

025 - COUNTY COUNSEL

Operational Summary

Mission:

To provide the highest quality legal advice and representation to the Board of Supervisors, elected and appointed department heads, County agencies/departments and staff, and Board-governed special districts.

Strategic Goals:

- Provide highly competent legal advice to clients on matters related to their public duties and responsibilities in the administration of the public's business, in accordance with high ethical and professional standards.
- Effectively prosecute and defend civil actions in which clients are involved.
- Deliver all legal services to clients as efficiently and economically as possible.

Key Outcome Indicators:

Performance Measure	2006 Business Plan	2007 Business Plan	How are we doing?
	Results	Target	
PERCENTAGE OF CLIENTS RATING ADVISORY SUPPORT AS SATISFACTORY IN TERMS OF QUALITY & RESPONSIVENESS. What: Measurement of timelines of services provided. Why: Client satisfaction is the primary measure of success for a service agency.	93% based on annual survey results.	Be rated as satisfactory by 100% of clients in terms of timeliness.	Based on survey results and ongoing dialogue with clients, County Counsel is doing well in the area of providing satisfactory litigation services in terms of quality and responsiveness.
PERCENTAGE OF WRITTEN OPINIONS CHALLENGED IN COURT OR ADMINISTRATIVE PROCEEDINGS. What: Measurement of quality and effectiveness of services provided. Why: Client satisfaction is the primary measure of success for a service agency.	93% based on annual survey results.	Continue to be rated as in prior year or better.	Based on survey results and ongoing dialogue with clients, County Counsel is doing well in the area of providing satisfactory advisory legal services in terms of quality and responsiveness.
PERCENTAGE OF WRITTEN OPINIONS CHALLENGED IN COURT OR ADMINISTRATIVE PROCEEDINGS. What: Measurement of the quality of legal advice. Why: Provides measure of quality of services provided.	One opinion was challenged.	Maintain 5% or less.	County Counsel is doing very well in producing quality written opinions that stand up to legal scrutiny.

At a Glance:

Total FY 2006-2007 Actual Expenditure + Encumbrance:	7,819,943
Total Final FY 2007-2008	10,430,750
Percent of County General Fund:	0.343528%
Total Employees:	104.00

Key Outcome Indicators: (Continued)

