

# General District Court



## Department Overview

The General District Court is responsible for the administration of justice for Traffic, Criminal, Civil and Small Claims cases, providing equal access for the fair and timely resolution of court cases. It advocates public safety through cost-saving community supervision programs in lieu of incarceration and manages county resources and assets. The Clerk's Office provides judicial support, case management, and collection of local revenue. The court is essential in supporting the County's vision elements of Maintaining Safe and Caring Communities and Exercising Corporate Stewardship.

## Department Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>FUNDING</b>			
<b>Expenditures:</b>			
Compensation	\$1,232,931	\$1,219,738	\$1,471,873
Operating Expenses	854,539	878,265	898,972
<b>Total Expenditures</b>	<b>\$2,087,470</b>	<b>\$2,098,003</b>	<b>\$2,370,845</b>
General Fund Revenue	\$8,615,842	\$8,025,699	\$7,815,345
<b>Net Cost/(Savings) to General Fund</b>	<b>(\$6,528,372)</b>	<b>(\$5,927,696)</b>	<b>(\$5,444,500)</b>
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<b>Positions:</b>			
Regular	21 / 21	21 / 21	23 / 23
State	94 / 91.1	94 / 91.1	94 / 91.1
<b>Total Positions</b>	<b>115 / 112.1</b>	<b>115 / 112.1</b>	<b>117 / 114.1</b>

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## Lines of Business Summary

LOB #	LOB Title	FY 2016 Adopted	
		Disbursements	Positions
192	Operational Support for General District Court	\$796,543	94
193	Pre-trial Services (Evaluation and Administration)	951,121	15
194	Community Supervision Services (Pre-trial and Post-trial Probation)	623,181	8
<b>Total</b>		<b>\$2,370,845</b>	<b>117</b>

## Lines of Business

LOB #192:

### **OPERATIONAL SUPPORT FOR GENERAL DISTRICT COURT**

#### **Purpose**

Operational Support provides funding for Operating Expenditures to the General District Court so that its Judges, Clerk's Office, and Court Services Division can administer justice, ensure due process, operate cost-saving community supervision programs while promoting community safety, provide extensive services to the public, and collect County revenue.

#### **Description**

The General District Court (GDC) is a court of limited jurisdiction which hears matters involving adults charged with traffic violations and criminal misdemeanors, civil suits and small claims cases including Protective Orders, conducts preliminary hearings in felony cases, and processes Involuntary Mental Commitment cases according to authority granted in the Code of Virginia. The GDC is part of the judicial branch of the state government. Its judges and clerical staff (referred to below as the "Clerk's Office") that comprise the Operational Support for General District Court LOB are state funded. They provide extensive public service to citizens, are critical to the judicial process, and collect revenue for the County.

The Clerk's Office performs case and financial management, including collection of \$11 million in revenue per year for the County. Approximately \$8 million is collected for General District Court fines, court costs, and interest on local charges and for courthouse maintenance and \$3 million is collected for other County agencies such as the Sheriff's Department, Police Department, and the Law Library. The Clerk's Office collects an additional \$1.4 million for the Towns of Vienna and Herndon and for Toll Road and Hot Lanes offenses as well as close to \$30 million in revenue for the State of Virginia. Some revenue collected offsets expenditures for legal counsel for indigent defendants on County charges and a small fraction of revenue is from postage reimbursement from the state. The Clerk's Office provides extensive public service to citizens at counters and on the phone as well as to other county and state agencies.

This LOB is comprised of 94 state employees, including 11 state Judges operating 11-12 courtrooms daily and in three distinct locations. Offices are primarily located at the Fairfax Courthouse and operate Monday through Friday from 8:00 a.m. – 4:30 p.m. Satellite offices are available in the Towns of Vienna and Herndon to assist citizens there on court days on a weekly basis. The Clerk's Office is comprised of the following divisions:

**Criminal:** Criminal cases involving adults charged with misdemeanor offenses involving a penalty of up to 12 months in jail and/or a fine up to \$2,500. There are approximately 100-150 misdemeanor cases scheduled daily. Preliminary hearings of felony cases are heard three times a week and average 130 per day.

**Traffic:** Adult traffic matters which include infractions punishable by a fine only, and more serious misdemeanors, such as DWI and reckless driving, average 800 – 2,000 cases per day. Court is held daily with 4-5 courtrooms for traffic matters.

**Civil/Small Claims:** The Court has exclusive jurisdiction in civil cases involving \$4,500 or less and concurrent jurisdiction with the Circuit Court in cases up to \$25,000. In the case of unlawful detainer (eviction) suits where there is a request for rent for commercial or agricultural property, the amount can exceed \$25,000. It handles Small claims cases in which the plaintiff is seeking a money judgment of up to \$5,000 or recovery of personal property valued up to \$5,000, as well as protective orders and involuntary mental commitment cases. Civil cases are split into 2-3 courtrooms daily with additional courtrooms on Fridays to hear Small Claims cases.

