

HHS COMMITTEE #1  
May 2, 2018

Worksession

MEMORANDUM

April 30, 2018

TO: Health and Human Services Committee  
FROM: Jean C Arthur, Legislative Analyst *JCA*  
SUBJECT: **Worksession: FY19 Operating Budget: Office of Human Rights**  
PURPOSE: Review and make recommendations on the FY19 Operating Budget for the Office of Human Rights

*Those expected to attend this worksession include:*  
James Stowe, Director, Office of Human Rights  
Phil Weeda, Office of Management and Budget (OMB)

Relevant pages from the FY19 Recommended Operating Budget are attached on ©1-6.

**Summary**

The County Executive's recommendation for the Office of Human Rights maintains the same level of service as the current fiscal year. The very small increase in the appropriation request over FY18 is due to compensation adjustments.

**Council Staff Recommendation:** Approve the budget for the Office of Human Rights as recommended by the County Executive.

**OVERVIEW**

For FY19, the County Executive recommends a total of \$1,247,047 for OHR, an increase of \$4,234 or .34 percent from the FY18 Approved Budget of \$1,242,813. The budget funds eight full-time positions for a total of 8.60 FTEs.

	<i>FY17 Actual</i>	<i>FY18 Approved</i>	<i>FY19 Recommended</i>
<b><i>Expenditures by fund</i></b>			
General Fund	\$1,179,630	\$1,242,813	\$1,247,047
<b><i>Expenditures by type</i></b>			
Personnel Cost	\$1,030,788	\$1,077,469	\$1,086,410
Operating Expenses	\$148,842	\$165,344	\$160,637
<b><i>Total Expenditures</i></b>	<b>\$1,179,630</b>	<b>\$1,242,813</b>	<b>\$1,247,047</b>
<b><i>Positions</i></b>			
Full-Time	8	8	8
Part-Time	0	0	0
<b><i>FTEs</i></b>	<b>8.6</b>	<b>8.6</b>	<b>8.6</b>

## DISCUSSION ISSUES

### Bill 60-14, Human Rights and Civil Liberties - Earned Sick and Safe Leave

Councilmembers Navarro and Leventhal recently sent a memorandum (see ©9-10) to the Office of Human Rights concerning the implementation of this legislation. Councilmembers raised issues with the intake form and educating both employers and employees about the requirements of the law and how to file a complaint.

The director of the Office of Human Rights reports that they have made changes to the complaint form to include a specific option for sick and safe leave. The form is also available online in both English and Spanish. The director notified Councilmenbers that it provides a copy of the law and a fact sheet to employers, which is also available to employees. Additionally, the office of Human Rights conducts workshops each year which are attended by employers and employees.

Director James Stowe is prepared to talk to the Committee about his office's response to the concerns raised in the memorandum.

### Other Legislation

In recent years, the Council has adopted several laws with the Office of Human Rights having the responsibility of enforcing them. Council staff has asked the director of the Office of Human Rights to brief the Committee on the status of enforcement of the bills below.

- Bill 24-15, Minimum wage – Tipped employee. Among other provisions, Bill 24-15:
  - modifies the amount of the tip credit an employer can use to calculate the minimum wage for a tipped employee working in the County;
  - requires an employer of a tipped employee to submit quarterly wage reports; and
  - requires the Executive to establish an online reporting system for quarterly wage reports.

The Council approved in FY17 and FY18, \$150,000 to the OHR budget and \$14,400 to the Department of Technology Services budget to develop an application for electronic reporting system for compliance with the law. OHR manages the reporting function of the law; Maryland Department of Labor, Licensing and Regulation manages the penalty process of the general minimum wage law.

- Bill 19-12, Human Rights and Civil Liberties – Displaced Service Workers – requires certain contractors to retain service workers for a transition period. That bill became effective on December 1, 2012 and provides for enforcement by OHR and the Human Rights Commission.
- Bill 36-14, Human Rights and Civil Liberties – Fair Criminal Records Screening Standards – among other things, prohibits certain employers from performing a criminal background check or otherwise inquiring into an applicant’s criminal record before the conclusion of a first interview and provides for enforcement by OHR and the Human Rights Commission. That bill became effective on January 1, 2015.
- Bill 51-14, Discriminatory Employment Practices - Retaliation for Wage Disclosure – Prohibited. This bill prohibits an employer from retaliating against an employee for certain disclosures of an employee or another employee. This law went into effect on May 13, 2015 and is being enforced by OHR and the Human Rights Commission.
- Bill 60-14, Human Rights and Civil Liberties - Earned Sick and Safe Leave – requires certain employers in the County to provide earned sick and safe leave to certain employees working in the County. It went into effect on October 1, 2016 and is to be enforced by OHR and the Human Rights Commission.



