

# **COUNTY COUNSEL'S OFFICE**

## **PERFORMANCE REPORT**

### **I. DEPARTMENT MANDATES**

The County Counsel's Office serves as civil legal advisor to the Board of Supervisors, the County Administrator, County elected officials, County departments, boards and commissions, and various other public agencies in the County. The duties of the Office include litigating civil and administrative cases, and providing a wide range of other legal services to the Board of Supervisors, County departments, Board-governed special districts, authorities and agencies, the Contra Costa Local Agency Formation Commission (LAFCO), and the civil Grand Jury. The County Counsel's Office is designated by the Board of Supervisors to represent the Public Guardian/ Public Conservator in conservatorship proceedings involving persons disabled by mental illness and dementia; provides legal services to the County's Assisted Outpatient Treatment program (Laura's Law); and represents the Children and Family Services Bureau in juvenile dependency matters.

By fee contract, the County Counsel's Office provides legal services to the County Superintendent of Schools, the County Board of Education, the Contra Costa County Schools Insurance Group, the Children and Family Services Commission (First Five), Contra Costa Resource Conservation District, and Delta Diablo, a sanitation district.

### **II. MAJOR PROGRAM DESCRIPTIONS (as of January 1, 2018)**

#### **A. GENERAL COUNTY GOVERNMENT GENERAL LAW DIVISION**

This program area includes all legal services to County departments, officers and boards, and outside public clients, other than those services provided by the Juvenile Dependency/Conservatorship Division and the Tort and Civil Rights Litigation Division, described below. Legal services provided by the General Law Division include advisory services, transactional services such as

reviewing and preparing contracts, and general government advice and representation including land use, finance, election law, property taxation, public works, construction and transportation, real property and conflict of interest. In this way, the County Counsel's Office helps the County provide cost-effective and liability-conscious services that benefit this County's residents. The General Law Division also handles two types of litigation – administrative cases and all civil court cases, except cases where monetary damages are sought against the County. Civil cases litigated by the General Law Division include CEQA and land use cases, petitions for writs of mandate, tax refund actions, Public Administrator probate actions, eminent domain actions, and unlawful detainer cases. Administrative cases litigated by the General Law Division include employee disciplinary appeals, labor contract disputes, wrongful discrimination and sexual harassment claims, Department of Fair Employment and Housing (DFEH), Equal Employment Opportunity Commission (EEOC), and Department of Labor Standards Enforcement (DLSE) complaints, and unfair labor practice charges. The representative clients and services are described below:

1. **Core County Departments.** The core County departments are the Board of Supervisors, County Administrator, Human Resources, Assessor, Auditor-Controller, Treasurer-Tax Collector, County Clerk-Recorder/Elections and the Merit Board.
2. **Health, Sanitation and Community Protection.** This category encompasses the Health Services Department, including its public health, environmental health and hazardous materials divisions, the hospital and clinics, the Contra Costa County Health Plan, and behavioral health services. This category also covers legal services to County departments, programs and agencies that protect the general public and work to preserve the environment and enhance quality of life. Representative departments include Public Works, Flood Control, the Department of Conservation and Development, the Contra Costa County Fire Protection District, Animal Services, and Agriculture.

3. **Public Protection.** This category involves legal services to the County's justice system, including the Sheriff, Public Defender, District Attorney, and the Probation Department.
4. **Social Services and Probate.** Legal services to the Employment and Human Services Department (administrative advice, personnel matters, general assistance, IHSS Public Authority, Community Services Division, etc.) and services to Child Support Services, Veterans Services, the Public Guardian and the Public Administrator, are included in this category.
5. **Miscellaneous County and Outside Clients.** This category includes legal services to various agencies governed by the Board of Supervisors (Libraries, Housing Authority, CATV, etc.) and to other public clients (LAFCO, Grand Jury, County Office of Education, Contra Costa County Schools Insurance Group, Delta Diablo, State Route 4 Bypass Authority, and the East Contra Costa Regional Fee and Financing Authority (ECCRFFA)).

