

# Law Department

2025 Executive Proposed Budget

# Core Programs & Functions

- Appeals, Opinions and Legislation Bureau
  - Handles appeals in federal and state courts.
  - Prepares legal opinions as requested by the County Executive, Board of Legislators and County Departments, Boards and Commissions.
  - Drafts legislation as requested by the County Executive, Board of Legislators and County Departments
- Litigation Bureau
  - Handles major and routine litigation by and against the County
  - Handles administrative proceedings
  - Handles labor and employment proceedings including disciplinary and grievance issues

# Core Programs & Functions

- Family Court Bureau
  - Handles abuse and neglect proceedings
  - Handles fair hearings and proceedings to terminate parental rights
  - Prosecutes juvenile delinquency cases in Family Court and Youth Court
  - Pursues child support proceedings on behalf of custodial parents
- Contracts and Real Estate Bureau
  - Drafts contracts for County departments
  - Prepares and reviews requests for proposals
  - Reviews legal issues arising under contracts and provides legal advice to the County Executive, Board of Legislators and County Departments

# Core Programs & Functions

- Office of Risk Management
  - 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.
  - 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.
  - Administer and oversee the County's 6N Fund and the reserves set on litigation matters involving the County.

# Budget Summary

ITEM	2024	2025
Operating Positions	91	91
Trust Positions	0	0
<b>TOTAL POSITIONS</b>	<b>91</b>	<b>91</b>
Personal Service	\$11,077,977	\$11,133,994
Equipment	\$86,711	\$342,000
Materials & Supplies	\$73,933	\$68,100
Contractual Expenses	\$3,575,982	\$2,922,675
Inter-Departmental Charges	\$1,140,431	\$1,174,466
<b>TOTAL EXPENDITURES</b>	<b>\$15,955,034</b>	<b>\$15,641,235</b>

# Budget Summary

ITEM	2024	2025
Inter-Departmental Revenue	\$11,693,248	\$11,628,357
Departmental Revenue	\$4,064,907	\$4,411,283
State & Federal Aid	\$0	\$0
<b>TOTAL REVENUE</b>	<b>\$15,758,155</b>	<b>\$16,039,640</b>
<b>DEPARTMENT TAX LEVY</b>	<b>\$196,879</b>	<b>(\$398,405)</b>

# Litigation Bureau

- Million Air- Negotiated an interim resolution and lease amendment, which resolves most of the County's counterclaims in the matter, and dismisses the action brought against the County without prejudice. Resolution requires Million Air to maintain Hangar 25 for light general aviation use, maintain tie-down spaces, and pay for parking spaces it has been using.
- Charterers-Won summary judgment in a lawsuit brought by air charter companies who challenged application of the County's Terminal Use Regulations against them. The Regulations require the air charter companies to operate from the main terminal at the County airport as opposed to a Fixed Base Operator area, where they currently conduct business. Currently defending the decision on appeal, while prosecuting a state court action to enforce the Terminal Use Regulations against those charterers currently acting in violation thereof.
- Vitagliano v. County of Westchester-secured dismissal of a complaint in federal district court challenging the constitutionality of the "bubble zone" provisions of the County's Reproductive Health Care Facilities Act. The Second Circuit Court of Appeals affirmed the dismissal. County law amended to repeal section regarding bubble zone provision. Plaintiff filed a petition for certiorari in the United States Supreme Court, which the County opposed. Secured denial the writ of certiorari ending the Plaintiff's First Amendment challenge.
- Hulinsky v. County of Westchester-successfully opposed Plaintiffs' motion for a preliminary injunction, seeking to enjoin numerous provisions of the County's Reproductive Health Care Facilities Act. Plaintiffs appealed the decision denying a preliminary injunction to Second Circuit Court of Appeals. The County won an appeal affirming the denial of Plaintiffs' motion for a preliminary injunction, where Plaintiff's-anti-abortion "sidewalk counselors" and entities-sought to enjoin numerous provisions of the County's Clinic Access law. Briefed and filed a summary judgment motion seeking dismissal of the entire matter. Decision of the District Court pending.
- Won summary judgment in federal court in County's favor in an employment discrimination case, where Plaintiff, an adjunct professor at Westchester Community College asserted she had been terminated and retaliated against because of her alleged disability. Plaintiff has appealed the District Court's ruling to the Second Circuit Court of Appeals. Appellate briefs have been submitted to the Second Circuit, and a decision is pending.

