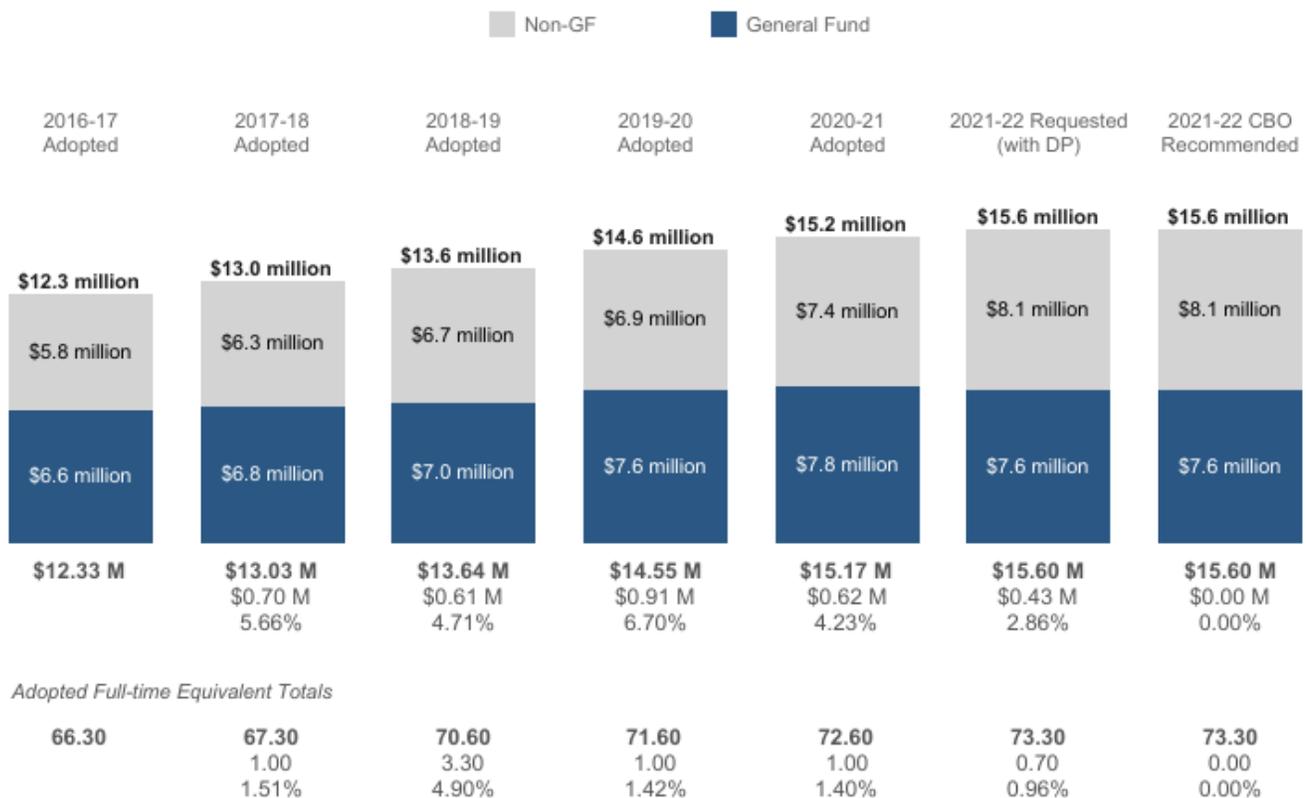




Adopted Budget Revenues | 5-Year Lookback



INTRODUCTION

The City Attorney’s Office FY 2020-21 Budget totals \$15.8 million, an increase of 1.25% or \$0.19 million over the prior year. Included in this budget submission is a required 5% reduction of General Fund resources, totaling \$387,321. The 5% reduction resulted in the elimination of 1.0 FTE Deputy City Attorney position, elimination of partial vacancy savings by converting three full-time positions into part-time positions, reduce personnel expenses by converting a Manager I

position into an Administrative Specialist II position, and reduces the bureau’s External Materials and Services (EMS) budget in the form of sponsorships, legal publications, travel and other miscellaneous materials and supplies. The bureau, in accordance with allowable budget guidance, has requested the adding back of resources to support the Deputy City Attorney position.

Given workload concerns, particularly in the litigation group, CBO recommends that Council restore General Fund Discretionary and Overhead resources totaling \$192,511 to retain the Deputy City Attorney position.

