

VIRGINIA'S JUDICIAL SYSTEM

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2011**



AUDIT SUMMARY

This report discusses the services and financial activities of Virginia's Judicial System.

Our audit for the fiscal year ended June 30, 2011, found:

- proper recording and reporting of transactions, in all material respects, in the Commonwealth Accounting and Reporting System and in each agency's accounting records;
- internal control matters that require management's attention and corrective action; these are included in the section entitled "Audit Findings and Recommendations" and
- instances of noncompliance with applicable laws and regulations that are required to be reported under Government Auditing Standards; these are included in the section entitled "Audit Findings and Recommendations."

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AUDIT FINDINGS AND RECOMMENDATIONS

Background

This a comprehensive review of all of the agencies within Virginia's Judicial System.

- The Supreme Court of Virginia
- Court of Appeals
- Office of the Executive Secretary of the Supreme Court of Virginia
- Clerk of the Supreme Court
- Clerk of the Court of Appeals
- Circuit Courts
- General District, Juvenile and Domestic Relations District, and Combined District Courts (District Courts)
- Magistrates
- Judicial Inquiry and Review Commission
- Virginia Criminal Sentencing Commission

We conduct this comprehensive review in order to recognize the oversight and direction provided by the Chief Justice and the Office of the Executive Secretary of the Supreme Court over the operation of General District, Juvenile and Domestic Relations District, and Combined District Courts, including the Magistrate function, and the general direction provided the Circuit Court Clerks. This audit approach gives us the ability to review the direction provided to the courts and magistrates by the Chief Justice and the Office of the Executive Secretary and allows us to report back to them on the courts' and magistrates' implementation of fiscal policies and internal controls. We have provided both the individual courts and magistrates information about our reviews as we conducted them and have provided periodic reports to the staff of the Executive Secretary of our findings and comments.

Audit Observation

The issues below regarding public defenders and court appointed attorneys are statewide issues previously noted during our audits of the both the Office of the Executive Secretary and the District Court System. These areas continue to be a problem and will require multiple entities to cooperate in order to improve these controls. These entities include the Office of the Executive Secretary, the Indigent Defense Commission, and the District Court Clerks.

Public Defender Process Issues

During our statewide review of General District and Juvenile and Domestic Relations District Courts, we found that 44 courts did not follow the prescribed procedures, and therefore were not maximizing cost recovery for the Commonwealth of public defender fees for local cases. We found clerks and judges who do not know how to handle certain transactions properly. As an example, breakdowns included not receiving public defender timesheets, how to process costs if a judge did not specifically order assessment to a juvenile, when to assess costs to the defendant, and in what

circumstances to bill the locality for the public defender costs. Further, in many courts, we found public defenders were not turning in timesheets, and when requested to do so they submitted timesheets with only nominal time per case.

While the Office of the Executive Secretary oversees the General District and Juvenile and Domestic Relations District Courts, they do not have direct control over the public defenders. The Indigent Defense Commission oversees the management of the public defenders and has responsibility for issuing guidance to the public defenders. The Office of the Executive Secretary has worked with the Indigent Defense Commission to establish guidelines, hold training, and emphasize which procedures they should follow. The issues discussed above will continue to exist until all parties involved comply with the process and follow all established procedures.

Court Appointed Attorney Process Issues

Court appointed attorneys requesting payment above the statutory amount can ask the judge to approve additional payment for both time spent and other costs. Attorneys submit a *List of Allowances* (List) for payment of the statutory amount with a listing of additional payments. Accompanying the List is a waiver that details and supports the court appointed attorneys' request for additional payment, along with timesheets or other document supporting the additional amount. The judge must review and approve both the List and the waiver, and the clerk then submits only the List to the Office of the Executive Secretary for payment.

Forty-four District courts had the following problems.

- Waiver amount did not agree with the amount on the List of Allowances.
- Waivers and List of Allowances did not have the judge's authorizing signature.
- The List of Allowances was incomplete, or contained mathematical errors.
- The Clerk did not retain the timesheets, waiver, or some combination of these documents.

The Office of the Executive Secretary has issued guidance on what documentation is necessary for payment and what documentation District Courts should retain to support payments. Additionally, the Office of the Executive Secretary has implemented monitoring procedures and automated edits which help them to properly assess billings and make payments. As the Office of the Executive Secretary continues to upgrade both the court systems, the Office should consider automating this process and using an automated process to track transactions from approval to payment.

Statewide Issues

Statewide issues are those internal control findings or compliance issues that the Office of the Executive Secretary of the Supreme Court, as the District Court and Magistrate administrator, should

consider addressing either in new guidelines, new processes, or by providing training to help improve in the areas noted below.

Improve Magistrate Financial Procedures

The Magistrate's Manual states that Magistrates will make deposits the next business day. We found 12 magistrate offices were not depositing funds by the next business day and five magistrate offices were not forwarding collections to the local court timely.

Additionally, magistrate offices are not reconciling their bank account promptly in accordance with the Magistrate's Manual. The Magistrates Manual further states magistrates must print bank statements and complete bank reconciliation forms every month. During our review, 15 magistrate offices did not perform bank reconciliations monthly.

Magistrates should deposit funds and perform bank reconciliations in accordance with the Magistrates Manual. Further, Magistrates should promptly send funds to local courts in accordance with the Code of Virginia.

