

Department of LAW

Office of the County Attorney

2023 Executive Proposed Budget

Core Programs & Functions

- The Law Department, Office of the County Attorney, is charged by law to serve as legal counsel to the County Executive, the Board of Legislators, and to the County and all its constituent departments, agencies and boards.
- Under the direction and supervision of the County Attorney, the Law Department is currently organized into four bureaus:
 - Litigation Bureau,
 - Appeals, Opinion and Legislation Bureau
 - Contracts and Real Estate Bureau
 - Family Court Bureau.
- Each bureau has the responsibility for handling specific types of legal matters on behalf of the County, including providing legal advice to County officials and employees in order to assist them on various projects the County is undertaking or contemplating undertaking; preparation and review of legal documents, drafting of legislation; researching and preparing legal opinions, and advocating on behalf of the County in Family court, trial and appellate courts, including special administrative proceedings.
- The Office of Risk Management is responsible for managing a comprehensive risk management program for the County, which includes the formation, implementation and monitoring of the policies as they relate to insurance, safety, claims and the settling of losses.
- The office continually determines and analyzes all casualty risks of loss to which the County's assets are exposed and evaluates such risks to determine whether they can be eliminated or minimized; investigates and manages claims of general, automobile, public officials and malpractice liability and administers the County's self insurance program.

Budget Summary

ITEM	2022	2023
Operating Positions	91	91
Trust Positions		
TOTAL POSITIONS	91	91
Personal Service	\$10,304,890	\$11,134,323
Equipment	\$53,135	\$68,532
Materials & Supplies	\$70,435	\$68,800
Contractual Expenses	\$3,344,784	\$3,058,275
Inter-Departmental Charges	\$1,073,417	\$1,105,072
TOTAL EXPENDITURES	\$14,846,661	\$15,435,002

Budget Summary

ITEM	2022	2023
Inter-Departmental Revenue	\$11,807,597	\$12,191,955
Departmental Revenue	\$3,748,771	\$3,640,107
State & Federal Aid		
TOTAL REVENUE	\$15,556,368	\$15,832,062
DEPARTMENT TAX LEVY	\$-709,707	\$-397,060

New Initiatives & Highlights

- Increased Diversity in Hiring over the last four years.
- In conjunction with the twenty-three Child Victims Act lawsuits for which liability insurance policy coverage was discovered in ancient County records, an exhaustive analysis of numerous policy documents was conducted. A thirty-three-page compendium, by year and insurance policy, inclusive of effective and expiration dates, policy limits of liability and other information, was prepared for all liability insurance policies issued to the County from 1958 -1986. Negotiations with the dominant insurance company, Liberty Mutual, were initiated and consummated to procure coverage commitments for all lawsuits for which coverage was applicable. Liberty Mutual appointed outside counsel to defend the County in all of the lawsuits when the County had Liberty Mutual insurance coverage. The County Law Department is defending the County in the remaining Child Victims Act lawsuits with allegations after 1986.
- A dedicated attorney was assigned to handle and monitor all Liberty Lines bus accident cases. The entire portfolio of open Liberty Lines bus accident cases -- currently 121 -- was re-examined to check current litigation status and confirm proper handling by outside counsel. In addition, all open cases were individually analyzed to set individual case reserves. In 2022, seven cases have been settled and submitted to either the Board of Legislators or the Board of Acquisition and Contracts for settlement approval. The internal process for the processing of Liberty Lines bus accident Notices of Claim was revised and the dedicated attorney now participates in the weekly Liberty Lines meetings to review all accidents that occurred during the past week.
- The 6-N fund continues to see favorable results in its reserve liabilities, with savings continued to be seen in older, more mature years. That said, and not at all unique to the County, recent economic market downturns have largely impacted assets across all industries, especially insurance/self-insureds. While the unallocated reserve in the fund has decreased from last year, the recent Court decision granting Summary Judgment to the County in the Metro-North cases involving a train accident in Valhalla in 2015, allowed \$4,250,000 in reserves to be taken down. Accordingly, the unallocated reserve in the fund stands at \$4.61 million. Even though there has been a decrease in the unallocated reserve, we believe there remains a large amount of equity in 6N based upon the eventual bounce back in assets when the markets turn. We are contributing \$1,000,000 to the 6N Fund 2023 proposed budget as recommended by the County's Actuary.

