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# Overview of District Attorney Budget

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3/22/2022



# Executive Summary

Office of Management and Budget (OMB) **recommends no action**, as a 5% increase to the District Attorney's (DA) budget this early in the year is not fiscally responsible or operationally necessary at this stage

The District Attorney has approached Commissioners Court with two requests:

- Request for additional funding to in the amount of \$6,170,632 to (1) fully fund all previously approved positions for the District Attorney's Office (DAO):** The ask can be broken into the following:
  - \$3.7M for funding for all unfunded position control numbers (PCNs). This assumes that they would have all positions filled 100% of the year. This has never been the case historically and has not proven to be an impediment for the DA in the past. Moreover, they have 34 fully funded positions from ARPA that are still vacant, of which 24 are ADA positions.
  - \$2.4M in effective salary increases for existing positions (with an offset of 113K in salary reductions). These increases are not spelled out in the Request for Court Action.
  - The request is not inclusive of fringe and medical costs, which would be an additional \$1.3M for a full year.
- Return the budget maximums for all positions zeroed out by the budget office:** No action is needed as OMB has already provided the DA full discretion to fill positions so long as they remain within their monthly budgeted labor amount

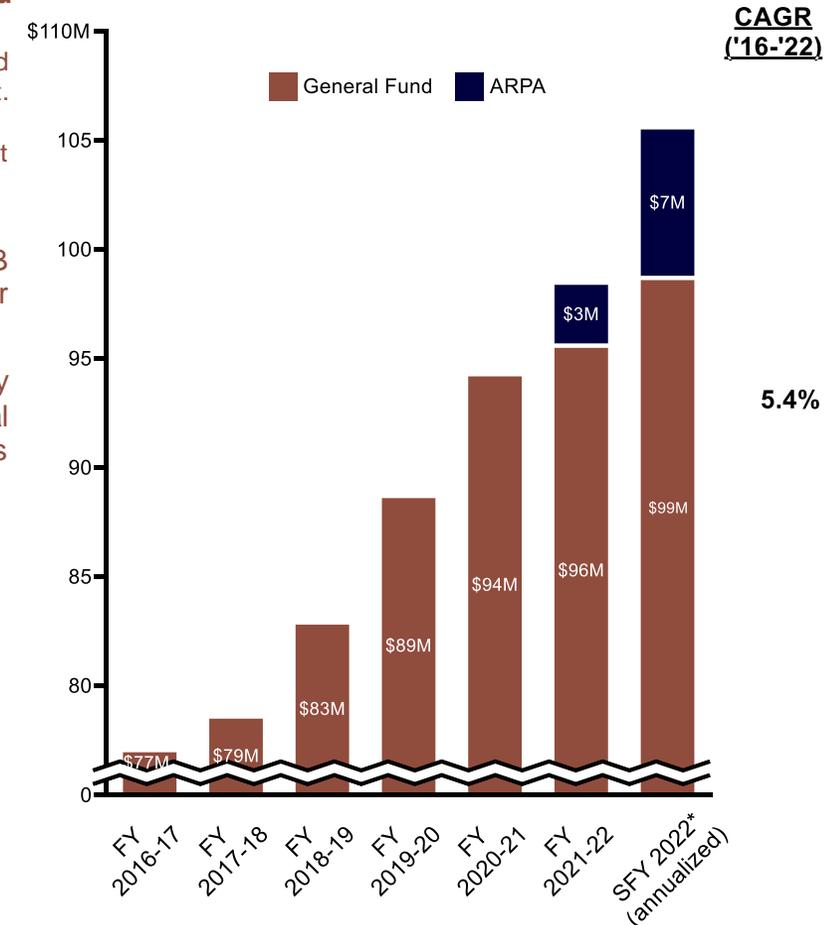
**Background:** The Harris County District Attorney's annualized appropriation from Commissioners Court has increased by **\$29M over the last seven years** and **\$12M over the last two years**. This includes ARPA funding to address the criminal case backlog and higher caseloads as well as general fund increases. The general fund allocation specifically has increased by \$5M in the last two years.

