



2020 Budget Presentation County Attorney

Diana K. May, County Attorney

October 17, 2019

Organizational Chart – County Attorney

County Attorney



Civil Division

7 attorneys
5 support staff

Represent BoCC, elected officials, departments and offices, litigation, land use, real estate, employment, risk management, EPSO, general county legal support

Human Services Division

12 attorneys
17 support staff

Dependency & neglect cases, Juvenile Delinquency, Adult Protection, Substance abuse and mental health civil commitments, and DHS legal support



Civil Division



Office of the County Attorney



Operations – Civil Division

- Represents the interests of the Board of County Commissioners, administrative departments, and appointed advisory boards
- Represents the interests of other elected or appointed officials when those interests are compatible with those of the County
- Represents the County in all public liability and tort actions as a result of the County being self-insured
- Represents the County, its departments or other elected officials in a variety of other civil matters



Mandates/State Statutes Required

- **Civil Division**

*Article XIV § 8 of the Colorado Constitution requires election or appointment of a County Attorney

*Colorado Revised Statutes (C.R.S.) § 30-111-118, provides that Board may employ a County Attorney



Human Services Division



Office of the County Attorney

Operations – Human Services

- Provides legal advice, opinions, and representation to the El Paso County Department of Human Services (DHS)
- Provides representation in dependency and neglect cases and juvenile delinquency cases, to include: temporary shelter hearings, dispositional hearings, permanency planning and permanent custody hearings, parental rights termination trials, emergency protective hearings and jury trials
- Provides representation in adult protective matters, involuntary mental health commitment proceedings, and alcohol and substance abuse commitment matters
- Provides on-going training to DHS in matters relating to courtroom procedure, presentation of evidence, and substantive areas of the Children's Code



Mandates/State Statutes Required

- **Human Services Division**

- *Children's Code – C.R.S. Title 19

- *Probate Code – C.R.S. Title 15

- (Guardianships and Conservatorships)

- *Mental Health – C.R.S. Title 27

- (Care and Treatment of Persons with Mental Health Disorders and Involuntary Commitment for alcohol/substance abuse disorder)



County Strategic Plan Goals

County Attorney Civil and Human Services Divisions

- The Office of the County Attorney is involved in supporting the County's Strategic Plan Goals at almost every level
 - Goal 1 – Maintain and Promote a Financially Sustainable County Government that is Transparent and Effective
 - Goal 2 – Continue to Enhance the Understanding of Civic Services and Promote Participation, Engagement, and Confidence in County Government
 - Goal 3 – Maintain and Improve the County's Transportation System, Facilities, Infrastructure, and Technology
 - Goal 4 – Consistently Support Regional Economic Strength
 - Goal 5 – Strive to Ensure a Safe, Secure, Resilient, and Healthy Community



Operating Indicators

Civil Litigation Division

- Litigation/Notices of Claim/CORAs/Settlements
 - Litigation cases:
 - **45 new cases in 2019 YTD** (up from 23 in 2018 and 17 in 2016)
 - Since 2015
 - 152 Lawsuits filed
 - 124 Closed: 39 by granting motions to dismiss, 2 by granting summary judgment motions, 37 by Court dismissals or stipulations, 2 jury verdicts (remaining misc. dismissals)
 - 11 with settlement agreements (\$)
 - CORAs
 - Legal review of CORA requests.
 - In 2019, OCA staff worked with PIO to streamline their process.
 - Notices of Claims:
 - **83 NOC's YTD** (up from 67 in 2018 and 62 in 2017)



Operating Indicators

Civil Litigation Division

- Settlements:
 - 2019 - \$15,000 YTD
(3 settlements:– Motley - \$10,000, Carr - \$4,000, and Still - \$1,000)
 - 2018 - \$400,000
 - 2017 - \$121,438
 - 2016 - \$87,700



Operating Indicators

Civil Litigation Division

- Highlights:
 - Consolidation of cases in 2019 – saved money and time (9 inmate litigation matters consolidated into 1 case (Peters) – another 4 cases were consolidated into 2 cases (Abrams))
 - Heightened focus on requesting attorney fees on cases (successful in obtaining awards of fees on several cases)
 - Writ of Certiorari to U.S. Supreme Court on “Brumley” denied – benefits of successful Court of Appeals arguments
 - Still litigation from 2018 – only \$1000 in claims in 2019 YTD and matter officially closes on November 15, 2019
 - In house litigation – continued efforts to keep litigation “in house” except where legal conflicts are present (outside counsel rates are \$180/hr. - \$250+/hr.)



