



The Docket



Newsletter of the Association of Clerks of the District Courts of Virginia

Web page: www.vadistrictclerks.com

January 2014

Mark Your Calendars – Spring Workshop – April 1st, 2014

The Spring Workshop, hosted by the Association of Clerks, will be held on April 1st in Waynesboro and is packed with short workshops on interesting topics. Once again, we are very pleased to begin the day with updates on OES initiatives and General Assembly actions presented by Karl Hade, Executive Secretary of the Supreme Court of Virginia, and Paul DeLosh, Director, Judicial Services.



DMV representatives will conduct a Q&A session to provide answers on complicated DMV processes and Dr. Cyril Miller will cover Court Performance Standards designed to improve court operations.

Detective Doug Comfort from Fairfax County Police will discuss the sovereign citizen movement and how it impacts courts. His revelations will surprise you. From law enforcement encounters, to the filing of fraudulent documents, there has been a marked increase in individuals claiming sovereign status under a variety of headings. If you haven't met a sovereign citizen yet, you will soon. Come find out how to identify individuals from this movement and what to do when they are at your window or flooding your mailbox.

Marleen McCabe returns to the Association to present two workshops – one for staff and one for supervisors. Do you face a difficult issue at work? Would you like some tools on how to handle a challenging situation? Send your questions early and Marleen will tailor her presentation to provide strategies to handle different scenarios.

Continued on Page 2

Governor's Budget

The Governor's budget endorses the Interim Report from the State Compensation Work Group that recommends a 2% salary increase in FY 2015 & FY 2016 for grade 6, 7, and 8 Deputy Clerks, along with 16 other high turnover state employee positions. The budget also includes the recommendation for a bonus of up to 3% for state employees, based on performance, to be paid in December 2014, contingent on whether or not State savings goals are met. At this point, these are just recommendations. Don't forget to write your legislator and request their support for these salary initiatives. Additional information regarding the State Compensation Work Group report and recommendations can be found on Page 3.



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Dereliction

[The following editorial ran in the Richmond Times-Dispatch on December 6, 2013. Reprinted by permission.]

Few state operations are as important as the courts. Public safety ranks at the top of the state's obligations, but all the police and prisons in the world are of no avail without a well-functioning court system. But the courts do not exist simply to throw people behind bars. Crucially, they also exonerate those who have been falsely accused. They enforce child support, issue protective orders, grant injunctive relief to businesses, appoint guardians for children and the disabled, and do much more besides.

Yet the courts can do none of these things at the optimal level they must be done without enough judges. Unfortunately, Virginia has too few – a problem that has plagued the state for some time. The General Assembly made the problem worse three years ago, when it imposed a hiring freeze. As judges reach retirement age, vacancies increase. Retired judges sometimes fill in, but that stopgap measure cannot last forever. The situation is becoming critical.

A new report requested by the General Assembly illustrates just how bad things have gotten. “The number of judges currently sitting at each of Virginia's three trial court types is inadequate to handle the total workload of the court,” says the National Center for State Courts. The average circuit court handles more than 1,800 cases a year. Some – such as the 15th – handle far more. The study says keeping up with the caseload requires filling all current vacancies and adding an additional 13 judges to the statewide bench.

That isn't likely to happen, for the same reason lawmakers imposed the hiring freeze in the first place: money. Lawmakers authorized new hires for a number of vacancies during the last General Assembly session. But Del. Kirk Cox says the assembly “will try to make a dent” in the remaining vacancies, but staffing the courts fully would “be very difficult.”

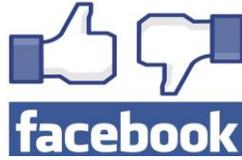
This simply will not do. The amount of money at issue – less than \$10 million – could be cobbled together in short order from the salaries of a couple of state university football coaches. We like sports as much as the next person, but anyone who seriously argues that it should take precedence over hiring judges should go to his doctor and ask for a new head. The assembly needs to get its priorities in order. The failure to do so is a dereliction of duty.

