
HOUSE JOINT RESOLUTION
32

STUDY OF THE MAGISTRATE
SYSTEM

Submitted to:

The General Assembly of Virginia

Submitted by:

The Committee on District Courts

December 2003

TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
I. INTRODUCTION	1
House Joint Resolution 32, 2002 General Assembly Session.....	1
Magistrate Role	1
Methodology	1
Results of Problem Identification Phase	3
Results of Solution Generation Phase	5
Magistrate Study Advisory Committee Recommendations	6
Report Organization	6
II. MAGISTRATE INDEPENDENCE.....	7
Description of the Issue	7
Research Results	8
Analysis	9
Commentary	10
Consideration of Options	10
III. MAGISTRATE SERVICES	14
Description of the Issue	14
Current Service Delivery Methods.....	14
Research Results	16
Analysis of Summary Issues.....	17
Professionalism.....	19
Timeliness	22

Access	24
Application of Previous Committee on District Courts’ Recommendations	25
Consideration of Additional Options	26
IV. MAGISTRATE COMPETENCE	41
Description of the Issue	41
Current Qualifications and Training	41
Research Results	44
Analysis of Summary Issues.....	44
Performance Categories	45
Specific Competencies	46
Focus Group Comments.....	48
Commentary.....	49
Application of Previous Committee on District Courts’ Recommendations	49
Consideration of Additional Options	50
V. EDUCATION AND PROFESSIONAL DEVELOPMENT.....	54
Description of the Issue	54
Current Professional Development Programs.....	54
Research Results	56
Analysis of Summary Issues.....	56
Chief Magistrate as Trainer and Coach	57
Institutional Training	58
Job Resources	59
Commentary.....	60
Application of Previous Committee on District Courts’ Recommendations	60
Consideration of Intensive Training and Expanded Delivery Systems.....	61

VI. RECRUITMENT AND SELECTION	63
Description of the Issue	63
Current Recruitment and Selection Practices.....	63
Research Results	66
Analysis of Summary Issues.....	67
Chief Magistrates, Judges, Magistrates, District Clerks Evaluations.....	68
Underlying Causes of Recruitment and Selection Problems.....	70
Appeal of Position	71
Commentary	75
Application of Previous Committee on District Courts’ Recommendations	77
Consideration of Additional Options	79
VII. MANAGEMENT AND OVERSIGHT	85
Description of the Issue	85
Current Structure	85
Research Results	86
Analysis of Summary Issues.....	87
Judicial Oversight.....	87
Chief Magistrate Oversight.....	88
Chief Magistrate and Magistrate Supervising Authority Team.....	89
Complaints concerning Administrative Issues	90
Legal Recourse	91
Accountability	92
Adequate Resources.....	92
Commentary.....	94
Application of Previous Committee on District Courts’ Recommendations	94
Consideration of Additional Options	96

VIII. CONCLUSION	100
Summary of Problems	100
Part-Time On-Call System.....	100
Proposed Solutions.....	102

APPENDIXES

1. House Joint Resolution 32, 2002 General Assembly	105
2. Magistrate Study Advisory Committee Membership.....	107
3. Materials Available from the Office of the Executive Secretary, Supreme Court of Virginia	109
4. Magistrate Study Participant Groups.....	111
5. Survey Responses and Focus Group Summaries	113
6. Venture Team Package.....	151
7. Suggested Solutions by Venture Team.....	165
8. Magistrate Study Advisory Committee Proposals from Individual Members.....	207
9. Alternatives Document	213
10. Virginia Courthouse Facilities Guidelines	229
11. Job Descriptions	233
12. Cost Calculations	241
13. Minimum Full-time Equivalent for Full-time Office.....	245
14. New Magistrate Curriculum, Costs to Provide Fitness for Duty Institute	247



EXECUTIVE SUMMARY

HOUSE JOINT RESOLUTION 32, 2002 GENERAL ASSEMBLY SESSION

This report has been prepared in response to House Joint Resolution 32 of the 2002 General Assembly. The Resolution requested the Committee on District Courts to study the magistrate system and highlighted several issues for the study: e.g., the selection, training, oversight, and accountability of magistrates; magistrate competence; and the need to ensure a uniform statewide system for taking and resolving complaints and inquiries. A copy of House Joint Resolution 32 is available as Appendix 1.

MAGISTRATE ROLE

Magistrates are judicial officers whose primary responsibilities include providing an independent review of complaints of criminal activity brought by law enforcement officers and citizens and making bail determinations of those arrested upon criminal charges. Va. Code § 19.2-45. They have a judicial role in the civil commitment process for those who have a mental illness. See Va. Code Chapter 2, Title 37.1 (§ 37.1-63 *et seq.*). They also have the authority to issue emergency protective orders. Va. Code §§16.1-253.4, 19.2-152.8. In the execution of these duties, magistrates operate in a manner similar to judges, although within a more limited sphere of decision-making.

METHODOLOGY

In response to House Joint Resolution 32, the Committee on District Courts appointed a Magistrate Study Advisory Committee and requested it to evaluate the relevant subjects and to prepare any recommendations it deemed appropriate for the Committee on District Courts' consideration.

The magistrates' work product is the totality of the decisions they make. To evaluate that product in terms of whether justice was satisfactorily done is an abstract, subjective inquiry. From participants' perspectives, if they believe they did not receive justice, legal avenues are in place by which they may obtain another review; therefore, one portion of this study considers whether these avenues are sufficient and known to the public. From the perspective of policy bodies, however, it is impossible to measure the quality of justice delivered. As a result, the study is built on aspects of justice that can be more accurately assessed, even though they are also subjective. To evaluate these aspects of justice, the study articulated specific goals and standards so that actual practices could be measured against them, using surveys and focus groups.

The surveys and focus group comments produced a set of problems for which five venture teams, individual members of the Advisory Committee, and the Office of the Executive Secretary of the Supreme Court of Virginia, developed suggested solutions for the Advisory Committee's consideration.

These processes resulted in several issues for examination:

- Magistrate independence;
- Magistrate services, particularly in the areas of professionalism, timeliness, and access;
- Magistrate competence;
- Education and professional development;
- Recruitment and selection; and
- Management and oversight.

PART-TIME ON-CALL SYSTEM

While on the surface these issues may appear to be unrelated, further examination produced a common theme as an important contributing factor to the problems identified in each area. That common theme was the system's reliance on the part-time on-call system in lieu of the more desirable but unaffordable full-time system.

The most effective, responsive, and user-friendly means of providing services is through full-time offices in each county and city. Such offices are open 24 hours per day, 7 days per week, and are staffed by full-time magistrates. This arrangement, however, is not financially feasible in lower volume localities. Therefore, many localities receive their magistrate services through some variation of the part-time on-call system. As demonstrated by the map entitled *Localities without Full-Time Magistrate Offices* on the next page, fully 69% of the Commonwealth's jurisdictions do not have a full-time magistrate's office within their boundaries. These jurisdictions without full-time offices represent 29% of the population and also constitute approximately 78% of the geographic area within the state. The vast majority of the jurisdictions without a full-time magistrate's office within their boundaries rely on part-time on-call magistrates. However, some of these jurisdictions rely on a video conferencing connection with a full-time magistrate's office in the proximate area. These video arrangements were not developed systematically and some, therefore, have something of an ad hoc quality.

The following is a description of certain operational aspects of the part-time on-call system that contribute to problems in several of the issues to be examined.

Those desiring magistrate service contact on-call magistrates, usually through the dispatcher at a local Sheriff's office. These on-call magistrates may be engaged in a range of personal activities, but are expected to meet the person requesting service at the magistrate office within approximately 20 minutes.

The on-call positions differ in the number of hours worked each week. In some localities, the demands for service mean that the magistrates are on-call a majority of the time with few *activity* hours, or hours spent actively performing magistrate responsibilities. At the other end of the spectrum, magistrates work specified shifts and are on-call for the balance of a schedule. In higher volume localities, magistrates' *activity* time may range from 25 to 40 hours per week with on-call hours in addition to these *activity* hours.

The part-time on-call nature of these positions affects the ability to attract qualified applicants due to part-time pay and undesirable working conditions.

The dearth of qualified applicants and sparse staffing levels means that some managers place a higher priority on obtaining an individual to fill vacant positions than on qualifications or performance

In light of the management and service complexities associated with this system, a considerable number of the counties and cities in the Commonwealth experience difficulty in obtaining magistrate services. Therefore, significant improvements can be provided statewide by addressing the part-time on-call system.

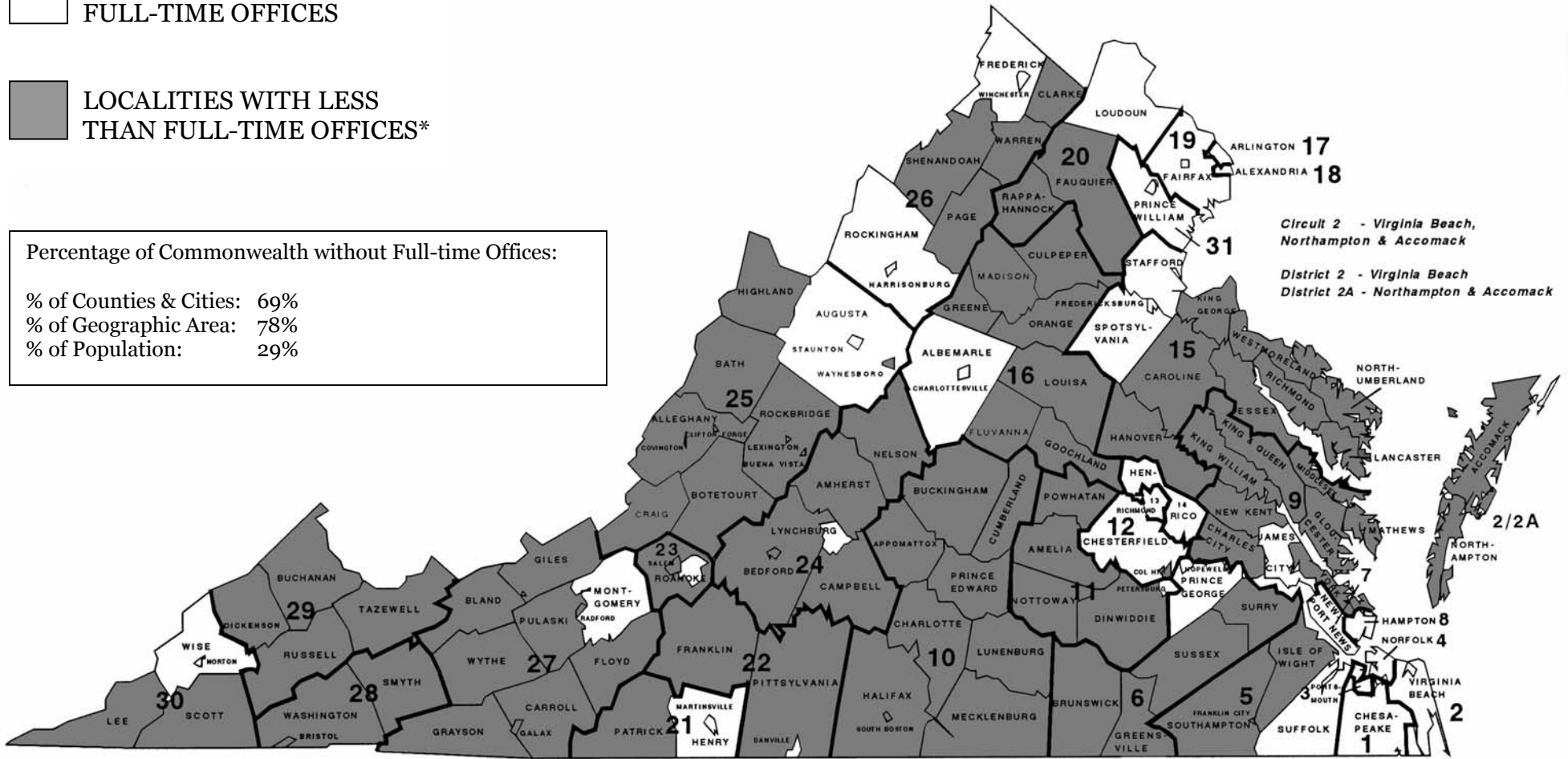
LOCALITIES WITHOUT FULL-TIME MAGISTRATE OFFICES

 LOCALITIES WITH FULL-TIME OFFICES

 LOCALITIES WITH LESS THAN FULL-TIME OFFICES*

Percentage of Commonwealth without Full-time Offices:

% of Counties & Cities:	69%
% of Geographic Area:	78%
% of Population:	29%



Circuit 2 - Virginia Beach, Northampton & Accomack
District 2 - Virginia Beach
District 2A - Northampton & Accomack

*Majority of these jurisdictions are served by part-time on-call offices.

issues following employment. When considering follow up for performance issues, chief magistrates must always consider the circumstances they will face if the magistrate being counseled simply quits. On the one hand, chief magistrates are required to balance the harmful effects of the performance issues against, on the other hand, the likelihood of finding a replacement magistrate who is as qualified and will not present as serious performance issues. Another consideration is how to provide magistrate services in the event of turnover. This will mean that other on-call magistrates must work additional time, that the chief magistrate must provide the coverage, or that at least some portion of magistrate services will be provided through another locality.

The complexities associated with the on-call system create an undesirable working environment and a system with enormous management challenges.

PROPOSED SOLUTIONS

The following list provides a summary of the major proposals recommended to the General Assembly and their costs. The full report describes the recommendations in more detail.

