

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION ON**

**Fees Assessed
by Sheriffs**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 49

**COMMONWEALTH OF VIRGINIA
RICHMOND
1993**



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

FREDERICK L. RUSSELL
EXECUTIVE DIRECTOR

December 8, 1992

MEMBERS
FROM THE SENATE OF VIRGINIA
ELMO G. CROSS, JR., VICE-CHAIRMAN
VIRGIL H. GODDE, JR.
EDGAR S. ROBB

FROM THE HOUSE OF DELEGATES
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APPOINTMENTS BY THE GOVERNOR
ROBERT C. BOBB
ROBERT F. HORAN, JR.
GEORGE F. RICKETTS, SR.

ATTORNEY GENERAL'S OFFICE
H. LANE KNEEDLER

TO: The Honorable L. Douglas Wilder, Governor of Virginia,
and Members of the General Assembly:

House Joint Resolution 67, agreed to by the 1992 General Assembly, directed the Virginia State Crime Commission to "study the fees mandated by §§14.1-105 and 14.1-111 and determine the advisability of either eliminating the fees or adjusting them to more accurately reflect the true costs of the services for which they are assessed" and to "submit a report to the Governor and the 1993 session of the General Assembly."

In fulfilling this directive, a study was undertaken by the Virginia State Crime Commission. I have the honor of submitting herewith the study report on fees assessed by sheriffs.

Respectfully submitted,

Robert B. Ball, Sr.
Chairman

**Members of the
Virginia State Crime Commission, 1992**

From the Virginia Senate:

Elmo G. Cross, Vice Chairman
Virgil H. Goode, Jr.
Edgar S. Robb

From The House of Delegates:

Robert B. Ball, Sr., Chairman
James F. Almand
Jean W. Cunningham
V. Thomas Forehand, Jr.
Raymond R. Guest, Jr.
Clifton A. Woodrum

Appointments by the Governor:

Robert C. Bobb
Robert F. Horan, Jr.
Rev. George F. Ricketts, Sr.

Attorney General's Office:

H. Lane Kneeder

**Crime Commission Study of
Fees Assessed by Sheriffs (HJR 67)**

Crime Commission Subcommittee Members

Reverend George F. Ricketts, Sr., Subcommittee Chmn.

Senator Elmo G. Cross, Jr.

Delegate V. Thomas Forehand, Jr.

Delegate Raymond R. Guest, Jr.

H. Lane Kneedler

Senator Edgar S. Robb

Crime Commission Staff

Frederick L. Russell, Executive Director

D. Robie Ingram, Staff Attorney

Michael P. Maddox, Staff Attorney

Dana Schrad, Staff Attorney

Susan Bass, Research Analyst

Sylvia Coggins, Executive Assistant

Gina Ford, Secretary

Maryann C. Jayne, Intern

**Study of Fees Assessed by Sheriffs
House Joint Resolution 67 (1992)**

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Study of Fees Assessed by Sheriffs

House Joint Resolution 67 (1992)

I. Authority for Study

During the 1992 Session of the Virginia legislature, Delegate V. Thomas Forehand, Jr. sponsored House Joint Resolution No. 67 (HJR 67), requesting and authorizing the Virginia State Crime Commission to "study the fees mandated by §§14.1-105 and 14.1-111 and determine the advisability of either eliminating the fees or adjusting them to more accurately reflect the true costs of the services for which they are assessed." (See, Appendix A.)

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Sec. 9-127 of the Code of Virginia provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Sec. 9-125, and to formulate its recommendations to the Governor and the General Assembly." Sec. 9-134 of the Code of Virginia authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of the fees assessed by sheriffs as requested and authorized by HJR 67.

II. Members Appointed to Serve

At the April 21, 1992, meeting of the Crime Commission, Chairman, Robert B. Ball, Sr., Delegate from Henrico, selected The Reverend George F. Ricketts, Sr., to serve as Chairman of the subcommittee (Subcommittee No. III) assigned to study fees assessed by sheriffs. The following members of the Crime Commission were selected to serve on the subcommittee:

The Reverend George F. Ricketts, Sr.

Senator Elmo G. Cross, Jr.

Delegate V. Thomas Forehand, Jr.

Delegate Raymond R. Guest, Jr.
H. Lane Kneedler
Senator Edgar S. Robb

III. Executive Summary

The final report on the study of the fees assessed by sheriffs was received by Crime Commission Subcommittee No. III at its meeting of September 22, 1992. The subcommittee approved the report, with recommendations for adjustments to fees via Code amendment, for submission to the full Commission. The Commission considered and approved the report at its December 8, 1992, meeting.

The study, authorized by House Joint Resolution 67 (1992), sponsored by Delegate V. Thomas Forehand, Jr., sought, as its primary objective, to determine the continued usefulness of certain fees (set forth in §§14.1-105 and 14.1-111) intended to be charged by sheriffs for their services. Many of the fees are not charged at all because it is unclear who the payor is intended to be. Many are not collected because the amounts are simply too small to justify the collection or because the intent of the Code section is difficult to ascertain or conflicts with another.

