

Office of the County Attorney

Mission

To provide the best possible legal counsel and representation to County officials and agencies in support of their mission to protect and enhance the community.

Connection to the Countywide Strategic Plan

The Fairfax County Board of Supervisors adopted the first-ever Countywide Strategic Plan on October 5, 2021. The Countywide Strategic Plan serves as a road map to help guide future work, focusing on the 10 Community Outcome Areas that represent the issues of greatest importance to the community, and uses our One Fairfax equity policy to invest in people and places that have limited access to opportunity. On February 20, 2024, the second Annual Report on the work of the strategic plan was released to the public. The report contains point-in-time progress highlights for each of the community outcome areas, plus three data dashboards and data stories that are being replicated across all of the outcome areas, and a number of additional initiatives to embed the elements of the plan within department-level work. The report also includes a Year Three Implementation Model, which will engage hundreds of County subject-matter experts to identify and champion the specific strategies that will move forward to implementation under the guidance of the Board of Supervisors. For more information on the Countywide Strategic Plan, please visit www.fairfaxcounty.gov/strategicplan. The Office of the County Attorney primarily supports the following Community Outcome Area:



Community Outcome Area	Vision Statement
Effective and Efficient Government	<i>All people trust that their government responsibly manages resources, is responsive to their needs, provides exceptional services and equitably represents them.</i>

Focus

The Office of the County Attorney (OCA) is divided into four sections: General Law; Land Use; Personnel; and Public-Private Partnership, Procurement, and Public Records (P5).

The General Law section advises County agencies on multi-jurisdictional leases, emergency management, and transportation matters, including the formation of special tax and transportation improvement districts; interacts with the Virginia General Assembly on proposed legislation; drafts proposed County ordinances; and issues legal opinions to the governing body and the County government on all manner of subjects. This section also maintains intensive collection and litigation efforts regarding bankruptcies. In addition, the General Law section defends litigation brought by, among others, large corporations located in the County to challenge real estate, business personal property and Business, Professional and Occupational License (BPOL) tax assessments. In addition, this section represents the County’s interests in utility cases before the State Corporation Commission. The General Law section also provides support in addressing Conflict of Interests Act inquiries. Further, the section renders legal advice and representation on a wide variety of specialized areas of law including election law, first amendment issues on social media, and environmental law. The section advises several key agencies including Land Development Services, the Department of

Public Works and Environmental Services, and the Office of Environmental and Energy Coordination with respect to the County's Environment and Energy Strategic Plan, and litigates all Chesapeake Bay Preservation Ordinance, Stormwater Management Ordinance, and Erosion and Sediment Control Ordinance cases.

The Land Use Section works closely with the Department of Planning and Development (DPD), Department of Public Works and Environmental Services (DPWES), and Land Development Services (LDS) to evaluate legal issues in a proactive effort to resolve conflicts and thereby diminish the chance of litigation. If litigation results, this section defends the legislative decision of the Board of Supervisors in the state and federal trial and appellate courts. This section's attorneys are also an integral part of the County team that drafts the Zoning Ordinance and amendments thereto, as well as building and land development regulations. Further, this section plays a crucial role in the efforts of the Zoning Administrator, the Property Maintenance Code Official, and the Director of DPWES to improve communities through the enforcement of various land use laws in the Zoning Ordinance, Fairfax County Code, and the Code of Virginia. This section also brings and defends condemnation actions, assists the County in acquiring, leasing, and selling real property, initiates legal action against developers who default on land development projects, and reviews subdivision documents affecting County property interests. In addition, one of the section's attorneys serves in a full-time capacity on the County's legislative team in Richmond while the General Assembly is in session and throughout the remainder of the year reviews draft legislation and staffs various groups and commissions appointed by the General Assembly. Finally, this section assists the P5 section with the litigation of Fair Housing claims in Circuit Court.

The Personnel section defends County personnel decisions before administrative bodies and in state and federal court. In addition, this section defends the County and its agencies in alleged employment discrimination cases, other federal civil rights claims, Americans with Disability Act litigation, and tort actions (such as personal injury automobile accidents). The section also supports the County's ongoing work to implement collective bargaining, providing comprehensive legal advice and support to the County Executive, Department of Management and Budget, and Department of Human Resources regarding negotiations, arbitration, mediation, and the resolution of labor disputes. This section also renders legal advice on an ongoing basis to County agencies and employees in an effort to prevent and resolve legal issues on an informal basis and, failing that, to ensure that the County is in the best legal position possible if litigation ensues. Attorneys in this section also draft and review personnel regulations and retirement ordinances.

