

GO COMMITTEE #3  
April 14, 2011

**Worksession**

**M E M O R A N D U M**

April 12, 2011

TO: Government Operations and Fiscal Policy Committee  
FROM: Jean C. Arthur, <sup>JCA</sup>Legislative Analyst  
SUBJECT: **Worksession:** FY12 Operating Budget  
**Office of the County Attorney**

At this session, the Committee will review the Executive's recommendation for the FY12 operating budget for the Office of the County Attorney. Relevant pages from the FY12 Recommended Operating Budget are attached on circle 1.

*The following persons are expected at this worksession:*

Marc Hansen, County Attorney  
Dennis Via, Office of the County Attorney  
Phil Weeda, OMB

**OVERVIEW**

For FY12, the County Executive is recommending a total of \$4,039,500, a decrease of \$513,050 or 11.3 percent from the FY11 approved budget of \$4,552,550, chiefly through the lapse of four Assistant County Attorney positions. One significant change in this year's budget is the recommendation to transfer the responsibility for certain Equal Employment Opportunity cases from the Office of Human Resources to the Office of the County Attorney.

	<b>FY11 Approved</b>	<b>FY12 CE Recommended</b>	<b>% Change</b>
<b>EXPENDITURES</b>			
General Fund	\$4,552,550	\$4,039,500	-11.3%
Total Expenditures	\$4,552,550	\$4,039,500	-11.3%
<b>PERSONNEL</b>			
Full-time	71	71	
Part-time	3	3	
Workyears	35.8	34.0	-5.0%
<b>REVENUE</b>			
General Fund Revenue	\$299,940	\$299,940	

**FY12 Recommended Changes from FY11 Approved Budget**

	<b>Expenditures</b>	<b>WYs</b>
Transfer certain EEO responsibilities from OHR to OCA	\$30,000	.2
Lapse Assistant County Attorney – Public Interest Litigation	-\$49,930	-.5
Lapse Assistant County Attorney – Finance and Procurement	-\$96,470	-1
Lapse Assistant County Attorney – Human Resources and Appeal	-\$147, 930	-1
Lapse Asst. County Atty	-\$154,470	-1
Restore Personnel Costs – furloughs	\$82,250	1.5
Annualization of FY11 Personnel Costs	\$-56,990	
Group Insurance Adjustment	-\$46,660	
Reduce Operating Expense	-\$38,970	
Retirement Adjustment	-\$24,650	
Printing and Mail Adjustment	-\$3,850	
Multilingual Pay Adjustment	-\$3,840	
Help Desk	910	

## **STAFFING**

The County Executive's FY12 budget does not recommend any staffing changes for the Office of the County Attorney. However, the office continues to carry four vacant Assistant County Attorney positions, three of which will be lapsed for the entire workyear in FY12 and one for half a workyear. Two of the Assistant County Attorney positions have been vacant since FY09 and the other two since early in FY10.

In FY11, the responsibility for investigating discrimination complaints filed against the County with federal, state, or County administrative agencies was transferred from the Office of Human Resources to the County Attorney's office. The approved FY11 budget includes 0.2 workyears (\$30,000) to cover that transfer. At present, the County Attorney's office estimates that this responsibility has added a workload of at least 1.25 workyears. The recommended budget does not include additional funding to cover this work load.

Staff understands that OMB will make a future fiscal impact adjustment to the FY13 budget to reflect this added responsibility.

## **FY12 Expenditure Issues**

Zoning, Land use and Economic Development: Expenditures for this program are recommended to more than double in FY12 from \$71,130 in FY11 to \$152,640 in FY12. Staff indicated that the funding for this program has been adjusted to more accurately reflect the true budget going forward. A re-alignment of operating expenses between programs in the office accounts for the change. A similar adjustment appears in the support services program.

Council should note that this office also includes 31.4 workyears and a recommended FY12 budget of \$4,254,900 that is charged to other departments. See circle 6 for the specific funds charged.

**Staff Recommendation: Approve as submitted by the County Executive.**

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# County Attorney

## MISSION STATEMENT

The mission of the Office of the County Attorney is to act as the chief legal officer of Montgomery County Government and to conduct all its legal business.

## BUDGET OVERVIEW

The total recommended FY12 Operating Budget for the Office of the County Attorney is \$4,039,500, a decrease of \$513,050 or 11.3 percent from the FY11 Approved Budget of \$4,552,550. Personnel Costs comprise 90.5 percent of the budget for 71 full-time positions and three part-time positions for 34.0 workyears. Operating Expenses account for the remaining 9.5 percent of the FY12 budget.

## LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ❖ **A Responsive, Accountable County Government**

## DEPARTMENT PERFORMANCE MEASURES

Performance measures for this department are included below, with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY11 estimates incorporate the effect of the FY11 savings plan. FY12 and FY13 targets assume the recommended FY12 budget and FY13 funding for comparable service levels.

## ACCOMPLISHMENTS AND INITIATIVES

- ❖ **From July 1, 2009, through September 1, 2010, the Debt Collection Unit collected \$16.3 million from debts owed to the County despite the economic downturn in the area. The Debt Collection Unit continues to achieve efficiencies and increase collections by streamlining its workflow processes and reduce paper and printing costs by using the Enterprise Imaging system.**
- ❖ **Completed Enterprise Resource Planning (ERP) interface to both Collection and Code Enforcement Accounts Receivable processes by adopting new accounting codes. This allows the office to get ad hoc collection reports in the new system more efficiently.**
- ❖ **The Personal Property Tax On-line payment process will allow delinquent taxpayers to make online payments to the unit's database. The Department of Finance and this office jointly developed a payment verification process in order to allow this office to periodically check total on-line delinquent personal property tax payments and populate the payment information into the collection database.**
- ❖ **Changed the Litigation case close-out report through the existing CountyLaw system, which eliminated the need to capture closed out data in a separate system. Attorneys can point-and-click to retrieve the report on a disposition of a case.**
- ❖ **Completed the launching of a litigation pleadings bank, using web-based SharePoint to allow legal staff to share documents, templates and fill-in-the-blank legal forms.**
- ❖ **This office is working with ERP and the Department of Finance to revise the accounting procedure for posting debt collection into the new ERP Oracle A/R system. This will occur in Phase 2 of the implementation. The new process will allow the Debt Collection Unit to post payments and populate to the appropriate accounting codes more effectively. It will also make reporting of debt collection much more efficient.**
- ❖ **Productivity Improvements**
  - **Reduced Publication Costs - The office placed the "County Attorney Monthly Report" on the office's web site, which will decrease the amount of hard copies that need to be printed, which will reduce printing costs.**

- **Use of Unpaid Legal Interns** - The office continues to utilize the pool of talented students available in law schools for a variety of legal tasks such as doing legal research, drafting legal memoranda of law, and drafting legal motions for attorneys. The interns are unpaid and generally work in the summer while schools are not in session.

## PROGRAM CONTACTS

Contact Dennis Via of the Office of the County Attorney at 240.777.6715 or Philip Weeda of the Office of Management and Budget at 240.777.2780 for more information regarding this department's operating budget.

## PROGRAM DESCRIPTIONS

### Insurance Defense Litigation

Provides legal defense for cases involving Montgomery County and fourteen local government Self-Insurance Fund participants (including such entities as the Montgomery County Board of Education, City of Rockville, Maryland-National Capital Park and Planning Commission, Montgomery College, and the Housing Opportunities Commission) and all of their employees. The attorneys appear regularly before State and Federal courts in Maryland and the District of Columbia for trials and oral arguments and before the Workers' Compensation Commission. These cases involve litigation in the following areas: common law torts; Police civil rights claims; Other Federal and State civil rights - constitutional torts; Americans with Disabilities Act; Individuals with Disabilities Education Act; Workers' Compensation; and employment discrimination.

Program Performance Measures	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Cases Closed	1,162	1,460	1,200	1,200	1,200
Cases Received	1,150	1,036	1,036	1,036	1,036
Countywide Worker's Comp Cost Per \$100 of Payroll	2.38	TBD	TBD	TBD	TBD
Countywide Worker's Compensation Cost (\$)	7,993,000	TBD	TBD	TBD	TBD
Last Settlement Amount Offered by County	653,872	TBD	TBD	TBD	TBD
Last Settlement Amount Offered by Plaintiff	4,204,487	TBD	TBD	TBD	TBD
Total Judgements Paid (\$)	47,017	54,632	54,000	54,600	54,600
Total Judgements Plus Settlements (\$)	814,139	TBD	TBD	TBD	TBD
Total Number of Judgements	6	TBD	TBD	TBD	TBD
Total Number of Settlements	35	TBD	TBD	TBD	TBD
Total Settlements Paid <sup>1</sup>	767,122	TBD	TBD	TBD	TBD
Worker's Compensation Hearings	2,492	2,397	2,400	2,400	2,400

<sup>1</sup> This unusually high FY07 settlement amount corresponds to a single civil rights case (in which Local Government Tort Liability limits do not apply) where the settlement was for several million dollars

