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ASSISTANT EXECUTIVE SECRETARY &
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SUPREME COURT OF VIRGINIA



OFFICE OF THE EXECUTIVE SECRETARY
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219-2334
(804) 786-6455

JUDICIAL INFORMATION TECHNOLOGY
ROBERT L. SMITH, DIRECTOR

JUDICIAL PLANNING
CYRIL W. MILLER, JR., DIRECTOR

JUDICIAL SERVICES
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MAGISTRATE SERVICES
MASON L. BYRD, DIRECTOR

November 30, 2018

The Honorable Thomas K. Norment, Jr.
Co-Chair, Finance Committee
Senate of Virginia
P.O. Box 6205
Williamsburg, Virginia 23188

The Honorable Emmett W. Hanger, Jr.
Co-Chair, Finance Committee
Senate of Virginia
P.O. Box 2
Mount Solon, Virginia 22843-0002

The Honorable S. Chris Jones
Chair, Appropriations Committee
Virginia House of Delegates
P.O. Box 5059
Suffolk, VA 23435

The Honorable Mark D. Obenshain
Chair, Courts of Justice Committee
Senate of Virginia
P.O. Box 555
Harrisonburg, Virginia 22803

The Honorable Robert B. Bell
Chair, Courts of Justice Committee
Virginia House of Delegates
2309 Finch Court
Charlottesville, VA 22911

Dear Chairmen Norment, Hanger, Jones, Obenshain, and Bell:

Virginia Code § 16.1-69.10 provides that the Committee on District Courts shall make a study and report to the General Assembly on the number of district court judges needed and the districts for which they shall be authorized. The Committee on District Courts recommends the authorization of one new general district judgeship in the 19th Judicial District of Virginia.

Report to the General Assembly
Committee on District Courts
November 30, 2018
Page Two

Please find enclosed the Request for Additional Judgeship provided by the
19th Judicial District General District Court.

If you have any questions, please do not hesitate to contact me.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read "KRH". The letters are stylized and connected.

Karl R. Hade

KRH:jrp
Enclosure

**FAIRFAX GENERAL DISTRICT COURT
19TH JUDICIAL DISTRICT OF VIRGINIA**

REQUEST FOR AN ADDITIONAL JUDGE

The Honorable Lisa A. Mayne, Chief Judge

The Honorable Manuel A. Capsalis, Judge

October 2018

**FAIRFAX GENERAL DISTRICT COURT
19th JUDICIAL DISTRICT OF VIRGINIA**

DISTRICT JUDGES

LISA A. MAYNE, CHIEF JUDGE

MICHAEL J. CASSIDY

MARK C. SIMMONS

WILLIAM J. MINOR, JR.

MITCHELL I. MUTNICK

MANUEL A. CAPSALIS

MICHAEL J. LINDNER

TINA L. SNEE

MICHAEL H. CANTRELL

SUSAN J. STONEY

CLERK OF COURT

CHRISTOPHER ERIC BARR

FAIRFAX GENERAL DISTRICT COURT
19TH JUDICIAL DISTRICT
REQUEST FOR AUTHORIZATION FOR AN ADDITIONAL JUDGE

BACKGROUND

The Fairfax General District Court handles the largest caseload of any court in the Commonwealth of Virginia. In 2017, we received 312,423 new cases, which represents 11.10% of the Commonwealth's total general district court caseload and is a percentage that has increased over the last decade. Hearing the largest caseload statewide is not a new phenomenon in Fairfax and over the years we have developed numerous efficiencies to manage large dockets while insuring that each individual having business before the court receives fair and timely justice. However, based on our current caseload, the complexity of cases before the court, the expanded jurisdiction of the court, and the diversity of the population we serve, we must now request an additional judge in order to remain effective.

According to the most recent annual statistics from the Supreme Court, the state average of cases per general district court judge was 23,257 in 2017. Excluding Fairfax General District Court, the state average was 22,537 cases per judge. Our court handled 31,242 cases per judge in 2017.

Our court presently has ten Judges despite the fact that we are authorized to have 11 judges. A tenth judge was authorized for July 1, 1990, and an eleventh judge was authorized for July 1, 2006. These additional judges were awarded in response to the court's growing caseload. Since the tenth judge was awarded in 1990, both the caseload of the court and the population of the County have increased and changed dramatically; however, the number of sitting judges has not. The jurisdiction of the court has expanded; the number of cases has increased; more defendants are now represented by retained or court-appointed counsel; and the need for interpreters in more languages has skyrocketed. These changes have resulted in more trials which take longer to hear. Since the tenth judge was authorized in 1990, Fairfax County's population has increased from 818,600 to 1,142,900. According to the most recent County statistics, 39.1% of Fairfax County's population consists of minority groups, impacting court proceedings due to the fact that many require interpreters. All of these factors have contributed to the court's increased workload and the need for an additional judge.

Court should never be about simply getting through the dockets, and daily dockets should not be an endurance test for judges or participants. Despite restructuring and segmenting dockets and instituting procedures to maximize efficient use of judicial resources, the court's caseload is approaching critical mass. We feel we have lost the flexibility necessary to manage a large

court. Authorization of an additional judge would help insure that those persons having matters before the court are treated fairly and in a timely matter.

VIRGINIA JUDICIAL WORKLOAD ASSESSMENT FINAL REPORT – November 2017

The 2017 Virginia Judicial Workload Assessment Final report calculated our court’s Total Need (FTE) at 12.07 judges, our Current Workload per Judge at 1.21, our Judge Need (FTE - rounded 1.15/.9) at 11, and the Final Workload per Judge at 1.10. Because of the rounding rule applied in the report, 12.07 judges rounded down to 11 judges.

The report’s recommendations are directly dependent on the number of authorized judges at the time of the report, regardless of whether that number is a true reflection of the court’s judicial staffing needs. This is reflected in the following chart:

Judicial District	Authorized judgeships (FTE)	Funded Judges (FTE)	Total Need (FTE)	Current Workload per Judge	Judge Need (FTE) rounded 1.15/.9	Final Workload per Judge
19th	11	10	12.07	1.21	11	1.10
19th	11	if at 11	12.07	1.10	11	1.10
19th	if at 12	if at 12	12.07	1.01	12	1.01
19th	if at 13	if at 13	12.07	0.93	13	0.93

If our court had authorization for 12 judges at the time of the study, the report would have recommended that our court maintain at 12 judges. If our court had authorization for 13 judges at the time of the study, the report would have recommended that our court maintain at 13 judges.

The report notably has a savings provision that allows for consideration of other factors not fully accounted for in the study, stating that “Courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that examines additional contextual factors affecting the need for judges.”

We believe there are a number of contextual factors impacting our workload that are not accounted for in the report and that merit authorization of a twelfth judge. Therefore, we are requesting the expansion of the Fairfax General District Court by the addition of one judge.

JUSTIFICATION FOR AN ADDITIONAL JUDGE

Caseload

The Fairfax General District Court received 312,423 new cases in 2017. Our court is first in the state in total number of new cases and as stated before, this represents 11.10% of the statewide total general district court caseload. Our court ranks at or near the top in every category of types of cases:

Fairfax General District Court, 19th Judicial District – New Cases in 2017			
Fairfax District Court cases by category	2017	Fairfax District Court cases as a percentage of statewide new cases	Ranking of Fairfax District Court relative to judicial districts statewide
Traffic	242,947	14.76%	1
Criminal	29,144	8.18%	1
DUI	2,658	11.20%	1
Civil	37,055	4.90%	4
Misc.	3,277	5.84%	5
Fairfax County total	312,423	11.10%	1
Statewide Total	2,814,097	---	---

A review of dispositions in 2017 reveals similar statistical rankings:

Fairfax General District Court, 19th Judicial District – Dispositions in 2017			
Fairfax District Court cases by category	2017	Fairfax District Court cases as a percentage of statewide new cases	Ranking of Fairfax District Court relative to judicial districts statewide
Traffic	241,554	14.67%	1
Criminal	28,490	7.95%	1
DUI	2,564	10.98%	1
Civil	37,055	4.89%	6
Misc.	3,276	5.83%	4
Fairfax County total	310,375	11.01%	1
Statewide Total	2,818,155	---	---

Although the volume of criminal and civil caseloads has a significant impact on our court, it is the staggering number of traffic cases that threatens to swamp us. It is primarily the traffic caseload that determines how our limited judicial resources must be distributed. On a daily

basis, half or more of our judges are assigned to hear traffic dockets in five or six courtrooms, including sessions in the City of Fairfax, the Town of Herndon, and the Town of Vienna.

Our court's daily dockets begin at 8:30 a.m. with bond motions and arraignments. Our primary traffic, criminal and civil dockets begin at 9:30 a.m. with segments appearing at various times or in different courtrooms. These regular dockets must be completed prior to 2:00 p.m. In order to begin separate dockets consisting of felony preliminary hearings, DUI and traffic non-compliance cases, pretrial release violations, and criminal sentencing matters. With increasing frequency, the morning dockets run over and interfere with the afternoon court sessions. For example, if any of our traffic or criminal dockets have more than one attorney case that goes to trial, which frequently occurs, that docket often will extend into the afternoon and overlap with the regularly scheduled 2:00 p.m. dockets. This necessitates shifting or reassigning judges and combining dockets, and results in delays to those appearing in court for both the morning and afternoon dockets. This is difficult for judges and staff and unacceptable for those whose trial is delayed due to a backlogged judge.