Specific initiatives that OMB has collaborated with the DA include:

1. New district court
2. Triage project
3. Staffing for Emergency response dockets and associate judges
4. Additional investment in their Intake division
5. Evidence Management support including funding for temporary staff
6. Pay increases for new attorneys

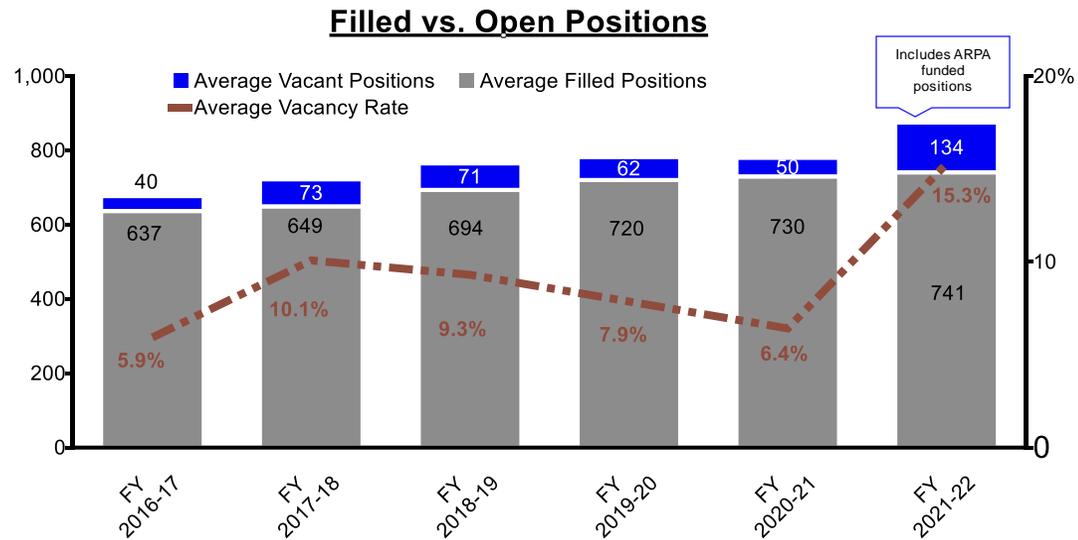
Court has approved all these initiatives with new funding.

**District Attorney General Fund Appropriation**  
(Adopted)



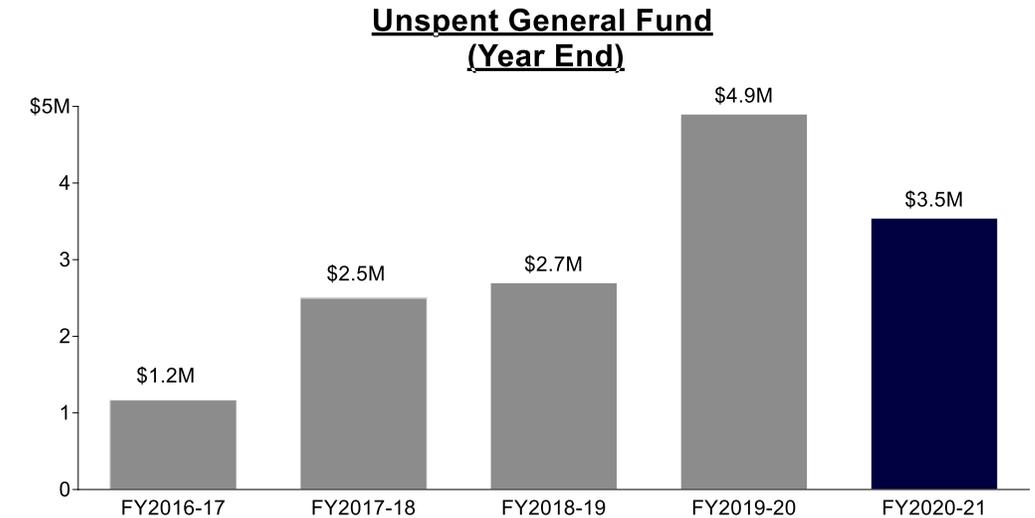
# Current DA Budget

## DA had 741 filled vs 134 vacant positions last year



The DA's current budget left 50 positions unfunded. This has not been an issue in the past due to high rates of attrition in the Department. **25 of these are Attorney positions.** The remainder are interns (19) and IT / admin staff (6). **OMB has already authorized them to fill all these vacant positions to keep up with their attrition, so long as the labor budget is carefully monitored.** In addition, 34 out of 89 fully funded ARPA positions are currently vacant – with 24 of these being attorneys.

## All DA unspent appropriation funded their Triage Project



The DA received 100% of its unspent General Fund appropriation when Commissioners Court approved reforms to rollover policy in March 2021. This appropriation was to be released as needed to fund an overtime Triage program to divert, dismiss or otherwise resolve lower-level cases, reducing caseloads for prosecutors and courts. An additional tranche is set to be released on the March 22, 2022 Commissioners Court.

Under Commissioners Court's guidance, OMB is committed to working with the DA's office to promote better criminal justice outcomes, while ensuring fiscal transparency and accountability. We will continue to work on an upcoming PFM workload assessment to identify other areas of investment at the DA's office for future budgets.