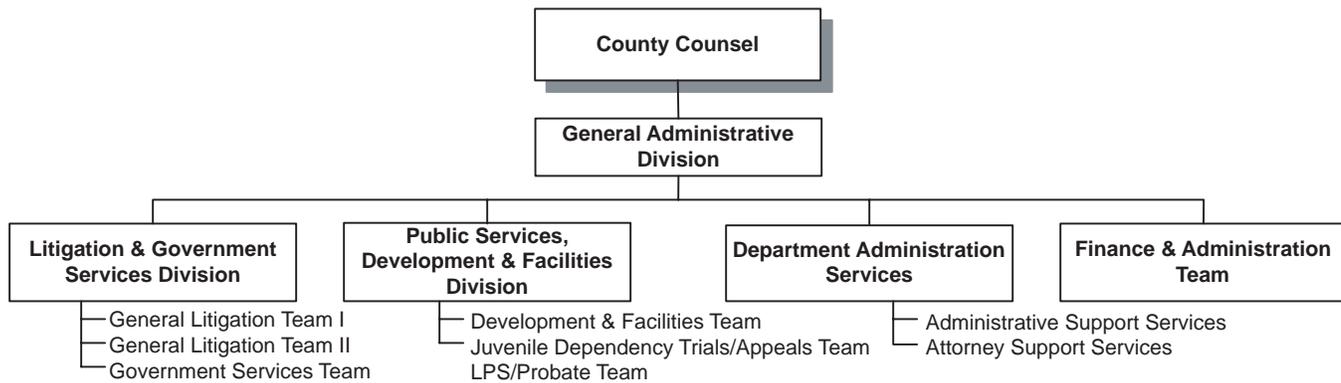
Performance Measure	2006 Business Plan	2007 Business Plan	How are we doing?
	Results	Target	
PERCENTAGE OF CHALLENGED WRITTEN OPINIONS THAT ARE UPHELD. What: Measurement of the quality of legal advice. Why: Provides measure of quality of services provided.	One opinion that was challenged was upheld.	Maintain 90% or better rate of success.	County Counsel is doing very well in producing quality written opinions that stand up to judicial review.
PERCENTAGE OF CLIENTS RATING LITIGATION SUPPORT SATISFACTORY IN TERMS OF QUALITY & RESPONSIVENESS. What: Measurement of quality and effectiveness of services provided. Why: Client satisfaction is the primary measure of success for a service agency.	91% based on annual survey results.	Continue to be rated as in prior year or better.	Based on survey results and ongoing dialogue with clients, County Counsel is doing well in the area of providing satisfactory litigation services in terms of quality & responsiveness.
PERCENTAGE OF DEPENDENCY CASES UPHELD ON APPEAL. What: Measurement of the quality of services provided by County Counsel. Why: Provides measure of quality and effectiveness of services provided.	The percentage of cases upheld on appeal is over 90%. Indian Child Welfare Act (ICWA) reversals were reduced 72% and the number of published cases was reduced 25%.	Maintain 90% or better rate of success.	Very well.
PERCENTAGE OF MENTAL HEALTH CASES WON OR RESOLVED WITH APPROVAL OF CLIENT. What: Measurement of the quality of services provided by County Counsel. Why: Measure of the quality of services provide by County Counsel.	90% won or resolved.	Maintain 90% or better rate of success.	Very well.
PERCENTAGE OF GENERAL LITIGATION CASES WON OR RESOLVED WITH APPROVAL OF CLIENT. What: Measurement of the quality of services provided by County Counsel. Why: Provides measure of quality and effectiveness of services provided.	Estimated to be 90-95%.	Maintain 90% or better rate of success.	Very well.
PERCENTAGE OF CLIENT REQUESTS FOR LEGAL ADVICE RESPONDED TO WITHIN 30 DAYS. What: Measurement of the timeliness and effectiveness of services provided. Why: Provides measure of quality and effectiveness of services provided.	Number of opinion requests still outstanding after 30 days is 20 requests, compared to baseline of over 200 opinion requests still outstanding after 30 days in 1998. (This figure is 10% of the 1998 baseline, and represents a 68% decrease in outstanding opinion requests since 2002.)	Maintain inventory of 30-day old opinion requests at 15% or less of 1998 baseline.	Opinion backlog has been reduced below target level.

FY 2006-07 Key Project Accomplishments:

- Regularly and successfully quashed (or convinced other parties to withdraw) subpoenas for confidential records held by various County departments, including the Sheriff, Probation, Social Services Agency and Health Care Agency. Assisted many County departments in responding to subpoenas and requests for records under the Public Records Act, including many which required intensive review of voluminous documents to separate disclosable material from material that cannot be made available to the public.
- Drafted, reviewed, and/or revised (and ultimately approved as to legal form) more than 600 contracts on behalf of the County and County departments.

