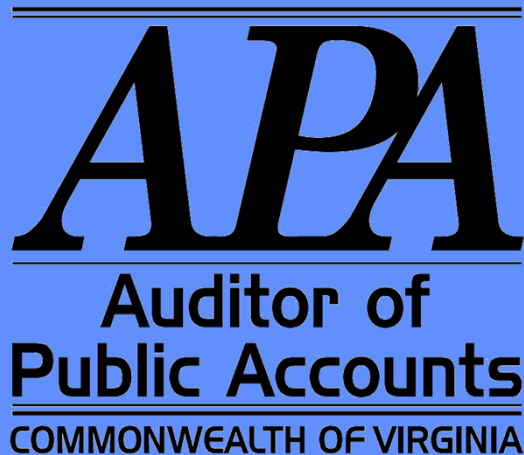


VIRGINIA'S JUDICIAL SYSTEM

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2010**



AUDIT SUMMARY

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

AUDIT RESULTS

Our audit for the fiscal year ended June 30, 2010, 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 "Internal Control and Compliance Findings and Recommendations" starting on page 1.
- 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 "Internal Control and Compliance Findings and Recommendations" starting on page 1.

SUMMARY OF RECOMMENDATIONS

Status of Prior Year Findings

Prior Year Finding	Status of Finding
Establish and Enforce Leave Approval Process	Resolved
Properly Complete and Maintain Documentation Transferring Cases to the Circuit Courts	Resolved
Improve Criminal Fund Monitoring	Resolved
Improve Public Defender Process	Progress made
Improve Court Appointed Attorney Process	Progress made
Enhance Fines and Costs Collection Procedures	Progress made
Improve Involuntary Commitment Process	Limited Progress made
Improve Database Security	Limited Progress made
Improve Internal Controls Surrounding Database User Access	Limited Progress made
Review Consumable Purchase Processing	Limited Progress made
Improve Information Technology Project Management	Limited Progress made
Improve Information Technology Project Cost Tracking	Limited Progress made

In addition to the prior year findings listed above, this report contains one new statewide finding and seven new agency specific findings that are detailed below under "Internal Control and Compliance Findings and Recommendations."

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INTERNAL CONTROL AND COMPLIANCE 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

With the exception of the funds collected and managed by the Clerks of the Circuit Court, this report shows the overall operation of the Judicial Branch and complements our report *Collections and Costs of Operating the Circuit and General District Courts by Locality*.

This is the second year we have conducted 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 has given 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 allowed 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.

We have audit findings which require the establishment of statewide policies and procedures and also, in some cases, involve several agencies within the Judicial Branch. Fundamental to understanding these findings is an awareness of the technology and systems administrated by the Office of the Executive Secretary. Our prior report included various findings relating to both statewide concerns and agency specific findings. As part of our continued review, we followed up on the status of these findings and summarized progress below.

Summary of Recommendations

	Status of Finding
Establish and Enforce Leave Approval Process	Resolved
Properly Complete and Maintain Documentation Transferring Cases to the Circuit Courts	Resolved
Improve Criminal Fund Monitoring	Resolved
Improve Public Defender Process	Progress made
Improve Court Appointed Attorney Process	Progress made
Enhance Fines and Costs Collection Procedures	Progress made
Improve Involuntary Commitment Process	Limited Progress made
Improve Database Security	Limited Progress made
Improve Internal Controls Surrounding Database User Access	Limited Progress made
Review Consumable Purchase Processing	Limited Progress made
Improve Information Technology Project Management	Limited Progress made
Improve Information Technology Project Cost Tracking	Limited Progress made
Clerk of the Supreme Court of Virginia	
Deposit Cash Timely	New
Office of the Executive Secretary of the Supreme Court of Virginia	
Establish procedures for Magistrate bank accounts and receipt books	New
Improve Controls over Purchasing Cards	New
Implement Procedures to Procure Information Technology Contracts	New
Improve Information Security Program	New
Implement Agency Wide Security Awareness Training	New
Improve Firewall Management	New
Log and Monitor Internet Activity	New

We discuss each of these areas in more detail in the sections below. These sections include a background of the finding if necessary, the status of the finding, and any additional recommendations.

Status of Information Technology

The Office of the Executive Secretary develops and maintains information technology systems for Virginia's Judicial Branch of government. These systems provide case management, record financial activities for the courts, process personnel and payroll information, assist in paying vendors, and maintain accounting records. Although Circuit Court Clerks do not have to use these systems, only three have elected not to use these systems.

Many of the systems operated by the Office of the Executive Secretary were developed and implemented in the 1980's. While the systems have undergone maintenance for statutory changes and additional functionality, the underlying technologies have remained relatively the same during this period. This lack of change is a function of the limited resources available for upgrading and improving these systems.

In 2006, legislation created a Court Technology Fund to provide resources for system development efforts, and the Office of the Executive Secretary has begun updating and modernizing a number of the systems, as well as upgrading the underlying technology infrastructure. In the last few years the Office of the Executive Secretary has devoted its efforts to developing and deploying a new leave system which replaced a system that was over 20 years old, implementing a system to allow remote access capability to case papers for approved officers of the court, and converting both the Financial Management System and the Case Management System to a relational database format and new browser based design. To date, the updated case management system is being used in 117 Circuit and 32 Juvenile and Domestic Relations courts. Fifty-three courts also now have the capability to scan and store case documents via the Case Imaging System developed by the Office of the Executive Secretary. Several of the findings in this report provide interim solutions to some issues, but recognize that the ultimate solution to many of the issues is the development and implementation of new systems.

We recognize that some of our recommendations will not be immediate priorities of the modernization efforts of the Office of the Executive Secretary because of funding constraints. However, we believe that improving court operations will depend in the long term on addressing these issues.

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 all District Courts and Magistrates improve in the areas noted below. While there continue to be major improvements since we issued our prior year audit report, we encourage the Office of the Executive Secretary to continue to monitor the items noted below.

Enhance Fines and Costs Collection Procedures

Billing and Collecting Court Fines and Costs

We tested a random sample of cases at individual courts and found 17 courts did not bill and collect the correct court fines and costs and therefore were not maximizing revenue and cost recovery for the Commonwealth and localities.

Tax Set-Off

The Tax Set-Off process allows the Commonwealth to intercept a taxpayer's refund to settle any debts to the Commonwealth. This is one of the courts' most effective methods of collecting delinquent fines and costs. When the program started, the Department of Taxation (Taxation)

established each of the courts as the point of contact for submitting the accounts for collection and verifying that the taxpayer still owed the debt when there was a refund.