# Review of DA Request for Court Action (1/2)

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**Point 1:** *“As of Feb. 21, 2022, we have experienced new employees starting with zero budget in their positions. We are getting push back when we attempt to fund these positions; therefore, we have stopped making job offers for the 50 positions zeroed out.”*

To ensure that there is ease in operations, budget for these **have been authorized to be added back as of 3/14/2022**. This allows the DA's office to hire individuals without having to re-budget every position. OMB will work with them to ensure that payroll remains within the labor budget allocated.

As background, this was done to comply with the new County-wide positions based policy. The DA's office sent a file assigning budget to specific positions, that was then uploaded into the ERP software.

**Point 2:** *On March 9, 2021, the reform for the Rollover Policy for Harris County was approved and \$4,900,441 of the District Attorney's Office rollover was taken. Prior to the change in rollover policy, sixteen positions were approved on July 14, 2020 and October 14, 2020 relying on the funds available at the time that became apart our rollover. The adopted Rollover Policy includes: (3) The Budget Management Department will work with any department relying on rollovers to fund recurring expenditures to avoid unintended cuts to services. The budget office did not ask us if we encumbered any of the \$4.9million before taking it resulting in us operating in deficit mode since March 2021.*

## Points to note:

1. The rollover amount at the end of FY 2020-21 was \$3.5M. The amount referenced in the DA's RCA was at the beginning of FY2020-21 and their office spent some portion of it during the year.
2. The DA's office applied for the \$3.5M at the beginning of FY 2021-22 and was approved for 100% of these funds. These funds were to be disbursed in 3 tranches. \$1.5M of this amount was given and expended last year. The second tranche is being requested March 22<sup>nd</sup>, 2022 Court.
3. Should there have been a chronic deficit in the budget, the DA's office had the opportunity to request additional funding for it during the budget process that was kicked off in October 2021 and ended in February 2022. However, no budget request was made to cover the costs of the 16 positions mentioned in the RCA. Moreover, the DA's office ended FY2021-22 with a \$150K surplus, which suggested that they have sufficient appropriation to cover their operating costs with current General Fund appropriation.

# Review of DA Budget Request for Court Action (2/2)

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**Point 3:** *DA requested \$786,094 to raise the starting salaries for all 127 entry level positions to attract and keep new Prosecutors to compete with Montgomery County and Fort Bend County at a cost of \$786,094 for ShortFY2022 and \$1,347,590 for FY2023; however, the OMB changed our calculation and requested funding for only the filled positions. We were not given enough budget to raise all of the starting salaries, so we cannot execute the directive approved by Commissioners Court on Feb. 08, 2022 to raise the starting salaries.*

Points to note:

1. DA did not request any appropriation directly through the budget process. This item was suggested by Commissioners Court staff and OMB in order to aid the hiring issues highlighted by DA and reduce the backlog of cases.
2. The DA has no funding to fill the vacant positions referenced. Therefore, salary increases did not make sense for positions where budget was \$0. This does not impact their ability to provide raises to prosecutors making less than \$87K.

**Point 4:** *“We asked for 125 New Employee Positions (82 Attorneys & 43 support staff). We requested 82 New Attorney Positions, but only 24 New Attorney Positions were approved for Intake Weekend shifts - \$1,670,000 instead of for short FY2022 (March 01, 2022 to Sept. 30, 2022). But No Funding was provided for FY2023 pending PFM study.”*

Points to note:

1. We are awaiting the results of a PFM study that the DA's office is participating in to understand the critical areas of investment for the DA's office.
2. The intake positions that were approved were to continue funding for 15 DAs and 7 admin positions, not 24 ADA positions. Also, the actual requested amount by the DA was lower than the amount approved (~\$1.5M vs. ~\$1.7M). This is to be reviewed based on the results of the PFM review.

**Point 5:** *“We request our budget max be re-established to the salary of the employees in those positions as of the date the budget office reduced them.”*

Points to note:

1. The budget maxes were set to the actual salary made by each employee. Therefore, the current budget maxes are currently AT the salary of the employees. The impact of what the DA is asking for is an effective pay increase for each employee.
2. These budget maximums were signed off by the DA's financial team as they sent through the final file.
3. These increases do not account for associated benefits and fringe which is an additional \$1.3M.
4. There are 9 positions that the DA's office is proposing a decrease in budget maximums.