1. Systematically and comprehensively institute video conferencing and eliminate the on-call system as video conferencing is implemented. This concept would establish full-time, 24-hour per day, hub offices in each district. Part-time in-person shift offices would be established in each non-hub locality, and the chief magistrate would set office hours. After-hours video connections with hub offices would be through law enforcement offices.

As a part of the implementation plan, establish a process through which magistrate system leadership meets with local officials to outline a video conferencing proposal for the district, identify foreseeable problems associated with video conferencing, develop mutually agreeable solutions to identified problems, and establish a follow-up evaluation procedure.

2. As video conferencing is implemented, eliminate part-time on-call magistrate employment and replace it with full-time employment, using the staffing criteria outlined in the document entitled *Minimum FTE for Full-Time Office*, Appendix 13. Establish magistrate pay at the full-time Magistrate VI classification. Applying the staffing criteria to the 2002 magistrate statistical information, 43 new full-time positions would be required in addition to the transitions of existing part-time magistrate positions to full-time.
3. Institute a 9.3% salary differential in recognition of shift work.
4. Continue the current qualification of a bachelor's degree or equivalent experience for magistrates and chief magistrates. If magistrates or chief magistrates qualify through equivalent experience, however, the minimum educational qualification is a high school diploma or General Education Development Certificate.
5. Institute intensive nine-week certification program for new magistrates immediately following employment. For new chief magistrates, add a second week of management training to the current program. For continuing chief magistrates, add one week of management development training.

The estimated costs for recommendations 1 through 5 are:

	One- Time	Annual
Video Conferencing Equipment, Annual Capital Costs for Replacement Equipment	\$630,000	\$ 327,000
Video Conferencing Continuing Costs (Line Usage)		979,000
Transition of existing part-time magistrates to full-time Class VI positions		67,000
Addition of 43 new full-time-equivalent (FTE) Class VI positions		2,002,000
Addition of 9.3% Differential		1,529,000
Training for 43 new magistrates, annual turnover	<u>228,000</u>	<u>897,000</u>
Total	\$858,000	\$ 5,801,000

6. Establish a complaint process to be administered locally. Complaints about magistrates should be filed with chief magistrates, and complaints about chief magistrates should be filed with magistrate supervising authorities. In response to complaints about magistrates, chief magistrates should make findings of *Founded* or *Unfounded* and report the total number of complaints by category.
7. Continue the chief circuit court judge as the appointing authority for magistrates and chief magistrates, but in consultation with the chief general district and chief juvenile and domestic relations district court judges.
8. Tentatively approve a re-certification process to qualify for appointment to successive terms. The re-certification process may include a review of continuing legal education (CLE) coursework, performance evaluations, complaints filed, testing, and Office of the Executive Secretary of the Supreme Court of Virginia certification of fitness for re-appointment. Final approval for such a program is contingent upon its development.

9. Repeal of Section 19.2-42 from the Code of Virginia, which names the Commonwealth Attorney as the legal advisor for magistrates. As judicial officers, magistrates are deemed competent to make decisions regarding the application of law to the factual situations presented to them. They may turn to their chief magistrates or to the Office of the Executive Secretary for training in laws and procedures as well as for resources in understanding various aspects of the law. The Commonwealth Attorney's serving as the magistrates' legal advisor while simultaneously performing the function of the Commonwealth's prosecutor raises questions as to the independence of magistrates.

Through examination of currently existing remedies, legal recourse from magistrate decisions has been deemed sufficient. The problem, however, is that these avenues are not well-known or publicized. Therefore, other recommendations are to expand the informational material available to the public as well as the distribution mechanisms and for chief magistrates to take a more visible role in the community so that they may be seen as a valuable resource to resolve issues with magistrate system services.

I. INTRODUCTION

HOUSE JOINT RESOLUTION 32, 2002 GENERAL ASSEMBLY SESSION

This report has been prepared in response to House Joint Resolution 32 of the 2002 General Assembly. The Resolution requested the Committee on District Courts to study the magistrate system and highlighted several issues for the study: e.g., including the selection, training, oversight, and accountability of magistrates; magistrate competence; and the need to ensure a uniform statewide system for taking and resolving complaints and inquiries. A copy of House Joint Resolution 32 is available as Appendix 1.

MAGISTRATE ROLE

Magistrates are judicial officers whose primary responsibilities include providing an independent review of complaints of criminal activity brought by law enforcement officers and citizens and making bail determinations of those arrested upon criminal charges. Va. Code § 19.2-45. They have a judicial role in the civil commitment process for those who have a mental illness. See Va. Code Chapter 2, Title 37.1 (§ 37.1-63 *et seq.*). They also have the authority to issue emergency protective orders. Va. Code §§16.1-253.4, 19.2-152.8. In the execution of these duties, magistrates operate in a manner similar to judges, although within a more limited sphere of decision-making.

METHODOLOGY

A. Magistrate Study Advisory Committee

In response to House Joint Resolution 32, the Committee on District Courts appointed a Magistrate Study Advisory Committee and requested it to evaluate the relevant subjects and to prepare any recommendations it deemed appropriate for the Committee on District Courts' consideration.

Members of the Advisory Committee were appointed due to their familiarity with and knowledge of the system gained through day-to-day transactions with magistrates. Its membership consisted of representatives of several organizations and constituencies, such as law enforcement, advocacy groups, judges, and magistrates themselves. A full list of those appointed and the organizations they represent is Appendix 2.

As an introduction to the study and to obtain a policy and management perspective, the Advisory Committee's first undertaking was a review of the magistrate system's current policies and practices in relevant areas. These documents are available from the Office of the Executive Secretary of the Supreme Court of Virginia, and are listed in the document entitled *Materials Available from the Office of the Executive Secretary, Supreme Court of Virginia*, as Appendix 3.

Structuring the project was the next phase. The magistrates' work product is the totality of the decisions they make. To evaluate that product in terms of whether justice was satisfactorily done is an abstract, subjective inquiry. From participants' perspectives, if they believe they did not receive justice, legal avenues are in place by which they may obtain another review; therefore, one portion of this study considers whether these avenues are sufficient and known to the public. From the perspective of policy bodies, however, it is impossible to measure the quality of justice delivered. As a result, the study is built on aspects of justice that can be more accurately assessed, even though they are also subjective. To evaluate these aspects of justice, the study articulated specific goals and standards so that actual practices could be measured against them. The Advisory Committee then established a study plan with several components: identifying problems, generating solutions, and preparing recommendations.

B. Identifying Problems

Problem identification consisted primarily of the use of surveys and focus groups. The document entitled *Magistrate Study Participant Groups*, Appendix 4, contains a list of the organizations providing input into the study. To obtain the perspective of those both within and outside the judicial system, survey recipients were drawn from eleven different groups, many of which were also represented on the Magistrate Study Advisory Committee. The surveys used brief statements to describe magistrate system performance goals and standards and requested the respondent's agreement or disagreement with whether magistrate services met those goals and standards, or the respondent could choose to *Neither Agree nor Disagree*. Similarly, focus group participants provided reactions and opinions regarding their evaluations of magistrate system performance in those same categories. The members of the Advisory Committee served as one focus group with magistrates and chief magistrates serving as the second. Response rates for the entire survey population as well as by participating group (e.g. law enforcement), responses to each survey question, and summaries of the comments of both focus groups are available in Appendix 5, Survey Responses and Focus Group Summaries. Survey responses tabulated by participating group, race, and gender are available from the Office of the Executive Secretary upon request.

The surveys and focus group comments produced a set of problems in the form of discrepancies between magistrate system goals and actual practice. These discrepancies are presented in the documents entitled *Magistrate Study Areas Targeted for Improvement* and *Magistrate Study: Perspectives*. Venture teams received Appendix 6, Venture Team Package, which contains these documents as well as *Venture Team Guidelines*. The teams were asked to develop solutions to these problems through facilitated group discussions.

C. Generating Solutions

To generate ideas for solutions, the study used five venture teams. Continuing the pattern used for survey recipients, venture team membership mirrored the various organizational units represented by the Magistrate Study Advisory Committee. To obtain a statewide view, local teams met in Chesapeake, Fairfax, Richmond, and Roanoke. To ensure magistrate input, a fifth venture team consisted only of magistrates and chief magistrates. These five venture teams generated 204 potential solutions to the issues raised in Appendix 6 for the Advisory Committee's consideration; these potential solutions are contained in the document entitled *Suggested Solutions by Venture Team*, Appendix 7.

Upon receiving the results of these processes, Advisory Committee members prepared individual suggestions for consideration by the full Committee at a future meeting. Their individual proposals are contained in Appendix 8. Similarly, the Office of the Executive Secretary formulated alternatives responsive to the issues identified by the survey results and venture teams. See *Alternatives Document*, Appendix 9. This document identified seven options with the first offering only minimal change to the current system. The remaining six, however, presented alternatives of gradually increasing magnitude in terms of structural and operational change to the magistrate system.

D. Preparing Recommendations

Following evaluation of the possible solutions, the Advisory Committee presented its recommendations to the Committee on District Courts. Its actions are recorded in summary form in both the *Suggested Solutions by Venture Team* and *Alternatives Document*.

RESULTS OF PROBLEM IDENTIFICATION PHASE

A. Survey Responses

Surveys were mailed to 1,963 individuals; 1,106 surveys were returned for a response rate of approximately 56.3%. In addition to answering the individual survey questions, participants were generous in providing additional comments that added perspective to the statistical data. These comments are available from the Office of the Executive Secretary upon request.

As a rule, the survey responses described in this report are total (aggregate) results, that is, the combined results of all respondent groups. Focus group comments followed the same trends and patterns as survey results but amplified the raw statistics.

Overall, the survey responses were positive in that between 70% and 80% of the respondents either *Agreed* or *Strongly Agreed* that the system's practices are in accord with many of its standards in extremely important areas. Examples include that magistrates are competent and fair, provide adequate access to justice, serve persons with disabilities adequately, are well trained, are dependable, handle their responsibilities timely, and accord respect to the public. The major disappointment was that a greater percentage of respondents did not see the system positively. Said another way, one disappointment was that there were no aggregate agreement rates of 80% or above in these very important areas.

The most significant aggregate rates of disagreement were between 20% up to a maximum of 32%. These topics identified variances from the desired standards in oversight, availability of a complaint mechanism for lack of professionalism, sufficiency of legal recourse for poor decisions, public awareness of legal recourse, magistrate accountability, consistency of legal decisions from magistrate to magistrate, and services to non-English speaking persons.

Rather than expressing agreement or disagreement with survey statements, up to 45% of the respondents frequently chose *Neither Agree nor Disagree*, depending upon the statement. It was not at all unusual for approximately 20% of respondents to choose this non-committal response throughout the survey.

In addition to obtaining a global perspective, another important objective was to obtain views of those both within and outside the judicial system. The most significant variances of responding groups from the aggregate results follow:

- Law Enforcement Personnel and Jail Superintendents: their responses generally mirrored the aggregate results with the exception of timeliness. In this area, their rate of disagreement that magistrates meet the service standard was approximately twice as high as the aggregate results.

As an example, the aggregate responses showed a 6.1% disagreement rate with the statement that *Overall, magistrates handle their responsibilities timely*. The disagreement rate for law enforcement personnel and jail superintendents was greater than 12% for that statement.

- Attorneys: When all categories of attorneys were combined, their rate of disagreement was generally *at least* twice as high as the aggregate results. The exception for attorneys was the category of timeliness, where their evaluation generally matched the aggregate results.

For example, the aggregate responses showed an 11.2% disagreement rate with the statement that *Overall, magistrates are competent*. In contrast, thirty-five percent of the attorneys responding (including both prosecution and defense) disagreed with the statement that *Overall, magistrates are competent*.

- Citizen Groups, Advocacy Organizations: Like attorneys, the responses from these associations generally registered a higher rate of disagreement that service actually meets the desired standard. Their rate of disagreement was approximately 1.5 times higher than the aggregate results.

As an example, the aggregate survey responses showed a 7.9% disagreement rate with the statement that *Overall, magistrates accord respect, dignity, and courtesy to the public*. The disagreement rate for members of citizen groups and advocacy organizations was 21% for that statement.

- Race: Responses from races and ethnic groups other than white were generally in agreement with the aggregate results with the exception of selection of magistrates. In this area, their rate of disagreement was approximately twice as high as the aggregate results.

As an example, the aggregate responses showed a 7.5% disagreement rate with the statement that *Magistrate vacancies are open to all candidates*. The disagreement rate from races and ethnic groups other than white for that statement was 13.4%.

- Gender: Female responses were generally in agreement with the aggregate results with the exceptions of respect and courtesy, impartiality, fairness, and a sufficiently diverse workforce. In these areas, female rates of disagreement were approximately 1.5 times higher than the aggregate results.

As an example, the aggregate responses showed an 11.9% disagreement rate with the statement that *The magistrate workforce is sufficiently diverse*. The disagreement rate for female respondents was 19% for that statement.

B. Issues from Surveys and Focus Groups

Survey results, while not generally yielding high rates of dissatisfaction, combined with focus group comments produced several issues for examination:

- Magistrate independence;
- Magistrate services, particularly in the areas of professionalism, timeliness, and access;
- Magistrate competence;
- Education and professional development;
- Recruitment and selection; and
- Management and oversight.

