




County Attorney

RECOMMENDED FY19 BUDGET

\$6,189,525

FULL TIME EQUIVALENTS

43.50

 MARC HANSEN, 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 FY19 Operating Budget for the Office of the County Attorney is \$6,189,525, a decrease of \$129,957 or 2.06 percent from the FY18 Approved Budget of \$6,319,482. Personnel Costs comprise 89.19 percent of the budget for 76 full-time position(s) and two part-time position(s), and a total of 43.50 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 10.81 percent of the FY19 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 FY18 estimates reflect funding based on the FY18 approved budget. The FY19 and FY20 figures are performance targets based on the FY19 recommended budget and funding for comparable service levels in FY20.

INITIATIVES

-  Opioid litigation against opioid manufacturers and distributors initiated with assistance of outside counsel, Robbins Geller Rudman & Dowd LLP.
-  Continuing to pursue investigation of Fair Housing Act claims against lenders for discriminatory lending practices that led to housing market crash in 2008-10.
-  Work with DGS to implement White Oak general development agreement (GDA) through outside counsel.

★ Managing electronically stored information (ESI) in the context of litigation and Maryland Public Information Act requests.

ACCOMPLISHMENTS

- ✓ Under the settlement of the Silver Spring Transit Center litigation, the County was paid \$23 million in damages, and the defendants dismissed \$11 million in claims against the County.
- ✓ US District Court for Maryland granted the County's motion to dismiss Pulte Homes' claim; the case is currently on appeal to the 4th Circuit Court of Appeals.
- ✓ In the latest customer satisfaction survey, the Office remained the highest rated internal service department.
- ✓ Prevailed before the Court of Special Appeals of Maryland in *Huber v. Montgomery County*. The Court rejected MCGEO's claim for the return of savings in health benefits that were transferred to the general fund.
- ✓ Successfully cleared encroachments on Georgetown Branch in accordance with agreements with the state regarding construction of the Purple Line.

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 FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Number of workers' compensation hearings ¹	1,995	1,901	1,868	1,868	1,868
Worker's compensation cases: Total net gain to the County (\$000)	3,015	3,299	2,980	2,980	2,980
Last settlement amount demanded by plaintiff (\$000)	\$266,636	\$46,864	\$263,058	\$263,058	\$263,058
Subrogation collected (\$000)	\$55	0	0	0	0
Total paid to plaintiff by the County (\$000)	\$143	\$94	\$91	\$91	\$91
Ratio amount paid by County vs. amount demanded by the plaintiff	0.05	0.20	0.09	0.09	0.09
Total number of settlements	31	27	31	31	31
Number of judgments paid	10	2	6	6	6
Number of judgments in County's favor	51	43	54	54	54
Self-insurance fund litigation: Win/loss ratio	84%	96%	91%	91%	91%

¹ The increase in workers compensation hearings in FY16 correlates to the increase in work-related injuries, which can be attributed to more safety concerns and less resources dedicated to injury prevention.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	0	0.00
Decrease Cost: Lapse - Administrative Specialist II	(21,467)	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.	112,829	1.00
FY19 Recommended	91,362	1.00

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 FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Number of children in need of assistance (CINA) or guardianship hearings ¹	2,238	2,908	2,427	2,427	2,427
Number of adoptions granted	22	15	20	20	20
Number of CINA cases closed	176	168	169	169	169
Number of new adoption petitions filed	22	17	19	19	19
Number of new CINA petitions filed	170	170	174	174	174
Number of new termination of parental rights (TPR) petitions filed ²	29	46	33	33	33
Number of termination of parents rights (TPR's) granted ³	18	38	27	27	27
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%

¹ The number of guardianship hearings increased in FY17 because judges request for hearings more frequently than the law requires. With the youths getting ready to age out of foster care at age 21, the judges will often require hearings to monitor progress. In addition, the Office of the Public Defender will often request for more frequent review hearings.

