



County Attorney

Recommended FY18 Budget

\$6,319,482

Full Time Equivalents

44.75

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 FY18 Operating Budget for the Office of the County Attorney is \$6,319,482, an increase of \$367,592 or 6.18 percent from the FY17 Approved Budget of \$5,951,890. Personnel Costs comprise 91.05 percent of the budget for 76 full-time position(s) and two part-time position(s), and a total of 44.75 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 8.95 percent of the FY18 budget.

Linkage to County Result Areas

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

A Responsive, Accountable County Government

Department Performance Measures

Performance measures for this department are included below (where applicable), with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY17 estimates reflect funding based on the FY17 approved budget. The FY18 and FY19 figures are performance targets based on the FY18 recommended budget and funding for comparable service levels in FY19.

Accomplishments

- New law made in Maryland: Court of Appeals held that the County could engage in government speech to advocate on a ballot question (*FOP v. Leggett*); Court of Appeals held that property owners adjacent to Georgetown Branch right-of-way could not acquire property rights by way of adverse possession against the railroad thereby allowing the County to remove encroachments from the Purple Line right-of-way (*Montgomery County v. Bhatt*); Court of Appeals held that the County could file action to forfeit a bank account as if it were money earned from the sale of drugs (*Bottini v. Montgomery County*).
- Customer satisfaction survey-remained highest rated internal service department (3.4 out of a 4.0 scale).
- Debt Collection Unit collected \$13.9 million at a cost of 3.7 percent.
- Child Welfare Unit: Achieved a 100 percent win/loss ratio.

- ✓ Workers' Compensation Unit net gain increased to \$3 million (the \$3 million is the net gain as a result of the calculation of all the awards (adding the gains and deducting the losses) in workers compensation cases for the year).
- ✓ Body Camera implementation prevailed in prohibited practice charge filed by Fraternal Order of Police (FOP).
- ✓ Executed the White Oak General Development Agreement (GDA).
- ✓ Newlands completed construction of infrastructure improvements in Clarksburg. This is under the settlement agreement between Montgomery County and Newlands settling Newlands' claim against the County in connection with the dissolution of the Clarksburg development district.

Innovations and Productivity Improvements

- ✦ The retrieval and review of electronically stored information (ESI) has become a major issue in the context of meeting the County's obligations to respond to discovery demands in litigation cases as well as Maryland Public Information Act (MPIA) requests. To address this issue, OCA is implementing a cloud-based online eDiscovery application which allows the office to analyze and preserve electronic documents and emails for discovery.

Program Contacts

Contact Carolyn Kilgariff of the Office of the County Attorney at 240.777.6766 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 FY15 | Actual FY16 | Estimated FY17 | Target FY18 | Target FY19 |
|---|-------------|-------------|----------------|-------------|-------------|
| Number of workers' compensation hearings | 1,707 | 1,995 | 1,871 | 1,871 | 1,871 |
| Worker's compensation cases: Total net gain to the County (\$000) | \$1,902 | \$3,015 | \$2,686 | \$2,686 | \$2,686 |
| Last settlement amount demanded by plaintiff (\$000) | \$475,674 | \$266,636 | \$346,117 | \$346,117 | \$346,117 |
| Subrogation collected (\$000) | \$93.33 | \$55 | \$50 | \$50 | \$50 |
| Total paid to plaintiff by the County (\$000) | \$37 | \$143 | \$88 | \$88 | \$88 |
| Ratio amount paid by County vs. amount demanded by the plaintiff | 0.01 | 0.05 | 0.10 | 0.10 | 0.10 |
| Total number of settlements | 36 | 31 | 34 | 34 | 34 |
| Number of judgments paid | 6 | 10 | 7 | 7 | 7 |
| Number of judgments in County's favor | 68 | 51 | 59 | 59 | 59 |
| Self-insurance fund litigation: Win/loss ratio | 92 | 84 | 87 | 87 | 87 |

