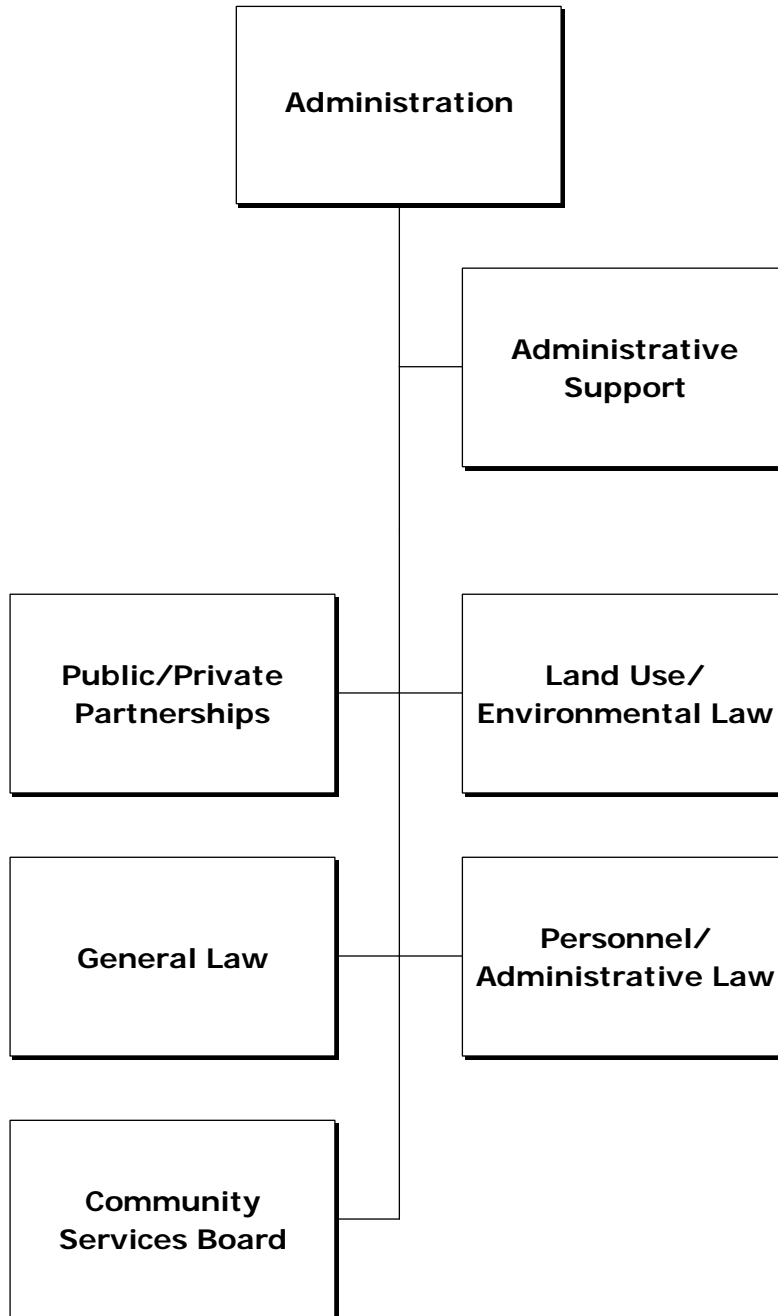


# Office of the County Attorney



# 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.

<b>AGENCY DASHBOARD</b>			
Key Data	FY 2014	FY 2015	FY 2016
1. Number of Advisory Responses Completed	2,940	2,701	3,288
2. Number of Lawsuits Completed	1,870	1,732	3,205
3. Number of Civil Commitment Hearings Attended	972	1,016	1,145

## 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. The General Law Section also 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.

**The County Attorney supports the following County Vision Elements:**



*Maintaining Safe and Caring Communities*



*Building Livable Spaces*



*Connecting People and Places*



*Practicing Environmental Stewardship*



*Maintaining Healthy Economies*



*Creating a Culture of Engagement*



*Exercising Corporate Stewardship*

The Land Use/Environmental Law Section defends land use decisions of the Board of Supervisors, assists in the drafting and enforcement of the Zoning Ordinance and building and land development regulations, brings and defends condemnation actions, assists the County in acquiring, leasing, and