FY12 Recommended Changes	Expenditures	WYs
<b>FY11 Approved</b>	<b>43,650</b>	<b>0.0</b>
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-1,770	0.0
<b>FY12 CE Recommended</b>	<b>41,880</b>	<b>0.0</b>

### Health and Human Services

The attorneys in this division act as counsel and give legal advice to the Department of Health and Human Services, including the Office of the Director and Management Services, Adult Mental Health, Aging and Disability Services, Children, Youth and Family Services, Child Welfare Services, Crisis, Income and Victim Services, Emergency Services and Public Health Services. The attorneys also represent Child Welfare Services in the Juvenile Court, in cases involving child abuse and child neglect, and Aging and Disability Services in the Circuit Court, in adult guardianship cases.

Program Performance Measures	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Number of Children in Need of Assistance (CINA) or Guardianship Hearings	2,619	2,000	2,000	2,000	2,000
Number of Adoptions Granted	57	57	57	57	57
Number of CINA cases Closed	278	250	250	250	250
Number of New Adoption Petitions Filed	57	100	100	100	100
Number of New CINA Petitions Filed	305	200	200	200	200
Number of New Termination of Parental Rights (TPR) Petitions Filed	44	44	44	44	44
Number of Termination of Parents Rights (TPR's) granted	30	30	30	30	30

<b>FY12 Recommended Changes</b>	<b>Expenditures</b>	<b>WYs</b>
<b>FY11 Approved</b>	<b>984,300</b>	<b>7.6</b>
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-42,410	0.3
<b>FY12 CE Recommended</b>	<b>941,890</b>	<b>7.9</b>

### **Finance and Procurement**

Acts as counsel and gives legal advice to the County Executive, County Council, and to several County departments, agencies, boards, and commissions. The Division represents the County Government in tax and procurement matters before State, Federal, and local administrative agencies and courts; drafts and reviews agreements, legislation, regulations, and other legal documents; conducts negotiations; and prepares and issues legal opinions.

<b>FY12 Recommended Changes</b>	<b>Expenditures</b>	<b>WYs</b>
<b>FY11 Approved</b>	<b>735,060</b>	<b>5.0</b>
Decrease Cost: Lapse Assistant County Attorney	-96,740	-1.0
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	63,690	0.2
<b>FY12 CE Recommended</b>	<b>702,010</b>	<b>4.2</b>

### **Human Resources and Appeals**

Attorneys act as counsel and give legal advice to the following agencies: Montgomery County Fire and Rescue Service, Ethics Commission, Board of Investment Trustees, Office of Human Resources, Department of Correction and Rehabilitation, Office of Public Information, Department of Transportation (Transit Services Division, Taxicab Unit), Human Rights Commission, Board of Appeals, and the Police Department (Internal Affairs Division). Attorneys also defend or prosecute contested cases involving the County, Self-Insurance Fund agencies, and their employees, while pending before State and Federal appellate courts. The mission of the Ethics Commission is to enforce the Montgomery County Code of Ethics that ensures the ethical conduct of individuals who serve in County government.

<b>Program Performance Measures</b>	<b>Actual FY09</b>	<b>Actual FY10</b>	<b>Estimated FY11</b>	<b>Target FY12</b>	<b>Target FY13</b>
Appeals Lost	4	4	4	4	4
Appeals Won	7	14	14	14	14

<b>FY12 Recommended Changes</b>	<b>Expenditures</b>	<b>WYs</b>
<b>FY11 Approved</b>	<b>574,640</b>	<b>4.0</b>
Decrease Cost: Lapse Assistant County Attorney	-147,930	-1.0
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	41,150	0.4
<b>FY12 CE Recommended</b>	<b>467,860</b>	<b>3.4</b>

### **Zoning, Land Use and Economic Development**

Represents and advises the County Executive, the County Council, and various County departments, including the Department of General Services, the Department of Transportation, the Department of Housing and Community Affairs, the Department of Economic Development, and the Department of Public Libraries. Represents and advises agencies and commissions, including the Historic Preservation Commission, the Revenue Authority, Community Use of Public Facilities, and the Cable Compliance Commission. Advises the County Executive and County Council regarding telecommunications and cable matters. Represents the County with respect to land acquisitions and real estate transactions. Represents the County before Federal, State, and administrative courts. Drafts legal opinions and amendments to the County code and County regulations.

