

Circuit Court and Records



Department Overview

The Fairfax Circuit Court is the largest Circuit Court in Commonwealth of Virginia. The Circuit Court has jurisdiction over Fairfax's felonies and complex civil cases, as well as certain domestic cases. Fifteen judges constitute a full complement of the Fairfax Circuit Court, and the Clerk's Office supports these judges, taking in over 25,000 new civil and criminal cases each year. The mission of the Clerk's Office is to serve the citizen, the bench and the bar of Fairfax. The Clerk has over 800 statutory duties under the Code of Virginia, which means the Lines of Business for Fairfax Circuit Court and Records reflect only a sampling of our statutorily-mandated duties, covering: Probate, Marriage Licensure, Notaries & Trade Names, Land Records & Archives, Civil, Criminal, Courtroom Operations, Judicial Support, Custodian of the Public Records and Accounting.

The Circuit Court handles many types of civil cases, including but not limited to adoptions, divorces, disputes concerning wills, trusts and estates, election recounts, eminent domain cases, marriage celebrant authorizations, and controversies involving personal and real property. In criminal cases, the Circuit Court has original jurisdiction over the trial of all felonies (serious crimes that are punishable by more than one year in prison.) The Circuit Court also has jurisdiction over misdemeanor offenses (crimes carrying a penalty of 12 months or less) that are appealed from the General District and Juvenile and Domestic Relations District Courts.

As custodian of the public record, the Clerk of Court also manages the real property records for Fairfax, recording approximately 150,000 land transactions every year. All land records including judgments, deeds, deeds of trust, mortgages, and easements are recorded in the Clerk's Office and stored as digital images. Almost 48 million indices and digital images are searchable through our Court Public Access Network (CPAN). The Clerk of the Circuit Court also issues all marriage licenses, business trade names and oversees the jury management system.

Fairfax citizens expect a high-functioning, knowledgeable, customer-oriented staff. The Court meets and exceed those expectations by training staff on annual changes to the Code of Virginia and on national best-practices in judicial administration. In order to keep apace of the Court's volume, the Court has a Differentiated Case Tracking Program (DCTP) and a Friday Motions Day Docket, maintaining an aggressive trial docket schedule. A full 87 percent of the Court's non-domestic, civil cases are concluded within a year and 98 percent of the domestic cases are concluded within 15 months, surpassing state-wide court efficiency standards.

Circuit Court and Records

Through the use of cutting-edge technology, the Clerk's Office is able to further meet customer expectations for efficiency. CPAN allows customers 24-hour access to land records and case information. The Court's web-based case management system and its integrated document management system provide faster retrieval of digitized court documents for the bench and the public customer. In addition, the Clerk's Office offers citizens the ability to complete and return their juror questionnaires on-line and apply for a marriage license on-line.

Department Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|---------------------|---------------------|---------------------|
| FUNDING | | | |
| Expenditures: | | | |
| Compensation | \$8,586,106 | \$8,387,671 | \$8,851,819 |
| Operating Expenses | 1,940,357 | 2,182,971 | 1,985,826 |
| Total Expenditures | \$10,526,463 | \$10,570,642 | \$10,837,645 |
| General Fund Revenue | \$5,569,025 | \$5,468,939 | \$5,258,482 |
| Net Cost/(Savings) to General Fund | \$4,957,438 | \$5,101,703 | \$5,579,163 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| Positions: | | | |
| Regular | 139 / 139 | 139 / 139 | 139 / 139 |
| Exempt | 24 / 24 | 24 / 24 | 24 / 24 |
| State | 15 / 15 | 15 / 15 | 15 / 15 |
| Total Positions | 178 / 178 | 178 / 178 | 178 / 178 |

Lines of Business Summary

| LOB # | LOB Title | FY 2016 Adopted | |
|--------------|--|---------------------|------------|
| | | Disbursements | Positions |
| 175 | Probate Division | \$655,087 | 8 |
| 176 | Public Services Division | 600,782 | 7 |
| 177 | Lands, Judgments and Archives Division | 1,523,967 | 24 |
| 178 | Civil Division | 2,284,237 | 38 |
| 179 | Criminal Division | 1,035,222 | 15 |
| 180 | Courtroom Operations | 1,523,967 | 24 |
| 181 | Judicial Support | 1,306,748 | 35 |
| 182 | Custodian of the Public Record | 1,415,462 | 22 |
| 183 | General Receiver / Accounting | 492,173 | 5 |
| Total | | \$10,837,645 | 178 |

Lines of Business

LOB #175:

PROBATE DIVISION

Purpose

Because all functions of the Clerk's office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties related to the probate of wills and guardianships. Title 64.2 of the Code of Virginia, titled "Wills, Trusts & Fiduciaries," sets out 447 pages of mandated practice and procedure for Virginia Inheritance Law, and for the establishment of Guardianships over Minors & Incapacitated Adults.

Description

Virginia is unusual in that it has established "Administrative Probate," where the Office of the Clerk of the Circuit Court actually handles the probating of all testate (there is a Will & Testament) and intestate (no will exists) estates. As custodian of the permanent record, the Clerk is also empowered by Code of Virginia to hold original Wills for safekeeping, even during the Testator's life. In this way, the Probate Division of the Clerk's Office serves both the register of Wills, and serves a quasi-judicial function for the orderly distribution of assets. Upon the death of any resident of Fairfax, the family will schedule an appointment with the Clerk's Office and will present pertinent documents to support the probating of the Will and the appointment/qualification of an Executor. If there is no written Will, the Clerk's Office will apply the Code of Virginia intestate succession laws and establish the Heirs at Law, based on the family's structure. This is a difficult time for most customers, and it involves highly-personal and financial information, like bank account information for various assets of the decedent, the identification of complex family relationships, as well as asset valuations and bond-related financial stewardship inquiries. The Clerk's Office reviews the assets, and generates a List of Heirs at Law, which sets the scope of the estate to be probated and which recites all the heirs who are eligible to take under the devise, and collects the probate taxes.

The Clerk's Office administers the court process for Guardianship of minors, as well as for adults adjudicated incapacitated, giving care-providers and family the legal authority they need to address medical, education, and critical needs of the most vulnerable of Fairfax. The Code of Virginia also allows for a Conservator to be appointed by the Circuit Court in order to protect the financial assets of any incapacitated person, from exploitation or unreasonable depletion. In addition to processing these delicate family matters, the Clerk's Office is mandated to report these Orders to Department of Motor Vehicles, the State Board of Elections, Virginia State Police, and to the Commissioner of Accounts (if a conservator is appointed) and the Department of Family Services (if a guardian is appointed).

Benefits

As a Constitutional Officer, the Clerk of Court is mandated to perform its court administrative duties under §64.2 of the Code of Virginia (Probate) in order to protect the Constitutional rights of the citizens of Fairfax and to provide the statutory remedies available regarding inheritance, guardianship and conservatorship. Through a strict observance of the law of Virginia (state-mandates) the Court offers access to efficient and responsible distribution of assets and a consistent application of Virginia inheritance law, resulting in the lawful devise of real and personal property. By swiftly and accurately administering Guardianship and Conservator petitions, the Court protects mentally- or physically-incapacitated adults from exploitation, and create safe communities for minors.

Circuit Court and Records

Mandates

As mentioned above, Title 64.2 of the Code of Virginia, titled “Wills, Trusts & Fiduciaries,” sets out 447 pages of mandated practice and procedure for Virginia Inheritance Law, and for the establishment of Guardianships over Minors & Incapacitated Adults.

Trends and Challenges

With America’s largest generation aging and with Fairfax’s ‘Age in Place’ initiatives, the Court expects a substantial increase in the number of cases involving incapacitated adults. Incapacitated Adult cases have doubled in the past 10 years (120 in 2005 up to 238 in 2014). Over the same period, the agency has seen a 15 percent increase in the number of written Wills probated and a 20 percent increase in all Fiduciary cases filed (2,096 filed in 2005 up to 2,519 in 2014). The number of Probate cases received will continue to increase over the next ten years, in lockstep with local demographic trends. Moreover, with the substantial increase in property values over the past 20 years, the agency expects the complexity of asset valuations at probate, to increase as well.

