

**COMMONWEALTH OF VIRGINIA
COURT OPERATIONS**

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



HIGHLIGHTS AND SUMMARY

The Commonwealth's funding of its Court System is an antiquated and complicated maze of state and local tax revenues and fines and costs with little connection to service delivery. The lack of funding transparency makes determining overall accountability nearly impossible. Further, the division of responsibility for expenses between the Commonwealth and localities comes more from historical tradition than from funding sources or accountability. *See our Observations.*

The charts below show total collections and operating expenses for Circuit and District Courts during fiscal year 2011.

Commonwealth Perspective 2011

State collections	\$ 562,926,381
Clerk's fees	50,420,032
Commissions	12,696,115
Less excess fees	<u>(8,884,618)</u>
Net state collections	<u>617,157,910</u>
Less total state expenses	<u>(268,219,892)</u>
Commonwealth Revenue	\$ 348,938,018

Locality Perspective 2011

Total local and town collections	\$ 275,909,066
Plus excess fees	<u>8,884,618</u>
Net local collections	<u>284,793,684</u>
Less total local expenses	<u>(203,942,578)</u>
Locality Revenue	\$ 80,851,106

In the fiscal year 2011, the Virginia Court System netted the Commonwealth approximately \$349 million and its localities approximately \$80.8 million, which is an increase of six percent for the Commonwealth and a decrease of four percent for localities from fiscal year 2010. This report provides a comprehensive overview of the fiscal operations of the Commonwealth's Circuit and District Courts. We have compiled this information from various sources to show both the Courts' collections and their general operating expenses.

Observations

- ❖ Counties and cities provide court facilities and, in some cases, staffing beyond that funded by the Commonwealth. Should the Commonwealth share in the cost of these expenses? If so, how?
- ❖ Should counties and cities continue to have the authority to adopt parallel ordinances to state statutes and retain the fines, fees, and costs; and if so, should that funding be restricted to either education or the court system?
- ❖ Why do towns continue to have the ability to assess and collect fines and fees?
- ❖ Should the Compensation Board continue to calculate excess fees and share this funding with the locality?
- ❖ Should the Commonwealth continue to fund a portion of the Circuit Court Clerk functions; if so, what services should this funding cover?
- ❖ Should the Clerks of the Circuit Courts continue to receive a commission for simply depositing the Commonwealth and individual locality's collections with the appropriate Treasurer?
- ❖ If the Commonwealth alters the funding for court services in the Circuit Court Clerk's office, should the administrative responsibility for this funding move from the Compensation Board to the Supreme Court?

Collections for both Circuit and District Courts have decreased significantly since 2007. While Circuit and District Court fines, fees, and costs have increased slightly over time it was not enough to offset the large decrease in recordation taxes. Expenses in the court system have remained relatively stable from 2007 to 2011 due to funding cuts relating to the District Courts, as well as judge vacancies.

During our compilation of this report, as well as during our *Local Ordinances and the Funding of Courts* report preparation, we noticed several observations that the General Assembly may wish to address. The Commonwealth needs to address these observations and develop a holistic approach to the funding of its Court System. These observations are listed above and also discussed in detail in our *Local Ordinances and the Funding of Courts* report.

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PROCESS AND FUNDING

General Information

Both the Circuit and District Courts collect fines, fees, and costs for the adjudication of cases which come before the courts. In addition, the Circuit Courts record and maintain numerous official documents and, in connection with these duties, collect fees, taxes, and other funds for deposit in both the Commonwealth's and locality's treasuries. The Courts also hold funds for others and amounts pending the adjudication of cases; this report does not include these amounts.

The Commonwealth's Courts operate principally by locality and receive support from the Commonwealth and the locality. Generally, the Commonwealth funds salaries and benefits, and provides computer support and training; the localities provide space, equipment, and other operating costs. Some localities also supplement the salaries and benefits of certain court employees or hire employees to work for Circuit Courts.

In addition to the Judges, Court Clerk, and other personnel, this report includes the cost of courthouse and courtroom security and process servicing provided by the Sheriff's Office. As discussed later, we have allocated these costs between the Circuit and District Courts and will need to refine this allocation in the future.