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**Administration:** Administration is comprised of the Clerk of Court/Agency Director and Chief Deputy Clerk to manage court operations, provides administrative support for Judges and staff, and HR services for state employees. A Bookkeeper and assistant oversee collections and revenue disbursement to the County as well as to the state and towns. Two IT staff support employees and manage state applications.

In FY 2015, funds expended in this LOB included:

- \$250,000 for mandated services such as providing legal services for indigent defendants, drug/alcohol lab tests, and payments to the Towns of Vienna and Herndon for courthouse maintenance;
- \$290,000 for County agency charges such as PC replacement and computer services;
- \$86,000 for postage (which is fully reimbursable by the state).
- \$70,000 for telecommunications-related charges; and
- Additional funding for items such as office equipment, computer software, printing, basic office supplies, furniture, building maintenance, and training.

This funding supports numerous volunteers and interns as required by Virginia Code § 16.1-69.50.

## Benefits

Operational Support is critical to support functions of the Clerk's Office and Judges (as well as the Court Services Division) to administer justice, ensure due process, operate cost-saving community supervision programs, provide extensive services to the public, and to collect County revenue.

- Supports collections of \$11 million in County revenue per year for the General District Court, Sheriff, Police Department, Law Library, Towns of Vienna and Herndon, and Toll Road and Hot Lanes entities.
- Supports cost-saving alternatives to incarceration through community supervision programs
- Allows defendants to maintain employment to support themselves and their families
- Improves defendant access to substance abuse or mental health treatment in the community
- Provides drug/alcohol testing supplies to ensure release conditions and/or court order is being enforced
- Funds court appointed legal counsel for indigent defendants, ensuring equal access to justice
- Supports the appointment of interpreters for non-English court participants
- Ensures that Magistrates and Judges are informed when making bond release decisions
- Provides telecommunication and postage services so that the court can communicate critical information, upcoming hearings, and court outcomes to citizens
- Supports a website so citizens can access case information, know what to expect when attending court, request ADA accommodations, and perform online transactions
- Provides printing services for communications for the public
- Provides the facility that operates courtrooms and offices so citizens can conduct business in their locality
- Future funding of clerk supplement has the potential to reduce the risk of violation of citizen's civil liberties if qualified clerks are attracted and retained to serve Fairfax citizens.
- Contributes to the County's vision of Maintaining Safe and Caring Communities and Exercising Corporate Stewardship.

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## Mandates

Virginia Code §16.1-69.6 establishes the 19<sup>th</sup> District Court to serve the County of Fairfax and the City of Fairfax. In 1973, an ordinance was passed for the creation of General District Courts which replaced a number of municipal and county courts in the state and defined its purpose.

According to Virginia Code §15.2-1638, localities are responsible for providing courthouses and suitable facilities for the judges and staff of district and circuit courts, including Circuit Court Clerks, and upon request space for the Commonwealth Attorney. The costs are paid by the locality and facilities are to be provided in government owned property and not leased.

Virginia Code §16.1-69.50 describes the localities responsibility to provide a suitable quarters for the clerk and a suitable location such as a courthouse and necessary furniture, filing cabinets and other equipment necessary for the efficient operation of the court.

Under Virginia Code §15.2-1643, if the court facility is deemed to be insufficient or inadequate, the Code of Virginia sets out a process that can be used to compel improvements to court facility by local Circuit Courts.

Fees that can be collected for the purpose of funding courthouse maintenance and construction were adopted in 1990 under Virginia Code §17.1-281 which allows the locality to assess a \$2 fee on civil, criminal, traffic, and local ordinance cases for the purposes of construction, renovation, or maintenance of the courthouse or jail and court-related facilities and to defray increase in the cost of utilities and maintenance.

Since 2009, Virginia Code §17.1-281(D) notes that localities may assess an additional \$3 fee per case, specifically for courthouse construction, reconstruction, renovation of, or adaptive re-use of a structure for a courthouse as long as the Department of General Services (DGS) certifies the courthouse as noncompliant with the ***Virginia Courthouse Facility Guidelines***.

Pursuant to Virginia Code §19.2-163.01, the Virginia General Assembly established the Virginia Indigent Defense Commission to carry out the Commonwealth's constitutional obligation to provide attorneys for indigent persons accused of crimes that carry a potential penalty of incarceration or death. The Commission is statutorily mandated to oversee the certification and recertification of all court appointed attorneys providing criminal indigent defense services, to enforce Standards of Practice and to directly oversee the state public defender offices. The Commission maintains a list of attorneys qualified to represent indigent persons.

The statutes governing appointment of interpreters for non-English speakers are Virginia Code §19.2-164 (criminal) and §8.01-384.1:1 (civil). Interpreters for the deaf and hard of hearing are appointed pursuant to §19.2-164.1 (criminal) and §8.01-384.1 (civil).

The support programs established under the authority of the Comprehensive Community Corrections Act, as specified in §9.1-173 - §9.1-183 of the Code of Virginia or Pretrial Services Act as specified in §19.2-152.2 – §19.2-152.7 of the Code of Virginia.

## Trends and Challenges

Overall, the General District Court (GDC) is facing the most challenging period in its history.

