




County Attorney

RECOMMENDED FY20 BUDGET

\$6,377,401

FULL TIME EQUIVALENTS

43.20

 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 FY20 Operating Budget for the Office of the County Attorney is \$6,377,401, an increase of \$187,876 or 3.04 percent from the FY19 Approved Budget of \$6,189,525. Personnel Costs comprise 88.83 percent of the budget for 76 full-time position(s) and two part-time position(s), and a total of 43.20 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 11.17 percent of the FY20 budget.

COUNTY PRIORITY OUTCOMES




While this program area supports all seven of the County Executive's Priority Outcomes, the following is emphasized:

 **Effective, Sustainable 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 FY19 estimates reflect funding based on the FY19 Approved Budget. The FY20 and FY21 figures are performance targets based on the FY20 Recommended Budget and funding for comparable service levels in FY21.

INITIATIVES

-  Pursuing litigation against opioid manufacturers and distributors.
-  Pursuing litigation for violations of the Fair Housing Act against lenders for discriminatory practices that led to the housing market crash in 2008-2010.
-  Pursue litigation against the Federal Communications Commission (FCC) in connection with recently issued FCC orders regarding the construction of a 5G network.

ACCOMPLISHMENTS

- ✓ Argued before the U.S Court of Appeals for the 4th Circuit defending a Federal District Court's grant of the County's motion to dismiss Pulte Home's claim for \$168,000,000.
- ✓ County prevailed in a seven-year long series of trials/hearings against a claim that the County violated the Rehabilitation Act/American with Disabilities Act in the U.S. District Court for Maryland. Argued the case before the U.S. Court of Appeals for the 4th Circuit defending the verdict rendered by the District Court in favor of the County.
- ✓ Maryland Court of Special Appeals affirmed the Tax Court's denial of Lockheed Martin's \$1.3 million refund claim for the hotel/motel tax paid by Lockheed Martin to the County.

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 14 local government Self-Insurance Fund participants (including 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 FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Number of workers' compensation hearings ¹	1,901	2,055	1,984	1,984	1,984
Worker's compensation cases: Total net gain to the County (\$000)	3,299	2,584	2,966	2,966	2,966
Last settlement amount demanded by plaintiff (\$000)	\$46,864	\$658,906	\$324,135	\$324,135	\$324,135
Total paid to plaintiff by the County (\$000)	\$94	\$91.8	\$110	\$110	\$110
Ratio amount paid by County vs. amount demanded by the plaintiff	0.20	0.014	0.08	0.08	0.08
Total number of settlements	27	19	26	26	26
Number of judgments paid	2	7	6	6	6
Number of judgments in County's favor	43	44	46	46	46
Self-insurance fund litigation: Win/loss ratio	96%	86%	89%	89%	89%
Code enforcement - Win/loss ratio	98.67%	99.2%	98.4%	98.4%	98.4%
Code enforcement collected (\$000)	\$553	\$578	\$482	\$482	\$482

¹ The increase in workers compensation hearings in FY18 correlates to the increase in work-related injuries, which can be attributed to more safety concerns and less resources dedicated to injury prevention.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	91,362	1.00

FY20 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.	42,678	0.25
FY20 Recommended	134,040	1.25

☀ Health and Human Services

The attorneys in this division act as counsel and give legal advice to the Department of Health and Human Services. The attorneys 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 FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Number of children in need of assistance (CINA) or guardianship hearings	2,476	2,618	2,444	2,444	2,444
Number of adoptions granted	15	19	19	19	19
Number of CINA cases closed	168	182	175	175	175
Number of new adoption petitions filed	17	19	19	19	19
Number of new CINA petitions filed	170	193	178	178	178
Number of new termination of parental rights (TPR) petitions filed ¹	46	22	32	32	32
Number of termination of parents rights (TPR's) granted ²	38	32	29	29	29
Child welfare litigation - ratio of termination of parental rights (TPR) and child in need of assistance (CINA) adjudicated granted or denied	100%	99.5%	99.8%	99.8%	99.8%

¹ 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.

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 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.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	1,254,681	7.10
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(46,645)	0.00
FY20 Recommended	1,208,036	7.10

☀ Finance and Procurement

Acts as counsel and provides 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.

Beginning in FY20, the Public Interest Representation program is merged with the Finance and Procurement program.