The heavy volume of cases before our court and accordingly, the number of cases per judge, invariably cause delays and impact how we must manage our dockets. The statewide average of cases per general district court judge in 2017 was 23,257. Excluding Fairfax from this calculation, the statewide average of cases per judge was 22,537. In Fairfax, the average of cases per judge in 2017 was 31,242, nearly 39% more than the average number handled in the other general district courts statewide. As the chart below indicates, even if our court had 13 judges, we would remain above the state average both for cases per judge and relative to our percentage of the number of statewide judges:

New cases for 2017	Fairfax District Court	Statewide	Statewide excluding Fairfax	Fairfax percentage of statewide new cases	Fairfax percentage of total district judges statewide
Total number	312,423	2,814,097	2,501,674	11.10%	8.26%
Fairfax at current 10 judges	31,242 per judge	23,257 per judge	22,537 per judge	11.10%	8.26%
Fairfax if at 11 judges	28,402 per judge	23,257 per judge	22,537 per judge	11.10%	9.01%
Fairfax if at 12 judges	26,035 per judge	23,257 per judge	22,537 per judge	11.10%	9.75%
Fairfax if at 13 judges	24,032 per judge	23,257 per judge	22,537 per judge	11.10%	10.48%

This heavy caseload requires us to hear more cases than any other court within the time limitations of each docket. Like every court, we take pride in making sure all litigants leave our courthouse feeling that they were fairly heard, that they had their day in court. But the pace we must maintain makes this problematic. Furthermore, because we do not have the number of judges our daily caseload requires, we have little to no margin of flexibility in our docket schedule. Any long trial or extended docket or other variance forces us to scramble and inevitably has a cascading effect on other dockets.

Limitations in docketing and the growing complexity of cases

In addition to the high caseload per judge relative to the rest of the state, our court has experienced increased time length and complexity in cases heard at trial. As a result, available trial dates must be set further out. As the chart below shows, the number of long civil trials (in excess of two hours) has significantly risen over the last decade. Currently there is a minimum six month delay in available trial dates for a long civil trial. The exponential growth in the number of long civil trials in our court since 2010 is shown as follows:

YEAR	NUMBER OF LONG CIVIL TRIALS
2010	8 long civil trials
2011	8 long civil trials
2012	24 long civil trials
2013	29 long civil trials
2014	42 long civil trials
2015	45 long civil trials
2016	55 long civil trials
2017	63 long civil trials

Similar delays have occurred with most other civil trials. Due to the need to provide necessary coverage for heavy traffic and criminal dockets, we were forced to cancel our Wednesday civil trial docket to better utilize that judge to assist in handling the traffic and criminal dockets. Because this results in fewer dates available for regular civil trials, trial dates must be set further out. This year alone, the average wait for a regular civil trial date has increased from 108 days to 137 days.

The same has proven true with the traffic and criminal dockets. DUI cases are a good example. The number of DUI cases in Fairfax increased 16.55% in the past year while the number statewide decreased:

Year	Statewide DUI dispositions	Fairfax DUI dispositions	Percentage of statewide dispositions in Fairfax
2016	23,933	2,200	9.19%
2017	23,350	2,564	10.98%

This is due in large part to Fairfax County's DUI Enforcement Squad, a nine officer squad introduced in 2016 and tasked with "reducing impaired-related crashes through aggressive enforcement and prosecution of driving a motor vehicle while intoxicated (DWI) cases." At the same time, changes in statutory and case law, along with the advent of cruiser videos and police body cameras, all have increased the complexity, discovery obligations and proof requirements in these types of cases and as a result require measurably longer trials. The average DUI trial now takes approximately one hour. Soon Fairfax will see the use of drug recognition experts, which will further lengthen any trials. In addition, because of manpower shortages, the state laboratories are severely delayed in their testing of blood and other forensic samples, as well as making available forensic witnesses needed to testify in court. This further limits and delays available trial dates. As noted previously, if more than one DUI case goes to trial, which frequently occurs, that docket will extend into the afternoon and impact the regularly scheduled 2:00 p.m. dockets.

As with a few other courts statewide, our court was forced to create dedicated DUI blood dockets to handle this caseload. Because of the limited availability of dates for this type of docket, as well as the time requirements and delays set forth above, our court is only able to schedule these cases twice per month on dedicated dockets. By comparison, the court with the next highest number of DUIs, Virginia Beach, has four dedicated DUI blood dockets per month. The end result is that these cases must be set several months in advance. Each of these dockets usually has 11 or more cases scheduled for trial. While many defendants usually enter into plea agreements, it is not uncommon for multiple trials to occur lasting most, if not the entire day. While our court would like to increase the number of blood dockets from two to four per month in order to reduce the number of trials on any given date, as well as to shorten the delay in available trial dates, we do not have the manpower to do so. Hearings in the satellite courts (City of Fairfax, Town of Herndon, and Town of Vienna) Monday through Thursday and the small claims docket on Friday leave one less judge available to handle the rest of the traffic docket.

As with other courts, we have a sizeable number of criminal and traffic cases with either retained or court-appointed counsel. This has a particularly significant impact on our court because unlike some other jurisdictions, it is the policy of the Fairfax Commonwealth Attorney to participate in all trials, criminal and traffic, when defendant counsel is present and even if no jail time is involved. Furthermore, the Commonwealth Attorney's policy of requiring plea

bargaining of felony charges only in the district court places major strain on the felony preliminary hearing docket. A result is that these more serious charges and more complex cases require additional time and judicial resources. The large number of felonies, as well as the large number of misdemeanors and felonies reduced to misdemeanors, results in larger sentencing and non-compliance dockets, requiring more management of pretrial supervised release and related violation hearings, post-conviction probation and related violation hearings, restitution orders and other sentencing alternatives:

FAIRFAX GENERAL DISTRICT COURT – COURT SERVICES SUPERVISION DATA				
Fiscal year	Total Days of Pretrial Supervised Release (SRP)	Average Daily Caseload of Pretrial Supervised Release (SRP)	Total Days of Probation Supervision (PRO)	Average Daily Caseload of Probation Supervision (PRO)
2009	69,056	189	239,496	656
2010	79,485	217	239,060	655
2011	77,411	212	226,099	619
2012	93,499	256	248,263	680
2013	94,131	257	272,341	746
2014	115,710	317	266,481	730
2015	125,458	343	282,371	774
2016	132,275	362	287,279	787
2017	179,892	492	278,432	763
2018	209,784	574	273,114	748

Consistent with the stated goals of Fairfax County, our court also dedicates a great deal of time and resources to the County’s Diversion First Initiative matters, as well as mental health supervision matters and a dedicated Veteran’s Treatment Docket. Understanding the vital importance of these matters, we will continue to administer justice as best as we are able. The nature of these case requires a significant expenditure of time and judicial resources. This time commitment and use of resources is inflexible. It also has required the recent addition of Friday afternoon dockets to handle the sharp increase in pretrial supervised release violations. Our concern is the simple reality that we are without the number of judges needed to fully insure our court’s continued ability to administer these matters. This is a concern that cannot be taken lightly.

Population

When our court added a tenth judge in 1990, the population of Fairfax County was 818,600. When our court was authorized an eleventh judge in 2005 (to commence in 2006), the County

population was 1,033,600. According to County statistics, the population of Fairfax County in 2017 was estimated to be 1,142,900. Surrounding counties, including Loudoun, Prince William and Stafford, have registered similar or larger growth, which impacts our caseload. Fairfax County's location and the existence of three major interstates within its borders make it a conduit for neighboring populations. This proves to be a major factor in our enormous traffic caseload.

Perhaps the most significant change in the area's demographics has been in the growth of the non-English speaking population. According to the County's racial/ethnic population statistics, the non-White percentage of residents has increased from 30.1% in 2000 to 38.1% in 2017. This has had a tremendous impact on our court. We provide interpreters for over 100 languages, including interpreters for defendants, witnesses, victims and plaintiffs. Obviously, when translation is required or the judge is speaking with a person who has a limited command of English, court proceedings must be slowed considerably to insure that all those appearing in court can understand and participate in the often challenging and confusing legal process. Lengthier hearings cannot be avoided. This is yet another factor that places an additional burden on our court's limited judicial resources.

UTILIZATION OF AN ADDITIONAL JUDGE

Assist the Traffic Docket

If an additional judge were to be authorized for the Fairfax General District Court, we would use this judge primarily to assist in managing the traffic caseload. Although our traffic dockets are more evenly divided than in the past, we still experience two or three, and sometimes four days each week with an extremely large number of scheduled cases. We often encounter the dilemma of too few judges hearing too many cases. An additional judge would enable us to reduce the caseload per judge and hear matters in a timely manner without one eye constantly on the clock. Morning and afternoon court sessions would no longer overlap and those coming before the court would experience less delay.