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|------------------|------------------|------------------|
| LOB #175: Probate Division | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$421,400 | \$411,664 | \$434,440 |
| Operating Expenses | 215,595 | 242,552 | 220,647 |
| Total Expenditures | \$636,995 | \$654,216 | \$655,087 |
| General Fund Revenue | \$222,763 | \$299,570 | \$262,924 |
| Net Cost/(Savings) to General Fund | \$414,232 | \$354,646 | \$392,163 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 8 / 8 | 8 / 8 | 8 / 8 |
| Total Positions | 8 / 8 | 8 / 8 | 8 / 8 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|---|----------------|----------------|----------------|------------------|------------------|
| Probate Appointments Scheduled (per day) | 20 | 21 | 22 | 22 | 22 |
| Wait for a Probate Appointment (in weeks) | 3 | 4 | 1 | 1 | 1 |

Over the past three years, the Probate Division has been able to increase its appointment schedule. In FY 2015 the average was 22 appointments per day. Relatedly, the wait-time for scheduling an appointment in the Probate Division is now down to one week, or less.

Circuit Court and Records

LOB #176:

PUBLIC SERVICES DIVISION

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties related to marriage, licensure, trade names and notaries. Title 47.1 of the Code of Virginia, titled "The Virginia Notary Act," sets out the legal framework for notary publics commissioned in Virginia. Title 20, Chapter 2 of the Code of Virginia establishes the requirements of the licensure of marriages conducted in the Commonwealth of Virginia, the recognition of lawful marriage, as well as establishing the qualifications of ministers/celebrants who are empowered by the Circuit Court to solemnize marriages. Title 59, Chapter 5 of the Code of Virginia establishes the lawful means for a corporation or partnership to do business under a name other than the one filed with the State Corporation Commission. All such "fictitious/assumed names" must be filed with the Clerk of Court, so that the consumers of Fairfax know the accurate ownership of all businesses in their community.

Description

Upon the application of a notary public, and through the notary's commission from the Secretary of the Commonwealth, the Clerk's Office administers all notary oaths for the 19th Judicial Circuit and issues *jurats*, which serve as official verifications that a Virginia Notary is in good standing with the Commonwealth.

The Code of Virginia establishes the eligibility standards for applicants for a marriage license, and the Office of the Clerk issues marriage licenses, applying Code of Virginia eligibility to all applications for licensure. After the couple completes a marriage license application, the Clerk administers the oath, and the couple affirms the contents of the application, which then becomes the official license to marry. The Circuit Court also authorizes all marriage celebrants, who meet Code of Virginia authorization standards for either Religious Celebrant status, or for Civil Celebrant status. The Clerk's Office takes surety or other bonding for one-time marriage celebrants, pursuant to Court Orders and the Code of Virginia.

While all corporations must register with the State Corporation Commission in Richmond, all businesses that use an "assumed or fictitious name" or who are "doing business as" another entity, must also file with the Clerk of the Circuit Court. This procedural requirement allows small business owners the flexibility to market their company locally, while still retaining their legal ownership compliance with Virginia Business registration law. At the same time, it gives the citizens of Fairfax a searchable database and public records on all corporate actors in their community, putting the public on notice of all business ownership stakes. Upon the application of a notary public, and through the notary's commission from the Secretary of the Commonwealth, the Clerk's Office administers all notary oaths for the 19th Judicial Circuit and issues *jurats*, which serve as official verifications that a Virginia Notary is in good standing with the Commonwealth.

Benefits

As a Constitutional Officer, the Clerk of Court is mandated to perform its court administrative duties under §47.1 of the Code of Virginia (Notaries) in order to protect the Constitutional rights of the citizens of Fairfax and to provide the statutory authority to all Virginia Notaries Public, under their commission by the Secretary of the Commonwealth. Through a strict observance of the law of Virginia (state-mandates) the Court swears-in all Notaries triggering immediate authority under their Commission, allowing the citizens of Fairfax more transactional affirmation services, throughout the region. The Clerk's Office also conducts Notary authentication, by issuing *jurats*, which give the citizens of Fairfax the confidence of knowing their Notary is actually commissioned by Virginia to affirm their transactional documents.

Circuit Court and Records

The Constitutional right to marry begins with the right to receive a marriage license from the Clerk of the Circuit Court under §20-14 of the Code of Virginia. Swift, efficient issuance of marriage licenses, protects that important Constitutional right and benefits couples with a streamlined process, as they plan their weddings. As public records that are placed into our CPAN imaging system, marriage licenses are a benefit to community because they are available as digitized images, online, providing easy access to vital records. Marriage Celebrants are only legally empowered to solemnize marriages pursuant to a Court-Ordered authorization, so continued efficiency in judicial administration helps Fairfax have meaningful access to marriage solemnization, and protects Fairfax couples from marriage fraud.

Virginia corporation law governs the registering of all businesses with the Commonwealth, and the filing of “assumed/fictitious names” or “trade names” with the Clerk of the Circuit Court. This is an important procedural protection for both the small business owner, and the residents of Fairfax, putting all parties on notice of corporate ownership. It is also an important resource that supports a full and fair court system, where litigation parties can work out commercial disputes with the correct corporate entities.

Mandates

As mentioned above, Title 47.1 of the Code of Virginia, titled “The Virginia Notary Act,” sets out the legal framework for notary publics commissioned in Virginia. Title 20, Chapter 2 of the Code of Virginia establishes the requirements of the licensure of marriages conducted in the Commonwealth of Virginia, the recognition of lawful marriage, as well as establishing the qualifications of ministers/celebrants who are empowered by the Circuit Court to solemnize marriages. Title 59, Chapter 5 of the Code of Virginia establishes the lawful means for a corporation or partnership to do business under a name other than the one filed with the State Corporation Commission. All such “fictitious/assumed names” must be filed with the Clerk of Court, so that the consumers of Fairfax know the accurate ownership of all businesses in their community.

Trends and Challenges

The expectation among all Fairfax residents, particularly emerging generation-members, is toward more E-Adjudication, with 24-hour, online access to all licensure, so the Court’s Marriage License Pre-App is, and will be, an important part of the Court’s ability to manage marriage applicant volume. In judicial administration, the overwhelming trend is toward streamlined correspondence; the Clerk’s Office now emails Marriage Celebrants their Court Orders, which immediately empowers the Celebrant to officiate weddings.

Circuit Court and Records

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|------------------|------------------|------------------|
| LOB #176: Public Services Division | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$368,728 | \$360,223 | \$380,135 |
| Operating Expenses | 215,595 | 242,552 | 220,647 |
| Total Expenditures | \$584,323 | \$602,775 | \$600,782 |
| General Fund Revenue | \$167,070 | \$193,675 | \$157,754 |
| Net Cost/(Savings) to General Fund | \$417,253 | \$409,100 | \$443,028 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 717 | 717 | 717 |
| Total Positions | 717 | 717 | 717 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|------------------------------------|-------------------|-------------------|-------------------|---------------------|---------------------|
| Number of Marriage Licenses Issued | 5,409 | 5,616 | 6,051 | 6,100 | 6,200 |

In FY 2015, Virginia marriage license eligibility changed, allowing same-sex couples to receive a license. The Clerk's Office has seen an 8% increase in marriage licenses this past year, issuing 6,051 in FY 2015, compared to 2014's 5,616 applications.