Funding Methods

While the Commonwealth and the localities share in the funding of the Circuit and District Courts, the method of funding significantly varies between the two types of courts. We will provide a brief description of the funding methods here and will discuss later some of the unique aspects of these funding methods.

In addition to sharing in the cost of operating the Courts, the localities also receive a portion of the collections in both courts. The amounts localities receive from the Courts, whether Circuit or District, typically represent fines and costs assessed on cases brought against individuals under local ordinances. For more information on local ordinances please see our *Local Ordinances and the Funding of Courts* report issued September 2011. The localities may also receive funds arising from fees and taxes for the recording of property deeds and other transactions.

In addition, the localities receive a share of the Circuit Court collections under a calculation that is extremely difficult to follow. The calculation incorporates processes that date back to when the Circuit Courts funded their operations only from fees. This process no longer applies. We discuss this allocation of Circuit Court collections below in the section entitled "Excess Fees."

Following is a general discussion of the funding of District and Circuit Courts with a brief explanation of where the collections go.

District Courts

The Office of the Executive Secretary receives a General Fund appropriation to pay for the salaries and fringe benefits of the Judges, Clerks, and Clerk's staff for these courts. They also pay for computer support and system development costs from its appropriation; however, we did not allocate these costs to the courts.

The Commonwealth, through the Compensation Board supplemented by locality funding, provides security to the courtrooms and courthouses. The localities provide workspace, courtrooms, and maintenance and operating costs for the facilities.

In previous fiscal years, the District Courts transferred their collections to the Circuit Court for deposit with the Commonwealth, the Court's locality, or its town. This practice of transferring funds was a vestige of the system prior to District Court establishment. Effective April 2010, the District Courts now directly deposit state collections with the state treasury; however, during fiscal year 2011 District Courts continued to transfer local collections to the applicable Circuit Court who then sent the funds to the appropriate local treasury, after deducting a commission. During the 2012 General Assembly there was a budget amendment stipulating that District Courts deposit all collections directly into the State Treasury. This took effect on July 1, 2012 eliminating the transfer of collections from the District Court to Circuit Court, as well as the commission on District Court local collections.

Circuit Courts

The Compensation Board pays for the salary and fringe benefits of the Clerk of the Circuit Court and most of the staff, as well as the Sheriff's salary and fringe benefit costs for security for the courtrooms and courthouses. Some localities supplement both the Clerk's salary and those of the staff, and in some cases, employ individuals to compliment the Clerk's and Sheriff's staffing. The localities provide workspace, courtrooms, and maintenance and operating costs for the facilities.

The Office of the Executive Secretary receives a General Fund appropriation to pay for the salaries and fringe benefits of the Judges. They also pay for computer support and system development costs from its appropriation; however, we did not allocate these costs to the Courts.

Circuit Courts generally deposit their collections not held as a fiduciary directly with the Commonwealth, or court's locality, or town. For presentation in this report, we do not show the transfer of collections from the District Courts to the Circuit Courts as Circuit Court collections, but provide for informational purposes the amount of the transfers separately.

Collections

Courts do not have the authority to spend the revenues they collect. All monies collected go to the Commonwealth, the Court's locality, or its town on a regular basis as defined by the Code of Virginia.

- Commonwealth Collections – Circuit Courts deposit Commonwealth collections directly to the state treasury. Effective April 2010, District Courts no longer transfer Commonwealth collections to the Circuit Court. They now deposit these collections directly into the state treasury every Tuesday and Friday, or when collections exceed \$5,000.
- Local Collections – During fiscal year 2011, District Courts accumulated local collections and transferred them to the Circuit Courts at month end, except for the following amounts, which they sent directly to the local treasurer: Courthouse Security Funds; Jail Admission Fees; Courthouse Maintenance Fees; Local Law Library Fees; Sheriff's Fees; Local Training Academy Fees; and Non-Consecutive Jail Time Fees. Circuit Courts then accumulated local collections, including the monies from the District Courts, and sent them to the local treasurers at month end. During the 2012 General Assembly there was a budget amendment stipulating that District Courts deposit all collections directly into the State Treasury. This took effect on July 1, 2012 eliminating the transfer of collections from the District Court to Circuit Court.