## Office of the County Attorney

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selling real property, sues defaulting developers, advises County agencies on environmental issues, and reviews subdivision documents affecting County property interests, among other things. 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. This Section works closely with the Department of Planning and Zoning (DPZ) and Department of Public Works and Environmental Services (DPWES) to evaluate a variety of legal issues in a proactive effort to resolve conflicts when possible and to diminish the chances of litigation over the Board's legislative decisions. If litigation results, this section defends the legislative decision of the Board of Supervisors in the state trial and appellate courts and in the federal courts in the case of telecommunications applications. The Land Use/Environmental Law Section is also called upon to enforce environmental regulations such as the County's erosion and sediment control and stormwater ordinance, in addition to the Chesapeake Bay Preservation Ordinance. Further, attorneys from the Section are an integral part of the County's MS-4 permit compliance team. The Land Use/Environmental Law 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 and County Code. This Section works closely with the Department of Code Compliance to address these problems and files numerous cases each year to bring properties across the County into compliance.

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 employment discrimination, federal and civil rights claims, 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 resolve issues and, failing that, to ensure that the County is in the best legal position possible if litigation ensues. Attorneys in this Section also draft 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.

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, and in FY 2016, the attorneys attended 1,145 hearings. The Section 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. This Section was integrally involved in the recent creation of the Diversion First program. The work of this Section has become critical because of the deinstitutionalization of those suffering from mental illness and the need to attend to their needs within a community (i.e. local) setting.

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. As public resources become more constrained, it is anticipated that this area of work will continue to grow. The attorneys in the P3 Section also support the Fairfax County Redevelopment and Housing Authority (FCRHA) and the Department of Housing and Community Development (HCD), and the Office of Community Revitalization (OCR). 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 Office in the work of the FCRHA. In its Housing capacity, the P3 section

# Office of the County Attorney

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 OCR in its mission to facilitate strategic redevelopment and investment opportunities within targeted commercial areas.

In addition to the above duties, all sections of the Office handle requests for documents pursuant to the Virginia Freedom of Information Act (VFOIA) and respond to the subpoenas issued for County documents. Such VFOIA requests have substantially increased in number, scope, and complexity and are expected to continue to increase. In addition, all sections of the Office are engaged in reviewing draft legislation that is presented to the Virginia General Assembly for consideration. Further, all sections of the Office are engaged in providing ongoing training for the multitude of County clients served by this Office. The Office's attorneys also are engaged in state and local bar association activities and serve as expert lectures for continuing legal education seminars, among other things.

## Budget and Staff Resources

Category	FY 2016 Actual	FY 2017 Adopted	FY 2017 Revised	FY 2018 Advertised	FY 2018 Adopted
<b>FUNDING</b>					
Expenditures:					
Personnel Services	\$6,174,429	\$7,275,219	\$7,443,113	\$7,590,057	\$7,590,057
Operating Expenses	729,829	403,846	1,856,715	413,846	413,846
<b>Subtotal</b>	<b>\$6,904,258</b>	<b>\$7,679,065</b>	<b>\$9,299,828</b>	<b>\$8,003,903</b>	<b>\$8,003,903</b>
Less:					
Recovered Costs	(\$466,522)	(\$466,522)	(\$466,522)	(\$466,522)	(\$466,522)
<b>Total Expenditures</b>	<b>\$6,437,736</b>	<b>\$7,212,543</b>	<b>\$8,833,306</b>	<b>\$7,537,381</b>	<b>\$7,537,381</b>
Income:					
Litigation Proceeds	\$143,254	\$115,000	\$186,150	\$143,254	\$143,254
<b>Total Income</b>	<b>\$143,254</b>	<b>\$115,000</b>	<b>\$186,150</b>	<b>\$143,254</b>	<b>\$143,254</b>
<b>NET COST TO THE COUNTY</b>	<b>\$6,294,482</b>	<b>\$7,097,543</b>	<b>\$8,647,156</b>	<b>\$7,394,127</b>	<b>\$7,394,127</b>
<b>AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)</b>					
Regular	62 / 62	62 / 62	64 / 64	64 / 64	64 / 64

<u>Administration</u>	<u>Land Use/ Environmental Law</u>	<u>Personnel/ Administrative Law</u>
1 County Attorney	1 Deputy County Attorney	1 Deputy County Attorney
2 Administrative Associates	2 Senior Assistant County Attorneys	2 Senior Assistant County Attorneys
1 Network Analyst II	1 Assistant County Attorney VII	1 Assistant County Attorney VII
1 Financial Specialist II	6 Assistant County Attorneys VI	5 Assistant County Attorneys VI
	2 Assistant County Attorneys V	6 Assistant County Attorneys V
	3 Paralegals	2 Paralegals
<u>Clerical Support</u>	<u>General Law</u>	<u>Public/Private Partnerships</u>
1 Administrative Assistant V	1 Deputy County Attorney	1 Deputy County Attorney
7 Administrative Assistants IV	2 Senior Assistant County Attorneys	1 Assistant County Attorney VII
1 Administrative Assistant II	1 Assistant County Attorney VII	1 Assistant County Attorney VI
<u>Community Services Board</u>	3 Assistant County Attorneys VI	
1 Deputy County Attorney	4 Assistant County Attorneys V	
1 Assistant County Attorney VI	2 Paralegals	
<b>TOTAL POSITIONS</b>		
<b>64 Positions / 64.0 FTE</b>		

