

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. The Department of Management and Budget continues to integrate the Countywide Strategic Plan into budget documents. For information on how the agency’s program performance contributes to these goals, please see the Performance Measurement Results by Community Outcome Area. For more information on the Countywide Strategic Plan, please see 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 responsible to their needs, provides exceptional services and equitably represents them.</i>

Focus

The Office of the County Attorney is divided into five sections: The General Law Section; the Land Use/Environmental Law Section; the Personnel/Administrative Law Section; the Community Services Board Section; and the Public Private Partnership and Housing Section.

The General Law Section advises County agencies on highly complex financial matters and bond issues, including the formation of special tax and transportation improvement districts; interacts with the Virginia General Assembly on proposed legislation; drafts proposed County ordinances; reviews County contracts; and issues legal opinions to the governing body and the County government on all manner of subjects. The 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 and questions under the Virginia Public Procurement Act. If a County procurement is challenged, this Section defends the County’s interests in such litigation. Finally, this Section provides legal advice and counsel regarding all aspects of election law. This Section’s work supports all the community outcome areas in the Strategic Plan and particularly effective and efficient government, cultural and recreational opportunities, health, and mobility and transportation.

The Land Use/Environmental Law 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 a variety of legal issues in a proactive effort to resolve conflicts when possible and thereby diminish the chances 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. The Section also 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, advises County agencies on environmental issues, 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. The Land Use/Environmental Law Section also enforces environmental regulations such as the County's erosion and sediment control and stormwater ordinance, in addition to the Chesapeake Bay Preservation Ordinance. Finally, this Section also assists the P3/Housing Section with the litigation of Fair Housing claims in Circuit Court. The work of this Section directly supports the economic opportunity, effective and efficient government, empowerment and support for residents facing vulnerability, environment, and housing and neighborhood livability community outcome areas in the Countywide Strategic Plan.

The Personnel/Administrative Law 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). 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, this 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 40 to 60 active litigation cases at a time. These attorneys also review agreements and memoranda of understanding between state and federal agencies and the Department of Family Services. In addition, the attorneys in this Section assist with adult protective services matters.

The Community Services Board Section provides legal services and representation to the Fairfax-Falls Church Community Services Board (CSB). The Section represents 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 each fiscal year since FY 2011 when this office first absorbed this work. In FY 2011, this office handled 124 hearings, and in FY 2021, the attorneys in this section handled 1,270 hearings. The Section also addresses subpoenas for CSB personnel and records and gives guidance to CSB regarding its duties and responsibilities under the many complex state and federal laws and regulations governing the health care industry. The work of the Personnel Section attorneys directly promotes the following community outcome areas in the Strategic Plan: effective and efficient government; health; and safety and security. The Personnel Section's work with the Department of Family Services also helps promote lifelong education and learning for children.

The Public/Private Partnership and Housing Section (P3) 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 P3 Section also support the Fairfax County Redevelopment and Housing Authority (FCRHA), the Department of

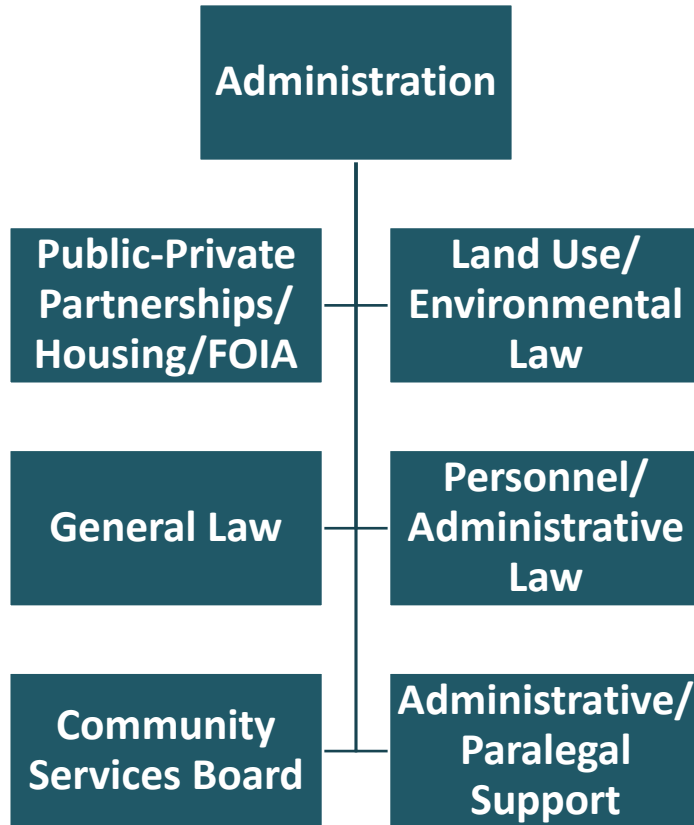
Housing and Community Development (HCD), and the Department of Planning and Development (DPD). A growing population density and an aging of that population on lower fixed incomes during their retirement years, will look to the County to assist them in meeting their housing needs, resulting in more work for the Office in its provision of legal advice and transactional expertise to the FCRHA. The Board of Supervisors' successful initiative to provide more affordable and workforce housing also results in greater involvement of the County Attorney's Office in the work of the FCRHA. In its Housing capacity, the P3 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 P3 section supports the DPD in its mission to facilitate strategic redevelopment and investment opportunities within targeted commercial areas. The attorneys in this Section impact all ten community outcome areas in the Strategic Plan, but particularly cultural and recreational opportunities, effective and efficient government, empowerment and support for residents facing vulnerability, and housing and neighborhood livability.