BUDGET: \$7,252,968  
 FTE 25

**B. JUVENILE DEPENDENCY/CONSERVATORSHIP DIVISION**

The Juvenile Dependency/Conservatorship Division provides legal services to the Children and Family Services Bureau of the Employment and Human Services Department regarding juvenile dependency matters. The County Counsel's Office is designated by the Board of Supervisors to represent the Public Guardian/Public Conservator in conservatorship proceedings involving persons disabled by mental illness, and dementia, This Division also provides legal services to the County's Assisted Outpatient Treatment program (Laura's Law).

BUDGET: \$3,344,402  
 FTE: 17

**C. TORT AND CIVIL RIGHTS LITIGATION DIVISION**

The Tort and Civil Rights Litigation Division defends claims and lawsuits where monetary damages are sought against the County, and its officers, and employees. The Division defends cases involving allegations of personal injury, property damage, and medical malpractice, as well as cases concerning employment conditions and civil rights.

BUDGET: \$2,199,850  
FTE: 10

**D. DEPARTMENT DATA**

BUDGET: \$12,797,220  
FTE: 52

CLASS	ALLOCATED POSITIONS (as of 12-31-18)
Deputy County Counsel	29
Clerical	16
Management	6

EMPLOYEE PROFILE:

	Male	Female	Total	Percent
Caucasian	11	21	32	63%
Hispanic/Latino	1	1	2	4%
African/American	0	7	7	14%
Pacific Is/Asian	2	5	7	14%
Native American	0	0	0	0%
Not Classified	0	2	2	4%
*Vacant	N/A	N/A	1	1%
Total	14	36	51	100%
Percent	28%	72%		

\*Not included in percent total

### **III. DEPARTMENT ACCOMPLISHMENTS**

#### **A. PERSONAL INJURY AND CIVIL RIGHTS LITIGATION**

The County Counsel's Office aggressively defends cases through dispositive motions, trial and appeal. The Tort and Civil Rights Litigation Division's practice of early, focused efforts to evaluate and oppose lawsuits filed against the County promotes prompt resolution of many cases and saves the County significant legal costs.

As the chart in Section V. of this report (Performance Indicators) shows, in calendar year 2018, this Office was able to resolve 60% of assigned cases without any monetary payment. Ninety percent of assigned cases were resolved for \$50,000 or less.

#### **B. JUVENILE DEPENDENCY/CONSERVATORSHIP SERVICES**

The Juvenile Dependency/Conservatorship Division represents the Children and Family Services Bureau of the Employment and Human Services Department (EHSD) in all juvenile court dependency proceedings, from the initial petition seeking to protect a child through family reunification or permanency planning and any subsequent appeal. This Division also represents the Public Guardian/Public Conservator Division of the Health Services Department in conservatorship matters, and other proceedings involving members of the County's adult population who require these County services. In addition, the Division represents the Behavioral Health Services Division of the Health Services Department in Assisted Outpatient Treatment (Laura's Law) matters. On average, the attorneys in this Division appear on over 600 cases each month in different courtrooms. In calendar year 2018, the Juvenile Dependency/Conservatorship Division opened 391 new juvenile dependency cases, filed 453 LPS/Probate petitions, and eight petitions for Assisted Outpatient Treatment (Laura's Law) services. Juvenile dependency cases continue to be complex and challenging. Attorneys spend considerable time working

with the Children and Family Services Bureau assisting staff in preparing court cases to aid in the mission of protecting children and to assure compliance with State and Federal law. This past year, the Division handled 1507 contested juvenile dependency matters, and 51 juvenile dependency appeals. This Division continues to conduct periodic training for the Children and Family Services Bureau and the Health Services Conservatorship Division on various topics, including how to write legally valid dependency petitions and how to navigate emerging areas of law. The attorneys in this Division also provide weekly, on-site office hours for the Children and Family Services Bureau staff in Antioch, Pleasant Hill, and Richmond.

