

Sam Page
County Executive

Saint Louis
COUNTY
COUNTY COUNSELOR

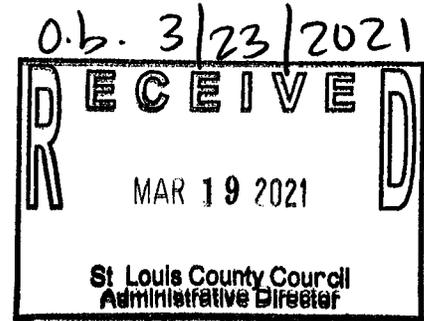
OC # 24
3-23

Beth Orwick
County Counselor

March 19, 2021

Members of the St. Louis County Council
Lawrence K. Roos County Government Building
Clayton, Missouri 63105

Dear Councilmembers:



The Charter names two legal officers: the County Counselor and the Prosecuting Attorney.

The Prosecuting Attorney's Office prosecutes violations of state statutes on behalf of the State of Missouri. See Charter, Section 5.060. To do that job, the Prosecuting Attorney's Office is staffed by 61 attorneys and 55 non-attorneys, with an additional 15 positions that are currently unfilled. The Prosecuting Attorney's Office operates within a budget of \$12,228,200, with \$11,833,943 budgeted for employee salaries and benefits.

The Charter creates the Office of County Counselor to perform the following legal work for St. Louis County: (i) all of the civil law business of the County, its departments, divisions, offices, officers, boards and commissions; (ii) institute all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the County and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; (iii) appear and interplead, answer or defend, in any proceeding or tribunal in which the County's interests are involved; (iv) prepare or approve as to form all leases, deeds, contracts, bonds, ordinances, rules, regulations, drafts of legislation, and other instruments; (v) institute and prosecute all proceedings for the collection of delinquent taxes and licenses of every kind owing to the County; (vi) furnish legal advice and opinions to the Council, the County Executive, department heads, elective officials, and to all County boards and commissions, regarding County business; and (vii) prosecute violations of County ordinances. See Charter, Section 5.030. The County Counselor's Office also represents and advises the Prosecuting Attorney and his/her office in regard to all of their civil matters, such as personnel matters, labor matters, contracts, worker's compensation and civil litigation.

In accordance with these duties, each year attorneys in the County Counselor's office, among other things: (i) issue/approve/prosecute more than twenty thousand ordinance violations; (ii) represent the County in hundreds of worker's compensation cases; (iii) represent the County in more than one hundred litigation claims, including appeals (iv) represent the County in more than one thousand tax cases; (v) prepare, draft and review more than five hundred ordinances, orders and resolutions; (vi) prepare, review or negotiate thousands of contracts and agreements; (vii) handle hundreds of disciplinary matters; (viii) attend hundreds of board, commission, committee and Council meetings; (ix) review hundreds of Sunshine Requests and (x) issue dozens of prepared legal opinions, including to County departments, County offices and elected and appointed officials.

To perform all of these functions, the County Counselor's Office currently has 21 attorneys and 5 non-

attorney staff, as well as 2 attorney retirees who can work no more than 50% of the work year. Despite active efforts to fill them, the County Counselor's Office has 4 unfilled positions. The County Counselor's Office operates within a budget of \$4,158,293, with \$3,982,646 budgeted for employee salaries and benefits.

Employees in the County Counselor's Office are dedicated, hard-working public servants. Although they are often placed under immense time pressure and workloads, they continue to work with the highest degree of integrity and professionalism.

Many similar governments are blessed with more in-house attorneys than St. Louis County. For comparison, St. Louis County has slightly fewer than 1,000,000 residents and, as noted above, currently has 21 in-house civil attorneys (plus two retirees working part-time). Examples of similarly sized governments and their attorney staff data for their civil attorneys are:

- St. Louis City has a population of 308,000 and has 42 in-house attorneys, and the City hires outside counsel when needed.
- Duval County, Florida (Jacksonville) has a population of 950,181 and has 73 in-house attorneys, and the county hires outside counsel when needed.
- Milwaukee County, Wisconsin has a population of 948,201 and has 41 in-house attorneys and the county hires outside counsel when needed.
- Pima County, Arizona (Tucson) has a population of 1,039,073 and has 75-80 in-house attorneys. We could not obtain information regarding their outside counsel.
- Westchester County, New York (White Plains) has a population of 967,612 and has 60 in-house attorneys. We could not obtain information regarding their outside counsel.
- Honolulu County, Hawaii has a population of 980,080 and has 50 in-house attorneys. We could not obtain information regarding their outside counsel.