# Office of the County Attorney

## FY 2018 Funding Adjustments

The following funding adjustments from the FY 2017 Adopted Budget Plan are necessary to support the FY 2018 program. Included are all adjustments recommended by the County Executive that were approved by the Board of Supervisors, as well as any additional Board of Supervisors' actions, as approved in the adoption of the budget on May 2, 2017.

◆ **Employee Compensation** **\$112,994**

An increase of \$112,994 in Personnel Services is for performance-based and longevity increases for non-uniformed merit employees effective July 2017.

◆ **Freedom of Information Act (FOIA) Related Staffing** **\$261,844**

An increase of \$251,844 in Personnel Services and \$10,000 in Operating Expenses is included to support full-year funding for 2/2.0 FTE positions associated with Freedom of Information Act (FOIA) requirements, as discussed below. It should be noted that an increase of \$117,259 in Fringe Benefits funding is included in Agency 89, Employee Benefits, for a total cost of \$379,103 in FY 2018. For further information on Fringe Benefits, please refer to the Agency 89, Employee Benefits, narrative in the Nondepartmental program area section in Volume 1.

◆ **Reductions** **(\$50,000)**

A decrease of \$50,000 reflects reductions utilized to balance the FY 2018 budget. The following table provides details on the specific reduction:

Title	Impact	Posn	FTE	Reduction
Manage Position Vacancies to Achieve Savings	This reduction will require the agency to manage their position vacancies. Savings will be achieved by delaying the hiring of current and future merit openings and/or hiring at a lower level on the pay scale. This reduction will have a manageable impact on staffing needs of the Office.	0	0.0	\$50,000

## Changes to FY 2017 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2017 Revised Budget Plan since passage of the FY 2017 Adopted Budget Plan. Included are all adjustments made as part of the FY 2016 Carryover Review, FY 2017 Third Quarter Review, and all other approved changes through April 30, 2017.

◆ **Carryover Adjustments** **\$1,620,763**

As part of the FY 2016 Carryover Review, the Board of Supervisors approved funding of \$1,452,869, in encumbered funding in Operating Expenses primarily associated with litigation and legal services expenses. In addition, the Board approved partial-year funding of \$167,894 and 2/2.0 FTE positions associated with Freedom of Information Act (FOIA) requirements, including increased volume and complexity of FOIA requests as well as significant growth in the workload to answer agencies' questions regarding records that may or may not be exempt under the law. The Office of the County attorney is also required to manage the time-consuming task of reading documents, especially emails, to ensure that exempted information is redacted before the records are provided to the requestor.

# Office of the County Attorney

## Key Performance Measures

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate/Actual	FY 2017	FY 2018
<b>Office of the County Attorney</b>					
Percentage point change of lawsuits concluded favorably during the fiscal year	(1)	2	0/(4)	4	0
Percentage point change of responses meeting timeliness standards	1	1	(7)/1	(8)	0
Percentage point change in zoning enforcement requests meeting 40-day submission standard	(2)	2	(10)/(1)	(9)	0

A complete list of performance measures can be viewed at [www.fairfaxcounty.gov/dmb/fy2018/adopted/pm/17.pdf](http://www.fairfaxcounty.gov/dmb/fy2018/adopted/pm/17.pdf)

## Performance Measurement Results

In FY 2016, 93 percent of lawsuits brought by or against the County were concluded favorably despite the increase in the number of lawsuits. The Office of the County Attorney anticipates a continued high percentage of favorably concluded lawsuits in FY 2017.

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. The Office continues to exceed the goal of 87 percent. The Office will continue to strive to meet the increasing demand for legal opinions and advice in an efficient manner.

In FY 2016, the Office exceeded the target of 90 percent for meeting the 40-day submission standard for either completing a Summons for the violation or a final draft Complaint to the Department of Code Compliance. The Office will continue to strive to meet or exceed the 90 percent target.