<b>FY12 Recommended Changes</b>	<b>Expenditures</b>	<b>WYs</b>
<b>FY11 Approved</b>	<b>71,130</b>	<b>1.2</b>
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	81,510	-1.2
<b>FY12 CE Recommended</b>	<b>152,640</b>	<b>0.0</b>

### **Public Interest Litigation**

The Division provides litigation and other legal services to County agencies and departments in support of their mission to promote general welfare and protect vulnerable citizens. The Division acts as counsel and gives legal advice to the Police Department, the

Departments of Emergency Management and Homeland Security, Environmental Protection, Permitting Services, Consumer Affairs, and Recreation. It also provides counsel to the Office of Landlord and Tenant Affairs, the Historic Preservation Commission, and the Inspector General's Office. The program represents these entities in contested cases before the County Board of Appeals and in both State and Federal courts. The program also drafts and reviews agreements, legislation, regulations and other legal documents. Attorneys from the program conduct negotiations, issue legal opinions, and testify before public bodies. It is primarily responsible for the processing and prosecution of code enforcement violations from all departments, agencies, boards, and commissions which are presented in the District Court of Maryland. The Debt Litigation or Collection Unit collects all monies owed to Montgomery County that have been referred to the County Attorney, including past due real property taxes, personal property taxes, code enforcement judgments, subrogation claims, bounced checks, unpaid fines, and miscellaneous amounts billed by the County.

Program Performance Measures	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Code Enforcement (\$)	708,523	631,672	630,000	630,000	630,000
Debt Collection (\$)	43,016,983	12,400,000	12,400,000	12,400,000	12,400,000
Forfeitures (\$)	94,440	352,262	TBD	TBD	TBD
Subrogation (\$)	104,198	53,120	53,000	53,000	53,000

FY12 Recommended Changes	Expenditures	WYs
<b>FY11 Approved</b>	<b>1,103,450</b>	<b>11.5</b>
Decrease Cost: Lapse Assistant County Attorney	-49,930	-0.5
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-88,060	0.5
<b>FY12 CE Recommended</b>	<b>965,460</b>	<b>11.5</b>

## Support Services

Provide administrative, research, and technical guidance and support to the other programs within the Department. The program is designed to allow for an equitable distribution of work assignments, to cross-train staff, and to evaluate fairly the performance of the program staff. The program provides administrative support to the Risk Management Fund, and revenue support to the Risk Management Fund, Revenue Authority, and Solid Waste Fund.

FY12 Recommended Changes	Expenditures	WYs
<b>FY11 Approved</b>	<b>43,970</b>	<b>1.0</b>
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	43,810	0.0
<b>FY12 CE Recommended</b>	<b>87,780</b>	<b>1.0</b>

## Administration

Provides internal personnel, financial, and operational management for the Office of the County Attorney.

Program Performance Measures	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Average Internal Customer Satisfaction Rating - General and Timeliness <sup>1</sup>	3.1	3.1	3.1	3.1	3.1

<sup>1</sup> Internal Customer Satisfaction Survey Results (Scale of 1 to 4: 3 = Satisfied; 4 = Very Satisfied)

FY12 Recommended Changes	Expenditures	WYs
<b>FY11 Approved</b>	<b>996,350</b>	<b>5.5</b>
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-316,370	0.5
<b>FY12 CE Recommended</b>	<b>679,980</b>	<b>6.0</b>

## BUDGET SUMMARY

	Actual FY10	Budget FY11	Estimated FY11	Recommended FY12	% Chg Bud/Rec
<b>COUNTY GENERAL FUND</b>					
<b>EXPENDITURES</b>					
Salaries and Wages	3,675,187	3,198,430	3,329,940	2,969,540	-7.2%
Employee Benefits	1,037,612	937,870	1,069,390	687,920	-26.7%
<b>County General Fund Personnel Costs</b>	<b>4,712,799</b>	<b>4,136,300</b>	<b>4,399,330</b>	<b>3,657,460</b>	<b>-11.6%</b>
Operating Expenses	695,905	416,250	175,790	382,040	-8.2%
Capital Outlay	0	0	0	0	—
<b>County General Fund Expenditures</b>	<b>5,408,704</b>	<b>4,552,550</b>	<b>4,575,120</b>	<b>4,039,500</b>	<b>-11.3%</b>
<b>PERSONNEL</b>					
Full-Time	72	71	71	71	—
Part-Time	3	3	3	3	—
Workyears	39.3	35.8	35.8	34.0	-5.0%
<b>REVENUES</b>					
Child Welfare FFP Federal Reimbursement	278,111	179,310	179,310	179,310	—
Revenue Authority Reimb. for Legal Services	0	45,630	45,630	45,630	—
County Code Subscription Fee	39,525	75,000	75,000	75,000	—
<b>County General Fund Revenues</b>	<b>317,636</b>	<b>299,940</b>	<b>299,940</b>	<b>299,940</b>	<b>—</b>

