



2023 Alexandria City Attorney Budget

Introduction

As a contracted / appointed position, the City Attorney's office includes the attorneys and support staff of the Swenson Lervick Law Firm. The City Attorney's mission is to zealously advocate for, represent, and guide the City's elected officials and staff in criminal and civil matters.

The City Attorney works with the City Council and all department heads to add value to citywide operations through these general initiatives:

- ✓ Attending City Council, commission, committee, and other meetings as needed
- ✓ Advising the City's elected officials and department heads on civil legal matters.
- ✓ Representing the City in all criminal matters under the City's jurisdiction.
- ✓ Staying abreast of legal developments that impact the City's operation and the health, safety and welfare of its residents, businesses, and visitors.

PBB Inventory & Costing Estimate

Program	hrs/yr	%
Office Supplies		.76%
Attorney's Fees for Prosecution Services		66.8%
Secretarial Services to Support Prosecution		15.6%
Attorney's Fees for General and other Civil Work		16.3%
Dues and Subscriptions (including prosecution-specific software)		.58%
Total		100%

i The following includes some of the activities within each program element noted in the PBB estimate table above:

Office Supplies: City letterhead, envelopes and other supplies needed to fulfill our role.

Attorney's Fees for Prosecution Services: Drafting criminal complaints; reviewing cases for potential charges per input from APD; preparing all evidence disclosures, witness letters, victim letters, and other documents related to the cases we prosecute; appearing at all hearings and trials that require our attendance; communicating with defense attorneys; advising APD on a 24/7/365 basis regarding any charging questions officers may have; representing the City in criminal appeals; meeting with defense attorneys, witnesses, victims,

and pro se defendants; negotiate case settlements; corresponding and meeting with District Court judges regarding prosecution matters.

Secretarial Services to Support Prosecution: Provides administrative support for all of the above-listed prosecution services.

Attorney's Fees for General and other Civil Work: Attending City Council, board, commission and committee meetings as needed; advising staff and elected officials on all civil legal matters, including but not limited to: special events; labor and employment law matters; contract review and interpretation; airport leases; nuisance/hazardous property abatement; council / Code of Conduct matters; real estate transactions & claims; Charter Commission, Legislative Committee, etc.; data practices; rental property registration and maintenance issues; requests for firearm permits; dangerous/potentially dangerous dogs; vehicle forfeitures; APD Body Worn Camera policy application; open meetings issues; City Code / Ordinance review, drafting, and interpretation; assisting the Mayor, City Administrator, Chief of Police, Public Information Officer, and other City officials as needed when responding to media inquiries about City affairs.

Dues and Subscriptions (including prosecution-specific software): To do our job as prosecutors, we need specialized software, such as MCAPs, to process our cases.

Discussion Items:

- The City Attorney serves as legal counsel for the City in both criminal and civil matters. In both capacities we are mainly a reactive body. This is important for budgeting purposes, for it means we have little control over the matters we must address. As our City grows and changes, the need for our office to react to these and other legal issues increases.
- In terms of the civil work we do for the City, there are many uncontrollable factors that impact the amount of our work:
 - **Laws change** through legislative action, administrative regulation, judicial interpretation, etc. The 2019-2021 COVID-19 pandemic and its resulting statutes and Emergency Executive Orders are a perfect example of how this can happen. We are thankful that the pandemic continues to wane and that it is soon a non-issue.
 - **Unforeseen events occur** that warrant close attention. Recent examples include various APD personnel issues, such as work comp claims, and the Wyffels matter.
 - **City policies are considered, changed, eliminated, and / or implemented.** A good example of this is recent First Amendment interpretations that have caused us to re-evaluate City flag / banner / sign policies.
 - **Issues are raised by the City Council** or during City Council meetings.
 - **Property owners fail to comply** with permits and other City rules and regulations, or they seek creative ways to comply (or perhaps evade) those rules and regulations.
 - **Accidents** happen.
 - **Employment issues** arise.