Assist the Civil Docket

In our court, the judge handling the civil return docket and the judge handling the civil trial docket work as a team. At the conclusion of the civil return docket, that judge then assists with any remaining civil trials. The size of the civil return docket is controlled by limiting the number of cases returnable to any given date by any attorney, law firm or party to insure that the civil return judge will finish in sufficient time to assist the civil trial judge. The number of civil trials set per day also is capped to insure that both judges are more likely to complete the court's civil dockets prior to the start of the afternoon dockets. When the court lost funding for the 11th judge, we initially tried to minimize the impact by reducing the number of civil trials set per day. When traffic dockets began to increasingly spill over into the afternoon dockets, we were

forced to eliminate the Wednesday civil trial docket and shift that judge to cover a traffic docket; Wednesdays historically are one of our heavier traffic caseload days. The reduction in the number of civil trials set per day and the elimination of one entire civil trial docket per week had the expected effect – a delay in available civil trial dates. Restoration of the 11th judge would allow us to go back to hearing civil trials on Wednesdays and bump up the number of civil trials set per day. Addition of a 12th judge would finally give us the flexibility to address the logjam caused by filing caps necessitated by our limited judicial resources. This additional judge would provide the flexibility to accommodate more civil filings by potentially lifting the filing caps and by further segmenting our civil return docket such that collection matters could be heard separately. The additional judge also would enable us to set aside more long civil trial dates to accommodate the growing number of those cases.

Assist the Criminal Docket

To accommodate caseload size, our court must run two criminal dockets every morning. With increasing frequency, the number of cases requires us to run a third criminal docket. To do so, a judge must be shifted from the traffic docket, leaving one less judge to handle those cases. The addition of a 12th judge would provide the flexibility necessary to handle docket fluctuations and permit us to staff the criminal dockets without having to divert resources away from the traffic docket.

Overflow Judge

This additional Judge would be used to handle overflow matters that cannot be handled timely within the regularly scheduled dockets. We refer to this as a “float” position and it is most often used for scheduling lengthy civil or criminal matters or assisting with dockets that run long. When we had the luxury of a float judge, lengthy civil and criminal trials could be scheduled for a day when it was determined that a float would be available. Because of our shortage of judges, those available trial dates have been severely limited and must be set farther out.

An additional judge would enable our court to set these cases sooner and provide necessary assistance for overflow matters from the civil, traffic and criminal dockets.

Flexibility

This additional judge would provide the Fairfax General District Court with the flexibility to deal with special or unusual circumstances. Flexibility is critical for our high-volume court because it is likely that a lengthy trial will occur or that dockets will run long. This is a weekly, if not daily occurrence. Courts need to be able to shift their judicial resources and move quickly to cover gaps created when a judge get “stuck.” For the most part, this flexibility has been lost in the Fairfax General District Court. Our judges are routinely tied up in heavy dockets and often are not available to assist each other. An additional judge would help to restore this lost flexibility.

SUMMARY

The Fairfax General District Court is requesting the authorization of an additional judge to assist in administering justice to all those having matters before the court.

The basis for this request is:

1. The heavy volume of cases in Fairfax, by far the largest in the Commonwealth;
2. The high average caseload per judge, currently 39% higher than the statewide average;
3. The lack of flexibility to be able to provide judge coverage as daily dockets require;
4. The growing length and complexity of cases, including cases with retained and court-appointed counsel, DUI cases and in particular, DUI blood cases, and long civil trials;
5. The increase in the County's population and particularly the tremendous growth in diversity, which impacts the length of time required for hearings before the court; and
6. The necessity of handling new diverse matters, including the need to add dedicated dockets, related to the County's Diversion First initiative, the Veteran's Treatment Docket, and pretrial violation hearings.

The court has developed a plan, as outlined in this request, for effectively utilizing an additional judge to assist with our dockets in order to decrease the caseload per judge and reduce delays to the public; handle overflow matters that cannot be administered timely within the regularly scheduled dockets; reduce the number of cases per courtroom; and help to restore the flexibility necessary to successfully manage the largest court in the Commonwealth of Virginia.

APPENDIX

1. Letter dated September 25, 2018 from Sharon Bulova, Chairman, Fairfax County Board of Supervisors;
2. Letter dated September 26, 2018 from Stacy A. Kincaid, Sheriff, Fairfax County Sheriff's Office;
3. Letter dated September 26, 2018 from Colonel Edwin C. Roessler, Jr. Chief of Police, Fairfax County Police Department;
4. Letter dated September 28, 2018 from the Hon. Raymond F. Morrogh, Commonwealth Attorney for Fairfax County;
5. Letter (undated) from Colin G. McDonald, Director, Court Services, Fairfax General District Court;
6. Letter (undated) from Christie A. Leary, Esquire, President, Fairfax Bar Association;
7. Letter dated September 27, 2018 from Brian C. Drummond, Esquire, Whitestone Young, P.C.;
8. Letter dated September 24, 2018 from David A. Hirsch, Esquire, The Myerson Law Group, P.C.;
9. Letter dated September 17, 2018 from Patrick M. Blanch, Esquire, Zinicola, Blanch & Overand, P.L.L.C.;
10. Letter dated September 28, 2018 from Dipti Pldikiti-Smith, Esquire, Deputy Director of Advocacy, Legal Services of Northern Virginia;
11. Letter dated October 1, 2018 from Dawn M. Butorac, Chief Public Defender, Office of the Public Defender for the City and County of Fairfax; and
12. Letter dated October 1, 2018 from Christopher Eric Barr, Clerk, Fairfax General District Court.



SHARON BULOVA
CHAIRMAN

COMMONWEALTH OF VIRGINIA
County of Fairfax
BOARD OF SUPERVISORS

SUITE 530
12000 GOVERNMENT CENTER PKWY
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE: 703/324-2321
FAX 703/324-3955
TTY 711

chairman@fairfaxcounty.gov

September 25, 2018

Committee on District Courts
c/o Mr. Karl Hade
Executive Secretary of the Supreme Court of Virginia
Office of the Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, Virginia 23219

Dear Mr. Hade:

On behalf of the Fairfax County Board of Supervisors, I am writing to you and the Committee on District Courts in support of the 19th General District Court's (GDC) request for authorization for a 12th judgeship.

As you know, the 19th GDC is an extremely busy court, having received more than 310,000 new cases in 2017, representing 11 percent of the statewide total GDC caseload. However, the caseload per judge continues to grow rapidly, raising significant concerns. Currently, the 19th GDC is authorized for 11 judges, though only 10 have been funded since 2016. In a bit of good news, the 2018 General Assembly's commitment to fund all judicial vacancies in FY 2020 is expected to result in the restoration of funding for the 11th judgeship; however, the 19th GDC needs 12 judges to achieve more appropriate workload levels. That need becomes clear when assessing recent annual statistics from the Supreme Court of Virginia. In 2017, the state average of case filings per GDC judge throughout the Commonwealth was 22,537 (excluding the 19th GDC), while each judge in the 19th GDC carried a filed caseload of 31,242, approximately 39 percent higher than the state average.

The 19th GDC is not only the busiest court in the state in overall cases, but it is also the busiest for new traffic cases, criminal cases, and driving under the influence (DUI). DUI cases provide an excellent example of the new challenges our court is facing, as changes in statutory and case law, along with the advent of cruiser videos and police body cameras, have all increased the complexity, discovery obligations, and proof requirements in these types of cases. As a result, these cases now run at least one hour per trial – if any judge receives more than one such trial per day, it is likely some cases on their docket will need to be shifted or reassigned to other judges; currently, each of our judges is hearing seven to eight DUIs per day, often creating long delays for other cases.

The 2017 Virginia Judicial Workload Assessment Final Report calculated the 19th GDC total need (TFE) at 12.07 judges, with a current workload per judge of 1.21. Because the 19th GDC only had funding for 10 judgeships at the time of the study, the rounding rule applied in the report ultimately led to the conclusion that a total of 11 funded judgeships was needed, instead of 12. The report includes a provision stating “courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that examines additional contextual factors affecting the need for judges.” Numerous contextual factors impact the 19th GDC judges’ workload, such as the complexity of cases, frequent use of interpreters necessitating more time to adjudicate cases (30 percent of the 19th District’s population is foreign-born, compared to 12 percent statewide), and increased number of individuals on pre-trial supervision and associated violation hearings, among others. Given these factors, the 19th GDC has an increasingly pressing need for a 12th authorized and funded judgeship (it is important to note that even if the 19th GDC had 13 judges, our caseload per judge would remain above the state average).