Virginia sheriffs and Circuit Court clerks throughout the state were surveyed by mail on the subject of the applicability and success in collection of the fees. (See, surveys at Appendix B.) The survey responses indicated that, despite legal requirement for their use, many sheriff's offices do not collect the fees set forth in the Code sections studied herein. Many recommendations were made for raising or eliminating the fees.

On the basis of all the information and arguments before it, the subcommittee determined that many of the fees should be consolidated into one fee (higher, as well, to justify the actual cost of collection) and that many of the fees were antiquated and should be eliminated altogether. As a result, the subcommittee recommended the statutory amendments in this report. Upon consideration of the subcommittee findings and recommendations, the full Crime Commission concurred with the subcommittee report.

IV. Study Design

In accordance with the implicit directives of HJR 67 (1992), the subcommittee conferred with, and heard testimony from, representatives of Sheriff's offices throughout the state and from many Circuit Court clerks. The staff also conferred with the administrative office of the State Supreme Court. Commission staff researched the legal implications of amending the fees assessed by sheriffs and surveyed selected Virginia sheriff's offices (and met informally with a number of those surveyed) and Circuit court clerks on the subject of their fee collection practices. The subcommittee carefully reviewed, with the full advice of those persons listed above, the information before it and made findings and recommendations, as necessary and appropriate, to the full Commission. Meetings of, and reports to, the subcommittee were scheduled as follows:

- Initial Report/Meeting June 23, 1992
- Interim Report/Public Hearing August 25, 1992
- Final Report/Meeting September 22, 1992

The subcommittee presented its findings and recommendations to the full Commission on December 8, 1992.

V. Background

As cited in HJR 67 (See, Appendix A.), the Virginia Legislature has charged sheriffs with performing a number of tasks such as service of process, service of warrants, transporting prisoners, etc. Virginia Code §§14.1-105 and 14.1-111 allow for the collection of fees for those services; however, the charges set forth in those sections have not been updated since 1976 and 1984, respectively. Additionally, it is unclear, for many of those charges, who is supposed to pay the fee. In some cases, there are simply conflicts in the Code. Virginia's sheriffs sought clarification and modernization of the fees outlined below (as well as others not specifically set forth in the resolution):

§14.1-105. Process and service fees generally

\$2.00 - For summoning a witness or garnishee on an attachment.

\$4.00 - For receiving into and discharging a person from jail.

*Costs - A court cost chargeable for every mile traveled in transferring prisoners to or from jail, tolls, and mileage as prescribed in §14.1-5.

\$4.00 - For serving any order of court not otherwise provided for.

\$4.00 - For serving a writ of possession.

\$4.00 - For levying an execution or distress warrant or an attachment.

\$5.00 - For service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process.

\$5.00 - For serving an attachment or other process under which the body is taken and making a return thereon.

\$15.00 - For serving any papers returnable out of state.

§14.1-111. Sheriffs and criers in criminal cases.

\$1.00 - For serving a warrant or summons when no arrest is made.

\$1.00 - For summoning a witness in a felony or misdemeanor case.

(This fee remains the same when two or more persons are subject to the same warrant.)

\$1.50 - For a misdemeanor or felony arrest.

\$2.00 - For executing a search warrant.

\$10.00 - For executing the first writ of venire facias at a term.

(Plus necessary expenses when serving such writ outside jurisdiction)

\$5.00 - For executing every other writ of venire facias at the same term.

*Costs - For transporting a prisoner to jail under the order of a justice, such reimbursement for daily mileage as prescribed in § 14.1-5.

**These are not set fees, but actual expenses incurred in travel.*

VI. Study Issues

HJR 67 references two specific sections of the Code of Virginia (§§ 14.1-105 and 14.1-111) to be reviewed by this study. Per the approval of the full Crime Commission at its April 21, 1992, meeting, the study was expanded to include sheriffs' fees in a limited number of other Code sections as well.

In meeting the mandate set forth in HJR 67, to “determine the advisability of either eliminating the fees or adjusting them to more accurately reflect the true costs of the services,” the staff identified the following three major issues:

1. As to each of the enumerated fees, whether it is presently collected, and how frequently;
2. Whether and to what degree each of the fees reflects the actual cost of performing the service; and
3. Whether the fees, individually, are reasonably collectible.

VII. Survey Results

A. Introduction

In order to respond effectively to the issues raised by the study resolution, to point to other relevant Code sections which may be appropriate for review, and to maintain input through the course of the study, the staff, with the assistance of the Virginia Sheriff's Association Executive Director, John Jones, developed a list of sheriffs for consultation. The list reflects jurisdictions across the Commonwealth, urban and rural alike. (See, Appendix B.) The staff contacted each sheriff by letter and requested a response based upon experience in his jurisdiction. The Circuit Court clerk in each of those jurisdictions was also contacted by letter. (See, Appendix B.)

