

## Response to Questions on the FY 2010 County's Line of Business & Schools Program Review Processes Fall 2008

**Request By:** Supervisor Hyland

**Question:** Can judges require the County to provide court-related security when not already mandated by State Code?

**Response:** The following response is from the Office of the County Attorney with concurrence from the Office of the Sheriff:

Yes, judges can order additional courtroom security beyond that ordinarily required by state law. More specifically, Virginia Code § 53.1-120 provides that each local sheriff shall ensure that the courthouses and courtrooms within his jurisdiction are secure, so the Sheriff has a statutory obligation to provide security both at the courthouse and in the courtrooms. Item 69(C) of the state biennium budget for FY 2009-10 further defines the responsibilities of each local sheriff by providing that, notwithstanding the provisions of § 53.1-120, unless a judge provides the sheriff with a written order stating that a substantial security risk exists in a particular case, no courtroom security deputy sheriffs may be ordered for civil cases, not more than one deputy may be ordered for criminal cases in a district court, and not more than two deputies may be ordered for criminal cases in a circuit court. (Criminal cases in district courts involve those less serious criminal offenses classified as misdemeanors. Criminal cases in circuit courts involve more serious offenses classified as felonies and appeals of misdemeanor convictions.) In short, judges can order security at higher staffing levels than those specified in the state budget if warranted by substantial security risks. In addition to provisions contained in the state code, recent state budgets have included the same provision giving judges the discretionary authority to order the presence of additional deputies.

In addition, if it appears to the circuit court of any county or city that the facilities are insecure or otherwise pose a danger to the health, safety and welfare of the court employees or the public, Virginia Code § 15.2-1643 permits the court to enter an order on behalf of the Commonwealth against the elected governing body of the county or city, asking that governing body to show cause why a court order (mandamus) should not be issued commanding the governing body to make the court facilities of such locality secure. Before any such order is issued, the governing body of the locality could appoint a five-member panel composed of at least three architects or professional engineers to review the court facilities in question and to make recommendations to the local governing body and the court. The matter would then be decided by a judge from another circuit appointed by the Virginia Supreme Court.

Given the importance of the County court functions, the large financial investment of the County in its court facilities and the Sheriff's statutory duty to provide security at the courthouses and in the courtrooms within this jurisdiction, it is the opinion of the County Attorney's Office that the implementation of a proposal to eliminate all building and perimeter security at the County Courthouse and the Juvenile and Domestic Relations

Courthouse is not recommended. As noted by the Sheriff during his presentation to the Board, Virginia Code does not require the Sheriff to provide security for civil cases. However, the judges have the authority to order deputies to provide security in civil matters if warranted by substantial security risks. It is therefore unlikely that the proposal to eliminate all deputy sheriffs in the trial of civil matters can be implemented. At best, the Sheriff could request that the judges use restraint in ordering the presence of deputies in courtrooms that are handling civil cases.

The Office of the Sheriff concurs with the response provided above by the County Attorney. Providing building and courtroom security is an important service provided by the Sheriff in support of the courts. While not mandated, providing security in civil court cases is an important function and one that should be continued. The option to eliminate Deputy Sheriffs in civil trials was included in the Sheriff's reduction package only because it is not specifically mandated by Virginia Code and this was one of the few areas the Office of the Sheriff could put forward as a potential reduction in order to achieve the targeted 15 percent reduction in FY 2010.