Taxation requires that all employees responsible for the Tax Set-Off program receive training in using the Integrated Revenue Management System and become certified. All communications from Taxation related to this system occur through e-mail, and each court must have one or more of their employees approved to handle accounts.

We found nine courts where neither the clerk nor any other employee had completed Taxation's training and therefore could not use the Tax Set-Off process. Clerks or their designees failed to respond when Taxation notified the court of available refunds. In other cases, Clerks did not have a primary and designee assigned, and when an employee was absent, the court did not send the response to get the money.

Recommendation 1

The Office of the Executive Secretary has implemented measures over the past year to improve both the billing and collection of court fines and costs. Changes to the system include automated edits, where feasible, in the financial management system to ensure the accuracy of mandated fines and costs. The Office of the Executive Secretary has also worked diligently to obtain a listing of the Integrated Revenue Management System users and has evaluated this list for all courts without a primary and back-up designee.

By continuing training and making sure both the clerks and their staff understand their responsibilities, the Office of the Executive Secretary will ensure that the courts accurately bill and collect fines and costs, as well as have adequate staff to process Tax Set-Off accounts and collect the funds. We encourage The Office of the Executive Secretary to continue efforts to improve fine and cost entry, as well as its monitoring of the Tax Set-Off process.

Improve Public Defender, Court-Appointed Attorney, Criminal Fund and Involuntary Commitment Fund Processes

The Office of the Executive Secretary and the General Assembly has established the processes of providing indigent defendants' legal counsel and reviewing the involuntary commitment of individuals to mental health institutions. Under these processes, the Office of Executive Secretary has guidelines for the payment of legal counsel and other individuals. The individual courts, both clerks and judges, initiate these payments, bill and collect from defendants when appropriate; and authorize payments for these services. Once the individual courts have performed their functions, the court sends the authorization information to the Office of the Executive Secretary for payment.

We found that many of the issues arise from how each process handles and records similar transactions differently. Many of the process differences are the result of the enabling legislation and the lack of automated procedures to assist judges and clerks with these differences.

Our review found some process issues have the same root problem but the available solutions are not the same between processes or among courts. As an example, having attorneys complete and file timesheets is a problem for both public defenders and court-appointed attorneys. Since public defenders are Commonwealth employees, there is no incentive to turn in a time sheet as the court does not pay them; however, without this timesheet the defendant has a delay in knowing the costs, since the Clerk does not know the amount to add to the defendant's costs. Some judges have issued a blanket order pertaining to local violations stating that the clerk can charge the defendant and bill the locality the maximum allowable cost.

Court-appointed attorneys may request up to a maximum payment per case as set in the Code of Virginia, unless the judge agrees that the case involved additional work and therefore the attorney may receive additional compensation. However, some attorneys are always late in filing the paperwork, and the level of detail and information varied from court to court. This late filing delays adding costs to the defendant, and delays billing to either the Commonwealth or locality.

OBSERVATION

We have provided this information because we do not believe providing only training is a solution to improving these processes. As with several other issues in this report, addressing these processes has a short-term temporary solution, but a more permanent solution may require the design and incorporation of these processes into a new automated system.

Public Defender Process Issues

Our statewide review found 37 courts did not follow the prescribed procedures, and therefore were not maximizing cost recovery for the Commonwealth of public defender fees relating to local cases. We also found clerks and judges were experiencing a number of different issues with the process and were unsure of how to proceed or often did not proceed with procedures at all. The 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.

At 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. As a result, some judges have issued a blanket order for cases with local charges and public defender costs, directing the clerk to charge the defendant and bill the locality the maximum allowable cost. This avoids the need for a timesheet. Although this blanket order relieves the need for the timesheet at some courts, not all the courts have adopted this approach and there is delay in completing the paperwork for these cases.

Recommendation 2

The Office of the Executive Secretary, as well as our office, has worked with the Indigent Defense Commission to improve the submission of public defender timesheets. The Office of the

Executive Secretary also implemented automated edits in the financial management system over the past year which we feel will help with the proper assessment and billing.

We feel an emphasis by the Indigent Defense Commission should continue to ensure public defenders are submitting timesheets to clerks timely and that timesheets are an accurate reflection of the time for a case. The Office of the Executive Secretary should also continue to encourage clerks to notify the judge when the clerk is not receiving timesheets timely or if they are inaccurate. In addition, the Office of the Executive Secretary should continue to work with the Forms Committee to ensure the forms used relating to this process are updated timely with changes in the Code of Virginia, clear, and easy to understand.

Court-Appointed Attorney Process Issues

Court-appointed attorneys seeking payment of amounts in excess of the standard amount provided by law can ask the judge to approve additional payment for both time spent and other costs. Attorneys submit a List of Allowances for payment of standard amounts and any additional costs, a waiver justifying additional costs, and timesheets for additional amounts. The judge reviews and approves both the list and the waiver, and the clerk submits only the list to the Office of the Executive Secretary for payment.

We noted multiple instances where the waiver amount did not agree with the amount on the List of Allowances. Waivers did not have the appropriate authorizing signatures of the judge, presiding judge, or chief judge. The List of Allowances did not have the appropriate approval signatures, were incomplete, or contained mathematical errors. Some of the errors led to overpayments to attorneys. Also, in some cases we could not locate either the List of Allowances, timesheet, waiver, or some combination of these documents at the individual court which must retain these documents.

Recommendation 3

The court appointed attorney payment process is manual and there are time lags between the time a judge originally approves additional costs and fees and the submission of actual documentation from the attorney for those costs and fees. This manual process and time lags partially contribute to some of the differences in amounts approved for reimbursement and those submitted. However, also contributing to the differences is not maintaining the information in a manner that would allow for a better review of the submission before its final approval by the judge. The Office of the Executive Secretary has issued updated guidance, and given training to both the judges and the clerks on how to oversee this process; however, they will need to continue this effort.

There is some confusion in the process as to who must maintain what documentation and whether it is the responsibility of either the court or the Office of the Executive Secretary. Also, there is confusion as to which documents the courts should maintain or if all the paperwork comes to the Office of the Executive Secretary. While the forms are labeled with who should retain the documentation, the Office of the Executive Secretary should continue to reinforce this guidance on what documentation is necessary for payment and how long to retain documentation.

The Office of the Executive Secretary has also implemented monitoring procedures centrally relating to these payments. Upon our central follow-up of local issues, including overpayments, we found that the Office of the Executive Secretary had identified these errors and initiated the process to correct the error and collect any overpayments.

The Office of the Executive Secretary also implemented automated edits in the financial management system over the past year which we feel will help with the proper assessment and billing of these costs. As the Office of the Executive Secretary continues to upgrade both the court systems and potentially the Commonwealth's primary financial system, they should give consideration to automating this process and using an automated process to track transactions from approval to payment.

