

General District Court

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
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FUNDING			
Expenditures:			
Compensation	\$815,656	\$823,781	\$897,858
Operating Expenses	55,865	59,080	53,263
Total Expenditures	\$871,521	\$882,861	\$951,121
General Fund Revenue	\$0	\$0	\$0
Net Cost/(Savings) to General Fund	\$871,521	\$882,861	\$951,121
POSITIONS			
Authorized Positions/Full-Time Equivalents (FTEs)			
Positions:			
Regular	15 / 14.5	15 / 14.5	15 / 15
Total Positions	15 / 14.5	15 / 14.5	15 / 15

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.