

Office of the Commonwealth's Attorney

Focus

The Commonwealth's Attorney is a constitutional officer of the Commonwealth of Virginia elected by the voters of Fairfax City and Fairfax County. As such, the Commonwealth's Attorney is not an officer or employee of the County.



The Office of the Commonwealth's Attorney (OCA) is charged primarily with the prosecution of crime. This office prosecutes criminal matters, as well as 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. In general, the office handles both the violation of County ordinances and the violation of state statutes that result in felony charges and, at its discretion, misdemeanors. In addition, the OCA handles a number of misdemeanor appeals. The OCA serves the entirety of Fairfax County including the City of Fairfax, the Town of Herndon, and the Town of Vienna, a total of approximately 1.2 million residents that constitutes the Commonwealth's largest jurisdiction.

The caseload of the office is substantial and is one of the highest per prosecutor in the Commonwealth. The OCA handles felony offenses such as murder, rape and other sexual assaults, robbery, burglary, and crimes against children, from arrest to trial. It prosecutes a wide variety of misdemeanor cases including driving while intoxicated violations and traffic fatality cases.

State law specifically mandates certain duties for the Commonwealth's Attorney, including 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.

Employees in the OCA are in County positions and participate in County pay and benefit plans. The Commonwealth's Attorney is not an employee of the County but does participate in County benefit plans and receives a County supplement to the state-determined base salary. This supplement is regularly reviewed and approved by the Board of Supervisors. The Commonwealth of Virginia Compensation Board reimburses the County for a portion of expenses in the OCA. The mission of the Compensation Board is to determine a reasonable budget for the participation of the Commonwealth toward the total cost of office operations as it pertains to felony casework for Constitutional Officers, and to assist those officers and their staff through automation, training, and other means, to improve efficiencies and to enhance the level of services provided to the citizens of Virginia. The Virginia State Compensation Board has historically underfunded Fairfax County; in FY 2020 actual revenue received from the state was \$2.04 million compared to actual expenditures of \$4.3 million. Funding double of what the State Compensation Boards reimburses illustrates the commitment of the Fairfax County Board of Supervisors to the justice system. Active conversations are underway Commonwealth-wide to reexamine Compensation Board processes to raise reimbursement rates for Fairfax County to an adequate level. The Commonwealth's Attorney works closely with criminal justice system partners across Virginia to explore, implement, and/or advocate for new and developing solutions to keep Fairfax County safe while providing justice for all.

On September 24, 2019, the Board of Supervisors approved a Body-Worn Camera (BWC) program. It is anticipated that the workload of this office will increase due to the unique workforce challenges brought about by the BWC project. This increase in workload necessitates both additional attorneys and administrative staffing. In FY 2020, an additional 23/23.0 FTE positions were included to provide support to the CWA for the BWC program. An additional 15/15.0 FTE positions are included in FY 2022 budget to provide additional staffing support for the office.

Pandemic Response and Impact

Fairfax County's Office of the Commonwealth's Attorney's Office anticipated and understood the effects the COVID-19 crisis would have on the County's local criminal justice system early on and acted swiftly to coordinate an appropriate response. Although the official judicial emergency surrounding COVID-19 continues, the justice system has continued to operate under significant strain and hazard in recent months. As the courthouse has strengthened its pandemic response over the course of 2020 and into 2021, it has taken considerable measures to fight the spread of COVID-19. As those measures have been implemented, the casework of the building has increased and, in turn, the workload has increased for the office. Therefore, although the office was initially able to have some staff work from home, staff is now working full-time hours in-office with persistent risk. The office has been taking extraordinary precautions to protect employees, as well as any partners in the justice system and members of the general public that interact with it. The use of facemasks, hand sanitizer, social distancing, plexiglass dividers, and limits on meeting lengths has become commonplace in day-to-day work. The office has also become accustomed to quickly shifting schedules and assignments to accommodate frequent "scares" whenever a confirmed, positive COVID-19 case with direct contact with the office is reported. These "scares" require quarantining, testing, and monitoring to protect individuals as well as the criminal justice system as a whole. The necessity for the Commonwealth's Attorney's Office's work to be done in-office and in-person, as well as the dedication shown by staff to perform it during this difficult time, cannot be understated.