## **C. SIGNIFICANT COUNTY PROJECTS AND LITIGATION**

1. **Emergency Medical Technician Licensure Revocation and Disciplinary Proceedings.** In 2018, the County Counsel's Office began representing the County EMS agency in administrative Emergency Medical Technician licensure proceedings to ensure public safety in ambulance transport. Additionally, the Office has developed standard operating procedures and standard form pleadings for use these proceedings.
2. **Public Assistance Program Litigation.** The County Counsel's Office has devoted significant time to defending the County and its Employment and Human Services Department in litigation challenging the delivery of public assistance to the indigent and disabled. In a lawsuit challenging aspects of the County's General Assistance program, the Office worked with EHSD to achieve a successful settlement and develop agreed-upon revisions to the General Assistance program. Litigation challenging delivery of services to the blind in the Medi-Cal application process is ongoing. As advocates for impoverished and disabled citizens continue to scrutinize aspects of service delivery a continued demand for legal representation in these matters can be anticipated.

3. **Justice and Immigration Issues.** The County Counsel's Office has worked closely with the County Administrator's Office and the Public Protection Committee in navigating new state and federal laws related to immigration and justice issues. We assisted the County Administrator's Office in conducting the County's first TRUTH Act Community Forum to receive public comment on County law enforcement communications with the federal Immigration and Customs Enforcement (ICE) Agency. We provided legal advice related to compliance with SB 54, California's "sanctuary state" legislation, as well as legal issues pertaining to the Federal government's use of the West County Detention Facility to house immigration detainees, a practice that has now ended. The Office continues to monitor ongoing litigation around the country where public agencies are challenging immigration-related conditions on federal grants.
  
4. **Cannabis.** In November 2018, voters in the County approved a measure to tax commercial cannabis. When voters adopted the tax, they put into effect a comprehensive cannabis regulatory proposal adopted by the Board earlier in 2018. This Office collaborated with affected County departments, including the Department of Conservation and Development, the Health Services Department, Treasurer-Tax Collector, and Sheriff to help develop this proposal and prepared the regulatory ordinances. A zoning ordinance will regulate the establishment of businesses engaged in one or more commercial cannabis activities, including commercial cultivation, distribution, transportation storage, manufacturing, processing, and sale of cannabis and cannabis products. A health ordinance will require all persons engaged in commercial cannabis activities or cannabis deliveries to any location in the unincorporated area to obtain a County health permit. Other ordinances will prohibit commercial cannabis activities in certain locations in the County. In all, this Office drafted five ordinances, including the tax ordinance, approved by the voters in November 2018. This Office will continue collaborating on cannabis issues with affected County departments in 2019.

5. **Water Issues.** This Office collaborated with the Department of Conservation and Development in 2018 to address local and statewide water issues. We represented the County and the County Water Agency in a State Water Resources Control Board administrative proceeding related to California WaterFix, the proposed water conveyance tunnel project through the Delta. The proceedings will continue in 2019, as will ongoing litigation involving the WaterFix project.

#### **D. BUSINESS TRANSACTIONS AND CONTRACTS**

Each year attorneys in the General Law Division assist County departments in reviewing, negotiating and drafting more than 2,000 contracts for services, real estate acquisitions, leases, joint exercise of powers agreements, construction documents, and other matters where a formal agreement is needed. A few examples of these diverse and complex business transactions are outlined below.

1. **Oak Park/Pleasant Hill Library.** This Office assisted County Real Estate Services staff in negotiating and drafting a three-party agreement that establishes a process for the potential future development of two County properties in south Pleasant Hill, along Oak Park Boulevard. The agreement among the County, the City of Pleasant Hill, and the Pleasant Hill Recreation and Park District establishes a framework for locating a new Pleasant Hill Library on a portion of a 10-acre County parcel, establishing new recreation and park facilities on another portion of the 10-acre parcel, and building about 35 new single-family homes at the site of the existing Pleasant Hill Library. The agreement also authorizes the three agencies to share the cost of environmental review. The Board approved the agreement in July 2018.
2. **New County Administration Building and Emergency Operations Center.** The new County Administration Building, which will replace the outdated County headquarters, is under construction. The Sheriff's new

Emergency Operations Center is also under construction. This is one of the biggest County construction projects in years. In 2018, this Office worked with the County Administrator's Office and Public Works Department to negotiate the final design-build construction contract for these two important buildings, and to develop a design-build conflict of interest policy. The Board approved the construction contract in March 2018. We will continue to work with staff in 2019 on the use of the design-build contracting procedure for this and other projects. Design-build is meant to bring large construction projects to completion on an accelerated timeline.