Court or Agency Specific Issues

Establish Policies and Procedures over Financial Processes

The Supreme Court of Virginia (SCV) does not have established policies and procedures for many of their key processes. Although they have practices they can describe verbally, most have not been committed to writing. During our review of SCV, we found the following processes either do not have or need improved formal written policies and procedures:

- **Employee Termination Process**

The SCV processes payroll for district court employees and relies on the court clerks to notify them when an employee terminates. We found that the SCV does not provide the clerks with clear termination policies and procedures, including expectations regarding how quickly they should notify SCV. In addition, the SCV does not have an effective monitoring process to identify and remove terminated employees timely from the Commonwealth Integrated Payroll/Personnel System (CIPPS), resulting in the risk that a former employee could continue to receive a paycheck.

In its current monitoring process, SCV's Human Resources and Payroll departments annually identify employees who have not received a paycheck over the past year and remove them from CIPPS. As of February 2012, we noted 121 wage employees from various courts that remained active in CIPPS even though they had not received a paycheck for at least three months. The annual monitoring process did not detect three of these wage employees and therefore SCV did not delete them. Furthermore, 28 of the wage employees continue to have some type of systems access, including access to the Financial Management

System (FMS) and Court Management System (CMS), and some continue to have a network account.

- **Payroll Processes**

The SCV partially follows the Commonwealth Accounting Policies and Procedures (CAPP) manual, but their payroll process deviates enough from the CAPP Manual procedures that they cannot rightly state these are the procedures SCV follows. The following are specific areas where the SCV should consider revising their current practices to conform to the CAPP manual and improve internal controls.

Payroll Specialists that enter data into CIPPS perform their own pre and post certification of payroll for the agencies under their responsibility. The process in place does not allow for an independent review of payroll prior to and after certification to detect potential errors or fraud.

There is not an adequate review and approval process in place for the monthly CIPPS Reconciliation. The same payroll specialist that enters CIPPS data and performs the pre and post certifications, also perform the monthly reconciliation. The same payroll specialist, who performs the reconciliation, also researches and corrects discrepancies. There is no independent review of the monthly reconciliations to ensure accuracy and to ensure that fraudulent transactions have not occurred

The CAPP Manual has established best practices for agencies using CIPPS to manage the vulnerabilities known to exist in CIPPS. We recommend that SCV evaluate their current processes governing payroll and establish policies and procedures that clearly detail each portion of the payroll process and, that at a minimum, conform to those best practices established by the CAPP Manual. Management is responsible for ensuring segregation of duties exists over the payroll process and for establishing internal controls to ensure fraudulent payroll activities do not occur. Without documented policies and procedures, SCV cannot effectively evaluate internal controls.

- **Integrated Decision Support System (IDSS) Processes**

There are no written policies and procedures for establishing user access, terminating access, or regular reviews of users to ensure the users still need access to perform their job duties.

Documented policies and procedures are essential to provide internal controls, guidance, and consistency in operational activities. Without documented policies and procedures, SCV cannot evaluate internal controls, assure compliance with state laws and the objectives of the court, or provide staff with guidance on how to perform daily operations, and provide for efficient guidance to new employees.

SCV should commit their existing practices to writing and review these written policies and procedures periodically to ensure they provide sound internal controls.

Improve Information Security Program

The SCV does not fully comply with the Commonwealth's information security standards that require agencies to document, approve, and implement policies and procedures which establish how the agency safeguards sensitive data. Specifically, until late-May 2012, SCV lacked the following documented and approved processes in their security program.

- Acceptable Use of Technology Resources
- Account and Access Control Policy
- Cryptographic Key Management Policy
- Data Breach Notification Policy
- Data Encryption Policy
- Data Storage Media Protection Policy
- Email Communication Policy
- Facilities Security Policy
- Information Security Log Management Policy
- Information Security Policy
- Information Technology Systems Hardening Policy
- Password Policy
- Security Awareness Training Policy
- Systems Interoperability Policy

Additionally, the SCV still has no documented policies, procedures, or processes in their security program for the following areas.

- Change Management over Infrastructure and Applications
- Rule-Set Reviews
- Disaster Recovery
- Remote Access
- Technical Employee Security Training
- Information Technology System and Data Backup and Restoration Policy
- Records Retention Policy
- Malicious Code and Virus Protection Policy

Identifying, documenting, and implementing policies and procedures is the primary method for SCV's management to develop an information security program and communicate their expectations to employees on how they should protect sensitive data. Without documenting these processes, and communicating and training employees, SCV cannot efficiently, effectively, or consistently implement security controls that meet industry best practices.

An appropriately documented information security program will reduce the risk of misconfigured infrastructure devices and applications that may inadvertently allow malicious internet traffic to penetrate the Court's network. In addition to allowing for improved network management practices, documenting the procedures will enable a much smoother transition of personnel if turnover occurs at SCV.

We recommend that SCV continue to develop and implement policies and procedures in the areas noted above for their information security program. We also recommend that the Office of the Executive Secretary's information security officer regularly review the policies and procedures to ensure that they follow current industry best practices and that staff have the proper training to implement those requirements.

Improve Sensitive Systems Risk Assessment and Contingency Planning Documentation

The SCV is not appropriately considering business and systems security risks when making major upgrades and material changes to their network environment and sensitive systems; or at least once every three years. The Commonwealth of Virginia's (COV) Security Standard SEC 501-06, requires agencies to conduct periodic reviews of and make revisions to its Business Impact Analysis as needed, but at least once every three years; and to conduct and document a Risk Assessment as needed, but not less than once every three years. We found that SCV has not reviewed its Business Impact Analysis or a Risk Assessment for the Case Management System (CMS) in the last three years.

SCV's systems environment has dynamically changed since its Business Impact Analysis was last performed in November 2007. Additionally, we found that CMS has undergone significant system upgrades since SCV performed its Risk Assessment in March 2009. As a result, the SCV's Business Impact Analysis and CMS Risk Assessment no longer reflect current business or system risks. Risk assessments aid in identifying, analyzing, and mitigating risks that could compromise systems. Using the risk assessments, SCV can prioritize security, contingency, and disaster recovery efforts in high risk areas, and ensure critical data availability and sensitive data protection.