² The number of Termination of Parental Rights petitions filed is determined by the number of times the court challenges a child's plan for reunification to adoption. The increased number of adoption cases in FY17 could reflect more serious cases coming into Juvenile Court where reunification with a parent cannot be achieved and/or more cases with sibling groups. The increase in the number of petitions filed reflect the judges' commitment to permanency in Juvenile Court.

³ The number of Termination of Parental Rights petitions filed is determined by the number of times the court challenges a child's plan for reunification to adoption. The increased number of adoption cases could reflect more serious cases coming into Juvenile Court where reunification with a parent cannot be achieved and/or more cases with sibling groups. The increase in the number of petitions filed reflect the judges' commitment to permanency in Juvenile Court.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	1,262,233	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.	(7,552)	(0.30)
FY19 Recommended	1,254,681	7.10

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 FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Code enforcement - Win/loss ratio	97.35%	98.67%	98.31%	98.31%	98.31%
Code enforcement collected (\$000)	\$316	\$553	\$484	\$484	\$484
Debt collection - collected/total referred ratio	111.7%	189.0%	148.4%	148.4%	148.4%
Debt collection - cost/revenue ratio ¹	3.7%	3.1%	3.5%	3.5%	3.5%
Debt collection (\$000)	\$13,931	\$14,814	\$14,082	\$14,082	\$14,082
Forfeitures collected (\$000)	\$381.65	\$217.73	\$240.13	\$240.13	\$240.13

¹ This measure indicates the labor cost spent on collection. This is an indicator designed to show that the County is able to keep the collection cost low compared to outside private industry.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	377,906	3.50
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	72,529	0.50
FY19 Recommended	450,435	4.00

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.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	513,655	6.90
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(135,359)	(2.20)
FY19 Recommended	378,296	4.70

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 FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Percent of appeals in the Appellate Court won	95.23%	94.73%	91.39%	91.39%	91.39%
Appeals lost	1	1	2	2	2
Appeals won	20	18	18	18	18

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	1,092,752	7.25
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(25,451)	0.00
FY19 Recommended	1,067,301	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.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	178,350	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.	(12,736)	0.00
FY19 Recommended	165,614	2.70

Public Interest Litigation

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 Department 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.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	608,178	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.	27,520	0.00
FY19 Recommended	635,698	6.50

☀ Administration

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

Program Performance Measures	Actual FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Overall average rating from Internal Customer Satisfaction Survey	3.40	3.39	3.40	3.40	3.40

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	1,661,820	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.	2,455	1.50
FY19 Recommended	1,664,275	7.50

☀ 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.

FY19 Recommended Changes	Expenditures	FTEs
FY18 Approved	624,588	4.50
Technical Adj: Net Gross Charges	(100,241)	(0.75)
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(42,484)	(1.00)
FY19 Recommended	481,863	2.75

BUDGET SUMMARY

	Actual FY17	Budget FY18	Estimate FY18	Recommended FY19	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	4,116,968	4,401,697	4,356,225	4,201,208	-4.6 %
Employee Benefits	1,381,333	1,352,393	1,410,570	1,319,035	-2.5 %
County General Fund Personnel Costs	5,498,301	5,754,090	5,766,795	5,520,243	-4.1 %
Operating Expenses	825,628	565,392	696,322	669,282	18.4 %
County General Fund Expenditures	6,323,929	6,319,482	6,463,117	6,189,525	-2.1 %
PERSONNEL					
Full-Time	73	76	76	76	—
Part-Time	4	2	2	2	—
FTEs	43.50	44.75	44.75	43.50	-2.8 %
REVENUES					
Federal Financial Participation Reimbursements	270,831	231,165	250,000	250,000	8.1 %

BUDGET SUMMARY

	Actual FY17	Budget FY18	Estimate FY18	Recommended FY19	%Chg Bud/Rec
Other Charges/Fees	752	75,000	75,000	75,000	—
Other Intergovernmental	45,630	45,630	45,630	45,630	—
County General Fund Revenues	317,213	351,795	370,630	370,630	5.4 %