Budget and Staff Resources

Category	FY 2020 Actual	FY 2021 Adopted	FY 2021 Revised	FY 2022 Advertised
FUNDING				
Expenditures:				
Personnel Services	\$4,007,706	\$4,868,723	\$5,700,967	\$7,579,814
Operating Expenses	271,793	180,734	577,464	380,734
Total Expenditures	\$4,279,499	\$5,049,457	\$6,278,431	\$7,960,548
Income:¹				
Commonwealth's Attorney Fees	\$18,614	\$27,618	\$27,618	\$27,618
City of Fairfax Contract	87,584	106,733	118,535	118,535
State Shared Retirement - Commonwealth's Attorney	38,874	39,744	39,744	39,744
State Shared Commonwealth's Attorney Expenses	1,994,886	2,051,334	2,051,334	2,051,334
State Reimbursement Commonwealth's Attorney Witness	9,900	16,400	16,400	16,400
Total Income	\$2,149,858	\$2,241,829	\$2,253,631	\$2,253,631
NET COST TO THE COUNTY	\$2,129,641	\$2,807,628	\$4,024,800	\$5,706,917
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)				
Regular	49 / 49	49 / 49	64 / 64	79 / 79
Exempt	1 / 1	1 / 1	1 / 1	1 / 1

¹State shared income includes reimbursement for fringe benefits; however, the expenses associated with fringe benefits are reflected in Agency 89, Employee Benefits, and are not included in the expenditure amounts above.

**FY 2022
Funding
Adjustments**

The following funding adjustments from the FY 2021 Adopted Budget Plan are necessary to support the FY 2022 program:

Positions to Support Caseload **\$1,519,601**
An increase of \$1,519,601 and 15/15.0 FTE new positions is included to support the ongoing efforts of the Body-Worn Camera program, as well as handling all sex crimes and majority of violent crimes. At the September 22, 2020, Public Safety Committee Meeting, the Commonwealth's Attorney requested additional positions to cover workload that was backlogged or no longer covered due to a lack of resources. As a result, prosecution of violent crimes, sex crimes, property crimes and other misdemeanors was reduced as a response. These new positions will allow the office to continue prosecution of all sex crimes and majority of violent crimes and support the full implementation of the BWC Program. It should be noted that an increase of \$713,611 in Fringe Benefits funding was included in Agency 89, Employee Benefits. For further information on Fringe Benefits, please refer to the Agency 89, Employee Benefits, narrative in the Nondepartmental program area section of Volume 1.

Body-Worn Cameras **\$1,391,490**
An increase of \$1,391,490 for the implementation of Phase Two and Phase Three of the Body-Worn Camera Program is required to support full year costs of the program. As part of the *FY 2020 Carryover Review*, 15/15.0 FTE positions were approved and require \$1,391,490 in ongoing baseline funding in FY 2022. It should be noted that an increase of \$651,197 in Fringe Benefits funding is included in Agency 89, Employee Benefits. 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 2021
Adopted
Budget Plan**

The following funding adjustments reflect all approved changes in the FY 2021 Revised Budget Plan since passage of the FY 2021 Adopted Budget Plan. Included are all adjustments made as part of the FY 2020 Carryover Review, FY 2021 Mid-Year Review, and all other approved changes through December 31, 2020:

Carryover Adjustments **\$330,480**
As part of the *FY 2020 Carryover Review*, the Board of Supervisors approved encumbered funding of \$330,480 in Operating Expenses.

Body-Worn Cameras **\$898,494**
As part of the *FY 2020 Carryover Review*, the Board of Supervisors approved funding of \$898,494 and 15/15.0 FTE new positions to support Phase Two and Phase Three of the Body-Worn Camera program. These positions will assist with increased workload as a result of the retrieval, review, redaction, and dissemination of increased video footage. It should be noted that an increase of \$121,558 in Fringe Benefits funding was included in Agency 89, Employee Benefits.