## FY12 RECOMMENDED CHANGES

	Expenditures	WYs
<b>COUNTY GENERAL FUND</b>		
<b>FY11 ORIGINAL APPROPRIATION</b>	<b>4,552,550</b>	<b>35.8</b>
<b>Changes (with service impacts)</b>		
Add: Transfer Responsibility for Certain EEO Complaints from OHR to OCA	30,000	0.2
Reduce: Labor Contract Charges	-9,880	0.0
<b>Other Adjustments (with no service impacts)</b>		
Increase Cost: Restore Personnel Costs - Furloughs	82,250	1.5
Increase Cost: Printing and Mail Adjustment	3,850	0.0
Increase Cost: Help Desk - Desk Side Support	910	0.0
Decrease Cost: Multilingual Pay Adjustment	-3,840	0.0
Decrease Cost: Retirement Adjustment	-24,650	0.0
Decrease Cost: Decrease Cost: Reduction In Operating Expenses	-38,970	0.0
Decrease Cost: Group Insurance Adjustment	-46,660	0.0
Decrease Cost: Lapse Assistant County Attorney (Public Interest Litigation)	-49,930	-0.5
Increase Cost: Annualization of FY11 Personnel Costs	-56,990	0.0
Decrease Cost: Lapse Assistant County Attorney (Finance and Procurement)	-96,740	-1.0
Decrease Cost: Lapse Assistant County Attorney (Human Resources and Appeals)	-147,930	-1.0
Decrease Cost: Lapse Assistant County Attorney	-154,470	-1.0
<b>FY12 RECOMMENDED:</b>	<b>4,039,500</b>	<b>34.0</b>

## PROGRAM SUMMARY

Program Name	FY11 Approved		FY12 Recommended	
	Expenditures	WYs	Expenditures	WYs
Insurance Defense Litigation	43,650	0.0	41,880	0.0
Health and Human Services	984,300	7.6	941,890	7.9
Finance and Procurement	735,060	5.0	702,010	4.2
Human Resources and Appeals	574,640	4.0	467,860	3.4
Zoning, Land Use and Economic Development	71,130	1.2	152,640	0.0
Public Interest Litigation	1,103,450	11.5	965,460	11.5
Support Services	43,970	1.0	87,780	1.0
Administration	996,350	5.5	679,980	6.0
<b>Total</b>	<b>4,552,550</b>	<b>35.8</b>	<b>4,039,500</b>	<b>34.0</b>



## CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY11		FY12	
		Total\$	WYs	Total\$	WYs
COUNTY GENERAL FUND					
Board of Appeals	County General Fund	87,730	0.5	87,210	0.5
Board of Investment Trustees	BIT 457 Deferred Comp. Plan	80,650	0.5	78,490	0.5
Cable Television	Cable Television	97,810	0.5	97,810	0.5
CIP	CIP	363,160	3.0	356,650	3.0
Finance	County General Fund	179,690	1.0	186,320	1.0
Finance	Self Insurance Internal Service Fund	2,513,070	19.0	2,513,070	19.0
Health and Human Services	County General Fund	170,590	2.2	170,590	2.2
Housing and Community Affairs	County General Fund	48,240	0.5	49,340	0.5
Housing and Community Affairs	Montgomery Housing Initiative	179,030	1.0	178,390	1.0
Human Resources	Employee Health Benefit Self Insurance Fund	7,990	0.1	7,990	0.1
Human Resources	Employee Retirement System	78,310	0.5	71,630	0.5
Intergovernmental Relations	County General Fund	28,190	0.3	28,650	0.3
Parking District Services	Bethesda Parking District	20,060	0.1	19,880	0.1
Parking District Services	Silver Spring Parking District	40,000	0.2	39,750	0.2
Permitting Services	Permitting Services	172,250	1.0	172,250	1.0
Solid Waste Services	Solid Waste Collection	47,840	0.3	39,810	0.3
Solid Waste Services	Solid Waste Disposal	111,620	0.7	157,070	0.7
Total		4,226,230	31.4	4,254,900	31.4

## FUTURE FISCAL IMPACTS

Title	CE REC.		(S000's)			
	FY12	FY13	FY14	FY15	FY16	FY17
This table is intended to present significant future fiscal impacts of the department's programs.						
<b>COUNTY GENERAL FUND</b>						
<b>Expenditures</b>						
<b>FY12 Recommended</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>
No inflation or compensation change is included in outyear projections.						
<b>Subtotal Expenditures</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>	<b>4,040</b>