

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 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, 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 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. It is estimated the Virginia Compensation Board will reimburse the County \$2.1 million in FY 2021 for the OCA.

On September 24, 2019, the Board of Supervisors approved the Body-Worn Cameras (BWC) program for implementation over a three-year period. It is anticipated that the workload of this office will increase significantly due to the unique workforce challenges brought about by the BWC project. All the video generated by the BWC in will need to be turned over to the defendant or the attorney for the defendant in a case in compliance with criminal discovery practices in Virginia. Attorneys in this office will need to spend time locating, downloading and providing these videos in every case they are involved in and all of this footage must be reviewed multiple times by the attorneys handling the cases. In some cases, the attorneys will also have to redact the footage to protect the privacy rights of citizens, witnesses and victims to ensure sensitive information, such as social security numbers, is not turned over in discovery. Finally, the existence of the camera footage has caused dockets to run longer. All of this necessitates both additional attorneys and administrative staffing. In FY 2020, an additional 8/8.0 FTE positions were included to provide support for the BWC program. An additional 9/9.0 FTE positions are included in the [FY 2021 Advertised Budget Plan](#).

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. Additional funding is included in FY 2021 to support Diversion First efforts.

Budget and Staff Resources

Category	FY 2019 Actual	FY 2020 Adopted	FY 2020 Revised	FY 2021 Advertised
FUNDING				
Expenditures:				
Personnel Services	\$3,661,141	\$4,211,794	\$4,818,723	\$5,878,259
Operating Expenses	278,407	128,234	244,137	248,234
Total Expenditures	\$3,939,548	\$4,340,028	\$5,062,860	\$6,126,493
Income:¹				
Commonwealth's Attorney Fees	\$27,618	\$29,761	\$27,618	\$27,618
City of Fairfax Contract	100,354	100,354	87,585	106,733
State Shared Retirement - Commonwealth's Attorney	74,688	39,744	39,744	39,744
State Shared Commonwealth's Attorney Expenses	1,933,633	2,006,952	2,051,334	2,051,334
State Reimbursement Commonwealth's Attorney Witness	51,959	16,400	16,400	16,400
Total Income	\$2,188,252	\$2,193,211	\$2,222,681	\$2,241,829
NET COST TO THE COUNTY	\$1,751,296	\$2,146,817	\$2,840,179	\$3,884,664
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)				
Regular	40 / 40	41 / 41	49 / 49	59 / 59
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 2021 Funding Adjustments

The following funding adjustments from the FY 2020 Adopted Budget Plan are necessary to support the FY 2021 program:

Employee Compensation **\$162,496**
 An increase of \$162,496 in Personnel Services includes \$86,763 for a 2.06 percent market rate adjustment (MRA) for all employees and \$75,733 for performance-based and longevity increases for non-uniformed merit employees, both effective July 2020.

Body-Worn Camera Program **\$1,520,426**
 An increase of \$1,520,426 is required to support the workload resulting from the implementation of a Body-Worn Camera Program. Funding of \$810,997 is required to support 9/9.0 FTE new positions proposed as part of the FY 2021 Advertised Budget. As part of the FY 2019 Carryover Review, 8/8.0 FTE positions were approved and require \$709,429 in ongoing baseline funding in the FY 2021 budget. It should be noted that an increase of \$711,283 in Fringe Benefits funding is included in Agency 89, Employee Benefits, for a total cost of \$2,231,709 in FY 2021. For further information on Fringe Benefits, please refer to the Agency 89, Employee Benefits, narrative in the Nondepartmental program area section of Volume 1.

Diversion First **\$103,543**

An increase of \$103,543 and 1/1.0 FTE new position is included to support the County's Diversion First initiative. Diversion First aims 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 that an increase of \$48,195 in Fringe Benefits funding is included in Agency 89, Employee Benefits, for a total cost of \$151,738 in FY 2021. 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 2020**

The following funding adjustments reflect all approved changes in the FY 2020 Revised Budget Plan since passage of the FY 2020 Adopted Budget Plan. Included are all adjustments made as part of the FY 2019 Carryover Review, and all other approved changes through December 31, 2019.

Adopted

Carryover Adjustments **\$13,403**

Budget Plan

As part of the *FY 2019 Carryover Review*, the Board of Supervisors approved encumbered funding of \$13,403 in Operating Expenses.

Body-Worn Cameras **\$709,429**

As part of the *FY 2019 Carryover Review*, the Board of Supervisors approved funding of \$709,429 and 8/8.0 FTE for 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 \$331,880 in Fringe Benefits funding was included in Agency 89, Employee Benefits.

Position Detail

The FY 2021 Advertised Budget Plan includes the following positions:

OFFICE OF THE COMMONWEALTH'S ATTORNEY – 60 Positions			
1	Commonwealth's Attorney E	1	Management Analyst IV
1	Chief Deputy Commonwealth's Attorney	1	Management Analyst II
3	Deputy Commonwealth's Attorneys	1	Management Analyst I
5	Sr. Asst. Commonwealth's Attorneys	6	Paralegals [+2]
9	Asst. Commonwealth's Attorneys III	3	Administrative Assistants IV [+1]
22	Asst. Commonwealth's Attorneys II [+7]	3	Administrative Assistants III
4	Asst. Commonwealth's Attorneys I		
+	Denotes New Position(s)		
E	Denotes Exempt Position(s)		

**Performance
Measurement
Results**

No Performance Indicators are available for this agency.