RESULTS OF SOLUTION GENERATION PHASE

A. Venture Teams

The venture teams developed 204 individual suggestions, and they are included in the document entitled *Suggested Solutions by Venture Team* in Appendix 7. This document visually depicts the frequency with which certain ideas occurred and organizes solutions according to the following themes:

1. Community Education and Communication,
2. Providing Magistrate Services, focusing on Video Conferencing, Full-Time Offices and Magistrates, Magistrate Offices, Language and Hearing Impaired Access,
3. Selection and Qualifications, focusing on Opening the Employment Process and Qualifications,
4. Pay and Benefits,
5. Procedures,
6. Management, focusing on Complaint Mechanisms, Oversight, and Performance Evaluations,
7. Education and Training, focusing on the Probationary Period, Specific Content Suggestions, Training Resource, Delivery, Evaluation Suggestions, and
8. Other Discussion Items.

B. Advisory Committee Members and Office of the Executive Secretary

In response to the venture team proposals and survey results, both individual Advisory Committee members and the Office of the Executive Secretary developed potential solutions for the full Committee's evaluation. The suggestions of Committee members are shown in Appendix 8.

The Office of the Executive Secretary prepared a range of alternatives, Appendix 9, for consideration. While organized differently, many of these same themes noted by venture teams evolved. Initially seven alternatives were considered, beginning with those requiring minimal change and extending to those requiring dramatic change. The three major issues considered in examining this range of alternatives were:

Issues	Alternatives
Who Manages:	Should local management or central management, generally the Office of the Executive Secretary, supervise magistrates?
Supervisory Competence:	Should supervisory personnel be attorneys or hold bachelor's degrees?
Magistrate Competence:	Should magistrates be attorneys or hold bachelor's degrees?

The most dramatic changes would come from the last two alternatives:

- Alternative 6: modeling magistrate functions after the federal magistrate system to include some trial authority, and
- Alternative 7: abolishing the office of magistrate with district court judges absorbing its functions.

MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS

The Advisory Committee's actions are recorded in the *Action* column of the document entitled *Suggested Solutions by Venture Team* and in *Column 3* of the *Alternatives Document* (Appendices 7 and 9, respectively).¹

REPORT ORGANIZATION

This report is organized according to the major issues to be examined. Each chapter reports and analyzes research results, outlines options, examines their potential effectiveness in attaining desired improvements, and finally sets forth the recommendations of the Committee on District Courts to the General Assembly.

A final chapter summarizes the major issues and recommendations as a group.

¹ The size of the *Suggested Solutions by Venture Team* document required the use of abbreviations to record these decisions. The use of the term "*Admin.*" indicates that the Advisory Committee recommends that the designated steps be incorporated into the daily administrative functions of the appropriate authority. These actions required no statutory, structural, or policy changes. The use of the term "*ALT. DOC.*" indicates that the issues have been incorporated in the *Alternatives Document* prepared by the Office of the Executive Secretary. The actions of both the Advisory Committee and the Committee on District Courts are recorded in this document.

II. MAGISTRATE INDEPENDENCE

DESCRIPTION OF THE ISSUE

As judicial officers, magistrates are part of the judicial branch of government. As is fundamental in both the United States and Virginia constitutions, no branch of government may exercise the powers properly belonging to the other. (Va. Constitution, Article I, § 5) The separation of powers is important as it relates to magistrates and law enforcement because in order to deprive a citizen of liberties, law enforcement officers must first persuade a judicial officer that they have probable cause in accordance with specific constitutional and statutory safeguards. Magistrates' freedom from undue influence by those exercising the power of the government is critical to their ability to perform their responsibilities.

The magistrate system is a creature of statute, so the Code of Virginia sets out certain qualifications for those who would become magistrates. Va. Code § 19.2-37 (incorporating the relevant provisions of Chapter 28 of Title 2.2 (§ 2.2-2800 *et seq.*)). In part, these criteria are intended to preserve the independence of the magistrate as a judicial officer, to limit the exercise of irrelevant factors in the selection process, and to guard against impropriety or the appearance of impropriety in both the selection process and in the exercise of a magistrate's duties.² A person is not eligible for appointment as a magistrate if that person or the spouse is either a law enforcement officer, a clerk of court or employee of the clerk's office, situated in certain family relationships, or serving in certain governmental positions.³ Va. Code § 19.2-37. Neither a magistrate, the magistrate's spouse, nor an immediate family member may be licensed as a bail bondsman. Va. Code § 19.2-152.1.

² See generally, Canon 2, CANONS OF CONDUCT FOR VIRGINIA MAGISTRATES ("A magistrate shall avoid impropriety and the appearance of impropriety in all the magistrate's activities.").

³ The provision setting forth the range of disqualifications reads as follows: A person shall be eligible for appointment to the office of magistrate under the provisions of this title: (a) if such person or his spouse is not a law-enforcement officer; (b) if such person or his spouse is not a clerk, deputy or assistant clerk, or employee charged with the duty of enforcing any of the laws of this Commonwealth or any ordinance of any political subdivision thereof, of any such clerk of a district court or police department or sheriff's office in any county or city with respect to appointment to the office of magistrate of such county or city, provided that the Committee on District Courts may authorize a magistrate to assist in the district court clerk's office on a part-time basis; (c) if the appointment does not create a parent-child, husband-wife, or brother-sister relationship between a district court judge and such person serving within the same judicial district; (c1) if such person is not the chief executive officer, or a member of the board of supervisors, town or city council, or other governing body for any political subdivision of this Commonwealth; (d) if such person is a United States citizen and a resident of the judicial district for which he is appointed to serve as magistrate or an adjoining judicial district. Any magistrate serving in the City of Norfolk on July 1, 1996, shall be eligible for reappointment pursuant to this article regardless of the judicial district of his residence. No magistrate shall issue any warrant or process in complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law or sister-in-law, nephew, niece, uncle, aunt, first cousin, guardian or ward. The residence provisions contained in this section shall not be a bar to the reappointment of any magistrate in office on July 1, 1973, provided he is otherwise eligible to serve under the provisions of this chapter.

The magistrate must be an impartial arbiter and not swayed by the personal circumstances, sometimes tragic, that have befallen individuals before them, unless those circumstances are relevant to the application of the law. Yet, magistrates should demonstrate respect to all who appear before them. Often hearings can become heated, and magistrates must assume sufficient command to maintain control of the hearing, continue a tone of respect and dignity, and make decisions based on facts and law rather than emotions. They are appointed by chief circuit judges and often supervised by chief general district court judges; yet their decisions as magistrates are outside the administrative supervisory jurisdiction of these judges. They have daily working contacts with members of law enforcement and may be inclined to develop a personal rapport with them, yet their decisions must not afford either party in their hearings an advantage due to the working relationships that have developed. Law enforcement officers constitute simply another class of party appearing before the magistrate, despite the frequency with which they may appear. Of course, the situation is complicated because magistrates, like the entire court system, are by statute dependent upon local governments for their facilities and equipment.

Under these circumstances, the independence – or the appearance of independence – required for magistrate judicial decisions can be inadvertently compromised. To what extent, if any, has this occurred in the magistrate system?

RESEARCH RESULTS

The primary means of obtaining feedback about magistrate independence was through surveys and focus groups. The following survey questions highlight specific independence issues and are stated in positive terms to communicate the desired standard. The survey responses shown are total (aggregate) results, that is, the combined results of all respondent groups and are ranked in ascending order of aggregate agreement to identify the issues that cause the greatest concern.

Survey Question	Total Agree	Neither Agree nor Disagree	Total Disagree
50. The public sees magistrates as independent and free from undue influence by other governmental entities.	36.3%	42.6%	18.8%
49. When discharging their responsibilities as judicial officers, magistrates are sufficiently insulated from undue pressures (e.g. from law enforcement or other branches of government).	55.0%	30.1%	12.6%

The rate of agreement that magistrates function with the desired independence is less than 60%. Typically with such low *agreement* rates, one would expect correspondingly high *disagreement* rates, yet this did not occur due to the significant percentage that chose *Neither Agree nor Disagree*. In addition, a small percentage provided no response at all. Of concern, however, is not only the low agreement rate of 36.3% that magistrates are seen as *free from undue influence by other governmental entities*, but also the high disagreement rate of approximately 19% for this same question.

ANALYSIS

A. Survey Results

The analysis begins with a look behind the aggregate responses to determine if the results vary according to survey participant group. The tables are ranked by the lowest rate of aggregate agreement.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
50. The public sees magistrates as independent and free from undue influence by other governmental entities.	36.3%	30.2%	43.9%	33.3%	37.1%	40.2%	39.4%	30.2%
49. When discharging their responsibilities as judicial officers, magistrates are sufficiently insulated from undue pressures (e.g. from law enforcement or other branches of government).	55.0%	60.4%	61.6%	40.7%	56.3%	49.5%	62.0%	39.7%

*All Other Races/Ethnic Groups

Law enforcement reported the highest rates of agreement that magistrate independence meets the desired standards. While variations from the aggregate are not high, the largest disparities are by gender with females agreeing at rates well below males. Agreement rates and disparities were greater for question 49 which specifically mentioned undue pressures from law enforcement. Females and advocacy groups were well below males and the aggregate, respectively; similarly the agreement rate of races and ethnic groups other than white was lower than for white respondents.

Rates of Agreement
(Agreed or Strongly Agreed)

Survey Question	Aggregate	Ch. M.	Mags.	Judges
50. The public sees magistrates as independent and free from undue influence by other governmental entities.	36.3%	48.0%	43.5%	30.2%
49. When discharging their responsibilities as judicial officers, magistrates are sufficiently insulated from undue pressures (e.g. from law enforcement or other branches of government).	55.0%	56.0%	62.4%	59.9%

While there are variances, less than 65% of all survey groups responded that the desired standards of independence are met. According to the survey results, magistrates' views are most similar to those of law enforcement.

B. Focus Group Comments

Focus group comments provide additional perspective. Complaints arise from both the public and magistrates themselves due in some part to misunderstandings about the role of magistrates and expectations of what they are to accomplish. There appears to be a widespread perception that magistrates and law enforcement agencies are part of the same work unit, or that magistrates actually report to law enforcement officials or are in some way accountable to them. These relationships would obviously produce a biased process instead of an independent review. This perception may be caused by the close physical proximity of offices; often magistrate offices are within law enforcement quarters. Another explanation may be personal familiarity between law enforcement officers and magistrates. Addressing each other by first names instead of using surnames during hearings diminishes public confidence in magistrates as fair and impartial. There is an impression that magistrates generally rubber-stamp law enforcement's requests for warrants, especially in drug cases. Law enforcement officers may, in front of magistrates, suggest to the accused that with cooperation the officer will request a low bail from the magistrate. Finally, close quarters and working relationships between magistrates and law enforcement may cause magistrates to believe that conflict will occur if they do not issue the requested processes.

COMMENTARY

All aspects of the court system, including magistrates, must be independent in order to function well; however, there is some concern that this independence is not routinely exercised in the magistrate system. Public confidence in the ability of the court system to be fair and just demands that the causes of that erosion be examined and that reasonable solutions be developed.

CONSIDERATION OF OPTIONS

The following description of options to address independence issues incorporates suggestions generated throughout the study. Committee on District Courts' recommendations to the General Assembly are provided following each topic.

A. Clear and Accessible Information

While a brochure specifically focusing on magistrates is currently in publication, it contains only basic information. Often those coming before magistrates are not in a position to research the office and become educated about its role. Material should be easily available to the public and should describe magistrates' responsibilities as well as their limitations and should include an overview of their legal powers.

The use of several distribution mechanisms may be appropriate in providing information about the magistrate system. Certainly such traditional avenues as the Internet, videos, and brochures that are readily available in each office or other public places may be used, however, other processes specifically tailored for the magistrate system may also be considered.

1. Options

As the central, administrative office of the court system, the Office of the Executive Secretary of the Supreme Court of Virginia can upgrade its informational material to more

clearly describe magistrate powers and limitation as well as expand the distribution vehicles, both statewide and locally. The contents should be prepared in language that is clear and understandable, regardless of educational level. Chief magistrates can then build upon this base by exploring and implementing additional local distribution outlets to improve accessibility.

2. Committee on District Courts' Recommendations

The Office of the Executive Secretary should develop improved informational packages and institute procedures for widespread and easily accessible distribution. Local management should avail themselves of these packages, ensure placement in magistrate offices, and ensure additional distribution avenues they deem appropriate.

B. Magistrate Physical Plant

Physical quarters convey a strong message to the public concerning both the dignity and independence of magistrates; yet improving physical quarters requires expenditures by local governments that already have a number of fiscal issues and other priorities. The physical plant is a multifaceted issue and is fully examined in Chapter III, **Magistrate Services**, since it applies to access, convenience, and safety concerns as well as independence.

1. Options

The traditional option is for chief magistrates to request appropriate facilities of local governments through the budget process. In this way, needed funding can be provided as it fits with other important local needs. Another option is for the state to assume full funding of all magistrates support functions, including its physical plant. In addition to the increased Commonwealth expense for the magistrate system, this option would most likely raise similar questions for other court system facilities. Traditionally, courthouses and equipment have been the responsibility of local governments, and revenue-generating mechanisms have been established by statute to allay costs. Transferring all expenses associated with facilities to the state would involve reviewing these mechanisms.

2. Committee on District Courts' Recommendations

The Committee on District Courts recommends continuing the current system of local responsibility for providing quarters. While mindful of the need to emphasize the judicial nature of the position and to make access to services readily available, the Committee on District Courts is also mindful of the financial limitations of both local governments and the Commonwealth. Therefore, the Committee recommends setting as a goal that magistrate offices should comply with the standards described in the *Virginia Courthouse Facilities Guidelines*. The portion applicable to magistrate offices is Appendix 10. The chief magistrate's assigned responsibilities should be expanded to conduct periodic facilities reviews for compliance with these guidelines.