Involuntary Commitment Process Issues

The Involuntary Commitment process uses a form to pay individuals who participate in these hearings. Different participants receive different amounts depending on their function and what the Code of Virginia authorizes. The participant completes the form, which includes certain codes to determine how much to pay someone, and enters the amount of any expenses incurred and other information. In the prior year audit period we noted instances of special justices administering the process and certifying their own payments.

We found mathematical errors, lack of authorizing signatures, coding, and other errors that one would expect with a manual process, which in some cases resulted in overpayments. We also noted that the form does not include a case number, which makes it difficult or impossible to locate documentation supporting the payment; as a result we were unable to perform audit test work for involuntary mental commitment vouchers in ten courts. These courts are in districts with local treatment facilities and generally process the majority of mental commitment vouchers. We are unable to determine that proper controls are in place, correct procedures were followed, or if overpayments existed for these courts.

Recommendation 4

The Office of the Executive Secretary has modified the form to require the Clerk to review and certify the involuntary mental commitment vouchers. This change helps to ensure controls exist to prevent an individual that performs a service from authorizing their own payment. Additionally, the Office of the Executive Secretary has implemented monitoring reports that better enabled Clerks to detect overpayments.

We continue to recommend the Office of the Executive Secretary consider adding the case number to the involuntary mental commitment form. The Office of the Executive Secretary should also consider developing a monitoring report that would allow them to track courts which have high volumes of errors and better focus training efforts.

As the Office of the Executive Secretary upgrades both the court systems and potentially the Commonwealth's primary financial system, they should give consideration to automating this process and using an automated process to track transactions from approval to payment.

Magistrates

The Office of the Executive Secretary does not have a procedure for magistrates to open bank accounts using a federal tax identification number. Instead, magistrates provide their own social security number to the bank when opening a new account. These monies are public funds and using private social security numbers for the bank accounts could create unnecessary risk to the Commonwealth. Since the Commonwealth has changed the magistrate system, the Office of the Executive Secretary should consider working with the State Treasurer to develop new banking processes and procedures, which could reduce the need for individual accounts.

In addition, The Office of the Executive Secretary does not have a procedure, and has not encouraged magistrates to return unused manual receipt books. The magistrates currently utilize an automated system to receipt funds and manual receipts should only be necessary if that system is down; however, many magistrates continue to have multiple manual receipt books increasing the risk for fraud or abuse.

Recommendation 5

We recommend the Office of the Executive Secretary work with the State Treasurer to develop new banking processes and procedures, which could reduce the need for individual accounts and federal identification numbers. Furthermore, the Office of the Executive Secretary should implement a process to eliminate redundant manual receipt books.

Court or Agency Specific Issues

Agency specific issues are those internal control findings or compliance issues that a specific court or agency should address either in new guidelines, new processes, or by providing training to help staff improve in the areas noted below. We developed findings and recommendations in the following areas:

District Court System, Magistrates, Circuit Court System, Indigent Defense Commission, Virginia State Board of Bar Examiners, and Virginia State Bar

We have provided both the individual District Courts and magistrates information about our reviews as we conducted them and also provided periodic reports to the staff of the Executive Secretary of our findings and comments. Our office issues separate reports covering each specific Circuit Court, the Board of Bar Examiners, the Indigent Defense Commission, and Virginia State Bar. To view these reports, or obtain electronic copies, please visit our website at www.apa.virginia.gov.

Clerk of the Supreme Court of Virginia

Deposit Cash Timely

The Office of the Clerk of the Supreme Court holds checks for attorney certification fees for 30 to 45 days before deposit or their return to the payee. Best internal control practices require restrictive endorsement of checks upon receipt or removal from the mail and the intact deposit of funds normally on the same day or within one business day of receipt. Further, best practices normally do not allow for the return of checks except by refund. By not making prompt deposits, the Clerk's office unnecessarily exposes receipts to the risk of loss or misappropriation.

Recommendation 6

We recommend the Clerk's Office restrictively endorse all checks upon receipt and deposit in accordance with the State Comptroller's procedures or best internal control practices.

Office of the Executive Secretary of the Supreme Court of Virginia

Improve Controls over Purchasing Cards

In our sample of 25 payments, we found two monthly credit card bills totaling \$17,575 that lacked any indication of a manager's review or approval before payment. Additionally, we found three paid monthly bills where the credit card users did not include 38 invoices totaling \$1,411 supporting purchases.

Good internal control practices for the use of credit cards require appropriate supporting documentation for each item on a monthly bill, that a supervisor review and approve monthly credit card bill payments have the supporting documentation, and a direct supervisor's review and approval to help provide strong oversight to prevent a misappropriation of funds from occurring.

Recommendation 7

Purchasing card users should submit all original invoices and receipts to management for review. Management should review all invoices and receipts for completeness prior to providing approval for payment. The Accounts Payable office should require all original invoices and receipts and determine if management approved all purchases.

Improve Purchase Processes

Small Purchases Charge Card

To encourage bulk purchases, reduce the number of miscellaneous expenses, and improve internal controls, the Office of the Executive Secretary has established guidelines for small consumable goods purchases by the magistrates and clerks in the General District, Juvenile and Domestic Relations District, and Combined District Courts. The Clerks and magistrates are not provided small purchase charge cards. However, the volume of transactions and the lack of any meaningful method of either reviewing transactions or having monitoring reports clearly indicates a need for revision to the current process.

In addition, the State Comptroller assesses a penalty on State agencies that do not minimize the number of checks written by maximizing the use of charge cards. The Office of the Executive Secretary has determined it will not issue purchase cards to individual clerks or magistrates or process purchases centrally using purchase cards. As a result, the Office of the Executive Secretary incurred approximately \$35,000 in penalties in fiscal year 2009 directly linked to district courts and magistrates. In fiscal year 2010 we noted a 21 percent increase in the penalties paid by the Office of the Executive Secretary to the State Comptroller of approximately \$10,000.

Use of State Contracts

Under current guidelines, the Office of the Executive Secretary is not maximizing the use of state contracts. Our review of vendor purchases related to contractual services, supplies and materials, and equipment demonstrated that district courts utilized state contracts for less than 13 percent of purchases and magistrates utilized state contracts for less than 40 percent of purchases. The district courts and magistrates could benefit from the usage of state contracts in ways such as free shipping, pick up by the court staff with direct billing to the Office of the Executive Secretary, and other options.