Clerks' Fees

Circuit Court Clerks can statutorily charge various fees for performing certain functions. The Code of Virginia sets forth the services for which there is a fee and the amount the Clerk can charge. The *Notes to Schedules* section has a detailed listing of the fees, which includes such items as processing marriage licenses and wills, and recording certain real property transactions. The Court sends these collections to the Commonwealth, and potentially a portion of these collections comes back to the locality as part of the excess fee calculation discussed later.

Commission on State Collections

During fiscal year 2011, Circuit Court Clerks received from the State Treasury a commission for select Commonwealth Collections in their court. The commission is five percent of the first \$50,000 and three percent of the amount in excess of \$50,000.

Clerks' Commission on Local Collections

Circuit Court Clerks receive a five percent commission on select local collections including the amount transferred from the District Courts. The Financial Management System calculates the

commission on the amounts the Clerks send each locality and records the commission in the appropriate Clerks' Fees account.

State Compensation Board Reimbursement

The Compensation Board establishes a budget for each locality's Constitutional Officers, of whom the Clerk of the Circuit Court and Sheriff are two. The Compensation Board uses this budget to allocate state resources to the Constitutional Officers. For purposes of this report, we are chiefly interested in transactions affecting Clerks of the Circuit Court and Sheriffs as their activities relate to Circuit and District Courts.

The Compensation Board has been functioning since 1934, and originally controlled the amount of fees the individual Constitutional Officers could retain to operate their offices. Since the late 1930's, the Commonwealth has changed the funding of the Constitutional Officers from fees to an approved General Fund appropriation. The Circuit Court Clerks were the last Constitutional Office to shift from fees to a General Fund appropriation in 1985. In all but one locality, the locality's central accounting and payroll offices pay the Clerk's employees and bills, and the Compensation Board sends the locality a reimbursement for the state share of these expenses.

Expenses

Judicial Administration

We have included under this caption the amounts paid for by the Office of the Executive Secretary, the Compensation Board, and the locality. The Office of the Executive Secretary amount includes primarily the direct salaries and benefits paid to judges and the District Court Clerk office personnel, with some funds for miscellaneous costs. The expenses under the state portion are primarily the expenses the Compensation Board reimbursed the locality, which are mainly the salaries and benefits of the Circuit Court Clerk's office. The final component is the local portion, which can include some personnel, but is typically the operating cost of the court for facilities, supplies, and other needs.

Sheriff Support

This amount is primarily the cost associated with courthouse and courtroom security and process serving. The expenses are primarily salaries and benefits with some other operating costs. The amount shown includes those costs incurred by the locality including the cost reimbursed by the Compensation Board. See Sheriff Support under the *Notes to Schedules* section for additional information regarding our allocation method.

Excess Fees

Prior to 1985, the Circuit Court Clerks needed to generate sufficient Clerk's Fees and other collections to pay for the cost of their office. Clerks would deposit the collection of the fees and commissions into their Clerk's account and would pay all of the expenses of the office, such as

salaries, benefits, and other Compensation Board budgeted and approved office costs. If the Clerk did not have sufficient collections to pay for the cost of the office, the Clerk could obtain an advance from either the Compensation Board or the locality.

At least annually, and for larger Circuit Courts more often, the Compensation Board would compare total collections with approved and incurred expenses and determine if the Clerk had collected funds in excess of the authorized Compensation Board budget. For larger Courts, the Compensation Board would use an estimate to project the excess. Because the calculation used collections and expenses paid from the Clerk's Fee Account, many commonly referred to the calculation as "Excess Fees."

If the Compensation Board determined that the Clerk had collections in excess of authorized expenses, the Compensation Board approved a disbursement of the excess to the Commonwealth and the Locality. The Commonwealth received one-third and the locality received two-thirds of the fees in excess of authorized expenses.