Perhaps more importantly, our judicial system must provide all individuals an equal opportunity to seek justice. When court dockets are extremely overburdened, the need to move through cases quickly may begin to take precedence over fully examining the elements of each case, leading to potentially dire consequences. In fact, it is often the case that seeking justice demands additional time. For example, in recent years Fairfax County has implemented a Diversion First initiative, which offers alternatives to incarceration for people with mental illness or developmental disabilities who come into contact with the criminal justice system for low-level offenses. The goal is to intercede whenever possible to provide assessment, treatment or needed supports. People needing diversion may also have a substance use disorder, which often co-occurs with mental illness. The 19th GDC typically handles the arraignment of such cases, which initially may take longer in court, but dedicating extra time to determine appropriate services provides significant long-term benefits to affected individuals, the court system and the community. Additionally, the 19th GDC has seen an increase in the prevalence of attorneys on all dockets – while that may slow the speed of cases, it also helps ensure that individuals involved in court proceedings are better equipped to navigate the justice system. Expediency cannot be a priority when such vital, life-altering decisions are being made, so it is essential for judges to have reasonable caseloads that allow justice to remain the top priority. Adding a 12th judge to the 19th GDC will help ensure that is possible.

Unfortunately, the underfunding of the judiciary has become an increasingly critical problem in Virginia, placing additional burdens on localities and the judicial system. Though the 2018 GA’s commitment to fund all authorized judgeships in FY 2020 is a step in the right direction, the court system continues to feel the effects of budget-related actions in recent years, straining the ability of the courts to administer justice efficiently while managing a large volume of cases – providing sufficient funding for judgeships, as well as for the salaries of court personnel, is a critical state responsibility.

Committee on District Courts and Mr. Karl Hade
September 25, 2018
Page 3 of 3

Thank you for your time and attention to this important issue. We look forward to working with you and other members of the General Assembly in years to come to ensure adequate funding for our judiciary.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Bulova". The signature is fluid and cursive, with a large initial "S" and "B".

Sharon Bulova
Chairman, Fairfax County Board of Supervisors

cc: Members, Fairfax County Board of Supervisors
Members, Fairfax County Delegation to the General Assembly
The Honorable Lisa Mayne, Chief Judge, 19th Judicial District
Bryan J. Hill, County Executive
Elizabeth Teare, County Attorney
Claudia Arko, Legislative Director



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 26, 2018

Stacey A. Kincaid
Sheriff

Lieutenant Colonel
Kevin B. Andariese
Chief Deputy of
Administration

Lieutenant Colonel
Mark W. Sites
Chief Deputy of
Operations

Accredited by:

American Correctional
Association

National Commission on
Correctional Health Care

Virginia Department
of Corrections

Virginia Law Enforcement
Professional Standards
Commission

Karl Hade, Executive Secretary
Office of the Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, Virginia 23219

Dear Mr. Hade:

On behalf of the Fairfax County Sheriff's Office, I am writing this letter in support of the request submitted by the Fairfax County General District Court for authorization of a 12th judge.

Fairfax County's General District Court handles the largest caseload of any other court in the Commonwealth of Virginia. Just last year, there were over 312,000 new cases initiated, which represents over 11% of the Commonwealth's total general district court caseload. The state average of case filings per judge in 2017 was 23,257. The Fairfax General District Court handled 31,242 new cases per judge in 2017, which is 39% higher than the state average.

General District Court also handles the most new traffic, criminal and DUI cases. The number of DUI cases in Fairfax rose over 16% in the past year. This increase translates into numerous DUI cases per courtroom per day, with an average DUI case taking at least one hour to try. If more than one goes to trial (a frequent occurrence), that docket will extend into the afternoon and overlap with the regularly scheduled 2:00 pm dockets. This forces shifting or reassigning judges and deputies, and/or combining dockets, which results in delays to those appearing in court for both the morning and afternoon dockets. Police officers are forced to wait, while they could be out on the streets. My deputies are working more overtime hours to ensure the security of the courtroom and Courthouse.

Effective July 1, 2011, the General Assembly increased the jurisdictional limit for General District Courts from \$15,000 to \$25,000, which has resulted in an increase in more extensive trials. Consequently, the court is now requiring that all trials that need more than 2 hours must be specially set. The number of such trials has increased from 8 in 2011 to 63 in 2017.

Fairfax County Sheriff's Office
Sheriff Stacey A. Kincaid
4110 Chain Bridge Road, Suite 217
Fairfax, VA 22030
703-246-3260



More recently, the court has begun dedicating a great deal of time to the County's Diversion First Initiative, mental health supervision matters, and has developed a Veterans Treatment Docket. Also, the increase in defendants placed on Supervised Release pending trial has resulted in the addition of Friday afternoon dockets to address supervised release violations. These specialty dockets provide many benefits to our community by decreasing recidivism and addressing root causes of crime, while saving the county money on jail space, and reducing government liability for incidents involving the mentally ill in jail.

The General District Court judges have been spread thin managing these new obligations while hearing a larger volume of cases. As a stakeholder interested the efficiency of our courts, I respectfully request the authorization of a 12th judge.

Thank you for your consideration and attention to this important issue.

Sincerely,



Stacey A. Kincaid
Sheriff

Cc: Chief Judge Lisa Mayne, Fairfax County General District Court

Fairfax County Sheriff's Office
Sheriff Stacey A. Kincaid
4110 Chain Bridge Road, Suite 217
Fairfax, VA 22030
703-246-3260





County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

Colonel
Edwin C. Roessler Jr.
Chief of Police

September 26, 2018

Committee on District Courts
c/o Mr. Karl Hade
Executive Secretary of the Supreme Court of Virginia
Office of the Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, Virginia 23219

Dear Mr. Hade:

On behalf of the Fairfax County Police Department, I am writing to you and the Committee on District Courts in support of the 19th General District Court's (GDC) request for authorization for a 12th judgeship.

As you know, the 19th GDC is an extremely busy court, having received more than 310,000 new cases in 2017, representing 11 percent of the statewide total GDC caseload. However, the caseload per judge continues to grow rapidly, raising significant concerns. Currently, the 19th GDC is authorized for 11 judges, though only 10 have been funded since 2016. In a bit of good news, the 2018 General Assembly's commitment to fund all judicial vacancies in FY 2020 is expected to result in the restoration of funding for the 11th judgeship; however, the 19th GDC needs 12 judges to achieve more appropriate workload levels. That need becomes clear when assessing recent annual statistics from the Supreme Court of Virginia. In 2017, the state average of case filings per GDC judge throughout the Commonwealth was 22,537 (excluding the 19th GDC), while each judge in the 19th GDC carried a filed caseload of 31,242, approximately 39 percent higher than the state average.

The 19th GDC is not only the busiest court in the state in overall cases, but it is also the busiest for new traffic cases, criminal cases, and driving under the influence (DUI). DUI cases provide an excellent example of the new challenges our court is facing, as changes in statutory and case law, along with the advent of cruiser videos and police body cameras, have all increased the complexity, discovery obligations, and proof requirements in these types of cases. As a result, these cases now run at least one hour per trial – if any judge receives more than one such trial per day, it is likely some cases on their docket will need to be shifted or reassigned to other judges; currently, each of our judges is hearing seven to eight DUIs per day, often creating long delays for other cases.

Fairfax County Police Department
12099 Government Center Parkway
Fairfax, Virginia 22035
703-246-2195, TTY 711
Facsimile 703-246-3876
www.fairfaxcounty.gov



The 2017 Virginia Judicial Workload Assessment Final Report calculated the 19th GDC total need (TFE) at 12.07 judges, with a current workload per judge of 1.21.

Because the 19th GDC only had funding for 10 judgeships at the time of the study, the rounding rule applied in the report ultimately led to the conclusion that a total of 11 funded judgeships was needed, instead of 12. The report includes a provision stating, "courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that examines additional contextual factors affecting the need for judges." Numerous contextual factors impact the 19th GDC judges' workload, such as the complexity of cases, frequent use of interpreters necessitating more time to adjudicate cases (30 percent of the 19th District's population is foreign-born, compared to 12 percent statewide), and increased number of individuals on pre-trial supervision and associated violation hearings, among others. Given these factors, the 19th GDC has an increasingly pressing need for a 12th authorized and funded judgeship (it is important to note that even if the 19th GDC had 13 judges, our caseload per judge would remain above the state average).

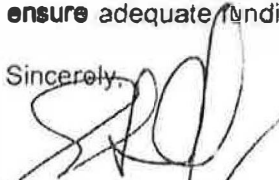
Perhaps more importantly, our judicial system must provide all individuals an equal opportunity to seek justice. When court dockets are extremely overburdened, the need to move through cases quickly may begin to take precedence over fully examining the elements of each case, leading to potentially dire consequences. In fact, it is often the case that seeking justice demands additional time. For example, in recent years Fairfax County has implemented a Diversion First initiative, which offers alternatives to incarceration for people with mental illness or developmental disabilities who come into contact with the criminal justice system for low-level offenses. The goal is to intercede whenever possible to provide assessment, treatment or needed supports. People needing diversion may also have a substance use disorder, which often co-occurs with mental illness. The 19th GDC typically handles the arraignment of such cases, which initially may take longer in court, but dedicating extra time to determine appropriate services provides significant long-term benefits to affected individuals, the court system and the community. Additionally, the 19th GDC has seen an increase in the prevalence of attorneys on all dockets – while that may slow the speed of cases, it also helps ensure that individuals involved in court proceedings are better equipped to navigate the justice system. Expediency cannot be a priority when such vital, life-altering decisions are being made, so it is essential for judges to have reasonable caseloads that allow justice to remain the top priority. Adding a 12th judge to the 19th GDC will help ensure that is possible.