Recommendation 8

In order for the Office of the Executive Secretary to address these issues, there are short term and long term approaches. The short term approach would require a re-examination of the policy for small purchases of consumable goods. The Office of the Executive Secretary may consider offering guidance on the use of state contract vendors, as well as utilization of vendors offering incentives such as free shipping.

The long term approach would require enhancement to the court accounting system. All of the courts have on-line access to the Office of the Executive Secretary. Therefore using this access could allow the individual clerks to have restricted charge cards for which they could record all purchases on-line and reduce the need for a credit card log, and provide the Office timely information on both credit card usage and purchase information. This option would significantly reduce data entry and transaction volume, and at the same eliminate the penalty.

Sole Sourcing of Information Technology Contracts

The Office of the Executive Secretary had limited documentation supporting the justification for the sole sourcing of nine information technology services contracts, which exceed the minimum amount to issuing either a request for proposal or request of services under Virginia Public Procurement Act. The Office of the Executive Secretary issued 122 of 167 contracts, representing \$9.4 million, during the period of March 1, 2010 to February 28, 2011 as sole source procurements for information technology personnel services to help with their systems development efforts.

The intent of the Virginia Public Procurement Act is to ensure procurement procedures are fair, impartial and avoid any appearance of impropriety. Further, the Act also ensures that all qualified vendors have access to public business and that the procuring entity does not arbitrarily or capriciously exclude any vendor.

Recommendation 9

We recommend the Office of the Executive Secretary implement procedures that only allow the awarding of sole source contracts in instances where only one source is practicably available or in cases of emergency. The Office of the Executive Secretary should consider issuing Request for Proposals or Invitation for Bids in all other instances to ensure access to public business by all qualified vendors. To ensure there is no disruption to information technology business processes the Office of the Executive Secretary could consider issuing a longer term contract from which they could obtain information technology personnel as needed, or issuing individual longer term contracts for personnel which could support multiple projects.

Improve Systems Development Process, Documentation, Cost Tracking, and Recovery

Track All Internal Costs for Information Technology Projects

The Department of Judicial Information Technology (DJIT) continues to not track their Information Technology department internal costs. We also reviewed DJIT's systems development budgeting structure and found that while they have a process in place to create budgets for their projects, the actual cost of the projects are not complete. DJIT has chosen not to account for their internal staff costs when calculating their budgets or recording their actual expenses of a project. This method of tracking costs is not in compliance with the State Comptroller's requirements that agencies capitalize internal information technology project costs, including internal resource costs.

Specifically, we noted DJIT's decision to not track internal costs and effectively budget has resulted in a failure to recoup their costs for providing Records Management System (RMS) services to circuit courts. DJIT provides RMS services to most of the circuit courts in the Commonwealth and bills the circuits to recover related expenditures. For fiscal year 2010, DJIT did not sufficiently recoup their internal costs, a shortage of nearly \$150,000. In addition to their decision to not track internal costs, DJIT has also refrained from raising rates charged to the Circuit Court Clerks since November 2008 despite costs continuing to rise.

Project management best practices as well as the CAPP manual consider tracking internal costs a requirement for information technology projects. Without this measurement an IT project's true cost cannot be calculated and assessed, properly managed, or capitalized as required by the CAPP manual.

Recommendation 10

DJIT should track all costs, including internal costs, so they can accurately capitalize system development costs, effectively manage IT projects, and recover expenditures where appropriate. We also recommend their project management methodology include a requirement to regularly compare actual costs of a project to budgeted amounts. DJIT should consider working with the Office of the Executive Secretary's fiscal department, and if necessary DOA, to determine a cost efficient method to calculate and recover these costs.

Improve Systems Development Process and Documentation

The DJIT does not have adequate systems development processes and documentation. In the same special study conducted by our office in 2007, noted above, we determined that the IT department should establish and follow industry best practices for managing IT projects.

In this and our previous audit, we found limited progress in this area. We also noted DJIT attempted to address these issues by hiring a consultant to provide improvements in this area. Due to budget constraints the consultant that started this effort is no longer at the Office of the Executive Secretary and there has been minimal progress on addressing this issue.

Recommendation 11

Without a structured systems development process in place, there is an increased risk of projects running over budget, as noted in our first finding above, or of failing. We continue to recommend that DJIT fully implement a systems development methodology. This very likely will require assistance from outside the Office of the Executive Secretary as it appears they do not have the internal expertise to implement something of this size.

Improve System Access and Logging

The Accounts Payable Manager and two Database Administrators have access that provides the ability to both enter and release transactions for payment. The Accounts Payable Manager frequently enters and releases her own transactions.

The Office of the Executive Secretary does not keep transaction audit log files for longer than ten days and database administrators can change system audit trails. Inadequate retention of audit trails over financial transactions creates a risk involving user accountability. The system also does not capture which user approved any of the batches in IDSS and ultimately submitted to CARS for payment.

Lastly, the Office of the Executive Secretary does not review administrator user account activity. Currently IDSS database administrators have the ability to enter and release transactions for payment, as well as view, change, and delete any data in the database. Audit test work identified an instance where the database administrator entered an expenditure voucher and we could not determine who released these transactions for payment.

We acknowledge that staffing limitations in the Fiscal department at times necessitate the need for the Accounts Payable manager to assist in processing transactions. The management of the database being housed within the fiscal department also results in the database administrators performing database and application development, maintenance, and monitoring; thus requiring the granting of extremely high levels of access. However, reliable system controls and management reviews could mitigate these risks.

Recommendation 12

We continue to recommend that the Office of the Executive Secretary strengthen systems access and batch processing internal controls relating. The Office of the Executive Secretary should strongly discourage a single user from entering and releasing for payment their own transactions, however, whenever this is a necessity, the Office of the Executive Secretary should document and implement a systems process that also provides second party review of batches entered and released by the same individual. Without proper segregation of duties, the Office of the Executive Secretary increases the risk of loss to the Commonwealth due to fraud or employee error.

We also recommend the Office of the Executive Secretary retain the database transaction audit log for an extended period of time in accordance with the agency's documented retention policies. Further, they should store both transaction audit and system logs on a secure log server, as well as implement a process for reviewing the logs periodically. This allows data owners to ensure the integrity of data and gives assurance that unauthorized changes are not made. When database administrators have the ability to alter audit logs, the Office of the Executive Secretary cannot rely upon these logs to track user activity and ensure they are not making unauthorized changes to critical data.

Improve Information Security Program

The Office of the Executive Secretary lacks the following documented processes in their information technology security program.

- Change Control
- Rule-Set Reviews
- Security Configuration Controls
- Disaster Recovery
- Remote Access

Without documenting these processes, and communicating and training employees on them, the Office of the Executive Secretary cannot efficiently, effectively, or consistently implement security controls that meet industry best practices.

