

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 Results	2007 Business Plan Target	How are we doing?
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 Projected Expend + Encumb:	8,653,373
Total Recommended FY 2007-2008	10,033,113
Percent of County General Fund:	0.333485%
Total Employees:	102.00



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.

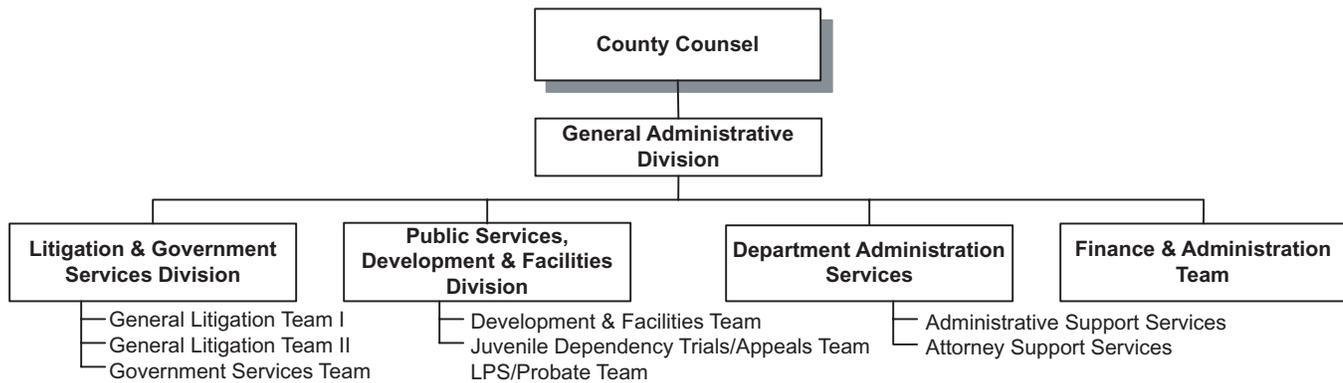
FY 2006-07 Key Project Accomplishments:

- 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 Social Services Agency/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 Social Services Agency/Juvenile Dependency, litigation support and for Community Services Agency/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.



Requested Budget Augmentations and Related Performance Results:

Unit Amount	Description	Performance Plan	BRASS Ser.
Add 1 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
Add 1 Senior Legal Secretary Position and Net County Cost Amount:\$ 50,762	Additional clerical staff is needed to support increased attorney workload.	Adequate support of office support functions.	791

Proposed Budget History:

Sources and Uses	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent
Total Positions	100	102	102	102	0	0.00
Total Revenues	1,785,755	1,510,000	1,605,710	1,708,255	102,545	6.39
Total Requirements	7,216,299	9,723,413	8,989,469	10,033,113	1,043,644	11.61
Net County Cost	5,430,544	8,213,413	7,383,759	8,324,858	941,099	12.75

(1) Requirements include prior year encumbrance and expenditures. Therefore, the above totals may not match FY 2006-07 projected requirements included in "At a Glance" (Which exclude these).

Columns may not total correctly due to rounding.

Detailed budget by expense category and by activity is presented for agency: County Counsel in the Appendix on page A525

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	1,545,252	3,977,833	1,111,140	10,033,113
	Total	619,327	2,779,561	1,545,252	3,977,833	1,111,140	10,033,113



025 - County Counsel

Summary of Proposed Budget by Revenue and Expense Category:

Revenues/Appropriations	FY 2005-2006		FY 2006-2007		FY 2007-2008		Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent		
Charges For Services	\$ 1,776,998	\$ 1,510,000	\$ 1,599,480	\$ 1,708,255	\$ 108,775	6.80%		
Miscellaneous Revenues	8,757	0	6,230	0	(6,230)	-100.00		
Total Revenues	1,785,755	1,510,000	1,605,710	1,708,255	102,545	6.39		
Salaries & Benefits	12,071,850	13,826,847	13,004,225	14,460,647	1,456,422	11.20		
Services & Supplies	1,193,334	1,487,512	1,860,325	1,622,966	(237,359)	-12.76		
Intrafund Transfers	(6,048,886)	(5,590,946)	(5,875,081)	(6,050,500)	(175,419)	2.99		
Total Requirements	7,216,299	9,723,413	8,989,469	10,033,113	1,043,644	11.61		
Net County Cost	\$ 5,430,544	\$ 8,213,413	\$ 7,383,759	\$ 8,324,858	\$ 941,099	12.75%		

(1) Requirements include prior year encumbrance and expenditures. Therefore, the above totals may not match FY 2006-07 projected requirements included in "At a Glance" (Which exclude these).

