
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 FY13 Operating Budget for the Office of the County Attorney is \$5,139,791, an increase of \$1,100,291 or 27.2 percent from the FY12 Approved Budget of \$4,039,500. Personnel Costs comprise 91.4 percent of the budget for 71 full-time positions and three part-time positions for 42.40 FTEs. Operating Expenses account for the remaining 8.6 percent of the FY13 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 FY12 estimates reflect funding based on the FY12 approved budget. The FY13 and FY14 figures are performance targets based on the FY13 recommended budget and funding for comparable service levels in FY14.

ACCOMPLISHMENTS AND INITIATIVES

❖ ***Positive ratio between plaintiff's demand and amount paid by the County, and win/loss ratio of cases litigated.***

Positive gain over split in workers' compensation cases.

Debt collection (\$108.4 million since FY07) at a cost below the commercial collection agencies' rate.

Position of HHS affirmed in child welfare Termination of Parental Rights (TPR)/Child-in-Need of Assistance (CINA) adjudicated cases (99% granted).

Positive outcome in appeals (prevailed in approximately 80% of cases).

Positive win/loss ratio of code enforcement cases litigated (over 95% won).

Customer satisfaction survey shows improvement in general customer satisfaction above departmental averages.

Landmark matters: County Executive budget prerogative/IAFF, FOP, MCGEO; LiveNation; Republic Properties; speed cameras; IAD—summary punishment; Montgomery County v. Butler; Shropshire v. Inspector General; ambulance fee - government speech (Bernard v. Montgomery County); Project Civic Access; Public Electric Co. Opinion; Damage control from invalidation of carbon tax (Mirant v. Montgomery County); Bill 22-09, Notice of Violations/Board of Appeals jurisdiction; prevailed on maintenance of effort challenge filed by Montgomery County Board of Education (MCBOE) with State Board of Education.

❖ ***Productivity Improvements***

- ***Improved the Litigation case close-out report by using the existing CountyLaw system to eliminate the need to capture close-out data in a separate system. Attorneys can now point-and-click to selected reports on the disposition of a case.***

- ***Completed the launching of a litigation pleadings bank, using web-based SharePoint software, which allows our legal staff to share documents, templates, and fill-in-the-blank legal forms.***

- **Worked with the Enterprise Resource Planning (ERP) Office and the Department of Finance to revise the accounting procedures for posting debt collection information into the new ERP Oracle system. This will occur in Phase II of the ERP implementation. The new process will allow this office's Debt Collection Unit to post payments and accounting codes more efficiently. It will also make reporting of debt collection information much more efficient.**

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 FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Number of Workers' Compensation hearings	1,960	1,807	1,824	1,900	1,950
Worker's Compensation Cases Net Gain to the County	\$1,151,251	\$1,798,340	\$1,500,000	\$1,500,000	\$1,500,000
Last Settlement Amount Demanded by Plaintiff (\$)	87,539,319	205,938,308	TBD	TBD	TBD
Total Paid to Plaintiff by the County (\$) ¹	258,117	1,585,412	260,000	260,000	260,000
Ratio Amount Paid by County Versus Amount Demanded by Plaintiff	.29%	.77%	2.00%	2.00%	2.00%
Total Number of Settlements	21	33	35	35	35
Number of Judgments Paid	9	7	8	8	8
Number Judgments in County's Favor ²	64	104	60	60	60
Win/Loss Ratio (Resolution in County's Favor vs. Resolution in Plaintiff's Favor)	85%	94%	90%	90%	90%

¹ The FY11 \$1.5M judgment is due to an inter pleader action involving a Ride-On bus accident which had approximately forty claimants/plaintiffs. This action was considered as one judgment. Judgments are very hard to predict or budget for.