New Initiatives & Highlights

- Litigated to settlement a claim for indemnity and defense against Unity Mechanical Inc. and its insurer Netherlands Insurance Company to obtain indemnification of a settlement for \$2.85 million for injuries to a United Mechanical employee. The County obtained partial summary judgment against the defendants. Ultimately, the matter settled with a payment to the County of \$3.5 million which included the underlying settlement, the County's attorneys' fees and interest. This will benefit the 6N fund.
- Implemented new guardian ad litem program to assist cognitively impaired respondents in residential eviction proceedings.
- Gained the dismissal of twenty-three federal and thirty-eight state lawsuits through motion practice, from August 1, 2021 to August 1, 2022.
- Continued to litigate issues related to modifying terms of a deed and trust relating to restrictions on use of Merestead and availability of trust funds for needed infrastructure work on the property.
- More intensive evaluation of cases for mediation and/or settlement.
- More intensive enforcement of defense and indemnity rights of the County.
- More intensive enforcement of rights under and with surety bonds.
- Defending the County in several lawsuits brought to challenge the County's Reproductive Health Care Facilities Access law.
- Drafted the law implementing the County's redistricting plan following the 2020 census.
- Continued to monitor and work with outside counsel on the litigation and settlement of claims against the manufacturers and distributors of opioids seeking damages for treatment, education, prevention and other measures as a result of the opioid epidemic in the County. To date, the County has received \$4,849,869.52 . Additional distributions are expected over the next ten to fifteen years.

New Initiatives & Highlights

- New York State Social Services Law enables the County to procedurally enforce its substantive right to pursue repayment from the responsible third parties by the placement of a lien for public assistance on personal injury claims and suits against third parties to the extent of the expenditures made on the recipient's behalf. The Social Services Law also authorizes the placement of claims on estate assets for any assistance received by the decedent ten years prior to the date of death. The Department of Social Services recovery is realized when the claim of the public assistance recipient is resolved and/or when the estate is settled by the executor or administrator. The Law Department's pursuit of these liens and/or claims resulted in the recovery of \$2,585,560.52 in Medicaid expenditures; \$104,324.24 in public assistance funds from August 1, 2021 to July 31, 2022.
- Worked with the administration to establish the Independent Office of Assigned Counsel as required by Chapter 186 of the Laws of Westchester County including: appointment of Board of Directors, assisting in advertising and hiring of an Administrator and other Office personnel, assisting in scheduling of Board of Director meetings, obtaining office space in White Plains, establishing a County electronic vouchering systems for payments to 18b attorneys and working with the New York State Office of Indigent Legal Services on the transition of funding and duties from the Legal Aid Society of Westchester County to the Independent Office of Assigned Counsel.
- Drafted legislation to protect the health, safety and security of the residents of Westchester County, including legislation related to:
 - Amending County Identification Card law;
 - Amending various Laws of Westchester County to change language regarding individuals with intellectual/developmental disabilities and to use person-centered language;
 - Clarifying retention of outside counsel;
 - Requiring posting of minimum and maximum salaries in job listings;
 - Food Allergy Restaurant Safety law;

New Initiatives & Highlights

- Requiring local municipalities to report all incidents involving conduct motivated by actual or perceived membership in a protected class;
- Requiring disclosure of Safety Risks related to Weapons or Firearms,
- Reproductive Health Care Facilities Access;
- Requiring notification to prospective tenants of flooding history of their potential residences;
- Authorizing use of videoconferencing for meetings of the Board of Legislators and Committees and the public bodies of the County Executive;
- Establishing the County Office of Housing Counsel to provide free legal assistance in housing and eviction proceedings for tenants with income below a certain level;
- Building Code enforcement;
- Employment protection for pregnancy related conditions;
- Single Use Foodware;
- Tax Exemptions for low income Senior Citizens and Disabled persons;
- Exempting residential energy sources and services from County sales tax;
- Civil service exam fee exemption for Veterans;
- Determination of Non-Responsible Bidders.