Columns may not total correctly due to rounding.

Proposed Budget Summary of Executive Management:

Revenues/Appropriations	FY 2005-2006		FY 2006-2007		FY 2007-2008		Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent		
Salaries & Benefits	\$ 732,705	\$ 560,472	\$ 689,556	\$ 596,935	\$ (92,621)	-13.43%		
Services & Supplies	90,426	21,408	20,370	22,392	2,022	9.93		
Total Requirements	823,131	581,880	709,926	619,327	(90,599)	-12.76		
Net County Cost	\$ 823,131	\$ 581,880	\$ 709,926	\$ 619,327	\$ (90,599)	-12.76%		

Proposed Budget Summary of Litigation, Government Services:

Revenues/Appropriations	FY 2005-2006		FY 2006-2007		FY 2007-2008		Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent		
Charges For Services	\$ 1,407,828	\$ 604,000	\$ 642,284	\$ 766,255	\$ 123,971	19.30%		
Total Revenues	1,407,828	604,000	642,284	766,255	123,971	19.30		
Salaries & Benefits	3,129,511	3,392,751	3,249,878	4,080,661	830,783	25.56		
Services & Supplies	55,602	45,708	50,191	49,200	(991)	-1.97		
Intrafund Transfers	(1,255,419)	(968,250)	(1,171,057)	(1,350,300)	(179,243)	15.31		
Total Requirements	1,929,694	2,470,209	2,129,012	2,779,561	650,549	30.56		
Net County Cost	\$ 521,866	\$ 1,866,209	\$ 1,486,728	\$ 2,013,306	\$ 526,578	35.42%		

Proposed Budget Summary of Public Services, Development & Facilities:

Revenues/Appropriations	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent
Charges For Services	\$ 369,169	\$ 906,000	\$ 957,196	\$ 942,000	\$ (15,196)	-1.59%
Miscellaneous Revenues	84	0	4,362	0	(4,362)	-100.00
Total Revenues	369,253	906,000	961,558	942,000	(19,558)	-2.03
Salaries & Benefits	4,981,213	5,174,476	5,244,927	5,841,974	597,047	11.38
Services & Supplies	319,263	182,144	256,589	203,278	(53,311)	-20.78
Intrafund Transfers	(4,765,576)	(4,299,946)	(4,698,265)	(4,500,000)	198,265	-4.22
Total Requirements	534,901	1,056,674	803,251	1,545,252	742,001	92.37
Net County Cost	\$ 165,647	\$ 150,674	\$ (158,307)	\$ 603,252	\$ 761,559	-481.06%

Proposed Budget Summary of Department Administration:

Revenues/Appropriations	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent
Miscellaneous Revenues	\$ 8,673	\$ 0	\$ 1,868	\$ 0	\$ (1,868)	-100.00%
Total Revenues	8,673	0	1,868	0	(1,868)	-100.00
Salaries & Benefits	1,860,891	3,005,718	2,414,505	2,642,241	227,736	9.43
Services & Supplies	715,543	1,218,748	1,520,425	1,335,592	(184,833)	-12.16
Intrafund Transfers	(27,891)	0	(5,759)	0	5,759	-100.00
Total Requirements	2,548,543	4,224,466	3,929,171	3,977,833	48,662	1.24
Net County Cost	\$ 2,539,870	\$ 4,224,466	\$ 3,927,303	\$ 3,977,833	\$ 50,530	1.29%

Proposed Budget Summary of Finance & Administration Services Team:

Revenues/Appropriations	FY 2005-2006	FY 2006-2007	FY 2006-2007	FY 2007-2008	Change from FY 2006-2007	
	Actual	Budget As of 3/31/07	Projected ⁽¹⁾ At 6/30/07	Recommended	Projected Amount	Percent
Salaries & Benefits	\$ 1,367,530	\$ 1,693,430	\$ 1,405,359	\$ 1,298,836	\$ (106,523)	-7.58%
Services & Supplies	12,500	19,504	12,750	12,504	(246)	-1.93
Intrafund Transfers	0	(322,750)	0	(200,200)	(200,200)	0.00
Total Requirements	1,380,030	1,390,184	1,418,109	1,111,140	(306,969)	-21.65
Net County Cost	\$ 1,380,030	\$ 1,390,184	\$ 1,418,109	\$ 1,111,140	\$ (306,969)	-21.65%