- Assisted the Clerk of the Board in preparing standardized disclosure categories for the County's Conflict of Interest Code.
- Performed extensive research on issues surrounding the County's ongoing relationship with UCI Medical Center, and reported to the Board of Supervisors.
- Provided extensive legal advice to County departments regarding electronic storage and release of criminal offender information, medical information, and information about social service programs and clients.
- Drafted legislation in diverse areas from use of GPS technology to keep track of probationers; to conflict of interest; to access to victim information and advised clients on implementation of many pieces of new legislation.
- Drafted and approved County ordinances covering a wide range of subjects.
- Served on the Measure M Ordinance Legal Advisory Committee and assisted in the legal review of the ordinance which provided for renewal of Measure M.
- Provided daily, ongoing legal consultation with County departments in most areas in which the County provides direct services to the public (law enforcement, social services, health care, child support services, and animal control), including many complex or controversial legal issues. Legal advice was communicated by e-mail, telephone, face-to-face meetings and conferences, and through dozens of formal written legal opinions.
- Continuation of the Law Awareness Workshop Program.
- Obtained a Judgment against the State for over \$72 million for unreimbursed costs of implementing programs mandated by the State (County of Orange v. State of California).
- In a precedent-setting case before an en banc panel of Ninth Circuit U. S. Court of Appeals, our office was successful in persuading the Court to rule that the Federal Voting Rights Act does not make the Registrar of Voters responsible for requiring that recall petitions circulated by private parties be in multiple languages. (Padilla v. Lever).
- Successfully defended a lawsuit brought against the Registrar of Voters, challenging his authority to reject signatures on a recall petition where the signer did not personally affix his or her printed name and address to the petition. (Capo for Better Representation v. Capistrano USD and Neal Kelley).
- Successfully defended a lawsuit against the Registrar of Voters, filed by a candidate for State office who claimed his opponent did not submit the requisite number of valid nominating signatures. (Umberg v. Bruce McPherson and Neal Kelley).
- Successfully opposed an attempt by an employee labor organization to obtain a temporary restraining order which would have prevented the County from proceeding with a contract approved by the Board of Supervisors for DNA testing services (OCEA v. County of Orange).
- Successfully defended Sheriff against lawsuits by a jail inmate (awaiting trial on murder and kidnapping charges) where the inmate is claiming entitlement to special privileges which, if granted, could increase jail costs and/or compromise security (Alcala v. Orange County Sheriff's Department).
- As a part of its duties in enforcing bail forfeitures, for the fiscal year ending June 30, 2006 County Counsel's Office recovered \$1.264 million in forfeited bail bonds. The recovered funds were distributed among the County, the Sheriff, Superior Court, and local cities and police departments.
- Defended the Sheriff's Department against numerous motions for access to peace officer personnel records.
- Designed and implemented ethics training program, as required by AB 1234, for County elected officials and members of boards, commissions and committees.
- Began implementation of new Time Matters case management information system to track cases, assist with legal research, and allow storage and retrieval of prior office opinions and other legal documents.

Organizational Summary



Executive Management - Provides executive management oversight for department. The County Counsel attends Board of Supervisors' meetings and provides legal services to the Board of Supervisors and Department Heads. Executive Managers perform the most complex legal tasks and advise members of the Board of Supervisors and their staff and department heads.

Litigation, Government Services - These teams provide centralized oversight for civil litigation activities of the County and the conduct of most of that litigation as mandated by Government Code sections 26521 and 27642. The General Litigation teams represent the County in litigation and supervise litigation that is assigned to outside counsel. Currently, the General Litigation Teams represent the County in matters involving potentially hundreds of millions of dollars and preservation of the health, welfare and safety of the County's citizens. Its attorneys appear before all courts from the Superior Court level potentially to the United States Supreme Court, as well as before various administrative law hearing officers and panels. Attorneys assigned to litigation teams are also called upon to provide advisory services, particularly to the Assessor, the Public Administrator/Public Guardian, Human Resources and the Social Services Agency.

The Government Services Team provides legal advice to officers and employees of specific County departments on matters relating to their duties and responsibilities in the administration of county business. Attorneys draft and review legal opinions, contracts, purchase orders, ordinances, resolutions, and bills for introduction in the Legislature. They advise and represent the Human Resources Department and Employee Relations on employee benefit and employee relations issues and attend meetings and closed sessions of the Board of Supervisors and other County boards and commissions.

Public Services, Development & Facilities - The Dependency Trial Team, the Dependency Appeals Team and the Probate Mental/Health Team provide specialized, mandated services to the County's Social Services Agency and the Public Administrator/Public Guardian. Attorneys present the Public Administrator/Public Guardian in conservatorship and probate matters and the Social Services Agency in Juvenile Court cases concerning abused, abandoned, or neglected children. They also provide legal advice to the Resources and Development Management Department, Housing and Community Services and the Dana Point Harbor Department, and draft and review CEQA, public works, land use, flood, roads and Harbors Beaches and Parks contracts, leases, licenses, permits, deeds and conveyances, and franchises.

Department Administration - The primary function of the Administrative Support team is the provision of administrative and clerical support for County Counsel attorneys. Responsibilities include: direct secretarial support to the attorneys, law library support and resources, human resources functions, budget, records management, computer systems and network administration, accounting, safety, and purchasing. The Team is comprised of thirty-four support staff, including the administrative manager.