# Human Rights

**RECOMMENDED FY19 BUDGET**  
**\$1,247,047**

**FULL TIME EQUIVALENTS**  
**8.60**

☼ **JAMES STOWE, DIRECTOR**

## **MISSION STATEMENT**

The mission of the Office of Human Rights is to enforce Federal, State, and County anti-discrimination laws in housing, commercial real estate, employment, public accommodation and intimidation; and promote increased understanding and tolerance among diverse groups.

## **BUDGET OVERVIEW**

The total recommended FY19 Operating Budget for the Office of Human Rights is \$1,247,047, an increase of \$4,234 or 0.34 percent from the FY18 Approved Budget of \$1,242,813. Personnel Costs comprise 87.12 percent of the budget for eight full-time position(s) and no part-time position(s), and a total of 8.60 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 12.88 percent of the FY19 budget.

## **LINKAGE TO COUNTY RESULT AREAS**

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

- ◆ **A Responsive, Accountable County Government**
- ◆ **Vital Living for All of Our Residents**

## **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.

## **ACCOMPLISHMENTS**

- ☒ Held the One-Stop Fair Housing workshop for housing providers, realtors, rental agents, and real estate professionals with a focus on local, State, and Federal fair housing laws.

- ☒ Held the One-Stop Fair Employment workshop for County private and public employers with a focus on new local laws and State and Federal employment case law.
- ☒ Coordinated the 5<sup>th</sup> Annual Friendship Unity Picnic with the Committee on Hate Violence, advocating for community unity across racial, religious, and cultural lines; building awareness of the Partnership Fund which supports victims of hate violence incidents. The event was attended by over 2,500 participants.
- ☒ Successfully mediated and closed complaints consistent with performance measures requirements.

## PROGRAM CONTACTS

Contact James Stowe of the Office of Human Rights at 240.777.8490 or Phil Weeda of the Office of Management and Budget at 240.777.2780 for more information regarding this department's operating budget.

## PROGRAM DESCRIPTIONS

### ☼ Compliance

This program investigates and resolves formal complaints of discrimination in employment; housing; commercial and residential real estate transactions; public accommodations and intimidations through a formal complaint process or mediation.

Program Performance Measures	Actual FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Percent of cases that have completed their investigation within 15 months	94%	95%	95%	100%	100%
Percent of cases that have a Letter of Determination issued within 30 days of completed investigation by investigator	99%	100%	100%	100%	100%
Percent of referred cases that are mediated successfully	57%	50%	50%	50%	50%
Percent reduction (or increase) in the average closeout time of cases (formal complaints) over the prior year	5%	5%	5%	5%	5%
Percent of cases in backlog status (cases not closed within 15 months)	7%	5%	5%	0%	0%

FY19 Recommended Changes	Expenditures	FTEs
<b>FY18 Approved</b>	<b>857,858</b>	<b>6.00</b>
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	28,768	0.00
<b>FY19 Recommended</b>	<b>886,626</b>	<b>6.00</b>

### ☼ Community Mediation and Public Affairs

This program supports and promotes the Human Rights Commission and Committee on Hate Violence on their outreach and education efforts. Participate in, or in partnership with other local/State/Federal offices, conduct various forums to promote increased understanding and tolerance among diverse groups.

Program Performance Measures	Actual FY16	Actual FY17	Estimated FY18	Target FY19	Target FY20
Overall satisfaction of the Commissioners with the HRC's advocacy for human and civil rights issues (scale of 1-5)	4.8	4.7	4.7	4.7	4.8

<b>FY19 Recommended Changes</b>	<b>Expenditures</b>	<b>FTEs</b>
<b>FY18 Approved</b>	<b>42,624</b>	<b>0.50</b>
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	824	0.00
<b>FY19 Recommended</b>	<b>43,448</b>	<b>0.50</b>

## **Fair Housing**

This program monitors the County's Fair Housing Ordinance through the Interagency Fair Housing Work Group in order to coordinate the activity of County departments, offices, and agencies to prevent housing discrimination and to perform testing of housing providers.