BASE BUDGET & KEY ISSUES

The Office of the City Attorney’s base budget for FY 2021-22 totals \$15.8 million. About half of total revenues are General Fund Discretionary and Overhead resources (\$7.8 million), with the remainder from interagency payments from bureaus requiring a higher level of legal support (\$8 million). On the expense side, costs are driven primarily by personnel services totaling \$15.8 million across 73.9 FTE (87% of total expenditures). Materials and services expenses total \$1.5 million in internal materials and services (9% of total expenditures), and \$0.6 million in external materials and services. Internal Material and Service (IMS) costs are driven largely by space rent costs, followed by information technology expenses.

FY 2021-22 Requested Base Budget

Total Revenues	\$15,797,140
General Fund Discretionary	\$3,408,449
General Fund Overhead	\$4,337,962
Charges for Services	\$20,000
Interagency Agreements - by Payer	\$8,030,729
<i>Office of Management & Finance</i>	
<i>(Primarily Risk Management)</i>	\$3,990,382
<i>Bureau of Environmental Services</i>	\$1,521,502
<i>Police Bureau</i>	\$895,450
<i>Water Bureau</i>	\$456,000
<i>Housing Bureau</i>	\$434,514
<i>Bureau of Transportation</i>	\$437,411
<i>Fire & Police Disability & Retirement</i>	\$289,676
<i>Parks Bureau</i>	\$5,794
Total Expenses	\$15,797,140
Personnel	\$13,721,529
Internal Materials and Services	\$1,500,767
External Materials and Services	\$574,844

The Office of the City Attorney has 39.90 Full Time Equivalent (FTE) Attorneys not including two unfilled Attorney positions currently in recruitment. They also have 30 FTE support staff not including one unfilled position currently in recruitment.

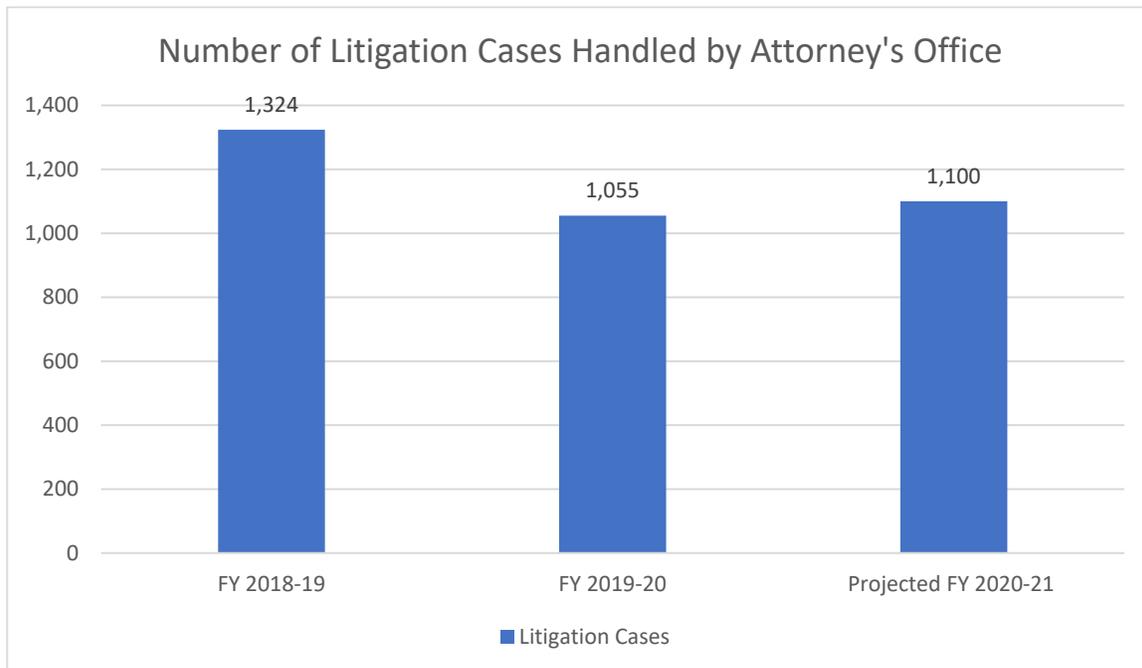
Workload Increases

Over the past ten months the Attorney’s Office has experienced a significant increase in litigation

related workload. There are currently 57 active litigation cases regarding the Police Bureau including demonstration coverage compared to a more typical caseload of 15-20 at any one time. City Attorney's Office works in conjunction with the City's Risk Management group on these cases¹, and earlier this year Risk Management funded an additional litigator in the Attorney's Office in order to support the increased workload. Support for the additional position is included in the FY 2021-22 Requested Budget. This volume of police-related litigation is in addition to other active cases (e.g., eviction moratorium cases, litigation challenging overreach by the Trump administration, renters protections litigation, and litigation regarding the City's ability to require sprinklers in nightclubs), generating concern that the progress of some litigation work will be delayed or outcomes might be less favorable.