Unfortunately, the underfunding of the judiciary has become an increasingly critical problem in Virginia, placing additional burdens on localities and the judicial system. Though the 2018 GA's commitment to fund all authorized judgeships in FY 2020 is a step in the right direction, the court system continues to feel the effects of budget-related actions in recent years, straining the ability of the courts to administer justice efficiently while managing a large volume of cases – providing sufficient funding for judgeships, as well as for the salaries of court personnel, is a critical state responsibility.

Mr. Karl Hade
September 28, 2018
Page 3

Thank you for your time and attention to this important issue. I look forward to working with you and other members of the General Assembly in years to come to ensure adequate funding for our judiciary.

Sincerely,



Edwin C. Roessler Jr., Colonel
Chief of Police

cc: The Honorable Lisa Mayne, Chief Judge, 19th Judicial District
Claudia Arko, Legislative Director

Commonwealth of Virginia

COUNTY OF FAIRFAX

4110 CHAIN BRIDGE ROAD, ROOM 114

FAIRFAX, VIRGINIA 22030-4047

RAYMOND F. MORROGH
COMMONWEALTHS ATTORNEY
CASEY M. LINGAN
CHIEF DEPUTY COMMONWEALTHS ATTORNEY
KATHERINE E. STOTT
DEPUTY COMMONWEALTHS ATTORNEY
ROBERT D. McCLAIN
DEPUTY COMMONWEALTHS ATTORNEY
703-246-2776

JOHN J. MURRAY
GREGORY O. HOLT
KATHRYN A. PAVLUCHUK
BRANDON R. SHAPIRO
MARK J. SULLIVAN
J. DAVID GARDY
MICHAEL M. GROMOSAIK
JESSICA L. GREIS EDWARDSON
LAURA A. RIDDLEBARGER
GEORGE L. FREEMAN, IV
MARIN B. HOPLAMAZIAN
JAMIE S. HILES
RACHEL M. ROBERTS
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CHANTAL N. CORRIGAN
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MEGHAN E. FLESCH
KEITH J. MINSON
JOHN C. BLANCHARD
BRIDGET A. CORRIDON
RAMMY G. BARBARI
ASSISTANTS

September 28, 2018

Committee on District Courts
c/o Karl Hade, Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, VA 23219

Re: Fairfax County General District Court request for 12th Judge

Dear Mr. Hade,

I am writing in support of the Fairfax County General District Court's request for authorization for a 12th General District Court Judge.

The caseload for the Fairfax County General District Court and my Assistant Commonwealth's Attorneys has been among the heaviest of any court in the Commonwealth for many years. I can attest that over the past few years, the number of Driving while Intoxicated cases has risen, and because of changes in statutory and case law, along with the use of in-car videos and body-worn cameras by police departments, the duration of each DWI trial has greatly increased. This lengthening of the duration of trials set on the morning docket leads to a judge and a prosecutor being unavailable to handle their assigned afternoon felony preliminary hearing docket.

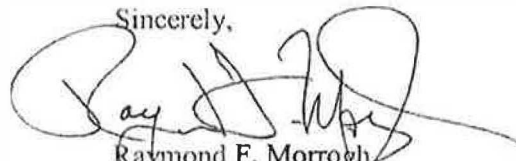
In addition, the diversity of Fairfax County leads to the necessity of language interpreters for defendants and witnesses during court hearings. This requirement adds time to each trial in which it is essential, which in turn, lengthens the morning dockets as a whole. In addition to our morning dockets Monday through Friday, and afternoon preliminary hearing dockets Monday through Wednesday, our General District Court has also added several specialized dockets that must be staffed by a prosecutor and a Judge. We have a Veterans Treatment Court Docket that meets Thursday afternoons, and a Friday afternoon docket to address violations of those released

into the supervised release program. On its own, these additional dockets warrant an additional General District Court Judge. In addition, the morning dockets running over into the afternoon for the above-stated reasons interferes with the General District Court's ability to staff these dockets.

It is important that each case on a General District Court docket be given sufficient time and attention for the Judge to properly hear both parties and consider the issues involved. In addition, cases should be able to be docketed in a timely fashion so that matters can be heard in a sensible time frame; having cases pushed off onto later calendar dates is not a remedy that promotes swift and just resolution of cases.

In sum, I support the Fairfax County General District Court's request for authorization for a 12th General District Court Judge.

Sincerely,



Raymond F. Morrogh
Commonwealth's Attorney

Commonwealth of Virginia



CIVIL DIVISION
246.012
CRIMINAL DIVISION
246.3305

TRAFFIC DIVISION
352-1912
SMALL CLAIMS DIVISION
246-2115
COURT SERVICES DIVISION
246.3045

19th JUDICIAL DISTRICT OF VIRGINIA
FAIRFAX COUNTY GENERAL DISTRICT COURT
4110 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030

To whom it may concern.

I'm writing this letter to express my support for a twelfth judge for the Fairfax County General District Court. It is my understanding that in 2017, the Virginia judicial workload assessment indicated that the 19th District GDC should have slightly over 12 judges; however, due to various rounding factors, only 11 were authorized. As the Director of the General District Court's, Court Services Division, I can attest to the critical need to fill the current vacancy for our 11th judge and the authorization of a 12th. While I'm certain the 2017 study effectively utilized general statistical data to determine judicial need and workload, I feel there may be some factors that are unique or have a disproportionate impact on this jurisdiction that may not have been taken into consideration. Fairfax is the only jurisdiction of its' size in Virginia making some statistical comparisons difficult, at the local level we have implemented the Diversion First Initiative and the Veteran's Treatment Docket, we have a highly effective DWI specialty task force in our police department, we have the largest pretrial release program in the state and our jurisdiction has the state's largest population of people whose primary language is not English.

Fairfax's pretrial supervision caseload has increased by 81% in the last five years and in excess of 200% in the last decade. This enormous increase is due in large part to the implementation of Diversion First. While this mental health initiative has been a huge success, it has placed a large number of high needs defendants on supervision, necessitating the need to create a docket for the sole purpose of hearing pretrial violations. This docket is highly effective at hearing alleged pretrial violations in a timely fashion; however, it is an additional strain on an already overloaded judiciary. Additionally, Fairfax County is home to a disproportionately large number of veterans. To meet the specific needs of our veteran population, we have the Veteran's Treatment Docket designed for our veteran population involved in the criminal justice system, adding an additional level of complexity to Fairfax's dockets.

In 2016, our local police department launched their DWI enforcement squad with great success. The implementation of this task force has resulted in an increase in DWI arrests in Fairfax County at a time when the rest of the state has seen a drop in this category. Proactive DWI enforcement is a highly effective way to improve public safety and is strongly supported at the local level; however, the resulting increase in these lengthy trials have been one of the primary drivers behind our time-consuming traffic dockets.

Fairfax County is the most populous jurisdiction in Virginia, but it is noteworthy that approximately one third of our residents are not native English speakers. Fairfax General District Court utilizes foreign language interpreters at a rate unparalleled anywhere else in the state. The use of interpreters adds a significant amount of time to each case in which they are used as well as the degree of difficulty added with regards to the actual functioning of the court overall. Often, an interpreter will be used for multiple cases in different court rooms, or multiple interpreters will be used on a single case when the defendants, victims and witnesses speak different languages, or a scheduling issue with an exotic language creates a problem. These are all factors that impact our court on a regular basis.

I respectfully ask that Fairfax's need for a twelfth judge be re-evaluated with the aforementioned factors taken into consideration.