Finance & Administration Services Team - Provides legal advice to the Board of Supervisors, elected officials and County departments and agencies on public finance matters and tax collection issues, conflict of interest issues, and elections.

Ten Year Staffing Trend:



Ten Year Staffing Trend Highlights:

- One position was added mid-year in FY 06-07 to support SSA Juvenile Dependency advisory services.
- One position was added in FY 06-07 to support increased workload in Human Resources Advisory Services.
- One position was added mid-year in FY 05/06 to handle the increasing caseload of the Public Administrator/Public Guardian.
- One position was transferred to CEO Information Technology in FY 04/05 to provide better utilization of personnel, backup and cross cultivation of skills.

- Two new positions were added during the FY 04/05 budget hearings. One position was added to respond to an increase in work for the Sheriff-Coroner. The other position was added to provide additional support and reduce the attorney caseload in the area of SSA/Juvenile Dependency.
- No new positions were added in 03/04 or in FY 02/03.
- One position was added in FY 01/02 in response to client department request for additional service in the area of Health Care Agency special education and juvenile client issues.
- Twenty positions were added in FY 00/01 in response to client department requests for additional services in the areas of SSA/Juvenile Dependency, litigation support and for CSA/Public Administrator-Public Guardian LPS/Probate.
- Five positions were added from FY 95/96 to FY 99/00 to meet increased service requests by client departments.

Budget Summary

Plan for Support of the County's Strategic Priorities:

County Counsel will continue to improve efficiencies, effectiveness, and economies within the department through expanded use of technology for communications, document review and production, and legal research. The Office has aggressively engaged staff in identifying any and all possible cost savings that do not compromise our ability to provide our current level of service. This includes careful timekeeping to capture billable time and identification of other revenue sources. Economy also involves maximizing the value of work performed. To this end, County Counsel is involved in two initiatives to make its work product more available and more useful to County employees: an expanded training program for County employees, and the continuing development of an Intranet web site.



Approved Budget Augmentations and Related Performance Results:

Unit Amount	Description	Performance Plan	BRASS Ser.
Add 1 Limited Term Senior Deputy Attorney Position for Purchasing Support Amount:\$ 188,965	Comply with Board Rule 14 requiring all agreements on Board agenda be reviewed & approved by counsel	Review and approve all agreements for Board approval; lawful achievement of client program objective	785
Add 1 Limited Term (2 years) Senior Deputy Attorney Position for John Wayne Airport Amount:\$ 208,672	The John Wayne Airport Improvement Program results in the need for additional legal services.	Support of John Wayne Airport construction projects.	788

Final Budget History:

Sources and Uses	FY 2006-2007		FY 2006-2007		Change from FY 2006-2007	
	FY 2005-2006	Budget	Actual Exp/Rev ⁽¹⁾	FY 2007-2008	Actual	
	Actual Exp/Rev	As of 6/30/07	As of 6/30/07	Final Budget	Amount	Percent
Total Positions	100	102	102	104	2	1.96
Total Revenues	1,785,755	1,510,000	1,695,038	1,916,927	221,889	13.09
Total Requirements	7,216,299	9,723,413	7,918,589	10,430,750	2,512,161	31.72
Net County Cost	5,430,544	8,213,413	6,223,551	8,513,823	2,290,272	36.80

(1) Amounts include prior year expenditure and exclude current year encumbrance. Therefore, the totals listed above may not match Total FY 2006-07 Actual Expenditure + Encumbrance included in the "At a Glance" section.