² This number has increased dramatically due to less settlements in cases and more favorable outcomes on those cases that were not settled, and an increase in the number of cases handled during the reporting period.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	41,880	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	32,846	0.00
FY13 CE Recommended	74,726	0.00

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 FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Number of Children in Need of Assistance (CINA) or Guardianship Hearings	2,418	2,546	2,000	2,000	2,000
Number of Adoptions Granted	34	47	40	40	40
Number of CINA Cases Closed	275	216	200	200	200
Number of New Adoption Petitions Filed	43	43	45	45	45
Number of New CINA Petitions Filed	210	214	200	200	200
Number of New Termination of Parental Rights (TPR) Petitions Filed	60	38	44	44	44
Number of Termination of Parents Rights (TPR's) Granted	53	25	30	30	30

	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Ratio of TPR/CINA Adjudicated Granted/Denied	100%	98.07%	99%	99%	99%

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	941,890	7.90
Increase Cost: Outside Legal Counsel for Child Welfare Cases	63,500	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	2,011	-0.30
FY13 CE Recommended	1,007,401	7.60

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.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	702,010	4.20
Enhance: Restore Lapsed Assistant County Attorney III	134,180	0.00
Enhance: Restore Lapsed Attorney Position to handle Commercial Litigation in the Finance and the Procurement Division(s)	107,560	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	-157,989	1.80
FY13 CE Recommended	785,761	6.00

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.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Percent of Judicial Appeals Won	72%	81%	80%	80%	80%
Appeals Lost	5	5	5	5	5
Appeals Won	13	22	17	17	17

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	467,860	3.40
Enhance: Restore Lapsed Attorney Position to handle certain EEO Complaints Transferred from OHR to OCA	147,930	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	94,812	1.80
FY13 CE Recommended	710,602	5.20

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.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	152,640	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	64,066	4.20
FY13 CE Recommended	216,706	4.20

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 FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Code Enforcement - Ratio of Win Versus Loss	97.18%	96.55%	96%	96%	96%
Ratio of Costs/Collection ¹	3%	3%	3%	3%	3%
Code Enforcement Collected (\$)	714,143	704,342	700,000	700,000	700,000
Debt Collection (\$) ²	14,052,713	15,352,129	10,000,000	10,000,000	10,000,000
Forfeitures Collected (\$)	223,247	71,318	75,000	75,000	75,000
Subrogation Collected (\$)	92,364	74,027	75,000	75,000	75,000

¹ Measures the ratio of cost to operate the Debt Collection Unit against the amount collected. For FY11, OCA devoted \$491,582 of operating resources to collect \$16,201,817.

² The economic slowdown has affected the amount the DCU has available for collection. Also, various high value cases have been previously collected.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	965,460	11.50
Enhance: Restore Lapsed Attorney Position to handle Public Information Litigation	46,690	0.00
Technical Adj: Increase Personnel Cost to OCA because of Reduction of Chargeback to DEP Solid Waste	39,805	0.00
Technical Adj: Reduce Chargeback from OCA to DEP Solid Waste	-39,805	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	-39,994	-1.00
FY13 CE Recommended	972,156	10.50

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.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	87,780	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	61,528	2.90
FY13 CE Recommended	149,308	3.90

Administration

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

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Average Internal Customer Satisfaction Rating - General and Timeliness ¹	3.1	3.1	3.1	3.1	3.1

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

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	679,980	6.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	543,151	-1.00
FY13 CE Recommended	1,223,131	5.00

BUDGET SUMMARY

	Actual FY11	Budget FY12	Estimated FY12	Recommended FY13	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	3,296,578	2,969,540	2,969,536	3,527,852	18.8%
Employee Benefits	1,070,154	687,920	730,606	1,170,349	70.1%
County General Fund Personnel Costs	4,366,732	3,657,460	3,700,142	4,698,201	28.5%
Operating Expenses	588,874	382,040	382,040	441,590	15.6%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	4,955,606	4,039,500	4,082,182	5,139,791	27.2%
PERSONNEL					
Full-Time	71	71	71	71	—
Part-Time	3	3	3	3	—
FTEs	35.80	34.00	34.00	42.40	24.7%
REVENUES					
Federal Financial Participation Reimbursements	185,938	179,310	179,310	179,310	—
Miscellaneous Revenues	-1,897	0	0	0	—
Other Charges/Fees	38,725	75,000	75,000	75,000	—
Other Fines/Forfeitures	-15	0	0	0	—
Other Intergovernmental	0	45,630	91,260	45,630	—
County General Fund Revenues	222,751	299,940	345,570	299,940	—