Responses indicated that most of the fees listed in the Code sections are either uncollected or uncollectible. (One sheriff noted that his office collects none of the fees under § 14.1-111, and collects only four types of fees contained in § 14.1-105 [for service of process, including out-of-state service, service of court orders and levying execution of warrants]). The responses suggested the need to abolish a number of these fees altogether, and to raise the rest (in accordance with a reasonable assessment of actual cost in performing the services).

Additionally, it became clear that a number of Code sections (in addition to those designated by the study resolution) which authorize collection of fees for sheriffs' services should be reviewed. Some of these were either redundant or conflicting. (One suggestion was to incorporate these fees into fewer sections and eliminate the unnecessary sections).

B. Discussion of Responses to Sheriffs and Court Clerks Surveys

1. The fees listed in §14.1-111, where collected at all, are collected by clerks of court. With the sole exception of the fee for summoning witnesses, however, collection of these fees is generally not even attempted. In the case of the witness fee, many clerk's offices assess a \$5.00 charge (though the Code permits only a \$1.00 charge). The exception, in the words of one clerk, is when "the lawyer is knowledgeable of this Code section and insists we only collect \$1.00."
 - With regard to the fees assessed for service of a warrant or summons, and execution of an arrest or search warrant, these charges appear to be generally uncollectible. The fees could be charged to a defendant's account, but it is not customarily done.
 - In the case of fees for executing a writ of venire facias, it is unclear against whom such a fee would be charged. Again, this cost could be borne by the defendant but it is not presently collected from anyone.
 - The provision for reimbursement for mileage is obsolete. The sheriffs are otherwise compensated for these costs and do not rely on this provision.
2. Collection of fees listed in §14.1-105 differs in some respects from one jurisdiction to the next. If the clerk is able to collect these fees "up front" he will often do so. Otherwise it is left to the sheriff. The amount of the fee collected also differs (irrespective of the amount set forth by the Code). Certain of the fees are adjusted upward to \$5.00 in some cases (as with the witness fee in §14.1-111).

- The services provided for in this section (and that sheriffs feel consume the greatest amount of time and for which the fees are therefore disproportionately low) are writs of possession and attachments. Both often require multiple trips by deputies. The current \$4.00 fee has not been changed for a number of years and is considered by sheriffs to be inadequate.
- The fee for summoning a witness or garnishee is typically collected by the court. This is a regular service fee and is collected in most cases.
- The fee for personal service on civil process (\$5.00), while not sufficient to cover costs, is not found particularly objectionable by sheriffs, but the service for out-of-state process (currently \$15.00) is one they feel should be raised. (The explanation for this is that multiple trips for such service are not uncommon, and papers must be notarized. The charge for out-of-state service by other states is typically significantly higher than normal personal service.) (See, Appendix C for out-of-state costs.)
- Other fees in §14.1-105 are rarely, if ever, collected. The mileage reimbursement fee for sheriffs, as in §14.1-111, is obsolete; the fee for receiving/discharging a prisoner and for serving a process under which the body is taken (a *capias*) is considered uncollectible; and the fee for serving other orders is ignored.

Many of the fees in both of these Code sections go uncollected because they are too small or because collection of the fee is not feasible, or both. Persons involved in the process of assessing and paying the fees are confused by the fee schedule (including attorneys, who may be quoted different costs for the same service within the same jurisdiction). Sheriffs, clerks of court and the Administrative Office of the Virginia Supreme Court were of the unanimous opinion that fees should be consolidated into a very few charges. This would reduce paperwork and confusion while enhancing efficiency of administration. Such a consolidation was

effectively done at the district court level a number of years ago when district courts were reorganized. For instance, in district courts, there is a flat \$10.00 fee for various services in civil cases, as designated in §14.1-125. The exceptions are for writs of possession and attachments - §14.1-105 allows collection of these fees in both circuit and district courts.

C. Consideration of Other Fees

When this study was initially undertaken, there was some consideration of the need for reviewing fees outside §§14.1-105 and 14.1-111 (the Code sections specified for review by HJR 67). The additional review was approved by the subcommittee at its meeting of April 21, 1992. Following is a recitation of the fees raised by sheriffs and clerks as requiring revision:

§§14.1-109 and 8.01-499 - These two sections appear to conflict with one another, insofar as § 14.1-109 provides for a graduated scale in the percentage of fees a sheriff is to retain from proceeds of a sale while § 8.01-499 states that sheriffs shall receive a flat 5% commission. Based on the responses we have received from sheriffs on this issue, it appears that § 8.01-499 is the section most frequently relied upon in these cases.

§14.1-108 - This section provides for the same graduated scale as does §14.1-109, for commissions on bonds. Sheriffs have urged that both be amended to allow for a flat 5% fee (consistent with §8.01-499).

§55-248.31:1 - This section authorizes a sheriff to serve "any notice" to a tenant for a landlord/lessor and provides for a fee not to exceed \$2.00. There was a suggestion to raise this fee to \$4.00.