Detailed budget by expense category and by activity is presented for agency: County Counsel in the Appendix on page A37

Highlights of Key Trends:

- In the past decade there has been a shift in the skill mix required in the practice of law. Highly specialized professionals have replaced the generalist lawyer. Attorneys in the Office of County Counsel have always been specialists in public law.
- In recent years, both the Office of County Counsel advisory and litigation attorneys have followed the general trend towards specialization in substantive areas of practice. Developing and maintaining this high level of legal expertise presents a continuing challenge for the Office of County Counsel.
- Advisory attorneys typically provide highly specialized legal services to elected officials, major departments such as the Social Services Agency, the Health Care Agency, Sheriff-Coroner, Probation, Resources and Development Management Department and the CEO, as well as smaller departments. General litigation attorneys are focusing their practice on subjects identified with specific departments, including the Treasurer-Tax Collector, the Assessor, the Orange County Flood Control District, Resources Development and Management

Department, Planning and Development Services Department and Human Resources. Attorneys working in the Juvenile Dependency and Mental Health/Probate Sections are likewise engaged in highly specialized areas of the law and are physically located in two outlying locations. Moreover, the Office of County Counsel attorneys are being called upon not only to provide general legal advice and representation, but also to become more involved in transactional services and client training.

- Specialization is essential to providing timely, comprehensive legal services, and minimizing the cost of retaining outside counsel. However, with the advantages of specialization come organizational challenges, such as: 1) ensuring that there is sufficient ongoing legal training to minimize the disruption to client services related to changing client needs, attorney vacancies and assignment changes; and 2) maintaining a corporate perspective among attorneys working at different locations. The Office of County Counsel is working towards developing a staffing model that will meet the clients'



needs for highly specialized legal services, while ensuring that attorneys have an opportunity to rotate through assignments in the main and outlying offices.

Budget Units Under Agency Control:

No.	Agency Name	Executive Management	Litigation, Government Services	Public Services, Development & Facilities	Department Administration	Finance & Administration Services Team	Total
025	County Counsel	619,327	2,779,561	1,753,924	3,977,833	1,300,105	10,430,750
	Total	619,327	2,779,561	1,753,924	3,977,833	1,300,105	10,430,750

025 - County Counsel

Summary of Final Budget by Revenue and Expense Category:

Revenues/Appropriations	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual Exp/Rev	Budget As of 6/30/07	Actual Exp/Rev ⁽¹⁾ As of 6/30/07	Final Budget	Actual Amount	Percent
Charges For Services	\$ 1,776,998	\$ 1,510,000	\$ 1,688,166	\$ 1,916,927	\$ 228,761	13.55%
Miscellaneous Revenues	8,757	0	6,872	0	(6,872)	-100.00
Total Revenues	1,785,755	1,510,000	1,695,038	1,916,927	221,889	13.09
Salaries & Benefits	12,071,850	13,826,847	13,426,862	14,820,711	1,393,849	10.38
Services & Supplies	1,193,334	1,487,512	1,172,638	1,660,539	487,901	41.61
Intrafund Transfers	(6,048,886)	(5,590,946)	(6,680,911)	(6,050,500)	630,411	-9.44
Total Requirements	7,216,299	9,723,413	7,918,589	10,430,750	2,512,161	31.72
Net County Cost	\$ 5,430,544	\$ 8,213,413	\$ 6,223,551	\$ 8,513,823	\$ 2,290,272	36.80%

(1) Amounts include prior year expenditure and exclude current year encumbrance. Therefore, the totals listed above may not match Total FY 2006-07 Actual Expenditure + Encumbrance included in the "At a Glance" section.

Final Budget Summary of Executive Management:

Revenues/Appropriations	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual Exp/Rev	Budget As of 6/30/07	Actual Exp/Rev ⁽¹⁾ As of 6/30/07	Final Budget	Actual Amount	Percent
Salaries & Benefits	\$ 732,705	\$ 560,472	\$ 711,208	\$ 596,935	\$ (114,273)	-16.07%
Services & Supplies	90,426	21,408	97,023	22,392	(74,631)	-76.92
Total Requirements	823,131	581,880	808,231	619,327	(188,904)	-23.37
Net County Cost	\$ 823,131	\$ 581,880	\$ 808,231	\$ 619,327	\$ (188,904)	-23.37%

Final Budget Summary of Litigation, Government Services:

Revenues/Appropriations	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual Exp/Rev	Budget As of 6/30/07	Actual Exp/Rev ⁽¹⁾ As of 6/30/07	Final Budget	Actual Amount	Percent
Charges For Services	\$ 1,407,828	\$ 604,000	\$ 1,446,782	\$ 766,255	\$ (680,527)	-47.04%
Total Revenues	1,407,828	604,000	1,446,782	766,255	(680,527)	-47.04
Salaries & Benefits	3,129,511	3,392,751	3,773,192	4,080,661	307,469	8.15
Services & Supplies	55,602	45,708	68,058	49,200	(18,858)	-27.71
Intrafund Transfers	(1,255,419)	(968,250)	(1,539,609)	(1,350,300)	189,309	-12.30
Total Requirements	1,929,694	2,470,209	2,301,641	2,779,561	477,920	20.76
Net County Cost	\$ 521,866	\$ 1,866,209	\$ 854,860	\$ 2,013,306	\$ 1,158,446	135.51%

Final Budget Summary of Public Services, Development & Facilities:

Revenues/Appropriations	FY 2005-2006		FY 2006-2007		FY 2007-2008		Change from FY 2006-2007	
	Actual Exp/Rev	Budget As of 6/30/07	Actual Exp/Rev ⁽¹⁾ As of 6/30/07	Final Budget	Actual Amount	Percent		
Charges For Services	\$ 369,169	\$ 906,000	\$ 241,385	\$ 1,150,672	\$ 909,287	376.70%		
Miscellaneous Revenues	84	0	4,362	0	(4,362)	-100.00		
Total Revenues	369,253	906,000	245,746	1,150,672	904,926	368.24		
Salaries & Benefits	4,981,213	5,174,476	5,520,049	6,030,255	510,206	9.24		
Services & Supplies	319,263	182,144	270,629	223,669	(46,960)	-17.35		
Intrafund Transfers	(4,765,576)	(4,299,946)	(5,130,952)	(4,500,000)	630,952	-12.30		
Total Requirements	534,901	1,056,674	659,726	1,753,924	1,094,198	165.86		
Net County Cost	\$ 165,647	\$ 150,674	\$ 413,979	\$ 603,252	\$ 189,273	45.72%		

Final Budget Summary of Department Administration:

Revenues/Appropriations	FY 2005-2006		FY 2006-2007		FY 2007-2008		Change from FY 2006-2007	
	Actual Exp/Rev	Budget As of 6/30/07	Actual Exp/Rev ⁽¹⁾ As of 6/30/07	Final Budget	Actual Amount	Percent		
Miscellaneous Revenues	\$ 8,673	\$ 0	\$ 2,510	\$ 0	\$ (2,510)	-100.00%		
Total Revenues	8,673	0	2,510	0	(2,510)	-100.00		
Salaries & Benefits	1,860,891	3,005,718	2,057,863	2,642,241	584,378	28.40		
Services & Supplies	715,543	1,218,748	723,678	1,335,592	611,914	84.56		
Intrafund Transfers	(27,891)	0	(10,351)	0	10,351	-100.00		
Total Requirements	2,548,543	4,224,466	2,771,191	3,977,833	1,206,642	43.54		
Net County Cost	\$ 2,539,870	\$ 4,224,466	\$ 2,768,681	\$ 3,977,833	\$ 1,209,152	43.67%		

Final Budget Summary of Finance & Administration Services Team:

Revenues/Appropriations	FY 2005-2006		FY 2006-2007		FY 2007-2008		Change from FY 2006-2007	
	Actual Exp/Rev	Budget As of 6/30/07	Actual Exp/Rev ⁽¹⁾ As of 6/30/07	Final Budget	Actual Amount	Percent		
Salaries & Benefits	\$ 1,367,530	\$ 1,693,430	\$ 1,364,550	\$ 1,470,619	\$ 106,069	7.77%		
Services & Supplies	12,500	19,504	13,250	29,686	16,436	124.05		
Intrafund Transfers	0	(322,750)	0	(200,200)	(200,200)	0.00		
Total Requirements	1,380,030	1,390,184	1,377,800	1,300,105	(77,695)	-5.64		
Net County Cost	\$ 1,380,030	\$ 1,390,184	\$ 1,377,800	\$ 1,300,105	\$ (77,695)	-5.64%		