In addition, the Personnel section civilly prosecutes cases involving abuse and neglect of children and elders. Abuse and neglect cases occupy the efforts of five full-time attorneys, and these attorneys each handle between 80 and 90 active litigation cases at a time. These attorneys also review agreements and memoranda between the County and federal, state, and local jurisdictions and entities such as INOVA, non-profits, or private corporations. In addition, the attorneys in this section assist with adult protective services matters.

The Personnel section also provides legal services and representation to the Fairfax-Falls Church Community Services Board (CSB). Two full-time attorneys represent the CSB's and the County's interests in civil commitment hearings for individuals requiring mandatory inpatient mental health services. The number of hearings has been steadily increasing. In FY 2011, attorneys handled 124 hearings, and in FY 2023, handled 1,163 hearings. The section also addresses subpoenas for CSB personnel and records and gives guidance to CSB regarding its duties and responsibilities under the many state and federal laws and regulations governing the health care industry.

The Public-Private Partnerships, Procurement, and Public Records section assists in the planning and negotiation of significant infrastructure projects that leverage both public and private resources and drafts the myriad of contracts that reflect these complicated transactions. The attorneys in the P5 section also support the Fairfax County Redevelopment and Housing Authority (FCRHA), the Department of Housing and Community Development (HCD), and the Department of Planning and Development (DPD). A growing population density and aging population on lower fixed incomes during their retirement years, look to the County to assist them in meeting their housing needs, resulting in more work for the office in its provision of legal advice and transactional expertise to the FCRHA. The Board of Supervisors' initiative to provide more affordable and workforce housing also results in greater involvement of OCA in the work of the FCRHA. In its housing capacity, the P5 section defends the existing stock of affordable dwelling units, ensures federal and state regulatory compliance, drafts leases and other housing-related contracts, and assists with the review of Fair Housing claims. In addition, the P5 section supports DPD in its mission to facilitate strategic redevelopment and investment opportunities within targeted commercial areas.

The P5 section also provides legal assistance to various County agencies regarding public contracts, specifically for the procurement of goods and services and receipt of grant funds. The P5 section's work on procurement matters involves working with the Department of Procurement and Material Management and DPWES to provide advice at all phases of procurement, such as legal review of County contracts and answering questions under the Virginia Public Procurement Act. If a County procurement is challenged, the P5 section defends the County's interests in such litigation. A growing area of work for the P5 section includes the review and drafting of all necessary legal documents in connection with the County's receipt of federal, state, and private grant funds.

In addition to the above duties, the P5 section handles requests for legal advice related to public records, including the Virginia Freedom of Information Act (VFOIA) and the countywide data sharing agreement. The VFOIA work is accomplished with the assistance and guidance of two full-time Freedom of Information Act (FOIA) attorneys. In addition to responding to FOIA requests, the attorneys continue to provide legal advice and guidance to County agencies, as well as training for specific agencies and general countywide training. The FOIA attorneys also have been instrumental in working with the Office of Public Affairs on the countywide FOIA program. The P5 section's advice on data sharing supports programs such as the County's Opioid Task Force and the County's Data Analytics Governance Advisory Council and Advisory Group.