# Unspent General Fund Appropriation

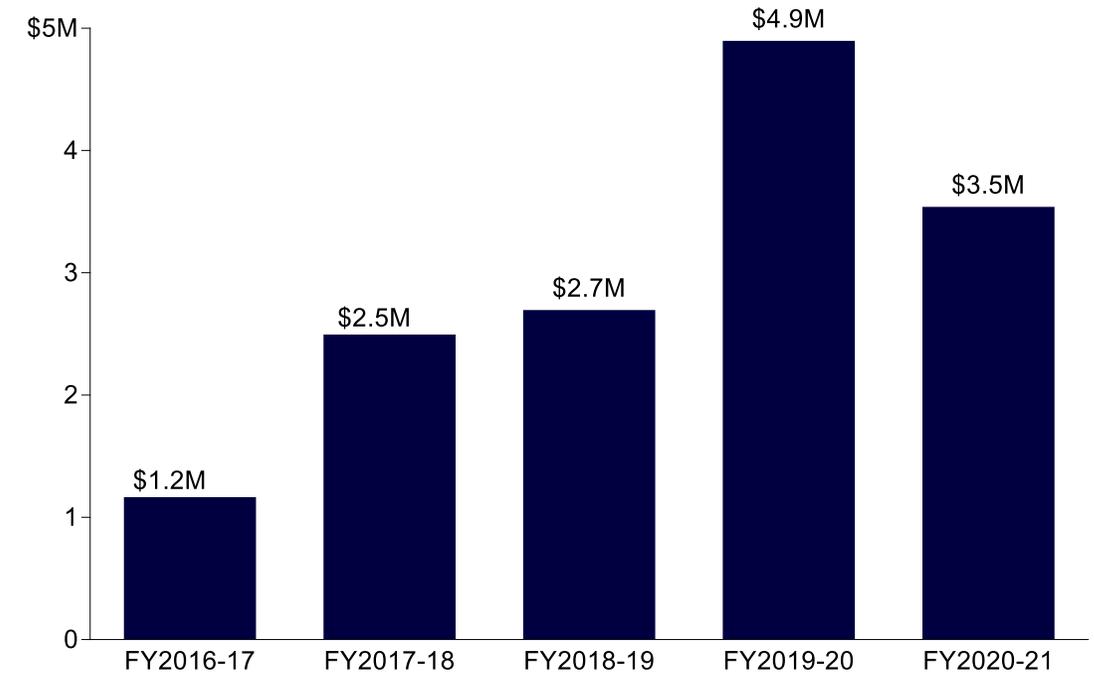
## BACKGROUND

Surplus budgeting allowed departments to have unspent General fund appropriation at the end of a fiscal year be accrued to them in the following fiscal year. The biggest contributor to rollover funds was unspent appropriation due to positions being not filled during the year.

At the beginning of FY 2021-22, Commissioners Court approved the discontinuation of the rollover policy, but allowed departments to request appropriation one time for specific projects.

The DA applied for the \$3.5M unspent appropriation they had available for the Triage project and was approved for the entirety of that amount. \$1.5M was released as a first tranche of a 3-tranche process. The second tranche is being requested to Court today.

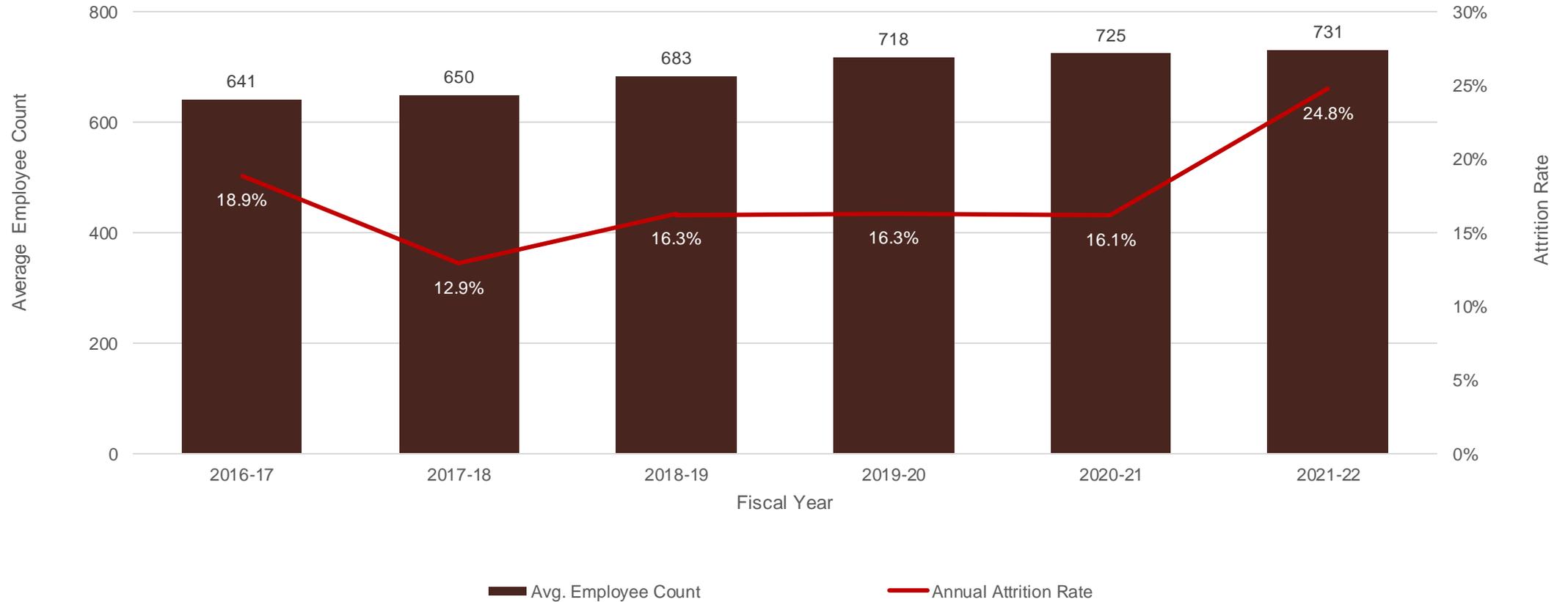
## Unspent General Fund (Year End)