The Charter permits the County Counselor to hire outside counsel. Except when there is a legal conflict, outside counsel reports to and is supervised by the County Counselor. The County Counselor reviews all work and makes all decisions as though the outside counsel is a member of the County Counselor staff.

Last year, I asked the Council to consider providing additional resources to the County Counselor's Office. In our budget presentation, we demonstrated the need for more attorneys and support staff and emphasized the need to pay a competitive rate so that we can retain and hire highly qualified professionals. From these conversations, Bill 314, which would later become Ordinance 27,973, was introduced to help expand our bandwidth, provide additional expertise, and to reduce the burden on in-house staff attorneys. The Council's decision to adopt Ordinance 27,973 was a welcome show of support for the dedicated and hard-working public servants in the County Counselor's Office as well as a common-sense approach to serving the County's legal needs through the hiring of outside counsel in the areas of employment law, COVID-19, and civil rights cases.

After Ordinance 27,973 was adopted, I published a Request for Qualifications ("RFQ"). There are very few law firms that are certified as either an MBE or a WBE in the State of Missouri, but we wanted to ensure our RFQ reached as diverse of a pool of attorneys and law firms as possible. So my office partnered with the Mound City Bar Association to recruit attorneys to work as in-house lawyers (a

longstanding practice and partnership), identify minority-owned law firms for outside counsel, and to provide training on MWBE registration. For the first time, our office published an RFQ to solicit interest and availability for firms and solo practitioners interested in working with our office as outside counsel. The Mound City Bar leadership has been a great partner in assisting us with this initiative and encouraging their membership to apply. This RFQ was sent to the major bar associations in the St. Louis Area, including the Mound City Bar Association, The Hispanic Bar Association, The Missouri Asian-American Bar Association, The Women's Law Association, the County Bar Association, among others. There was no legal requirement to solicit attorneys through an RFQ but doing so was, in my view, in the best interests of the County. We are still receiving responses to our RFQ from the St. Louis Legal Community.

On January 12, 2021, the County Council approved the Journal for the January 5, 2021, Council meeting that memorialized the vote for the final passage of Bill 314. The Administrative Director for the County Council assigned Bill 314 as Ordinance 27,973, as reflected in the Journal of the January 19, 2021 County Council meeting. Pursuant to Charter Section 2.120, Ordinance 27,973 took effect on January 21, 2021.

Since Ordinance 27,973 took effect, the County contracted with four firms for legal services. Each of these firms brought a unique skill to their representation of the County. Each firm is dedicated to working with the attorneys in our office and to zealously advocating for the County. Our office is built around a team-centered approach, and we approach outside counsel the same way. County attorneys work with outside counsel to develop strategy and work together to learn from each other. These firms' dedication to public service is seen through the quality of their work and their dedication to the best interests of the County. The outside counsel teams we hired represent the diversity of the County's population.

Last week, I contacted our outside counsel partners and informed them that I would be terminating their contracts. The termination of these contracts is out of respect for our partners. They have been unjustifiably subjected to harassment, media inquiries, and the threat of non-payment by people with no authority to do so. The best option moving forward is to ask this Council for authority to contract with the outside firms, ultimately reinstating their contracts so the legal needs of the County can be met.

In order to best serve the legal needs of St. Louis County, I respectfully request that the St. Louis County Council adopt legislation authorizing the County Counselor to amend Section 114.010 SLCRO to provide authority to contract for outside legal counsel in employment matters, civil rights and similar actions, and matters related to COVID-19. The contracts for such matters shall be limited to an average hourly rate for services provided under each contract not to exceed an average hourly rate of \$400.00. If passed, this legislation will allow the County Counselor's Office the flexibility to hire an attorney immediately upon the filing of a lawsuit. In addition, it will allow us the bandwidth needed to handle the litigation and other complex legal needs of the County. As such, it will be important for me to have a list of qualified legal providers fully vetted in the event hiring outside counsel is necessary.

County attorneys are proud public servants. Our employees will continue to work with the highest degree of integrity and professionalism. But, at this time, it is in the best interest of St. Louis County that the Council authorize the hiring of outside counsel for employment, civil rights, and COVID-19 related matters.

Sincerely,



Beth Orwick