- Caseload continues to rise
- Additional case types have been established and absorbed
- More complex processes have been imposed
- Dangerously high ratio of Probation Counselor to clients; well above state standards
- Clerk's Office understaffed by 12 positions; 0.4 positions awarded since 1992

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- Citizens and officers of the court have lengthy wait times, coupled with increases in demands and expectations
- Significant turnover in the Clerk's Office due to stagnant and non-competitive salaries, especially considering job responsibilities and consequences of mistakes
- Increase in non-English speaking demographic adding to transaction times

All result in the increased risk that a Fairfax citizen's civil liberties will be violated and has made it very difficult to serve the citizens of Fairfax County in the manner to which they are accustomed and expect.

The total caseload of GDC (Traffic, Criminal, and Civil) has increased over 10,000 cases in the last 11 years or 3.5 percent (316,727 cases in FY 2015 from 306,347 cases in FY 2005). New case types such as Protective Orders, Hot Lanes, and Toll Road violations have been added, in addition to an increase in Involuntary Mental Commitment cases. New legislation has increased demands on the Clerk's Office, such as the added responsibility of collecting and disbursing restitution to victims.

A shortfall of 12 full-time clerks in the Clerk's Office was the result of a recent staffing study conducted by the Supreme Court of Virginia, Office of the Executive Secretary. Despite repeated requests for positions, an increase of only 0.4 FTE has been awarded from the state since 1992. The court actively seeks opportunities for efficiencies and automates processes when practical as it entertains ways to maintain public service to its diverse clientele. Of the 1.1 million Fairfax citizens, several thousand will have some contact with the court each year, involuntarily or not. In some offices, public can experience a 20-30 minute wait to be served in person or on the phone.

There has been a 44 percent turnover in Clerk's Office staff from July 1, 2014 through September 14, 2015. Salary is a primary factor, benefits have been reduced, healthcare premiums have increased, and a recent raise for clerks was offset by a requirement to contribute the equivalent amount toward retirement, exacerbated by an overall increase in cost of living. The court offers training and informal mentoring as it can, but the salaries are insufficient to attract and retain qualified staff, increasing the risk that a Fairfax citizen's civil liberties will be violated. If a clerk fails to update a case correctly, withdraw a warrant, or provides incorrect information to the jail, there are dire consequences for citizens, including arrest.

In addition, the Clerk is responsible for executing the Judges' orders and therefore, has a tremendous responsibility to ensure accurate and timely performance of their duties. A mistake can easily cost someone their civil liberties, by arrest or detaining an inmate longer than ordered, and can result in erroneous information on a citizen's criminal history or driving record which can result in unfavorable hiring and employment decisions.

A large non-English speaking population adds to court employee transaction times in the courtroom, at public counters, and on the telephone. A 2014 US Census Bureau report indicates that nearly 37 percent of the 1.1 million Fairfax residents speak a language other than English at home. While not all will need interpretation or translation services when conducting business with the court, it equates to longer transaction times and taxes court staff as the court strives to provide equal access to justice for non-English speakers.

Operational Support is critical in that it provides support to address the growing caseload, supports due process to indigent defendants and non-English speaking court participants, supports cost-saving community supervision programs, supports public service, and has the potential to ensure citizens' civil liberties are not negatively impacted provided future salary supplements for the Clerk's Office are awarded.

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## Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>LOB #192: Operational Support for General District Court</b>			
<b>FUNDING</b>			
<u>Expenditures:</u>			
Operating Expenses	\$758,771	\$776,985	\$796,543
<b>Total Expenditures</b>	<b>\$758,771</b>	<b>\$776,985</b>	<b>\$796,543</b>
General Fund Revenue	\$8,615,842	\$8,025,699	\$7,815,345
<b>Net Cost/(Savings) to General Fund</b>	<b>(\$7,857,071)</b>	<b>(\$7,248,714)</b>	<b>(\$7,018,802)</b>
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
State	94 / 91.1	94 / 91.1	94 / 91.1
<b>Total Positions</b>	<b>94 / 91.1</b>	<b>94 / 91.1</b>	<b>94 / 91.1</b>

## Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Total court caseload	310,883	313,055	316,727	316,727	316,727
Revenue collected by Clerk's Office for General District Court	\$9,042,169	\$8,492,762	\$7,929,595	\$7,929,595	\$7,929,595
Revenue collected by Clerk's Office for other county agencies	\$2,849,164	\$2,893,403	\$3,140,701	\$3,272,701	\$3,272,701
Revenue collected by Clerk's Office for non-county agencies	\$1,026,069	\$1,219,913	\$1,428,861	\$1,428,861	\$1,428,861

The General District Court (GDC) total caseload has increased by 5,844 cases from FY 2013 to FY 2015 and by 10,380 cases since FY 2005 (306,347 total cases). This increase has been complicated by the addition of new case types, more complex processes, and an understaffed Clerk's Office.

The court has no control over how many cases are filed each year by law enforcement agencies and has to adjust quickly to demand. The court successfully implemented a County-developed application that helps balance the caseload so that the court could maximize its resources and so officers and citizens could be served more expeditiously. The court anticipated increases in caseload for Toll Road violations in FY 2013 and again for Hot Lane violations in FY 2015.