| FY18 Recommended Changes | Expenditures | FTEs |
|--------------------------|--------------|-------------|
| FY17 Approved | 0 | 0.00 |
| FY18 Recommended | 0 | 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 FY15 | Actual FY16 | Estimated FY17 | Target FY18 | Target FY19 |
|---|----------------|----------------|-------------------|----------------|----------------|
| Number of children in need of assistance (CINA) or guardianship hearings | 2,137 | 2,238 | 2,184 | 2,184 | 2,184 |
| Number of adoptions granted | 22 | 22 | 19 | 19 | 19 |
| Number of CINA cases closed | 162 | 176 | 188 | 188 | 188 |
| Number of new adoption petitions filed | 18 | 22 | 20 | 20 | 20 |
| Number of new CINA petitions filed | 183 | 170 | 180 | 180 | 180 |
| Number of new termination of parental rights (TPR) petitions filed | 24 | 29 | 26 | 26 | 26 |
| Number of termination of parents rights (TPR's) granted | 24 | 18 | 22 | 22 | 22 |
| Child welfare litigation - ratio of termination of parental rights (TPR) and child in need of assistance (CINA) adjudicated granted or denied | 100 | 100 | 100 | 100 | 100 |

| FY18 Recommended Changes | Expenditures | FTEs |
|---|------------------|-------------|
| FY17 Approved | 1,156,270 | 7.40 |
| Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. | 105,963 | 0.00 |
| FY18 Recommended | 1,262,233 | 7.40 |

☀ 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.

| Program Performance Measures | Actual FY15 | Actual FY16 | Estimated FY17 | Target FY18 | Target FY19 |
|--|----------------|----------------|-------------------|----------------|----------------|
| Code enforcement - Win/loss ratio | 98.92 | 97.35 | 98.10 | 98.10 | 98.10 |
| Code enforcement collected (\$000) | \$583 | \$316 | \$489 | \$489 | \$489 |
| Debt collection - collected/total referred ratio | 144.5 | 111.7 | 146 | 146 | 146 |
| Debt collection - cost/revenue ratio | 3.7 | 3.7 | 3.7 | 3.7 | 3.7 |
| Debt collection (\$000) | \$13,501 | \$13,931 | \$13,500 | \$13,500 | \$13,500 |
| Forfeitures collected (\$000) | \$121.01 | \$381.65 | \$246 | \$246 | \$246 |

| FY18 Recommended Changes | Expenditures | FTEs |
|--------------------------|----------------|-------------|
| FY17 Approved | 515,422 | 5.00 |

| FY18 Recommended Changes | Expenditures | FTEs |
|---|----------------|-------------|
| Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. | (137,516) | (1.50) |
| FY18 Recommended | 377,906 | 3.50 |

☀ 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.

| FY18 Recommended Changes | Expenditures | FTEs |
|---|----------------|-------------|
| FY17 Approved | 422,637 | 5.90 |
| Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. | 91,018 | 1.00 |
| FY18 Recommended | 513,655 | 6.90 |

☀ 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.

| Program Performance Measures | Actual FY15 | Actual FY16 | Estimated FY17 | Target FY18 | Target FY19 |
|---|-------------|-------------|----------------|-------------|-------------|
| Percent of appeals in the Appellate Court won | 84.21 | 95.23 | 83.4 | 83.4 | 83.4 |
| Appeals lost | 3 | 1 | 4 | 4 | 4 |
| Appeals won | 16 | 20 | 18 | 18 | 18 |

| FY18 Recommended Changes | Expenditures | FTEs |
|---|------------------|-------------|
| FY17 Approved | 1,026,117 | 6.50 |
| Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. | 66,635 | 0.75 |
| FY18 Recommended | 1,092,752 | 7.25 |

☀ 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, 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.

| FY18 Recommended Changes | Expenditures | FTEs |
|---|----------------|-------------|
| FY17 Approved | 213,230 | 2.70 |
| Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. | (34,880) | 0.00 |
| FY18 Recommended | 178,350 | 2.70 |

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 judgements, subrogation claims, bounced checks, unpaid fines, and miscellaneous amounts billed by the County.

| Program Performance Measures | Actual FY15 | Actual FY16 | Estimated FY17 | Target FY18 | Target FY19 |
|------------------------------|-------------|-------------|----------------|-------------|-------------|
| Ratio of costs/collection | 3.7 | 3.7 | 3.3 | 3.3 | 3.3 |

| FY18 Recommended Changes | Expenditures | FTEs |
|---|----------------|-------------|
| FY17 Approved | 557,445 | 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. | 50,733 | 0.50 |
| FY18 Recommended | 608,178 | 6.50 |

Administration

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

| Program Performance Measures | Actual FY15 | Actual FY16 | Estimated FY17 | Target FY18 | Target FY19 |
|---|-------------|-------------|----------------|-------------|-------------|
| Overall average rating from Internal Customer Satisfaction Survey | 3.33 | 3.4 | 3.4 | 3.4 | 3.4 |

| FY18 Recommended Changes | Expenditures | FTEs |
|---|------------------|-------------|
| FY17 Approved | 1,517,621 | 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. | 144,199 | 0.00 |

| FY18 Recommended Changes | Expenditures | FTEs |
|--------------------------|------------------|-------------|
| FY18 Recommended | 1,661,820 | 6.00 |

