3,007,187	14.5%
Special Fund	9,732,354	12,340,382	13,653,354	1,312,972	10.6%
Federal Fund	3,539,243	3,763,815	3,966,400	202,585	5.4%
Total Appropriations	\$ 32,263,056	\$ 36,900,324	\$ 41,423,068	\$ 4,522,744	12.3%
Reimbursable Fund	\$ 5,625,394	\$ 6,012,526	\$ 5,900,701	-\$ 111,825	-1.9%
Total Funds	\$ 37,888,450	\$ 42,912,850	\$ 47,323,769	\$ 4,410,919	10.3%

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.