Program Performance Measures	Actual FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Debt collection - collected/total referred ratio	189.0%	191.0%	164.0%	164.0%	164.0%

Program Performance Measures	Actual FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Debt collection - cost/revenue ratio ¹	3.1%	2.7%	3.2%	3.2%	3.2%
Debt collection (\$000)	\$14,814	\$17,889	\$15,545	\$15,545	\$15,545
Forfeitures collected (\$000)	\$217.73	\$286.00	\$295.00	\$295.00	\$295.00

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.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	450,435	4.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	734,756	7.50
FY20 Recommended	1,185,191	11.50

Support Services

Provide administrative, research, and technical guidance and support to divisions within the Department. Allows for an equitable distribution of work assignments, to cross-train staff, and to evaluate fairly the performance of the staff. Provides administrative support to the Risk Management Fund, and revenue support to the Risk Management Fund, Revenue Authority, and Solid Waste Fund.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	378,296	4.70
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	38,464	0.00
FY20 Recommended	416,760	4.70

Human Resources

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, and their employees, while pending before State and Federal appellate courts.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	1,067,301	7.25
Shift: Net-Gross Charge County Attorney Position to Police	(71,833)	(0.50)
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	152,102	0.75
FY20 Recommended	1,147,570	7.50

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.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	165,614	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.	15,710	(1.80)
FY20 Recommended	181,324	0.90

☀ Public Interest Representation

The Office of the County Attorney 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 Office of the County Attorney acts as counsel and provides legal advice to the Police Department, the Department of Emergency Management and Homeland Security, Environmental Protection, Permitting Services, and the Office of 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 Office of the County Attorney also drafts and reviews agreements, legislation, regulations and other legal documents. Attorneys conduct negotiations, issue legal opinions, and testify before public bodies. The Office of the County Attorney is 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 Collection Unit collects all fees owed to Montgomery County that have been referred to the County Attorney, including past-due property taxes, personal property taxes, code enforcement judgments, subrogation claims, bounced checks, unpaid fines, and miscellaneous amounts billed to the County.

Beginning in FY20, this program's functions are incorporated into the Finance and Procurement program.

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	635,698	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.	(635,698)	(6.50)
FY20 Recommended	0	0.00

☀ Administration

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

Program Performance Measures	Actual FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Overall average rating from Internal Customer Satisfaction Survey	3.40	3.39	3.40	3.40	3.40

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	1,664,275	7.50

FY20 Recommended Changes	Expenditures	FTEs
Increase Cost: Westlaw Research and Library Subscription	20,000	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.	(51,096)	0.00
FY20 Recommended	1,633,179	7.50

Government Operations and Appeals

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.

Program Performance Measures	Actual FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Percent of appeals in the Appellate Court won	94.73%	87.00%	92.00%	92.00%	92.00%
Appeals lost	1	2	1	1	1
Appeals won	18	13	17	17	17

FY20 Recommended Changes	Expenditures	FTEs
FY19 Approved	481,863	2.75
Increase Cost: Cloud eDiscovery Application	20,000	0.00
Increase Cost: ProLaw Case Management Licenses	3,000	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.	(33,562)	0.00
FY20 Recommended	471,301	2.75

BUDGET SUMMARY

	Actual FY18	Budget FY19	Estimate FY19	Recommended FY20	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	4,525,565	4,201,208	4,703,851	4,313,025	2.7 %
Employee Benefits	1,449,359	1,319,035	1,453,517	1,352,094	2.5 %
County General Fund Personnel Costs	5,974,924	5,520,243	6,157,368	5,665,119	2.6 %
Operating Expenses	781,352	669,282	703,874	712,282	6.4 %
County General Fund Expenditures	6,756,276	6,189,525	6,861,242	6,377,401	3.0 %
PERSONNEL					
Full-Time	76	76	76	76	—
Part-Time	2	2	2	2	—
FTEs	44.75	43.50	43.50	43.20	-0.7 %
REVENUES					
Federal Financial Participation Reimbursements	287,358	250,000	250,000	250,000	—

BUDGET SUMMARY

	Actual FY18	Budget FY19	Estimate FY19	Recommended FY20	%Chg Bud/Rec
Other Charges/Fees	(693)	75,000	75,000	0	-100.0 %
Other Intergovernmental	45,691	45,630	48,230	45,630	—
County General Fund Revenues	332,356	370,630	373,230	295,630	-20.2 %