Colin G. McDonald
Director, Court Services
Fairfax County General District Court

 **FAIRFAX BAR**
ASSOCIATION

Serving the Northern Virginia Legal Community

4110 CHAIN BRIDGE ROAD, SUITE 216, FAIRFAX, VIRGINIA, 22030-4009 • 703-246-2740 • FAX: 703-273-1274
www.fairfaxbar.org • E-mail: fba@fairfaxbar.org

2018-2019 OFFICERS

PRESIDENT

CHRISTIE A. LEARY
Law Offices of Christie A. Leary, P.C.
10505 Judicial Drive, Suite 208
Fairfax, VA 22030
703-459-7111
christie.leary@leary-law.com

PRESIDENT-ELECT

LUIS A. PEREZ
Luis A. Perez, P.C.
5681 Leesburg Pike, Suite 80
Falls Church, VA 22041
703-951-8804
obhg201p@gmail.com

VICE PRESIDENT

DONNA R. BANKS
Fairfax County Attorney's Office
17000 Government Center Parkway
Suite 549
Fairfax, VA 22035
703-224-4423
donna.banks@fairfaxcounty.gov

IMMEDIATE PAST PRESIDENT

THOMAS W. REPCZYNSKI
Dina Korman P.C.
8000 Towers Crescent Drive, Suite 1500
Tysons Corner, VA 22182
703-799-1800
trepczynski@dina.com

TREASURER

RICHARD F. GIBBONS, JR.
8861 Plaza Drive
Fairfax, VA 22030
571-431-0100
rfg@rfav.com

SECRETARY

JOHN A. KASSABIAN
Kassabian & Kassabian, P.C.
4201 Annandale Road
Annandale, VA 22028
703-780-9612
john.kassabian@kassabian.com

GENERAL COUNSEL

AARON J. CHRISTOFF
Law Office of Aaron Christoff, PLLC
526 King Street, Suite 506
Alexandria, VA 22314
703-871-0282
aaron@christofflawfirm.com

DIRECTORS

LACEY ULLMAN CONN
JOSEPH B. DAILEY
KARA LEE
GINA L. MARINE
MATTHEW C. PERUSHEK
K. LEIGH TAYLOR
ELANNA D. WEINSTEIN
ROBERT M. WORSTER, III

EXECUTIVE DIRECTOR

COURTNIÉ L. NORRIS

Karl Hade
Executive Secretary
Office of the Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, Virginia 23219

Re: Letter of Support
19th Judicial Circuit – Fairfax County General District Court
Request for Authorization for Additional Judge

Dear Mr. Hade:

On behalf of the Fairfax Bar Association (FBA), I write in support of the Request for Authorization for an Additional Judge by our Fairfax County General District Court (GDC). The FBA is comprised of over 2000 members throughout Northern Virginia and is the largest local bar association in the Commonwealth of Virginia. Our members regularly practice before the GDC and the FBA maintains a close working relationship with the GDC through our sections and committees. Through this relationship, we understand and have first-hand knowledge and experience with the challenges facing the GDC bench who manages the largest caseload of any court in the Commonwealth. In addition, the number of new cases handled by the GDC continues to grow year over year. Ample support exists for the authorization of an additional GDC judge from the recently completed weighted Caseload Study of Virginia Courts and the increasing complexity and number of GDC cases brought on by changes in the law and evidence.

As you know, a weighted Caseload Study of Virginia's judicial needs conducted by the National Center for State Courts identified the GDC caseload in 2017 as qualifying for 12.07 judges before a rounding formula was applied. This number reflects a study of the number of authorized judges weighted against the number of cases handled in the jurisdiction.

Fairfax County continues to grow in population. This steady increase in the number of people within our jurisdiction is reflected in the continuing increase in the types of cases which originate in our courts. A review of caseload across the Commonwealth shows that Fairfax County has the largest caseload of any other jurisdiction both overall and by specific types of cases. If authorized for an additional judge, the sheer volume of new cases when spread out across additional judges would still place Fairfax with the heaviest load with not only one but two additional judges added.

Beyond the mere number of cases handled by the GDC warranting an additional position, changes in the law and evidentiary issues have increased the complexity of cases handled in the GDC. This increased complexity in Civil cases has arisen from longer trials with an increase in the jurisdictional amount permitted to be litigated in GDC. With regard to DUI trials, the advent of cruiser videos, body cam videos, the necessity for scientific testimony from members of the Department of Forensic Science and drug recognition experts expand the length and focus of a DUI trial. This expansion leads to docket overflows which the GDC currently does not have the manpower to adequately handle. Finally, the increase in Supervised Release Program (SRP) Placements has yielded an increase in probation violations necessitating the establishment of a separate docket to address the volume of these matters.

An additional judge would permit the GDC more flexibility to manage a substantial docket and provide more efficiencies to handle overflow and lengthy cases.

We respectfully request that the GDC be authorized for an additional judgeship. Thank you for your consideration and should you have any questions, please let me know.

Sincerely,



Christie A. Leary, Esq.
President



ROBERT C. WHITESTONE
LINDSEY M. YOUNG
EMANUEL D. JOHNSON
HUNTER A. WHITESTONE
JUSTIN DANIEL

ATTORNEYS AT LAW
SUITE 300
10513 JUDICIAL DRIVE
FAIRFAX, VIRGINIA 22030
wbymlaw.com
(703) 591-0200

JONATHAN T. WORKWARD
TIFFANY DEAN GIBSON
ZACHARY A. DEUBLES
* ALSO ADMITTED TO D.C. BAR

September 27, 2018

Committee on District Courts
c/o Karl Hade Executive Secretary
Supreme Court of Virginia
100 N. Ninth Street
Richmond, VA 23219

In RE: Fairfax GDC additional judgeship

Dear Secretary Hade:

"Justice delayed is justice denied." There are conflicting authorities on the author of that statement, but its truth is resolute. A person seeking legal redress who suffers unnecessary delay in the process is ultimately denied true justice.

In the Fairfax County General District Court, too many citizens of the Commonwealth are now routinely denied justice, for the simple fact that we do not have enough judges. The statistics are clear, and irrefutable. The last time Fairfax was awarded an additional judgeship was 2006. Not 2016--**2006**.

Given that the population of Fairfax County has increased 15% since 2006, one would expect a 15% increase in judgeships. Or 10%. We have had 0%.

This alone warrants two, maybe even three additional judgeships. We are asking for one.

Many other factors have increased the workload on our GDC judges. In 2011, the legislature added jurisdiction over civil protective orders, AND increased the GDC civil filing limit from \$15,000 to \$25,000. I know from personal experience that this allows my clients to avoid Circuit Court costs and discovery, and get a trial date sooner, and with less legal wrangling. That is, if they can get a trial date within a reasonable time frame.

The criminal/traffic dockets have increased dramatically as well, due to the increased population on our already crowded roads, increased DUI task force patrols, the

use of dashboard/body cams on officers, and the confrontation right of defendants to cross-examine breath/blood techs on their scientific evaluations.

These few significant changes have changed the landscape of legal procedure in Fairfax County (and that is just scratching the surface of the problems). It can take months longer to get a trial date in civil court, much longer than anywhere else in the Commonwealth, and with a greater volume of cases to be decided by an already overworked bench.

People charged with crimes often sit in jail for longer than the statutory *maximum* of the crime for which they are charged, and they haven't had their hearing. Ultimately guilty defendants out on bond are free to do what they will, until the court can finally bring them to justice.

Traffic dockets often run from their 9:30 start to well into the afternoon, disrupting the preliminary hearing dockets, causing a shift in judges, resulting in an even heavier caseload for the all-important probable cause hearings.

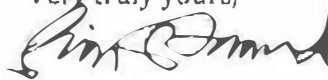
From my perspective, with 30 years of practice in these courts, watching our judges tackle these dockets every day, I am amazed that we are still afloat.

We can clearly make the case for 2 or even 3 new judgeships, and their approval would be not only justified, but necessary. What we are asking for is the bare minimum to keep our system from backsliding into chaos.

Thankfully we have brilliant, dedicated judges who spend an inordinate amount of time just trying to manage these overwhelming numbers, without enough colleagues to lighten the load.

We come to you with the numbers. We present to you the facts. We ask for your help. Please let us avoid the travesty of denied justice.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian C. Drummond". The signature is fluid and cursive, with the first name "Brian" being the most prominent part.

Brian C. Drummond

The Myerson Law Group, P.C.

Suite 100
11860 Sunrise Valley Drive
Reston, Virginia 20191

JAY B. MYERSON

ELANNA D. WEINSTEIN
MEENAKSHI H. RAJAN
MALIKA ELKETTANI
LYDIA LAWSON BURNETT

Telephone: (703) 715-9600
Facsimile: (703) 715-2230

DAVID A. HIRSCH
Of Counsel
dhirsch@myersonlaw.net

September 24, 2018

Karl R. Hade, Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, Virginia 23219

Re: Committee on District Courts

Dear Mr. Hade,

I am writing to support the Fairfax County General District Court's effort to secure authorization and funding for a twelfth judge. The most recent weighted case study commissioned by the Virginia General Assembly showed that our ten judges are currently performing the work of twelve judges. Our Court's traffic dockets and criminal dockets are the Commonwealth's busiest by at least a factor of two.

Over the past ten to fifteen years, a number of factors beyond the Court's control have led to this vastly increased workload. One is the increase in population to over 1.1 million people. This is tantamount to having one judge for every 110,000 people. On the civil side of the docket, the inability to remove civil cases to Circuit Court combined with the increase in jurisdictional authority to \$25,000.00 has led to an increasing number of long civil trials, from two hours to an entire day, being filed and heard in the General District Court. Adding to the civil docket is the fairly recent addition of protective order cases. That has created its own docket with very tight statutory turn-around limits.

On the traffic and criminal side, the steady increase of penalties and consequences combined with adding dashcam video and bodycam video, has increased both the complexity and length of DWI/DUI trials. Given the serious consequences, more cases are now going to trial. Decisions of the United States Supreme Court have made blood docket cases even more complex. The result in Fairfax for the blood docket cases is increasingly long times between charge and trial. Not only does this not well serve the public, but it also increases the anxiety of those persons facing such charges. Unless one has personally been a litigant, whether civil, traffic, or criminal, it is impossible to adequately describe the stress that process causes.

