



# County Attorney

## APPROVED FY25 BUDGET

\$10,489,686

## FULL TIME EQUIVALENTS

50.75

 JOHN MARKOV, COUNTY ATTORNEY

## MISSION STATEMENT

The mission of the Office of the County Attorney (OCA) is to act as the Chief Legal Officer of Montgomery County Government and to conduct all its legal business.

## BUDGET OVERVIEW





The total approved FY25 Operating Budget for the Office of the County Attorney is \$10,489,686, an increase of \$2,866,038 or 37.59 percent from the FY24 Approved Budget of \$7,623,648. Personnel Costs comprise 87.16 percent of the budget for 78 full-time position(s) and one part-time position(s), and a total of 50.75 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 12.84 percent of the FY25 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**

## INITIATIVES

-  Shift tax-supported and non-tax-supported chargebacks of attorneys' time from the Departments of Finance, Police, Correction and Rehabilitation, Board of Appeals, Housing and Community Affairs, Health and Human Services, Risk Management, Cable Television Communications Plan, and the Compensation and Benefits Non-Departmental Account to simplify and streamline budgeting practices.
-  Implement KnowledgeLake, a searchable online imaging system, which will contain hearings files to make OCA less reliant on paper files and more efficient. This new system will provide greater file security, increase productivity, streamline access, and reduce staff time needed to archive paper files.
-  Coordinate with Technology and Enterprise Business Solution's (TEBS) Geographic Information System (GIS) Unit to enhance the GIS portal to allow the public to see the location of all citations issued in Montgomery County. Users will be able to click on a map to view the geographical location of issued citations.
-  Provide continuity and knowledge preservation for their workforce through several preservation projects that will include memorializing and cataloging legal resources on OCA's intranet site for new attorneys on a variety of topics that arise with

frequency, such as legislation review, Maryland Public Information Act, Open Meetings Act, and the County's ethics law. OCA will also create a readily accessible appellate brief bank to save time when preparing appellate briefs.

## INNOVATIONS AND PRODUCTIVITY IMPROVEMENTS

-  Provide funds to implement a Health Insurance Portability and Accountability Act (HIPAA) audit to ensure continued compliance with Federal law.
-  Collaborate with the Office of Management and Budget's (OMB) Shared Services Team to implement an agreement intake and approval workflow encompassing all parties to allow departments and attorneys to collaboratively review, track, and approve non-procurement contracts and MOUs throughout their life cycles. This is an adjunct to the Non-Procurement Contract Portal OCA launched in FY22 (in accordance with Administrative Procedure 2-4) and the MOU Review Portal OCA launched last year.
-  Continue providing and expanding ongoing training initiatives for County employees on a wide variety of topics, including the Open Meetings Act, the Maryland Public Information Act, and use of social media on behalf of the County.

## PROGRAM CONTACTS

Contact Carolyn Kilgariff of the Office of the County Attorney at 240.777.6766 or Veronica Jaua of the Office of Management and Budget at 240.777.2782 for more information regarding this department's operating budget.

## PROGRAM 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 FY24 estimates reflect funding based on the FY24 Approved Budget. The FY25 and FY26 figures are performance targets based on the FY25 Approved Budget and funding for comparable service levels in FY26.

## PROGRAM DESCRIPTIONS

### Administration

Under this program, administrative support, financial and operational management, and oversight is provided in support of the Litigation Program and the General Counsel Program. This program also provides administrative, research, and technical guidance and support to divisions within the department, allowing for an equitable distribution of work assignments, cross-training of staff, and fair evaluations of staff performance. The program provides administrative support to the Risk Management Fund, Revenue Authority, and Solid Waste Fund.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Average quality of service rating from department customers responding to Internal Customer Satisfaction Survey (1-4 scale) <sup>1</sup>	3.55	3.33	3.48	3.48	3.48

<sup>1</sup> OCA is the second highest for the quality of service rating in 2023.

FY25 Approved Changes	Expenditures	FTEs
<b>FY24 Approved</b>	<b>2,259,647</b>	<b>12.00</b>

FY25 Approved Changes	Expenditures	FTEs
Decrease Cost: Technical Adjustment	(14,254)	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.	724,202	0.00
<b>FY25 Approved</b>	<b>2,969,595</b>	<b>12.00</b>

## General Counsel

This program provides general counsel services to the agencies and instrumentalities of the County government. These general counsel services include providing legal advice to the Executive and Legislative Branches of County government; review of legislation and transactions for legal sufficiency; collection of debts owed to the County; representation of the County in child welfare cases; representation of the County in appellate cases; and representation of the County before administrative agencies.