In addition to the above duties, all sections of the office handle requests for documents pursuant to the Virginia Freedom of Information Act (VFOIA) with the assistance and guidance of two full-time FOIA attorneys approved by the Board in FY 2017. These two full-time attorneys are presently supervised by the Deputy County Attorney for P3/Housing. 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 full-time FOIA attorneys also have been instrumental in working with the Office of Public Affairs (OPA) on the countywide FOIA program. The work of these attorneys directly supports the effective and efficient government and health community outcome areas in the Comprehensive Plan.

The County Attorney's Office also continues to be actively engaged in the Board's One Fairfax initiative. Senior members of the Office have worked extensively with the One Fairfax team and updates about One Fairfax have been regularly shared in detail during office-wide all hands meetings and through office emails, including regular updates about upcoming trainings and events. Further, a small group of employees has been working on additional measures to implement the principles of One Fairfax in the daily work of the office and coordinates with the rest of the office about the initiatives on an ongoing basis. In addition, the office has taken significant steps internally to further promote diversity in the applicant pool for open positions, including attending job fairs hosted by specialty bar associations to solicit internship applications with the expectation that some of those interns might later become full-time employees. Finally, the office has been vigilant about identifying opportunities to promote One Fairfax through the County's daily work. For example, on the office's initiative, advertisements for openings on the Board of Zoning Appeals were circulated to the specialty bar associations, resulting in the most robust and diverse applicant pool to date for the most recent vacancies on this board.

All sections of the OCA are also engaged in reviewing draft legislation that is presented to the Virginia General Assembly for consideration. In the past fiscal year, this office submitted over 2,835 legal reviews during the 2020 General Assembly session. Further, all sections of the OCA are engaged in providing ongoing training for the multitude of County clients served by this office. The Office's attorneys are also engaged in state and local bar association activities. Attorneys also regularly serve as expert lecturers for continuing legal education seminars. This work assists in assuring an effective and efficient government in accordance with the Countywide Strategic Plan.

Organizational Chart



Budget and Staff Resources

Category	FY 2022 Actual	FY 2023 Adopted	FY 2023 Revised	FY 2024 Advertised
FUNDING				
Expenditures:				
Personnel Services	\$7,830,037	\$8,838,454	\$8,838,454	\$9,161,970
Operating Expenses	737,497	613,944	2,007,466	614,011
Subtotal	\$8,567,534	\$9,452,398	\$10,845,920	\$9,775,981
Less:				
Recovered Costs	(\$466,522)	(\$466,522)	(\$466,522)	(\$466,522)
Total Expenditures	\$8,101,012	\$8,985,876	\$10,379,398	\$9,309,459
Income:				
Litigation Proceeds	\$205,574	\$143,254	\$143,254	\$143,254
Total Income	\$205,574	\$143,254	\$143,254	\$143,254
NET COST TO THE COUNTY	\$7,895,438	\$8,842,622	\$10,236,144	\$9,166,205
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)				
Regular	66 / 66	66 / 66	66 / 66	66 / 66

**FY 2024
Funding
Adjustments**

The following funding adjustments from the FY 2023 Adopted Budget Plan are necessary to support the FY 2024 program:

Employee Compensation \$323,516

An increase of \$323,516 in Personnel Services includes \$176,769 for a 2.00 percent market rate adjustment (MRA) for all employees and \$146,747 for performance-based and longevity increases for non-uniformed merit employees, both effective July 2023.