# Litigation Bureau

- Obtained dismissal of twenty-four (24) federal and twenty (20) state lawsuits through motion practice, from August 1, 2023 to August 1, July 18, 2024.
- Defending the County in sixteen (16) actions brought under the New York Adult Survivors Act.
- Successfully thwarted the imposition of local real estate taxes on Playland Park through the filing of a petition pursuant to Article 7 of the New York Real Property Tax Law.
- Won dismissal of a lawsuit brought against the County by a former employee of the Board of Legislators alleging disability discrimination in the matter of Daly v. County of Westchester, et al.
- Defended the County in sixty-three (63) job injury claims brought under Section 207-c of the New York State General Municipal Law.
- The County received a defendant's verdict after a 3 day trial in State Supreme Court, in a pedestrian knockdown matter involving an officer with the Department of Public Safety.
- Continuing to monitor and work with outside counsel on the litigation 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. The County will receive \$17,291,253, with distributions expected over the next twelve years.
- Continued intensive evaluation of cases for mediation and/or settlement; enforcement of defense and indemnity rights of the County and enforcement of rights under and with surety bonds.

# Litigation Bureau

- Liberty Lines Bus Accident Cases-A dedicated attorney is assigned to handle and monitor all Liberty Lines bus accident cases. The entire portfolio of open Liberty Lines bus accident cases currently two hundred and sixteen (216), 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 2024, sixteen (16) cases have been settled. One hundred and forty-two (142) cases have been closed without payment. For the pre-July 1, 2018 claims subject to a \$250,000 SIR, there are twenty-four (24) open claims pending, including both No Fault cases and bodily injury cases. For the post-July 1, 2018 claims, subject to a \$100,000 deductible, there are one hundred and forty-eight (148) open claims pending including both No Fault cases and Bodily Injury cases, and one hundred thirty-three (133) open Paratransit claims.
- Recovery of Liens-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 \$3,333,714.55 in Medicaid funds and \$427,445.08 in public assistance funds from August 1, 2023 to July 31, 2024.

# Litigation Bureau

- Child Victims Act cases- Secured insurance coverage from Liberty Mutual for twenty-three Child Victims Act (“CVA”) lawsuits based upon allegations of abuse prior to 1986 when the County became self insured. The County Law Department is defending the County in the remaining ten Child Victims Act lawsuits with allegations of abuse after 1986. The County legal team continues to meet with the outside counsel legal team weekly to coordinate the consistent handling of the legal issues in these cases. Cases are being scheduled for trial. Filed an Amicus Brief in the New York State Court of Appeals regarding application of the “special duty rule” in these cases. A decision of the Court of Appeals will determine whether and to what extent counties could be liable in these CVA matters.

# Appeals, Opinions and Legislation Bureau

- Was successful in the following appeals before the United States Supreme Court, the Second Circuit Court of Appeals, the New York State Court of Appeals, and New York State Supreme Court, Appellate Division, Second Department:
  - *Hulinsky v. County of Westchester (Clinic Access)*-successfully won an appeal affirming the denial of Plaintiff's motion for a preliminary injunction, where Plaintiff's anti-abortion "sidewalk counselors" and entities- sought to enjoin numerous provisions of the County's Clinic Access Law. Briefed and filed a summary judgment motion seeking dismissal of the entire matter. (pending)
  - *Vitagliano v. COW- Westchester*-secured dismissal of a complaint in federal district court challenging the constitutionality of the "bubble zone" provisions of the County's Reproductive Health Care Facilities Act. The Second Circuit Court of Appeals affirmed the dismissal. County law amended to repeal section regarding bubble zone provision. Plaintiff filed a petition for certiorari in the United States Supreme Court, which the County opposed. Secured denial of the writ of certiorari ending the Plaintiff's First Amendment challenge.
  - *Daly v. Westchester County Board of Legislators*
  - *Keith Thomas v. Westchester Community College*
  - *Bronxville Scout Committee v. County of Westchester*
  - *Matter of Edwin B.*
  - *Matter of Abel J.R.*
  - *Matter of Joshua J.*
  - *Matter of King T.*
  - *Matter of Amir E.*

# Appeals, Opinions and Legislation Bureau

- Draft legislation to protect the health, safety and security of the residents of Westchester County, including legislation related to:

The administration and enforcement of the New York State Uniform Fire Prevention and Building Code; Provision of lock changes and security cameras for survivors of domestic violence; Establishment of a red-light camera program; Regulation of dumping on County property; Digitization of the County Clerk's Records; Strengthening the County's prior written notice laws; Updated settlement authority for the County Attorney and Board of Acquisition and Contract; Move to even year elections for County Legislators; Authorization for four-year terms for County legislators; Encourage contracting with Service-Disabled Veteran businesses; Increase Pistol Permit fees; the Source Separation Law; the School Bus Arm Camera Law; Authorization for use of videoconferencing for meetings of the Board of Legislators and Committees and the public bodies of the County Executive's Office; Naming of County buildings and facilities and Establishment of an Independent Police Accountability Board.