FY19 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY18 ORIGINAL APPROPRIATION	6,319,482	44.75
Other Adjustments (with no service impacts)		
Increase Cost: FY19 Compensation Adjustment	139,492	0.00
Increase Cost: Printing and Mail	537	0.00
Decrease Cost: Lapse - Administrative Specialist II [Insurance Defense Litigation]	(21,467)	0.00
Decrease Cost: Retirement Adjustment	(53,682)	0.00
Decrease Cost: Annualization of FY18 Personnel Costs	(94,596)	(0.50)
Technical Adj: Net Gross Charges [Government Operations]	(100,241)	(0.75)
FY19 RECOMMENDED	6,189,525	43.50

PROGRAM SUMMARY

Program Name	FY18 APPR Expenditures	FY18 APPR FTEs	FY19 REC Expenditures	FY19 REC FTEs
Insurance Defense Litigation	0	0.00	91,362	1.00
Health and Human Services	1,262,233	7.40	1,254,681	7.10
Finance and Procurement	377,906	3.50	450,435	4.00
Support Services	513,655	6.90	378,296	4.70
Human Resources and Appeals	1,092,752	7.25	1,067,301	7.25
Zoning, Land Use and Economic Development	178,350	2.70	165,614	2.70
Public Interest Litigation	608,178	6.50	635,698	6.50
Administration	1,661,820	6.00	1,664,275	7.50
Government Operations	624,588	4.50	481,863	2.75
Total	6,319,482	44.75	6,189,525	43.50

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY18 Total\$	FY18 FTEs	FY19 Total\$	FY19 FTEs
COUNTY GENERAL FUND					

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY18 Total\$	FY18 FTES	FY19 Total\$	FY19 FTES
Board of Appeals	General Fund	65,070	0.50	68,344	0.50
Intergovernmental Relations	General Fund	27,115	0.30	27,653	0.30
Finance	General Fund	195,848	1.05	144,059	1.05
Finance	Risk Management (Self Insurance - ISF)	2,865,615	19.75	2,997,116	20.50
Human Resources	Employee Health Self Insurance	17,675	0.10	18,009	0.10
Correction and Rehabilitation	General Fund	153,733	1.00	126,412	1.00
Parking District Services	Bethesda Parking	23,858	0.10	23,534	0.10
Parking District Services	Silver Spring Parking	26,557	0.20	47,068	0.20
Health and Human Services	Grant Fund	194,294	2.40	194,294	2.40
Permitting Services	Permitting Services	220,446	1.00	217,598	1.00
Housing and Community Affairs	General Fund	85,904	0.50	87,614	0.50
Housing and Community Affairs	Montgomery Housing Initiative	171,809	1.00	175,228	1.00
Solid Waste Services	Solid Waste Disposal	132,564	0.75	135,067	0.75
Solid Waste Services	Solid Waste Collection	44,188	0.25	45,022	0.25
CIP	Capital Fund	431,737	3.00	465,494	3.00
NDA - Montgomery County Employee Retirement Plans	General Fund	17,675	0.10	18,009	0.10
NDA - Montgomery County Employee Retirement Plans	Employees Retirement Savings Plan (RSP)	17,675	0.10	18,009	0.10
NDA - Montgomery County Employee Retirement Plans	Retirement Fund (ERS)	74,236	0.42	75,638	0.42
NDA - Retiree Health Benefits Trust	Retiree Health Benefits Trust Fund	30,048	0.17	30,615	0.17
NDA - Retiree Health Benefits Trust	RSP-Disability Benefits (LTD2)	10,605	0.06	10,805	0.06
Cable Television Communications Plan	Cable TV	119,291	0.50	117,671	0.50
Total		4,925,943	33.25	5,043,259	34.00

FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

Title	FY19	FY20	FY21	FY22	FY23	FY24
COUNTY GENERAL FUND						
EXPENDITURES						
FY19 Recommended	6,190	6,190	6,190	6,190	6,190	6,190
No inflation or compensation change is included in outyear projections.						
Restore One-Time Lapse Increase	0	21	21	21	21	21
Restoration of one-time lapse adjustment in the budget development year						
Labor Contracts	0	80	80	80	80	80
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	6,190	6,291	6,291	6,291	6,291	6,291