Significant increases in caseload are anticipated when e-summons initiatives are implemented by the Police Department anticipated in FY 2016 or FY 2017. E-summons technology enables officers to issue tickets more easily and more efficiently. While the court does not oppose e-summons technology, it will very difficult to absorb the caseload with no additional staffing.

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When caseload increases, so do citizen interactions, including the number of citizens needing foreign language services. This is exacerbated by an increase in the number of non-English speaking population in general. The court strives to provide equal access to justice by providing foreign language interpreters as well as court-appointed legal counsel to indigent defendants. Appointments of legal counsel increase during downturns in the economy as defendants' ability to fund their own legal defense declines.

Revenue collection for the County is performed by the Clerk's Office. It collects roughly \$11 million in revenue each year, \$8 million of which is for General District Court. Revenue for fines and costs has decreased 12 percent from \$8,400,456 in FY 2013 to \$7,319,244 in FY 2015 and interest on fines and costs has increased 17 percent in the same period (\$124,570 in FY 2013 to \$146,156 in FY 2015). Courthouse maintenance fees have decreased 8 percent (\$122,767 in FY 2013 to \$384,830 in FY 2015) attributed to fewer Traffic and Criminal convictions, despite an increase in caseload. The remaining \$3 million collected for the County is disbursed to the Sheriff's Department, Police Department, and Law Library. An additional \$1.4 million is collected for the Towns of Vienna and Herndon and the Toll Road and Hot Lane authorities.

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LOB #193:

## **PRE-TRIAL SERVICES (EVALUATION AND ADMINISTRATION)**

### **Purpose**

The Pre-trial Services Evaluation Unit and Administration support a cost-saving program that provides an alternative to incarceration, assists the judiciary in making informed bond release decisions, and helps ensure equal access to justice for indigent defendants and non-English speaking court participants. The units also coordinate a Volunteer/Intern program, and performs HR, budget, financial, and procurement duties.

### **Description**

The Pre-trial Services Evaluation Unit evaluates inmates for eligibility for a cost-saving Supervised Release Program (SRP) that provides intensive supervision as an alternative to incarceration pending trial. It conducted over 5,000 investigations in FY 2015 and serves the Juvenile and Domestic Relations District Court (JDRDC), Circuit Court, and General District Court (GDC).

The unit operates 20 hours a day, seven days per week and is supported by 15 merit positions and 8 non-merit positions funded by the County. There are 2 positions funded by the state Pretrial Services Act grant through the Department of Criminal Justice Services. The office is co-located with the Magistrate's Office in the Adult Detention Center (ADC).

The unit conducts investigations of inmates in order to assist Magistrates and Judges in making informed bond release decisions. Investigations consist of an interview of the defendant, call to references (family, employers, and neighbors), and extensive record checks to include NCIC, VCIN, local criminal records, DMV, and court records for pending charges. Staff makes bond recommendations to release to SRP if eligible, increase or decrease bond, assign no bond or release on personal recognizance or third party bond. This information is used at the initial bail hearing, resulting in an earlier release of qualified defendants, reducing costs of defendants remaining in jail. If the defendant remains incarcerated, the information is used at advisement and bond motion hearings. Staff also complete financial interviews on defendants from which the court determines eligibility for court appointed legal counsel.

Over 25,000 record checks were conducted to support the Police Department, other courts, and local agencies such as the Alcohol Safety Action Program (ASAP) and Opportunities, Alternatives, and Resources (OAR) in FY 2015. Record checks by GDC staff allow police officers to return to the streets more quickly.

The Administrative Unit made close to 14,000 assignments for court appointed legal counsel for indigent defendants and arranged for foreign language interpretation services in over 1,100 cases in FY 2015, to ensure equal access to justice.

The unit manages the Volunteer/Intern program that conducted over 4,000 financial interviews in FY 2015 to determine eligibility for court appointed legal counsel, in addition to providing citizens with information and assisting them navigate the courthouse complex.

HR, budget, financial, and procurement duties are also performed by the Administrative Unit that supports the Court Services Division as required by the county. Staff that perform these duties and collaborate with the County's central offices to ensure sound management of County resources and assets.

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## Benefits

The Pretrial Services Evaluation Unit and Administration support a cost-saving Supervised Release Program (SRP) as an alternative to incarceration for inmates awaiting trial, ensures the judiciary is informed when making bond decisions, supports equal access to justice for indigent defendants and non-English speaking court participants, and fosters community partnership by offering volunteer and intern opportunities.