Spring Workshop *(continued from Page 1)*

If you are interested in becoming an effective leader, or you are pursuing MSU certification, you might want to join Suzanne James' day long Leadership class that will focus on five competencies that are observable, learnable practices. The course will cover the “why” and “what” of leadership and how to use these skills in organizations. This is an alternate to the regular program and promises to be informative and engaging.

Look for registration materials in mid-February. Registration fees for members will be \$20/person and \$25 for non-members. The hotel will once again be the Best Western Plus, Waynesboro Inn & Suites.

Social Media and the Courts



Are you a Facebook user? Do you identify yourself as a court employee on your Facebook page? Do you ever comment on what happens at work?

Court employees might not realize that they also represent the court after-hours. As judicial employees, we often have access to privileged information about court cases. We might hear the judge or sheriff's deputy discuss a difficult case outside of the courtroom. We have access to data regarding judges' decisions and we are often more aware of court policies than the average citizen. Because we have access to information that is not available to the public, we must be careful to keep that knowledge confidential.

If you post your opinions about a judicial decision on the Internet, your opinion, as a court employee, may reflect poorly on the judicial system and violate the Rules of Conduct adopted by the Committee on District Courts for all district court employees. Rule 5(1) states *“A Judicial System employee’s activities outside of official duties, including use of social media, should not detract from the dignity of the judicial system, interfere with the performance of official duties, or adversely reflect on the operation and dignity of the court system or the office the Judicial System employee serves.”*

The Rules of Conduct are available on the OESINET, under the Human Resources tab and the sub-topic of Employee Relations. An update on social media court cases was provided to Clerks and Supervising Deputies at their June conference. The presenter, Karen Michael, revealed some unexpected outcomes that indicate the use of social media by court employees is not always protected by the First Amendment. Rather, courts have upheld disciplining employees of other criminal justice agencies and government agencies for inappropriate comments on social media. One

criteria is whether or not the post is made in an individual's capacity as a citizen or public employee. If it's clear to others that you are a court employee, your comments about the judicial system have the potential to be seen as inappropriate.

If you have questions about your participation on social media sites, read over the full text of the Rules of Conduct and discuss your concerns with your Clerk of Court or supervisor. Also, a video, prepared by OES staff concerning negative Facebook comments, may soon be available on the Association's website, along with several questions discussed at the June conference. The video raises interesting questions about how Facebook comments are interpreted and whether or not *“what happens at work, should stay at work.”*

Remember, Facebook posts, as well as other social media outlets, are not private. While you may think you are only commenting to a few friends, each of those friends has their own network and any responses they make to your comments will spread your thoughts to a much wider net. A recent post by a Virginia attorney on his Facebook page about his perceived negative interactions with a court clerk was, within minutes, forwarded by one of the recipients to a court employee who just happened to be the subject of the post. The attorney found himself in Court trying to explain why he was making disparaging comments, bordering on threatening, in a public forum.

Corrections/Updates-Region Reps:

Region 2 Representative:

Gail Fulcher, Clerk

Mathews/MiddlesexGDC

gfulcher@courts.state.va.us

Region 3 Representative:

Deborah Hatcher, Clerk

Hopewell Combined Court

dhatcher@courts.state.va.us

State Employee Compensation Work Group



On September 23, 2013, Amy Burnham, President, Association of Clerks of the District Courts of Virginia, provided a presentation on recruitment and retention issues of deputy court clerks before the State Employee Compensation Work Group. This Work Group was created by the General Assembly to study pay issues for various state positions and make recommendations regarding recruitment, retention, hiring practices, and strategies to minimize future compensation disparities. Ms. Burnham's presentation was based on information gathered during interviews with various staff from around the state.

What do district court clerks do?