Circuit Court and Records

LOB #177:

LANDS, JUDGMENTS AND ARCHIVES DIVISION

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties related to the land records of Fairfax. Title 55 of the Code of Virginia, titled "Property & Conveyances," sets out 712 pages of practice and procedure for Virginia Real Estate Law, which includes statutes governing liens on real property, home owners (and condo) associations, subdivision of real estate, clear title, and real estate settlement. Title 58 of the Code of Virginia, entitled "The Virginia Recordation Tax Act," establishes statutory guidelines for the Clerk in his capacity as the Fairfax Recorder of Deeds. §58.1-800 further articulates the requirements for validly recording a land transaction, which includes various grantor and grantee recording taxes and a comprehensive catalogue of statutory exemptions. The Clerk now receives almost 40 percent of its land recordings through its Electronic Filing System (EFS), prescribed by Code at §17.1-258:3. Code of Virginia §17.1-294 further allows these public records to be placed on the Court Public Access Network (CPAN) database, but the General Assembly mandates exactly how secure the Clerk must keep this public remote access.

Virginia is a "Race/Notice" state, which means that if a subsequent good faith buyer arrives at the Courthouse and records his deed to a property before an earlier owner has recorded his interest, the first to record prevails. In Virginia, timely recording of your home purchase in the Clerk's Land Records Division plays a critical role in ownership of real estate. Once settlement documents are recorded, the digitized images become immediately available on the Court's CPAN database, showing who actually owns the land and protecting your rights in the home. Taken together, these real estate and public records access laws serve to put the public on notice of all fee-simple, leaseholder, lien, or easement rights, as against property physically located in Fairfax.

Description

All deeds, deeds of trust, mortgages, and easements which impact the ownership of real property in Fairfax and the transfer of those interests, are laid out in the Code of Virginia at Title 55. Homeowners' and Condo Association Acts, which spell out which documents need to be recorded in the Land Records, as well as real estate statutes regarding the various clouds on clear title, and all general rules of recordation of real property (including Virginia's Electronic Recording Act, which guides our Electronic Filing System) are also found therein. The Clerk's Office is mandated by Chapter 6, of Title 55 to accept land documents at the recording counter. Some of Fairfax's oldest land documents, like the Lord Fairfax Land Grant of 1739 (transferring the area now known as Great Falls to John Colvill), are kept in the Court's Archives, observing national best practices for the preservation of historic records. The earliest Court and Land documents date to the very beginning of Fairfax County and are some of Fairfax's finest colonial-era holdings.

The Clerk's Land Records and the Circuit Court Archives counters are open Monday through Friday from 8am to 4:30pm, and serves the entire Fairfax community, whether they are landowners, homeowners, lessors, title companies, researchers or even Fairfax County agencies (dealing with easements and condemnations). The Clerk is mandated by Title 17.1, Chapter 2 of the Code of Virginia, to make these land transactions open and fully public records, which can be submitted electronically, and which are then immediately searchable through the CPAN database; searchable remotely by subscription, or for free on-site at the Courthouse.

Circuit Court and Records

Benefits

Per Article VII, Section 4 of the Constitution of Virginia, the Clerk of Circuit Court is Constitutional Officer, who is mandated to perform his ministerial duties as the Recorder of Deeds under §55 and §58.1-800 of the Code of Virginia (Real Estate and Land Recordation) in order to protect the Constitutional rights of land ownership and free alienability of real property. Through a strict observance of the law of Virginia (state-mandates,) the Court records all deeds, mortgages, trusts, plats, leases, and certificates of satisfaction relating to real estate, which allows the citizens of Fairfax a public record of the chain of title for their homes. Electronic filing is offered, which now accounts for almost 40 percent of recordings, which reduces the need to physically appear at the courthouse. Regardless of whether e-filed or filed at the counters, all land documents become digital images, posted into CPAN in real-time at the moment of recording, and CPAN is available 24-hours a day, seven days a week. This public record access allows Fairfax residents to research boundary lines, encumbrances, and ensure clear title to their home, at any hour of the day or night, in real-time. A well-run land record system also allows the title industry to have confidence in their research of the chain of title for all Fairfax properties, which, in turn, makes the purchase and sale of a home easier and more affordable for the citizens of Fairfax. Moreover, accurate and complete public records of real property benefits both the locality's property taxing authority and the citizens, helping assess the fair market value of all real estate in Fairfax.

Mandates

As mentioned above, Title 55 of the Code of Virginia, titled "Property & Conveyances," sets out 712 pages of practice and procedure for Virginia Real Estate Law, which includes statutes governing liens on real property, home owners (and condo) associations, subdivision of real estate, clear title, and real estate settlement. Title 58 of the Code of Virginia, entitled "The Virginia Recordation Tax Act," establishes statutory guidelines for the Clerk in his capacity as the Fairfax Recorder of Deeds. §58.1-800 further articulates the requirements for validly recording a land transaction, which includes various grantor and grantee recording taxes and a comprehensive catalogue of statutory exemptions. The Clerk now receives almost 40 percent of its land recordings through its Electronic Filing System (EFS), prescribed by Code at §17.1-258:3. Code of Virginia §17.1-294 further allows these public records to be placed on the Court Public Access Network (CPAN) database, but the General Assembly mandates exactly how secure the Clerk must keep this public remote access.

Trends and Challenges

Since the Recession of 2008, commercial and residential real estate in Fairfax has made an anemic recovery. Nonetheless, it is the Court's expectation that, as the national and state-wide economic indicators improve gradually over the next five years, land transactions will increase. Moreover, as more mixed-use development emerges around new Metro stations, Fairfax will see more high-density homes purchased and sold. Since the addition of three, new electronic-filing industry partners to the Court's EFS system, the agency has seen a 15 percent increase in electronically-filed recordings; with an estimated increase of 50 percent by next year.

Effective October 1, 2015, the Title and Land Records industry has a new federal consumer protection law to comply with; the shorthand for this new federal law is "TRID" (TILA-RESPA Integrated Disclosure). While much of this consumer rights law governs settlement agents, one of the HUD-1 estimates regards the Fairfax Recordation Taxes to be paid at our Land Records Division. As that law takes effect, the agency will see an increase in customer inquiries on the coversheet calculations and estimated Recordation Tax obligations for Fairfax residential closings.

Circuit Court and Records

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|----------------------|----------------------|----------------------|
| LOB #177: Lands, Judgments and Archives Division | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$1,264,278 | \$1,234,992 | \$1,303,320 |
| Operating Expenses | 215,595 | 242,552 | 220,647 |
| Total Expenditures | \$1,479,873 | \$1,477,544 | \$1,523,967 |
| General Fund Revenue | \$2,784,512 | \$2,682,223 | \$2,629,241 |
| Net Cost/(Savings) to General Fund | (\$1,304,639) | (\$1,204,679) | (\$1,105,274) |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 24 / 24 | 24 / 24 | 24 / 24 |
| Total Positions | 24 / 24 | 24 / 24 | 24 / 24 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|----------------------------|----------------|----------------|----------------|------------------|------------------|
| Land Transactions Recorded | 248,584 | 154,777 | 149,726 | 150,000 | 150,000 |

The Fairfax housing market has failed to make a significant recovery after the Recession, and (except for the 2013 3 percent refinance boom) the Land Records Division has seen fewer filings, year over year; dropping to 149,726 in FY 2015. The Federal Reserve did not raise rates in the fall of 2015. When the Federal Reserve does raise rates, the Land Records Division usually sees an inverse effect on recordation volume; as interest rates increase, land transactions decline.

Grant Support

The purpose of the Archives grant is to conserve four documents that are housed in the Clerk's Historic Records Center: a test oath from 1752, a pew deed from 1774 and Court Order Books from 1749 and 1819. The Historic Records Center is open to the public for genealogy, local history and other research. Having these documents and books conserved will allow better access to the material in the office, will allow the agency to share the early history of Fairfax County more easily, and display the items more frequently.