3. **New Administration Building Parking Lot.** The new County Administration Building parking lot is across the street from the site of the new building. The parking lot includes solar panels and electric vehicle charging stations. In 2018, this Office negotiated an energy services contract for the installation of the solar panels at the parking lot.
4. **New Lafayette Fire Station.** In 2018, this Office assisted the Contra Costa Fire Protection District and the Public Works Department in preparing legal documents necessary for construction of a new Station 16 in Lafayette. The new station will replace the old Station 16, which closed in 2012.

#### **E. SELECTED ORDINANCES ADOPTED BY THE BOARD OF SUPERVISORS**

During the past year, the County Counsel's Office assisted in the drafting, review and adoption of several significant County and Fire District ordinances:

**Cannabis.** This Office prepared five cannabis ordinances as part of a comprehensive cannabis regulatory proposal adopted by the Board in 2018.

The Board adopted an ordinance to regulate the establishment of businesses engaged in one or more commercial cannabis activities, including commercial

cultivation, distribution, transportation storage, manufacturing, processing, and sale of cannabis and cannabis products. The Board passed another ordinance to prohibit commercial cannabis activities in the Bethel Island, Sandmound Slough, Contra Costa Centre, Acalanes Ridge, Saranap, and Alamo areas. These ordinances were adopted on June 26.

The Board approved an ordinance to require all persons engaged in commercial cannabis activities or cannabis deliveries to any location in the unincorporated area to obtain a County health permit. This ordinance was adopted on August 7. The Board also passed an ordinance to regulate vertically integrated cannabis businesses and prohibit all commercial cannabis activities in the Knightsen area. This ordinance was adopted on September 25.

The cannabis ordinances were contingent on voter approval of a cannabis tax measure. On July 24, the Board passed an ordinance to impose a general tax on commercial cannabis activities, including cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, and distributing cannabis and cannabis products in the unincorporated area of the County, and put the tax measure on the November 2018 ballot. Voters approved the cannabis tax measure on November 6, 2018. All cannabis ordinances adopted by the Board became operative when voters approved the cannabis tax measure.

**Smokefree Multi-Unit Residences.** This ordinance prohibits smoking in all dwelling units in any multi-unit residence, and prohibits smoking in all guest rooms in any hotel or motel. The Board adopted the ordinance on March 13, 2018.

**Emergency Ambulance Service Fees.** This Fire District ordinance establishes fees for providing emergency ambulance services. The Board adopted the ordinance on March 13, 2018.

**Urban Farm Animals.** The Board adopted two ordinances to regulate the raising and keeping of farm animals in all residential zoning districts located in the unincorporated areas of the County, except for residential zoning districts in Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen. The Board adopted the ordinances on May 1, 2018.

**Roosters.** The Board adopted an ordinance to require the humane treatment of roosters and an ordinance to regulate rooster keeping in agricultural zoning districts. The Board adopted the ordinances on May 1, 2018.

**Area of Benefit Fees.** This ordinance establishes transportation mitigation fees for transportation improvements needed to mitigate impacts of new development in the Discovery Bay Area of Benefit in the County. The Board adopted the ordinance on May 22, 2018.

**Fences.** This ordinance exempts fences with a maximum height that does not exceed seven feet from the requirement to obtain a building permit. The Board adopted the ordinance on June 26, 2018.

**Fire Prevention Bureau Fees.** This Fire District ordinance establishes fees for permits, inspections, plan checking, and other Fire Prevention Bureau services. The Board adopted the ordinance on July 10, 2018.