# Appeals, Opinions and Legislation Bureau

- Draft opinions for the County Executive, Board of Legislators, and County Departments and Boards regarding various topics including:

The New York State Open Meetings Law including videoconferencing meetings; the Freedom of Information Law; Review of the New York State Vehicle and Traffic Law's regulation of various issues; Powers and functions of the Westchester County Plumbing Board; Authority of the Department of Health to take certain actions; Policies for a department relating to exposure of pregnant individuals to certain hazards; Provision of fire services at the Valhalla Grasslands Campus; Updates to the County's lactation policy; Local recommendations for New York State Office of Mental Health issues; Certain activities at the Westchester Community College ("WCC"); Powers of the County Planning Board; Gender inclusive bathrooms; Protocols for loss of consciousness by students at WCC; Emergency use of WCC facilities; Tobacco Licensing; issues related to creation of a County Independent Police Accountability Board.

# Contracts and Real Estate Bureau

- Westchester Joint Water Works (“WJWW”) is required to build a water filtration facility to meet Federal and State mandates. Drafted legislation to authorize the County to enter into an agreement with WJWW to: a) convey an approximate 13.4 acre parcel of County property that is currently part of the County Airport in order to facilitate WJWW’s plan to construct and operate a water filtration facility; b) acquire from WJWW an approximate 13.4 acre parcel adjacent to the Airport; and c) convey an easement to WJWW across County Airport property permitting connection to the existing sanitary sewer line on County Airport property. Worked with WJWW’s attorney on the change of ownership application required to comply with the State’s Brownfield Cleanup program relating to the conveyed parcel.
- Provided legal advice, research and drafting services in connection with creation and implementation of the new County Housing Flex Fund Loan Program in order to: (a) extend mortgage loans to developers in connection with eligible projects for the creation of additional affordable housing units and (b) enter into multiple real estate transactions in connection with County Housing Flex Fund mortgage loans provided to developers in connection with the construction of hundreds of affordable housing units. This program will affirmatively further fair housing throughout the County.
- Negotiated and drafted a Lease agreement between the County of Westchester and MG MARTINE SPE LLC, to lease three (3) consecutive floors (12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup>) at a building located at 11 Martine Avenue, White Plains, New York, to be occupied by the County’s Department of Health (“DOH”). DOH is consolidating various offices into one space, thus creating greater work synergies and operational efficiencies as well as travel time and cost savings, while travelling between offices.

# Contracts and Real Estate Bureau

- Assisted the Department of Parks, Recreation and Conservation in negotiating an agreement and drafted legislation to authorize the grant of permanent and temporary easements to Clean Path New York LLC to lay and maintain high voltage electrical lines over and under Croton Point Park. This will facilitate the construction of a proposed 1,300 megawatt high voltage direct current transmission project that will run underground and underwater for approximately 178 miles from Delhi, New York to Queens, New York. The project will deliver power from new wind and solar generation facilities in upstate New York directly to New York City.
- Assisted the Department of Planning with the planning and negotiation of an intermunicipal agreement (“IMA”) with the City of Yonkers for the construction of a park by the Hudson River for the benefit of all County residents. Pursuant to the IMA, the County will pay up to a not-to-exceed amount of \$15,000,000 for the construction of the park improvements, and will convey a parcel 0.4 acres in size to the City of Yonkers. This collaboration between the City of Yonkers, and the County of Westchester, will require bonding legislation, property conveyance and an agreement with the City of Yonkers, so that all County residents can enjoy another waterfront park in Westchester County.
- Provided legal advice and counsel to the Departments of Environmental Facilities and Public Works & Transportation in connection with the negotiation and granting of permanent easements to the City of New York to enable the New York City Department of Environmental Protection (“NYCDEP”) to construct a subsurface water tunnel that will become a part of the NYCDEP’s Kensico-Eastview Connection Tunnel.

# Family Court Bureau

- The Crossover Youth Practice Model (CYPM) is a multi-agency, cross-system practice model that aims to address the needs of youth involved in both child welfare and juvenile justice systems. Its core goal is to reduce further youth involvement in the juvenile justice system in a manner that is consistent with the needs and best interests of youth as well as protection of the community. The Family Court Bureau will endeavor to begin a CYPM model in Westchester County by engaging the Department of Social Services, the Department of Probation and the Family Court to create a model, which seeks to achieve the following four overarching goals: Reduction in the number of youth crossing over and becoming dually-involved in the child welfare and juvenile justice systems; Reduction in the number of youth placed in out-of-home care; Reduction in the use of congregate care; and Reduction in the disproportionate representation of youth of color, particularly in the crossover population. This model will coordinate efforts amongst child welfare and juvenile justice areas in order to reduce the number of youth going further into the juvenile justice system.