Since 1985, the Commonwealth changed the funding for the Clerks from a fee-based office to a General Fund operation. The Compensation Board receives sufficient General Fund monies to pay all of the authorized and budgeted costs of the Clerk's office. Under both the fee-based office approach and the current General Fund Appropriation method, a number of larger localities choose to supplement the salaries, staffing, and other costs incurred by the Clerks not included in the Compensation Board budgets.

Although the Commonwealth no longer funds the Clerk's office from fees, certain practices continue from this system, which incur unnecessary costs for both the Commonwealth and the locality. One practice is the calculation of the excess fee amount. This calculation is time consuming and the Compensation Board no longer has the information to verify the computation of the amount. The Compensation Board relies on the Clerk to provide the information to perform the computation. The purpose of the computation is to distribute between the Commonwealth and the locality the amounts collected in Clerk's fees beyond the Compensation Board's authorized budget for that locality. The allocation could occur more efficiently by having the Compensation Board set a base collection level for each Clerk, and the Clerk would transfer any amount above the base to the locality and the Commonwealth in accordance with the current allocation.

Recommendation:

The General Assembly may wish to consider having the Compensation Board change its method of determining the allocation of excess fees to using a baseline minimum and then having the Clerk allocate the amount in excess of the baseline to both the Commonwealth and the locality.

SUMMARY SCHEDULE

	FY 2011		
	Circuit	District	Total
Collections:			
State	\$ 372,635,024	\$ 190,291,357	\$ 562,926,381
Locality	162,641,164	94,137,842	256,779,006
Town	9,943,222	9,186,838	19,130,060
Clerk's fees	50,301,844	-	50,301,844
Commissions on state	12,696,115	-	12,696,115
Gross cash collections	608,217,368	293,616,038	901,833,406
State Compensation Board reimbursement:			
State portion judicial administrations	47,280,940	-	47,280,940
State portion sheriff - courts	60,653,432	-	60,653,432
Total collections	716,151,740	293,616,038	1,009,767,777
Expenses:			
Judicial Administration:			
Judges and district court staff salaries paid by State	(36,764,643)	(123,520,877)	(160,285,520)
State portion	(47,280,940)	-	(47,280,940)
Local portion	(43,467,443)	(70,187,138)	(113,654,581)
Sheriff Support:			
State portion	(30,972,304)	(29,681,127)	(60,653,432)
Local portion	(18,602,037)	(71,685,960)	(90,287,997)
Total expenses	(177,087,368)	(295,075,102)	(472,162,470)
Net summary before code required transfers	539,064,372	(1,459,065)	537,605,307
Code required transfers subject to commissions:			
State transfers from district to circuit	-	-	-
Locality transfers from district to circuit	64,290,792	(64,290,792)	-
Town transfers from district to circuit	9,186,838	(9,186,838)	-
Total transfers	73,477,630	(73,477,630)	-
Net collections/expenses/transfers	\$ 612,542,002	\$ (74,936,694)	\$ 537,605,307

Commonwealth and Locality Collections

		Local	
	Commonwealth	Government	Total
Gross cash collections	\$ 638,227,441	\$ 263,605,965	\$ 901,833,406
Expenses incurred	<u>(268,219,892)</u>	<u>(203,942,578)</u>	<u>(472,162,470)</u>
Net before excess fees	<u>370,007,549</u>	<u>59,663,387</u>	<u>429,670,935</u>
Addition/Deduction of excess fees*	<u>(8,884,618)</u>	<u>8,884,618</u>	<u>-</u>
Total collections net of expenses	\$ 361,122,930	\$ 68,548,005	\$ 429,670,935

*State Excess Fee Share	\$	17,769,236
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Notes to Schedules

1. Compiling This Report

This report uses information from the Office of the Executive Secretary of the Supreme Court of Virginia's Financial and Case Management Systems, Department of Accounts' Commonwealth Accounting and Reporting System, and the Auditor of Public Accounts' Comparative Report on Local Government Revenues and Expenditures (Comparative Report). We have used these various systems and reports to accumulate information in order to show both Commonwealth and locality support of the Courts.

In using these various systems, we eliminated duplicate information to ensure that we included both collections and expense information only once. We also made some allocations of costs between the Circuit and District Court systems and assumed a manpower allocation based on services rendered.