C. Enhanced Skills

Although magistrates and law enforcement officers may tend to form a rapport by virtue of continuing contacts, such a relationship should be resisted and magistrate demeanor during hearings must remain professional. Through the daily routine, formality may lapse. Magistrates and law

enforcement personnel addressing one another using surnames during hearings or other non-private time strengthens the equality of the executive and judicial roles and precludes the impression that either is subservient to the other. Magistrates may also find themselves inadvertently drawn into the highly emotional and volatile circumstances of those brought before them. Magistrate behaviors themselves are extremely important in communicating the desired messages of independence, dignity, authority, and neutrality.

1. Options

In some cases, small behavioral changes could address at least a part of the perception of a biased process. An enhanced skill level is required to retain control of hearings and to demonstrate the appropriate position of neutrality. While already a part of current protocols, the behaviors and skills associated with magistrate demeanor and deportment should receive heightened attention through training and supervision.

2. Committee on District Courts' Recommendations

The Office of the Executive Secretary should increase training opportunities for magistrates to develop the skills and behaviors needed to maintain professionalism and appropriate demeanor during hearings; chief magistrates should monitor and coach magistrates to ensure that their performance reflects these skills and behaviors on an on-going basis.

D. Magistrate Legal Advisor

The Code of Virginia currently assigns to the Commonwealth's Attorney, the prosecutor for the Commonwealth, the duties of rendering legal advice to magistrates and of advising them of changes in law and procedure. Va. Code § 19.2-42. At one time justices of the peace, who were essentially local officials, may have sought the support of the Commonwealth's Attorney. As independent judicial officers, magistrates should be deemed to be competent to make the judicial decisions before them. Requesting advice about the application of law to the issues before them is inappropriate. A magistrate's independence is compromised when the prosecutor for the executive branch trains or provides an interpretation of the meaning of laws to judicial officers who are charged with ruling on the prosecutor's requests. The application of the law to the facts before them is a statutory function of the magistrate and not another entity; magistrates cannot delegate this duty. On the other hand, magistrates may need a resource to help keep them apprised of statutory changes and relevant case law. However, this more appropriately falls under the training function, and the Code endows both chief magistrates and the Office of the Executive Secretary with training responsibilities.

1. Options

The Commonwealth's Attorney could continue to be designated as the legal advisor to provide emergency assistance to magistrates. To strengthen magistrate independence, however, training and legal resource functions should rest with the judicial branch. Through the combination of chief magistrate and the Office of the Executive Secretary, sufficient legal support services should be available to enable the removal of this function from the Commonwealth's Attorney. Continuation of this function with the Commonwealth's Attorney derogates the independence of the magistrate as a judicial officer.

2. Committee on District Courts' Recommendation

The Committee on District Courts will recommend to the 2004 General Assembly the repeal of §19.2-42 from the Code of Virginia.

III. MAGISTRATE SERVICES

DESCRIPTION OF THE ISSUE

Magistrate service delivery has a direct bearing on the quality of justice delivered by magistrates. If law enforcement officers or citizens cannot locate a magistrate, an essential portal to justice is closed. If they are unable to obtain timely access, changing circumstances may render their need for service moot, perhaps with momentous results. Finally, magistrates' demeanor may be such that they intimidate those appearing before them, or magistrates themselves may be intimidated, with the result that a full disclosure and evaluation of relevant facts is not made. An important phase of this study, therefore, focuses on magistrate services in terms of access, timeliness, and professionalism.

CURRENT SERVICE DELIVERY METHODS

An understanding of how magistrate services are currently provided is helpful to an evaluation of their effectiveness. In order to best meet the needs of the community, magistrate services are provided in various ways throughout the Commonwealth. Generally, services are provided through two types of magistrate offices:

- Full-time offices, which are open and staffed twenty-four hours per day, or
- Part-time offices, which are on-call offices with either some scheduled in-office hours or none.

A. Full-Time Offices

Full-time offices are normally located in urban areas and use standard work shifts. For example, a twenty-four hour period might be covered as follows: one shift might begin at 8:00 a.m. and end at 4:00 p.m.; another might begin at 4:00 p.m. and end at midnight; and the last shift might begin at midnight and end at 8:00 a.m. the following morning. During each shift at least one magistrate will be in the office continuously. This arrangement is the optimal means of providing magistrate service. As illustrated by the map entitled *Localities without Full-Time Magistrate Offices* on the next page; however, only approximately 31% of the Commonwealth's counties and cities have full-time magistrate offices located within their boundaries.

B. Part-Time Offices

The way services are provided in the remaining jurisdictions increases in significance when considering that they represent approximately 69% of the Commonwealth's counties and cities. Geographically, these jurisdictions without a full-time magistrate's office represent approximately 78% of the area of the state. Because urban areas are the highest population centers, the percentage of the population in jurisdictions without a full-time magistrate's office is approximately 29%. In the vast majority of jurisdictions without a resident full-time magistrate's office, magistrate services are provided by part-time on-call magistrates. Some jurisdictions lack any type of magistrate's office

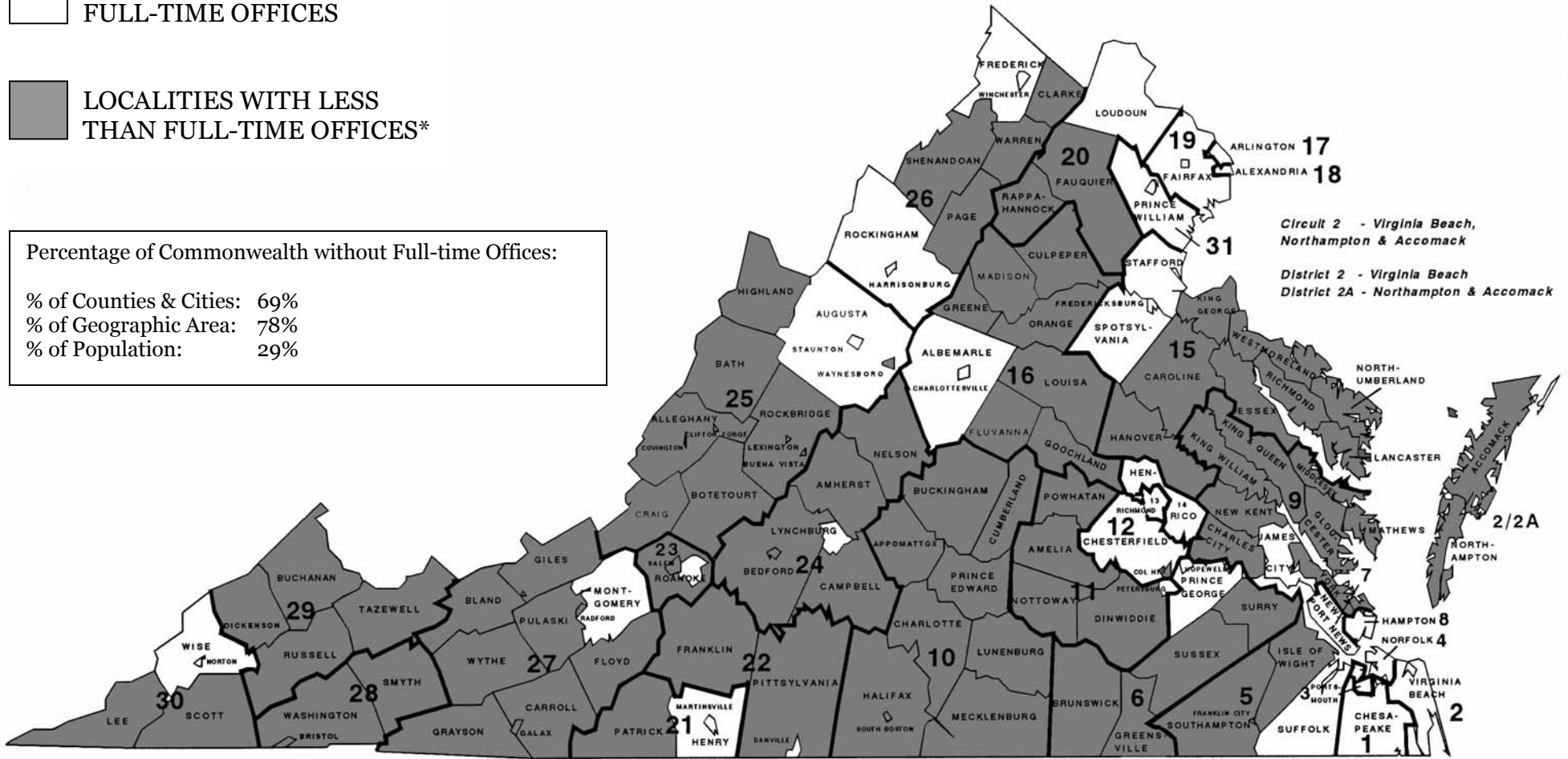
LOCALITIES WITHOUT FULL-TIME MAGISTRATE OFFICES

LOCALITIES WITH FULL-TIME OFFICES

LOCALITIES WITH LESS THAN FULL-TIME OFFICES*

Percentage of Commonwealth without Full-time Offices:

- % of Counties & Cities: 69%
- % of Geographic Area: 78%
- % of Population: 29%



Circuit 2 - Virginia Beach, Northampton & Accomack
District 2 - Virginia Beach
District 2A - Northampton & Accomack

*Majority of these jurisdictions are served by part-time on-call offices.

within the jurisdiction and are instead dependent upon videoconferencing access to a full-time magistrate's office in another jurisdiction in the proximity.

Part-time offices are most often located in rural areas or less populated urban areas where the volume does not require a continuous magistrate presence in the office. Part-time offices tailor their hours to the workload. A locality may have so little volume that both the office and the magistrates themselves are fully on-call. When magistrate services are needed, the law enforcement officer or citizen will call the magistrate on duty. The standard is that the magistrate would then meet the caller at the office within approximately 20 minutes. Another pattern may be to provide a combination of in-person office hours and on-call hours. Still another pattern may be that a video connection to a full-time office in another jurisdiction may be provided as a means of access to magistrate services.

C. Video Conferencing

As has proved feasible, the use of video conferencing has been implemented in some urban and rural districts through an ad hoc, piecemeal basis. Its goals have been to provide increased access to the public, greater convenience to law enforcement, and benefits to public safety.

D. Office Standards

The location of magistrate offices and the quality and upkeep of furnishings and equipment also reflect local practices. The Code of Virginia requires that insofar as possible magistrate services should be performed in public facilities appropriate to conduct the affairs of a judicial officer and to provide convenient access by the public and law enforcement. Va. Code § 19.2-48.1. This statement offers, as a public policy, facilities that convey the judicial nature of the role, the important mission as a neutral umpire between the power of the state and the liberties of individual citizens, and the dignity that should be accorded to the office of magistrate. Magistrate offices should be easy to find, convenient, and easy to enter. Finally, actually gaining access to a magistrate to transact business should be simple and quick.

The degree to which magistrate offices throughout the state approach this aspiration varies significantly, depending upon such things as the volume of magistrate services, the priority placed upon security and convenience to law enforcement, and the financial capabilities of the county or city. Many localities place magistrate offices either within the same building as, or very near to, law enforcement. In some cases, members of the public must actually gain access to magistrates through law enforcement personnel. This is particularly true for part-time on-call offices. Citizens generally access magistrates by requesting service from the dispatcher at the Sheriff's office, who then calls the magistrate on duty. Often magistrates' offices are difficult to find or get to, are in undesirable locations, and are dingy, small, and cramped with outdated and worn furnishings and equipment.

RESEARCH RESULTS

Surveys and focus groups provided feedback about the success or lack of success with which the magistrate system meets these service objectives. The first step in analyzing this data was to review survey questions that provided summary responses about a performance area, such as timeliness. Survey questions were stated in positive terms to communicate the standard of service delivery

desired. For example, the question, “Overall, magistrates handle their responsibilities timely.” conveys the desired standard and requests agreement or disagreement with the statement. The *overall* evaluations provide a synopsis of the feedback.

In the survey sixteen questions address service delivery issues and describe specific goals and standards that are present in satisfactory services. Three of these, however, requested *overall*, or summary, assessments. The survey responses shown are total (aggregate) results, that is, the combined results of all respondent groups, and are ranked in ascending order of aggregate agreement.

Survey Question	Total Agree	Neither Agree nor Disagree	Total Disagree
14. Overall, magistrates accord respect, dignity, and courtesy to the public.	71.1%	19.3%	7.9%
19. Overall, magistrates handle their responsibilities timely.	73.1%	18.7%	6.1%
8. Overall, magistrates provide adequate access to justice.	77.7%	12.0%	9.3%

Disappointingly, a strong endorsement that these fundamental standards are met is lacking. With agreement rates in the 70% range, one would normally expect noticeable disagreement rates; however, a significant number of the respondents, from 12% up to 19%, expressed no opinion by *Neither Agree nor Disagree*, accounting for relatively low disagreement rates. In addition, a small percentage provided no response at all. The system was least successful in its professionalism, according respect, dignity, and courtesy to the public.