§§14.1-93, 14.1-94 and 14.1-95 - These sections concern situations where a levy is never made on a fieri facias, or the levy is made but no sale takes place. §14.1-93 permits a fifty cent fee upon a return of fieri facias where no levy is made. There was a suggestion to raise this fee to \$1.00. §14.1-94 and 14.1-95 act jointly in cases where a levy is made but no sale takes place. One section permits recovery of

advertising costs (for the sale) but specifically precludes any commission. The second allows, in addition, a maximum of \$3.00 in lieu of the commission, but no more than half of what the commission on the sale would have been. This is understandably confusing. The respondents' proposal was to delete § 14.1-94 and raise the maximum fee in §14.1-95 to \$5.00.

§14.1-178.1 - This section permits the sheriff to collect \$1.25, in cases involving a confession of judgment by a debtor, for each copy of the order he serves. There was a proposal to raise this fee to \$5.00.

§8.01-478 - The suggestion was made to create a new fee of \$4.00 in this section (which provides for levying on cash as well as chattels but allows for no fee in doing so) for serving a notice of lien.

VIII. Findings and Recommendations

The subcommittee, at its final meeting, reviewed the results of the surveys, heard testimony from the staff, the Sheriff's Association and some of Virginia sheriffs and concluded that the following amendments to the fee structure should be made (See, Appendix B, for "unamended text" of the Code Sections):

1. Amend §14.1-105 as follows:

§14.1-105. Process and service fees generally. - The fees shall be as follows:

- (1) For service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process, except as herein otherwise provided, and for serving on any person, firm, or corporation any process when the body is not taken and making a return thereof, the sum of five dollars.
- (2) For summoning a witness or garnishee on an attachment, *five* dollars.
- (3) For serving on any person an attachment or other process under which the body is taken and making a return thereon, five dollars.
- (4) Delete (*For receiving and discharging a person in jail, four dollars.*)
- (5) Delete (*For carrying a prisoner to or from jail and every mile of*

necessary travel, an amount equivalent to the necessary toll and ferry charges incurred by the officer, if any, and such reimbursement for his daily mileage as prescribed in §14.1-5, which shall be charged and taxed as a part of the court cost.)

(6) For serving any order of court not otherwise provided for, *five* dollars.

(7) For serving a writ of possession, *five* dollars.

(8) For levying an execution or distress warrant or an attachment, *five* dollars.

(9) For serving any papers returnable out of state, *fifty* dollars.

Such fees shall be allowable only for services provided by such officers in the circuit courts. However, for services set forth under paragraphs (3), (7) and (8), the designated fees shall be paid in both the circuit and district courts.

2. Amend §14.1-111 to read essentially as follows:

§14.1-111. Sheriffs fees in criminal cases. - A fee of ten dollars shall be charged by the sheriff to a defendant found guilty in a criminal case coming before a circuit court a) as costs for serving a warrant or summons other than on a witness when no arrest is made, or b) as costs for making an arrest upon a misdemeanor or felony charge.

3. Amend §14.1-93 to raise the fee for return on writ of fieri facias when no levy is made from fifty cents to one dollar.

4. Repeal §14.1-94.

5. Amend §14.1-95 to raise the fee for levy on tangible property when no sale is made from three to five dollars.

6. Make **New Section 14.1-95.1** - Fee for levy on cash, etc., by writ of fieri facias. - When a levy is made upon current money, bank notes or goods or chattels of a judgment debtor pursuant to §8.01-478, the officer shall be allowed a fee of four dollars.

7. Amend §14.1-108 as follows:

§14.1-108 Commission on forthcoming bond. - The commission to be included in a forthcoming bond, when one is taken, shall be **5%**. (*Omit remainder of the sentence.*) Such commission. . .

8. Repeal §14.1 - 109.

9. Amend §14.1-178.1 to raise the fee for service of a copy of an order entering judgment from one dollar twenty five cents to five dollars.

10. Amend §55-248.31:1 to raise the fee for delivery of a notice to a tenant from two to four dollars.

Appendix A

HJR 67 and Representative Code Sections

1992 SESSION

LD4011825

HOUSE JOINT RESOLUTION NO. 67

Offered January 17, 1992

Requesting the Virginia State Crime Commission to study fees assessed for services performed by sheriffs.

Patrons—Forehand, Almand, Ball, Cohen, Cunningham, J.W., Guest, Reynolds and Woodrum;
Senators: Lambert and Stolle

Referred to the Committee on Rules

WHEREAS, the sheriffs and their deputies are charged by statute with performing a number of tasks such as service of process, service of warrants, transportation of prisoners, and other related activities; and

WHEREAS, the fees to be paid for such services are enumerated in §§ 14.1-105 and 14.1-111, and those fees have not been revised in any manner since 1984 and 1976, respectively; and

WHEREAS, the amount of some or all of the fees is such that it may not be economically sound practice to continue to require collection of the fees if they remain at current levels; and

WHEREAS, the fees may need to be increased in order to reflect the true costs of the service performed; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be requested to study the fees mandated by §§ 14.1-105 and 14.1-111 and determine the advisability of either eliminating the fees or adjusting them to more accurately reflect the true costs of the services for which they are assessed.

The Crime Commission shall complete its work in time to submit its findings to the Governor and the 1993 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

The indirect costs of this study are estimated to be \$1,070; the direct costs shall not exceed \$4,198.

