

# Commonwealth of Virginia

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## WHAT DOES THE COMMONWEALTH'S ATTORNEY DO?

The Commonwealth's Attorney is the elected top prosecutor in the county.

A large part of the Commonwealth Attorney's role is setting and managing office policies and procedures - including the many reforms that have been made over the last three years.

The Commonwealth's Attorney also works closely with the county government, other local agencies, and community organizations. And, of course, the Commonwealth's Attorney works closely with the Chief of Police to collaborate on and ensure community safety.

The Commonwealth's Attorney is also personally involved in the county's highest-level cases. For example, charging decisions in officer use-of-force cases and cases potentially involving mandatory minimums or life sentences are personally made by the Commonwealth's Attorney.

## GETTING ACCOUNTABILITY WITH MISDEMEANOR CHARGES

While prosecuting a case, our prosecutors perform a complex balancing act to determine if that individual will be charged for a misdemeanor or a felony offense. Both categories of charges are forms of ensuring accountability and serve our office's primary goal of increasing public safety in Fairfax County.

However, felony charges carry serious, life-altering consequences. Someone convicted of felony charges will have future barriers to finding a job, getting an education, or securing housing. We don't want that - because it can lead to them committing more crime in the future. Instead, our office charges some conduct as misdemeanors - not felonies - when appropriate, to ensure accountability without sending someone up the ladder of criminal activity.

## GETTING ACCOUNTABILITY WITHOUT MASS INCARCERATION

The Commonwealth Attorney's main goal is to ensure accountability and foster long term community safety. We don't get that by locking up everybody that makes a mistake.

There will always be offenders who need to remain behind bars to keep our community safe, but it isn't the right solution for everybody. Prisons teach individuals how to get better at crime, and oftentimes push them to commit more crime once released. To avoid that, we don't always want to send low-level, first time, and nonviolent offenders to jail. Instead, in certain situations we can use diversion, treatment, and suspended sentences to reduce the likelihood of these individuals further victimizing their neighborhoods - getting better safety outcomes without contributing to mass incarceration.

## HOW CHARGING DECISIONS ARE MADE

All charges are based on narrow statutes: we know what the word "robbery" means in everyday life, but Virginia has four separate classes of robbery - and some examples might not qualify as one of those.

In Virginia, initial charges are set before a prosecutor is even involved with the case. These charges are set by a magistrate, based on their initial conversation with the arresting officer.

For those reasons, it's not uncommon for charges to be amended by prosecutors after arraignment and throughout the case. As the police continue investigating, new facts and information often require amending charges or the number of counts to better reflect the details of the case.

## HOW BOND DECISIONS ARE MADE

When recommending an individual to be held or released pretrial, we balance a number of different factors to maximize community safety. We talk about dangerousness, which is balancing the harm someone might do in the short-term if released against their increased likelihood of future criminal activity, which increases if held pretrial.

It's important to remember that these are just recommendations. The Commonwealth's Attorney cannot unanimously decide if someone is held or released pretrial. The judge, after arguments from both the defense and the Commonwealth's Attorney, makes their own determination.