ANALYSIS OF SUMMARY ISSUES

A. Survey Results – Agreement Rates

A more in-depth analysis is directed toward the responses of specific participant groups to determine whether their views are consistent with the aggregate. The table is ranked in ascending order of aggregate agreement.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
14. Overall, magistrates accord respect, dignity, and courtesy to the public.	71.1%	50.9%	76.8%	61.7%	71.1%	79.4%	75.1%	62.6%
19. Overall, magistrates handle their responsibilities timely.	73.1%	65.1%	72.0%	64.2%	73.1%	77.3%	77.1%	63.9%
8. Overall, magistrates provide adequate access to justice.	77.7%	61.3%	78.2%	64.1%	77.4%	85.6%	80.9%	70.8%

*All Other Races/Ethnic Groups

In looking at the responses of magistrate system users, the agreement rates for members of law enforcement most closely mirror the aggregate while those of advocacy groups and attorneys are well below. On a positive note, the agreement rates of races and ethnic groups other than white are higher than those of white respondents, which does not point to the existence of unequal treatment on the basis of race. On the other hand, females' rates of agreement are well below males' rates of agreement.

While judges' rates of agreement ranged from 63% to 80%, the highest rates of agreement, at 90% or more, came from magistrates and chief magistrates.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
107. Overall, I am satisfied with the performance of this district.	92.0%	92.0%	n/a	n/a
63. Part-time magistrates perform their duties with the same effectiveness and competence as full-time magistrates.	50.7%	68.0%	61.2%	32.6%

The chief magistrate, as the system's first-line supervisor, is the person with the most direct and intimate knowledge of the magistrate system within any district. Another perspective, therefore, is chief magistrates' evaluation of services within their districts. The overwhelming majority, 92.0%, indicated pride in their districts through their agreement with the statement *Overall, I am satisfied with the performance of this district.*

Finally, could any perceived differences between the effectiveness of full- and part-time magistrates affect the satisfactory rating of magistrate services? Only half of the respondents agreed that *Part-time magistrates perform their duties with the same effectiveness and competence as full-time magistrates.* Less than 70% of magistrates and chief magistrates, and only 32.6% of responding judges, agreed with this statement.

Approximately 31% of the individual jurisdictions in the state receive magistrate services through full-time offices within their boundaries. The remaining 69% receive their services through some variation of the part-time on-call structure or through video connections with a full-time office in another locality. Of course, this latter group are the least heavily populated jurisdictions, but they still comprise a very significant size of the state's population (29%) and a significant portion of the geographic area (78%).

B. Survey Results – Disagreement Rates

The following table continues the examination of the summary issues but is ranked by the highest rate of aggregate *disagreement*.

Rates of *Disagreement* (Disagreed or Strongly Disagreed)

Survey Question	Aggregate	Atty.	Law Enf.	Advocacy	White	All Others*	Male	Female
8. Overall, magistrates provide adequate access to justice.	9.3%	15.1%	10.7%	14.8%	9.3%	8.2%	8.0%	12.1%
14. Overall, magistrates accord respect, dignity, and courtesy to the public.	7.9%	14.2%	6.6%	21.0%	8.1%	5.2%	6.1%	12.1%
19. Overall, magistrates handle their responsibilities timely.	6.1%	6.6%	12.2%	3.7%	6.5%	3.1%	6.1%	5.9%

*All Other Races/Ethnic Groups

On a positive note, the aggregate rates of disagreement were not high, and members of races and ethnic groups other than white registered a lower disagreement rate than white respondents.

In the access and professionalism categories, females' rates of disagreement, however, were at least 1.5 times as high as males'. The rates of disagreement by attorneys and members of advocacy groups were often 1.5 times and 2.5 times as high as the aggregate. In terms of timeliness, law enforcement's rate of disagreement was approximately twice as high as the aggregate.

C. Commentary

While rates of agreement were not overwhelming, rates of disagreement also were not high; aggregate rates of disagreement did not exceed 10%. Important user populations, however, indicated greater concerns than the aggregate in each of these three areas. In addition, up to 20% of the survey respondents chose *Neither Agree nor Disagree*. While it is difficult to interpret this choice, declining to choose either *Agree* or *Strongly Agree* was an affirmative choice, reflecting an absence of a vote of confidence or endorsement and adding to the disappointment in a lower than hoped for agreement rate.

Those within the system have more positive views of magistrate services in these component areas; therefore, they are neither as likely to notice the improvements desired by the system's users nor to take affirmative steps to address them.

Another subject for closer examination is the degree to which the use of part-time on-call offices and magistrates contributes to less than desired service quality.

PROFESSIONALISM

A. Survey Results

Several survey questions and focus group comments offer additional perspectives on professionalism. The following table is ranked by the lowest rate of aggregate agreement; the summary question is shown at the end so that the evaluations for its components can be compared with the *overall* evaluation of professionalism.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)							
	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
12. Magistrates show understanding and patience.	60.8%	39.6%	62.0%	53.1%	60.4%	70.1%	63.6%	54.4%
13. Magistrates show no bias or prejudice.	60.8%	40.5%	66.4%	46.9%	60.6%	66.0%	64.6%	50.8%
11. Magistrates assist those who are unfamiliar with magistrate procedures.	68.9%	50.0%	73.1%	60.5%	68.4%	81.4%	72.7%	60.3%
10. Magistrates are dependable.	75.4%	55.7%	73.1%	65.4%	75.2%	84.5%	77.6%	70.8%
Summary Question								
14. Overall, magistrates accord respect, dignity, and courtesy to the public.	71.1%	50.9%	76.8%	61.7%	71.1%	79.4%	75.1%	62.6%

**All Other Races/Ethnic Groups*

Only one component agreement rate, dependability, is as high as the summary agreement rate of 71.1%.

The greatest area of concern is with the categories of patience and bias. Only between 39% and 55% of the attorneys, advocacy group representatives, and females felt the system meets its goals. The agreement rates of races and ethnic groups other than white are higher than for white respondents.

While the rates of agreement improve in the remaining categories, the pattern continues that less than 80% of the total respondents believe the system meets the goals in any area. Similarly, the pattern of attorneys, advocacy groups, and females expressing lower rates of agreement than the aggregate continues while law enforcement's rates of agreement are similar to the aggregate.

Judges' rates of agreement generally mirrored the aggregate in terms of dependability but were lower in all other categories. Magistrates and chief magistrates expressed the highest rates of agreement with all questions and were above 90% except for the issues of patience and bias, which were between 80% and 90%.

Two other survey questions shed another perspective on the subject of professionalism. If magistrate system users are not accorded courtesy or if they perceive bias, typically the next step would be to address their concerns to management. Although addressed in greater detail as a part of Chapter VII, **Management and Oversight**, the following survey questions indicate lack of confidence in this step.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
45. Overall, complaints about poor treatment or lack of professionalism are adequately addressed.	41.9%	25.5%	30.6%	29.6%	41.7%	51.5%	45.0%	35.7%
44. Persons with complaints are accorded courtesy, respect, and dignity.	49.0%	31.1%	39.9%	34.6%	48.8%	60.8%	53.6%	39.7%

**All Other Races/Ethnic Groups*

Less than half of the aggregate responses agreed that the magistrate system meets its goals in satisfactorily addressing complaints or in according those with complaints respectful treatment, with lower agreement rates among attorneys, advocacy group representatives, and females.

B. Focus Group Comments

The point was made that in order to be fair, magistrates should understand the population and culture they serve. There was an accompanying concern that personal biases of some magistrates could bleed over into their decisions, resulting in different treatment based on personal appearance, dress, or other legally irrelevant, inappropriate considerations. In some areas, rude and derogatory treatment was reported to be common. Finally, some law enforcement officers do not want to deal with certain magistrates because of what the officers perceive to be their “resistance;” they just wait until another magistrate is available. Magistrate shopping, like judge shopping, may be a response not to an incompetent or biased judicial officer, but to a judicial officer who is not disposed toward the complaining party.

Some participants felt blocked in addressing their grievances with magistrate system management. There was concern about retaliation from magistrates as well as discomfort in taking complaints to judges when chief magistrates fail either to respond or to resolve the issues.

From the magistrates’ perspective, an important point was that generally only one or the other party coming before the magistrate will be satisfied and, frequently, both may be dissatisfied, to a greater or lesser extent. The public, law enforcement, and Commonwealth Attorneys can easily become dissatisfied when magistrates do not issue the warrant they request when, in the magistrate’s opinion, the facts presented do not rise to the level of issuing a process. In these cases, magistrates are executing their functions appropriately. As is the case for the majority of judicial decisions, the side that wins is pleased and the side that loses is displeased. It is easy for this dissatisfaction with the decision to color service aspects of the magistrate experience. Staffing levels also influence magistrates’ demeanor. Magistrates under time pressures due to several people waiting may appear rude and unresponsive when, in fact, they believe that they are working very hard to provide quality service as quickly as possible.

C. Commentary

According professional and courteous treatment is an elementary tenet of service, yet it was found lacking in magistrate performance. Both survey respondents and focus group participants, including

those from within the system, noted the presence of bias and prejudice in some magistrates. If this is a perception and not factual, its greatest damage is in undermining confidence in the system. If the perception is founded in fact, then justice has been seriously compromised. If those within the system are aware of these issues, then what are the reasons they have not been satisfactorily addressed? Do such things as the inability to satisfy both sides of the proceeding and the often volatile circumstances in which magistrate hearings are conducted cause the participant's view of magistrate professionalism to be distorted? Are there other factors, such as the pressures caused by insufficient staff, which contribute to this perception?

TIMELINESS

A. Survey Results

Other survey questions and focus group comments center on the timeliness of magistrate services. The following table is ranked in ascending order of aggregate agreement; the summary question is shown at the end so that the evaluations for the components of timeliness can be compared with the *overall* evaluation of timeliness.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)							
	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
16. Magistrates are promptly available to conduct hearings.	63.0%	53.7%	55.0%	49.4%	62.7%	72.2%	66.2%	56.4%
17. Hearings are concluded in a timely fashion.	68.4%	55.7%	67.9%	54.3%	67.9%	77.3%	73.1%	57.7%
18. A minimal number of appearances are required to obtain a decision (e.g. parties are not required to keep coming back.)	73.8%	69.8%	83.8%	55.6%	74.1%	76.3%	79.6%	59.3%
Summary Question								
19. Overall, magistrates handle their responsibilities timely.	73.1%	65.1%	72.0%	64.2%	73.1%	77.3%	77.0%	63.9%

*All Other Races/Ethnic Groups

The greatest concern is with magistrates being promptly available. Less than half of the advocacy group respondents and only somewhat more than half of the attorneys, law enforcement officers, and females felt the system meets this goal.

While the rates of agreement improve in the other categories, the pattern continues that less than 80% of the total respondents believe the system meets its goals in this area. Law enforcement provided the highest agreement rate of 83.8% that a minimal number of appearances are required (e.g. that parties are not required to keep coming back). The pattern of attorneys and advocacy

groups expressing lower rates of agreement than the aggregate continues. Although races and ethnic groups other than white have higher agreement rates than white respondents, females' rate of agreement in all questions is well below that of males.

While judges' rates of agreement generally mirrored the aggregate, magistrates and chief magistrates expressed the highest rates of agreement with all questions, ranging from approximately 88% to a high of 96%.

B. Focus Group Comments

A number of focus group comments highlighted concerns about on-call offices and magistrates. One comment that *A part-time effort equals part-time results* summed up many feelings. Another summary statement was that there are just significant problems with accessing part-time offices, and that on-call magistrates are not readily available. Anecdotal testimony was offered to the effect that some on-call magistrates simply refuse to respond when called or respond very slowly, especially if called at night. This non-responsiveness results in law enforcement and the public waiting hours for service. Sometimes complainants and law enforcement officers are even told to go to another locality to another magistrate. Hurdles also occur in full-time, twenty-four hour per day, in-person offices if magistrates have long waiting lines or are scheduled so that they do not have sufficient magistrates during peak hours. Again, anecdotal testimony cited occasions when the difficulties involved in accessing magistrates resulted in law enforcement not making some arrests or in having to find another way to get around the need for magistrate services.

From the magistrates' perspective, much of the timeliness issue revolves around insufficient staff. Staffing levels have kept up with neither population increases, the increased time required for magistrate transactions, nor increases in law enforcement personnel. Lack of support staff increases time pressures, particularly when several customers are waiting. One survey question quantifies the extent to which judges, magistrates, and chief magistrates believe they have insufficient staff. Only 41% of the judges, magistrates, and chief magistrates surveyed agreed with the statement *My district has an adequate number of staff to handle the current workload*.

Other focus group comments related to the circumstances under which magistrates are expected to perform timely. Magistrates see the expectation that on-call magistrates respond to the office within 20 minutes of receiving a request for service as unrealistic. Other causes in both urban and rural offices are associated with the work environment. Magistrates must handle multiple in-person customers, telephone calls, videoconferences, and faxes. Often, law enforcement officers have an unrealistic expectation of the time needed to conduct magistrate business.

In addition, delays may be due to errors on the part of those seeking magistrate services. For example, magistrates may not receive timely notification from the jail that someone is ready to be bonded, or officers may provide incomplete information, such as criminal history. Incorrect papers from the courts also create timeliness issues, because the magistrate must obtain correct information and update the paperwork prior to taking action. As an example, the magistrate may receive a continuance order with no date or time of the next hearing. Finally, the public is not educated about the information needed, so citizens are often not prepared and require additional time from magistrates.

C. Commentary

The major issue with timeliness is in promptness. While the emphasis for this discussion is on-call offices, important aspects of on-call offices are part-time on-call magistrates and the difficulties in obtaining their services, particularly after normal business hours. Prompt service is also an issue in full-time, twenty-four hour offices where sufficient magistrates are not on duty to handle the need for their services during peak times. Those within the system attribute much of this lack of promptness to insufficient staff. Other issues associated with promptness may be linked to coordination issues with other agencies as well as education and training needs both for magistrates and for others using their services.