We recommend that SCV improve their information systems security program by updating their business impact analysis when the business systems environment changes and completing risk assessments for all sensitive systems when upgraded, or once every three years. In addition, we recommend that SCV use the results of this process to appropriately update their contingency planning, incident response, and disaster recovery documentation to assess and mitigate threats and vulnerabilities.

Realign Information Security Officer with Industry Best Practices

The Information Security Officer (ISO) reports directly to the Department of Judicial Information Technology's (DJIT) IT Director and has no oversight or authority over other SCV departments, including the Assistant Executive Secretary and Counsel, the Court Improvement Program, Educational Services, Fiscal Services, Human Resources, Judicial Information Technology, Judicial Planning, Judicial Services, Legal Research, and Legislative and Public

Relations. We determined these departments manage and create sensitive and confidential data, mission critical systems, and intellectual property.

Since the ISO lacks the appropriate information security governance oversight to prevent these internal control weaknesses, the SCV is at risk that sensitive data will not have appropriate protection, that there will be a lack proper segregation of duties across departments, and that managers will grant users access to systems without using the least privilege access principal. We recommend that SCV realign the ISO position in the organization to oversee, implement, and enforce its information security policy for all of the SCV departments and report directly to Executive Secretary.

Improve Database Security

The Center for Internet Security benchmarks recommends an industry best practice of securing database audit logs to prevent any unauthorized party, including database administrators, from modifying or deleting the audit logs of database activity. We determined that SCV does not send Case Management System (CMS) and Financial Management System (FMS) database audit logs to a centralized log server where management can protect them from unauthorized modification or deletion.

This presents the risk that if an external party with malicious intent were able to access the database and its sensitive data, they would be able to modify, copy, or delete CMS and FMS transactional information and modify the database audit logs to remove any evidence of their activities. It also presents the risk that if an internal party with elevated systems access, such as a database administrator, were to become disgruntled, they would also be able to cover up any of their activities by modifying the database audit logs. When database administrators have the ability to alter audit logs, SCV cannot rely upon these logs to track user activity and ensure there are not unauthorized changes to critical data, thus increasing the risk of fraud.

We recommend that SCV configure all critical database audit logs for automatic export and storage on a secure external log server. We also recommend that SCV implement a process to review the database audit logs, either manually or with an automated tool, on a reoccurring basis. This review will help ensure data integrity, and help mitigate the risk that unauthorized changes have occurred.

Improve Systems Development Process, Documentation, and Cost Tracking

Since 2007 we have recommended DJIT require project budgets and track all time and costs, including internal staffing, but this continues to be a concern. Project budgets are a critical tool for management to monitor and control projects, but none of DJIT's policies or templates requires the determination of a project budget. Without complete project budgets and time tracking, management is unable to effectively plan and prioritize projects and monitor project performance.

DJIT's failure to track internal time has resulted in estimates when assigning internal costs to systems development projects as required by the Department of Accounts and the Governmental Accounting Standards Board (GASB) No. 51, Intangible Assets. DJIT could not provide support for

its internal staffing cost estimate methodology and therefore we have no confidence in the financial accuracy of Supreme Court's capitalized software assets.

Improve Timeliness of Deposits – Court of Appeals and SCV Clerk's Offices

The Court of Appeals' Clerk's Office and SCV's Clerk's Office do not deposit receipts at least once weekly as required by § 2.2-806 of the Code of Virginia.

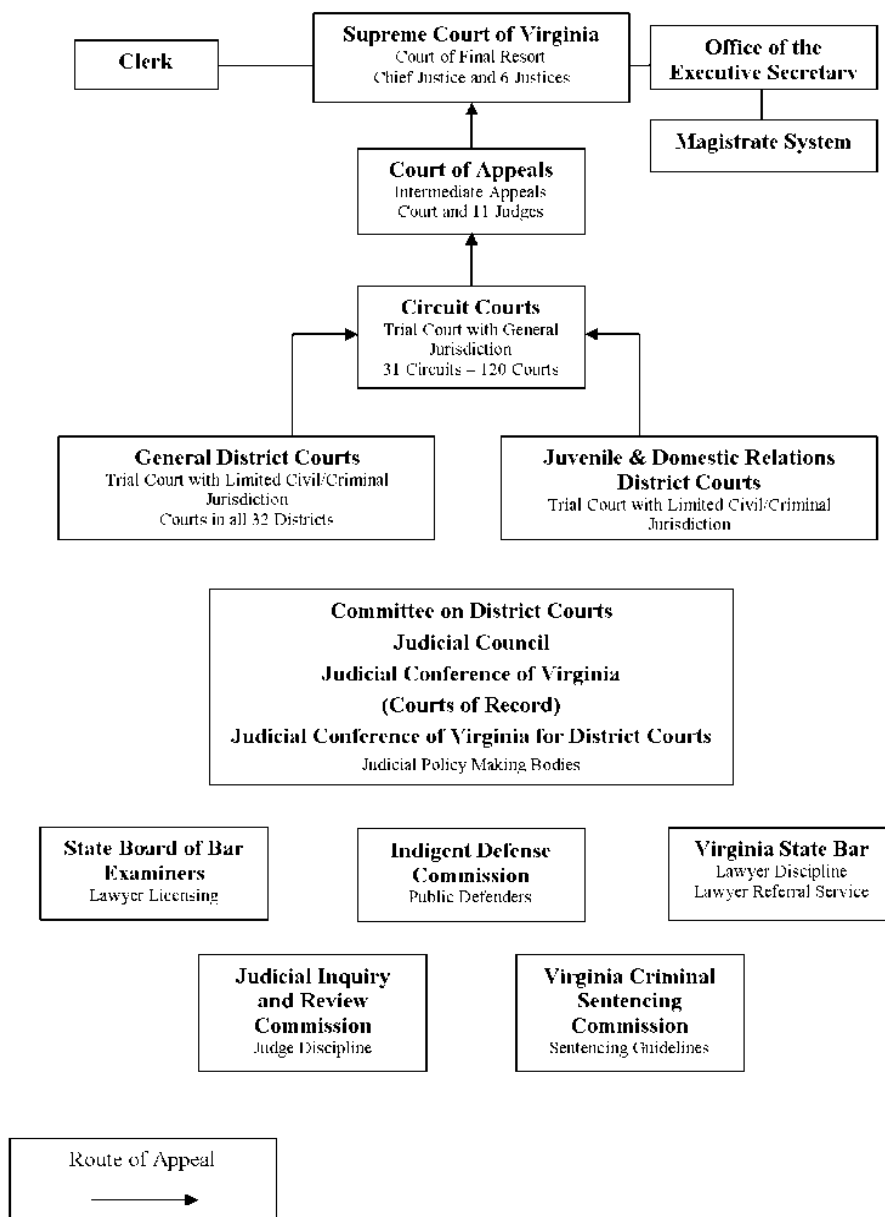
- We found 20 weeks during fiscal year 2011 where the Court of Appeals Clerk's Office did not make weekly deposits and did not deposit some checks for 15 to 48 days after receipt.
- We tested 20 deposits in the SCV's Clerks Office. Seven deposits (35 percent) included checks that were not deposited timely in accordance with the Code of Virginia, and were held by the court for 15 to 35 days after receipt.

