

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.

General District Court

Mandates

Virginia Code §16.1-69.6 establishes the 19th 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
LOB #192: Operational Support for General District Court			
FUNDING			
<u>Expenditures:</u>			
Operating Expenses	\$758,771	\$776,985	\$796,543
Total Expenditures	\$758,771	\$776,985	\$796,543
General Fund Revenue	\$8,615,842	\$8,025,699	\$7,815,345
Net Cost/(Savings) to General Fund	(\$7,857,071)	(\$7,248,714)	(\$7,018,802)
POSITIONS			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
State	94 / 91.1	94 / 91.1	94 / 91.1
Total Positions	94 / 91.1	94 / 91.1	94 / 91.1

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.