ACCESS

A. Survey Results

The third component of magistrate services to be examined is access. The following table is ranked by the lowest rate of aggregate agreement; the summary question is shown at the end so that the evaluations for the components of access can be compared with the *overall* evaluation of access.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
7. Language barriers do not prevent persons from using magistrate services.	41.4%	24.5%	43.2%	19.8%	40.8%	48.5%	42.2%	40.3%
6. Physical barriers to magistrate services do not exist.	60.4%	55.7%	60.9%	51.9%	61.4%	59.8%	63.5%	55.1%
3. Magistrate procedures facilitate access to magistrate services.	67.7%	53.8%	72.0%	54.3%	67.1%	78.4%	71.5%	58.7%
4. Magistrate services are available without undue hardship.	68.3%	56.6%	63.8%	65.4%	67.5%	80.4%	71.8%	60.3%
2. Magistrate offices are safe and convenient.	69.9%	75.5%	75.6%	76.5%	69.9%	73.2%	71.6%	66.6%
5. Magistrate services are available to persons with disabilities.	77.2%	70.7%	83.8%	65.4%	77.3%	76.3%	80.9%	68.5%
Summary Question								
8. Overall, magistrates provide adequate access to justice.	77.7%	61.3%	78.2%	64.2%	77.4%	85.6%	80.9%	70.8%

*All Other Races/Ethnic Groups

Interestingly, none of the component aggregate agreement rates is as high as the summary access agreement rate of 77.7%. Only 41% of those surveyed felt that the magistrate system is successful

in its goal that *Language barriers do not prevent persons from using magistrate services*. Not even 25% of attorneys or members of advocacy groups believe the system meets this standard. There do not appear to be significant differences in perspective along race or gender lines.

While the rates of agreement improve in the other access categories, less than 80% of the total respondents believe the system meets the goals in any area. For most of the questions in this area, the patterns of attorneys and advocacy groups expressing lower rates of agreement than the aggregate continues as does the pattern of women expressing lower agreement than men. Agreement rates of races and ethnic groups other than white are usually approximately the same as or higher than those of white respondents. While judges' responses typically mirrored the aggregate, magistrates' and chief magistrates' responses were generally well above the aggregate. The exception for magistrates and chief magistrates was for the statement that *Magistrate offices are safe and convenient*, where their response was below the aggregate.

B. Focus Group Comments

Focus group participants offered several comments about interpreter services for both non-English speaking persons and those with hearing impairments, accessibility by persons with disabilities, as well as magistrate office locations and furnishings. There have been significant increases in non-English speakers throughout the state and corresponding impediments to communication. Interpreter services are burdensome, costly, and sometimes inaccurate. Cultural differences also hamper magistrate service delivery.

Not only may magistrate offices be difficult to locate, persons with mobility impairments may have difficulty locating ramps or elevators. The suitability of magistrate quarters varies throughout the Commonwealth with many being wholly inadequate. In general, local governments were seen as placing a low priority on magistrate offices and not coordinating sufficiently with chief magistrates when planning renovations or new facilities.

C. Commentary

While addressing the needs of non-English speaking persons was the most glaring weakness in this area, improvements are needed in all access areas. Instead of a picture of the system's ensuring quick, easy, accessible magistrate services and facilities, survey results and focus group comments present a picture of some success in delivering services but also of many inadequate conditions relating to current resources.

APPLICATION OF PREVIOUS COMMITTEE ON DISTRICT COURTS' RECOMMENDATIONS

Concerns arising from magistrate services do not exist in a vacuum; they are intermingled. Therefore, several approaches may be used in concert to improve service delivery, and each is a building block for the other. Some recommendations from Chapter II, **Magistrate Independence**, also have application to service delivery problems.

A. Clear and Accessible Information

To address specific problems raised in focus group discussions, upgraded informational materials could provide information more practical to users, such as a description of how to prepare

for magistrate hearings. In addition, it could enable tailoring for distinctively local information to include a schedule listing local office hours and contact information for on-call magistrates.

B. Enhanced Skills

Increased focus on the skills and behaviors important to maintaining appropriate demeanor will be beneficial to magistrates in according courteous, respectful, patient, and unbiased treatment.

CONSIDERATION OF ADDITIONAL OPTIONS

The following description of options to address service delivery issues incorporates suggestions generated throughout the study. Committee on District Courts' recommendations to the General Assembly are provided following each topic.

A. Community Presence

Significant disparities between evaluations of those within the system and those outside the system demonstrate the need for an active presence and interaction with the system's user communities. An enhanced community presence should result in early feedback as service issues begin thereby permitting early intervention as well as early feedback about the effectiveness of the intervention. Even where services may continue to fall short of desired levels, ongoing interaction with the user communities should instill confidence that their claims are at least heard and dealt with as practicable. In addition, an open dialogue should stimulate joint planning with other community organizations for future changes and improvements in services.

As communication grows throughout the community, not only will the magistrate system develop an improved understanding of local needs, the community may become more cognizant of magistrate system needs. Perhaps institutional cooperation can be built among local agencies, expanding resources to address shared concerns, such as communications and cultural awareness resulting from an increasingly diverse population. Dialogue addressing the barriers to quality service delivery will benefit the magistrate system as well as the user communities.

The chief magistrate is in the prime position to assume this function. While it is an element of the job description as it exists today, it needs additional emphasis, and chief magistrates could benefit from additional training focused on this topic. See Appendix 11, Chief Magistrate Description.

1. Options

Establishing or enhancing the magistrate presence in the community can begin immediately and can use those forums that offer the greatest benefit for both the magistrate system and the locality. Venture teams made numerous suggestions described in Appendix 7, including establishing periodic interagency meetings, participating in multi-disciplinary training programs, and participating in community task forces. Local management can develop and implement those forums most workable for that community.

2. Committee on District Courts' Recommendation

The Committee on District Courts recommends that magistrate supervising authorities and chief magistrates initiate those programs and activities they deem appropriate to enhance the magistrate presence in their communities.

B. Complaint Process for Administrative Issues

An enhanced community presence and widely publicized information invite feedback about services. In fact, one purpose of both is to solicit early notification of problems from those who appear before magistrates so they may be addressed quickly.

Because the informal method is only one avenue to problem solving, a formal, institutionalized mechanism is also needed. It should be well known, easily available to those who may wish to file a complaint, and enjoy credibility within the community.

Not only was this issue important in the survey and focus group discussion, it was specifically highlighted in House Joint Resolution 32 calling for the study. It is important to distinguish between complaints of an administrative nature and those relating to the content of magistrates' judicial decisions. The complaint process should exclude issues relating to judicial decisions and incorporate only those that fit under a management umbrella. Its message should be that the system's goal is service excellence and that the system invites formal feedback concerning obstacles to service excellence. It should specifically invite comments about any perceived bias or prejudice from individuals as well as organizations and advocacy groups.

An important phase of the complaint process is a management response to the complaining party, if the identity is known. Although the confidentiality of personnel information must be respected, a system official's communicating appropriate findings and actions to complainants is essential to build confidence in the system.

While a *Problem Resolution Process* currently exists for the entire court system, it is virtually unknown to magistrate user communities. In addition, it requests a signature, and many with service concerns prefer to remain anonymous as they do not want to risk possible retaliation from magistrates.

Improving the complaint process, making it easily accessible, and providing appropriate information about the outcomes of complaints are important to communicate readiness for problem resolution and commitment to service excellence.

1. Options

A partnership between the Office of the Executive Secretary of the Supreme Court of Virginia and local chief magistrates can be developed for administration of the complaint process. The Office of the Executive Secretary can upgrade the procedures for filing complaints, publicize these procedures through statewide avenues, and standardize the reporting process for complaints received and their outcomes. Depending on design and distribution methods, it may be appropriate to include the complaint process as a part of informational packages.

Chief magistrates can then administer the complaint process on a local basis and use any additional distribution avenues that may be available within their districts. Local managers

should ensure that the information packages and the complaint process are readily available to the public in each magistrate's office, as well as in other appropriate public offices. Magistrates and chief magistrates should be held accountable if these materials are not made available.

There are various options for filing complaints. One option would be to have complaints about magistrates filed with chief magistrates, and complaints about chief magistrates filed with the magistrate supervising authority.

Instead of filing complaints about chief magistrates with judges or complaints about magistrates with their chief magistrates, another avenue could be a neutral governmental agency or commission similar to the Judicial Inquiry and Review Commission. Experienced magistrates, attorneys, members of community organizations, and others representing a cross-section of interests could be named as members. Organizationally, either one statewide commission or a combination of regional boards ultimately reporting to one statewide board could be considered.

A second issue is the information that should be released. One option is to release no information, however, that course does not generally build public confidence. A balance should be sought in releasing relevant information and in respecting the confidentiality of personnel actions. Responses could be made only to identified complainants providing appropriate information. Still another option is for chief magistrates to make findings of *Founded* or *Unfounded* and to publicize the total number of complaints by category. This information would then be available as a factor that all members of the public can consider in evaluating the magistrate system's effectiveness. On the other hand, no information should be publicized relating to complaints about chief magistrates since they would be confidential personnel actions.

Of importance in any process is both accountability of individual magistrates as well as accountability to the public.

2. Committee on District Courts' Recommendations

The Office of the Executive Secretary should develop an improved complaint process to be administered locally. Magistrate complaints should be filed with chief magistrates, and chief magistrate complaints should be filed with magistrate supervising authorities. In response to complaints about magistrates, chief magistrates should make findings of *Founded* or *Unfounded* and report the total number of complaints by category.

C. Magistrate Procedures

Ideally, magistrate services will be available without undue hardship, and the system's procedures will facilitate access to services. These procedures relate both to 1) access to magistrates and 2) access to justice *through* magistrates. While approximately two-thirds of aggregate survey respondents believed that magistrate procedures facilitate access to their services, only about one-half of the attorneys saw procedures in that light.

Beginning with access to magistrates, procedures often influence how easily citizens and law enforcement may fall within the purview of magistrate authorities. Building upon an enhanced community presence, chief magistrates can hopefully work out solutions where such things as lack of coordination have caused service inconveniences or where fine-tuning of inter-agency procedures

is required. Some procedures that appear to hinder access may be purposefully designed to further other rights even at some expense to access. If this is the case, how should the purpose for the mandate be balanced against the need for increased access? For example, are there statutorily mandated waiting requirements for filing certain processes with magistrates? If so, what are their purposes? Finally, how should the competing interests of the statutory mandate be balanced with the need for increased access?

Access to justice *through* magistrates is influenced by both the legal and administrative procedures used in filing complaints and in magistrate decision-making. As in all judicial decisions, there is room for the application of discretion and judgment as magistrates apply relevant statutes to the facts complainants or defendants present to them. It is natural and appropriate that individual magistrates may place greater or lesser emphasis upon certain facts in any individual case, resulting in different decisions among magistrates. At issue is whether varying decisions are caused by misapplication of the law or different emphasis on factual points.

Finally, the legal process itself requires the use of a number of technical terms with precise and explicit meanings. Because these terms may have limited use other than in legal applications, most people are simply not familiar with their meanings. Access to justice can easily be hindered by the very terms used to provide due process. As magistrates conduct hearings and complete required papers, they should explain the meaning to individuals before them using clear and everyday terminology to the extent possible.

1. Options

Some procedural issues that affect ease of access to magistrates may be addressed by changes in statute. Expanding the transactions that can be handled by telephone, such as temporary detention orders, would simplify the process for those requesting magistrate services. It would, however, create additional administrative burdens through the creation and maintenance of a list of accepted evaluators' names. In addition, certain public policy objectives may have been incorporated as procedures were designed and they should be evaluated.

Making any appropriate change to the legal recourse from magistrate decisions is an option to address access to justice *through* magistrates. Because magistrate decisions are judicial, there is no managerial oversight of the decision itself. In district courts, there is appeal to the circuit court. Are there similar avenues, and are they adequate, for review of magistrate decisions? The following chart lists magistrate processes and the recourse available to those dissatisfied with their decisions:

Process	Redress Participant may request review from:
Arrest or search warrant not issued:	Another magistrate, a judge, or the Commonwealth Attorney for presentation to the Grand Jury
Bond:	District court judge, then successively on appeal
Emergency or protective order not issued:	Another magistrate, judge
Temporary detention order, civil detention, civil levy or seizure not issued:	Another magistrate, district court judge

Another option, instead of focusing on legal recourse, is to be proactive and minimize the occurrence of legal errors as early as possible in the process. One method is to create mandatory procedural worksheets or other instruments (such as a risk assessment tool for bond decisions) for magistrates to use during hearings which would become a part of the record. These worksheets would have several purposes, and among them are to ensure that all statutorily mandated procedural steps are taken, to record the decision and reason, and to be available to others who question the magistrate's reasoning. For example, the worksheet would be available to attorneys who want to challenge the magistrate's decision. If a process similar to the sentencing guidelines for criminal cases were developed, magistrates would simply note departures from the standards and the reasons for those departures. Among its advantages are that they would be available to management as input for performance evaluations, and they could serve as important tools to magistrates to ensure appropriate consideration of all statutory criteria. If these potential advantages were realized, the worksheets would contribute to greater uniformity in the application of law statewide.

