

Office of the Commonwealth's Attorney

Commonwealth's Attorney

Focus

The Commonwealth's Attorney is a constitutional officer of the Commonwealth of Virginia. As such, he is not an officer or employee of the County from which he was elected. In this jurisdiction, the Commonwealth's Attorney is elected by voters of Fairfax City and Fairfax County.

The Office of the Commonwealth's Attorney (OCA) is charged primarily with the prosecution of crime. This office prosecutes criminal and traffic matters in the Fairfax County General District Court, criminal and delinquency matters in the Juvenile and Domestic Relations District Court, and all felony cases in the Fairfax County Circuit Court. The office handles both the violation of County ordinances and the violation of state statutes.



The caseload of the office is substantial and is one of the highest per prosecutor in the Commonwealth. The OCA handles such offenses as murder, rape, robbery, burglary and illegal drug sales, from arrest to trial. It prosecutes a wide variety of misdemeanor and traffic cases, including more than 4,000 driving under-the-influence violations, thousands of assaults, and thousands of petty thefts.

State law specifically mandates certain duties for the Commonwealth's Attorney. He is charged with advising the Grand Jury relative to their duties, representing the Electoral Board in certain election matters, and advising any officers or employees of Fairfax City

or Fairfax County on matters involving conflict of interest. On a daily basis, the OCA works with numerous law enforcement units (e.g., State Police, Fairfax County Police, Fairfax City Police, the Town of Herndon, and Town of Vienna Police and game wardens) in the course of investigations and in response to questions concerning criminal law.

The Office of the Commonwealth's Attorney supports the following County Vision Element:



Maintaining Safe and Caring Communities

OCA continues to be understaffed at both the attorney and administrative assistant position. OCA's five year staffing plan requested additional positions to place the Fairfax OCA on par with neighboring and similarly situated jurisdictions in Virginia in terms of caseload. For instance, Fairfax County currently has a population of 1,131,886 and OCA has 34 attorneys. That number amounts to 33,290 citizens per prosecutor. In contrast, the City of Richmond as of 2017 had 5,975 citizens per prosecutor. Virginia Beach had 11,550 citizens per prosecutor. The City of Norfolk had 6,274 citizens per prosecutor. These numbers do not take into account the number of criminal misdemeanors and traffic violations docketed in the General District Court in a County with a population of over one million citizens.

The Board of Supervisors is considering the addition of Body Worn Cameras (BWC) to be added to all officers of the Fairfax County Police Department. In the event that the BWC project is approved, the

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workload of this office will increase significantly and the current staffing of both attorneys and administrative staff will be rendered woefully inadequate to deal with the unique workforce challenges brought about by the BWC project. All of the video generated by the Body Worn Cameras will need to be turned over to the defendant in a case or the attorney for the defendant in a case in compliance with criminal discovery practices in Virginia. The cases will range from the simplest traffic infraction to the most complex of murders. Attorneys in this office will need to spend time locating, downloading and providing these videos in every case they are involved in from the 30 cases an attorney will have in traffic court one day, to the 7 cases the attorney will have in preliminary hearings, to the felony cases set for trial in the Circuit Court. All of this footage must be reviewed multiple times by the attorneys handling the cases and there is no way to “speed up” the review process. That is to say that for every hour of footage that attorney must spend time searching for the videos and finding all of the videos that exist. This again adds actual work time in preparing cases. The attorneys will also have to in some cases edit the footage to make sure sensitive information such as social security numbers are not turned over in discovery to protect the privacy rights of citizen witnesses and victims. Finally, the existence of the camera footage in the General District Court dockets that begin at 9:30 a.m. have and will continue to cause those dockets to run longer to the point that the attorneys in those morning dockets will no longer be able to also appear for preliminary hearings at 2:00 p.m. All of this necessitates both additional attorneys and administrative staffing.

In FY 2020, additional funding was included to support the new Mental Health Docket, which was established to continue the efforts of the Diversion First program. The Diversion First initiative is a multiagency collaboration between the Office of the Sheriff, Police Department, Fire and Rescue Department, Fairfax County Court System, and the Fairfax-Falls Church Community Services Board to reduce the number of people with mental illness in local jails by diverting non-violent offenders experiencing mental health crisis to treatment instead of incarceration.