Karl R. Hade, Executive Secretary
Supreme Court of Virginia
September 24, 2018
Page 2

Other increases to the traffic and criminal dockets have resulted from the opening of Metro Silver line stations in the County, with more coming soon, plus the expansion of HOT lanes and Toll Roads on highways passing through the County: Dulles Toll Road, I-66, I-395, I-95 and I-495. We now must hold special dockets just to process Toll Road cases and HOT lane cases. Again, what at first blush appears fairly simple is not always the case. You may recall recent litigation a few years ago that raised significant constitutional law issues in these cases. Once again, that complexity slows the docket.

Another unique aspect to our Court is that on a weekly basis, one of our Judges is assigned four days a week to preside over traffic dockets in the Town of Vienna, the City of Fairfax, and the Town of Herndon. This leaves nine sitting judges to deal with the rest of the docket in the County courthouse. Only Arlington County has anything similar with one judge being sent once a week to hear cases in the City of Falls Church. Respectfully, Arlington's docket volume is dwarfed by that of Fairfax County.

All of the above has led to serious delays in the General District Court. As stated above, DWI/DUI blood docket cases are being increasingly scheduled at late dates. Civil trials of two hours or more can take now almost a half year or more before a trial date is open. Due to having to balance a lack of judges with an increasing docket, a docket which is increasingly being taken over by the volume and complexity of traffic cases, the Court has now had to stop scheduling *any* civil trials on Wednesdays. Fridays are reserved for landlord-tenant cases and small claims cases. This now means that civil trials can only be heard Mondays, Tuesdays, and Thursdays.

How does that impact us? Let me give you a concrete example. I represent a business being sued in the Fairfax County General District Court by a customer. Our trial date was originally February 28, 2018. We had to wait at least two hours for a judge to become available. Once that occurred, we began the trial but one-and-a-half hours into the trial, the judge stopped the trial and apologized. The judge explained that we were out of time because he had to start a preliminary hearing docket and did not have either sufficient time to finish our case or another judge to take over the preliminary hearing docket assigned to him. The judge declared a mistrial and gave us a new trial date, which was April 27, 2018.

We appeared for trial April 27, 2018 and the plaintiff non-suited. The plaintiff then re-filed the lawsuit. Our first return date (scheduling hearing) was July 3, 2018. Because this was deemed a long trial, we had to go on a long trial date. We could not get that trial date until February 19, 2019. All pleadings have now been filed in the matter, so the parties must now sit and await resolution for another six months. If tried as presently scheduled, that will be approximately one year after we first began to try the case. The economic cost and business disruption cost to my client has not been insignificant.

Karl R. Hade, Executive Secretary
Supreme Court of Virginia
September 24, 2018
Page 3

Justice delayed *is in fact* justice denied. Justice delayed does in fact have a negative economic impact upon County residents and businesses. Justice delayed does in fact have a negative emotional impact upon County residents and businesses. The Fairfax County General District Court has a docket that rivals major cities in size and complexity. Ten judges simply do not suffice to deliver justice in a timely and economic fashion. As evident from the judicial caseload study, twelve judges are in fact needed. That study did not factor in the new developments discussed above, such as expansion of Toll Roads, expansion of HOT lanes, and expansion of Metro's Silver line through the County.

For all these reasons, I respectfully request that the Committee on District Courts grants authorization and funding for a twelfth judge for our Court. My thanks to you and to the Committee for your attention and consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. Hirsch", with a long, sweeping flourish extending to the right.

David A. Hirsch



4085 CHAIN BRIDGE ROAD
SUITE 302
FAIRFAX, VIRGINIA 22030
P: 703-934-8580
F: 703-934-8583
WWW.ZBOLEGAL.COM

September 17, 2018

ATTN: Karl R. Hade, Executive Secretary

RE: Committee on District Courts – Need for additional General District Court Judges in Fairfax County

Dear Mr. Hade,

It is my understanding that the Fairfax County General District Court (Fairfax GDC) has asked the Committee on District Courts to consider authorizing a 12th judge. I write in support of the Court's request. My perspective comes from 12 years of practicing criminal and traffic defense in Fairfax GDC. My firm has offices in Fairfax and Leesburg, and our practice requires each of the three partners at my firm to appear, on average, about 4 times a week in Fairfax GDC. It is my hope that sharing our observations will provide context to the Court's presentation and request.

Fairfax GDC's bench was last increased in 2006, when an 11th judge was authorized. That judgeship was funded in 2007. The size of the Court has fluctuated between 10 and 11 judges since 2006. Presently, 10 judges are funded in Fairfax GDC. Since 2006, a multitude of factors have combined to increase the size of GDC dockets. Among them are:

1. Population Growth (Fairfax County has grown 15% since 2006, from 998,841 to 1,148,433; this alone would seem to merit an increase);
2. In 2011, the General Assembly added jurisdiction over civil protective orders. The hearings for these cases can take a full day in some cases, and are often several hours. They are also a major strain on the clerk's office as they are typically filed by unrepresented litigants.

3. Also in 2011, the General Assembly increased the jurisdictional limit for civil cases in GDC from \$15,000 to \$25,000. This change added more cases to the Court's docket involving larger sums and correspondingly longer trials.
4. In 2010, the General Assembly amended the DWI statute to comply with decisions of the United States Supreme Court and the Court of Appeals of Virginia to require that breath and blood alcohol content analysts appear at trial to testify. The required testimony of these expert scientific witnesses adds significant additional time to the average DWI trial. Also, in most counties, cases involving blood tests (rather than breath tests) must be specially docketed because the lab personnel must appear in so many jurisdictions for trial.
5. Many trials, including most DWI trials, now involve police cruiser or bodycam video which routinely add an hour or more to a trial if one of the parties wishes to show the video to the judge at trial. None of these videos existed in Fairfax County in 2006. I would estimate that these two changes have probably added about 60 minutes to the length of a typical DWI trial since 2006. Fairfax has the highest rate of DWI arrests in Virginia.
6. The General Assembly approved HOT Lanes toll roads in Fairfax County which have grown to cover I-66, I-95, I-495, and I-395 within the confines of Fairfax County. The toll violations from these cases, which involve a private toll vender, must be specially docketed and involve thousands of cases per year that did not previously exist.
7. Fairfax GDC has created special dockets for military veterans and the mentally ill to divert those individual into treatment programs and out of jail. These dockets have many virtues: they provide special attention to individuals who are owed special attention, they save the county money on jail space, they reduce government liability for incidents involving the mentally ill in jail, and they reduce recidivism by addressing root causes of crime. However,

to properly do a judge's job of protecting and serving the community, time and attention are required.

Fairfax GDC does an incredible job of shouldering these new obligations with the same (and often fewer judges) than it had in 2006. But this is no longer sustainable. Dockets run longer and longer. Civil cases especially are pushed far into the future. Long dockets prevent the police from being on the streets. Delayed trials cause guilty defendants to remain in the community for longer periods before trial and appropriate justice. Delayed trials cause innocent defendants held without bond to sit in jail longer before they receive justice and freedom, usually for months and sometimes for years. Delay in a civil case often means no recovery at all for a loss.

In order to provide effective justice for the people of Fairfax County, the Court must be larger than it was 12 years ago. Thank you for considering the Court's request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick M. Blanch', written over a light blue horizontal line.

Patrick M. Blanch, Esq.
Zinicola, Blanch & Overand, PLLC



Opening Doors to Justice

September 28, 2018

Attn: Karl R. Hade, Executive Secretary

Re: Committee on District Courts: Fairfax General District Court, Request for Authorization for an Additional Judge

Dear Mr. Hade,

The Fairfax County General District Court submitted a request for authorization of a twelfth Judge. Legal Services of Northern Virginia (LSNV) is a non-profit law firm that receives federal funds and is subject to federal regulations that limit its ability to comment on funding proposal. While LSNV may not comment on any funding request, LSNV may share observations about operations of the Fairfax General District Court (Fairfax County GDC) and the impact of the GDC's policies and procedures on our clients. An additional twelfth Judge on the Fairfax County GDC will help maintain the high efficiency and quality of service being provided to litigants before the Court.

LSNV provides legal services to low-income, elderly, and disabled individuals in Northern Virginia. LSNV has seven offices and the central office is located in Fairfax County. Last year, the Fairfax Office closed 2,286 cases impacting 5,604 people and provided services to 683 clients in need of interpreter services. The organization also has a satellite outreach office in the Fairfax County Courthouse itself so that staff is accessible to the community and can provide information, advice and counsel or legal representation. Each year, the Fairfax Office handles the highest volume of cases than any other LSNV office and the attorney routinely appear in Fairfax County GDC.