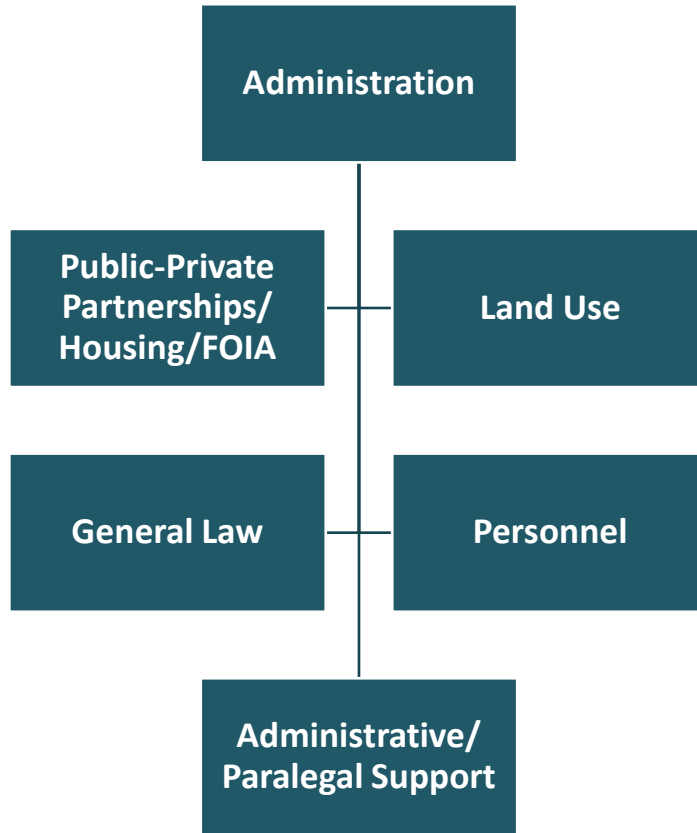
All sections of the OCA are also engaged in reviewing draft legislation that is presented to the Virginia General Assembly for consideration. In 2023, despite the General Assembly meeting for a short session, the OCA submitted over 1,510 legal reviews of draft legislation. Further, all sections of the OCA are engaged in providing ongoing training for the multitude of County clients served by the office and are engaged in state and local bar association activities. Attorneys also regularly serve as expert lecturers for continuing legal education seminars.

As the office fully implements the Board of Supervisor's One Fairfax policy, there is ongoing work to provide current and prospective employees with a welcoming and inclusive environment in which to work and grow and to excel in the role of legal counsel to the Board of Supervisors and the County. The office follows a unified and cohesive equity plan, which promotes an understanding of diverse perspectives, backgrounds, and experiences. This equity plan seeks to continue to broaden the impact on equity both internally and throughout the County.

To reach the goals of One Fairfax, the office continues to encourage attorneys and staff to explore both One Fairfax and outside diversity related resources and to share individual perspectives on diversity within the office. In addition, attorneys are encouraged to promote legal and professional excellence by preserving a culture of equity and fairness for all employees. In its work with County agencies, attorneys ensure that equity and diversity are considered and discussed with County agency staff, including encouraging discussion with the County agency's Equity Lead and/or OCA's Small Group Equity Team before approving responses. Internally, the Small Group Equity Team regularly selects written materials from suggested sources and encourages participation in meetings and brown bag lunches, previews and selects video presentations and facilitates related discussion for quarterly meetings, maintains an equity-based resource library, and sends regular emails about upcoming equity related trainings and events. Senior members of the office share opportunities to learn more about One Fairfax equity initiatives through regularly held office-wide meetings.

The office also has been implementing measures that foster the ability to attract and retain individuals with various backgrounds, cultures, and traditions that reflect the County's diversity. OCA has taken steps internally to further promote diversity in the applicant pool for open positions by posting advertisements for job openings with specialty bar associations. Further, the office has regularly attended job fairs hosted by these associations to solicit internship applications with the expectation that some of those interns might later become full-time employees. Senior management attorneys, among others, have also taken a variety of seminars and classes to develop a keener awareness of, and heightened sensitivity to, implicit bias in the legal profession. With the ongoing implementation of all of these measures, One Fairfax is the bedrock of practicing law in the County.

Organizational Chart



Budget and Staff Resources

Category	FY 2023 Actual	FY 2024 Adopted	FY 2024 Revised	FY 2025 Advertised
FUNDING				
Expenditures:				
Personnel Services	\$8,265,666	\$9,466,013	\$9,658,376	\$10,870,076
Operating Expenses	1,015,068	614,066	2,179,402	609,501
Subtotal	\$9,280,734	\$10,080,079	\$11,837,778	\$11,479,577
Less:				
Recovered Costs	(\$466,522)	(\$466,522)	(\$466,522)	(\$466,522)
Total Expenditures	\$8,814,212	\$9,613,557	\$11,371,256	\$11,013,055
Income:				
Litigation Proceeds	\$107,895	\$143,254	\$143,254	\$143,254
Total Income	\$107,895	\$143,254	\$143,254	\$143,254
NET COST TO THE COUNTY	\$8,706,317	\$9,470,303	\$11,228,002	\$10,869,801
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)				
Regular	66 / 66	66 / 66	68 / 68	69 / 69

**FY 2025
Funding
Adjustments**

The following funding adjustments from the FY 2024 Adopted Budget Plan are necessary to support the FY 2025 program:

Employee Compensation **\$1,061,967**
 An increase of \$1,061,967 in Personnel Services includes \$193,167 for a 2.00 percent market rate adjustment (MRA) for all employees and \$145,743 for performance-based and longevity increases for non-uniformed merit employees, both effective July 2024. The remaining increase of \$723,057 is included to support other compensation adjustments and employee retention and recruitment efforts that will reduce pay compression and align the County’s pay structures with the market based on benchmark data.