High attrition rates/vacancy rates are the primary cause of left-over appropriations at the end of the year. More importantly, this is one-time funding and is not recommended to fund recurring labor costs.

# DA's Average Employee Count and Attrition Rate (General Fund)

DAO - Average Employee Count & Attrition Rate

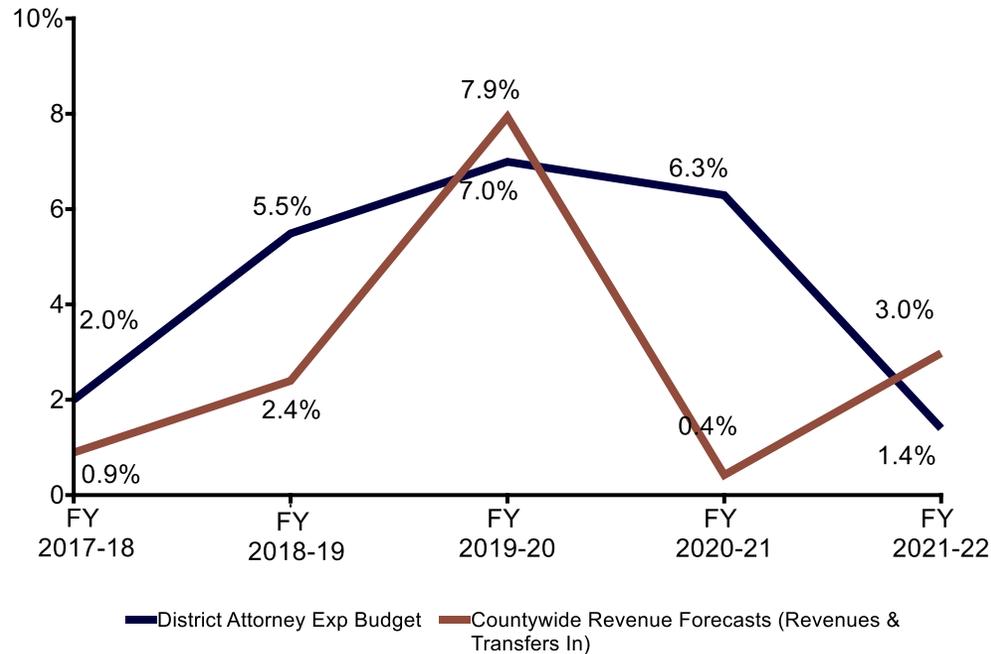


Note: Average employee count represents the average number of employees in any given fiscal year. Yearly attrition rate is equal to the total number of separations from the department in a given fiscal year divided by the average number of employees in that fiscal year.

# DA Appropriation Overview

- Countywide revenue forecast grew at a modest compounded annual growth rate of **3.6%** over the last six years.
- FY2018-22 the District Attorney's budget growth outpaced countywide revenue forecasts by **1.5x the rate**.
- Use of fund 2630/2076 is at the **sole discretion of the District Attorney** and stood at \$11.5M in FY 2021-22

**% Growth in General Fund Revenue and District Attorney Budgets**



**DA Asset Forfeiture Appropriation**