Department of Vehicle Services Charges \$67

An increase of \$67 in Department of Vehicle Services Charges is based on anticipated billings for maintenance and operating-related charges.

**Changes to
FY 2023
Adopted
Budget Plan**

The following funding adjustments reflect all approved changes in the FY 2023 Revised Budget Plan since passage of the FY 2023 Adopted Budget Plan. Included are all adjustments made as part of the FY 2022 Carryover Review and all other approved changes through December 31, 2022:

Carryover Adjustments \$1,393,522

As part of the FY 2022 Carryover Review, the Board of Supervisors approved funding of \$1,393,522 in encumbered carryover mainly associated with litigation expenses.

Position Detail

The FY 2024 Advertised Budget Plan includes the following positions:

OFFICE OF THE COUNTY ATTORNEY – 66 Positions			
Administration			
1	County Attorney	1	Administrative Associate
Administrative Support			
1	Administrative Associate	1	Administrative Assistant III
1	Administrative Assistant V	1	Financial Specialist II
5	Administrative Assistants IV		
Public-Private Partnerships/Housing/FOIA			
1	Deputy County Attorney	2	Assistant County Attorneys V
1	Assistant County Attorney VII	1	Network Analyst II
2	Assistant County Attorneys VI		
Land Use/Environmental Law			
1	Deputy County Attorney	4	Assistant County Attorneys VI
2	Senior Assistant County Attorneys	2	Assistant County Attorneys V
2	Assistant County Attorneys VII		
General Law			
1	Deputy County Attorney	2	Assistant County Attorneys VI
2	Senior Assistant County Attorneys	4	Assistant County Attorneys V
2	Assistant County Attorneys VII	1	Business Analyst III
Personnel/Administrative Law			
1	Deputy County Attorney	6	Assistant County Attorneys VI
3	Senior Assistant County Attorneys	5	Assistant County Attorneys V
2	Assistant County Attorneys VII		
Community Services Board			
1	Deputy County Attorney		
Paralegal Support			
2	Paralegal Supervisors	5	Paralegals

**Performance
Measurement
Results by
Community
Outcome Area**

Effective and Efficient Government

In FY 2022, the Office continued to see an increase in litigation cases and despite staffing shortages and the on-going impact of the pandemic, 96 percent of lawsuits brought by or against the County were concluded favorably. The small percentage of unfavorable conclusions are primarily civil commitment hearings in which the patient was not committed. The continued success in litigation is accomplished through the dedication and skill of the attorneys staffing these cases.

The Office diligently provided timely and responsive legal advice to its various clients so that the continuity and operations of the County continued even throughout the pandemic. The response time to all requests for legal opinions and advice is based on responses to requests from the Board of Supervisors, other boards, authorities and commissions, the County Executive and County departments. Although the number of such requests for legal advice burgeoned from 3,704 in FY 2021 to 3,910 matters in FY 2022 and the matters became increasingly complex, the Office continues to exceed the goal of 87 percent. OCA will continue to strive to meet the increasing demand for complex legal opinions and advice in an efficient and productive manner.

The Office continues to work closely with the Zoning Administrator, the Property Maintenance Code Official, the Director of DPWES, and the Department of Code Compliance to identify and work together to bring properties into compliance with the Zoning Ordinance, the Fairfax County Code, the Building and Property Maintenance Code, and the Code of Virginia. In 2021, the Office exceeded the target of 90 percent for filing zoning and other Code enforcement-related litigation within 40 days of receipt. The Office 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 primary mission of this Office is to provide the best possible legal counsel and representation to County officials and agencies in support of the Countywide Strategic Plan adopted by the Board of Supervisors. 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 we collectively endeavor to successfully achieve the ten community outcome areas of the County's Strategic Plan.

Community Outcome Area	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimate	FY 2022 Actual	FY 2023 Estimate	FY 2024 Estimate
Effective and Efficient Government						
Effective and Representative County and School Workforce						
Percentage point change of lawsuits concluded favorably during the fiscal year	1	(2)	4	3	1	0
Percentage point change of responses meeting timeliness standards	0	(1)	(10)	1	(11)	0
Customer Satisfaction with County Services						
Percentage point change in zoning enforcement requests meeting 40-day submission standard	4	(4)	9	9	(9)	0

A complete list of performance measures can be viewed at <https://www.fairfaxcounty.gov/budget/fy-2024-advertised-performance-measures-pm>