As part of our audits of the Commonwealth, the Office of the Executive Secretary, and the individual Circuit and District Courts, we have audited the Financial Management and Case Management Systems and the Commonwealth Accounting and Reporting System. Each locality prepares the information submitted for the Comparative Report, and the locality's certified public accounting firm reviews the information.

Both the Circuit and District Courts receive and hold funds pending the outcome of cases, monies held in trust, and other funds held in a fiduciary manner. This report does not include the amounts that either the Circuit or District Courts hold for others. Only the fines, fees, taxes, and other transaction costs charged by either Court while pending recording or case disposition are in this report.

The column for District Courts includes the activity of the General District, Juvenile and Domestic Relations, and General District and Juvenile and Domestic Relations Combined Courts.

2. Commonwealth, Locality, and Town Collections

The following tables provide details by source of collection for the Commonwealth, locality, and town. The Code of Virginia defines the transactions for which the Commonwealth or the local government receives the collection.

Note: In inconsistent coding by localities of monies transferred from District Courts to Circuit Courts may overstate the Circuit Court amounts in the note below. This transfer practice ceased on July 1, 2012 and therefore the data in the chart below will be more accurate beginning in fiscal year 2013.

Commonwealth

SOURCE	Fiscal Year 2011	
	CIRCUIT AMOUNT	DISTRICT AMOUNT
Alcohol Safety Action Program*	\$ 481	\$ 68
Bad Check Fees	13,233	71,691
Bank Interest*	727	30
Blood Test	9,971	126,478
Boating Safety Education Civil Fee	-	1,399
Child Restraint Device Penalty	1,338	808,812
Civil Penalty - Signs	-	25
Civil Processing Fee	36	13,745,190
Civil Remedial Fee	-	468
Commercial Fisherman Registration Penalty*	-	98
Commonwealth Attorney Fee	418,110	-
Concealed Weapons Permit Fee*	284,943	2,746
Confiscated Money Drug Related Cases*	788	144
Costs - Commonwealth Cases	6,574,343	4,760,403
Court Appointed Attorney Fee	7,065,437	7,125,573
Court Technology Fund*	787,072	6,878,539
Credit Card Surcharge	475	5,000
Criminal History Fee	5	6
Criminal Injuries Compensation Fund*	1,376,345	1,792,673
Criminal Justice Academy Fee*	65,410	1,513,687
Custody/Visitation Filing Fee*	-	773,841
Deed Processing Fee	17,180,531	
Domestic Violence Fund*	30,170	3,014,617
Driver Clinic*	(4)	(630)
Drug Enforcement Fee*	461,320	10,586,747
Drug Offender Assessment Fund*	1,009,635	862,425
Failure To Appear	74,755	8,501,844
Fines and Bond Forfeitures	3,374,714	56,660,169
Fire Suppression Costs*	-	80
Fishing Licenses	2,229	-
Forfeited Property/Confiscated Money	2,525	167
Fraudulent Student Loan	(2)	-
Game Replacement	3,999	104,000
Grantee Tax	288,087,204	-
Grantor Tax	23,223,897	-
Greenway Toll Facility Fee	5	-

SOURCE	Fiscal Year 2011	
	CIRCUIT AMOUNT	DISTRICT AMOUNT
Guardian Ad Litem*	54,435	1,391,349
Hunting Licenses	7,287	-
Indigent Assistance*	108,359	687,617
Internet Crimes Against Children Fund	163,036	2,248,131
Jury Costs	177,716	-
Legal Aid Services*	976,360	6,188,747
Liquidated Damages*	240	1,903
Littering Highways*	-	671
Marriage Licenses	1,220,304	-
Office Of Attorney General – Appeal Fee	754	-
Probate Tax	5,544,559	-
Process Fees	574,459	58,304,742
Putative Father Registry	106,000	36
Safety and Health Fines	1,127	30,575
State Interest	2,723,005	2,568,143
State Water Control Board Fund*	390	25
Technology Trust Fund	7,580,095	-
Temporary Boat Registration	(11)	-
Time-To-Pay Management Fee*	7,427	1,397,520
Toll Facility Civil Fine*	324	101,917
Trauma Center Fund*	23,700	31,589
Virginia Environmental Emergency Response Fund	-	25
Virginia Health Care Fund	0	1,770
Virginia Outdoor Foundation Fee	546,949	-
Virginia State Library Fund	2,098,495	-
Weighing Fee*	2	307
Writ Tax	670,286	-
Other	35	-
Total	<u>\$372,635,024</u>	<u>\$190,291,357</u>

*The transfer of these collections from the District Court to the Circuit Court Clerk is not required.