Identifying, documenting, and implementing the related policies and procedures will reduce the risk of misconfigured infrastructure devices that may inadvertently allow malignant 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 the Office of the Executive Secretary.

Recommendation 13

We recommend that the Office of the Executive Secretary develop and implement policies and procedures in these areas over their infrastructure devices. We also recommend that the Office of the Executive Secretary 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 in implementing those requirements.

Implement Agency Wide Security Awareness Training

The Office of the Executive Secretary is not requiring all of its employees to take annual Security Awareness Training or requiring new employees to take an initial Security Awareness Training. We found six out of 13 newly hired employees had not taken the Security Awareness training. After further investigation, we determined that the Office of the Executive Secretary has not implemented its Security Awareness Training policy agency wide; which requires all employees to complete the training on an annual basis and new hires to complete the training within 30 days of employment.

The Commonwealth of Virginia's Security Standard, "Security Awareness and Training" and best practices requires agency management to identify the steps necessary to provide system managers, administrators, and users with awareness of system security requirements and of their responsibilities to protect systems and data. Not implementing a training process leaves employees unaware of how to best protect sensitive agency data and puts the Commonwealth of risk through data breaches.

Recommendation 14

We recommend that the Office of the Executive Secretary implement its Security Awareness Training agency wide to all employees on an annual basis, or more often as necessary. We further recommend that they require all new hires to complete the training before (or as soon as practicable after) system users receive access rights to the agency's systems, and to maintain these access rights. Additionally, the Office of the Executive Secretary should implement processes to monitor and track completion of the required security awareness training.

Improve Firewall Management

The Office of the Executive Secretary is not configuring their firewall in accordance with industry best practice. Cisco Technology's best practices recommends the configuration of firewall devices to control what internal users have access to on external networks for the services necessary for an organization's operational needs. This rationale uses the concept of not permitting network users any additional access to non-essential network services.

We have communicated the details of these weaknesses to management in a separate document marked Freedom of Information Act Exempts under Section 2.2-3705.2 of the Code of Virginia, due to their sensitivity and description of the security system.

Recommendation 15

We recommend that the Office of the Executive Secretary develop a process to determine what services the firewall should allow based on business function needs. Additionally, we recommend that the Office of the Executive Secretary configure its firewall according to the recommendations communicated to management in a separate document due to its sensitivity.

Log and Monitor Internet Activity

The Office of the Executive Secretary is not enforcing its Acceptable Use of Technology Resources Policy through both logging and monitoring employee internet activity, which is not in accordance with the Commonwealth's security practice or industry best practice. The Office of the Executive Secretary Information Technology Department has been awaiting management approval on the proposed method of both monitoring and logging internet activity since September of 2010.

While awaiting this approval there is no method of logging the Office of the Executive Secretary employees' internet activities, and therefore management cannot review or control employee internet use, which may expose their network to additional risk of viruses, malware, and spyware. Additionally, from a work efficiency perspective, monitoring Internet usage will enable the Office of the Executive Secretary to more easily ensure that staff are staying on task and appropriately focusing on their job responsibilities.

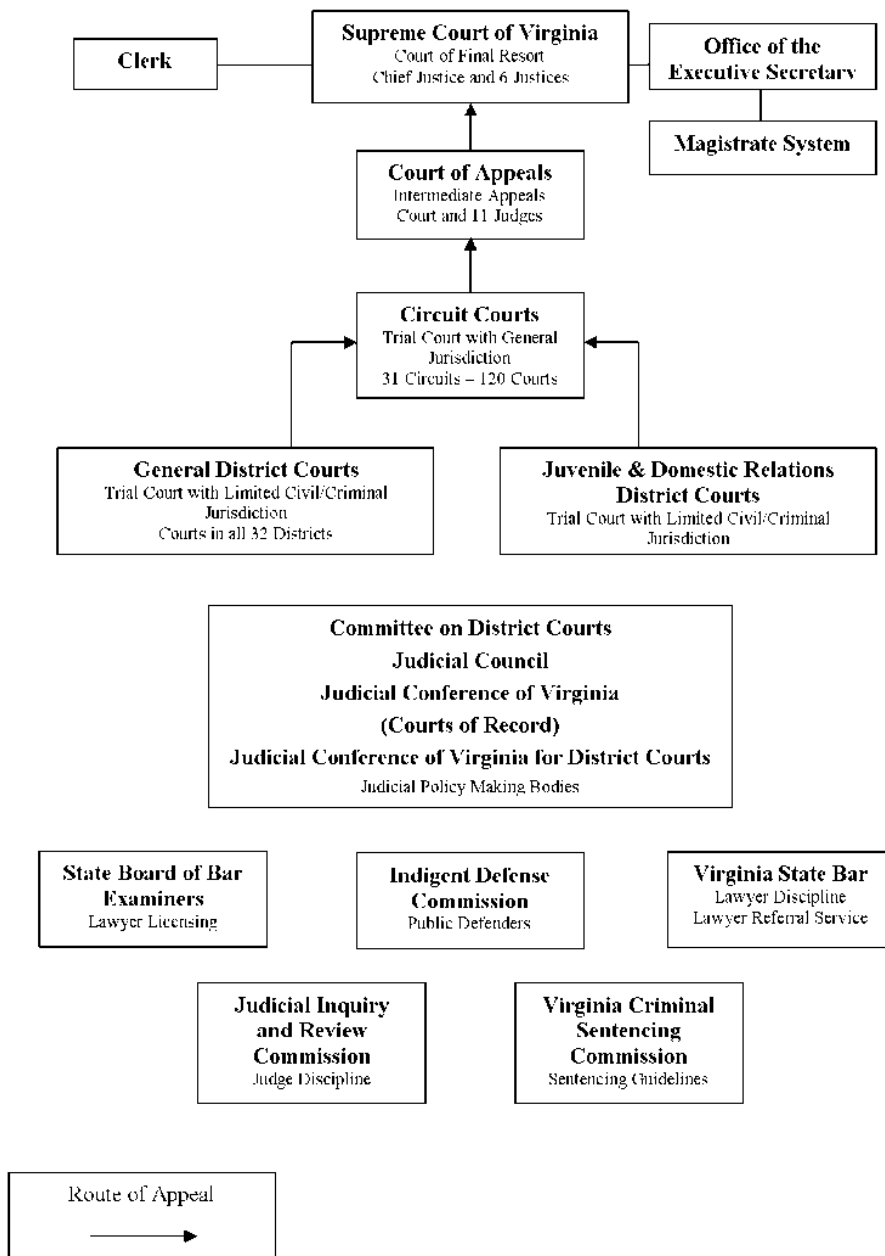
Recommendation 16

We recommend that the Office of the Executive Secretary approve a mechanism to both monitor and log internet activity to ensure compliance with their Acceptable Use of Technology Resources Policy. Additionally, we recommend that the Office of the Executive Secretary implement the mechanism to protect their network from the additional risk of viruses, malware, and spyware, and to ensure that employees are focusing on their job responsibilities.