New Initiatives & Highlights

- With respect to COVID-19, provided legal counsel to the Department of Health regarding labor and other operational issues relating to the COVID-19 response, interpreting and implementing State Department of Health guidelines and regulations and the Governor's Executive orders, and provided advice on masking, vaccinations, schools, workplace practices, enforcement, state and federal leave policies, HIPAA, and related matters.
- Successful in the following appeals before the Second Circuit Court of Appeals and New York State Supreme Court, Appellate Division Second Department:
 - Bannon v. COW/Angelo v. COW/PBA v. COW (workers' comp equivalent cases)
 - Old Crompond Road v. County
 - Matter of Malazah W.
 - Hines v. Westchester
 - Tracy Scott v. Westchester
 - Matter of Abel J.R.
 - Klass v. Hogue et al.
- Secured dismissal of federal breach of contract claim/declaratory judgment and all but one duty-of-good-faith-and-fair-dealing claims brought by airport lessee; White Plains Aviation Partners ("Million Air") v. COW,. Currently engaged in discovery on remaining claim; and opposing new claim under the Lease seeking to build a 78,000 square foot hangar.
- Engaged in litigation with charter broker/operators at Airport in Blade/JSX/Delux/XO v. COW, seeking to enforce \ the County's Terminal Use Procedures. ; Negotiated stipulation for plaintiffs to withdraw damages claims in exchange for withdrawal of County's state court lawsuit; This case is currently in discovery

New Initiatives & Highlights

- Responsible for the reconstitution of the County's Vehicle Accident Review Board (VSRB w. Working with Risk Management, the Law Department reviewed and revised the outdated Procedures Manual that govern the meetings and practices of the VSRB.
- Continued to supervise outside counsel in the PFAS litigation referred for pretrial purposes to the U.S. District Court for the District of South Carolina.
- Provided extensive legal advice and counsel, research and drafting services to the Department of Information Technology in connection with implementing the County's Voice Radio Communications Systems Replacement Project. Attendance at weekly Radio Project meetings and monthly Steering Committee meetings. Negotiated, drafted and worked on agreements to obtain the necessary real property rights to implement Stages 1 and 2 for the Project, including the sites located at Summit Avenue, Benefield Boulevard, Wilmot Road, Winged Foot Site, Sun Valley Drive, and Fox Lane. Provided legal advice and counsel on numerous issues concerning System Acceptance and Final System Acceptance for Stages 1 and 2 of the Project. Provided legal advice and counsel on issues concerning Stage 3 of the Project, including the legal steps necessary to undertake Stage 3, the financing of Stage 3 and site selection for Stage 3.

New Initiatives & Highlights

- Provided legal advice, drafted legislation, drafted and negotiated with counsel for the New York Medical College in connection with a 99-year lease of approximately 17.46 acres of County-owned property in the Grasslands Campus to be used exclusively for the administration and operation of a duly licensed and accredited health sciences college or university.
- Provided legal advice, drafted and negotiated multiple funding agreements and IMAs with counsel for the New York State Department of Environmental Conservation, New York State Environmental Facilities Corporation and City of Mt. Vernon in connection with the funding, design and construction of sanitary sewer and storm sewer system improvements within the City of Mt. Vernon.
- Participated in extensive discussions and consideration with the Department of Information Technology, and provided legal advice, related to the procurement and future implementation of electronic signatures for contracts, which could be used in order to simplify and expedite those processes.
- Provided legal advice and assistance in connection with the negotiation of agreements with Community Capital New York, for the transfer of American Rescue Plan Act funds to certain local businesses and not for profit corporations grantees affected by the COVID-19 pandemic who qualified under the Business FIRST and the Launch1000 Programs.
- Provided legal advice and assistance in connection with the negotiation of contracts and the implementation of eight (8) Mobile Crisis Response Teams, comprised of specialized trained staff with experience in addressing mental health, developmental disabilities, substance abuse and co-occurring issues which do not involve known threats of violence or medical emergencies, in order to address and assist police in addressing a wide range of behavioral health related crisis including conflict resolution, suicide threats, wellness checks, substance misuse, and more, relying on a trauma-informed de-escalation and harm reduction techniques. This initiative (“Project Alliance Initiative”) is part of the County’s far reaching plan to “Reimagine Policing” in Westchester County.

New Initiatives & Highlights

- Negotiated contract with New York City Bar Association to obtain flat fee for CLE training courses.
- Endeavored to expand the community outreach program related to reducing youth crime, by fostering long-term, proactive partnerships among the Law Department, law enforcement, the community and public and private organizations. Presented at various schools and community network meetings and formulated partnerships with various Youth Courts. Aided the Mt. Vernon Police Department with designing their own Youth Court. Participated in National Night Out Against Crime events throughout the County.