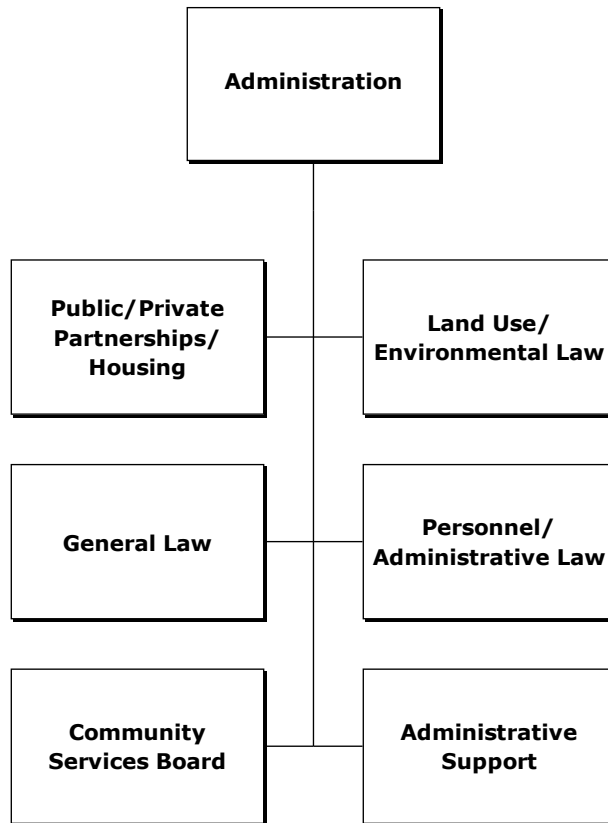


# Office of the County Attorney



## 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.

AGENCY DASHBOARD				
Key Data		FY 2015	FY 2016	FY 2017
1.	Number of Advisory Responses Completed	2,701	3,288	3,704
2.	Number of Lawsuits Completed	1,732	3,205	2,300
3.	Number of Civil Commitment Hearings Attended	1,016	1,145	1,303

## 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

## Office of the County Attorney

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 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 selling real property, sues developers who default on land development projects, 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 thereby 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 and federal trial and appellate courts. 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, County Code, and Virginia 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 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 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 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 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

## Office of the County Attorney

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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.

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 2017, the attorneys in this section handled 1,303 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 this Section has become critical because of the deinstitutionalization of those suffering from mental illness and the requirement 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. 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 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 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 (FOIA) with the assistance and guidance of the two full-time FOIA attorneys approved by the Board in FY 2017. These two full-time attorneys presently are supervised by the Deputy County Attorney for P3/Housing. Such FOIA requests have substantially increased in number, scope, and complexity and are expected to continue to increase. For example, in FY 2016, the Office handled 213 FOIA requests, while in FY 2017, the numbers had grown to 342. The full-time FOIA attorneys also have been instrumental in working with the Office of Public Affairs on the new County-wide FOIA program.

All sections of the Office also 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 a number serve as board members in the Fairfax Bar Association and Virginia Local Government Attorneys Association. Attorneys also regularly serve as expert lecturers for continuing legal education seminars.