Locality

	Fiscal Year 2011	
SOURCE	CIRCUIT AMOUNT	DISTRICT AMOUNT
Alcohol Safety Action Program	\$ 10	\$ -
Animal Control	1,014	7,501
City Trial Fees	89	-
Commonwealth Attorney Fee	392,530	-
Concealed Weapons Permit - Background Check	1,972,906	9,293
Court Appointed Attorney	98,544	1,177,584
Court Reporter	759	-
Courthouse Construction Fund	34,407	887,125
Courthouse Maintenance Fee*	260,170	3,383,875
Courthouse Security Fund*	370,052	13,878,239
Delinquent Land Costs	-	-
Delinquent Land Interest	-	-
Delinquent Land Penalty	-	-
Delinquent Land Tax	23	-
Detention Home Costs	105	101
Document Reproduction Cost	743,609	-
Fines and Forfeitures	-	61,998,354
High Constable Fees*	204	837,275
Jail Admissions Fee*	311,644	597,608
Land Redemptions	465	-
Law Library*	351,802	2,125,324
Local Blood Test	101,999	1,877
Local Commonwealth Fees	26	-
Local Grantee Tax	91,483,467	(10)
Local Grantor Tax	22,066,307	-
Local Interest	161,871	1,094,183
Local Jury Fees	6,783	-
Local Liquidation Damages	3,800	-
Local Prosecutor	4,462	1,826

	Fiscal Year 2011	
SOURCE	CIRCUIT AMOUNT	DISTRICT AMOUNT
Local Tax	\$ 919,149	-
Local Training Academy*	59,951	\$ 1,209,170
Local Transfer Fees	237,854	-
Miscellaneous	266,847	2
Non-Consecutive Jail Time*	5,259	5,414
Sheriff's Fee*	1,853,290	6,923,101
Total	\$121,709,398	\$94,137,843

Town

	FY11	
Source	Circuit Amount	District Amount
Town Interest	\$ 99,472	\$ 100,316
Town Fines	9,752,711	8,935,815
Town Costs	91,039	150,707
Total	<u>\$9,943,222</u>	<u>\$9,186,838</u>

Clerk's Fees

The Code of Virginia defines the instances and transactions for which the Clerks of the Circuit Court can charge a fee. The following table details a listing of amounts of the fees collected by source.

	Fiscal Year 2011
Source	Amount
<u>FEES</u>	
Chancery	\$ 222
Circuit Court Clerk	4,391,328
Copies	1,811,359
Court Reporter	104,714
Criminal	1,437,613
Filing Financing Statements	217,597
Judgment Docket	909,439
Land Assessment Appraisal	49
Law	8,763,867

	Fiscal Year 2011
Source	Amount
<u>FEES (continued)</u>	
Marriage Licenses	572,570
Marriages Performed	28,063
Passports	330,261
Pawnbrokers License	291
Postage	11,204
Qualifying Notaries	277,408
Recording Deeds And Contract	22,145,073
Register Fictitious Name	313,621
Secure Remote Access	29,455
Wills And Administration	2,524,180
<u>COMMISSIONS</u>	
General Receiver	1,837
Grantee Tax	4,634,202
Grantor Tax	1,121,452
Hunting And Fishing Licenses	9,678
Local Collections	503,079
Local Deed Tax	(8)
Local Tax Penalty	55
Wills And Administration	42,977
<u>OTHER</u>	
Deputy Salary Supplements Provided By Locality	43,531
Ex-Officio Salary	110
Interest Earned	23,198
Miscellaneous	53,419
Total	\$50,301,843

3. State Compensation Board Reimbursement

The Compensation Board reimburses the local governments for the Commonwealth's share of the approved budget for Constitutional Officers. The amounts listed under this heading represent the reimbursements for the Circuit Court Clerks and Sheriffs' costs for process serving and courtroom security.