Support for Collective Bargaining **\$288,544**
 As previously approved by the Board of Supervisors as part of the *FY 2023 Carryover Review*, an increase of \$288,544 is included to support additional positions needed to provide legal support and guidance to the Board of Supervisors and County staff in connection with the collective bargaining agreements. It should be noted that an increase of \$140,861 in Fringe Benefits funding is included in Agency 89, Employee Benefits. For further information on Fringe Benefits, refer to the Agency 89, Employee Benefits, narrative in the Nondepartmental program area of Volume 1.

Position to Support Growing Caseloads **\$68,552**
 An increase of \$68,552, including \$63,552 in Personnel Services and \$5,000 in Operating Expenses, is included for 1/1.0 FTE new administrative support position necessary to address the growing caseload handled by the department. It should be noted that an increase of \$33,886 in Fringe Benefits funding is included in Agency 89, Employee Benefits. For further information on Fringe Benefits, refer to the Agency 89, Employee Benefits, narrative in the Nondepartmental program area of Volume 1.

Department of Vehicle Services Charges **\$435**
 An increase of \$435 in Department of Vehicle Services charges is based on anticipated billings for fuel, maintenance, and operating-related charges.

Reductions **(\$20,000)**
 A decrease of \$20,000 and 0/0.0 FTE positions reflects reductions utilized to balance the FY 2025 budget. The following table provides details on the specific reduction:

Title	Impact	Positions	FTE	Reduction
Realize Savings Associated with Litigation Services	A reduction of \$20,000 aligns budget to actual expenditures for cost associated with contracted litigation. It is not expected that this reduction will impact agency operations.	0	0.0	\$20,000

**Changes to
FY 2024
Adopted
Budget Plan**

The following funding adjustments reflect all approved changes in the *FY 2024 Revised Budget Plan* since passage of the FY 2024 Adopted Budget Plan. Included are all adjustments made as part of the *FY 2023 Carryover Review* and all other approved changes through December 31, 2023.

Carryover Adjustments **\$1,757,699**
 As part of the *FY 2023 Carryover Review*, the Board of Supervisors approved funding of \$1,757,699 including \$1,555,336 in encumbered carryover in Operating Expenses and \$202,363 and 2/2.0 FTE positions needed to provide legal support and guidance to the Board of Supervisors and County staff in connection with the collective bargaining agreements.

OCA will continue to provide timely legal representation in response to requests for zoning and property maintenance code enforcement, as well as provide legal guidance for viable solutions prior to filing legal actions.

The OCA’s mission is to provide the best possible legal counsel and representation to County officials and agencies in accordance with the Countywide Strategic Plan and One Fairfax. The office will continue to strive to bring favorable conclusions to its cases and provide timely and comprehensive responses to requests from the Board of Supervisors, other County boards, authorities and commissions, the County Executive and County departments as it collectively endeavors to successfully achieve the 10 community outcome areas of the Countywide Strategic Plan as well as the shared commitment to equity through the One Fairfax policy.

Community Outcome Area	FY 2021 Actual	FY 2022 Actual	FY 2023 Estimate	FY 2023 Actual	FY 2024 Estimate	FY 2025 Estimate
Effective and Efficient Government						
Effective and Representative County and School Workforce						
Percentage point change of lawsuits concluded favorably during the fiscal year	(2)	3	1	6	7	0
Percentage point change of responses meeting timeliness standards	(1)	1	(11)	0	(11)	0
Customer Satisfaction with County Services						
Percentage point change in zoning enforcement requests meeting 40-day submission standard	0	(4)	(9)	0	0	0

A complete list of performance measures can be viewed at
<https://www.fairfaxcounty.gov/budget/fy-2025-advertised-performance-measures-pm>