Circuit Court and Records

LOB #178:

CIVIL DIVISION

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties and Rules of Court related to civil cases in the Fairfax Circuit Court. Title 8 of the Code of Virginia, titled "Civil Remedies & Procedures," sets out 1,386 pages of practice and procedure for all civil cases that are heard in the Circuit Court, and they establish mandatory procedures for the Clerk's Office. What is unique about Circuit Court, is that it is the only court in Virginia where you can receive a Jury Trial, and the Clerk of the Circuit Court administers the Jury Duty process.

In addition to the Code, Civil Practice & Procedure is governed by the Rules of the Virginia Supreme Court; specifically, Rules 3:1- 3:25. The main purpose of the Circuit Court's civil docket is provide fair and efficient resolution to disputes among citizens of Fairfax.

Description

The Civil Division of the Circuit Court takes in and actively manages a vast range of cases: complex contract disputes, defamation suits, malpractice cases, personal injury suits, complex commercial litigation, divorces, adoptions, name-changes, property disputes, confessed judgments, appeals of administrative decisions, and even election recount cases. Almost every type of case other than criminal prosecutions and the probate of wills, are considered "Civil Actions" in the modern Virginia Circuit Court.

Once a civil action is filed, the Civil Division administers the service of process, which is executed by the Sheriff or private process-server. Most of the Court's complex civil litigations will then be placed into the "Differentiated Case Tracking Program (DCTP)," which establishes a tight time-line for the schedule of the litigation and the setting of a trial date. Fairfax was the first court in the Commonwealth to use a DCTP. The Clerk's Office actively monitors and manages this tracked time-line and schedules motions to be heard by the Judges of the Circuit Court on our Friday Civil Motions Day. Evidence shows that when the Court takes an active role in enforcing timelines, the cases are more likely to settle or narrow the issues for trial. Once the depositions and other civil discovery have been addressed by the parties, the pre-trial motions will be resolved and the case will move to jury selection. If any of the parties are unsatisfied with the result of their case in Circuit Court, the Clerk's Office will compile the official record for appeal to the Supreme Court or Court of Appeals. Structurally, the Civil Division oversees the complete life cycle of litigation - from taking in the initial complaint, to the certification of the appellate record.

Benefits

The Clerk of Circuit Court is the Constitutional Officer who is mandated to perform duties as the Court's recipient, custodian and manager of all pleadings, bills, affidavits, complaints, motions and petitions that are submitted into the official court record. As the civil litigation reaches its trial, the Clerk of Court administers a fair and efficient jury duty process. Once the judge and jury have made their final decision in the civil matter, the Clerk's preparation of the appellate record offers the parties swift and complete access to the entire Virginia court system.

Circuit Court and Records

Mandates

As mentioned above, Title 8 of the Code of Virginia, titled “Civil Remedies & Procedures,” sets out 1,386 pages of practice and procedure for all civil cases that are heard in the Circuit Court, and they establish mandatory procedures for the Clerk’s Office. What is unique about Circuit Court, is that it is the only court in Virginia where you can receive a Jury Trial, and the Clerk of the Circuit Court administers the Jury Duty process.

In addition to the Code, Civil Practice & Procedure is governed by the Rules of the Virginia Supreme Court; specifically, Rules 3:1- 3:25. The main purpose of the Circuit Court’s civil docket is provide fair and efficient resolution to disputes among citizens of Fairfax.

Trends and Challenges

The Civil Division of the Circuit Court takes in approximately 20,000 new cases every year. There is a substantial increase in the number of civil cases where parties are not represented by an attorney or “*pro se*.” Pro se litigation usually requires a significantly higher level of customer support than those cases involving lawyers. In 2013, the Supreme Court of Virginia launched its “Commission on Access to the Courts.” This new commission is charged with examining *pro se* access to civil litigation throughout Virginia, with an eye toward more customer service for those who file suit without an attorney.

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|--------------------|--------------------|--------------------|
| LOB #178: Civil Division | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$2,001,650 | \$1,955,404 | \$2,063,590 |
| Operating Expenses | 215,595 | 242,552 | 220,647 |
| Total Expenditures | \$2,217,245 | \$2,197,956 | \$2,284,237 |
| General Fund Revenue | \$1,949,158 | \$1,835,057 | \$1,787,891 |
| Net Cost/(Savings) to General Fund | \$268,087 | \$362,899 | \$496,346 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 38 / 38 | 38 / 38 | 38 / 38 |
| Total Positions | 38 / 38 | 38 / 38 | 38 / 38 |

Circuit Court and Records

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|---|-------------------|-------------------|-------------------|---------------------|---------------------|
| Number of Non-Criminal Cases Filed / Year | 21,346 | 20,598 | 19,907 | 20,000 | 20,000 |
| DCTP: Commercial Litigation Concluded within 1 year | 3,035 | 2,482 | 2,176 | 2,500 | 2,500 |
| DCTP: Domestic Cases Concluded within 15 months | 4,783 | 4,452 | 3,694 | 4,100 | 4,100 |

The Civil Division of the Fairfax Circuit Court takes in approximately 20,000 new cases a year, including adoptions, divorces, contract disputes, concealed weapons permits, tort actions, and administrative and GDC appeals. For FY 2015, non-criminal case intake (Civil and Fiduciary together) totaled 19,907, of which 17,470 were civil litigations.

Certain civil disputes are eligible for the Court's Differentiated Case Tracking Program (DCTP), which helps keep Fairfax's civil trial docket efficient. For FY2015, 87 percent of the DCTP commercial litigations/contract disputes were concluded within a year, and 98 percent of domestic cases concluded within 15 months from initial filing.

Circuit Court and Records

LOB #179:

CRIMINAL DIVISION

Purpose

Because all functions of the Clerk's office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties and Rules of Court related to criminal cases in the Fairfax Circuit Court. Title 18 of the Code of Virginia, titled "Crimes and Offenses," recites the actions which, if proved, constitute the commission of a crime in the Commonwealth of Virginia and sets out criminal procedure for the adjudication of all prosecutions conducted in the Fairfax Circuit Court. Title 19 of the Code of Virginia then proceeds to establish mandatory procedures for the Circuit Court Clerk as to the administration of criminal trials, post-trial reporting, and criminal appeals. Criminal cases are unique from civil cases in that defendants enjoy heightened Constitutional rights to a speedy trial and the appointment of legal counsel, which add an urgency and gravity to this Line of Business.

In addition to the Code, criminal practice and procedure is governed by the Rules of the Virginia Supreme Court; specifically, Rules 3A:1- 3A:25. Taken together, these statutes and Rules establish the administrative, procedural, and evidentiary parameters of all criminal cases in the Fairfax Circuit Court.

Description

The Criminal Division of the Circuit Court takes in and actively manages approximately 7,000 felony charges and misdemeanor appeals every year. Felonies are serious crimes which, if proved, result in a year or more in prison, including many dangerous crimes like robbery, kidnapping, distribution, assault, rape, and murder. The Clerk of Court is the custodian of the public record. All search warrants and wiretaps are filed in the Criminal Division in accordance with the Code of Virginia and often mark the very beginning of the criminal investigation, the results of which may be presented to a grand jury or which can animate a straight indictment of the defendant. Once the Commonwealth's Attorney initiates his prosecution with the formal indictment, the Criminal Division manages the public record of the case, which includes criminal discovery, physical and forensic evidence, and pre-trial motions. The Criminal Division works with the Judicial Support Division to keep a strict timeline on criminal trials, honoring Virginia's Speedy Trial Statute. Defendants can, and often do, waive their right to a speedy trial, as they prepare for their defense, or weigh a plea. But, absent waiver, by conducting a trial within five months, the Court process brings closure and restitution to victims and their families, or freedom to the innocent.

Some of the most complex work done by the Criminal Division actually begins at the end of the criminal trial. Post-conviction, the Criminal Division reports the verdict and sentence to various state agencies throughout Virginia, compiles the case record for appeal to the Supreme Court, and (absent any appeal) begins assessing court-ordered fines and costs owed by the defendant. Additionally, the Criminal Division establishes payment plans for defendants who are unable to pay their costs and the restitution owed to the victim. So structurally, the Criminal Division oversees the complete life cycle of the felony case - from taking the initial search warrant issued by the detectives, to collecting restitution payments for distribution to the victim.