Operating Indicators

Civil Division – Risk Management

- Proactivity in managing risk exposure by County Attorneys
 - Provided proactive training to help prevent risks
 - Continuation and enhancement of supervisory training
 - Building solid attorney/client relationships
 - Maintaining accessibility
 - Preventing Liability
- Cases triaged and managed from event through lawsuit
- Enhanced coordination between Risk Management and County Attorney's Office even in low level claims



Operating Indicators

Civil Division – Employment

- Updated Employment Manual on yearly basis
- CAT Title VII investigations for EPSO
 - **7 cases in 2019 YTD** (up from 3 cases in 2018)
(If handled by outside investigator – costs would range from \$3,000 - \$15,000+ per investigation)
- 1 USSERA matter in 2019 (Uniformed Services Employment and Reemployment Rights Act)
- CAT training for all County Departments that began in 2018 – expanded in 2019
- Assisting with County’s ADA Policies



Operating Indicators

Civil Division – Employment

- Trainings:
 - Significant amount of training provided by CAT to County employees and supervisors in 2019:
 - Discrimination Training – 30.5 hours
 - ADA/FMLA Training – 8 hours
 - Reasonable Suspicion – 6 hours (new)
 - 1st Amendment – 1.5 hours (new)
 - USERRA Training – brought in for free DOJ trainer (new)
 - Trainings have been well-received and are tailored to El Paso County employees/supervisors

(Before CAT started doing training in 2018, the County was paying \$175/hour for outside trainers)



Operating Indicators

Civil Division – Sheriff’s Office

- 5th year with CAT on site at EPSO
- 24/7 legal advice and accessibility to legal counsel
- Title VII investigatory process ensures neutrality and confidentiality
- Significant amount of training provided by CAT to EPSO in 2019:
 - Supervisory Training – 40 hours
 - Discrimination Training – 31.5 hours
 - Additional Training (legal update/legal liability/arrest and search and seizure) – 63 hours



Operating Indicators

Civil Division – Land Use

- 7th year of CAT providing on-site legal services at Planning Dept.
 - Including presence at Planning Commission and Board of Adjustment hearings
- Litigation:
 - Successful defense of Friends of Black Forest litigation – was dismissed in March 2019
 - Ongoing litigation cases: Courage to Change (rehab facility) and Mountain View Electric Association (1041)
- Code Enforcement:
 - 27 new litigation cases and 6 abatement cases through Administrative Entry Warrant (**pending litigation challenge)
 - Code Enforcement - steady increase in Planning's number of cases:
 - 2016 = 936
 - 2017 = 835
 - 2018 = 993
 - 2019 = 1107 (Planning has increased staff by 1 since 2016)
- Increase in land use applications/subdivision reviews/reviews of water sufficiency



Operating Indicators

Civil Division – Land Use

- Increase in subdivision development impacts CAT:
 - 2019:
 - 14 Planning Commission hearings YTD and 55 PC agenda items
 - 6 Board of Adjustment hearings YTD and 9 BOA agenda items
 - Subdivision reviews – 19 water reviews completed YTD 2019 (24 for 2018) - New administrative approval process will require water reviews to be done sooner (at Preliminary Plan)
 - Large and/or contentious land use applications before BoCC require extensive legal review – i.e. Meadowlake Ranch and Saddlehorn Ranch (Meadowlake Airport concerns), Sterling Ranch, Retreat at TimberRidge, The Ranch (neighborhood opposition)
 - Meadowlake Airport 1041 application pending in 2019
 - Amendments to Land Development Code – will require substantial legal review



Operating Indicators

Civil Division – Public Works & Real Estate

- Public Works:
 - Ongoing review of roadway matters – projects include: McLaughlin and Old Meridian Road, Meridian/Falcon Park & Ride, Charter Oaks, Old Pueblo Highway, Struthers intersection, Highway 105, Monument Hill Improvements – some with high degree of complexity
 - Approx. 40 right-of-way matters YTD provided with legal review and agendized to BoCC for approval
- Real Estate:
 - Urban Renewal Authority (URA) established with substantial legal reviews in 2019
 - Penrose Equestrian Center – Release of Right of First Refusal on the 10-acre north parking lot finalized in 2019 after significant discussions
 - Ongoing examination of possible sale of 301/305 South Union Blvd. property
 - Real estate closing documents for review and coordination