The other side of the proactive approach relates to the character of magistrate hearings and decisions. These decisions cover a very narrow purpose and time frame. They are not trials and are not intended to be final decisions on the merits of any issue. They are processes intended to determine (i) whether certain types of legal proceedings should begin, and, if so, whether any interim actions are required in order to ensure the accused's appearance at trial, (ii) whether a petitioner is entitled to a temporary injunction for his or her own protection, or (iii) whether a person can be temporarily detained for evaluation, for paternalistic reasons. Looking to the procedures in general district courts may be useful to inform this analysis. In district courts, while trial decisions themselves are recorded, typically the reasoning behind the decision is not. Recording reasons for decisions equates to writing a judicial opinion for each individual case, which would suggest that district courts have qualities of courts of record, as opposed to being completely courts not of record. Those who are dissatisfied with a district court's decision may appeal the entire case to the circuit court, the next higher court, and obtain a new trial. The trial in circuit court neither rebuts the district court's reasoning nor requires district court judges to defend their decisions. The circuit court does not review the district court's reasoning or the components of the district court's decision. Instead, the circuit court determines the cause anew. The new trial presents the facts to the circuit court for its decision. Magistrate hearings are more akin to the district court process in both philosophy and procedure; therefore, procedural requirements that would change their character to hearings of record should not be adopted. The conclusion of this line of reasoning is that while additional worksheets can be developed as tools in decision-making, their use should be voluntary and should not require recording reasons for decisions.

2. Committee on District Courts' Recommendations

As established, some procedures do not facilitate easy and immediate access to magistrates themselves. Expanding the types of processes that may be handled by telephone could improve access, and this option should be evaluated for potential legislative action.

Ensuring access to justice *through* magistrates is a fundamental reason for the existence of the position. One aspect of assessing potential procedural changes requires evaluation of the sufficiency of legal redress from poor decisions as well as evaluation of the proposal's consistency with the character of the magistrate hearing. It is appropriate that magistrates'

judicial decisions fall outside the realm of management appraisal. A number of options are available through which legal review may be obtained for each magistrate transaction, and this process is appropriate and sufficient.

While those using magistrate services infrequently may not be familiar with their options for legal recourse, these options should also be well publicized and could easily be a part of an enhanced public information package.

Establishing mandatory worksheets to record both the decision and reason for the decision is not in keeping with the character of the hearing and does not increase access to justice through magistrates. While some checklists are currently in use, their numbers should be expanded for voluntary use by magistrates as tools in exercising their responsibilities, but they should not be used as instruments for recording reasons for decisions.

Training programs should address the need for magistrate communications to be technically correct but also understandable to the person who is not legally trained.

D. Magistrate Physical Plants

As described in Chapter II, **Magistrate Independence**, magistrate physical facilities play an important role in conveying the message of independence and dignity. The physical plants have a significant bearing on the availability of services without undue hardship, and with convenience, safety, and accessibility to persons with hearing impairments or other disabilities. While office location probably has the most influence on accessible services, furnishings and equipment have a significant influence on establishing an atmosphere of professionalism, dignity, and respect. Multiple interests compete for consideration in this context. One is that funding for magistrate offices and equipment is by statute a local government responsibility. Any mandated physical plant requirements should consider the financial capabilities of local governments, unless the Commonwealth has the means and the inclination to assume responsibility.

Locating offices so they are convenient and accessible to both the public and to law enforcement, as well as safe both for magistrates and the public, are important priorities, but are sometimes in tension. A commonly shared priority – and a moral, legal imperative – is access by persons with disabilities. In addition to access by those with mobility impairments, access by those with hearing disabilities presents unique challenges. Magistrates need advance notice in order to obtain a sign language interpreter at a specified time. Often, however, the need to communicate in magistrate offices is immediate, not necessarily foreseeable, and complicated by highly emotional circumstances. These conditions exacerbate communication frustrations. The Office of the Executive Secretary has developed agreements with the Virginia Department for the Deaf and Hard of Hearing to provide sign language interpreters to both courts and magistrate offices. Procedures have been developed where those requiring these services provide advance notice so that a qualified interpreter may be obtained. Only interpreters certified as competent in legal forums may be used. In addition, all offices should have TDD telephone services for communications with those with hearing impairments.

Other issues concern the accoutrements of the office. Many offices occupy only cramped spaces with run-down furnishings. All those waiting for magistrate services are in one cramped room. Without a separate office, magistrates are also in this area, so there is no privacy for highly sensitive hearings. These types of facilities offer no suggestion of the dignity and professionalism

that should accompany the exercise of judicial functions. Instead, the crude, impatient, unprofessional, unacceptable behavior sometimes exhibited by both magistrates and those before them would be in harmony with these surroundings.

Expanded community contacts may also be of assistance in addressing physical plant concerns. On a continuing basis the chief magistrate and system users can informally focus upon their mutual goals of quality services and the resources magistrates need to deliver those services. These users may be inclined to partner with magistrates to create improvements or to present budget requests with multiple benefits to funding authorities. An expanded magistrate presence in the community may extend to funding authorities, enabling them to evaluate magistrate budget items using knowledge gained from ongoing communications instead of from the isolation of annual or bi-annual budget processes.

1. Options

Often the first option considered is to locate magistrate offices in the same facilities as law enforcement, thereby offering convenience and accessibility to law enforcement and, perhaps coincidentally, to the public. In addition, this location is economical in that it adds security in often-volatile situations without additional expense. Frequently, citizens who want magistrate services have first been to law enforcement and have been referred to magistrates. Or, citizens may want to post bond for the release of an inmate and must go to the jail to pick up the inmate. If magistrates are located within law enforcement quarters, these types of services are convenient to the public. Because all public services, including those of the police and sheriff, must be accessible to individuals with disabilities, locating magistrates within law enforcement confines presumably meets this requirement as well.

On the other hand, placing magistrate offices within law enforcement quarters not only gives the appearance of compromising the magistrate independence, it may not be convenient to the public, depending upon the location within the community as well as the location of the magistrate's office within the law enforcement facility. Can the citizen go directly to the magistrate, or is the citizen required to pass through a number of police checkpoints in order to enter increasingly secured areas where magistrates may be located? The message conveyed should be that magistrates are accessible rather than the message that accessing their services is so formidable that requests for their services are discouraged. In addition, this arrangement may reinforce the perception that magistrates are a division of law enforcement instead a part of the judicial branch of government.

When magistrates are on-call, services provided from an office in a law enforcement facility offers consistency and professionalism to both the public and law enforcement that may not otherwise be available. For example, in the past the on-call magistrate may have met the citizen or police officer in a mutually convenient location, such as the magistrate's home or place of employment, a restaurant, or service station. While presumably convenient to all parties, this practice is not in keeping with the dignity of the judicial process, nor does it provide consistency in accessing magistrate services.

Another option is to locate magistrate offices away from law enforcement to increase convenience to the public and underscore magistrate independence. Depending on how far away from law enforcement, this option may be at the expense of convenience to law

enforcement. In addition, there will be no immediately available security without additional expense, and the local government will bear the cost of another office.

In summary, both the location of magistrate offices and their physical plant are important in evoking neutral, professional, dignified, and respectful service as well as in providing convenience, safety, and accessibility. Access to magistrates for persons with disabilities is a consideration for both office location and its accoutrements. Ramps and elevators should enable access by those using wheelchairs, and technology solutions may be implemented as possible for those with hearing impairments. Should magistrates be housed in the same facilities or space as law enforcement? Should they be located in freestanding buildings or in the courthouse? Is some compromise workable where the magistrate office is connected to law enforcement but is not an integral part of law enforcement? Should standards be developed, or perhaps codified, which outline minimum requirements for such things as allotted space for offices and waiting areas, furnishings, equipment, privacy, security, and access by persons with disabilities?

2. Committee on District Courts' Recommendations

All magistrate services should be performed from official offices and not from informal meeting places, such as the magistrate's home or a service station. As described in Chapter II, **Magistrate Independence**, the Committee is mindful of the need to make services readily accessible as well as the financial limitations of both local governments and the Commonwealth. Therefore, the Committee has recommended setting as a goal that magistrate offices should comply with the standards described in the *Virginia Courthouse Facilities Guidelines*, Appendix 10, and that the chief magistrate's assigned responsibilities should be expanded to conduct periodic facilities reviews for compliance with these guidelines.

Further, to ensure that individuals with disabilities have adequate access to magistrate services, a number of actions have been included in Objective 8.2 of the **2004 – 2006 Comprehensive Plan for the Judiciary**. In addition to conducting periodic internal audits of the effectiveness with which service barriers are addressed, the Office of the Executive Secretary will work with local managers to develop plans for needed corrective action and publicize information on the types of accommodations available to individuals with disabilities as well as how to request them. To improve services to hearing-impaired persons, both the Office of the Executive Secretary and local management should continue to work with state and local agencies to develop more effective access mechanisms and to pursue installation of technological solutions in magistrate offices as funding permits.

E. A Manageable System

Some issues of service delivery may be related to the system's leadership and management structure and will be addressed in Chapter VII, **Management and Oversight**. In order for its leaders to be effective, however, the system for which they are responsible must be manageable.

Significant skill is required to carry out even the most fundamental management task in the magistrate system: ensuring that at least one qualified individual is available to provide service on

demand, 24-hours per day, for each locality in the state according to geographic jurisdictional boundaries. In addition, there are often times when several magistrates are needed simultaneously, and these times usually occur when individuals would prefer not to work, such as evenings and weekends. As is the case with most public services, this task is made more difficult due to insufficient resources to provide the desired staffing levels.

When the unconventional characteristics of the part-time on-call system are added to the complexities of this task, however, an unmanageable system is created.

Only in areas with high volume are full-time offices now established and staffed by magistrates who work specified shifts. In the remaining areas of the state, which constitutes approximately 69% of the jurisdictions in the state, magistrate services are obtained through part-time offices with varying amounts of on-call time or connection to a video office in another locality. This part-time on-call system offers low pay and few benefits, as well as unfavorable working conditions, so it is often difficult to attract qualified applicants for magistrate positions. (These issues will also be discussed in Chapter VI, **Recruitment and Selection**.) Therefore, chief magistrates who believe performance counseling is appropriate will balance the likely benefit from counseling with the ease of replacing the magistrate if he or she terminates. In such situations, the determining factor is often the chief magistrate's evaluation of the ability even to obtain a replacement magistrate, if needed, instead of the ability to provide quality service. The following example illustrates these issues:

The Schedule

Magistrates X and Y serve County A, and they each alternate weeks of availability. As part-time magistrates, they both have other sources of income. Magistrate X owns her own company and can usually be on-call even while conducting company business. Magistrate Y has another part-time position. Fortunately, his responsibilities provide enough flexibility that he also can usually be on-call even when employed at the second position. According to the system's policies and procedures, law enforcement officers and citizens who need magistrate services contact the dispatcher in the Sheriff's office, who locates the on-call magistrate. The magistrate then meets the officer or citizen at the magistrate's office within approximately 20 minutes to conduct the hearing.

The Problem

During Magistrate Y's on-call week, there have been evening calls each night. On Thursday he is called out at 10:00 p.m. and returns home at midnight. After just falling asleep, he is again called at 3:00 a.m. He is required to report for work at his second position at 9:00 a.m. the following morning for a complex assignment and is not well rested. While it is unacceptable for Magistrate Y to exhibit ill-tempered behavior during the 3:00 a.m. call, or to refuse to respond at all, one can also empathize with the chief magistrate's dilemma in holding him accountable for doing so.

Chief Magistrate Options

If the chief magistrate holds him accountable after an already difficult week, Magistrate Y may decide to resign as a magistrate. Then, the chief magistrate will have to find another person to fill the vacancy. In the meantime, the chief will have to cover the service time either by asking Magistrate X to work additional time, by using another on-call magistrate from a neighboring locality, or by covering it himself. On the other hand, failure to counsel Magistrate Y about unacceptable behavior gives permission for its continuation and ultimately institutionalizes poor performance. Chief magistrates may consider themselves "held hostage" by these circumstances because of the numerous and complex hurdles that are likely when corrective action is taken.

In addition to providing daily services, time off coverage, such as for holidays, vacations, or illnesses must also be provided. Through the Virginia Sickness and Disability Program, the

magistrate system holds the position for up to six months, for the return of magistrates unable to work due to health or medical issues. The following example illustrates these complexities.

Vacation

Both Magistrates X and Y receive holiday and leave benefits in proportion to their part-time employment status. If Magistrate X would like to take a two-week trip, this would normally require using only one week of vacation leave since she is off the schedule every other week. It also means that Magistrate Y must cover her week. Similarly, when Magistrate Y takes a week of vacation, Magistrate X must cover his week. In essence, Magistrates X and Y are simply trading on-call weeks instead of taking vacation leave. With this arrangement, neither magistrate is using leave; they are simply banding together the weeks they are off the schedule.

Leave Benefit or Schedule Adjustment?

In this example, neither magistrate ever actually receives the benefits of employment. Most magistrates do not consider this to be fair (as illustrated by survey and focus group comments in Chapter VI, **Recruitment and Selection**). When these feelings of unfairness are added to the difficult on-call working conditions, it compounds management difficulties in correcting performance deficiencies.

Chief Magistrate Options

To provide time off without another magistrate working more than anticipated, additional personnel resources are required or the chief magistrate must cover the schedule. Another option is to eliminate magistrate services from County A during vacation leave and provide them through a neighboring locality. Without the use of video conferencing, this would require that either citizens and law enforcement would travel to the neighboring jurisdiction, or the magistrate assigned to the neighboring locality would travel to County A. In practice, neither of these options has proved satisfactory for other than extreme emergencies.