Official Use By Clerks

Agreed to By
The House of Delegates
without amendment
with amendment
substitute
substitute w/amdt

Agreed to By The Senate
without amendment
with amendment
substitute
substitute w/amdt

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

FEES REFERENCED BY HJR 67

§14.1-105. Process and service fees generally. - The fees shall be as follows:

For service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process, except as herein otherwise provided, and for serving on any person, firm, or corporation any process when the body is not taken and making a return thereof, the sum of five dollars.

For summoning a witness or garnishee on an attachment, two dollars.
For serving on any person an attachment or other process under which the body is taken and making a return thereon, five dollars.

For receiving and discharging a person in jail, four dollars.

For carrying a prisoner to or from jail and every mile of necessary travel, an amount equivalent to the necessary toll and ferry charges incurred by the officer, if any, and such reimbursement for his daily mileage as prescribed in § 14.1-5, which shall be charged and taxed as a part of the court cost.

For serving any order of court not otherwise provided for, four dollars.

For serving a writ of possession, four dollars.

For levying an execution or distress warrant or an attachment, four dollars.

For serving any papers returnable out of state, fifteen dollars.

Such fees shall be allowable only for services provided by such officers in the circuit courts. However, for services set forth under paragraphs (3), (7) and (8), the designated fees shall be paid in both the circuit and district courts.

§14.1-111. Sheriffs and criers in criminal cases. - The fees and allowances of sheriffs and criers in criminal cases coming before or pending in the circuit courts shall be as follows:

For serving a warrant or summons other than on a witness when no arrest is made, one dollar.

For an arrest in a case of a misdemeanor or felony, one dollar fifty cents.

For executing a search warrant, two dollars.

For summoning a witness in a felony or misdemeanor case, one dollar.

But when two or more persons are arrested under one warrant, or are jointly charged or tried, the officer shall be entitled only to such fee for summoning witnesses as if only one person was arrested, charged or tried.

For carrying a prisoner to jail under the order of a justice, such reimbursement for his daily mileage as prescribed in § 14.1-5.

For each mile traveled of the prisoner in carrying him to jail, such reimbursement for his daily mileage as prescribed in § 14.1-5; provided, however, that such travel allowance shall not be allowed in the event such prisoner is transported by use of a motor vehicle, other than a common carrier.

For executing the first writ of venire facias at a term, ten dollars and five dollars for executing every other writ of venire facias at the same term, provided that when an officer goes out of his city or county to execute a writ of venire facias, he shall receive ten dollars for executing the writ, and his actual necessary expenses, to be set out in a sworn account to be approved by the court.

OTHER FEES

§14.1-93. For return when no levy made, etc. - Whenever on any decree of judgment in a civil case any fieri facias issued by the clerk of any court is placed in the hands of any officer and no levy is made or forthcoming bond is taken thereon, and a return is made by the officer, the officer so making a return thereon shall be allowed a fee of fifty cents for making the return.

§ 14.1-94. No commissions when no sale made under levy; expenses in such cases. - In any case in which such officer makes a levy and advertises property for sale and by reason of a settlement between the parties to the claim or suit the officer is not permitted to sell under such levy, such officer shall not be entitled to any commissions, but shall in addition to his fees for making the levy and return and the fee provided by §14.1-95, be entitled to recover from the party for whom the services were performed the expenses incurred by such officer in and about the advertisement of the proposed sale of the property.

§14.1-95. Fee when no sale made under levy. - When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the sixty cents for a bond if one was taken a fee of three dollars, unless this is more than one-half of what his commission would have amounted to if he had received payment, in which case he shall, whether a bond was taken or not, have a fee of at least one dollar and so much more as is necessary to make such half.

§14.1-108. Commission on forthcoming bond. - The commission to be included in a forthcoming bond, when one is taken, shall be 10% of the first \$100 of the money for which the distress or levy is, 5% on the next \$400 and 2% on the residue of such money. Such commission shall not be received unless the bond is forfeited or paid, including the commission, to the plaintiffs. Of whatever interest accrues on such bond, or the execution of judgment thereon, the officer shall be entitled to his proportionable share, on account of his fees included in such bond.

§14.1-178.1. Fees and costs relating to judgments by confession. - The following fees and costs, and no other, shall be taxed by the clerk as and for the costs of a proceeding under §§ 8.01-432 through 8.01-440;

The cost of registered or certified mail.

The statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment.

For the clerk, \$10 except in actions involving not more than \$500 the clerk's fee shall be \$5;

For the Sheriff for serving each copy of the order entering judgment, one dollar and twenty-five cents;

For the clerk for docketing the judgment and issuing executions thereon, the same fees allowed by law for docketing judgments rendered in court and issuing executions thereon.

****§14.1-109. Commissions on collections.** - An officer receiving payment under an execution or other process in money, or selling goods receive the like commission of 10% of the first \$100 of the money paid of proceeds from sale, 5% on the next \$400 and 2% on the residue; except that when such payment or sale is on execution on a forthcoming bond, his commission shall only be half what it would be if the execution were not on such bond.