4. Expenses

Judicial Administrations

Judges and District Court staff salaries paid by State

- Salaries and fringe benefits paid by the Office of the Executive Secretary for judges in both the Circuit and District Courts and those costs for the District Court Clerks and other staff. The Supreme Court does not pay any of the cost of the Circuit Court Clerks or their staff.

State Portion

- The amount the Compensation Board reimbursed for the Commonwealth portion of the salary and fringe benefits of the Circuit Court Clerk and of their staff supported by the Commonwealth.

Local Portion

- The amount the locality reported in the Comparative Report as local expenses for Court operations.

Sheriff Support

Sheriffs provide security for the courthouse and courtrooms and provide process serving for both the Circuit and District Courts. The Compensation Board provides funding in the Sheriff's budget for courtroom security and process serving, for which it reimburses the locality. This amount represents the cost reimbursed by the Compensation Board and the actual cost reported by the locality in the Comparative Report. The allocation uses the number of judges between Circuit and District Courts by applying a 2:1 ratio. We allocated two Circuit Court judges for every one District Court judge taking into account the processing serving performed for the Circuit Courts.

5. **Code of Virginia Required Transfers Subject to Commission**

Section 16.1-69.48 of the Code of Virginia requires that District Courts transfer all of their collections unless specified by law to the Circuit Court Clerk. Sources marked with an asterisk under Note 2 are not subject to this transfer provision.

During the 2012 General Assembly there was a budget amendment stipulating that District Courts deposit all collections directly into the State Treasury. This took effect on July 1, 2012 eliminating the transfer of collections from the District Court to Circuit Court.

6. **Excess Fees Commonwealth and Locality Collections**

At least annually, and for larger Circuit Courts more often, the Compensation Board compares total collections with approved and incurred expenses and determines if the Clerk

has collected funds in excess of the authorized Compensation Board budget. For larger Courts, the Compensation Board uses estimates to project the excess. Because the calculation uses collections and expenses paid from the Clerk's Fee Account, many refer to the calculations as "Excess Fees."

If the Compensation Board determines that the Clerk has collections in excess of authorized expenses, the Compensation Board approves a disbursement of the excess to the Commonwealth and the Locality. For fiscal year 2009, the Commonwealth received one-third and the locality received two-thirds of the fees in excess of authorized expenses. Effective July 1, 2009, the Commonwealth will retain two-thirds and the locality will receive one-third with the exception of the thirty-first judicial circuit. The localities of the Cities of Newport News, Richmond, and Roanoke have elected not to participate in the excess fee calculation and thus retain their Clerk's fees.

The following Local Governments received Excess Fees in fiscal year 2011.

Counties				Cities
Accomack	Fairfax	Loudoun	Roanoke	Alexandria
Arlington	Fauquier	Louisa	Rockbridge	Charlottesville
Augusta	Franklin	Mecklenburg	Rockingham	Chesapeake
Bedford	Frederick	Montgomery	Shenandoah	Fredericksburg
Botetourt	Gloucester	New Kent	Spotsylvania	Hampton
Campbell	Greensville	Northampton	Stafford	Norfolk
Caroline	Hanover	Orange	Warren	Portsmouth
Chesterfield	Henrico	Powhatan	Washington	Suffolk
Culpeper	Isle of Wight	Prince George	Wythe	Virginia Beach
Dinwiddie	King George	Prince William	York	Williamsburg

7. Individual Locality Schedules

The following localities currently operate only District Courts, and therefore, do not show any Circuit Court information. Typically, an adjoining locality's Circuit Court provides services to these localities.

District Courts

City of Emporia
City of Fairfax
City of Franklin
City of Falls Church
City of Galax

8. Obtaining Report in Electronic Format

An electronic copy of this report is available on the Internet. To locate this report, access the Auditor of Public Accounts' Reports page at <http://www.apa.virginia.gov>.