Benefits

The Clerk of Circuit Court is the Constitutional Officer who is mandated to perform duties as Court's recipient, custodian and manager of all warrants, indictments, bills of complaint, motions and petitions that are submitted into the official criminal case file. If a party appeals the decision, the Clerk of Court compiles and certifies the trial record, for appeal.

Circuit Court and Records

Mandates

As mentioned above, Title 18 of the Code of Virginia, titled “Crimes and Offenses,” recites the actions which, if proved, constitute the commission of a crime in the Commonwealth of Virginia and sets out criminal procedure for the adjudication of all prosecutions conducted in the Fairfax Circuit Court. Title 19 of the Code of Virginia then proceeds to establish mandatory procedures for the Circuit Court Clerk as to the administration of criminal trials, post-trial reporting, and criminal appeals. Criminal cases are unique from civil cases in that defendants enjoy heightened Constitutional rights to a speedy trial and the appointment of legal counsel, which add an urgency and gravity to this Line of Business.

In addition to the Code, criminal practice and procedure is governed by the Rules of the Virginia Supreme Court; specifically, Rules 3A:1- 3A:25. Taken together, these statutes and Rules establish the administrative, procedural, and evidentiary parameters of all criminal cases in the Fairfax Circuit Court.

Trends and Challenges

The Criminal Division of the Circuit Court takes in roughly 7,000 new charges every year, which includes multi-charge felonies, juvenile criminal appeals, and misdemeanor appeals.

In 2012, the General Assembly created a new type of criminal case based on regional criminal reach, calling them “Multi-Jurisdictional Grand Juries.” These highly-confidential and complex cases usually involve multiple crimes occurring in several Virginia counties and cities and involve intense administrative management, confidential grand-jury management, and intensive judicial support. Because these multi-jurisdictional grand juries are impaneled by the Chief Justice of the Virginia Supreme Court and administered by the Circuit Court based on the region in which the crimes occurred, it is difficult to forecast a trend. However, the law has been in effect three years and the Fairfax Circuit Court has been assigned a multi-jurisdictional grand jury for two years in a row.

Another trend is in the substantial increase in the number of misdemeanor appeals that are being filed in Circuit Court. With the advent of HOT lanes along the Capital Beltway, HOV violators with multiple citations are appealing their traffic cases from the General District Court up to the Circuit Court, and this new volume has impacted the Court’s Criminal Docket. These citizens often appeal their citations “*pro se*” (without an attorney) and they require a substantial amount of customer service not normally needed for prosecutors, defense attorneys or public defenders. With the potential addition of HOT lanes along I-66, the Court anticipates even more of these misdemeanor appeals over the next 5 years.

Circuit Court and Records

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|--------------------|--------------------|--------------------|
| LOB #179: Criminal Division | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$790,125 | \$771,870 | \$814,575 |
| Operating Expenses | 215,595 | 242,552 | 220,647 |
| Total Expenditures | \$1,005,720 | \$1,014,422 | \$1,035,222 |
| General Fund Revenue | \$445,522 | \$458,414 | \$420,672 |
| Net Cost/(Savings) to General Fund | \$560,198 | \$556,008 | \$614,550 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 15 / 15 | 15 / 15 | 15 / 15 |
| Total Positions | 15 / 15 | 15 / 15 | 15 / 15 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|--|-------------------|-------------------|-------------------|---------------------|---------------------|
| Criminal cases commenced | 7,074 | 6,863 | 6,978 | 7,000 | 7,000 |
| Criminal cases concluded within 1 year | 7,053 | 6,868 | 6,499 | 6,500 | 6,500 |
| Misdemeanor Appeals | 2,239 | 2,319 | 2,753 | 2,900 | 2,900 |

While Circuit Court took in 1,440 felonies, 2,753 misdemeanor appeals, and 92 juvenile criminal appeals in FY 2015 totaling 4,285 criminal cases, many crimes have multiple “counts” which is used to calculate criminal caseload for Virginia Supreme Court reporting purposes. For that reason, Circuit Court actually has a criminal charge “count” total of 6,978 for FY 2015.

Circuit Court and Records

LOB #180:

COURTROOM OPERATIONS

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties and Rules of Court related to Circuit Court trials. Virginia requirements for trial practice and procedure, including the Jury process, are found throughout the Code, based on the type of case being tried. Taken together, Title 8 "Civil Remedies & Procedures," Title 19 "Criminal Procedure," and Title 17 "Circuit Courts," establish the basic pretrial, jury trial, and appellate processes. A full complement of the Fairfax Circuit Court is fifteen judges, who oversee all public trials in Fairfax. The purpose of the Courtroom Operations Division is to provide the public and case parties meaningful access to a full, fair, and procedurally-sound trial. By strictly observing all practice and procedures established in Title 8, Chapter 11 and Title 19, Chapter 13, which govern administration of civil juries, petit, grand juries and special grand juries, the Clerk's Office effectively manages Fairfax's impartial jury trial system. Additionally, the Courtroom Operations Division provides the trial judge with all trial preparation materials and resources needed to preside over a full and fair hearing, and to admit into evidence all exhibits that will become the official trial record. The Clerk works with the bench throughout the course of the trial (from pretrial motions, empanelling of the jury, to post-sentencing reconsiderations) to meet Virginia's Speedy Trial statute deadlines and to satisfy other Constitutional rights owed to the parties and the victims.

Description

The Clerk of Court provides the judicial support apparatus for full, fair and efficient trials and hearings before the Fairfax Circuit bench. The Code of Virginia provides that jury trials are only available in Circuit Court and the Clerk is statutorily responsible for jury management.

For criminal trials, the Courtroom Operations Division assists the judge with pretrial motions, administering the empanelling of the jury, marking the exhibits admitted into the record, and drafting orders reciting the judge's rulings for each day of the trial. With the defendant's personal freedom at stake, the Courtroom Operations Division works with precision, when compiling the guilt-phase and sentencing-phase trial record and when generating prison-related documents like the jail card and sentencing order.

The Courtroom Operations Division manages the civil trial schedule by preparing the judges for the Friday Motions Day docket, which helps the Fairfax Circuit Court keep its voluminous caseload timely. Pre-trial hearings keep the case apace and increase the Circuit Court's measurement of Trial Date Certainty and Time to Disposition, which are state judicial benchmarks for the highest performing courts. In FY2015, a full 98 percent of domestic cases were concluded within 15 months of initial filing; and 87 percent of contract and commercial litigations were concluded within a year. When a civil matter goes to trial, the Courtroom Operations Division again assist in the courtroom administration: marking exhibits for admission into the record, and communicating with the parties on behalf of the judge regarding routine procedural matters.

Finally, because the Clerk of Court is mandated to administer the Jury management process, the Courtroom Operations Division works with the Virginia Supreme Court to send out juror questionnaires every year. Jury Commissioners establish the pool of qualified jurors. The Courtroom Operations Division summons and schedules jurors for jury duty in Fairfax Circuit Court through the year. The Courtroom Operations Division also addresses ADA or language interpreter accommodations for jurors, parties, victims or counsel who may need assistance in accessing the court. The Clerk of Court provides the judicial support apparatus for full, fair and efficient trials and hearings before the Fairfax Circuit bench. The Code of Virginia provides that jury trials are only available in Circuit Court and the Clerk is statutorily responsible for jury management.