- Reduction in the jail populations creates and estimated savings to the County of \$3.6 million in FY 2015
- Allows defendants to maintain employment to support themselves and their families, reducing the need for more services in the long run
- Improves defendant access to substance abuse or mental health treatment in the community
- Ensures indigent defendants are appointed legal counsel to ensure equal access to justice
- Provides interpreters for non-English speaking court participants
- Advocates public safety by conducting comprehensive investigations on inmates so judiciary can make informed bond release decisions
- Ensures the judiciary is informed of active protective orders, history of violent crime, victim impact statements, and outstanding warrants
- Provides mandated criminal record checks for police seeking arrest warrants, allowing the police a quick return to active duty
- Connects the court with the community through volunteer and intern opportunities and fosters a valuable resource
- Ensures proper handling of the County's resources and assets
- Supports the County vision elements of Maintaining Safe and Caring Communities and Exercising Corporate Stewardship

## Mandates

The support programs established under the authority of the Comprehensive Community Corrections Act, as specified in §9.1-173 - §9.1-183 of the Code of Virginia or Pretrial Services Act as specified in §19.2-152.2 – §19.2-152.7 of the Code of Virginia.

Pursuant to Virginia Code §19.2-163.01, the Virginia General Assembly established the Virginia Indigent Defense Commission to carry out the Commonwealth's constitutional obligation to provide attorneys for indigent persons accused of crimes that carry a potential penalty of incarceration or death. The Commission is statutorily mandated to oversee the certification and recertification of all court appointed attorneys providing criminal indigent defense services, to enforce Standards of Practice and to directly oversee the state public defender offices. The Commission maintains a list of attorneys qualified to represent indigent persons.

The statutes governing appointment of interpreters for non-English speakers are Virginia Code §19.2-164 (criminal) and §8.01-384.1:1 (civil).

§19.2-164. Interpreters for non-English-speaking persons (Supreme Court Rule 2:507 derived in part from this section).

In any criminal case in which a non-English-speaking person is the accused, an interpreter for the non-English-speaking person shall be appointed. In any criminal case in which a non-English-speaking person is a victim or witness, an interpreter shall be appointed by the judge of the court in which the case is to be heard unless the court finds that the person does not require the services of a court-appointed interpreter.

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An English-speaking person fluent in the language of the country of the accused, a victim or a witness shall be appointed by the judge of the court in which the case is to be heard, unless such person obtains an interpreter of his own choosing who is approved by the court as being competent. The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs unless (i) an interpreter has been appointed for the defendant, (ii) the defendant fails to appear, (iii) the interpreter appears in the case and no other case on that date, and (iv) the defendant is convicted of a failure to appear on that date the interpreter appeared in the case, then the court, in its discretion, may assess as costs the fee paid to the interpreter. Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in both circuit courts and district courts.

§8.01-384.1:1: Interpreters for non-English-speaking persons in civil cases.

- A. In any trial, hearing or other proceeding before a judge in a civil case in which a non-English-speaking person is a party or witness, an interpreter for the non-English-speaking person may be appointed by the court. A qualified English-speaking person fluent in the language of the non-English-speaking person may be appointed by the judge of the court in which the case is to be heard unless the non-English-speaking person shall obtain a qualified interpreter of his own choosing who is approved by the court as being competent.
- B. To the extent of available appropriations, the compensation of such interpreter shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial. The amount allowed by the court to the interpreter may, in the discretion of the court, be assessed against either party as a part of the cost of the case and, if collected, the same shall be paid to the Commonwealth.
- C. Whenever a person communicates through an interpreter to any person under such circumstances that the communications would be privileged and such persons could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in circuit courts and district courts.

Interpreters for the deaf and hard of hearing are appointed pursuant to §19.2-164.1 (criminal) and §8.01-384.1 (civil). The support programs established under the authority of the Comprehensive Community Corrections Act, as specified in §9.1-173 - §9.1-183 of the Code of Virginia or Pretrial Services Act as specified in §19.2-152.2 – §19.2-152.7 of the Code of Virginia.

### Trends and Challenges

Overall, the Pretrial Services Evaluation Unit and Administration Unit perform at high levels and continue to provide valuable and often mandated services; however, maintaining and supporting the volunteer pool with no Volunteer Coordinator position and staffing an almost 24/7 operation in the jail has proven to be challenging. This is especially evident during extended absences such as those that fall under FMLA. Fortunately, strict management of non-merit salary funding and of vacancies has allowed for adequate coverage during staff absences.

The number of volunteer hours performed has decreased by 71 percent since FY 2008 when the Volunteer Coordinator position was eliminated due to budget reductions (7,901 hours in FY 2008 to 2,262 hours in FY 2015). Maintaining and fostering volunteers is critical to operations and was reassigned for the last seven years to another staff member, who continues to be overtaxed.

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## Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>LOB #193: Pre-trial Services (Evaluation and Administration)</b>			
<b>FUNDING</b>			
<u>Expenditures:</u>			
Compensation	\$815,656	\$823,781	\$897,858
Operating Expenses	55,865	59,080	53,263
<b>Total Expenditures</b>	<b>\$871,521</b>	<b>\$882,861</b>	<b>\$951,121</b>
General Fund Revenue	\$0	\$0	\$0
<b>Net Cost/(Savings) to General Fund</b>	<b>\$871,521</b>	<b>\$882,861</b>	<b>\$951,121</b>
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	15 / 14.5	15 / 14.5	15 / 15
<b>Total Positions</b>	<b>15 / 14.5</b>	<b>15 / 14.5</b>	<b>15 / 15</b>

## Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Cost savings to County per year - Supervised Release Program (estimated in millions)	\$2.4	\$2.9	\$3.6	\$3.6	\$3.6
Pretrial interviews/investigations conducted	5,960	5,433	5,113	5,113	5,113
Record checks performed	27,196	26,604	25,660	25,660	25,660
Attorney assignments for indigent defendants	13,031	14,015	13,817	13,817	13,817
Interpreter assignments for non-English speakers	969	1,132	1,131	1,131	1,131

The national trend is to seek alternatives to incarceration for a variety of reasons, a major one being cost. The estimated savings of \$3.6 million in FY 2015 was based on the 125,474 days that inmates were supervised through the Supervised Release Program (SRP) in lieu of jail. Without an evaluation program that determines eligibility for the program, an estimated 15 percent of inmates would have remained incarcerated. This resulted in 18,821 days defendants would have likely remained in jail without the SRP, rather than being supervised in the community. The savings is based on the Sheriff's Department cost of \$192 per day to house an inmate. While the SRP saves the County in the long run, it will be difficult, to take on additional supervision caseload with Probation Counselors already handling a caseload well above the state standard.

Pretrial investigations continue to be a valuable tool to ensure Magistrates and Judges make informed bond release decisions. It is in the public interest to continue this service that keeps inmates in the community in lieu of incarceration while also preserving community safety. Investigations expect to continue at present rates.

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The unit will continue running criminal record checks since this is a mandated requirement and allows Police officers to return to active duty without delay. The number of record checks decreased by 3.5 percent (25,660 in FY 2015 from 26,604 in FY 2014). Numbers are expected to remain relatively flat but continue to be a high volume service that Court Services provides primarily to the Police Department.

Attorney assignments for legal counsel for indigent defendants generally increase during tough economic times as defendants struggle financially. Attorney assignments peaked in FY2014 at 14,015 but have since decreased slightly to 13,817, just above FY 2013 levels of 13,031 assignments. They are expected to remain relatively flat and could decrease slightly if the economy improves.

An increase in interpreter assignments for non-English speaking court participants indicates an increase in the number of citizens having equal access to justice. Assignments have increased 58 percent since FY 2010 (714 in FY 2010 to 1,131 in FY 2015) and although shown as flat in the table below, they may increase further as the demographics change and caseload increases.

### **Grant Support**

Grant funding is provided by the state of Virginia through the Department of Criminal Justices Services. There is no cash match requirement and it is anticipated that funding will be recurring as it has in the past. The grant funds two positions in Pretrial Services in addition to operational support. The grant funds One Probation Counselor III who oversees the Pretrial Evaluation Unit located in the Adult Detention Center in addition to an Administrative Assistant II position in Court Services Administration located in the courthouse. The grant also funds several Probation Counselor positions in Community Supervision Services (see following pages).

In FY 2016, total grant funding awarded was \$753,077. It's estimated that \$178,244 or roughly 25 percent is dedicated to the Pretrial Evaluation and Administrative Unit for salaries and operating expenses. The remaining amount of grant funding, an estimated 75 percent or \$574,833, funds the Community Supervision Services, which provides supervision both pre-trial and post-trial in lieu of incarceration.

Since its inception, grant funding has remained relatively flat and has not accommodated increases to salary and fringe benefits that have applied to all county positions. As a result, the amount of positions able to be supported by the grant has declined over time and additional positions remain at risk.

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LOB #194:

## **COMMUNITY SUPERVISION SERVICES (PRE-TRIAL AND POST-TRIAL PROBATION)**

### **Purpose**

Community Supervision Services administers cost-saving supervision programs that provide clients with intensive supervision pre-trial through the Supervised Release Program (SRP) and post-trial through Probation Services, in lieu of incarceration. Qualified defendants return to the community, maintain employment and family responsibilities, and have better access to substance abuse and mental health treatment, while reducing the jail population and maintaining community safety.

### **Description**

Community Supervision Services operates the following multi-faceted, cost-saving, and successful programs, while ensuring public safety and compliance with the Code of Virginia.

- Supervised Release Program (pre-trial) for GDC, JDRDC, and Circuit Court
- Probation (post-trial)
- Mental Health Competency/Sanity Monitoring Service
- Driving on Suspended Program (DOS)
- Alcohol Diversion Program (ADP)
- Restitution and court costs collection and monitoring
- Veteran Treatment Docket supervision

The Supervised Release Program (SRP) serves the Circuit Court and the Juvenile & Domestic Relations District Court (JDRDC), in addition to the General District Court (GDC). Typical offenders supervised before trial, have been charged with felonies, while those on probation following trial have convictions that range from felonies to misdemeanors such as property crimes and assault. Some offenders have complex substance abuse issues, chronic mental health treatment orders, post-traumatic stress disorder, or traumatic brain injury complications.

The unit consists of 14 Probation Counselors and Probation Counselor Supervisors who carry both intensive SRP cases and probation cases simultaneously. Grant funding supports 6 positions, while the County funds the remaining positions.