**Ordinance Summaries.** This ordinance designates the County Counsel as the official authorized to prepare a summary of any proposed ordinance or proposed amendment to an ordinance. This allows publication of a summary of certain ordinances, rather than the entire text, thus reducing the County's publication costs. The Board adopted the ordinance on July 10, 2018.

**Sewage Collection and Disposal.** This ordinance establishes new requirements and prohibitions pertaining to sanitary sewer connections, onsite wastewater treatment systems, and other methods of sewage disposal. The Board adopted the ordinance on September 11, 2018.

**Juvenile Coordinating Counsel.** This ordinance abolished the Delinquency Prevention Commission and consolidated its functions with the Juvenile Justice Coordinating Counsel. The Board adopted the ordinance on December 18, 2018.

## **F. LABOR RELATIONS**

Over the past several years, the County Counsel's Office has been extensively involved in assisting the Human Resources Department and the County Administrator's Office with labor relations matters. This includes providing advice on compliance with collective bargaining laws and procedures, including imposition of contract terms, unit modification and decertification, and fact-finding procedures; representing the County before the Public Employee Relations Board; reviewing MOU language for legality and clarity; and providing legal advice on the Federal Affordable Care Act, the State Public Employee Pension Reform Act (PEPRA) and the associated litigation, and other pension, retiree health, salary and benefit matters. In 2018, 58 new Merit Board, grievances, arbitration and EEOC/DFEH matters were added to the County Counsel caseload.

## **G. TRAINING**

In support of the County's continuing efforts to avoid claims of discrimination, reduce litigation exposure, and educate staff, the County Counsel's Office provides advice and instruction to clients on a variety of topics including conflicts of interest, the Brown Act, the Public Records Act, and other substantive legal issues affecting our various client departments. Below is a chart showing training presented in 2018.

## Training Presented in 2018

<b>DATE</b>	<b>FOR</b>	<b>SUBJECT</b>
February 2018	Countywide	Summit on the 5150 Process
February 2018	Children & Family Commission	Conflict of Interest
March 2018	Dept. of Conservation & Development	Board Orders and Agendas
April 2018	Children and Family Services	New Social Worker – Petition Writing
April 2018	Children and Family Services	New Social Worker – Testifying/Court
May 2018	County Counsel's Office	Understanding the Opioid Crisis
June 2018	Grand Jury	How to Comply with the Brown Act
June 2018	Grand Jury	Role and Responsibilities of Grand Jury
August 2018	Children and Family Services	New Social Worker – Testifying /Court
August 2018	Children and Family Services	New Social Worker - ICWA
August 2018	Children and Family Services	New Social Worker –Petition Writing
August 2018	Children and Family Services	New Social Worker-Paternity Inquiry
November 2018	Countywide	Public Records Act Training
November 2018	Children and Family Services	New Social Worker –Testifying/Court
November 2018	Children and Family Services	New Social Worker- Paternity Inquiry
December 2018	Community Services Bureau	Brown Act Training
December 2018	Children and Family Services	New Social Worker – Petition Writing
December 2018	Children and Family Services	New and Continuing Social Worker – Report Writing

In Fall of 2018, this Office applied for and was granted State Bar of California Multiple Activity Provider status. These trainings allow this Office the ability to offer California MCLE credit for mandated continuing legal education trainings. Two trainings were provided in 2018, and several more are planned for 2019.

## **H. SERVICE HOURS**

For calendar year 2018, the total revenues received and expended by the County Counsel's Office were \$8,770,481. This Office provided 101,467 hours of service, which includes thousands of hours of uncompensated overtime worked by County Counsel attorneys. If all of these hours could have been billed out, they would have generated \$13,010,569 in revenue. The difference of \$4,240,088, represents a considerable value to the County, and, in our view is a significant accomplishment.