Circuit Court and Records

Benefits

Per Article VII, Section 4 of the Constitution of Virginia, the Clerk of Circuit Court is the Constitutional Officer who is mandated by the Code of Virginia to work with the Virginia Supreme Court and the Chief Judge of the Circuit Court to administer the jury management process. Putting an emphasis on maintaining an efficient and streamlined, jury duty program helps the Court in their work of presiding over an impartial jury trial. The Courtroom Operations Division further benefits Fairfax, as it assists keeping the Circuit Court's reputation of having an aggressive trial docket. Because civil litigation schedules are so busy and efficient, the Fairfax Circuit Court meets and exceeds state court performance benchmarks for Time to Disposition and Trial Date Certainty. With 87 percent of civil litigations concluding in a year and 98 percent of domestic cases concluding within 15 months, the Court has a reputation as a "Rocket Docket" which shows the business community and the citizens of Fairfax that this area is an appealing place to work, live and raise a family.

Mandates

As mentioned above, Virginia requirements for trial practice and procedure, including the Jury process, are found throughout the Code, based on the type of case being tried. Taken together, Title 8 "Civil Remedies & Procedures," Title 19 "Criminal Procedure," and Title 17 "Circuit Courts," establish the basic pretrial, jury trial, and appellate processes. A full complement of the Fairfax Circuit Court is fifteen judges, who oversee all public trials in Fairfax. The purpose of the Courtroom Operations Division is to provide the public and case parties meaningful access to a full, fair, and procedurally-sound trial. By strictly observing all practice and procedures established in Title 8, Chapter 11 and Title 19, Chapter 13, which govern administration of civil juries, petit, grand juries and special grand juries, the Clerk's Office effectively manages Fairfax's impartial jury trial system. Additionally, the Courtroom Operations Division provides the trial judge with all trial preparation materials and resources needed to preside over a full and fair hearing, and to admit into evidence all exhibits that will become the official trial record. The Clerk works with the bench throughout the course of the trial (from pretrial motions, empaneling of the jury, to post-sentencing reconsiderations) to meet Virginia's Speedy Trial statute deadlines and to satisfy other Constitutional rights owed to the parties and the victims.

Trends and Challenges

One trend the Courtroom Operations Division sees in its jury administration is the overwhelming preference of citizens of Fairfax for electronic filing of their annual jury questionnaires. For the 2014 term of court, 19,285 citizens e-filed their survey; for the 2015 term 20,202 potential jurors e-filed; and already 18,364 people have e-filed their juror questionnaire in the not-yet completed 2016 return period. The agency is on pace to again enjoy a yearly 5 percent increase in use of the Clerk's e-survey portal.

Circuit Court and Records

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|--------------------|--------------------|--------------------|
| LOB #180: Courtroom Operations | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$1,264,200 | \$1,234,992 | \$1,303,320 |
| Operating Expenses | 215,595 | 242,552 | 220,647 |
| Total Expenditures | \$1,479,795 | \$1,477,544 | \$1,523,967 |
| General Fund Revenue | \$0 | \$0 | \$0 |
| Net Cost/(Savings) to General Fund | \$1,479,795 | \$1,477,544 | \$1,523,967 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 23 / 23 | 23 / 23 | 23 / 23 |
| Exempt | 1 / 1 | 1 / 1 | 1 / 1 |
| Total Positions | 24 / 24 | 24 / 24 | 24 / 24 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|--|-------------------|-------------------|-------------------|---------------------|---------------------|
| Total Juries Impaneled: Civil & Criminal Trials | 235 | 196 | 189 | 200 | 200 |
| Average number of Citizens called for Jury Duty each day of Jury Selection | 67 | 61 | 61 | 60 | 60 |
| Jury Utilization Rate | 91% | 89% | 89% | 90% | 90% |

With increased efficiency in jury management, the Clerk's Office has seen a decrease in the number of jurors impaneled to serve on a jury trial, while at the same time maintaining a juror utilization rate of 89 percent. It is important to note that while most trials only last 2 days, more complex and/or high-profile criminal prosecutions, can use substantially more jurors for the *voir dire* proceedings; due to this uncertainty and Fairfax Circuit Court's frequent hearing of high-profile or complex cases, the jury duty process must be carefully managed.

Circuit Court and Records

LOB #181:

JUDICIAL SUPPORT

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties and Rules of Court related to judicial administration. Circuit Courts are established in the Constitution of Virginia, and the Circuit Court serves as Fairfax's trial court of record. Taken together, Title 8 "Civil Remedies & Procedure," Title 19 "Criminal Procedure," and Title 17 "Circuit Courts" of the Code of Virginia sets the basic pretrial, trial, and appellate processes, and Supreme Court Rule 2:101 to 2:1101 guides trial practice. The Virginia Supreme Court establishes goals for concluding civil cases within 12 months and domestic cases within 15 months from initial filing; the Virginia Speedy Trial Statute demands a defendant be tried within five months. The purpose of the Judicial Support Division is to assist Judges of the Fairfax Circuit Court in meeting and exceeding these mandates every year.

Description

The Judicial Support Division provides the Circuit Court judges with legal research, trial preparation, chambers administration, official correspondence with parties, legislative updates, docket management and caseload management. The Fairfax Circuit Court has the largest volume of cases in the Commonwealth of Virginia, nonetheless 87 percent of the Court's civil docket is concluded within a year, and 98 percent of domestic cases are concluded within 15 months from initial filing; these results exceed the state-wide caseload and case-conclusion benchmarks. The Judicial Support division not only prepares the Judges for hearings and trials with legal research and case file management, but it also provides effective docket management, so that cases proceed swiftly to conclusion, allowing the bench to keep up with the high volume of case filings Fairfax receives every month.

Benefits

Per Article VI, Section 5 of the Constitution of Virginia, the Supreme Court of Virginia is the administrative head of the Judiciary and as such, establishes caseload and docket pace standards. Per Article VII, Section 4 of the Constitution of Virginia, the Clerk of Court administrates the court processes. Specifically, the Judicial Support Division of the Office of the Clerk assists in docket management and trial preparation, so that the Circuit Court can meet, and exceed, the Supreme Court's state-wide goals. Through a strict observance of the Code of Virginia's civil and criminal procedure and to the Virginia Supreme Court's Rules on Trial Practice, all residents of Fairfax are guaranteed their Constitutional right to a fair, efficient, and timely resolution to their dispute or criminal matter. A well-run Circuit Court system lends credibility to Fairfax's reputation as a leader in municipal government. When the citizenry and business community know that Virginia's largest jurisdiction will provide a full, fair, and timely determination of their case, it makes Fairfax a safer and more appealing place to live, work and raise a family.

Mandates

As mentioned above, Circuit Courts are established in the Constitution of Virginia, and the Circuit Court serves as Fairfax's trial court of record. Taken together, Title 8 "Civil Remedies & Procedure," Title 19 "Criminal Procedure," and Title 17 "Circuit Courts" of the Code of Virginia sets the basic pretrial, trial, and appellate processes, and Supreme Court Rule 2:101 to 2:1101 guides trial practice. The Virginia Supreme Court establishes goals for concluding civil cases within 12 months and domestic cases within 15 months from initial filing; the Virginia Speedy Trial Statute demands a defendant be tried within five months. The purpose of the Judicial Support Division is to assist Judges of the Fairfax Circuit Court in meeting and exceeding these mandates every year.

Circuit Court and Records

Trends and Challenges

In 2014, the Virginia Supreme Court’s Office of the Executive Secretary (OES) concluded its year-long “weighted caseload study,” which examined the pace and volume of each Circuit Court in Virginia. Fairfax ranked as the highest-volume court in the Commonwealth and exceeds OES’s court administrative measurement standards for Time to Disposition and Trial Date Certainty. Having met and exceeded state benchmarks for judicial efficiency the last ten years, the Judicial Support Division is likely to continue this trend of success. Judicial administrative tools like the Court’s Friday Motions Day Docket help the Judicial Support Division accomplish the Fairfax Circuit Court’s exceptional conclusion rate for timeliness. The Clerk’s Office has watched an increase in the number of “*pro se*” (self-represented) litigants over the last three years, which does lead to increased customer service from the Judicial Support Division. Because the Circuit Court is a court of record, enjoys general jurisdiction, and exclusive jurisdiction over disputes valued at \$25,000 or more, cases tend to be more complex. Consequently, self-represented litigants can slow a case’s pace to trial-date. To address this trend, Judicial Support will be looking at the National Center for State Courts’ best practices on how to streamline *pro se* litigations with the Court’s aggressive docket. Another trend among state courts around the Nation is the movement toward “differed disposition dockets.” Sometimes these dockets are called “drug courts” or “mental health dockets” and they aim to treat certain, qualifying cases for adjunct, non-judicial remedies. While at this time, the Fairfax Circuit Court has not adopted “differed disposition dockets,” launching and administrating this judicial practice would entail substantial preparation and on-going management from the Judicial Support Division.

