

#191  
Prosecution of  
Criminal Cases

## Department Overview

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.

For an extended period of time, OCA has been significantly understaffed, with the agency's already difficult workload becoming even more challenging in recent years due to several factors. First, due to a 2009 United States Supreme Court decision, *Melendez-Diaz v. Massachusetts*, OCA has had to designate one prosecutor and one office staff member with the full-time responsibility of complying with the additional notices and subpoenas now required for each DWI that is prosecuted in the County. This has effectively removed that prosecutor from the other work of the office, including preliminary hearing and Circuit Court dockets. In addition, preparation time for cases and time spent in trial has increased dramatically in the past 5-7 years for various reasons including the evolution of discovery standards and pretrial motions, the split of trials into two phases (guilt and sentence), longer periods of jury *voire dire*, and the increase in court-appointed experts for Defendants. Also, OCA now has to respond in writing to all motions made by the Defendant in Circuit Court by order of the Court. Formerly, oral responses were adequate on motions considered routine by the Court. Finally, in the early 2000's, the average daily number of traffic courtrooms that OCA had to staff was 3-4. Over the last 8 years, that number has increased to 5 or 6 traffic courtrooms daily, requiring an extra two attorneys per day to staff daily traffic dockets.

# Office of the Commonwealth's Attorney

## Department Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>FUNDING</b>			
<b>Expenditures:</b>			
Compensation	\$2,595,861	\$3,195,434	\$3,597,621
Operating Expenses	154,345	180,671	120,634
<b>Total Expenditures</b>	<b>\$2,750,206</b>	<b>\$3,376,105</b>	<b>\$3,718,255</b>
General Fund Revenue	\$1,895,846	\$1,869,988	\$1,877,533
Net Cost/(Savings) to General Fund	\$854,360	\$1,506,117	\$1,840,722
<b>POSITIONS</b>			
<i>Authorized Positions/Full-Time Equivalents (FTEs)</i>			
<b>Positions:</b>			
Regular	36 / 36	39 / 39	40 / 40
Exempt	1 / 1	1 / 1	1 / 1
<b>Total Positions</b>	<b>37 / 37</b>	<b>40 / 40</b>	<b>41 / 41</b>

## Lines of Business Summary

LOB #	LOB Title	FY 2016 Adopted	
		Disbursements	Positions
191	Prosecution of Criminal Cases	\$3,718,255	41
<b>Total</b>		<b>\$3,718,255</b>	<b>41</b>

## Lines of Business

LOB #191:

### **PROSECUTION OF CRIMINAL CASES**

#### **Purpose**

The Commonwealth's Attorney is the chief law enforcement officer for Fairfax County, the City of Fairfax, the Town of Vienna, and the Town of Herndon. 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. It is the duty of the Office of the Commonwealth's Attorney to protect and serve the people who live, work, and visit Fairfax County by ensuring that the crimes which affect the Fairfax County community are prosecuted and that justice is sought in all cases.

#### **Description**

The Office of the Commonwealth's Attorney's primary task is the prosecution of crime. The office prosecutes criminal and traffic matters in the Fairfax County General District Court and the Fairfax County Circuit Court, criminal and delinquency matters in the Juvenile and Domestic Relations District Court, and all felony cases. The office handles both the violation of County ordinances and the violation of state statutes. The office also advises police regarding legal matters that may arise during investigation as well as charging decisions. The office also handles some civil matters such as forfeiture hearings, mental health commitments, and OSHA complaints.

The office consists of 34 attorneys (1 position is fully funded by a Federal Grant and only handles intimate partner domestic violence cases) and 8 support staff positions.

#### **Benefits**

The Office of the Commonwealth's Attorney's (OCA) primary charge of prosecuting criminal cases helps to achieve the County's Vision Element of *Maintaining Safe and Caring Communities*. The OCA serves the entire Fairfax County population and beyond. OCA prosecutes criminal charges that occur in Fairfax County. Thus the OCA works with victims of crime that occur in Fairfax, whether the victims are citizens of Fairfax County or another jurisdiction who happened to be in Fairfax when they were victimized. This ensures that these victims have a voice in the criminal justice system. The OCA's primary charge also leads to a reduction in crime in Fairfax County which leads to a better quality of life for its citizens and makes the county attractive for both businesses and visitors.

#### **Mandates**

- Virginia Constitution Article 7, Section 4
- Va. Code § 15.2-1626
- Va. Code § 15.2-1627

# Office of the Commonwealth's Attorney

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## **Trends and Challenges**

The overarching trends identified as urbanization, population/demographics, technology, mandates/standards, and natural and man-made threats, are all trends that have already begun and will continue to grow in strength as issues in the future.

These trends will necessitate an increase in staffing to both the Police Department and the Fire and Rescue Department. Such a growth will undoubtedly result in an increased workload for the Office of the Commonwealth's Attorney in the form of additional hours of consultation, preparation, and prosecution. This increased workload will necessarily require an even greater increase in staffing both at the attorney level as well as the support staff level. The OCA has the additional challenge of managing and tracking an ever-increasing caseload. Currently, OCA uses a case management system that is outdated and no longer supported by IT; however, work is ongoing to secure a new system to address this need.

## **Resources**

As this line of business encompasses all activities of the department, please refer to the table in the Department Resources section above.

## **Metrics**

There are no metrics available for this agency.