We recommend the Clerk's Offices for the Court of Appeals and for SCV evaluate their current processes for depositing receipts to ensure timely deposit.

VIRGINIA'S JUDICIAL SYSTEM

The mission of Virginia's judicial system is to assure that disputes are resolved justly, promptly, and economically. The present system consists of four levels of courts: the Supreme Court, the Court of Appeals, the Circuit Courts, and the District Courts. In addition, magistrates serve as judicial officers with authority to issue various types of processes. The Supreme Court has the courts organized into 31 judicial circuits and 32 similar judicial districts. More than 2,600 employees, including judges, clerks, and magistrates, work within the judicial branch of government to provide the citizens of the Commonwealth prompt efficient service.

The Virginia Judicial System



The following table shows budget and expense data relating to Virginia's Judicial System.

Budget and Expense Summary for Fiscal Year 2011

	<u>Final Budget</u>	<u>Expenses</u>
Magistrate System	\$ 26,199,944	\$ 26,199,944
Supreme Court	37,686,708	33,889,389
Judicial Inquiry and Review Commission	725,603	521,394
Circuit Courts	90,817,375	90,812,340
General District Courts	97,896,427	97,881,719
Juvenile and Domestic Relations District Courts	83,213,738	83,213,228
Combined District Courts	26,570,936	26,570,894
Court of Appeals of Virginia	8,654,438	8,654,438
Virginia Criminal Sentencing Commission	1,031,496	980,855
Total	<u>\$372,796,665</u>	<u>\$368,724,200</u>

Source: Commonwealth Accounting and Reporting System

Virginia's Judicial System spent approximately \$368.7 million in fiscal year 2011. Of this amount, the Circuit and District Courts accounted for \$298 million, approximately 81 percent of total expenses. Ninety-seven percent of the funding for the courts and agencies listed above comes from the General Fund of the Commonwealth.

The table below summarizes expenses relating to the Criminal and Involuntary Mental Commitment Funds. These amounts are included in the expenses listed in the chart above.

Expenses relating to the Criminal Fund and Involuntary Mental Commitment Fund constitute approximately 31 percent of all judicial branch expenses. The Criminal Fund primarily consists of payments to court-appointed attorneys, court reporters, court-related medical expenses, interpreters, and other associated expenses. The Involuntary Mental Commitment Fund consists of payments for the medical and legal costs associated with temporary detentions and commitment hearings for individuals thought to be dangerous or incapable of self-care due to mental illness.

Criminal and Involuntary Mental Commitment Funds Expense Summary for Fiscal Year 2011

	<u>Criminal Fund</u>	<u>Involuntary Mental Commitment Fund</u>
Supreme Court	\$ 21,276	\$ -
Circuit Courts	48,738,115	-
General District Courts	18,411,056	5,379,015
Juvenile and Domestic Relations District Courts	31,916,649	349,370
Combined District Courts	<u>7,778,989</u>	<u>652,057</u>
Total	<u>\$106,866,086</u>	<u>\$6,380,443</u>

Source: Performance Budgeting System

SUPREME COURT

Although the Supreme Court of Virginia possesses both original and appellate jurisdiction, its primary function is to review decisions of lower courts. The Chief Justice of the Supreme Court serves as the administrative head of Virginia's Judicial System and oversees the operation of the entire system. Assisting the Chief Justice in this task is the Office of the Executive Secretary, who is the state court administrator.

Office of the Executive Secretary of the Supreme Court

§ 17.1-314 of the Code of Virginia establishes the Office of the Executive Secretary of the Supreme Court to administer the judicial system's 319 courts. The Office of the Executive Secretary maintains the Court Automated Information System, which accumulates financial and case information for the courts.