## **IV. DEPARTMENT CHALLENGES**

### **A. INTERNAL TO DEPARTMENT**

#### **1. Juvenile Dependency/Conservatorship Division.**

The Juvenile Dependency/Conservatorship Division is staffed by nine Deputy County Counsels and supervised by an Assistant County Counsel. The attorneys in this division spend the majority of their time handling juvenile dependency matters. This involves appearing in three different courtrooms in Walnut Creek, three times a week for nine days of attorney coverage, plus special set matters on additional days, along with case preparation and appeals. The attorneys in this division also appear on behalf of the Conservatorship/Guardianship Program in four different courtrooms on conservatorship, Public Guardian and criminal mental health matters. Further, on behalf of Behavioral Health, an attorney from this division prepares and appears as needed on Assisted Outpatient Treatment (Laura's Law) matters. Finally, as required by County ordinance, this division represents the Regional

Medical Center and private hospitals on writs of habeas corpus from individuals seeking release from psychiatric hold; and represents the Regional Center of the East Bay on matters relating to Section 6500 of the Welfare and Institutions Code. The need to consistently provide legal representation in multiple venues has stretched our small staff of 10 Juvenile Dependency/Conservatorship attorneys to the limit. Going forward, we need to revisit our staffing levels and service delivery models as we help the Children and Family Services Division and the Health Services Department carry out their missions to protect this County's most vulnerable residents.

2. **County Administration Building.** The aging County Administration Building, including broken elevators, problems with heating and air conditioning, periodic loss of hot water, damaged window shutters, window leaks, rodent infestation, and lack of County funding for building maintenance impacts all staff on a daily basis.
3. **Records Management and Retention.** The County Counsel's Office currently relies on several independent systems for calendaring, timekeeping/billing platforms and tracking. In addition, the Office's three divisions (General Law, Tort, and Civil Rights Litigation, and Juvenile Dependency/Conservatorship) utilize separate litigation and assignment intake systems. An ongoing departmental project is to modernize the Office's records management system using new technologies. These upgrades will streamline the case management procedures. We are also working with DoIT to identify a digital archiving system that will allow us to digitize files that must be retained for any period and reduce storage costs by decreasing the amount of paper-based records the Office handles. The employees of this Office will continue to review which documents may be destroyed and how to organize and effectively manage the documents that will be retained. This project involves significant staff resources.

4. **Retention and Mentoring.** Attracting, training and keeping qualified Deputy County Counsels is a serious ongoing challenge. Forty-three percent of our attorney staff have only been with the Office for five years or less. Less than one-third have been here for more than 10 years. We want to provide opportunities and incentives for our more experienced staff members to stay with the County so they can mentor new attorneys in this unique public law practice.
5. **Staff Development and Training.** In 2018, the attorneys in this Office spent 1486 hours in professional education and training. Keeping senior staff current with legal trends, while integrating new attorneys into the Office and training them, is an ongoing challenge.
6. **Resource Allocation.** A continuing challenge faced by the County Counsel's Office is our ability to provide outstanding legal services to all of our clients, including the operations that are supported by the general fund. This year's budget reflects a one million dollar reduction in this department's net County cost allocation. Continuing to meet our ethical obligation to provide superior legal advice and assistance to clients supported by the general fund will be a significant challenge in the coming year. One way we hope to accomplish this goal is through more training opportunities for County departments, most pressingly in responding to Public Record Act requests, handling employment matters, and in the use of online contract forms and contract administration so that departments are better able to develop their own internal expertise in these areas.
7. **Space and Staffing Needs.** The County Counsel's Office's occupies three floors of the existing County Administration Building. There is no room for further expansion in our current facility. As we await the construction of the new County Administration Building,

we are contemplating how best to strategically use the new space with existing and new staff to efficiently and more fully address the burgeoning legal needs of the County and our other public clients.

