

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.

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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.

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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.

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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.