The deputy clerk's job is a complex one. Deputy clerks are the frontline staff for the General, Juvenile and Domestic Relations, and Combined District Courts. Each court has one Clerk of Court who is the chief administrator and, depending on the size of the court, the court may have supervising or managerial clerks. The largest category of employee for each court is the deputy clerks.

Deputy clerks provide customer service to the public, attorneys, and law enforcement, as well as to a variety of state and local agencies. They are responsible for maintaining the court's case and financial records and have the ability to have a person arrested, held in jail, have their driver's license suspended or reinstated, intercept their tax refund or lottery winnings, summon and subpoena people to court, and to assess fines and costs. Deputy clerks deal with extremely sensitive, confidential, and important issues relating to people's liberty, finances, and family issues. One incorrect box checked on a form or an order not completed could result in a person's erroneous arrest. It takes a minimum of six months to train a deputy clerk in the basic skills, and deputy clerks typically reach skills proficiency in one year.

Compensation

The average state employee earns about \$44,000 per year, but the average district court clerk earns \$32,000 (27% less). An entry level deputy clerk is classified as a Grade 7 or 8 with starting salaries of \$26,024 and \$27,333. The Clerk of the Court must hire an employee at the entry level unless they receive an exception from the Supreme Court's Human Resources Department. These exemptions are rarely granted.

A majority of Courts report that some of their current employees must work an additional part-time job in addition to their full time position with the court. Courts around the State report that it is not unusual for 15%-20% of the deputy clerks to have or recently have had part-time employment, with one court reporting 45% of their deputy clerks as having additional part-time employment.

Some deputy clerks also qualify for and receive public assistance either in the form of food stamps or housing vouchers. For example, a Grade 7 Deputy Clerk with two children who earns the entry level salary of \$26,024 qualifies for not only food stamps, but also meets the eligibility for a court-appointed attorney in our courts.

Obviously, pay plays a major role in the ability to recruit and retain individuals for these positions.

Recruitment

Clerks across the Commonwealth have noted their difficulty in hiring qualified candidates to fill their deputy clerk vacancies. When Clerks make offers of employment to their top candidates, they are finding that people decline the position because of the low pay.

In the last three years, one court had two candidates turn down offers because they thought that the salary was negotiable like many other state agencies. This is a common practice for the local state prison which is one of the largest employers in their area.

Retention/Turnover

The District Courts are experiencing an enormous issue with retention and turnover. Because of the low salaries, deputy clerks are constantly looking for higher paying jobs. The most common reason employees give for resigning is the low pay.

District Court employee salaries are lagging between 15-22% behind their Circuit Court counterparts. These salary discrepancies not only exist at the recruitment level, but increase the longer an employee stays with the district courts.

Pay Compression

Before the 2% salary increase and salary compression adjustment in 2013, district court clerks had not received a pay adjustment since 2007. This means that there were many deputy clerks with five years of service being paid at the same level as new hires. There is not a merit or step increase system in the District Courts. We have no way to reward employees for their performance.

In smaller courts, experienced deputy clerks are asked to take on Clerk's responsibilities in their absence. These deputy clerks may only earn a couple of dollars more an hour than a wage employee who files and answers the telephone.

Conclusion

Every time a new deputy clerk is hired, the Clerk and staff are spending a minimum of six months of initial training with additional training throughout their employment. Training time takes away from time spent on other duties and responsibilities.

Having a higher entrance salary will help the courts retain staff and reduce turnover. Rewarding employees with merit increases will increase their willingness to stay with the court system.

The bottom line – a satisfied and compensated employee will provide effective, efficient and productive work results.

Summary of Work-Group

Recommendations:

1. Provide a 2% salary increase to begin to address high turnover state employee role titles. This salary increase would look to begin to address the 16 most distressed role titles in the areas of public safety and health and also include an increase for three grades of District Court deputy clerks. This increase would be included in both FY 2015 and FY 2016.
2. Acquire and utilize a centralized exit survey for all state agencies to provide meaningful data in priority rank as to why employees are leaving state government and where they are going.
3. Subscribe to occupationally based data services and acquire analytic tools focused on total compensation and evaluation of peer employers.
4. Request JLARC to evaluate the impact of the FY 2014 compression adjustment and the impact of the 2 percent salary increase.