The Office of the Executive Secretary provides statewide fiscal and human resource administration for the following courts and agencies:

- Magistrates
- Clerk of the Supreme Court
- Judicial Inquiry and Review Commission
- Circuit Courts (Judges only)
- General District Courts
- Juvenile and Domestic Relations District Courts
- Combined District Courts
- Court of Appeals
- Virginia Criminal Sentencing Commission

The Office of the Executive Secretary provides assistance to the courts of the Commonwealth and to Virginia's magistrates through its ten departments. The departments within the Office of the Executive Secretary include the Assistant Executive Secretary and Counsel, the Court Improvement Program, Educational Services, Fiscal Services, Human Resources, Judicial Information Technology, Judicial Planning, Judicial Services, Legal Research, and Legislative and Public Relations.

Judicial Policy Making Bodies

The Judicial Council

The Judicial Council (Council) conducts studies of the organization, rules, and methods of procedure and practice of Virginia's judicial system. The Council examines the work and results by the judicial system, its offices and its courts, and determines the need for additional judges in the Circuit Courts. A report of the Council's proceedings and recommendations goes to the General Assembly and to the Supreme Court annually.

The Chief Justice is the presiding officer for the Council whose membership includes one Court of Appeals judge, six Circuit Court judges, one General District Court judge, one Juvenile and Domestic

Relations District Court judge, two attorneys qualified to practice in the Supreme Court of Virginia, and the Chairmen of the Committees for Courts of Justice in the Senate and House of Delegates.

The Committee on District Courts

The Committee on District Courts assists the Chief Justice in the administrative supervision of Virginia's District Courts. Among the statutorily mandated responsibilities of the Committee are recommending new judgeships and certifying the need to fill District Court vacancies, and authorizing the number of clerks, magistrates, and personnel in each district; establishing guidelines and policies for court system personnel; and fixing salary classification schedules for District Court personnel and magistrates.

Membership of this committee includes the Majority Leader of the Senate, the Speaker of the House of Delegates, the Chairmen of the Committees for Courts of Justice in the Senate and House of Delegates, two members of each of the Courts of Justice Committees appointed by the respective Chairman, one Circuit Court judge, two General District Court judges, and two Juvenile and Domestic Relations District Court judges.

The Judicial Conference of Virginia

The Judicial Conference of Virginia discusses and considers means and methods of improving the administration of justice in the Commonwealth. Active members include the Chief Justice and justices of the Supreme Court, all judges of the Court of Appeals and the Circuit Courts, and all retired justices and judges of such courts. The Chief Justice serves as President of the Conference.

The Judicial Conference of Virginia for District Courts

The Judicial Conference of Virginia for District Courts is similar to the Judicial Conference of Virginia in its mission and responsibilities. Membership includes the Chief Justice, who serves as its President; and all active judges of the General District and Juvenile and Domestic Relations District Courts.

Supreme Court Financial Information

Appropriations and expenses related to the judicial policy making bodies are included with the Supreme Court of Virginia's expenses along with the cost of the Office of the Executive Secretary and the Clerk of the Supreme Court. The following table summarizes the fiscal year 2011 actual expenses for the Supreme Court of Virginia.

Analysis of Actual Expenses for Fiscal Year 2011

Personal Services	\$17,881,444
Contractual Services	10,569,202
Supplies and Materials	123,871
Transfer Payments	2,948,495
Continuous Charges	2,047,972
Equipment	318,406
Total	<u>\$33,889,389</u>

Source: Commonwealth Accounting and Reporting System

Expenses consist mostly of payroll and contractual services. Equipment expenses are primarily for information technology items and reference materials. The majority of contractual service expenses consist of information technology costs relating to the Court Technology Fund.

COURT OF APPEALS

The Court of Appeals of Virginia provides appellate review of final decisions of the Circuit Courts in domestic relations matters, appeals from decisions of an administrative agency, traffic infractions, and criminal cases, except when there is a sentence of death. It also hears appeals of final decisions of the Virginia Workers' Compensation Commission. There are petitions for appeal for criminal, traffic, concealed weapons permit, and certain preliminary rulings in felony cases. All other appeals to the Court of Appeals are a matter of right. Petitions for appeal that occur for other Circuit Court civil decisions go directly to the Supreme Court of Virginia.

The decisions of the Court of Appeals are final in traffic infraction and misdemeanor cases where there is no incarceration, domestic relations matters, and cases originating before administrative agencies or the Virginia Workers' Compensation Commission. Except in those cases where the decision of the Court of Appeals is final, any party aggrieved by a decision of the Court of Appeals may petition the Supreme Court for an appeal.

The Court of Appeals consists of 11 judges. The court sits in panels of at least three judges, and the panel membership rotates. The court sits at such locations as the chief judge designates, so as to provide convenient access to the various geographic areas of the Commonwealth.

The following table summarizes the fiscal year 2011 actual expenses for the Court of Appeals.

Analysis of Actual Expenses for Fiscal Year 2011

Personal Services	\$7,895,998
Contractual Services	245,662
Supplies and Materials	10,675
Transfer Payments	0
Continuous Charges	478,396
Equipment	<u>23,707</u>
Total	<u>\$8,654,438</u>

Source: Commonwealth Accounting and Reporting System

The majority of expenses consisted of personal services for employee benefits, salaries, and wages.

CIRCUIT COURTS

The only trial court of general jurisdiction in Virginia is the Circuit Court. The Circuit Court has jurisdiction over certain civil actions, certain criminal cases, appeals from administrative agencies and from the general district court or juvenile and domestic relations court, and any case for which the Code of Virginia does not specify jurisdiction.

The following table summarizes the fiscal year 2011 actual expenses for the Circuit Courts of Virginia.