§8.01-478. On what property writ of fieri facias levied; when lien commences. -

The writ of fieri facias may be levied as well on the current money and bank notes, as on the goods and chattels of the judgment debtor, except such as are exempt from levy under Title 34, and shall bind what is capable of being levied on only from the time it is actually levied by the officer to whom it has been delivered to be executed.

****§8.01-499. Officer receiving money to make return thereof and pay net proceeds; commission, etc.** - An officer receiving money under this chapter shall make return thereof forthwith to the court or the clerk's office of the court in which the judgment is entered. For failing to do so, the officer shall be liable as if he had acted under an order of such court. After deducting from such money a commission of five per centum and his necessary expenses and costs, including reasonable fees to sheriff's counsel, he shall pay the net proceeds, and he and his sureties and their representatives shall be liable therefor, in like manner as if the same had been made under a writ of fieri facias on the judgment.

§55-248.31:1. Sheriffs authorized to serve certain notices; fees therefor. - The sheriff of any county or city, upon request, may deliver any notice to a tenant on behalf of a landlord or lessor under the provisions of § 55-225 or § 55-248.31. For this service, the sheriff shall be allowed a fee not to exceed two dollars.

***Note that these two sections are in apparent conflict. While § 14.1-109 provides for a graduated scale in the percentage of fees a sheriff is to retain, § 8.01-499 states that a flat 5% commission is to be retained by the sheriff regardless of the total amount of proceeds.*

Appendix B
Survey Letters and Recipient List

June 29, 1992

Dear Clerk:

House Joint Resolution No. 67 (HJR 67), passed by the 1992 General Assembly, requests the Crime Commission to determine the advisability of adjusting or eliminating certain fees associated with services performed by sheriffs. The resolution specifically cites fees listed in §§ 14.1-105 and 14.1-111 of the Code of Virginia. I understand that some of these fees are within the domain of the court in the form of court fees and are therefore not the responsibility of the sheriff.

It is clear, however, that some of the fees in question are not currently collected or collected only rarely. This may be because the expense of collection is too great relative to the fee, collection of the fee is simply not feasible (due to its nature), or for some other reason.

I have enclosed herewith a list of the fees referenced by the study resolution. Your input regarding which of these are collected by the court will greatly assist us in a comprehensive review of these fees. Additionally, our ability to make effective recommendations for legislative changes will be enhanced if you could provide us answers to the following questions.

1. As to each of the fees listed in §§ 14.1-105 and 14.1-111, that are the responsibility of the court, how frequently (if at all) is it actually collected?
2. With regard to the fees in question # 1 that you indicate are not frequently collected, why is this the case?
3. With regard to each of these fees, should they be raised (and if so, to what) or eliminated altogether, and why?

Your willingness to respond to these issues is very much appreciated. Should you have any further comments that pertain to this study, please feel free to include them as well. I welcome any questions you may have.

Sincerely,

Michael P. Maddox
Staff Attorney

June 1, 1992

Dear Sheriff:

House Joint Resolution No. 67 (HJR 67), passed by the 1992 General Assembly, requests the Crime Commission to determine the advisability of adjusting or eliminating certain fees associated with services performed by sheriffs. In order to fulfill this mandate, the Crime Commission is soliciting input from various sheriffs throughout the Commonwealth. Your name was given us by Sheriff's Association Director John Jones as one whose input would be valuable to the study.

We anticipate conferring with sheriffs who are participating in this study over the course of this summer, and completing a draft report with appropriate recommendations by late August. Hopefully the results of the study will enable clarification of the Code of Virginia regarding sheriffs' fees, and modification of such fees where necessary.

While HJR 67 specifically cites only §§ 14.1-105 and 14.1-111 of the Code of Virginia, the Commission is considering fees referenced in other sections of the Code insofar as they fall within the purview of the study. I have enclosed herewith a list of the fees referenced by the study resolution, as well as a couple of additional sections already identified by the staff. I would appreciate your reviewing these fee schedules and responding to the following questions based on experience in your office and jurisdiction:

1. As to each of the enumerated fees, is it presently collected and, if so, where do the proceeds go (i.e. does the sheriff retain them or deposit them with another political entity)?
2. Do these fees, respectively, accurately reflect the cost of performing the services in question?
3. With regard to each of these fees, should they be raised (and if so, to what) or eliminated altogether?

In addition to the above information, please indicate whether language in these, or other Code sections dealing with sheriffs' fees, needs to be amended for whatever reason, and identify any other statutorily mandated sheriffs' fees which you feel should be considered in this study.

Thank you for your participation. I look forward to working with you over the coming months.