Government Operations

Drafts and reviews County and State legislation; Represents the County in legal challenges to its legislative acts; Drafts and coordinates formal legal advice given by the Office of the County Attorney; Provides legal assistance to the Office of Management and Budget, Ethics Commission, Office of the Inspector General, and the Charter Review Commission; Provides legal guidance on the Open Meetings Act and the Public Information Act; Oversees the publication of the County Code; and provides legal guidance to the Special Assistant to the Executive for Boards, Committees, and Commissions.

| FY18 Recommended Changes | Expenditures | FTEs |
|---|----------------|-------------|
| FY17 Approved | 543,148 | 4.00 |
| Add: ESI Unit Assistant County Attorney III | 140,850 | 1.00 |
| Increase Cost: Electronically Stored Information (ESI) Software | 20,667 | 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. | (80,077) | (0.50) |
| FY18 Recommended | 624,588 | 4.50 |

BUDGET SUMMARY

| | Actual FY16 | Budget FY17 | Estimate FY17 | Recommended FY18 | %Chg Bud/Rec |
|--|------------------|------------------|------------------|---------------------|-----------------|
| COUNTY GENERAL FUND | | | | | |
| EXPENDITURES | | | | | |
| Salaries and Wages | 4,039,330 | 4,040,503 | 4,678,480 | 4,401,697 | 8.9 % |
| Employee Benefits | 1,447,612 | 1,363,136 | 1,311,100 | 1,352,393 | -0.8 % |
| County General Fund Personnel Costs | 5,486,942 | 5,403,639 | 5,989,580 | 5,754,090 | 6.5 % |
| Operating Expenses | 640,326 | 548,251 | 535,037 | 565,392 | 3.1 % |
| County General Fund Expenditures | 6,127,268 | 5,951,890 | 6,524,617 | 6,319,482 | 6.2 % |
| PERSONNEL | | | | | |
| Full-Time | 72 | 73 | 73 | 76 | 4.1 % |
| Part-Time | 5 | 4 | 4 | 2 | -50.0 % |
| FTEs | 43.50 | 43.50 | 43.50 | 44.75 | 2.9 % |
| REVENUES | | | | | |
| Federal Financial Participation Reimbursements | 224,545 | 231,165 | 231,165 | 231,165 | — |
| Other Charges/Fees | 1,491 | 75,000 | 75,000 | 75,000 | — |
| Other Intergovernmental | 384 | 45,630 | 45,630 | 45,630 | — |
| County General Fund Revenues | 226,420 | 351,795 | 351,795 | 351,795 | — |

FY18 RECOMMENDED CHANGES

Expenditures FTEs

FY18 RECOMMENDED CHANGES

| | Expenditures | FTEs |
|---|------------------|--------------|
| COUNTY GENERAL FUND | | |
| FY17 ORIGINAL APPROPRIATION | 5,951,890 | 43.50 |
| <u>Changes (with service impacts)</u> | | |
| Add: ESI Unit Assistant County Attorney III [Government Operations] | 140,850 | 1.00 |
| <u>Other Adjustments (with no service impacts)</u> | | |
| Increase Cost: FY18 Compensation Adjustment | 126,260 | 0.00 |
| Increase Cost: Annualization of FY17 Compensation Increases | 40,278 | 0.00 |
| Increase Cost: Retirement Adjustment | 25,108 | 0.00 |
| Increase Cost: Electronically Stored Information (ESI) Software [Government Operations] | 20,667 | 0.00 |
| Increase Cost: Annualization of FY17 Personnel Costs | 17,955 | 0.00 |
| Technical Adj: Convert Assistant County Attorney III Position from Part Time to Full Time During FY17 | 0 | 0.25 |
| Decrease Cost: Printing and Mail | (3,526) | 0.00 |
| FY18 RECOMMENDED | 6,319,482 | 44.75 |