Analysis of Actual Expenses for Fiscal Year 2011

Personal Services	\$41,738,707
Contractual Services	46,876,981
Supplies and Materials	164,690
Transfer Payments	0
Continuous Charges	412,129
Equipment	<u>1,619,833</u>
Total	<u>\$90,812,340</u>

Source: Commonwealth Accounting and Reporting System

None for the expenses above include payments for Circuit Court clerks and their employees, the Compensation Board pays for these employees and expenses.

Contractual services includes payment for Legal Services, which primarily consists of payments to court appointed attorneys, court reporters, court-related medical expenses, interpreters, and other associated expenses for the Criminal Fund. Personal Services expenses are primarily the judges' salaries and employee benefits.

DISTRICT COURTS

Virginia's unified District Court system consists of the General District and the Juvenile and Domestic Relations District Courts. Within the 32 districts of the state, there are General District Courts and Juvenile and Domestic Relations District Courts in every city and county.

The General District Courts hear all criminal cases involving misdemeanors under state law and offenses that are violations of ordinances, laws, and by-laws of the county or city where it is located. The Code of Virginia defines criminal offenses and sets penalties. For many offenses, the penalty described is a fine. The courts pay the fines collected into the treasury of the city, town, or county when there is a violation of their ordinances, or into the State treasury for a violation of state law.

General District Courts decide civil cases that do not exceed \$25,000, traffic infractions, and preliminary hearings in felony cases. The court will determine whether sufficient evidence exists to

justify holding a defendant for a grand jury hearing. The grand jury will determine whether to indict the accused and hold them for trial in the Circuit Court. All cases are heard by a judge and upon consideration of evidence the judge determines guilt or innocence and determines the appropriate penalty if applicable.

The Juvenile and Domestic Relations District Courts differ from other courts in their duty to protect the confidentiality and privacy of juveniles and their families who have legal matters before the court. In addition to protecting the public and holding delinquent juveniles accountable, the court considers services needed to provide for rehabilitation. The court handles cases for children in need of services or supervision, children subjected to abuse or neglect, and children who are abandoned or without parental guardianship. Additionally, the court holds hearings for foster care and entrustment agreements and when request relief of custody or termination of parental rights.

The court also holds trial for adults accused of child abuse or neglect, or of offenses against family or household members. Lastly, the court is involved in spousal support cases, disputes concerning the custody, visitation or support of a child, minors seeking emancipation or work permits, and court consent for certain medical treatments

Combined Courts exist in smaller districts and handle cases of both the General District and the Juvenile and Domestic Relations District Court.

The following table summarizes the fiscal year 2011 actual expenses for the District Courts of Virginia.

Analysis of Actual Expenses for Fiscal Year 2011				
	<u>General District Court</u>	<u>Juvenile and Domestic Relations District Courts</u>	<u>Combined District Courts</u>	<u>Total</u>
Personal Services	\$65,729,123	\$48,197,944	\$16,444,169	\$130,371,236
Contractual Services	29,417,981	33,960,391	9,418,774	72,797,146
Supplies and Materials	1,220,735	488,232	143,540	1,852,507
Transfer Payments	38,125	52,208	2,731	93,064
Continuous Charges	275,556	165,172	34,846	475,574
Equipment	<u>1,200,199</u>	<u>349,280</u>	<u>526,834</u>	<u>2,076,313</u>
Total	<u>\$97,881,719</u>	<u>\$83,213,228</u>	<u>\$26,570,894</u>	<u>\$207,665,840</u>

Source: Commonwealth Accounting and Reporting System

The majority of expenses consisted of personal services and contractual services. Personal services include employee benefits, salaries, and wages. Contractual service expenses include the payment for Legal Services for the Criminal Fund and Involuntary Mental Commitment Fund.

MAGISTRATES

In many instances, a citizen's first contact with the judicial system comes through the Office of the Magistrate. One of the magistrate's principal functions is to provide an independent, unbiased review of complaints brought to the office by police officers, sheriffs, deputies, and citizens. Magistrate duties include issuing various types of processes such as arrest warrants, summonses, bonds, search warrants, subpoenas, emergency mental and medical custody orders, temporary mental and medical detention orders, emergency protective orders, and other civil processes. In a criminal offense, one of the chief duties of the magistrate is conducting bail hearings to set bond. A magistrate may also accept prepayments for traffic infractions and minor misdemeanors.

The Office of the Executive Secretary provides administrative supervision and training to magistrates. A chief magistrate supervises the magistrates serving within each judicial district. Each region has a regional magistrate supervisor who provides direct supervision to the chief magistrates. The eight regional supervisors also assist a Magistrate System Coordinator in administering the statewide system.

The following table summarizes the fiscal year 2011 actual expenses for magistrates.

Analysis of Actual Expenses for Fiscal Year 2011

Personal Services	\$24,164,802
Contractual Services	1,379,258
Supplies and Materials	205,895
Transfer Payments	629
Continuous Charges	31,974
Equipment	417,386
Total	\$26,199,944

Source: Commonwealth Accounting and Reporting System

The majority of expenses consisted of personal and contractual services. Personal services include employee benefits, salaries, and wages of state employees.

JUDICIAL INQUIRY AND REVIEW COMMISSION

The Judicial Inquiry and Review Commission investigate allegations of judicial misconduct or the serious mental or physical disability of a judge. The Commission has jurisdiction to investigate the justices of the Supreme Court and all judges of the Commonwealth, as well as members of the State Corporation Commission, the Virginia Workers' Compensation Commission, special justices, substitute judges, and retired judges, recalled to service. The Commission may file a formal complaint with the Supreme Court against judges for violations of any canon of judicial ethics, misconduct in office, or failure to perform their judicial duties.

The Commission has seven members elected by the General Assembly and members serve four-year terms. Membership includes one Circuit Court judge, one General District Court judge, one Juvenile and Domestic Relations District Court judge, two lawyers, and two members of the public who are not attorneys.