The FY 2015-2016 budget, as introduced by Governor McDonnell to the General Assembly on December 16, 2013, included full funding for all four recommendations resulting from this interim report. The Association encourages clerks to write letters to their legislators requesting that they endorse the salary increases for district court staff as recommended by the Employee Compensation Work Group.

Restitution



In the past, many courts have utilized different methods for ordering and collecting restitution including directing that payments be made directly to the victim, the Commonwealth's Attorney's Office, or a local community corrections agency. OES has recently clarified that the Code of Virginia specifies that all restitution shall be paid to the Clerk of Court.

One advantage to this method is that delinquent restitution will be subject to the same collection procedures as delinquent fines and costs and that this activity can be tracked when restitution accounts are set up in FMS. Also, the 17% collection fee will be applied and will not reduce the amount collected for the victim.

The criminal warrants and the summons form, issued by the magistrate's office, have been revised to incorporate wording related to restitution. New documents issued after the first of the year will include wording that reflects the judge's order to pay restitution of a set dollar amount, due by a set date, payable to the clerk on behalf of the named party, with interest from either the date of loss or damage or the date of conviction. The judge may also indicate whether or not the restitution is a condition of a suspended sentence and whether or not the restitution is to be paid first.

If the judge marks "to be paid first," it means that any funds collected by the court are to go towards restitution *before* fines and costs. The FMS individual account update screen has a field that allows the user to place a Y in the REST 1ST field and, therefore, when payments are received the receipt will correctly allocate the monies to restitution and restitution interest before allocating to fines/costs/interest.

All restitution must be receipted under Account Code 520. The FMS individual account update screen has the field SUMUN for the user to enter a Y or N to determine whether the court knows if the amount to be paid is certain or not. If the amount is not known, the user needs to enter a Y. If the amount is known, the user must enter an N. In some instances, the victim may not know the full cost and may ask for more time to notify the court as to the amount to be awarded.

There is no specific due date in FMS for restitution. If fines and costs are due on one date and restitution is due at a later date, the later date should be entered as the due date for that case for all monies due.

CMS will suspend a defendant's driver's license for failure to pay restitution and all amounts owed are reported to the Tax Debt Set-Off Department.

The Recipient Panel allows the user to enter the victim(s) name, address, and amount(s) owed. The benefit to entering this information is that it allows the user to route to disbursements from the panel, and also shows the payment made to the victim(s) each time a payment is received and a disbursement entered. It is recommended that courts use the Recipient Panel instead of additional information, since the Recipient Panel reflects balances and disbursements, whereas the additional information screen cannot unless the user manually updates the case after each payment.

The FMS manual covers how to link joint and several restitution accounts, how to enter restitution recipient data, and how to disburse payments. Detailed instructions are found in Chapter 10.

100% Membership Courts for FY 2014

Congratulations to the district courts (102 courts, so far!) from all around Virginia who have 100% membership in the Clerks Association this year.