PROGRAM SUMMARY

| Program Name | FY17 APPR Expenditures | FY17 APPR FTEs | FY18 REC Expenditures | FY18 REC FTEs |
|---|---------------------------|-------------------|--------------------------|------------------|
| Insurance Defense Litigation | 0 | 0.00 | 0 | 0.00 |
| Health and Human Services | 1,156,270 | 7.40 | 1,262,233 | 7.40 |
| Finance and Procurement | 515,422 | 5.00 | 377,906 | 3.50 |
| Support Services | 422,637 | 5.90 | 513,655 | 6.90 |
| Human Resources and Appeals | 1,026,117 | 6.50 | 1,092,752 | 7.25 |
| Zoning, Land Use and Economic Development | 213,230 | 2.70 | 178,350 | 2.70 |
| Public Interest Litigation | 557,445 | 6.00 | 608,178 | 6.50 |
| Administration | 1,517,621 | 6.00 | 1,661,820 | 6.00 |
| Government Operations | 543,148 | 4.00 | 624,588 | 4.50 |
| Total | 5,951,890 | 43.50 | 6,319,482 | 44.75 |

CHARGES TO OTHER DEPARTMENTS

| Charged Department | Charged Fund | FY17 Total\$ | FY17 FTES | FY18 Total\$ | FY18 FTES |
|-----------------------------|--|-----------------|--------------|-----------------|--------------|
| COUNTY GENERAL FUND | | | | | |
| Board of Appeals | General Fund | 96,839 | 0.50 | 65,070 | 0.50 |
| Intergovernmental Relations | General Fund | 26,333 | 0.30 | 27,115 | 0.30 |
| Finance | General Fund | 178,426 | 1.05 | 195,848 | 1.05 |
| Finance | Risk Management (Self Insurance - ISF) | 2,762,682 | 19.75 | 2,865,615 | 19.75 |
| Human Resources | Employee Health Self Insurance | 17,350 | 0.10 | 17,675 | 0.10 |

CHARGES TO OTHER DEPARTMENTS

| Charged Department | Charged Fund | FY17 Total\$ | FY17 FTES | FY18 Total\$ | FY18 FTES |
|---|---|------------------|--------------|------------------|--------------|
| Correction and Rehabilitation | General Fund | 0 | 0.00 | 153,733 | 1.00 |
| Parking District Services | Bethesda Parking | 14,900 | 0.10 | 23,858 | 0.10 |
| Parking District Services | Silver Spring Parking | 29,800 | 0.20 | 26,557 | 0.20 |
| Health and Human Services | Grant Fund | 194,294 | 2.40 | 194,294 | 2.40 |
| Permitting Services | Permitting Services | 212,816 | 1.00 | 220,446 | 1.00 |
| Housing and Community Affairs | General Fund | 84,876 | 0.50 | 85,904 | 0.50 |
| Housing and Community Affairs | Montgomery Housing Initiative | 169,751 | 1.00 | 171,809 | 1.00 |
| Solid Waste Services | Solid Waste Disposal | 128,495 | 0.75 | 132,564 | 0.75 |
| Solid Waste Services | Solid Waste Collection | 42,832 | 0.25 | 44,188 | 0.25 |
| CIP | Capital Fund | 417,838 | 3.00 | 431,737 | 3.00 |
| NDA - Montgomery County Employee Retirement Plans | General Fund | 17,350 | 0.10 | 17,675 | 0.10 |
| NDA - Montgomery County Employee Retirement Plans | Employees Retirement Savings Plan (RSP) | 17,350 | 0.10 | 17,675 | 0.10 |
| NDA - Montgomery County Employee Retirement Plans | Retirement Fund (ERS) | 72,872 | 0.42 | 74,236 | 0.42 |
| NDA - Retiree Health Benefits Trust | Retiree Health Benefits Trust Fund | 29,496 | 0.17 | 30,048 | 0.17 |
| NDA - Retiree Health Benefits Trust | RSP-Disability Benefits (LTD2) | 10,410 | 0.06 | 10,605 | 0.06 |
| Cable Television Communications Plan | Cable TV | 115,121 | 0.50 | 119,291 | 0.50 |
| Total | | 4,639,831 | 32.25 | 4,925,943 | 33.25 |

FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

| Title | FY18 | FY19 | FY20 | FY21 | FY22 | FY23 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|
| COUNTY GENERAL FUND | | | | | | |
| EXPENDITURES | | | | | | |
| FY18 Recommended | 6,319 | 6,319 | 6,319 | 6,319 | 6,319 | 6,319 |
| No inflation or compensation change is included in outyear projections. | | | | | | |
| Labor Contracts | 0 | 42 | 42 | 42 | 42 | 42 |
| These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items. | | | | | | |
| Subtotal Expenditures | 6,319 | 6,361 | 6,361 | 6,361 | 6,361 | 6,361 |