Program Performance Measures	Actual	Actual	Estimated	Target	Target
	FY22	FY23	FY24	FY25	FY26
Number of new adoption petitions filed	20	38	27	27	27
Number of new termination of parental rights (TPR) petitions filed	38	34	39	39	39
Number of new children in need of assistance (CINA) petitions filed <sup>1</sup>	99	101	105	105	105
Number of children in need of assistance (CINA) or guardianship hearings	2,210	2,228	2,270	2,270	2,270
Number of adoptions granted	20	29	24	24	24
Number of termination of parental rights (TPR) granted <sup>2</sup>	33	9	27	27	27
Ratio of total number of termination of parental rights (TPR) filed and adoption petitions filed and total granted <sup>3</sup>	91.4%	100.0%	100.0%	100.0%	100.0%
Number of children in need of assistance (CINA) cases closed <sup>4</sup>	100	90	120	120	120
Percent of appeals in the Appellate Court won	80%	85%	63%	63%	63%

<sup>1</sup> Following the enactment of the Federal Families First Prevention Services Act of 2018, Child Welfare Services (CWS) is mandated to provide further enhanced efforts to maintain children and families in the home and avoid removal and placement in foster care.

<sup>2</sup> Total TRP petition filed is 34 and total denied is zero. Total pending is 14. Total granted is 9. Total withdrawn is 11. Even the number of granted is lower due to number of cases withdrawn and pending, but total denied is zero.

<sup>3</sup> The percentage granted in FY23 is result of number of cases still pending. Total TPR/Adoption petition filed is 72 and total denied is zero. Total pending is 23. Total granted is 38. Total withdrawn is 11. The percentage of granted is 100% after deducting withdrawn and pending.

<sup>4</sup> The number of CINA cases closed is outside the exclusive control of OCA or CWS. Once a CINA petition is filed with the Juvenile Court, the Court reviews the administrative actions of CWS in the context of active contested litigation and only closes a CINA case when permanency for the child (reunification, adoption, custody & guardianship, Another Planned Permanent Living Arrangement) is achieved.

FY25 Approved Changes	Expenditures	FTEs
<b>FY24 Approved</b>	<b>5,364,001</b>	<b>31.60</b>
Shift: Move Tax-Supported and Non-Tax Supported Chargebacks from User Departments to the Office of the County Attorney	1,053,651	5.15
Add: HIPAA Compliance Audit	504,000	0.00
Restore: One-time lapse increase	23,423	0.00
Shift: Technical Adjustment	0	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.	439,531	0.00
<b>FY25 Approved</b>	<b>7,384,606</b>	<b>37.75</b>

## Litigation

Through this program, OCA represents the County (and other members of the Self-Insurance Fund) before all courts and

administrative agencies in which claims for relief are sought in connection with alleged wrong-doing by members of the Self-Insurance Fund and their employees. The Litigation program also provides the County with legal representation in State and Federal courts in connection with legal actions brought by the County to enforce County law. For FY25, all attorneys and most of the staff in this program are fully charged to the Self-Insurance Fund (SIF).

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of workers' compensation hearings	1,956	1,653	1,775	1,775	1,775
Code citations processed	4,927	3,580	3,600	3,600	3,600
Total prayer amount demanded by plaintiff (Self-Insurance Fund only) (\$000) <sup>1</sup>	\$128,419	\$55,204	\$124,178	\$124,178	\$124,178
Total number of settlements (Self-Insurance Fund only)	22	24	21	21	21
Total judgment amount paid to plaintiff by the County (Self-Insurance Fund only) (\$000) <sup>2</sup>	\$47.46	\$953.64	\$348.00	\$348.00	\$348.00
Percent of wins in Self-Insurance Fund litigation <sup>3</sup>	100%	86%	95%	95%	95%
Number of judgments in the County's favor (Self-Insurance Fund only)	29	30	31	31	31
Number of judgments against the County (Self-Insurance Fund only) <sup>4</sup>	4	7	4	4	4
Ratio of debt collected to amount referred to the department for collection	72%	97%	73%	73%	73%
Ratio of cost of debt collection to revenue	5%	4%	6%	6%	6%
Code enforcement collected (\$000)	\$491	\$431	\$438	\$438	\$438
Ratio of wins to total code enforcement cases	99.8%	99.8%	99.0%	99.0%	99.0%
Debt collection (\$000)	\$11,076	\$14,213	\$10,212	\$10,212	\$10,212
Forfeitures collected (\$000) <sup>5</sup>	\$34.7	\$135	\$240.7	\$240.7	\$240.7
Total net gain to the County in worker's compensation cases (\$000) <sup>6</sup>	\$5,737	\$4,798	\$5,397	\$5,397	\$5,397

<sup>1</sup> The amount of money Plaintiffs said they were seeking decreased. The Maryland Rules now provide that when a Plaintiff files suit in Circuit Court to recover damages that are more than \$75,000, their complaint should not specify the entire amount of damages they seek. Instead, their Complaint should simply say that their damages exceed \$75,000 in value. While this Rule has been in effect since 2014, it has taken a while for Plaintiffs' attorneys to limit their prayer amounts to "in excess of \$75,000" but most attorneys in Circuit Court are now doing so.