Sincerely,

Michael P. Maddox
Staff Attorney

Sheriffs Surveyed

Alvin Hudson, Sheriff
P. O. Box 494
Roanoke, Virginia 24003

Andrew J. Winston, Sheriff
1701 FairfieldWay
Richmond, Virginia 23223

Frank Drew, Sheriff
P. O. Box 6098
Municipal Center
Virginia Beach, Virginia 23456

Ronald Crocket, Sheriff
Lancaster, Virginia 22503

Charlie W. Phelps, Sheriff
Isle of Wight, Virginia 23397

Vernie Francis, Sheriff
Main Street
Courtland, Virginia 23837

Wilson C. Garrison, Jr., Sheriff
9311 Lee Avenue
Manassas, Virginia 22110

Carl R. Reed, Sheriff
4110 Chain Bridge Road
Fairfax, Virginia 22030

J. Lawrence Clary, Sheriff
County Courthouse
Boydton, Virginia 23917

Clay Hester, Sheriff
224 26th Street
Newport News, Virginia 23607

Shirley Reynolds, Sheriff
P. O. Box 133
Powhatan, Virginia 23139

D. J. Johnson, Sheriff
P. O. Box 190
Tazewell, Virginia 24651

Joe D. Mitchell
P. O. Box 787
Abingdon, Virginia 24210

Thomas Faust
1400 N. Court House Road
Arlington, Virginia 22201

Terry Hawkins, Sheriff
P. O. Box 203
Charlottesville, Virginia 22902

Walter Dutton, Sheriff
P. O. Box 227
Williamsburg, Virginia 23187

W. F. Kelley, Sheriff
P. O. Box 916
Wise, Virginia 24273

Lynn Armentrout, Sheriff
8 E. Jackson Street
Front Royal, Virginia 22630

Bobby Farmer, Sheriff
P. O. Box 3434
Radford, Virginia 24143

Ralph E. Dobbins, Sheriff
86 E. Main Street
Pulaski, Virginia 24301

Appendix C
Cost of Out-of-State Service

Out-of-State Service
Service of Process From Other States

STATE	THEIR FEE	OUR FEE
Florida	\$30.00 Flat Fee/Personal Service \$20.00 Flat Fee/Substitute Service	\$15.00 per person, per document
Alabama	\$25.00 Flat Fee per person	"
California	\$21.00 per person, per process	"
Delaware	\$50.00 Flat Fee per case	"
Maine	\$40.00 Flat Fee per process	"
Maryland	\$50.00 Flat Fee per person Fee increased in July 1991	"
Vermont	\$35.00 Flat Fee/Civil Case \$45.00 Flat Fee/Divorce or Child Custody Plus .25 cents per mile	"
Phil., PA	\$61.00 Flat Fee per person \$50.00 additional fee for Interrogatories	"
Georgia	\$20.00 Flat Fee for each address Fee same for 19 years.	"
Mass.	\$50.00 Flat Fee per person \$20.00 additional fee for same address	"
N. Carolina	\$5.00 Flat Fee per person	"
Tennessee	Will Fax Info	"
Rhode Island	\$60.00 Flat Fee per person Increased June 1991 from \$15.00	"
New Hampshire	\$10.00 Bill of Complaint plus \$1.00 Notary \$15.00 Summons plus mileage Currently working to get fees increased.	"
New Jersey	\$19.50 per address plus .17 cents per mile	"
Austin, TX	\$40.00 for Small Claims \$50.00 most other papers Increased January 1, 1992	"

Appendix D
Proposed Legislation

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact §§ 14.1-93, 14.1-95, 14.1-105, 14.1-108,
4 14.1-178.1, 19.2-338 and 55-248.31:1 of the Code of Virginia; to
5 amend the Code of Virginia by adding sections numbered 14.1-95.1
6 and 14.1-111.1; and to repeal §§ 14.1-94, 14.1-109 and 14.1-111
7 of the Code of Virginia, relating to sheriff's fees.

8

9 Be it enacted by the General Assembly of Virginia:

10 1. That §§ 14.1-93, 14.1-95, 14.1-105, 14.1-108, 14.1-178.1, 19.2-338
11 and 55-248.31:1 of the Code of Virginia are amended and reenacted and
12 that the Code of Virginia is amended by adding sections numbered
13 14.1-95.1 and 14.1-111.1 as follows:

14 § 14.1-93. For return when no levy made, etc.--Whenever on any
15 decree of judgment in a civil case any fieri facias issued by the
16 clerk of any court is placed in the hands of any officer and no levy
17 is made or forthcoming bond is taken thereon, and a return is made by
18 the officer, the officer so making a return thereon shall be allowed a
19 fee of ~~fifty-cents~~one dollar for making the return.

20 § 14.1-95. Fee when no sale made under levy.--When, after
21 distraining or levying on tangible property the officer neither sells
22 nor receives payment and either takes no forthcoming bond or takes one
23 which is not forfeited, he shall, if not in default, have in addition
24 to the sixty cents for a bond if one was taken a fee of ~~three~~five
25 dollars, unless this is more than one-half of what his commission
26 would have amounted to if he had received payment, in which case he
27 shall, whether a bond was taken or not, have a fee of at least one

1 dollar and so much more as is necessary to make such half.

2 § 14.1-95.1. Fee for levy on cash, etc., by writ of fieri
3 facias.--When a levy is made upon current money, bank notes or goods
4 or chattels of a judgment debtor pursuant to § 8.01-478, the officer
5 shall be allowed a fee of four dollars.