Civil Division



Office of the County Attorney



Human Services Division



Office of the County Attorney



Operating Indicators

Human Services Division

- **Dependency and Neglect (D&N) Caseload**

Largest D&N caseload in Colorado (In addition, most calls to DHS hotline statewide) (DHS statistics)

Oct 1, 2018-Sep 13, 2019			
	Arapahoe	Denver	El Paso
Referrals	12,756	13,098	15,612
Assessments	4,745	4,469	6,182
	Arapahoe	Denver	El Paso
Involved Children During Period	2,456	2,233	3,092
Cases During Period	1,136	1,194	1,526

Child Abuse and/or Neglect					
	2015	2016	2017	2018	2019*
Referrals	14,453	15,684	15,812	16,447	16,503
Assessments	5,374	6,310	6,395	6,232	6,633
Founded	1,319	1,554	1,784	1,771	1,753
* Projected					
Out-of-Home Placements (Average Daily Placements)					
	2015	2016	2017	2018	2019*
Foster	272	291	321	333	366
Kinship	280	323	355	413	387
* Projected					



Operating Indicators

Human Services Division

- **D & N's:**

- **880+ open cases** (*down slightly from 2017 and 2018*) – staffed by 9 attorneys

- **JUVENILE DELIQUENCY:**

- 2019 caseload of 214 juveniles – *up from 179 in 2018* – staffed by 2 attorneys as of 2018 (*ensures children are placed in least restrict level of care that meets their needs*)

- **PROBATE/MENTAL HEALTH/CIVIL COMMITMENTS**

- Probate - 46 guardianship petitions and 11 conservatorships YTD
- Mental Health - 853 cases YTD
- Involuntary substance abuse civil commitment – 12 cases YTD
- Staff attend quarterly crisis team meetings and are active with community agencies
- Annual Mental Health Roundtable sponsored by CAT

- **APPEALS:**

- 24 appeals in 2019 YTD - *14 in 2016; 28 in 2017, 30 in 2018*
- Excellent success rate



Operating Indicators

Human Services Division

- Successful Jury Trials
 - 4 jury trials in 2019 YTD – 3 successful outcomes and 1 split verdict
- Specialty Courts – El Paso County Drug Court is the first accredited program in Colorado
- Provide Daily Legal Advice to DHS Staff
- Two Attorneys On-Call 24/7
- Provide Continual Training to DHS Staff/Community Partners in a variety of areas to include: Caseworker Training, “Boot Camp” for caseworkers, law enforcement training, delinquency, heroin detox through acupuncture, accessing mental health treatment beds, teenage suicide.
- Training hours provided by Office– 25+ hours



Operating Indicators

Human Services Division

- Discovery:
 - Significant increase in discovery requests from 2018
 - 3,195 discovery requests received to date and 2,709 discovery requests completed YTD (includes redaction and legal review)
 - Responded to 15 Subpoena Duces Tecums (SDT's)



Civil Division General Fund Budget Breakdown

<u>Description</u>	<u>2019 Budget - OAB</u>	<u>2019 One- time Funding</u>	<u>Other Internal changes¹</u>	<u>On-going Base Budget</u>	<u>2020 Critical Needs</u>	<u>2020 Requested Budget</u>
County Attorney-Civil Division	1,262,289	0	0	1,262,289	74,230	1,336,519



Critical Needs

- Request for 1 new full-time employee, plus onboarding costs:
 - Paralegal Civil Division
 - \$50,000/annual + benefits + startup (\$4,000) = \$74,000
 - 2 Civil Staff added since 1990's (one assigned to EPSO)

Justification

- Increase in litigation numbers
- Increase in Notices of Claims
- Increase in Title VII cases
- Increase in land use/subdivision/code enforcement work
- Need additional staff to adequately meet our clients' needs

- Civil Division
- 7 attorneys
- 5 support staff

- Represent BoCC, elected officials, departments and offices,
- litigation, land use, real estate, employment, risk management, EPSO,
 - general county legal support



Limerick:

The County Attorney's the best
The others put us to the test
But we haven't yet failed
They've never been jailed
And we help clean up every mess



Questions?