<sup>2</sup> The judgment amounts in FY23 increased from those in FY21 and FY22 in response to the court's resumption of full time operations after two years of Covid closures and delays. The judgments were due to some "catch up" trials in FY23. Additionally, there was one large judgment for attorney fees in a case where the jury found the County had discriminated against an employee due to her disability. While the jury awarded the Plaintiff herself zero damages, because of the finding of discrimination against the County, the Court awarded the Plaintiff a portion of her claimed attorney fees in the amount of \$837,925.49.

<sup>3</sup> "Win" includes verdicts in favor of the plaintiff where the County pays a judgment below last demands.

<sup>4</sup> Six of the seven judgments paid in FY23 were below last demand, which is still in the County's favor.

<sup>5</sup> The lower number in FY22 is due to the court closure and backlog from COVID-19: both the delay in filing them due to the court closure for the corresponding criminal cases and the delay in getting them set in for hearings.

<sup>6</sup> The Maryland Workers' Compensation Commission issues awards on the nature and extent of an employee's job related injuries. Independent medical evaluations are performed by the injured worker's physician and the employer/insurer's physician. The Commission's award is typically a number between the employee's and employer/insurer's evaluation. If the amount the Commission determines that the County must pay is below the average of the two evaluations, that is considered a net gain to the County.

FY25 Approved Changes	Expenditures	FTEs
<b>FY24 Approved</b>	<b>0</b>	<b>0.00</b>
Shift: Move Tax Supported Chargeback from Self Insurance Fund to the Office of the County Attorney	135,485	1.00
<b>FY25 Approved</b>	<b>135,485</b>	<b>1.00</b>

## BUDGET SUMMARY

	Actual FY23	Budget FY24	Estimate FY24	Approved FY25	%Chg Bud/App
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### COUNTY GENERAL FUND

## BUDGET SUMMARY

	Actual FY23	Budget FY24	Estimate FY24	Approved FY25	%Chg Bud/App
<b>EXPENDITURES</b>					
Salaries and Wages	5,302,654	5,439,162	5,888,291	7,341,820	35.0 %
Employee Benefits	1,325,069	1,346,831	1,488,574	1,800,649	33.7 %
<b>County General Fund Personnel Costs</b>	<b>6,627,723</b>	<b>6,785,993</b>	<b>7,376,865</b>	<b>9,142,469</b>	<b>34.7 %</b>
Operating Expenses	736,836	837,655	817,819	1,347,217	60.8 %
<b>County General Fund Expenditures</b>	<b>7,364,559</b>	<b>7,623,648</b>	<b>8,194,684</b>	<b>10,489,686</b>	<b>37.6 %</b>
<b>PERSONNEL</b>					
Full-Time	79	78	78	78	—
Part-Time	1	1	1	1	—
FTEs	42.80	43.60	43.60	50.75	16.4 %
<b>REVENUES</b>					
Other Charges/Fees	211	0	0	0	—
Federal Financial Participation Reimbursements	147,471	250,000	250,000	250,000	—
Other Intergovernmental	45,630	45,630	45,630	45,630	—
<b>County General Fund Revenues</b>	<b>193,312</b>	<b>295,630</b>	<b>295,630</b>	<b>295,630</b>	<b>—</b>