These workload pressures are expected to increase during FY 2021-22 and would be exacerbated by the proposed elimination of a Deputy City Attorney. The Attorney's Office typically tries to meet workload needs using staff attorneys rather than hire outside counsel support given the higher cost of outside counsel (over \$400/hour compared to \$166/hour with City staff). There has been an overall increase in active court cases and in overtime hours worked by Attorneys in the office. The City Attorneys has projected they will close to 5,000 overtime hours by the end of fiscal year 2020-21. While City Attorneys are not paid overtime, this information is tracked internally and generates workload management issues as the office struggles to keep pace with the volume of work.

The Office of City Attorney is on track to handle 1,100 litigation cases in FY 2020-21, which is a 4% increase in the amount of total cases handled from FY 2019-20. This does not include legal advice and other types of work that the Office manages over the course of business. The Office of the City Attorney has estimated that it will work 19,750 hours on risk cases, which is a 19.6% or 3,250 number of hours increase over 2020.



¹ See the Office of Management and Finance review for information on increasing costs of liability coverage related to Policing.

Risks to Funding Model

The goal of the Attorney's Office is to provide legal support and advice to City bureaus and Council in a timely, effective manner. The office's current mix of revenues – split evenly between General Fund Overhead resources and Interagency Agreement (IA) revenue – has been stable for the last five years. However, as the City enters into a recessionary environment and cost pressures increase on both the General Fund and customer bureau budgets, it will become increasingly important for the Attorney's Office to be able to provide detailed information on staff time 'spent' relative to its funding sources.

The City Attorney's Office total budget is driven largely by personnel expenses, and the median hourly wage (\$62/hour) in the office is high relative to City staff in general. Generalized personnel cost pressures, such as PERS increases or Cost of Living Adjustments (COLA), contribute to increases that are passed through to customer bureaus via interagency agreements.

Staff capacity and time in the Attorney's Office is somewhat fungible; there is not necessarily a direct relationship between revenues received and how staff time is allocated. Increases in workload in certain areas trigger redistribution of staff time to balance workload and meet the City's legal needs as different issues ebb and flow. However, it is more challenging to tie shifts or increases in workload in a given issue area to changes in the Attorney's Office revenue structure.

Interagency agreements with individual bureaus are based on the number of attorney-hours, plus staff support, that are 'spent' on that bureau in a given year. Attorney time spent in excess of hours outlined in interagency agreements is essentially backstopped by General Fund resources. These agreements are re-evaluated based on actual hours 'spent'; for example, the interagency agreement between the Bureau of Human Resources Health Fund and the Attorney's Office is currently being re-evaluated because actual hours 'spent' may be decreasing for that specific work, while work in other areas is increasing. The interagency agreement charge would need to be reduced in that case. This highlights a tension inherent in the Attorney's Office funding model. With about half of total revenues pegged to attorney-hours spent for specific bureaus, any reduction in bureau-specific work or surge in General Fund-backed work puts pressure on the Office's ability to maintain staffing levels and service level goals.

DECISION PACKAGES

5% Reduction

11379, (\$387,320) 1.60 FTE

Request Summary

The Office of the City Attorney submitted a 5% constraint which 1) eliminates 1.0 FTE Deputy City Attorney position 2) eliminates partial vacancy savings by converting 3.0 FTE positions into part-time positions 3) reduces personnel expenses by converting a Manager I position into an Administrative Specialist II position and 4) reduces the office's External Materials and Services budget.

CBO Analysis

The Office of the City Attorney's 5% constraint package totals \$387,320. The components of the submission are:

- Reduction of \$30,780 in external materials and services. This reduction would affect sponsorships, travel, legal publications, and operating supplies.
- Conversion of a vacant Manager I position into an Administrative Specialist II, resulting in a \$76,845 decrease in personnel expenses.
- Eliminating savings associated with three FTE that work a part time schedule, reducing personnel expenses by \$87,184.
- Eliminate a vacant Deputy City Attorney position, for personnel savings of \$192,511

With the exception of the Deputy City Attorney position elimination, the above reductions are not anticipated to substantially reduce service levels provided by the Office of the City Attorney.