A typical Probation Counselor carried a caseload of 111 cases, 34 intensive SRP cases plus 77 Probation cases in FY 2015. The state standards recommend 40 SRP cases or 60 Probation cases, but not both. Duties include:

- Providing court-ordered supervision by conducting regular bi-monthly or weekly meetings with offenders
- Preparing court reports to document offenders' progress. Supervising behavior to ensure offenders remain drug free, refrain from additional criminal activity, maintain or find employment, attend drug treatment programs, and appear at all court hearings
- Coordinating the placement of offenders in Community Service or Mental Health programs
- Enforcing judicial orders and identifying and reporting violators for swift enforcement and apprehension

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Monitoring of Mental Health cases provides a liaison between defense attorneys, the courts, and mental health staff to ensure a timely completion of mental health/sanity evaluations. Probation Counselors handle close to 100 of these intensive cases per year.

The Driving on Suspended Program assists roughly 300 participant each year prepare for and navigate the requirements of license reinstatement. This is critical as penalties for Driving on a Suspended License include up to 12 months in jail and additional license suspension, in addition to hefty fines and court costs.

Probation Officers also monitor Alcohol Diversion Program clients, resulting from underage drinking violations, often issued at concerts attended by college students.

Victims and the court both benefit immensely as a result of the restitution and court costs collected through this program. Restitution collections alone range from \$315,000 - \$430,000 annually.

### Benefits

Community Supervision Services provide numerous opportunities for citizens to be supervised in the community in lieu of incarceration while ensuring public safety. Programs benefit defendants, their families, victims, the general public, and the County through cost-savings.

- Use of community supervision programs in lieu of jail create a savings to the County
- Allows defendants to maintain employment to support themselves and their families, reducing the need for more services in the long run
- Improves defendant's access to substance abuse or mental health treatment
- Provides mental health monitoring to ensure timely completion
- Provides defendants with an avenue to restoration of driving privileges
- Encourages collection of restitution to benefit victims and collection of fines and costs for the court
- Provides alcohol diversion for underage drinking
- Advocates public safety by ensuring compliance with court orders and conditions
- Reinforces the County vision element of Maintaining Safe and Caring Communities.

### Mandates

The support programs established under the authority of the Comprehensive Community Corrections Act are described in Virginia Code §9.1-173 through §9.1-183.

The Pretrial Services Act is specified in §19.2-152.2 through §19.2-152.7 of the Code of Virginia.

Virginia Code §18.2-251 describes probation with conditions: Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Virginia Code §19.2-303.2 also describes persons charged with first offenses that may be placed on probation:

Whenever any person who has not previously been convicted of any felony pleads guilty to or enters a plea of not guilty to any crime against property constituting a misdemeanor, under Articles 5, 6, 7 and 8 of Chapter 5 (§18.2-119 et seq.) of Title 18.2, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation subject to terms and conditions, which may include restitution for losses caused, set by the court. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the

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court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purpose of applying this section in subsequent proceedings. 1985, c. 617.

Virginia Code §19.2-303.3 authorizes Probation. Sentence to local community-based probation services; services agency; requirements for participation; sentencing; and removal from probation; payment of costs towards supervision and services.

## Trends and Challenges

Community Supervision Services continue to offer meaningful and cost-effective programs; however, increases in caseload and reporting requirements, without an adequate number of Probation Counselors, make mitigating the risk to the community a major concern.

- Estimated savings to the County has increased through the use of community supervision
- Caseload per Probation Counselor continues to increase
- Additional mandatory reporting requirements are cumbersome and time consuming
- Staffing remains inadequate

Perhaps the most indicative measurement of caseload is the average daily caseload per Probation Counselor. The Department of Criminal Justice Services (DCJS) standards recommend 40 intensive SRP cases or 60 Probation cases per Probation Counselor. There were 111 cases per Probation Counselor in Fairfax in FY 2015. What's more problematic than the total cases is that 34 are intensive SRP cases in addition to 77 Probation cases. Even with two Probation Counselor positions awarded in FY 2016, the average daily caseload per Probation Counselor remains at 91 (28 intensive SRP cases plus 63 Probation cases) in the first quarter, still well above the DCJS state standard. While the actual number of referrals may increase and decrease, this indicator takes into account the actual number of days of supervision each referral required.

The number of placements into the intensive SRP program has increased 49 percent since FY 2009 from 785 SRP placements to 1,136 in FY 2015. Probation cases, which are less intensive than SRP cases, have decreased 25 percent in the same period (1,562 placements in FY 2009 to 1,168 placements in FY 2015), and therefore have less of an impact on workload than SRP cases.

Additional requirements and demands encompassing the use of evidence based practices in supervision add integrity to the program; however, the process drastically increases the workload on the Probation Counselors. Between 2011 and 2013, the additional mandatory reporting requirements listed below have been implemented making case management cumbersome and time consuming.

- Virginia Pretrial Risk Assessment Instrument (VPRAI)
- Modified Offender Screening Tool (M/OST)
- Offender Screening Tool (OST)

Furthermore, future implementation of STEPS, a case management tool and PRAXIS, a recommendation instrument, will again drastically increase the workload of Probation Counselors.