6 § 14.1-105. Process and service fees generally.--The fees shall
7 be as follows:

8 (1) For service on any person, firm or corporation, a declaration
9 in ejectment, order, notice, summons or any other civil process,
10 except as herein otherwise provided, and for serving on any person,
11 firm, or corporation any process when the body is not taken and making
12 a return thereof, the sum of five dollars except that no fee shall be
13 charged for service pursuant to § 9-6.14:13.

14 (2) For summoning a witness or garnishee on an attachment, two-
15 five dollars.

16 (3) For serving on any person an attachment or other process
17 under which the body is taken and making a return thereon, five
18 dollars.

19 ~~(4) For receiving and discharging a person in jail, four dollars.~~

20 ~~(5) For carrying a prisoner to or from jail and every mile of~~
21 ~~necessary travel, an amount equivalent to the necessary toll and ferry~~
22 ~~charges incurred by the officer, if any, and such reimbursement for~~
23 ~~his daily mileage as prescribed in § 14.1-5, which shall be charged~~
24 ~~and taxed as a part of the court cost.--~~

25 (6) For serving any order of court not otherwise provided for,
26 four-five dollars.

27 (7) For serving a writ of possession, four-five dollars.

28 (8) For levying an execution or distress warrant or an

1 attachment, ~~four~~-five dollars.

2 (9) For serving any papers returnable out of state, ~~fifteen~~-
3 fifty dollars.

4 Such fees shall be allowable only for services provided by such
5 officers in the circuit courts. However, for services set forth under
6 subdivisions (3), (7) and (8), the designated fees shall be paid in
7 both the circuit and district courts.

8 § 14.1-108. Commission on forthcoming bond.--The commission to
9 be included in a forthcoming bond, when one is taken, shall be ten-
10 ~~percent-of-the-first-\$100-of-the-money-for-which-the-distress-or-levy-~~
11 ~~is,--five-percent-on-the-next-\$400-and-two-percent-on-the-residue-of-~~
12 ~~such-money-~~five percent . Such commission shall not be received
13 unless the bond is forfeited or paid, including the commission, to the
14 plaintiffs. Of whatever interest accrues on such bond, or the
15 execution of judgment thereon, the officer shall be entitled to his
16 proportionable share, on account of his fees included in such bond.

17 § 14.1-111.1. Sheriff's fees in criminal cases.--A fee of ten
18 dollars shall be charged by the sheriff to a defendant found guilty in
19 a criminal case coming before a circuit court (i) as costs for serving
20 a warrant or summons other than on a witness when no arrest is made or
21 (ii) as costs for making an arrest upon a misdemeanor or felony
22 charge.

23 § 14.1-178.1. Fees and costs relating to judgments by
24 confession.--The following fees and costs, and no other, shall be
25 taxed by the clerk as and for the costs of a proceeding under §§
26 8.01-432 through 8.01-440:

27 The cost of registered or certified mail.

28 The statutory writ tax, in the amount required by law to be paid

1 on a suit for the amount of the confessed judgment.

2 For the clerk, ~~\$10-~~ten dollars except in actions involving not
3 more than \$500 the clerk's fee shall be ~~\$5-~~five dollars ;

4 For the sheriff for serving each copy of the order entering
5 judgment, ~~one-dollar-and-twenty-five-cents-~~five dollars ;

6 For the clerk for docketing the judgment and issuing executions
7 thereon, the same fees allowed by law for docketing judgments rendered
8 in court and issuing executions thereon.

9 § 19.2-338. Collection by town of cost of transporting
10 prisoners.--(1) Notwithstanding any provision of any charter or any
11 law to the contrary, any town may provide that any person convicted of
12 violating any ordinance of the town may be charged, in addition to all
13 other costs, fines, fees and charges, the costs of transporting such
14 person so convicted to and from a jail or other penal institution
15 outside the corporate limits of such town designated by the town as a
16 place of confinement for persons arrested for violating the ordinances
17 of the town and required to be held in jail pending trial upon such
18 charge. The cost of such transportation shall be taxed as a part of
19 the costs payable by persons convicted of violating such ordinances
20 ~~and-the-costs-shall-be-taxed-in-accordance-with-the-schedules-provided~~
21 ~~in-§§-14.1-105-and-14.1-111-of-the-Code-of-Virginia-~~.

22 (2) No officer transporting any person convicted of violating any
23 ordinance of the town, as provided in subsection (1) hereof, shall
24 charge or be paid, nor shall such town receive directly or indirectly,
25 more than the cost of transporting such person when more than one
26 person is transported.

27 § 55-248.31:1. Sheriffs authorized to serve certain notices;
28 fees therefor.--The sheriff of any county or city, upon request, may

1 deliver any notice to a tenant on behalf of a landlord or lessor under
2 the provisions of § 55-225 or § 55-248.31. For this service, the
3 sheriff shall be allowed a fee not to exceed ~~two~~-four dollars.

4 2. That §§ 14.1-94, 14.1-109 and 14.1-111 of the Code of Virginia are
5 repealed.

6 #