# Family Court Bureau

- The Strong Starts Court initiative brings expertise in early childhood development to all stages of Family Court proceedings. It supports infants, toddlers, caregivers, and families so that the court becomes a catalyst for positive change in the lives of the youngest children. The Strong Starts Court was developed in response to gaps in the child welfare system and, after being piloted in the Bronx Family Court in 2015, has expanded to Westchester County. Children under the age of 6 make up a disproportionate percentage of those entering the foster care system. The Strong Starts Court Initiative fills gaps in the current approach to court-involved infants. Infants often remain in out-of-home placements as cases drag on sometimes for years. Limited contact with parents and frequent changes in care jeopardize infant development, and signs of developmental delays are often not identified or addressed. In addition, the complex needs of birth parents are not comprehensively assessed, resulting in inadequate or inappropriate service plans. The Bureau's participation in this program will ensure: that infants and parents receive comprehensive screening and assessment at entry level into the child development services, that adult development services and services required for family stability are provided; and enable a shift from an adversarial to a collaborative approach in addressing the needs of families.
- Since 2022, the Family Court Bureau has been successful in collaborating with community based partners such as WESTCOP and other county agencies to expand the network of services offered to victims of youth crime, including, but not limited to: safety planning, therapeutic interventions, assistance with victim services applications, medical bills and counseling expenses, lost wages and other types of assistance. The Bureau is now able to refer crime victims for services routinely and continued to do so throughout 2024.

# Office of Risk Management

- Effective the second quarter of FY 24 reviewed bid construction contracts for the Department of Transportation and established insurance and loss prevention requirements, including for some major County construction projects.
- Significantly reduced the County's incurred premiums, while ensuring that the County's insurance coverage remained unchanged or enhanced; facilitated insurance renewal programs and ensured the County received improved carrier, broker and claims handling service on a going-forward basis. The cybersecurity insurance policy for 7/11/23 – 7/11/24, provided \$5,000,000 in limits subject to a Self-Insured Retention of \$1,000,000 and resulted in a total premium of \$306,062. A significantly better insurance limit and a reduced self-insured retention was negotiated for the policy period of 7/11/24 – 7/11/25. Specifically, a limit of \$10,000,000 with a Self-Insured retention of only \$500,000 was aggressively negotiated for a total premium of \$379,775. This was a significant accomplishment and savings, as subsequent to the first layer of coverage, we secured an additional \$5,000,000 in insurance limits, and a reduction of \$500,000 in a Self-Insured retention for only \$73,714. To illustrate the savings, the cost of the first layer of \$5,000,000 last year was \$306,062, and this year it was \$220,000.
- Developed and implemented a new Property Insurance Premium Allocation Methodology during Fiscal Year 2023 that proved successful for FY 2024 budget projections and is being utilized for FY 2025. The new methodology was developed to fairly allocate premiums to departments on the basis of the involved department's insurable values. In addition, the new methodology facilitated departments' understanding of their assumed premium obligations, established a sound rationale for Fiscal Year 2024 and 2025 and is best aligned with insurers' property insurance rating basis. Gained the participation of the Department of Environmental Facilities ("DEF") and specifically DEF's Solid Waste Division in the FY 2025 Premium Allocation program, thereby ensuring its proper premium contribution to the property program and a corresponding offset to the Office of Risk Management's budget.
- Continued securing Loss of Use compensation from third parties who have damaged the County's various properties.
- Negotiated a favorable premium for insurance for 2 helicopters owned by the County (Department of Public Safety). The helicopter policy for the term 11/4/23 -11/4/24, which insured a 2006 Bell 407 helicopter and a 2011 Bell 407 helicopter for (Public Safety) had an annual premium of \$109,110. The renewal quote for 11/4/24 -11/4/25, to insure our 2011 Bell 407 helicopter and a new 2024 Bell 407 helicopter that the County purchased (County relinquished the 2006 helicopter) was \$138,169.78. Greater coverage was needed for the new 2024 Bell 407 helicopter. However, that premium was negotiated down to \$119,417, resulting in a premium savings of \$18,752.78.

# Office of Risk Management

- Gained access to BIDNET, an application that provides detailed information on the County's upcoming bid projects. Reviewing potential exposures and recommending contractual insurance requirements helps mitigate the County's exposure to lawsuits.
- Assisted miscellaneous departments with adhering to FEMA's Obtain and Demand Flood requirements and educated them on the idiosyncrasies of a flood policy.
- In an effort to address risk exposures potentially associated with certain departments' scope of work and to complement the County's current employee safety programs, apprised the Department of Human Resources and appropriate parties of the Public Risk Management Association's complimentary Workplace Violence Prevention webinars.