The reduction to the materials and services budget will limit total spending on travel and reduce overall flexibility with regard to operating supplies and publication purchases. However, the Attorneys' Office would retain over \$500,000 in external materials and services budget to support its needs around operating supplies, software support, and education.

There are three employees in the Attorney's Office who currently work reduced schedules. The \$87,184 in savings in this component of the reduction package is essentially salary savings from these schedules that are already in place. This reduction would eliminate some of the Office's flexibility to increase the scheduled hours of these (or other) employees in the future but is not expected to affect present service levels.

The conversion of the Manager I position into an Administrative Specialist II position would result in a savings of \$76,845. A long-time Manager I is retiring, and the Attorney's Office is proposing to generate savings by reclassifying the position to a lower salary grade and redistribute management responsibilities across other staff. Much of this redistribution of workload would need to happen regardless given long tenure and institutional knowledge of the retiring employee.

The Office has requested the Deputy City Attorney be added back; as such, further analysis of this component is provided below.

Constraint Value: (\$387,321 ongoing) | -1.00 FTE

Add-Back Deputy City Attorney

11.380, \$192,511 1.00 FTE

Request Summary

Office of City Attorney requests to add-back 1.0 FTE Deputy City Attorney in order to support increased workload, especially in the litigation group. The stated business case for this request is that it will be more cost effective to retain this position rather than seeking to rely on outside counsel to meet the legal needs of the City.

CBO Analysis

The growing workload in the Attorney's Office's litigation group is a concern, and are discussed more fully in the [Workload Increases](#) section above. The total number of attorney-hours spent on risk management cases is anticipated to be almost 20,000 hours in FY 2021-22, compared to 13,889 in FY 2019-20 and an estimated 16,300 hours in the current fiscal year. This estimated increase is informed by the total increase in active litigation cases and the number of overtime hours tracked by staff in recent months. The pace of work is not considered sustainable by many staff in the Attorney's Office and eliminating a Deputy City Attorney position would exacerbate the issue.

The alternative to adding back this position would be to either delay legal work or to retain outside counsel to support the City's legal needs at an increased cost. The hourly rate for outside counsel is more than twice as much as in-house staff. Given the potential legal risk and financial implications for the City, CBO recommends that Council addback resources to support the Deputy City Attorney position.

CBO has explored with the Attorney's Office and Risk Management whether this position could be retained but supported with Risk Management resources rather than with General Fund resources, similar to action taken in the FY 2020-21 Fall BMP. However, the delineation between attorney staff time supported by General Fund or IA revenue is not exact. There is an argument to be made, based on projected attorney-hours spent on Risk Management cases in FY 2021-22, that Risk Management could appropriately support the retainment of this position. However, Risk Management's cost recovery model is structured in a way that those costs would be borne by the General Fund regardless.

Careful consideration has been given in evaluating the tradeoffs between the need to close a projected General Fund revenue shortfall while maintaining critical City services and functions. CBO has assessed this request in terms of this position being the most responsible in regard to long-term financial costs. CBO recommends Council support the requested addback and provide 1.0 FTE authority for a Deputy City Attorney position and \$192,511 in ongoing General Fund Overhead resources.

CBO Recommendation: \$192,511 ongoing | 1.00 FTE

SUMMARY OF REQUESTS & RECOMMENDATIONS (ALL FUNDS)

Office of the City Attorney

		2020-21 Adopted Budget	2021-22 Requested Base (A)	Bureau Decision Packages (B)	CBO Recommended Adjustments (C)	Total Recommended Budget (A+B+C)
Revenue	Interagency Revenue	\$7,390,465	\$8,030,729	\$0	\$0	\$8,030,729
	General Fund Overhead	\$4,229,429	\$4,337,962	(\$109,093)	\$0	\$4,228,869
	General Fund Discretionary	\$3,523,918	\$3,408,449	(\$85,716)	\$0	\$3,322,733
	Charges for Services	\$25,000	\$20,000	\$0	\$0	\$20,000
Revenue	Sum:	\$15,168,812	\$15,797,140	(\$194,809)	\$0	\$15,602,331
Expense	Personnel	\$12,849,570	\$13,721,529	(\$164,029)	\$0	\$13,557,500
	Internal Materials and Services	\$1,472,088	\$1,500,767	\$0	\$0	\$1,500,767
	External Materials and Services	\$847,154	\$574,844	(\$30,780)	\$0	\$544,064
Expense	Sum:	\$15,168,812	\$15,797,140	(\$194,809)	\$0	\$15,602,331