The average number of case filings per general district court was 23,257 in 2017. The same year, Fairfax GDC handled 31,242 new cases per judge, 39% higher than state average. The heavy caseloads impact the dockets and delay final adjudication. The volume of criminal and traffic cases is particularly high in Fairfax. The number of judges is one scarce resource that limits the Court's options to manager the higher criminal and traffic caseload and as a result, the Fairfax GDC eliminated the Wednesday civil trial docket. This has had a significant impact on the civil practice. There are fewer dates available for civil trials causing backlogs and long wait times for adjudication. Currently, the wait time for a civil trial dates is approximately 137 days.

Compounding the demands on the Court is the increasing length of trials. Fairfax is a wonderfully diverse jurisdiction. The area has seen a growth in the non-English speaking population. LSNV regularly works with clients with limited English proficiency. We know experience from that a case that involves an interpreter can double the time necessary to resolve a case and add another layer of procedural complication. To overcome language barriers and to ensure all court participants understand court proceedings, the Court must provide interpreters

for individuals with limited English proficiency for over 100 languages. Language access is an essential access to the Court's function, and it takes time. Interpretation time and ensuring language comprehension results in longer hearings.

In most civil cases there is no right to counsel. In cases involving pro se parties, the Court must balance competing requirements under the judicial canons of ethics including remaining impartial while ensuring that each person is provided an opportunity to be heard according to the law. These obligations, in addition to having a high case load and maintaining an efficient docket can create a strain on the court system and the litigants. The *Virginia Self-Represented Litigants Study* conducted by the National Center for State Courts (NCSC) revealed that both sides are represented in only 2% of civil cases in Fairfax GDC. In 70% of cases of the cases only the Plaintiff was represented by counsel. This means a clear majority of civil cases before the Fairfax GDC at least one party is pro se. Legal aids nationwide must turn away 50% of their applicants due to limited resources. LSNV will routinely attempt to at least provide limited services to assist pro se litigants at the court outreach office. For example, LSNV may provide advice on an applicant's right of redemption in an eviction case the morning of an applicant's first return. However, there are many more pro se litigants than LSNV can assist. These pro se litigants are generally not versed in courtroom procedure, evidentiary rules and often the law which can lead to longer hearings.

The legal system is adversarial, and the Court has a key role in ensuring justice for all. The Fairfax GDC Judges maintain a high caseload which impacts the Court's policies and procedures, including the civil docket. An additional judge can allow for more flexibility in docket management that could reduce the wait time for civil trials and provide Judges more time for civil cases to allow litigants, especially self-represented parties and non-English speaking parties to present their cases. If you have any questions, I can be reached at (703) 684-0738.

Sincerely,

A handwritten signature in cursive script that reads "Dipti Pidikiti-Smith". The signature is written in dark ink and is positioned above the printed name.

Dipti Pidikiti-Smith
Deputy Director of Advocacy



COMMONWEALTH of VIRGINIA

Chief Public Defender
Dawn Butera

Deputy Public Defender
Andrew Elders

Senior Assistant Public Defenders
Kathryn Donoghue
Robert Frank
Amy Jordan
Bryan Kennedy

Office of the Public Defender
City and County of Fairfax
4103 Chain Bridge Road, Suite 500
Fairfax, Virginia 22030
Tel: (703) 934-5600 *se habla español*
Fax: (703) 934-5160

Assistant Public Defenders
Matthew Baehler
Christine Carter
Michael Cash
Joseph Collins, III
Negin Farahmand
Brian Goodman
Pierre Greene
Melissa Haszabedian
Michael McMillin
Kasey McNamee
Jessica Newton
Caitlin Payne
Katherine Topor
Monica Turv
Natalie Veltman

October 1, 2018

To the Committee on District Courts:

I am writing to support the request of the Fairfax County General District Court for the authorization of 12 judges. As a public defender, I am in the unique position to see the Court and its effect on our community on a daily basis. Having a sufficient number of judges to preside over the matters of a growing county is of the utmost import. The fundamental rights of each individual before the court can be effected if the court does not have enough judges to handle the caseload.

The Fairfax County Public Defender's Office handles over 6000 cases every year, most of which originate in the General District Court. In just traffic court alone, the three attorneys assigned to that docket can handle anywhere from five to ten cases each day. They are often in morning court until the afternoon docket begins. That is because of the time it takes for each judge to get through the docket, which includes many pro se litigants wanting their day in court, along with the many trials with my attorneys and others. Additionally, trials in traffic court occur more frequently and take longer now because of cruiser videos. This is a new development since the number of judges was last authorized for Fairfax.

I have been a public defender in Fairfax for nearly 18 years and have seen first-hand the increasing dockets and the consequences that the number of cases have on the efficiency of our Court. When I first began, it was incredibly rare for the morning docket to bleed over into the afternoon docket. Now, there are numerous times that I have to wait to begin handling matters on the afternoon preliminary hearing docket because trials from the morning docket are still taking place.

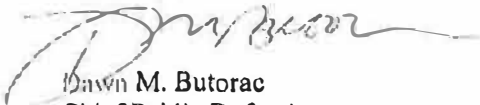
The preliminary hearing dockets have also been effected by the insufficient number of judges on the bench. There have been a multitude of cases that have been continued simply because the Court did not have sufficient time to conduct a hearing before the clerks had to leave for the day. This can cause significant problems for the defendants before the court because their matters get delayed, sometimes leaving them in jail during the pendency of the case. The

personal liberty as well as the Constitutional rights of our clients is at stake so this is not a matter that should be taken lightly.

In addition to these issues, it is important to remember that the vast majority of those that encounter the court system do so in General District Court. If the judges are unable to give each litigant sufficient time for their matters to be heard, the whole system fails. Authorizing an additional judge for the Fairfax County General District Court would be a benefit to every single person that finds themselves before the court.

Thank you for taking the time to consider this issue and reading my letter. If I can be of further assistance, please contact me at (703) 934-5600 or dbutorac@fai.jdc.virginia.gov.

Sincerely,



Dawn M. Butorac
Chief Public Defender

19th JUDICIAL DISTRICT OF VIRGINIA



DISTRICT JUDGES
LISA A. MAYNE, CHIEF JUDGE
MICHAEL J. CASSIDY
MARK C. SIMMONS
WILLIAM J. MINOR, JR.
MITCHELL L. MUTSICK
MANUEL A. CAPSALIS
MICHAEL J. LINDNER
TINA L. NNEE
MICHAEL H. CASTRELL
SESAN J. STONEY

CLERK OF COURT
CHRISTOPHER ERIC BARR

FAIRFAX GENERAL DISTRICT COURT

4110 Chain Bridge Road
Fairfax, Virginia 22030-4009
703-246-2153

September 28, 2018

Committee on District Courts
c/o Karl Hade, Executive Secretary
Supreme Court of Virginia
100 North Ninth Street, 3rd. Floor
Richmond, Virginia 23219

Dear Mr. Hade:

In my role as the Clerk of the Court for the Fairfax County General District Court, I am privileged with having a unique perspective. Serving at the pleasure of the Chief District Court Judge, and working with nine other presiding judges concerned about quality of justice, I appreciate their efforts to secure additional judicial resources, justified by the most recent judicial workload study. Each day, I witness the impact of limited staffing on judges, and deputy clerks as efforts to promote the administration of justice in our court takes place.

As you know, the latest judicial workload study identified the Fairfax County General District Court having a total need for just over twelve judges. Separate, but in my mind related, I know you are also aware of a study for District Court Clerks reflecting statewide need for deputy clerks; the Fairfax General District Court being understaffed slightly by just under sixteen deputy clerks.

These studies reflect the current need, weighted by the types and complexity of cases handled. Tasks and duties performed in hearing, deciding, and processing these cases result in an impact on the lives, and liberties of many individuals. Working in an environment of limited resources places stress on the court, and clerk's office to meet expectations. In particular, expectations involving quality of justice, providing an efficient, and fair forum for the just, and prompt resolution of disputes – purposes of courts – are in play.

Quality of justice – a cornerstone of our democracy – is at stake. Courts have a responsibility to see that justice is done. The Fairfax General District Court works hard each day at sorting out right and wrong, applying law in determinations that often involve human error and mistake. Perhaps it should be

considered that a big mistake for all of us, will be to continue to ignore the responsibility existing to make certain that quality of justice is maintained, and a big part of that involves having proper staffing at all levels and positions. Each side to a case deserves the right to resolve their matters in a timely, efficient, and fair way. Current staffing for judges and deputy clerks does not support the ability to contribute effectively towards this effort. A negative impact on judges, deputy clerks, and especially the public exists when resources continue to be stressed beyond adequacy.

I support the need for additional judicial resources and a twelfth judge. Also, addressing clerk's office staffing needs to efficiently handle workloads should not be forgotten. These resources, coupled with best practices to maximize efficiency of the office through improved case flow management, all have merit, and will make great strides to seeing that quality of justice is maintained in all areas of the Fairfax County General District Court. Not providing for this, means we are making a mistake in upholding the responsibility we have at making sure quality of justice is maintained, and available to all.

Sincerely,

A handwritten signature in dark ink, appearing to read "Chris E. Barr", with a long horizontal flourish extending to the right.

Christopher Eric Barr