## **B. INTERNAL TO COUNTY OPERATION**

1. **Public Records Act.** Assisting other County departments in responding to an ever increasing number of Public Records Act requests is proving to be a substantial drain on the resources of this Office. This task consumed over 735 County Counsel staff hours in 2018. Navigating the requirements of new legislation concerning the release of law enforcement personnel records (SB 1421) is expected to require additional legal resources in 2019.
2. **New and Different Service Demands.** At the Board of Supervisors retreat on January 29, 2019, the County Administrator's Office noted that County revenues will not keep up with expenditures in FY 2019/20, 2020/21, and beyond. In bad economic times, the demand on the County Counsel's Office increases. When County departments are impacted by program demands and staff reductions, they call upon the County Counsel's Office to advise them on the relevant legal issues and procedures, review and prepare necessary documents and represent them at hearings. To take one example, in 2018 the County's Emergency Medical Services Agency determined that Emergency Medical Technician (EMT) license revocation and suspension proceedings had become so complex and time consuming that the services of the County Counsel's Office were needed to represent the agency at these proceedings. Two deputies have been assigned to this new practice area as a first priority. In addition, the need to address relatively new local state and national challenges, such as jail mental and medical health services, new state public record transparency laws, the recent PG&E bankruptcy, this County's response to the opioid epidemic, and

constitutional challenges arising out of federal policy mandates are expected to continue to require an increasing level of new services from the County Counsel's Office.

3. **Preventative Legal Services.** This Office continues to look for ways to streamline our existing services and provide timely, preventative legal and administrative assistance to County departments, while maintaining the flexibility to address immediate legal problems and/or crises. We emphasize a strategic approach to problem-solving and try to identify creative solutions that will enable client departments to effectively meet new challenges and manage risk.
4. **Medical and Mental Health Issues.** An important challenge for all California counties is to find ways to better support public health while addressing the needs of individuals who become involved in the criminal justice system. In this County, the question of how best to address the medical and behavioral health needs of individuals involved in the criminal justice system is the subject of an ongoing collaboration among the County Administrators' Office, the Sheriff's Department, the Health Services Department, and the County Counsel's Office. This Office continues to devote significant resources to assisting with the development of proactive policies and innovative practices, establishing priorities, mediating issues, responding to community concerns, and other problem-solving and advisory assistance.

## C. EXTERNAL TO COUNTY OPERATION

1. **Criminal Court-Ordered Conservatorship Investigations.** Penal Code section 1370 provides for a mechanism for criminal defendants to undergo competency training when they have been found incompetent to stand trial. At the end of competency training, the Superior Court judge overseeing a case may refer the incompetent criminal defendant for conservatorship investigation. As of January 1, 2019, section 1370, was amended to reduce the maximum

amount of competency training from three years to two years. It is anticipated that this will lead to an increase in the number of conservatorship investigations ordered by the criminal court. It also may result in incompetent criminal defendants spending more time in County detention facilities versus undergoing competency training at a state hospital.

2. **Defending the Social Safety Net.** The lack of adequate state and federal funding for medical and mental health care, safe and affordable housing options, and social service programs is a growing concern, not only in this County but nationwide. Increasingly, concerns about access to these programs end up in court. Cities and counties are facing new avenues of liability by advocates demanding greater access to social safety net programs such as general assistance, behavioral health, housing and other County services to disabled or indigent residents. In 2018, two such lawsuits were filed against this County. This Office continues to work with the departments that oversee these social safety net programs to assist them in understanding the laws that govern access and defend litigation challenging the administration of these programs.
  
3. **Responding to the Opioid Epidemic.** Contra Costa County is one of 30 California counties that filed litigation in May 2018 against opioid manufactures and distributors for creating an opioid epidemic in this state. These 30 counties represent approximately 10.5 million residents. These cases are being litigated as part of a multi-district litigation in Ohio, where more than 500 public entitles have filed similar suits. This litigation is an important tool to help the County recover taxpayer funds currently being used and needed to intervene and try to counteract the opioid epidemic. This Office is currently engaged in the discovery phase of the litigation.