FY20 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY19 ORIGINAL APPROPRIATION	6,189,525	43.50
Other Adjustments (with no service impacts)		
Increase Cost: FY20 Compensation Adjustment	198,472	0.00
Re-align: Adjust Budget for County Attorney to Address Structural Budget Deficiencies (reduce lapse)	150,000	0.00
Increase Cost: Restore One-Time Lapse Increase	21,467	0.00
Increase Cost: Westlaw Research and Library Subscription [Administration]	20,000	0.00
Increase Cost: Cloud eDiscovery Application [Government Operations and Appeals]	20,000	0.00
Increase Cost: Retirement Adjustment	9,609	0.00
Increase Cost: ProLaw Case Management Licenses [Government Operations and Appeals]	3,000	0.00
Technical Adj: Adjusted Charges to Other Departments	0	0.20
Shift: Net-Gross Charge County Attorney Position to Police [Human Resources]	(71,833)	(0.50)
Decrease Cost: Annualization of FY19 Personnel Costs	(162,839)	0.00
FY20 RECOMMENDED	6,377,401	43.20

PROGRAM SUMMARY

Program Name	FY19 APPR Expenditures	FY19 APPR FTEs	FY20 REC Expenditures	FY20 REC FTEs
Insurance Defense Litigation	91,362	1.00	134,040	1.25
Health and Human Services	1,254,681	7.10	1,208,036	7.10
Finance and Procurement	450,435	4.00	1,185,191	11.50
Support Services	378,296	4.70	416,760	4.70
Human Resources	1,067,301	7.25	1,147,570	7.50
Zoning, Land Use and Economic Development	165,614	2.70	181,324	0.90
Public Interest Representation	635,698	6.50	0	0.00
Administration	1,664,275	7.50	1,633,179	7.50
Government Operations and Appeals	481,863	2.75	471,301	2.75
Total	6,189,525	43.50	6,377,401	43.20

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY19 Total\$	FY19 FTES	FY20 Total\$	FY20 FTES
COUNTY GENERAL FUND					
Board of Appeals	General Fund	68,344	0.50	73,328	0.50
Intergovernmental Relations	General Fund	27,653	0.30	28,807	0.30
Finance	General Fund	144,059	1.05	173,345	1.05
Finance	Risk Management (Self Insurance - ISF)	2,997,116	20.50	3,130,073	20.50
Human Resources	Employee Health Self Insurance	18,009	0.10	18,588	0.10
Correction and Rehabilitation	General Fund	126,412	1.00	134,728	1.00
Police	General Fund	0	0.00	71,933	0.50
Parking District Services	Bethesda Parking	23,534	0.10	24,200	0.10
Parking District Services	Silver Spring Parking	47,068	0.20	28,992	0.20
Health and Human Services	Grant Fund	194,294	2.40	194,294	2.40
Permitting Services	Permitting Services	217,598	1.00	223,810	1.00
Housing and Community Affairs	General Fund	87,614	0.50	92,655	0.50
Housing and Community Affairs	Montgomery Housing Initiative	175,228	1.00	182,143	1.00
Solid Waste Services	Solid Waste Disposal	135,067	0.75	139,411	0.75
Solid Waste Services	Solid Waste Collection	45,022	0.25	46,470	0.25
CIP	Capital Fund	465,494	3.00	466,548	2.80
NDA - Montgomery County Employee Retirement Plans	General Fund	18,009	0.10	18,588	0.10
NDA - Montgomery County Employee Retirement Plans	Employees Retirement Savings Plan (RSP)	18,009	0.10	18,588	0.10
NDA - Montgomery County Employee Retirement Plans	Retirement Fund (ERS)	75,638	0.42	78,070	0.42
NDA - Retiree Health Benefits Trust	Retiree Health Benefits Trust Fund	30,615	0.17	31,600	0.17
NDA - Retiree Health Benefits Trust	RSP-Disability Benefits (LTD2)	10,805	0.06	11,153	0.06
Cable Television Communications Plan	Cable TV	117,671	0.50	121,001	0.50
Total		5,043,259	34.00	5,308,325	34.30

FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

Title	FY20	FY21	FY22	FY23	FY24	FY25
COUNTY GENERAL FUND						
EXPENDITURES						
FY20 Recommended	6,377	6,377	6,377	6,377	6,377	6,377
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.						

FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

Title	FY20	FY21	FY22	FY23	FY24	FY25
Subtotal Expenditures	6,377	6,419	6,419	6,419	6,419	6,419

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