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 summarizes fiscal year 2010 expense data relating to Virginia's Judicial System.

Budget and Expense Summary for Fiscal Year 2010

	<u>Final Budget</u>	<u>Expenses</u>
Magistrate System	\$ 24,437,330	\$ 24,337,330
Supreme Court	38,294,543	34,617,943
Judicial Inquiry and Review Commission	728,271	525,300
Circuit Courts	88,257,235	88,127,210
General District Courts	92,725,187	92,614,163
Juvenile and Domestic Relations District Courts	80,586,710	80,429,216
Combined District Courts	27,930,945	27,798,983
Court of Appeals of Virginia	8,463,015	8,463,015
Virginia Criminal Sentencing Commission	1,007,718	986,583
Total	<u>\$362,430,954</u>	<u>\$357,899,743</u>

Source: Commonwealth Accounting and Reporting System

Virginia's Judicial System spent approximately \$357.9 million in fiscal year 2010. Of this amount, the Circuit and District Courts accounted for about \$289 million or 81 percent of total expenses. Ninety-six percent of the funding for the courts and agencies listed above comes from the General Fund of the Commonwealth.

Expenses relating to the Criminal Fund and Involuntary Mental Commitment Fund constitute 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.

The table below summarizes fiscal year 2010 expenses relating to the Criminal and Involuntary Mental Commitment Funds. These amounts are included in the expenses listed in the chart above.

	<u>Criminal Fund</u>	<u>Involuntary Mental Commitment Fund</u>
Supreme Court	\$ 6,448	\$ -
Circuit Courts	48,024,834	-
General District Courts	19,035,376	5,300,493
Juvenile and Domestic Relations District Courts	30,176,804	439,886
Combined District Courts	8,578,629	743,781
Court of Appeals of Virginia	16	-
Total	<u>\$105,822,107</u>	<u>\$6,484,160</u>

Source: Commonwealth Accounting and Reporting 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. The Chief Justice 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

Titles 16.1 and 17 of the Code of Virginia establish 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 11 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, the Historical Commission, 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) has the responsibility of making a continuous study of the organization, rules, and methods of procedure and practice of the judicial system of the Commonwealth. It is responsible for examining the work accomplished and results produced by the system and its individual offices and courts. The Council also studies 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 2010 actual expenses for the Supreme Court of Virginia.

Analysis of Actual Expenses for Fiscal Year 2010

Personal Services	\$17,177,574
Contractual Services	11,499,958
Supplies and Materials	246,186
Transfer Payments	2,882,716
Continuous Charges	2,402,503
Equipment	409,006
Total	<u>\$34,617,943</u>

Source: Commonwealth Accounting and Reporting System

Expenses consisted 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 with 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 2010 actual expenses for the Court of Appeals.

Analysis of Actual Expenses for Fiscal Year 2010

Personal Services	\$7,447,668
Contractual Services	294,920
Supplies and Materials	20,349
Transfer Payments	16,231
Continuous Charges	651,988
Equipment	<u>31,859</u>
Total	<u>\$8,463,015</u>

Source: Commonwealth Accounting and Reporting System

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

CIRCUIT COURTS

The only trial court of general jurisdiction in Virginia is the Circuit Court. The Circuit Court has jurisdiction over civil actions, criminal cases, appeals, and any case for which the Code of Virginia does not specify jurisdiction.

The following table summarizes the fiscal year 2010 actual expenses for the Circuit Courts of Virginia.

Analysis of Actual Expenses for Fiscal Year 2010

Personal Services	\$40,193,063
Contractual Services	46,730,270
Supplies and Materials	143,876
Transfer Payments	-
Continuous Charges	637,832
Equipment	<u>422,170</u>
Total	<u>\$88,127,211</u>

Source: Commonwealth Accounting and Reporting System

The majority of expenses were for contractual service and personal service expenses. Contractual services includes the Criminal Fund, which primarily consists of payments to court appointed attorneys, court reporters, court-related medical expenses, interpreters, and other associated expenses. Personal services include employee benefits, salaries, special payments, and wages with the exception of the Circuit Court clerk, who the Compensation Board pays.

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, traffic infractions, and preliminary hearings in felony cases. All cases are heard by a judge and upon consideration of evidence the judge issues a disposition 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 a General District and a Juvenile and Domestic Relations District Court.

The following table summarizes the fiscal year 2010 actual expenses for the District Courts of Virginia.

Analysis of Actual Expenses for Fiscal Year 2010

	General District	Juvenile and Domestic Relations District	Combined	
<u>Operating Expenditures</u>	<u>Courts</u>	<u>Courts</u>	<u>District Courts</u>	<u>Totals</u>
Personal Services	\$ 63,471,936	\$46,039,726	\$16,336,713	\$125,848,376
Contractual Services	27,104,517	33,490,719	10,745,499	71,340,735
Supplies and Materials	1,140,526	448,640	170,098	1,759,264
Transfer Payments	43,467	40,552	9,327	93,346
Continuous Charges	367,487	182,489	93,813	643,788
Equipment	<u>486,231</u>	<u>227,090</u>	<u>443,533</u>	<u>1,156,854</u>
Totals	<u>\$92,614,164</u>	<u>\$80,429,216</u>	<u>\$27,798,983</u>	<u>\$200,842,363</u>

Source: Commonwealth Accounting and Reporting System

The majority of expenses consisted of personal services and contractual services. Personal services include employee benefits, salaries, special payments, and wages. Contractual service expenses include the Criminal and Involuntary Mental Commitment Funds. 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.

MAGISTRATES

In many instances, a citizen's first contact with the judicial system comes through the Office of the Magistrate. The magistrate's principal function 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 2010 actual expenses for magistrates.

Analysis of Actual Expenses for Fiscal Year 2010

Personal Services	\$22,692,789
Contractual Services	1,343,153
Supplies and Materials	201,421
Transfer Payments	316
Continuous Charges	59,506
Equipment	40,146
Total	<u>\$24,337,331</u>

Source: Commonwealth Accounting and Reporting System

The majority of expenses consisted of personal and contractual services. Personal services include employee benefits, salaries, special payments, 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 public, non-lawyer members.