## V. PERFORMANCE INDICATORS

### A. TORT and CIVIL RIGHTS LITIGATION WORKLOAD REPORT

#### Files Opened

Litigation Division Files Opened	Year 2015	Year 2016	Year 2017	Year 2018
Civil Rights Cases	23	24	16	17
Employment Cases	3	3	1	9
Medical Malpractice Cases	6	4	9	5
Dangerous Condition Cases	11	14	15	10
Other Cases	13	13	4	15
<b>Total Files Opened</b>	<b>56</b>	<b>58</b>	<b>45</b>	<b>56</b>

#### Files Resolved/Closed

Litigation Division Files Resolved/Closed	Year 2015	Year 2016	Year 2017	Year 2018
Files Resolved for \$0	24	32	25	30
Files Resolved for under \$10k	5	6	4	3
Files Resolved between \$10k and \$50k	7	5	8	12
Files Resolved between \$51k and \$100k	3	3	2	2
Files Resolved for over \$100k	4	6	3	3
<b>Total Files Resolved/Closed</b>	<b>43</b>	<b>52</b>	<b>42</b>	<b>50</b>

## B. GENERAL LAW WORKLOAD REPORT

General Law Division – Civil and Administrative Litigation	Year 2015	Year 2016	Year 2017	Year 2018
New Court Cases Opened	73	69	58	78
New Administrative Cases Opened	46	65	59	58

General Law Division Advisory Services	Year 2015	Year 2016	Year 2017	Year 2018
Standard Form Contracts Reviewed	1524	1618	1614	1673
Responses to Written Requests for Complex Transactional and Advisory Services	486	595	677	569

## C. JUVENILE DEPENDENCY/TEMPORARY CONSERVATORSHIP WORKLOAD REPORT

JUVENILE DEPENDENCY/TEMPORARY CONSERVATORSHIP SERVICES	Year 2015	Year 2016	Year 2017	Year 2018
New Dependency Cases Opened	526	415	458	391
Contests	1698	1857	1634	1507
Briefs and Appeals	58	81	84	51
Conservatorship (LPS)/Probate Petitions Filed	275	317	362	453

## D. LITIGATION PERFORMANCE MEASURES

### 1. Tort and Civil Rights Litigation Division, Assigned Cases.

- (a) Resolve 90% of cases with a “remote chance” of liability by dismissal or judgment within estimated cost-of-defense liability targets.

Outcome for 2018: 100% of cases resolved within this standard.

- (b) Resolve 90% of cases with a “reasonable possibility” of liability at a cost equal to or less than 75% of amount administratively reported at risk and within liability targets.

Outcome for 2018: 100% of cases resolved within this standard.

- (c) Resolve 90% of cases with a “probability” of liability at a cost equal to or less than the amount administratively reported at risk and within liability targets.

Outcome for 2018: 100% of cases resolved within this standard.

- (d) No liability in 80% of assigned civil rights cases.

Outcome for 2018: 100% of civil rights cases were resolved with no liability findings and no adverse verdicts or judgments against the County. Out of 20 civil rights cases, 12 (60%) were resolved without any payment to the Plaintiff. 70% were resolved for under \$10,000 and 90% were resolved for \$30,000 or less.

2. **Civil and Administrative Litigation – General Law Division.**

- (a) Resolve with a favorable outcome at least 75% of civil cases litigated by the General Law Division.

Outcome for 2018: Of the 106 civil cases resolved by the General Law Division in 2018, 99% resulted in an outcome favorable to the client.

- (b) Resolve with a favorable outcome at least 80% of administrative cases litigated by the General Law Division.

Outcome for 2018: Of the 15 administrative labor and employment cases resolved by the General Law Division in 2018, 100% resulted in an outcome favorable to the client.

- (c) Uphold at least 75% of Department personnel decisions and actions in administrative proceedings (Merit Board, arbitration, PERB etc.).

Outcome for 2018: 92% of Department personnel decisions that were referred to hearing in administrative proceedings such as arbitration, Merit Board, etc., were upheld.

**E. ADVISORY PERFORMANCE MEASURES**

1. Respond to 90% of written requests for services requiring drafting or legal analysis within 30 days or negotiated time targets, including extensions.

Outcome for 2018: The General Law

Division responded to 95% of written requests for services requiring drafting or legal analysis within 30 days or negotiated time targets, including extensions.

2. Respond to 90% of requests for approval as to form of County standard form contracts within seven working days after receipt of request.

Outcome for 2018: Responded to 99% of requests for approval as to form of County standard form contracts within seven working days after receipt of request.