With the addition of two new Probation Counselor II positions that were approved by the Board as part of the FY 2016 Adopted Budget Plan the caseload per probation officer is expected to decrease slightly but is still well in excess of the state standard. Further, it should be noted that these additional positions will support the recently initiated Veterans Treatment Docket, a court-supervised comprehensive treatment program for the Veteran population which requires intensive supervision and often suffers from substance abuse, mental health and/or post-traumatic stress disorder.

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Increases in fringe benefits and pay increases for county merit staff, with no increase in grant funding to cover these expenses, may require further reductions in grant staffing in the future which will negatively impact services to both clients and the courts.

## Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>LOB #194: Community Supervision Services (Pre-trial and Post-trial Probation)</b>			
<b>FUNDING</b>			
<u>Expenditures:</u>			
Compensation	\$417,275	\$395,957	\$574,015
Operating Expenses	39,903	42,200	49,166
<b>Total Expenditures</b>	<b>\$457,178</b>	<b>\$438,157</b>	<b>\$623,181</b>
General Fund Revenue	\$0	\$0	\$0
<b>Net Cost/(Savings) to General Fund</b>	<b>\$457,178</b>	<b>\$438,157</b>	<b>\$623,181</b>
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	6 / 6.5	6 / 6.5	8 / 8
<b>Total Positions</b>	<b>6 / 6.5</b>	<b>6 / 6.5</b>	<b>8 / 8</b>

## Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Average daily total caseload per probation counselor	102	104	111	91	91
Average daily SRP caseload per probation counselor	26	32	34	28	28
Average daily Probation caseload per probation counselor	76	72	77	63	63
Cost savings to County per year - use of supervision in lieu of incarceration (estimated in millions))	\$4.7	\$5.1	\$6.3	\$6.3	\$6.3
Amount of restitution collected for victims Amount of restitution collected for victims	\$362,886	\$322,995	\$316,012	\$316,012	\$316,012

There have been significant increases in both the average daily caseload per Probation Counselor and the intensive Supervised Release Program (SRP) caseload.

The most critical factor in determining caseload is the average daily caseload per Probation Counselor which rose 17 percent with no new staff from FY 2009 to FY 2015 (95 cases in FY 2009 to 111 cases in FY 2015). In the first quarter of FY 2016, the average daily caseload per Probation Counselor decreased to 91 due to the addition of two Probation Counselors at the beginning of FY 2016. Caseload still remains significantly

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higher than the state standard of 40 intensive SRP cases OR 60 Probation cases. Caseloads are expected to remain at these high levels unless additional Probation Counselor positions are funded.

Second in importance is the number of intensive SRP cases assigned as this supervision requires more intensive and frequent interaction with the client than standard Probation supervision. From FY 2013 to FY 2015, the average daily SRP caseload per Probation Counselor increased by 31 percent (26 cases to 34 cases). With the addition of two Probation Counselors in FY 2016, the SRP caseload per Probation Counselor is still 8 percent higher than in FY 2013, according to FY 2016 first quarter statistics (26 cases in FY 2013 to 28 cases in first quarter of FY 2016).

An estimated FY 2015 savings of \$6.3 million is a direct result of the use of the Supervised Release Program (SRP) and Probation (\$3.6 million and \$2.7 million estimated savings respectively) in FY 2015. This is an increase of 24 percent from FY 2014, when these two programs created an estimated savings of \$5.1 million combined. More active supervision days result in fewer jail days. Higher cost to house an inmate per day (\$170 per inmate per day in jail in FY 2014 to \$192 per inmate per day in jail in FY 2015) results in higher overall costs savings when supervision is used in lieu of incarceration.

Restitution collection directly benefits citizens. At its peak in FY 2011, total collections reached \$430,000. Collections dropped to \$316,012 in FY 2015, thought to be a result of the struggling economy and defendants' reduced ability to pay. Collections are expected to remain basically flat until the economy improves.

### **Grant Support**

Grant funding is provided by the state of Virginia through the Department of Criminal Justices Services. There is no cash match requirement and it is anticipated that funding will be recurring as it has in the past. The grant funds six Probation Counselor positions in the General District Court Community Supervision Services (this LOB) and two positions in the Pretrial Services Evaluation and Administrative units (see previous LOB). The grant also supports one Probation Counselor in the Juvenile & Domestic Relations District Court.

In FY 2016, total grant funding awarded was \$753,077. It's estimated that roughly 75 percent of grant funding or \$574,833 will be used for Community Supervision Services personnel and operating costs. The remaining estimated 25 percent or \$178,244 of grant funding is dedicated to the Pretrial Evaluation and Administrative Unit.

Since its inception, grant funding has remained relatively flat and has not accommodated increases to salary and fringe benefits that have applied to all county positions. As a result, the amount of positions able to be supported by the grant has declined over time and additional positions remain at risk.

It should be noted that grant awards for the Comprehensive Community Corrections and Pretrial Services grant were reduced in FY 2011 by 5.46 percent (\$39,969); by 5.5 percent (\$40,697) in FY 2012; and 4.65 percent (\$33,980) in FY 2013.