Budget and Staff Resources

Category	FY 2018 Actual	FY 2019 Adopted	FY 2019 Revised	FY 2020 Advertised	FY 2020 Adopted
FUNDING					
Expenditures:					
Personnel Services	\$3,486,294	\$3,963,293	\$3,818,293	\$4,168,197	\$4,211,794
Operating Expenses	224,749	120,634	312,649	128,234	128,234
Total Expenditures	\$3,711,043	\$4,083,927	\$4,130,942	\$4,296,431	\$4,340,028
Income:					
Commonwealth's Attorney Fees	\$26,978	\$29,761	\$29,761	\$29,761	\$29,761
City of Fairfax Contract	83,007	91,693	100,354	100,354	100,354
State Shared Retirement - Commonwealth's Atty	37,744	32,309	32,309	39,744	39,744
State Shared Commonwealth's Atty Expenses	1,981,952	1,774,655	1,774,655	2,006,952	2,006,952
State Reimbursement Commonwealth's Atty Witness	16,590	16,400	16,400	16,400	16,400
Total Income	\$2,146,271	\$1,944,818	\$1,953,479	\$2,193,211	\$2,193,211
NET COST TO THE COUNTY	\$1,564,772	\$2,139,109	\$2,177,463	\$2,103,220	\$2,146,817
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)					
Regular	40 / 40	40 / 40	40 / 40	41 / 41	41 / 41
Exempt	1 / 1	1 / 1	1 / 1	1 / 1	1 / 1

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1	Commonwealth's Attorney E	15	Asst. Commonwealth's Attorneys II (1)	2	Paralegals
1	Chief Deputy Commonwealth's Attorney	1	Management Analyst II	2	Administrative Assistants IV
3	Deputy Commonwealth's Attorneys	1	Management Analyst I	2	Administrative Assistants III
7	Sr. Asst. Commonwealth's Attorneys				
7	Asst. Commonwealth's Attorneys III				

TOTAL POSITIONS

42 Positions (1) / 42.0 FTE (1.0)

() Denotes New Position

E Denotes Exempt Position

FY 2020 Funding Adjustments

The following funding adjustments from the FY 2019 Adopted Budget Plan are necessary to support the FY 2020 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 7, 2019.

- ◆ **Employee Compensation** **\$156,503**
 An increase of \$156,503 in Personnel Services includes \$83,230 for a 2.10 percent market rate adjustment (MRA) for all employees and \$73,273 for performance-based and longevity increases for non-uniformed merit employees, both effective July 2019.
- ◆ **Diversion First** **\$99,598**
 An increase of \$99,598 and 1/1.0 FTE position is required to support the fourth year of the County's successful Diversion First initiative. Diversion First is a multiagency collaboration between the Police Department, Office of the Sheriff, Fire and Rescue Department, Fairfax County Court System, and the Fairfax-Falls Church Community Services Board to reduce the number of people with mental illness in the County by diverting low-risk offenders experiencing a mental health crisis to treatment rather than bring them to jail. This position will allow the Commonwealth's Attorney to support the Mental Health Docket and workload. It should be noted an increase of \$44,812 in Fringe Benefits funding is included in Agency 89, Employee Benefits, for a total cost of \$144,410 in FY 2020. For further information on Fringe Benefits, please refer to the Agency 89, Employee Benefits, narrative in the Nondepartmental program area section of Volume 1.

Changes to FY 2019 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2019 Revised Budget Plan since passage of the FY 2019 Adopted Budget Plan. Included are all adjustments made as part of the FY 2018 Carryover Review, FY 2019 Third Quarter Review, and all other approved changes through April 30, 2019.

- ◆ **Carryover Adjustments** **\$47,015**
 As part of the FY 2018 Carryover Review, the Board of Supervisors approved funding of \$47,015 in encumbered funding in Operating Expenses.

Key Performance Measures

No Performance Indicators are available for this agency.