- **Data practices** questions are asked. This has become a bigger issue in light of the public increased scrutiny of law enforcement.
 - **Contracts** need drafting, review, interpretation, and enforcement.
 - **Nuisances** and **hazardous properties** need abatement.
 - **Property** needs to be acquired or disposed of. Sometimes this triggers the complicated **eminent domain** process, such as Silver Maple / 18th Ave. extension case.
 - **Leases** expire, need revision and/or renewal.
 - People and organizations want **special event permits** and various **licenses**; etc.
 - We must also **monitor new developments** in the law and advise how the City's liability risk could be reduced;
 - The City Attorney is also specifically appointed as the City's "**Revisor of Ordinances**" and as a member of the City's **Legislative Committee** (City Code §§ 2.32 & 2.20, Subd. 1);
 - Although not a member of the city's **Charter Commission**, the City Attorney has been requested to attend their meetings and to advise the City on Charter Commission matters (although the Commission's activities have slowed considerably, and we not expect any major increase in Charter Commission activity in 2023. However, we recently learned of conflict between the Charter and City Code, and to get them in compliance with state statute, we are now pursuing a slight Charter amendment.
 - Currently, we have approximately **71 separate open files** relating to the City's civil matters. This is almost identical to this time last year when we estimated 70 open files. This is about twice the civil caseload we had in 2016.
- Our fees for our work as **criminal prosecutors** are similarly unpredictable. This is because we must react to the number of cases referred to us by APD, the number of people arrested, the number of citations issued, the number of defendants who challenge their cases in court, the number of people who violate probation, how aggressively the defendants and their attorneys fight their cases, etc. For many years, we worked with a very consistent group of public defenders. Public defenders are, of course, the attorneys who are appointed to represent defendants who cannot afford a private attorney. They defend the vast majority of cases we prosecute. That consistency led to predictability and generally positive working relationships with the defense bar. Lately, we have seen a revolving door of public defenders. Things have settled in a bit, but the frequent change in defense attorneys has made it difficult to develop the working relationships that work best. Simply put, we have no control over how many people choose to violate the law, how many cases are referred to us for prosecution, how aggressively we need to push the cases through the system, whether the defendants appeal their convictions, how aggressive the defense attorneys are, etc. That, in turn, makes it difficult to predict how much time we will need to spend on these cases and, therefore, what the corresponding attorney fees will be.
 - Our city attorney staff currently includes five attorneys and four support staff. Of course, we do more than city attorney work for Alexandria. However, our attorneys include approximately 1.5 FTE (Greg Donahue and Katelyn Spangrud) devoted to prosecution for the City and close to a 1.0 FTE attorney (Tom Jacobson, Mike Cass and all other attorneys from time to time) working on civil matters for the City. In addition, we employ close to another 2.0 FTE of non-attorney staff who help the city attorneys.¹

¹ Note: nearly 100 % of Katelyn Spangrud's time and nearly 100% of one of our administrative assistant's time is devoted to Alexandria City Attorney work.

- We continue to feel the effects of the COVID-19 pandemic. The biggest issue as a result of the pandemic was the delay of jury trials, which are the single most expensive proceeding our prosecutors are involved with even under the best circumstances. As the court system slowly returns to in-person proceedings, we are starting to see the COVID-related backlog diminish. This means we are back to more in-person hearings and trials, and that will drive up fees. That may, however, be mitigated by the fact that preliminary and procedural hearings and bail hearings are still done remotely and likely will continue this way well into the future.
- We continue to invest in technology and training to make our practice more efficient. For example, this summer we will be installing a video conference room to better facilitate remote meetings and court hearings.
- Tom Jacobson completed his year as president of the Minnesota City Attorney's Association and continues to remain active in that group as its immediate past president. MACA is an invaluable resource that provides not only outstanding legal educational content but also networking opportunities to connect us with city attorneys throughout the state.

Proposed 2023 Budget

	2018 Budget Amount	2019 Proposed Budget (+3.6%)	2020 Proposed Budget (+3.0%)	2021 Proposed Budget (+3.2% ²)	2022 Proposed Budget (~+2.0%)	2022 Proposed Budget (~+4.3%)
City-Related Office Supplies	\$3,290.00	\$3,400.00	\$3,500.00	\$3,605.00	\$3,677.00	\$3,835.00
Legal Fees (Prosecution)	\$290,000.00	\$300,000.00	\$309,000.00	\$318,270.00	\$324,635.00	\$338,594.00
City Attorney's Secretarial Expense (prosecution assistance)	\$67,500.00	\$70,000	\$72,100	\$74,263.00	\$75,748.00	\$79,005.00
Miscellaneous (general and other City Attorney work)	\$70,000.00	\$73,000.00	\$75,190.00	\$77,446.00	\$78,995.00	\$82,391.00
Dues and subscriptions (e.g., City Attorney related computer software)	\$2,500.00	\$2,600.00	\$2,678.00	\$2,758.00	\$2,813.00	\$2,994.00
Totals	\$434,290.00	\$450,050.00	\$463,548.00	\$476,342.00	\$485,868.00	\$506,819.00

² These line items all reflect an increase of approximately 2.0%.