## FY25 APPROVED CHANGES

	Expenditures	FTEs
<b>COUNTY GENERAL FUND</b>		
	<b>FY24 ORIGINAL APPROPRIATION</b>	<b>7,623,648 43.60</b>
<b><u>Changes (with service impacts)</u></b>		
Add: HIPAA Compliance Audit [General Counsel]	504,000	0.00
<b><u>Other Adjustments (with no service impacts)</u></b>		
Shift: Move Tax-Supported and Non-Tax Supported Chargebacks from User Departments to the Office of the County Attorney [General Counsel]	1,053,651	5.15
Increase Cost: FY25 Compensation Adjustment	356,268	0.00
Increase Cost: Annualization of FY24 Compensation Increases	344,137	0.00
Increase Cost: Annualization of FY24 Personnel Costs	341,383	0.00
Shift: Move Tax Supported Chargeback from Self Insurance Fund to the Office of the County Attorney [Litigation]	135,485	1.00
Increase Cost: Lapse Adjustment	121,877	0.00
Restore: One-time lapse increase [General Counsel]	23,423	0.00
Increase Cost: Printing and Mail	179	0.00
Shift: Technical Adjustment [General Counsel]	0	1.00
Decrease Cost: Retirement Adjustment	(111)	0.00
Decrease Cost: Technical Adjustment [Administration]	(14,254)	0.00
	<b>FY25 APPROVED</b>	<b>10,489,686 50.75</b>

## PROGRAM SUMMARY

Program Name	FY24 APPR Expenditures	FY24 APPR FTEs	FY25 APPR Expenditures	FY25 APPR FTEs
Administration	2,259,647	12.00	2,969,595	12.00
General Counsel	5,364,001	31.60	7,384,606	37.75
Litigation	0	0.00	135,485	1.00
<b>Total</b>	<b>7,623,648</b>	<b>43.60</b>	<b>10,489,686</b>	<b>50.75</b>

## CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY24 Total\$	FY24 FTEs	FY25 Total\$	FY25 FTEs
<b>COUNTY GENERAL FUND</b>					
Board of Appeals	General Fund	95,439	0.50	0	0.00
Finance	General Fund	162,058	1.05	0	0.00
Finance	Risk Management (Self Insurance - ISF)	3,393,487	21.00	3,641,924	20.00
Human Resources	Employee Health Self Insurance	16,228	0.10	17,945	0.10
Correction and Rehabilitation	General Fund	192,439	1.00	0	0.00
Police	General Fund	201,405	1.00	0	0.00
Parking District Services	Bethesda Parking	51,783	0.30	60,447	0.30
Parking District Services	Silver Spring Parking	35,653	0.20	39,565	0.20
Health and Human Services	General Fund	157,122	1.50	60,360	1.00
Health and Human Services	Grant Fund	194,294	2.40	194,294	2.40
Permitting Services	Permitting Services	153,944	1.00	173,979	1.00
Housing and Community Affairs	General Fund	104,059	0.50	0	0.00
Housing and Community Affairs	Montgomery Housing Initiative	208,118	1.00	165,530	1.00
Recycling and Resource Management	Solid Waste Disposal	155,354	0.75	166,909	0.75
Recycling and Resource Management	Solid Waste Collection	51,785	0.25	55,636	0.25
CIP	Capital Fund	185,214	1.00	0	0.00
NDA - Montgomery County Employee Retirement Plans	General Fund	16,228	0.10	0	0.00
NDA - Montgomery County Employee Retirement Plans	Employees Retirement Savings Plan (RSP)	16,228	0.10	17,945	0.10
NDA - Montgomery County Employee Retirement Plans	Retirement Fund (ERS)	68,159	0.42	75,368	0.42
NDA - Retiree Health Benefits Trust	Retiree Health Benefits Trust Fund	27,588	0.17	30,506	0.17
NDA - Retiree Health Benefits Trust	RSP-Disability Benefits (LTD2)	9,737	0.06	10,767	0.06
Cable Television Communications Plan	Cable TV	104,970	0.50	0	0.00
<b>Total</b>		<b>5,601,292</b>	<b>34.90</b>	<b>4,711,175</b>	<b>27.75</b>

## FUNDING PARAMETER ITEMS

CC APPROVED (\$000S)

Title	FY25	FY26	FY27	FY28	FY29	FY30
<b>COUNTY GENERAL FUND</b>						
<b>EXPENDITURES</b>						
<b>FY25 Approved</b>	<b>10,490</b>	<b>10,490</b>	<b>10,490</b>	<b>10,490</b>	<b>10,490</b>	<b>10,490</b>
No inflation or compensation change is included in outyear projections.						
<b>Elimination of One-Time Items Approved in FY25</b>	<b>0</b>	<b>(626)</b>	<b>(626)</b>	<b>(626)</b>	<b>(626)</b>	<b>(626)</b>
Items recommended for one-time funding in FY25, including a HIPAA compliance audit and a decrease in lapse.						
<b>Labor Contracts</b>	<b>0</b>	<b>182</b>	<b>182</b>	<b>182</b>	<b>182</b>	<b>182</b>
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
<b>Subtotal Expenditures</b>	<b>10,490</b>	<b>10,046</b>	<b>10,046</b>	<b>10,046</b>	<b>10,046</b>	<b>10,046</b>

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