<b>Program Performance Measures</b>	<b>Actual FY16</b>	<b>Actual FY17</b>	<b>Estimated FY18</b>	<b>Target FY19</b>	<b>Target FY20</b>
Percent of housing providers in full compliance with Fair Housing Laws based on the Office of Human Rights-selected matched pair testing	80%	90%	95%	95%	95%

<b>FY19 Recommended Changes</b>	<b>Expenditures</b>	<b>FTEs</b>
<b>FY18 Approved</b>	<b>89,030</b>	<b>1.10</b>
Reduce: Increase Lapse (Public Services Interns)	(28,950)	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.	877	0.00
<b>FY19 Recommended</b>	<b>60,957</b>	<b>1.10</b>

## **Administration**

This program provides overall direction of the office, administration of the budget, personnel, procurement, automation,; and support services. Also provided in this program is funding for human relations awards.

<b>FY19 Recommended Changes</b>	<b>Expenditures</b>	<b>FTEs</b>
<b>FY18 Approved</b>	<b>253,301</b>	<b>1.00</b>
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	2,715	0.00
<b>FY19 Recommended</b>	<b>256,016</b>	<b>1.00</b>

## **BUDGET SUMMARY**

	<b>Actual FY17</b>	<b>Budget FY18</b>	<b>Estimate FY18</b>	<b>Recommended FY19</b>	<b>%Chg Bud/Rec</b>
<b>COUNTY GENERAL FUND</b>					
<b>EXPENDITURES</b>					
Salaries and Wages	802,657	841,883	826,925	849,218	0.9 %
Employee Benefits	228,131	235,586	230,688	237,192	0.7 %
<b>County General Fund Personnel Costs</b>	<b>1,030,788</b>	<b>1,077,469</b>	<b>1,057,613</b>	<b>1,086,410</b>	<b>0.8 %</b>
Operating Expenses	148,842	165,344	165,344	160,637	-2.9 %
<b>County General Fund Expenditures</b>	<b>1,179,630</b>	<b>1,242,813</b>	<b>1,222,957</b>	<b>1,247,047</b>	<b>0.3 %</b>

## BUDGET SUMMARY

	Actual FY17	Budget FY18	Estimate FY18	Recommended FY19	%Chg Bud/Rec
<b>PERSONNEL</b>					
Full-Time	8	8	8	8	—
Part-Time	0	0	0	0	—
FTEs	8.60	8.60	8.60	8.60	—
<b>REVENUES</b>					
EEOC Reimbursement	0	55,000	55,000	55,000	—
Miscellaneous Revenues	(2,466)	0	0	0	—
County General Fund Revenues	(2,466)	55,000	55,000	55,000	—

## FY19 RECOMMENDED CHANGES

	Expenditures	FTEs
<b>COUNTY GENERAL FUND</b>		
<b>FY18 ORIGINAL APPROPRIATION</b>	<b>1,242,813</b>	<b>8.60</b>
<u>Changes (with service impacts)</u>		
Reduce: Increase Lapse (Public Services Interns) [Fair Housing]	(28,950)	0.00
<u>Other Adjustments (with no service impacts)</u>		
Increase Cost: FY19 Compensation Adjustment	27,248	0.00
Increase Cost: Annualization of FY18 Personnel Costs	11,993	0.00
Increase Cost: Printing and Mail	57	0.00
Decrease Cost: Retirement Adjustment	(1,350)	0.00
Decrease Cost: Motor Pool Adjustment	(2,264)	0.00
Decrease Cost: Biennial Hall of Fame Event	(2,500)	0.00
<b>FY19 RECOMMENDED</b>	<b>1,247,047</b>	<b>8.60</b>

## PROGRAM SUMMARY

Program Name	FY18 APPR Expenditures	FY18 APPR FTEs	FY19 REC Expenditures	FY19 REC FTEs
Compliance	857,858	6.00	886,626	6.00
Community Mediation and Public Affairs	42,624	0.50	43,448	0.50
Fair Housing	89,030	1.10	60,957	1.10
Administration	253,301	1.00	256,016	1.00
<b>Total</b>	<b>1,242,813</b>	<b>8.60</b>	<b>1,247,047</b>	<b>8.60</b>

## FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

Title	FY19	FY20	FY21	FY22	FY23	FY24
<b>COUNTY GENERAL FUND</b>						
<b>EXPENDITURES</b>						
<b>FY19 Recommended</b>	<b>1,247</b>	<b>1,247</b>	<b>1,247</b>	<b>1,247</b>	<b>1,247</b>	<b>1,247</b>
No inflation or compensation change is included in outyear projections.						
<b>Restore One-Time Lapse Increase</b>	<b>0</b>	<b>29</b>	<b>29</b>	<b>29</b>	<b>29</b>	<b>29</b>
Restoration of one-time lapse adjustment in the budget development year						
<b>Labor Contracts</b>	<b>0</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
<b>Subtotal Expenditures</b>	<b>1,247</b>	<b>1,288</b>	<b>1,288</b>	<b>1,288</b>	<b>1,288</b>	<b>1,288</b>



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## MONTGOMERY COUNTY COUNCIL

ROCKVILLE, MARYLAND

### MEMORANDUM

TO: James L. Stowe, Director, Office of Human Rights

FROM: Nancy Navarro, Chair, Government Operations and Fiscal Policy Committee  
George Leventhal, Chair, Health and Human Services Committee *an*

DATE: March 1, 2018

SUBJECT: Requesting an Update on the Implementation of the County's Earned Sick and Safe Leave Law

Thank you for your work over the last two years to implement the County's Earned Sick and Safe Leave law. With the recent enactment of the Maryland Healthy Working Families Act, we believe now would be an opportune time to review the implementation of the County law thus far, as well as to receive an update on how the Office of Human Rights (OHR) plans to revise any processes or materials to comply with the new State law requirements. In reviewing these procedures and materials now, we hope to ensure a smooth transition for County residents. Furthermore, considering the upcoming transition in County leadership, we want to ensure that structural and procedural processes are updated and firmly put in place so that new staff, who may be unfamiliar with the law or the office, will be able to keep operations running smoothly for the benefit of our residents. We believe that there are a number of areas where improvements could be made to the current process in order to provide clarity and ease for those looking to access these benefits.

- As you may know, Councilmember Navarro's staff recently received an inquiry from a resident hoping to assist a group of workers with receiving these benefits, and they were instructed by your office to use the Discrimination Compliance Intake Form. An employee could potentially find this form confusing or difficult to complete. The form appears to be tailored to incidents of discrimination, and the steps to complete this form for folks whose employers are not providing Earned Sick and Safe Leave do not seem intuitive. As a result, we are concerned that this might discourage residents from submitting this form and reporting a potential violation of the law. Furthermore, this form – as well as the "Fact Sheet" on your website – is only provided in English.
- While the OHR website currently has an employer's page where the Earned Sick and Safe Leave information is posted, there is not a similar employee page that would include instructions on how an employee would take steps to receive the benefits to which they are entitled. Additionally, information regarding this law is not readily available on the OHR homepage.

- Third, it was explained that OHR tends to educate employers to achieve compliance before taking any enforcement actions. This information would be very useful for employees to know, since some folks might be concerned about the risk of retaliation, or of getting their employer in serious trouble due to reporting. If OHR is open to receiving anonymous tips or complaints, then advertising that to the public could also help to increase reporting from employees, potentially increasing employer compliance.
- Regarding employer requirements, the law requires employers to notify employees that they are entitled to earned sick and safe leave, and there are three options available under the law. It would be beneficial if the website and fact sheets detailed these options. This could be part of a handout for employers on the initial steps to ensure notice requirements are met, as well as how to meet the written requirement to provide an employee's leave balance.
- As the State law's implementation moves forward, it would be beneficial to update other OHR materials, such as the Employment Guide for Domestic Workers. Currently on page three of this document, it states, "it is reasonable for a full time employee to ask the employer to provide health insurance, paid vacation and sick leave, but these benefits are not required by law." We understand that sick leave is indeed required by law, but perhaps not for an independent contractor, so updating this information would make a considerable difference for domestic workers in our County as they use this County information to negotiate with their employers.