The following table summarizes the fiscal year 2010 actual expenses for the Judicial Inquiry and Review Commission.

Analysis of Actual Expenses for Fiscal Year 2010

Personal Services	\$432,788
Contractual Services	36,490
Supplies and Materials	3,415
Continuous Charges	50,851
Equipment	1,756
Total	<u>\$525,300</u>

Source: Commonwealth Accounting and Reporting System

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

VIRGINIA CRIMINAL SENTENCING COMMISSION

The Virginia Criminal Sentencing Commission develops sentencing guidelines to ensure consistent punishments for offenses in all felony cases. It is composed of seventeen members including six judges, six legislators, four Governor Appointees, and the Attorney General. Total expenses for the Commission were \$986,583 consisting of over 78% for compensation.



Commonwealth of Virginia

Auditor of Public Accounts

Walter J. Kucharski
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

July 6, 2010

The Honorable Robert F. McDonnell
Governor of Virginia

The Honorable Charles J. Colgan
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, 2010. 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, the Clerk of the Court of Appeals, the Judicial Inquiry and Review Commission, and the Virginia Criminal Sentencing Commission:

Payroll, Travel, and Other expenses	Cash receipts
Clerk leave approval process	Systems security
Criminal fund expenses	Systems access
Involuntary mental commitment fund expenses	Systems development
Local consumable purchases expenses	
Contract Procurement	

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

Payroll expenses	Fine and fee assessments
Clerk leave approval process	Tax set-off program
Criminal fund expenses	Magistrate banking
Involuntary mental commitment fund expenses	Magistrate cash receipts
Local consumable purchases expenses	

Circuit Courts:

Payroll expenses	Expenditures
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Our audit did not include the Virginia State Bar, the Board of Bar Examiner's, 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 and 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 "Internal Control and Compliance 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 July 19, 2011. 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

JR:alh

EXECUTIVE SECRETARY
KARL R. HADE
ASSISTANT EXECUTIVE SECRETARY &
LEGAL COUNSEL
EDWARD M. MACON
COURT IMPROVEMENT PROGRAM
LELIA BAUM HOPPER, DIRECTOR
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SUPREME COURT OF VIRGINIA



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July 26, 2011

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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, 2009, through June 30, 2010.

As we discussed in our meeting on July 19, 2011, I wanted to share with you additional information regarding the recommendations contained in this audit report.

Recommendation #1 – Enhance Fines and Cost Collection Procedures

This Office continues to support the recommendation that the Courts should have adequate staff to process Tax Set-off accounts and collect funds. The district court system is currently understaffed by over 300 positions. This office continues to seek additional positions from the General Assembly; however additional funding for district court personnel has not been appropriated since 2006 at which time 25 positions were added statewide.

Recommendation #2 – Public Defender Process Issues

This Office will continue to encourage the clerks to discuss with the judges issues relating to the timely submission of attorney timesheets and will continue to develop forms that meet statutory requirements accompanied by clear and easy to understand directions for court personnel. As you are aware, this office continues to work with the Indigent Defense Commission to assist in their efforts to train public defenders on the importance of timely submission and, in fact, presented jointly with APA on May 23, 2011 at the Commission training event.

Recommendation #3 – Court Appointed Attorney Process

We strongly support the recommendation to automate the reimbursement process to track transactions from approval to payment. Budget cuts enacted by the General Assembly, however,

Letter to Mr. Walter J. Kucharski
July 26, 2011
Page Two

have resulted in a reduction of funding available for new technology projects. Sufficient funds are currently not available to develop an automated system for the reimbursement and payment process. Once budget reductions are restored, we will make this a priority.

Recommendation #4 – Involuntary Commitment Process

Adding Case Numbers - Special justices complete the form in question and, in most cases, they do so before a case number has been assigned by the court. We will review this process further however to assist the office of the Auditor of Public Accounts with the auditing process for involuntary mental commitments.

Automate the Process – We strongly support the recommendation to automate the reimbursement process to track transactions from approval to payment. Budget cuts enacted by the General Assembly, however, have resulted in a reduction of funding available for new technology projects. Sufficient funds are currently not available to develop an automated system for the reimbursement and payment process. Once budget reductions are restored, we will make this a priority.

Recommendation #5 – Magistrate Bank Accounts

The Office of the Executive Secretary (OES) is working with the office of the State Treasurer to develop new procedures to establish bank accounts for magistrate offices.

Effective July 1, 2011, a new statewide procedure was implemented to eliminate redundant manual receipt books.

Recommendation #6 – Deposit Cash Timely

We agree with this recommendation and the Clerk's Office of the Supreme Court of Virginia will modify its current procedures for depositing all checks in accordance with the recommended internal control practices.

Recommendation #7 – Improve Controls Over Purchasing Cards

The current CAPP Manual's Purchasing Charge Card Policies (Topic No. 20355) state that payments must be paid in full according to the monthly bill's Current Amount Due section.

A delay in payment (until all information has been obtained) would have a significant impact on the SCV's prompt payment record.

We agree, however, that all required information should be obtained for our files and reconciled with the charges shown on the monthly bill (even if it is after the credit card payment has been processed). We have implemented new procedures in our Accounts Payable Office to ensure appropriate follow-up is made each month to obtain the required information for our credit card bills.

Recommendation #8 – Use of State Contracts and Small Purchase Credit Cards

We will modify our current guidelines to encourage the use of state contracts for small purchases of consumable goods. In addition, we will provide district court clerks and magistrates access to these state contracts by placing “links” to the contracts on the Court System’s Intranet web site.

Due to budget and staffing constraints, we currently cannot support the recommendation to provide restricted charge cards to individual clerks. We currently do not have sufficient staff or resources available to monitor and review the additional credit card transactions that would be generated by the 300 plus clerk and magistrate offices. Nor do we have sufficient staff to implement all of the enhancements that would be required to the court accounting system.

Recommendation #9 – Sole Sourcing of Information Technology Contracts

The Office of the Executive Secretary recognizes the general requirement of the Virginia Public Procurement Act (VPPA) for competitive sealed bidding except where “there is only one source practicably available for that which is to be procured...” See Va. Code § 2.2-4303(E). The determination of whether there is only one source that is practicably available must be made in light of the policies expressed by the Virginia General Assembly in Va. Code § 2.2-4300 as follows:

C. To the end that public bodies in the Commonwealth obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered.

Over the past twenty-five plus years, OES has maintained the secure and independent technology systems that support the operational requirements of the Judicial Branch, including separate case management and fiscal management IT systems. Over the years, we have relied upon a competitive negotiated process that in many cases has resulted in invaluable partnerships and working relationships with a number of contractors who have helped build and support our unique systems over the long term.