The following table summarizes the fiscal year 2011 actual expenses for the Judicial Inquiry and Review Commission.

Analysis of Actual Expenses for Fiscal Year 2011

Personal Services	\$444,361
Contractual Services	23,326
Supplies and Materials	3,373
Transfer Payments	302
Continuous Charges	49,718
Equipment	<u>313</u>
Total	<u>\$521,394</u>

Source: Commonwealth Accounting and Reporting System

The majority of expenses consisted of personal services for employee benefits, salaries, and wages of state employees.

VIRGINIA CRIMINAL SENTENCING COMMISSION
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The Virginia Criminal Sentencing Commission develops sentencing guidelines to ensure consistent punishments for offenses in all felony cases. It is currently composed of 17 members including seven judges, five legislators, four Governor Appointees, and the Attorney General. Total expenses for the Commission were \$980,855 consisting of over 84 percent for compensation.



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Richmond, Virginia 23218

July 17, 2012

The Honorable Robert F. McDonnell
Governor of Virginia

The Honorable John M. O'Bannon, III
Chairman, Joint Legislative Audit
and Review Commission

We have audited the financial records and operations of **Virginia's Judicial System** as defined in the Audit Scope and Methodology section below, for the year ended June 30, 2011. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of Virginia's Judicial System's financial transactions as reported in the Commonwealth Accounting and Reporting System and the Supreme Court's Integrated Decision Support System, review the adequacy of all courts' and magistrates' internal controls, test compliance with applicable laws and regulations, and review corrective actions of audit findings from prior year reports for those agencies listed below.

Audit Scope and Methodology

Management at the agencies in Virginia's Judicial System has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered significance and risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, account balances, and systems:

The Office of the Executive Secretary of the Supreme Court of Virginia, the Clerk of the Supreme Court; and, the Clerk of the Court of Appeals:

Payroll, travel and other expenses
Cash receipts
Criminal fund expenses
Small Purchase Charge Card

Systems security
Systems access
Systems development
Billing to Local Courts

Magistrates, the General District, Juvenile and Domestic Relations, and Combined Courts:

Payroll expenses
Clerk leave approval process
Criminal fund expenses
Involuntary mental commitment fund expenses
Local consumable purchases expenses

Fine and fee assessments
Tax set-off program
Magistrate banking
Magistrate cash receipts

Circuit Courts:

Payroll expenses

Expenditures

Our audit did not include the Virginia State Bar, the Board of Bar Examiners, or the Indigent Defense Commission, which are audited and reported on under separate reports.

We performed audit tests to determine whether the Judicial Systems' controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Judicial Systems' operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that Virginia's Judicial System properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System and the Supreme Court's Integrated Decision Support System. The Judicial System records financial transactions using the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted certain matters involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. These matters are described in the section entitled "Audit Findings and Recommendations."

The Judicial System has taken adequate corrective action with respect to audit findings reported in the prior year that are not repeated in this report.

Exit Conference and Report Distribution

We discussed this report with management on August 2, 2012. Management's response to the findings identified in our audit is included in the section titled "Agency Response." We did not audit management's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

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August 10, 2012

Mr. Walter J. Kucharski
Auditor of Public Accounts
James Monroe Building
101 North 14th Street
Richmond, VA 23219

Dear Mr. Kucharski:

Thank you for providing us the opportunity to review the draft audit report for the Supreme Court of Virginia for the period July 1, 2010 through June 30, 2011.

As we discussed in our meeting on August 2, 2012, I wanted to share with you additional information regarding the recommendations contained in this audit report.

Recommendation – Public Defender and Court Appointed Attorney Process

We appreciated your recognition of the fact that we have worked closely with the Indigent Defense Commission to develop guidelines and provide training to public defenders on the appropriate procedures to follow to maximize the cost recovery for the Commonwealth of public defender fees for court cases. As you have indicated, however, the Indigent Defense Commission oversees the management of the public defenders and is therefore responsible for ensuring that the public defenders follow these approved procedures/guidelines.

We understand that the items/findings that were listed in this audit report concerning the court-appointed attorney process issues were identified during the audits of the individual courts. Our Judicial Services Department staff will continue to work closely with the circuit and district court clerk offices to resolve these issues.

In addition, we strongly support the recommendation to automate the reimbursement process to track transactions from approval to payment. Budget cuts in previous fiscal years enacted by the General Assembly, however, have resulted in a reduction of funding available for new technology projects. With the elimination of these budget cuts in the current Appropriations Act, we will make the hiring of a business

analyst to define the requirements and help design the automation of this reimbursement process a top priority.

Recommendation – Magistrate Financial Procedures

We agree with your findings regarding the need to strengthen the magistrate's financial procedures. We plan to implement the following additional steps to our current procedures to address this issue.

To ensure magistrates timely deposit funds and perform monthly bank reconciliations in accordance with the policies established in the Magistrates Manual and the Code of Virginia, the Magistrate Regional Supervisors within the Department of Judicial Services will require the chief magistrate in each district that received a negative audit report to review the financial records of all magistrates in his or her district on a bi-monthly basis for the next twelve months. If after the twelve-month period, all magistrates within the district are in compliance with accounting procedures, the chief magistrate will audit the records on a quarterly basis.

Each Magistrate Regional Supervisor will require all chief magistrates who received a positive audit report to audit the accounting records of all magistrates within his or her district on a quarterly basis. The chief magistrates will report the results of the internal audits to his or her regional supervisor upon conclusion of each bi-monthly or quarterly review.