FY13 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY12 ORIGINAL APPROPRIATION	4,039,500	34.00
Changes (with service impacts)		
Enhance: Restore Lapsed Attorney Position to handle certain EEO Complaints Transferred from OHR to OCA [Human Resources and Appeals]	147,930	0.00
Enhance: Restore Lapsed Assistant County Attorney III [Finance and Procurement]	134,180	0.00
Enhance: Restore Lapsed Attorney Position to handle Commercial Litigation in the Finance and the Procurement Division(s) [Finance and Procurement]	107,560	0.00
Enhance: Restore Lapsed Attorney Position to handle Public Information Litigation [Public Interest Litigation]	46,690	0.00
Other Adjustments (with no service impacts)		
Increase Cost: Retirement Adjustment	263,547	0.00
Increase Cost: Group Insurance Adjustment	195,210	0.00
Increase Cost: Lump Sum Wage Adjustment	137,908	0.00
Increase Cost: Outside Legal Counsel for Child Welfare Cases [Health and Human Services]	63,500	0.00
Technical Adj: Increase Personnel Cost to OCA because of Reduction of Chargeback to DEP Solid Waste [Public Interest Litigation]	39,805	0.00
Increase Cost: Longevity Adjustment	7,716	0.00
Technical Adj: Conversion of WYs to FTEs in the New Hyperion Budgeting System; FTEs are No Longer Measured for Overtime and Lapse	0	8.40
Shift: Help Desk - Desk Side Support to the Desktop Computer Modernization NDA	-910	0.00
Decrease Cost: Printing and Mail Adjustment	-3,040	0.00

	Expenditures	FTEs
Technical Adj: Reduce Chargeback from OCA to DEP Solid Waste [Public Interest Litigation]	-39,805	0.00
FY13 RECOMMENDED:	5,139,791	42.40

PROGRAM SUMMARY

Program Name	FY12 Approved		FY13 Recommended	
	Expenditures	FTEs	Expenditures	FTEs
Insurance Defense Litigation	41,880	0.00	74,726	0.00
Health and Human Services	941,890	7.90	1,007,401	7.60
Finance and Procurement	702,010	4.20	785,761	6.00
Human Resources and Appeals	467,860	3.40	710,602	5.20
Zoning, Land Use and Economic Development	152,640	0.00	216,706	4.20
Public Interest Litigation	965,460	11.50	972,156	10.50
Support Services	87,780	1.00	149,308	3.90
Administration	679,980	6.00	1,223,131	5.00
Total	4,039,500	34.00	5,139,791	42.40

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY12		FY13	
		Total\$	FTEs	Total\$	FTEs
COUNTY GENERAL FUND					
Board of Appeals	County General Fund	87,210	0.50	87,210	0.50
Board of Investment Trustees	BIT 457 Deferred Comp. Plan	78,490	0.50	134,430	0.85
Board of Investment Trustees	Retirement Savings Plan	0	0.00	15,690	0.10
Cable Television	Cable Television	97,810	0.50	97,810	0.50
CIP	CIP	356,650	3.00	364,885	3.00
Finance	County General Fund	186,320	1.00	194,310	1.05
Finance	Self Insurance Internal Service Fund	2,513,070	19.00	2,513,070	19.00
Health and Human Services	County General Fund	170,590	2.20	170,590	2.20
Housing and Community Affairs	County General Fund	49,340	0.50	49,340	0.50
Housing and Community Affairs	Montgomery Housing Initiative	178,390	1.00	178,390	1.00
Human Resources	Employee Health Benefit Self Insurance Fund	7,990	0.05	0	0.00
Human Resources	Employee Retirement System	71,630	0.45	0	0.00
Intergovernmental Relations	County General Fund	28,650	0.30	28,650	0.30
Parking District Services	Bethesda Parking District	19,880	0.10	19,880	0.10
Parking District Services	Silver Spring Parking District	39,750	0.20	39,750	0.20
Permitting Services	Permitting Services	172,250	1.00	172,250	1.00
Solid Waste Services	Solid Waste Collection	39,805	0.25	39,267	0.25
Solid Waste Services	Solid Waste Disposal	157,070	0.70	117,803	0.75
Total		4,254,895	31.25	4,223,325	31.30

FUTURE FISCAL IMPACTS

Title	CE REC.			(\$000's)		
	FY13	FY14	FY15	FY16	FY17	FY18
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY13 Recommended	5,140	5,140	5,140	5,140	5,140	5,140
No inflation or compensation change is included in outyear projections.						
Elimination of One-Time Lump Sum Wage Adjustment	0	-138	-138	-138	-138	-138
This represents the elimination of the one-time lump sum wage increases paid in FY13.						
Subtotal Expenditures	5,140	5,002	5,002	5,002	5,002	5,002