Accomack J&DR	Giles Combined	Page Co GDC
Alexandria J&DR	Gloucester GDC	Page J&DR
Alleghany Co Combined	Gloucester J&DR	Patrick Co GDC
Amelia Combined	Grayson Combined	Patrick Co J&DR
Amherst J&DR	Green Combined	Petersburg GDC
Arlington J&DR	Greensville/Emporia Combined	Pittsylvania GDC
Bedford GDC	Halifax GDC	Pittsylvania J&DR
Bedford J&DR	Hampton J&DR	Portsmouth J&DR
Botetourt Co Combined	Hanover GDC	Powhatan GDC
Bristol GDC	Hanover J&DR	Prince William Co J&DR
Bristol J&DR	Henrico GDC	Prince Williams Co GDC
Buchanan Co Combined	Henry/Martinsville GDC	Richmond Co Combined
Buena Vista Combined	Highland Co Combined	Roanoke City J&DR
Campbell Co J&DR	Hopewell Combined	Roanoke Co GDC
Campbell GDC	Isle of Wight GDC	Roanoke Co J&DR
Caroline GDC	Isle of Wight J&DR	Russell Combined
Caroline J&DR	King George Combined	Salem Combined
Carroll Co J&DR	Lancaster Co GDC	Scott Combined
Charles City Combined	Lexington-Rockbridge GDC	Smyth Co J&DR
Charlottesville GDC	Louisa GDC	Smyth GDC
Chesapeake J&DR	Lynchburg GDC	Spotsylvania GDC
Clarke J&DR	Mecklenburg GDC	Stafford J&DR
Colonial Heights Combined	Mecklenburg J&DR	Surry Combined
Craig Co Combined	Montgomery Co GDC	Tazewell GDC
Danville GDC	Nelson Co GDC	Tazewell J&DR
Danville J&DR	Nelson Co J&DR	Washington Co J&DR
Dickenson Combined	New Kent GDC	Waynesboro GDC
Dinwiddie Combined	New Kent J&DR	Waynesboro J&DR
Falls Church Combined	Newport News J&DR	Westmoreland GDC
Fluvanna Combined	Norfolk J&DR	Williamsburg/James City GDC
Franklin Co GDC	Northampton J&DR	Wythe Co J&DR
Franklin Co J&DR	Northumberland Co GDC	York J&DR
Fredericksburg J&DR	Orange Combined	
Galax Combined		

Court Technology Conference Endnote Leaves Them with a Smile

The 2013 Court Technology Conference ended with an enlightening and entertaining Endnote presented by Massachusetts Chief Information Officer, Craig Burlingame, and Texas State Court Administrator, David Slayton. They recapped conference highlights from the keynote speaker's advice that if you haven't failed, you're not trying hard enough; that self-represented litigation is on the rise and courts need to prepare; that there's a new 21st Century in which the current leadership model is flatter, not top down; that video has surfaced as the solution to many court challenges; and that jobs for qualified IT specialists are growing at a rapid pace, with an estimated 30 million IT jobs unfilled in the year 2025. Burlingame and Slayton left the audience with a final message:

“Courts will be paperless when toilets are....”

News From Around the State



New Clerks: Lynchburg GDC welcomed **Tawny Hays** as their new Clerk effective November 1 following the retirement of **Janet Stinnett**. Tawny previously served as HR Director with the Fairfax County GDC for 6 years.

Further Congratulations to the entire staff of the Montgomery County General District Court Clerk's Office. They were nominated by their Clerk, Kimberly W. McKittrick, to receive an award recognizing them for excellence in the category of Customer Service. On July 25th, the staff were surprised when they were presented with their certificates signed by Karl R. Hade, Executive Secretary, and Chief Justice Cynthia D. Kinser. In addition, the 2013 State of the Judiciary Report will carry an article describing the process and naming those receiving recognition. .

The Board of Supervisors of Tazewell County presented a Meritorious Service Award to **Tazewell County J&DR Court staff** for providing good fellowship and a free community Thanksgiving dinner on November 23, 2013 (served over 700). This was a joint effort with the Town of Tazewell Police Department.

What's Up: **Richmond J&DR** partnered with OES and Virginia Commonwealth University to do a customer satisfaction survey at the court in April. Overall, the results were very favorable.



*With a joint effort the **Franklin County J&DR Court Clerk's Office** staff decorated a snowman tree this year right outside their office door and it became a big hit in the Franklin Courthouse. Kids and adults loved it and took pictures. A picture also made the local paper. The staff enjoyed spreading Christmas cheer!*