Recommendation – Employee Termination Process

It was noted in this audit report that the SCV does not have an effective monitoring process to identify and remove terminated employees timely from the Commonwealth Integrated Payroll/Personnel System (CIPPS) because three wage employees were identified as not deleted as part of the annual monitoring process. As we indicated during the review of this item, one of these employees was a retired judge (and thus should be removed) and the other two employees were deleted in March 2012. Therefore, we believe the current monitoring process is working effectively and disagree with the conclusion regarding this item included in the audit report.

In addition, it was noted that 28 of the wage employees continue to have some type of systems access and/or continue to have a network account. As we indicated earlier, however, only 6 of these 28 employees had active network accounts. The other 22 employees have either deleted or disabled network accounts. This prevents these employees from accessing courts systems. Network accounts are typically disabled initially then deleted after a period of time. This method is an industry best practice for managing network accounts. Of the remaining 6 employees, one is a retired but recallable judge who still serves as a judge and continues to need the access and two employees converted from full-time to wage and thus are still actively employed in the courts.

We do agree, however, that our termination procedures need to be strengthened. During the next several months, I plan to meet with the OES Directors to modify and strengthen our system-wide process for handling new employees, terminations, retirements and transfers within the judiciary.

Recommendation – Payroll Process

As we had indicated during the audit process, we disagree with the analysis that we do not have adequate segregation of duties over payroll process. We have provided significant documentation to outline the current procedures and control currently in place. During this fiscal year, however, we will review our current procedures to see how they can be strengthened and develop additional detailed documentation of our Payroll policies and procedures.

Recommendation – IDSS Process

We had shared during the audit process our oral and written policies and procedures for establishing, terminating and reviewing user access to this system. Over the next several months, we will develop additional detailed documentation of these policies and procedures

Recommendation – Improve Information Security Program

In 2006, we selected a full-time Information Security Officer (ISO) for Virginia's Judiciary. In the last six years (a time period that included a reduction in the judiciary's operating budget), significant progress has been made in the area of information security. The progress includes but is not limited to:

1. Development of several policies surrounding information security. Some policies identified above as going into effect on May 2nd were actually revisions to previous versions of these policies that were already in effect.
2. Development and implementation of a security awareness program
3. Completion of several risk assessments for critical systems
4. Increasing awareness of information security best practices in application development
5. Completion of several business impact analysis engagements for various applications
6. Completion of network security engagements
7. Overall increased awareness of handling sensitive information

Although we have made significant progress, our information security program is dynamic and continues to grow and expand on a daily basis. We will continue to develop and refine our information security program to protect all sensitive information for Virginia's courts.

Recommendation –Improve Sensitive Systems Risk Assessment and Contingency Planning and Documentation

We agree that the business impact analysis and risk assessments performed in 2006 and 2007 need to be reviewed and revised. This work was originally scheduled for 2009 but was delayed due to the required reduction in judicial system's operating budget. With the elimination of these required budget reduction amounts, we will begin updating these plans and documentation.

Recommendation – Realign Information Security Officer with Industry Best Practices

The Judicial Branch Information Security Officer (ISO) performs a dual role in protecting the Judiciary's sensitive information. The first role is to be responsible for developing policies and guidelines governing information security. The second role of the Judiciary's ISO is to be involved with day-to-day security oversight and authority across the organization. We acknowledge that this role may not be clearly articulated to all department heads within the Judiciary. We will take steps to ensure this responsibility and function is better understood.

To address this concern, we will increase awareness of the ISO's role and responsibility by:

1. Issuing a memorandum on the role and authority of the Judiciary's ISO to all OES Directors and Judicial Department Heads
2. Ensure that the ISO is involved in all areas of information security across the Judiciary
3. Continue to provide training to the ISO to ensure he stays current on best practices in order to remain effective in this role.

Recommendation – Improve Database Security

In 2010, we purchased a logging system to manage our network device logs. Once that item was fully implemented, we expanded the logging to include select system logs. In 2012, we began working with our Fiscal Department to include database logs from the IDSS application. At that time, the cost to add additional licenses to our log management server was cost-prohibitive. In this coming fiscal year, we will purchase additional licenses to continue to expand our logging and log review processes.

Recommendation – Improve System Development Process, Documentation and Cost Tracking

Project budgets are currently determined and tracked by the Executive Secretary and the DJIT Director. Each month, costs of all projects are reviewed as part of a monthly budget review meeting. Project priorities are also discussed in this meeting and internal resources are reallocated as needed to meet any change in priorities.

Current DJIT cost tracking includes all consultant and hardware/software costs associated with each IT project. Historically, DJIT has not included internal costs because the core function of our staff is to support the development and maintenance of court applications.

DJIT will modify its project cost methodology to include these internal costs in the future.

Recommendation – Improve Timeliness of Deposits – SCV and COA Clerk's Office

We will assist the SCV and COA Clerk's Office in strengthening their current practices to ensure that the procedures established based on the language contained in Section 2.206.B of the Code of Virginia are followed on a weekly basis.

With best wishes, I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'K R Hade', written in a cursive style.

Karl R. Hade
Executive Secretary

OFFICE OF THE EXECUTIVE SECRETARY OF THE SUPREME COURT OF VIRGINIA

The Honorable Cynthia D. Kinser, Chief Justice

Karl R. Hade, Executive Secretary

CLERK OF THE SUPREME COURT

Patricia Harrington, Clerk

COURT OF APPEALS OF VIRGINIA

The Honorable Walter S. Felton, Jr., Chief Judge

Cynthia McCoy, Clerk

JUDICIAL INQUIRY AND REVIEW COMMISSION

Donald R. Curry

VIRGINIA CRIMINAL SENTENCING COMMISSION

Meredith Farrar-Owens