Regarding the aforementioned concerns, we respectfully request a response from your office with a timeline on when these items may be addressed. Finally, we would like to receive a briefing by the end of March from your office on the interaction between the County and State law, how previous outreach with local chambers and small businesses was conducted for businesses in the County that need to comply with this law, and how any new businesses would become aware of the law as they are setting up in the County and requesting permits. Any statistics or updates on how many residents have come to your office requesting help with the Earned Sick and Safe Leave law would also be very useful.

Thank you in advance for your consideration of this request. We look forward to working collaboratively with your office on strengthening communication with the public regarding these major policy changes. Please do not hesitate to contact our offices with any additional questions or concerns.

CC: Councilmembers  
Jean C. Arthur, Legislative Analyst



OFFICE OF HUMAN RIGHTS

Isiah Leggett  
County Executive

James L. Stowe  
Director

To: Nancy Navarro, Chair, Government Operations and Fiscal Policy Committee

George Leventhal, Chair, Health and Human Services Committee

From: James L. Stowe, Director, Office of Human Rights, *James L. Stowe*

Date: March 29, 2018

Subject: Requested Update on the Implementation of the County's Earned Sick and Safe Leave Law

I write to provide you the requested information on the Implementation of the County's Earned Sick and Safe Leave Law. (ESSL)

First, the complaint form has been revised and now has a clear option for ESSL complaints and we believe is easily accessible to most employees seeking to file a complaint in this area. The ESSL fact sheet is available on line in English and Spanish. And as you may be aware with the enhancement of the county's website access for all our residents, persons are able to translate all of the text on the website into a number of different languages by a prompt found at the bottom of the home page of documents. In the case of PDF documents, which will not translate automatically, we have translated most into Spanish manually. This is a continuing work in progress.

Second, there is actually an area on the website that walks employees and all residents through the complaint process. We have included a video presentation and while it does not specifically speak to the ESSL, it does explain the complaint process. This information can be found on the revised home page under "quick reference" as well as other information concerning the compliance process to include the complaint form and similar data found in the "employer's corner."

Third, concerning anonymous tips or inquiries, the Office of Human Rights attempts to work with each resident that calls seeking assistance. We try to address concerns that arise out of questions or inquiries as a general rule without the need for the name of the individual or respondent; but in order to move to a more formal resolution of a complaint, we must have the pertinent information. In the instance of ESSL, the Office of Human Rights has notified employers with complaints of non-compliance without a complainant name and have given them the requisite information to become compliant. This has happened on several occasions, and the employer did comply.

Fourth, concerning employers' requirements to notify employees of the law, employers are provided the entire copy of the law and the fact sheet which represents a point by point reference from the actual law itself and employers compliance requirements. Employees also have access to the full copy of the law, the fact sheet and the Model Notice that is required to be displayed at all work locations which states the specific requirements of their employers. Each of the points raised are currently addressed in the fact sheet. We will look at other ways of adding educational materials as we go forward. We

currently offer workshops each year to facilitate additional educational outreach efforts which are advertised and open to the public and are attended by both employees and employers.

Fifth, the Office of Human Rights did not create the Employment Guide for Domestic Workers. It is a publication of the Office of Consumer Protection which has jurisdiction in those matters. I can certainly bring your concern to the attention of that office. It is on our website as information for residents with a referral to the Office of Consumer Protection for further assistance. We will, however update our website as any new or revised information is available.

As you are aware, the State Law concerning Sick and Safe Leave went into effect February 11, 2018. We are working with the MC Chamber of Commerce and other business advocates along with our County Attorney to create information and other materials for businesses concerning the differences between the State and County laws. We of course continue to receive and address calls concerning the ESSL and while we do not keep specific tracking information on these calls we estimate we have handled over 100 or so such calls in the last six months. We anticipate more robust and targeted education and outreach efforts pending the hiring of personnel in the County Executive's Office who will serve as a business consultant should occur in the next few months.

I hope the information I have provided is helpful, and I would certainly be glad to address any additional concerns you may have and will make myself available as your schedule might allow.

Cc: Council Members

Tim Firestine, Chief Administrative Officer

Bonnie Kirkland, Asst. County Administrative Officer.

Fariba Kassiri, Asst. County Administrative Officer

Jean C. Arthur, Legislative Analysis