

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 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 such offenses as murder, rape and other sexual assaults, robbery, burglary, crimes against children, and illegal drug sales, from arrest to trial. It prosecutes a wide variety of misdemeanor and traffic cases, including thousands of driving under-the-influence violations, thousands of assaults, and thousands of 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. 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 significantly due to the unique workforce challenges brought about by the BWC project. All the video generated by the BWC 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, watching, 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 certain 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 preparation for cases and courtroom 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. As a result of the COVID-19 pandemic and its impact on the global economy, positions originally included in the FY 2021 Advertised Budget were deferred until FY 2022.

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. As a result of the COVID-19 pandemic and its impact on the global economy, the position originally included in the FY 2021 Advertised Budget was deferred until FY 2022.

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. Limiting contact with others became a challenging necessity and, thus, the Commonwealth's Attorney instituted a reduced crew of staff that would remain in-office daily to meet the consistent, however reduced, schedule of the Fairfax County Courthouse. Personnel not serving in an in-office capacity were assigned at-home work to support active and future casework. At-home staff greatly depended on functioning, up-to-date technology to get their work done. Therefore, the OCA worked with the Department of Information Technology to ensure all staff had County mobile phones and laptops with web cameras that were vital to administering constant online video meetings. For in-office staff, the use of facemasks and hand sanitizer became essential. The OCA purposely postponed hires so as not to strain the budget in uncertain times and in preparation for the potential for extended measures lasting months.

Budget and Staff Resources

Category	FY 2019 Actual	FY 2020 Adopted	FY 2020 Revised	FY 2021 Advertised	FY 2021 Adopted
FUNDING					
Expenditures:					
Personnel Services	\$3,661,141	\$4,211,794	\$4,818,723	\$5,878,259	\$4,868,723
Operating Expenses	278,407	128,234	244,137	248,234	180,734
Total Expenditures	\$3,939,548	\$4,340,028	\$5,062,860	\$6,126,493	\$5,049,457
Income:¹					
Commonwealth's Attorney Fees	\$27,618	\$29,761	\$27,618	\$27,618	\$27,618
City of Fairfax Contract	100,354	100,354	87,585	106,733	106,733
State Shared Retirement - Commonwealth's Attorney	74,688	39,744	39,744	39,744	39,744
State Shared Commonwealth's Attorney Expenses	1,933,633	2,006,952	2,051,334	2,051,334	2,051,334
State Reimbursement Commonwealth's Attorney Witness	51,959	16,400	16,400	16,400	16,400
Total Income	\$2,188,252	\$2,193,211	\$2,222,681	\$2,241,829	\$2,241,829

Category	FY 2019 Actual	FY 2020 Adopted	FY 2020 Revised	FY 2021 Advertised	FY 2021 Adopted
NET COST TO THE COUNTY	\$1,751,296	\$2,146,817	\$2,840,179	\$3,884,664	\$2,807,628
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)					
Regular	40 / 40	41 / 41	49 / 49	59 / 59	49 / 49
Exempt	1 / 1	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. 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 12, 2020.

Body-Worn Cameras \$709,429

An increase of \$709,429 is required to support the implementation of the Body-Worn Camera program. As part of the FY 2019 Carryover Review, 8/8.0 FTE positions were approved and require \$709,429 in ongoing baseline funding in FY 2021. It should be noted that an increase of \$331,880 in Fringe Benefits funding is included in Agency 89, Employee Benefits. Additional funding, originally included in the FY 2021 Advertised Budget Plan, to support the Body-Worn Camera program is deferred as a result of the COVID-19 pandemic.

It should be noted that, as part of the June 9 Board of Supervisors meeting, the Board directed staff to identify options to fund Phase 2 of the Body-Worn Camera program, as well as develop a timeline and implementation plan for all future phases, and report back to the Board by memo no later than June 30, 2020. This information is to include an option for Board consideration that would fully fund implementation during FY 2021. It is anticipated that the Board of Supervisors will consider funding options as part of the FY 2020 Carryover Review.

Changes to FY 2020 Adopted Budget Plan

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, FY 2020 Third Quarter Review, and all other approved changes through April 30, 2020.

Carryover Adjustments \$13,403

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 Adopted Budget Plan includes the following positions:

OFFICE OF THE COMMONWEALTH'S ATTORNEY – 50 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
1	Sr. Asst. Commonwealth's Attorney	4	Paralegals
11	Asst. Commonwealth's Attorneys III	2	Administrative Assistants IV
14	Asst. Commonwealth's Attorneys II	3	Administrative Assistants III
7	Asst. Commonwealth's Attorneys I		
E	Denotes Exempt Position(s)		

Performance Measurement Results

No Performance Indicators are available for this agency.