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|--------------------|--------------------|--------------------|
| LOB #181: Judicial Support | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$1,053,500 | \$1,029,160 | \$1,086,100 |
| Operating Expenses | 215,595 | 242,553 | 220,648 |
| Total Expenditures | \$1,269,095 | \$1,271,713 | \$1,306,748 |
| General Fund Revenue | \$0 | \$0 | \$0 |
| Net Cost/(Savings) to General Fund | \$1,269,095 | \$1,271,713 | \$1,306,748 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 2 / 2 | 2 / 2 | 2 / 2 |
| Exempt | 18 / 18 | 18 / 18 | 18 / 18 |
| State | 15 / 15 | 15 / 15 | 15 / 15 |
| Total Positions | 35 / 35 | 35 / 35 | 35 / 35 |

Circuit Court and Records

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|--|-------------------|-------------------|-------------------|---------------------|---------------------|
| Judicial Clearance Rate: Closing the gap between total cases commenced and total cases concluded | 19,898/18,364 | 18,648/17,340 | 18,994/17,853 | 18,800/18,100 | 18,800/18,100 |

The National Center for State Courts authors a curriculum of best-practices for court administration and docket management and one of the core performance measures is called the “clearance rate.” This metric measures the number of contested cases entering into the judges’ master docket, against the number of contested cases the judges conclude for the same period of time. Over the past eight years, the Fairfax Circuit Court has consistently closed the gap between the case intake numbers and the case disposition numbers. FY 2015 the Circuit Court’s clearance rate was 94 percent.

Circuit Court and Records

LOB #182:

CUSTODIAN OF THE PUBLIC RECORD

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties related to maintenance of the public record of Fairfax. Article VII, Section 4 of the Virginia Constitution establishes the Office of the Clerk of Court and the Code of Virginia prescribes the Clerk's duties as custodian of the permanent, public record. The Clerk administers both the public land record and records relating to all civil and criminal cases. The Clerk also certifies the complete trial court record when cases are appealed to the Supreme Court or Court of Appeals. By Code, the Clerks serves as custodian of ballots and other election materials. The Clerk is mandated to keep an Order Book, a Judgment Book, and a Warrant Book, so that all people can read what the judges have ordered to occur in a certain case or investigation. The purpose of the Clerk's custodial role is, in sum, to offer the public an open and transparent government.

The Code of Virginia mandates that the Clerk, in his custodial capacity, observe certain document retention schedules, and it prescribes preservation standards and information technology standards for electronic preservation of digitized land and case documents.

Taken together, Title 8 "Civil," Title 19 "Criminal," Title 17 "Circuit Courts," and Title 24 "Elections" comprise the working majority of such preservation, custodial, and public records guideposts. With almost 48 million digital images of public records in the Court Public Access Network (CPAN) which is available 24 hours a day, the Office of the Clerk is responsible for the largest Oracle database in Fairfax. The criticality of the Clerk's custodial function as it relates to real estate 'chain of title,' ballot preservation, and the trial court's 'chain of evidence' cannot be overstated.

Description

Because the Circuit Court is a "Court of Record" it empanels juries and issues Findings of Fact and Conclusions of Law which, depending on the type of case, are appealable to the Court of Appeals or the Virginia Supreme Court. The Clerk must compile, preserve, and certify the official court record. By the Code of Virginia, the Clerk of Circuit Court maintains all pre-trial motions, criminal discovery, Court orders and trial transcripts. During a trial, the Clerk's Office marks and admits into record, all physical and demonstrative exhibits, assuming the "chain of custody" for all evidence admitted in the trial. Serving as the official custodian of all the chain of evidence during bench and jury trials, the Clerk's Office records what has been introduced into evidence by the parties and admitted into the record by the judge. This official record of the Clerk, serves as the basis for any appeal. If a criminal or civil trial is appealed, the Clerk must certify all the pleadings, orders, exhibits, and transcripts are complete and accurate for the higher court to consider.

Because the Orders of the Fairfax Circuit Court can be mandatory, confiscatory, or penal in nature, and can immediately impact a citizen's civil rights, the Clerk is mandated to keep Search Warrants, Orders, and Judgments in a "well-bound book" or electronically, for open inspection by the public. As the custodian of this public record, the Clerk offers secure, remote access to money judgments, charters, marriage licenses, trade names, deeds, mortgages, and criminal and civil case digests. The same information is publically available at the courthouse for research, inspection and copying.

Circuit Court and Records

The perpetual preservation of land records is critical to the clear chain of title for all landowners of real estate in Fairfax. Because Virginia is a Race/Notice state, interest in real estate is protected at the moment of recording in the Office of the Clerk. Because timing of recording a real estate transaction is critical to the Fairfax landowner's right to the property, and because an accurate public record of all recorded land transactions puts the public on notice of existing encumbrances, the Clerk, as custodian of the Fairfax Land Records, impacts every homeowner in Fairfax. In FY 2015 the Clerk's Office has added several, national electronic filing vendors to its Electronic Filing System (EFS), resulting in a 15 percent increase in the number of recordings arriving through the EFS e-filing portal; with this expansion of e-submitters, almost 40 percent of all recordings in Fairfax are e-filed.

In Virginia, the Code of Virginia mandates that the Registrar of Elections must deliver all ballots to the Clerk of Court after the polls close. The Clerk takes custody of the ballots and election materials for safekeeping. In the case of a recount, the Circuit Court already has custody of the election materials for the recount.

Benefits

The Clerk of Circuit Court is the Constitutional Officer who is mandated to perform duties as the Court's recipient, custodian, and manager of all complaints, pleadings, bills, warrants, affidavits, motions, exhibits, and transcripts that are submitted into the official court record, for the life of the litigation. Because of the profound impact that a Circuit Court can have on a citizens' civil liberties, the General Assembly has mandated that all Orders, Decrees, Judgments, and Search Warrants are to be open for inspection in the Clerk's Office. Likewise, the Clerk is mandated to make land records open and available for inspection precisely because the public is allowed to know who owns real estate in Fairfax and to what degree there are encumbrances on a parcel. A well-run, well-maintained and open land records system increases the citizen's likelihood of ascertaining lines of credit, or otherwise collateralizing their real estate. Having an open and transparent court system is a benefit to all citizens of Fairfax.

Mandates

As mentioned above, Article VII, Section 4 of the Virginia Constitution establishes the Office of the Clerk of Court and the Code of Virginia prescribes the Clerk's duties as custodian of the permanent, public record. The Clerk administers both the public land record and records relating to all civil and criminal cases. The Clerk also certifies the complete trial court record when cases are appealed to the Supreme Court or Court of Appeals. By Code, the Clerks serves as custodian of ballots and other election materials. The Clerk is mandated to keep an Order Book, a Judgment Book, and a Warrant Book, so that all people can read what the judges have ordered to occur in a certain case or investigation. The purpose of the Clerk's custodial role is, in sum, to offer the public an open and transparent government.

The Code of Virginia mandates that the Clerk, in his custodial capacity, observe certain document retention schedules, and it prescribes preservation standards and information technology standards for electronic preservation of digitized land and case documents.