We currently employ consultants from 20 companies and our current process enables us to procure and retain these high-quality consultants at competitive rates. This process includes the following steps:

1. We look first to contractors who can build on the work they have done in the past and/or have experience with our systems and have a demonstrated proficiency and track record.
2. Because of the relationships we have established we are often able to obtain significant benefits and enhancements beyond the particular project or service requested.
3. We make contact with various consulting companies who we either have a relationship with or determine through our own investigation are the most competent and reliable in terms of a particular resource need.
4. We review and carefully scrutinize individual resumes submitted by the interested companies.
5. We interview top candidates in a competitive process akin to hiring of a part-time employee.
6. We bring the top candidate back for a second interview and for additional interviews if needed.
7. Because of the efficiencies involved we are able to negotiate a most competitive rate.
8. Throughout this process we are highly selective and focused on obtaining the best resource for the best price. At the conclusion of this process when we evaluate the best resources available at the best cost, we typically find there is only one source "practicably available." This then becomes the basis for our sole-source justification letter which carefully recites the factors on which the determination was made, including our particular needs, the consultant's unique skills, rate, etc.

This process has allowed us to get top resources who have directly contributed to the successful completion of a number of critical projects. These projects include rewriting our case management systems for circuit and juvenile and domestic relations courts, developing case imaging for circuit and general district courts, and developing online payments for general district court fines and costs. This last application is currently collecting over \$6 million monthly for the Commonwealth. Because of the constant high volume of demands for modification of existing IT systems and creation of new systems, coupled with the Judicial Branch's limited budget and staff resources, it would not be practicable or feasible for us to use competitive sealed bidding to obtain all of the particular IT support services we require. We believe that the careful,

highly selective process we have developed over many years meets the requirements of the VPPA when read in light of the policies expressed in Va. Code § 2.2-4300(C). Because of the added value and enhancements the process yields and because of the care taken to select potential contractors, we are satisfied that even if there were other interested contractors their pricing would not be as competitive than what we are able to obtain. See 1983-1984 Op. Atty. Gen. Va. 291 (September 14, 1983).

Recommendation #10 – Track All Internal Costs for Information Technology Projects

Current Department of Judicial Information Technology (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 review this recommendation with the Fiscal Services Department, however, to determine the best way to incorporate these internal costs when tracking the costs of IT projects in the future.

In this audit report, APA staff used the Records Management System (RMS) as an example of how DJIT's decision to not track internal costs resulted in a failure to recoup their cost for providing RMS services to circuit courts. It should be noted that the APA's August 2007 Systems Planning and Operation Report listed the un-recovered Records Management Systems (RMS) costs at \$335,000. Since the 2007 report, DJIT has increased the RMS maintenance fees charged to circuit courts twice, which reduced this deficit to \$150,000 for the 2009-10 fiscal year. In 2010, due to the economic downturn and smaller budgets for circuit court clerks, DJIT cancelled a planned maintenance fee increase. This increase would have allowed DJIT to recover all costs associated with the RMS.

Recommendation #11 – Improve System Development Process and Documentation

DJIT's systems development processes have been updated several times since the findings included in the August 2007 Systems Planning and Operation Report. These updates have moved us closer to current, industry-standard best practices. In 2008, we partnered with a consultant to help expand our project management and systems development practices. During this time, DJIT made significant progress in both areas. In June 2009, due to budget constraints, we had to end this engagement. We do agree, however, that more progress is needed in this area. We are reviewing cost-effective proposals from various business partners to help refine, improve, and document our systems development processes. A key component of this evaluation is the ability to sustain the recommendations, long-term, given our current budget reductions.

Recommendation #12 – Improve System Access and Logging

We appreciate the recognition by your staff that it may be necessary for our Accounts Payable Administrator to assist in processing transactions due to current staffing limitations. We share your concern with the potential for fraud or abuse, however, and have already implemented a second party review of all batches keyed by the Administrator. We will review these procedures to see what additional steps can be taken to strengthen this process.

We agree with your recommendation that OES should maintain a database transaction log for the Fiscal Department's Oracle database. We will work with DJIT to obtain this capability.

Recommendation #13 – Improve Information Security Program

Since 2006, we have made significant improvements and progress in the area of information security. In 2006, one of our senior IT employees became our full-time Information Security Officer and began the development and implementation of several policies. To date, we have developed over 15 policies pertaining to information security. We also have several policies in development including an updated disaster recovery plan and a remote access policy.

One policy ready for implementation is the "Information Technology Systems Hardening Policy" which meets the requirements of the Security Configuration Controls policy listed in this finding. Our goal is to have this policy fully implemented by June 30, 2012.

We will continue to develop and implement policies that will effectively support our information security requirements and industry best practices.

Recommendation #14 – Implement Agency Wide Security Awareness Training

In 2009, we contracted with Awareity to use their Managed Ongoing Awareness Training (MOAT) application for security awareness training. After the initial set up and content development, we rolled out MOAT training to the Department of Judicial Information Technology (DJIT) managers for feedback. This feedback resulted in a number of changes to the content to make the content more valuable. We then rolled out MOAT training to the rest of DJIT and again asked for feedback. Based on this feedback, we made additional changes and began deploying MOAT to OES. Within the coming year, we will complete our rollout of MOAT to all judicial branch employees.

Letter to Mr. Walter J. Kucharski
July 26, 2011
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Recommendation #15 – Improve Firewall Management

We agree with this recommendation and had previously identified this as an issue. We are working to reconfigure network appliances to support this recommendation without adversely affecting the day-to-day operations of the court.

Recommendation #16 – Log and Monitor Internet Activity

We recognize the importance of the responsible use of all resources provided to employees. Misuse of Internet access is identified and addressed in the same fashion as misuse of other office items such as phones, mail, and office supplies. In 2010 we purchased a network appliance to help us better manage Internet utilization throughout the judicial network. The policies and procedures to implement this appliance are being discussed and refined to meet the unique needs of our diverse user community. Once approved, we will move this appliance to production.

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

OFFICE OF THE EXECUTIVE SECRETARY OF THE SUPREME COURT OF VIRGINIA

Honorable Cynthia D. Kinser, Chief Justice

Karl R. Hade, Executive Secretary

CLERK OF THE SUPREME COURT

Trish Harrington, Clerk

CLERK OF THE COURT OF APPEALS

Honorable Walter S. Felton, Jr., Chief Judge

Cindy McCoy, Clerk

JUDICIAL INQUIRY AND REVIEW COMMISSION

Donald R. Curry

VIRGINIA CRIMINAL SENTENCING COMMISSION

Richard Kern