# Office of the County Attorney

## Budget and Staff Resources

Category	FY 2017 Actual	FY 2018 Adopted	FY 2018 Revised	FY 2019 Advertised	FY 2019 Adopted			
FUNDING								
Expenditures:								
Personnel Services	\$6,748,709	\$7,590,057	\$7,590,057	\$7,878,370	\$7,878,370			
Operating Expenses	1,054,441	413,846	1,856,995	413,846	413,846			
Subtotal	\$7,803,150	\$8,003,903	\$9,447,052	\$8,292,216	\$8,292,216			
Less:								
Recovered Costs	(\$466,500)	(\$466,522)	(\$466,522)	(\$466,522)	(\$466,522)			
Total Expenditures	\$7,336,650	\$7,537,381	\$8,980,530	\$7,825,694	\$7,825,694			
Income:								
Litigation Proceeds	\$299,759	\$143,254	\$218,241	\$143,254	\$143,254			
Total Income	\$299,759	\$143,254	\$218,241	\$143,254	\$143,254			
NET COST TO THE COUNTY	\$7,036,891	\$7,394,127	\$8,762,289	\$7,682,440	\$7,682,440			
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)								
Regular	64 / 64	64 / 64	64 / 64	64 / 64	64 / 64			
<table><tr><td><u>Administration</u> 1 County Attorney 1 Administrative Associate  <u>Admin Support</u> 1 Administrative Assistant V 1 Administrative Associate 6 Administrative Assistants IV 1 Administrative Assistant III 1 Financial Specialist II  <u>Community Services Board</u> 1 Deputy County Attorney 1 Assistant County Attorney VI</td><td><u>Land Use/ Environmental Law</u> 1 Deputy County Attorney 2 Senior Assistant County Attorneys 1 Assistant County Attorney VII 6 Assistant County Attorneys VI 1 Assistant County Attorney V 3 Paralegals  <u>General Law</u> 1 Deputy County Attorney 2 Senior Assistant County Attorneys 1 Assistant County Attorney VII 3 Assistant County Attorneys VI 5 Assistant County Attorneys V 2 Paralegals</td><td><u>Personnel/ Administrative Law</u> 1 Deputy County Attorney 2 Senior Assistant County Attorneys 1 Assistant County Attorney VII 5 Assistant County Attorneys VI 5 Assistant County Attorneys V 2 Paralegals  <u>Public/Private Partnerships/Housing</u> 1 Deputy County Attorney 2 Assistant County Attorneys VII 2 Assistant County Attorneys V 1 Network Analyst II</td></tr></table>						<u>Administration</u> 1 County Attorney 1 Administrative Associate  <u>Admin Support</u> 1 Administrative Assistant V 1 Administrative Associate 6 Administrative Assistants IV 1 Administrative Assistant III 1 Financial Specialist II  <u>Community Services Board</u> 1 Deputy County Attorney 1 Assistant County Attorney VI	<u>Land Use/ Environmental Law</u> 1 Deputy County Attorney 2 Senior Assistant County Attorneys 1 Assistant County Attorney VII 6 Assistant County Attorneys VI 1 Assistant County Attorney V 3 Paralegals  <u>General Law</u> 1 Deputy County Attorney 2 Senior Assistant County Attorneys 1 Assistant County Attorney VII 3 Assistant County Attorneys VI 5 Assistant County Attorneys V 2 Paralegals	<u>Personnel/ Administrative Law</u> 1 Deputy County Attorney 2 Senior Assistant County Attorneys 1 Assistant County Attorney VII 5 Assistant County Attorneys VI 5 Assistant County Attorneys V 2 Paralegals  <u>Public/Private Partnerships/Housing</u> 1 Deputy County Attorney 2 Assistant County Attorneys VII 2 Assistant County Attorneys V 1 Network Analyst II
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TOTAL POSITIONS 64 Positions / 64.0 FTE								

## FY 2019 Funding Adjustments

The following funding adjustments from the *FY 2018 Adopted Budget Plan* are necessary to support the FY 2019 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 1, 2018.

- ◆ **Employee Compensation** **\$288,313**  
An increase of \$288,313 in Personnel Services includes \$170,777 for a 2.25 percent market rate adjustment (MRA) for all employees and \$117,536 for performance-based and longevity increases for non-uniformed merit employees, both effective July 2018.

# Office of the County Attorney

## Changes to FY 2018 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2018 Revised Budget Plan since passage of the FY 2018 Adopted Budget Plan. Included are all adjustments made as part of the FY 2017 Carryover Review, FY 2018 Third Quarter Review, and all other approved changes through April 30, 2018.

### ◆ Carryover Adjustments \$1,443,149

As part of the FY 2017 Carryover Review, the Board of Supervisors approved funding of \$1,443,149, in encumbered carryover primarily for existing contracts for outside counsel as well as funds for retaining experts in litigation filed against the County.

## Key Performance Measures

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2015 Actual	FY 2016 Actual	FY 2017 Estimate/Actual	FY 2018	FY 2019
Percentage point change of lawsuits concluded favorably during the fiscal year	2	(4)	4/2	2	0
Percentage point change of responses meeting timeliness standards	1	1	(8)/(1)	(7)	0
Percentage point change in zoning enforcement requests meeting 40-day submission standard	2	(1)	(9)/1	(10)	0

A complete list of performance measures can be viewed at  
<https://www.fairfaxcounty.gov/budget/fy-2019-adopted-performance-measures-pm>

## Performance Measurement Results

In FY 2017, 95 percent of lawsuits brought by or against the County were concluded favorably. This is accomplished through the dedication and skill of the attorneys staffing these cases.

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 despite the increase in the number of assignments. The Office will continue to strive to meet the increasing demand for legal opinions and advice in an efficient manner.

In FY 2017, the Office exceeded the target of 90 percent for filing zoning and other Code enforcement-related litigation. This measurement calls for zoning and other code enforcement cases to be filed by this Office within 40 days of a request for litigation from the Department of Code Compliance. The Office will continue to strive to meet or exceed the 90 percent target.

The Office will continue to strive to bring favorable conclusions to its cases and provide timely responses to requests from the Board of Supervisors, other boards, authorities and commissions, the County Executive and County departments.