Taken together, Title 8 "Civil," Title 19 "Criminal," Title 17 "Circuit Courts," and Title 24 "Elections" comprise the working majority of such preservation, custodial, and public records guideposts. With almost 48 million digital images of public records in the Court Public Access Network (CPAN) which is available 24 hours a day, the Office of the Clerk is responsible for the largest Oracle database in Fairfax. The criticality of the Clerk's custodial function as it relates to real estate 'chain of title,' ballot preservation, and the trial court's 'chain of evidence' cannot be overstated.

Trends and Challenges

The newest trend in digital records preservation is the industry movement toward "cloud-based computing." While the cost-efficiency of this technology is worth exploring, security of the digital public record is the Clerk's priority. The Court's custodial function demands secure, on-site servers, and secure

Circuit Court and Records

alternate-site servers. Another trend in records preservation and court management is paperless courts. The Clerk's Office is scanning all pleadings, motions, and orders for all public case files in the Court's custody. This e-document trend will only increase over the next few years, as the Court implements Electronic Case Filing. However, with this new technology (and all its efficiency) comes the attendant staff training and workflow reorganization, which will be a substantial amount of work on the part of the Office of the Clerk. The agency has already begun this process with the recently initiated "E-Order" process. The Clerk's Office emails Final Orders to the parties of record, substantially increasing the efficiency of getting important records to the citizens of Fairfax.

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|--------------------|--------------------|--------------------|
| LOB #182: Custodian of the Public Record | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$1,158,850 | \$1,132,076 | \$1,194,814 |
| Operating Expenses | 215,596 | 242,553 | 220,648 |
| Total Expenditures | \$1,374,446 | \$1,374,629 | \$1,415,462 |
| General Fund Revenue | \$0 | \$0 | \$0 |
| Net Cost/(Savings) to General Fund | \$1,374,446 | \$1,374,629 | \$1,415,462 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 17 / 17 | 17 / 17 | 17 / 17 |
| Exempt | 5 / 5 | 5 / 5 | 5 / 5 |
| Total Positions | 22 / 22 | 22 / 22 | 22 / 22 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|--|----------------|----------------|----------------|------------------|------------------|
| Total number of digital images/ public records | 44,986,502 | 46,397,861 | 47,705,315 | 49,100,000 | 50,500,000 |

At the close of FY 2015, the Clerk had 47,705,315 public records available for inspection on the Court Public Access Network (CPAN) database. Every year, the Court sees approximately a 3 percent increase in total images; a trend which should hold true over the next several years.

As noted earlier in the Trends section of LOB #180, Courtroom Operations, Fairfax citizens have shown an overwhelming preference for electronic filing of their annual jury questionnaires. For the 2014 term of court, 19,285 citizens e-filed their survey; for the 2015 term 20,202 potential jurors e-filed; and already 18,364 people have e-filed their juror questionnaire in the not-yet completed 2016 term of court. Please note that the Circuit Court's Term of Court does not follow the County's fiscal year calendar.

Circuit Court and Records

LOB #183:

GENERAL RECEIVER/ACCOUNTING

Purpose

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties related to accounting for the Fairfax Circuit Court. The Code of Virginia, Title 8.01, Chapter 22, mandates the accounting provisions for all moneys under the control of the Circuit Court Clerk's Office, and establishes disbursement requirements for the pay out of all court-Ordered payments, whether refund of bonds, garnishment monies, settlement funds, money judgments, or victim restitution payments.

Description

The Accounting Office of the Circuit Court of Fairfax serves the functions of a Virginia general receiver, as it relates to monies kept by the Clerk Court for matters before the Circuit Court. Much of that record-keeping and account reconciliation and interest accrual work involves garnishment actions arising under Code of Virginia §8.01-511, which is a post-judgment remedy available to judgment creditors. Victims of crimes who are awarded restitution by a judge under Code of Virginia §19.2-305.1 can earn interest on the award, which the Accounting Division verifies is accrued properly. When a defendant pays court costs or victim restitution into the Clerk's Office, the Accounting Division disburses those funds to the Commonwealth or victim, respectively. When a non-appellate bond is posted for a court case, the Accounting Division accepts the bond and deposits it into a non-interest bearing account; when the case is concluded, the Accounting Division disburses the bond to the appropriate party pursuant to a Court Order. The Clerk of Court is mandated by Code of Virginia §8.01-600 to apply security protocols in its Accounting Division in accordance with the Virginia Public Deposits Act, set out at §2.2-4400.

In addition to the general court receivership duties, the Accounting Division serves as the accountant to each of the customer-service divisions of the of the Circuit Court. To that end, the Accounting Division, verifies and reconciles all fees and/or taxes collected from the public counters of the Public Services Division, Civil Division, Probate Division, Criminal Division, Land Records and Historic Archives. Fees and taxes collected are reported to the Commonwealth of Virginia and Fairfax County the next business day by 7:30am and funds are transmitted from the Accounting Division of the Clerk's Office to the state and locality, respectively. As the custodian of funds relating to court cases, the Clerk's Office receives annual audits by either the Virginia Auditor of Public Accounts, or another Certified Public Accountant designated by him.

Benefits

By having established an Accounting Division in the Clerk's Office that serves the function of a Virginia General Receiver, the Fairfax Circuit Court saves the citizens of Fairfax any receivership fees that are otherwise allowed to them by Code of Virginia §8.01-589. In addition, the Circuit Court Accounting Division is responsible for infant settlement funds are deposited into the Court and placed in to interest-bearing account for the benefit of the minor, until they reach the age of 18 per Code of Virginia §8.01-606, which protects the minor from diminution of their compensatory award.

Mandates

As mentioned above, Code of Virginia, Title 8.01, Chapter 22, mandates the accounting provisions for all moneys under the control of the Circuit Court Clerk's Office, and establishes disbursement requirements for the pay out of all court-Ordered payments, whether refund of bonds, garnishment monies, settlement funds, money judgments, or victim restitution payments.

Circuit Court and Records

Trends and Challenges

In 2015 the Clerk of Court updated its fines and costs payments system, introducing on-line fines and costs payments through the case management system's CitePay portal. This customer, on-line pay system allows defendants to pay their court fines and costs online, and without a trip to the Courthouse. In FY 2015, 5,618 e-payments were made through Cite-Pay. As it becomes easier for a defendant to stay current on their Court-ordered payment plan, the Accounting Division will see increased on-time payments, which is a positive result for the Commonwealth of Virginia and the crime's victim.

Resources

| Category | FY 2014 Actual | FY 2015 Actual | FY 2016 Adopted |
|---|------------------|------------------|------------------|
| LOB #183: General Receiver / Accounting | | | |
| FUNDING | | | |
| <u>Expenditures:</u> | | | |
| Compensation | \$263,375 | \$257,290 | \$271,525 |
| Operating Expenses | 215,596 | 242,553 | 220,648 |
| Total Expenditures | \$478,971 | \$499,843 | \$492,173 |
| General Fund Revenue | \$0 | \$0 | \$0 |
| Net Cost/(Savings) to General Fund | \$478,971 | \$499,843 | \$492,173 |
| POSITIONS | | | |
| Authorized Positions/Full-Time Equivalents (FTEs) | | | |
| <u>Positions:</u> | | | |
| Regular | 5 / 5 | 5 / 5 | 5 / 5 |
| Total Positions | 5 / 5 | 5 / 5 | 5 / 5 |

Metrics

| Metric Indicator | FY 2013 Actual | FY 2014 Actual | FY 2015 Actual | FY 2016 Estimate | FY 2017 Estimate |
|--|----------------|----------------|----------------|------------------|------------------|
| Number of Infant Settlement Accounts Held in Trust | 271 | 243 | 215 | 215 | 215 |
| On-time Civil Marriage Celebrants requiring bond | 219 | 191 | 239 | 250 | 250 |

In FY 2015, the number of one-time civil marriage celebrants (who must post a \$500 bond with the Court) hit a three-year high, totaling 239.