The part-time on-call system with its low salaries, limited benefits, poor working conditions, and inability to attract qualified applicants to vacant positions is an important contributing factor to the service concerns of access, timeliness, and professionalism because they create a system that is so difficult to manage. Improving service requires addressing these issues as steps toward creating a more manageable system.

Options and Committee on District Courts' Recommendations

Several options should be considered in significant detail. As with other issues, these options are not freestanding and should be considered as building blocks for improved service through development of a manageable system.

1. Evaluate the Need for 24-Hour Service Availability in Each Locality

One option is to consider reducing magistrate service availability time from 24-hours per day in each locality to a reasonable but defined schedule. Services could be provided from regional offices instead of in each locality. However, important public policy interests are that citizens are deprived of their liberties only after demonstration to a judicial officer that the reasons to do so are well founded. Personal liberty is of such paramount importance that they should not be held against their will for *any* time to serve the convenience of the state, so magistrate services are required by statute to be available forthwith. Likewise, law enforcement should not be hindered or delayed in its ability to perform its responsibilities due to the unavailability of magistrate services. This line of reasoning leads to the conclusion that providing twenty-four hour per day, seven-day per week service without delay to each locality is actually a core value of the magistrate system.

Committee on District Courts' Recommendations

Magistrate services should be available forthwith in the community, so 24-hour per day, 7-day per week services should be continued.

2. Systematically and Comprehensively Institute Video Conferencing and Expanded Technology

The magistrate system has explored the use of video conferencing for several years, and a number of districts have implemented video conferencing using a variety of operational strategies. While video conferencing is not problem-free, it is generally credited with providing more accessible services and in creating a more manageable system. Video conferencing enables supplementing local magistrate services with access to magistrates in a hub office.

The Office of the Executive Secretary currently responds to the requests of individual districts for assistance in establishing video conferencing. This role could change to a pro-active leadership role and a systematic, comprehensive approach in which the Office of the Executive Secretary prepares preliminary plans for each district's consideration, consults with chief magistrates and local officials to identify potential successes and problems, develops solutions to problems, and implements the plan adopted by local management.

The proposal presented to the Committee on District Courts to utilize this technology would establish hub offices in each district that are open 24 hours per day, 7 days per week. Local offices in each non-hub locality are open part-time with specified office hours established by the chief magistrate. Because magistrate services are provided in person, these non-hub offices do not have video connections. Instead, hub offices are connected to local law enforcement offices so after-hours business can be conducted by video conferencing. This system provides continuous service in each locality using both video technologies for low-demand hours and in-person service for higher-demand hours. In addition, hub offices should be located within reasonable driving time of video sites to offer after-hours access to in-person magistrates as an option to video access.

A number of districts currently use video conferencing and through their experiences have gained invaluable knowledge of what things contribute to a successful implementation as well as what things cause operational and administrative problems. Drawing on these experiences, a preliminary proposal can be prepared for each district. Because planning is a significant contributor to a successful transition to video conferencing, an important task is the creation of a planning an implementation process. While the details of the plan may be flexible, they should include magistrate system leadership meeting with local officials to outline a preliminary video conferencing proposal for the district, identifying foreseeable problems associated with video conferencing, developing mutually agreeable solutions to these identified problems, and establishing a follow-up evaluation procedure.

Committee on District Courts' Recommendations

The Committee on District Courts concludes that the Office of the Executive Secretary should take a leadership role in promoting and instituting video conferencing and related technologies in each district, as well as in providing support to local managers in preparing video conferencing proposals for the district, communications

with local officials, evaluating problems, and developing potential solutions. While the final plan adopted by any district may vary from the proposal described in this study, the proposal described above has been used to prepare cost estimates contained in the document entitled *Video Implementation*, in Appendix 12. Anticipated one-time costs for video equipment are \$630,000 while annual operating costs are estimated at \$1,306,000, composed of equipment replacement expenditures of \$327,000 and line usage fees of \$979,000.

3. Resolve On-Call Issues

From one perspective, the on-call system is ideal for lower volume areas as it enables 24-hour-per-day access to magistrates who are members of the community. These services are available as quickly as the on-call magistrate can reach the office, generally expected to be within approximately 20 minutes, or as quickly as the magistrate can complete a hearing currently in progress. Because on-call time is not work time, there is no expense to the state. It enables a local resident both to be employed as a magistrate and to pursue other compatible employment during on-call time.

The part-time on-call system, however, has not lived up to these expectations and instead is credited as a major cause of untimely and unprofessional service from magistrates. Only 51% of the survey respondents believed that part-time magistrates perform their responsibilities with the same effectiveness as full-time magistrates. Intrinsic management difficulties hinder rather than help chief magistrates and supervising authorities as they struggle to improve the professionalism and timeliness of magistrate services. Finally, as society becomes more mobile and as legal practices become uniform throughout the state, the presumed advantages of magistrates having first-hand knowledge of the local community diminish. As service delivery problems associated with the part-time on-call system increase and its benefits decrease, replacing it with other service delivery methods, particularly video conferencing as described earlier, becomes more viable.

Another option, on the other hand, would be to resolve the problems within the on-call system instead of discarding it altogether. Magistrates could receive greater credit for on-call time, thus making on-call positions more attractive employment opportunities. The expected response time of 20 minutes could be expanded to a more generous period, such as one hour. Technology solutions could be pursued within the on-call structure. On-call magistrates could be provided with pagers or cell phones to reduce difficulties in locating them. Video conferencing could be set up in on-call magistrates' homes or places of primary employment, if agreeable with that employer, for improved accessibility. It is doubtful, however, that pursuit of these solutions would actually deliver the benefits originally sought from the on-call system, but it would continue difficult working conditions for magistrates and intractable oversight responsibilities for supervisory personnel.

Committee on District Courts' Recommendation

The on-call system should be eliminated as comprehensive video conferencing is implemented.

4. Address Part-Time Employment Issues

While much dissatisfaction with part-time on-call service was expressed, will resolving on-call issues simultaneously solve service concerns with part-time employment? In other words, if the on-call system is eliminated and replaced by video conferencing within the district, will employment of part-time magistrates who report to an office according to an established schedule provide satisfactory service? Will the management issues associated with part-time on-call magistrates be adequately addressed? Should part-time employment opportunities be eliminated altogether and replaced by full-time positions? As the complexity of magistrate functions increases, the capabilities of the magistrates themselves become more important as well as their ability to take advantage of training opportunities. (Competence and training as they relate to both full- and part-time magistrates is also discussed in Chapters IV and V, **Magistrate Competence and Education and Professional Development.**) There are already concerns that the competence and effectiveness of part-time magistrates is less than that of full-time magistrates. Because part-time magistrates often have commitments to other employment, their ability to avail themselves of training opportunities is restricted. Finally, their ability to accommodate themselves to scheduling and coverage needs will most likely be restricted.

Committee on District Courts' Recommendation

Part-time magistrate employment should be eliminated in favor of full-time employment as video conferencing is implemented at an annual cost of \$67,000. Further details concerning this cost estimate are contained in the document entitled *Additional Costs for Current System Upgrades*, in Appendix 12.

5. Provide Sufficient Personnel Resources

The lack of sufficient personnel was frequently cited, both in urban and rural offices, as a reason that magistrate services are not timely and not as professionally delivered as they might be. In order to create a manageable system, there must be sufficient personnel resources to meet service demands. Resolving on-call issues simplifies development of staffing criteria that can be applied on a uniform and consistent basis statewide. Further, reliable and easily understood staffing models build credibility with funding authorities and thereby improve the magistrate system's ability to obtain needed positions.

The staffing model presented in the chart entitled *Minimum FTE for Full-Time Office*, Appendix 13, assumes 24-hour per day service time and 260 workdays per year (2080 work hours) for full-time employees. These 260 workdays are reduced by 45 days that are unavailable for work time. These 45 days include holidays, vacation, and conference time away from the work place. This results in a minimum staff of 5.0 full-time equivalent (FTE) personnel for each hub office.

The second aspect is that, on average, magistrates would process 2.2 transactions per hour. This statistic was an average of the transactions per hour currently handled by magistrates in urban offices without on-call time.

Application of the criteria contained in the *Minimum FTE for Full-Time Office* to calendar year 2002 magistrate statistics results in the need for 43 additional positions.

The final concern was whether support for secretarial and receptionist functions should be provided to magistrates. The time magistrates spend in preparing paperwork and providing general information takes away from the time that is available for hearings and adds to magistrate stress when service lines are long. Are these occasions frequent enough to justify creating clerical support positions? Are there other potential solutions, such as using technology, to prepare the paperwork associated with magistrate transactions? Are clerical support positions as high a priority as magistrate positions?

Committee on District Courts' Recommendations

The staffing model described should be implemented and applied to the 2003 magistrate statistics to update the personnel resource requirement without the addition of clerical support. Technology solutions should be instituted to address paperwork issues. The estimated annual cost of the 43 new positions \$2,002,000, and is included in the document entitled *Additional Costs for Current System Upgrades* in Appendix 12.

6. Evaluate Magistrate Jurisdiction

A magistrate's jurisdiction is currently limited to the judicial district to which appointed. It may expand into contiguous political subdivisions when authorized by both the magistrate's appointing authority and the chief circuit court judge for the circuit in which that contiguous political subdivision lies. Establishing statewide jurisdiction would expand access to magistrate services. Not only would citizens and law enforcement have access to a magistrate in a neighboring district to alleviate service delays in the home district, they would also have access to any available magistrate in the state through video conferencing.

For example, a citizen in Wise, Virginia, could obtain service from a magistrate in Virginia Beach. With increasing uniformity in legal practices throughout the state, magistrates' capability to conduct hearings statewide increases.

Arguments against statewide jurisdiction are that magistrates across the state do not currently have access to all local ordinances or adequately understand local cultures. Another concern stems from management complexities. How would appointing authorities resolve differing views of magistrate performance? For example, the appointing authority in Wise might not be satisfied with the Virginia Beach magistrate's knowledge of the law and prefer that this magistrate have no jurisdiction in Wise. The appointing authority in Virginia Beach, however, may believe the magistrate's knowledge to be adequate. Would the Virginia Beach magistrate continue to have jurisdiction in Wise against the wishes of the appointing authority for Wise? Do the advantages obtained from statewide jurisdiction outweigh the disadvantages?

Committee on District Courts' Recommendation

The geographic scope of magistrate jurisdiction should not change.

F. Access for Non-English Speaking Persons

There are a variety of issues surrounding interpreter services for those who do not speak English. First, obtaining services from qualified personnel is cumbersome and time-consuming. Another aspect relates to social mores and growing diversity. The individual requiring the service may not feel comfortable with a particular interpreter due to cultural norms governing such things as

the discussion of certain sensitive information with a stranger or with the opposite sex. As society becomes increasingly mobile, magistrates encounter growing numbers of people with traditions different from those with which they are familiar. Magistrates intending to be helpful and courteous may inadvertently cause offense due solely to unfamiliarity with the nuances of their customs.

Language interpretations are currently approached in various ways. The Office of the Executive Secretary conducts a certification program for Spanish interpreters to ensure competency and an understanding of standards of conduct in legal forums. While magistrates are not required to use these certified interpreters, their use is encouraged over interpreters who are not certified. Another mechanism is the Language Line contract negotiated within the past two years. Instead of in-person services, interpreters who meet certain competency requirements are available by telephone. There are continuing administrative efforts to improve access to these services, to expand the languages for certification, as well as to ensure magistrates' awareness the various sources for interpreters.

In addition to the programs under development by the Office of the Executive Secretary, chief magistrates may take advantage of their knowledge of community resources to obtain assistance in addressing the service issues of their clientele. With implementation of video conferencing, access to qualified interpreters may be increased.

1. Options

The Office of the Executive Secretary can prepare informational packages in multiple languages so that basic materials are readily available to everyone. In addition, it can continue to develop improvements in interpreter quality assurance and service delivery methods.

Developing mechanisms to overcome language barriers for in-person communications presents different challenges. While certified interpreter services are preferred, local management may establish contacts with community agencies to expand the resources available to persons with special needs.

Another avenue is that magistrates themselves can become bi-lingual and provide interpreter services. As judicial officers, magistrates and the Commonwealth enjoy immunity from liability for errors made in their judicial capacity. Where bi-lingual magistrates can currently provide general information, such as the location of certain offices, it occurs as a convenience but not as a job requirement. The question of serious consequences and liability surfaces, however, when interpreting during a hearing. Is the interpretation a part of the judicial function so that magistrates enjoy judicial immunity from liability for errors? Or, is the interpretation an administrative function that facilitates the judicial function? Does the Commonwealth become liable for errors of interpretation, and if so, is the Commonwealth ready to assume this liability?

2. Committee on District Courts' Recommendations

To ensure access by non-English speaking persons, the Office of the Executive Secretary should continue its current steps to expand the availability of certified interpreters and to improve the ease with which they may be obtained as described in Objective 1.3 of the **2004 – 2006 Comprehensive Plan for the Judiciary**. Local managers should avail themselves of the avenues already established and, in addition, develop their own contacts within the community so that competent services may be provided.

IV. MAGISTRATE COMPETENCE

DESCRIPTION OF THE ISSUE

Magistrate competence is fundamental to fairness and to the system's effectiveness. Magistrates bring certain skills and capabilities to the position upon employment and receive mandatory training both following appointment and throughout their careers. Is the expertise they bring with appointment sufficient to execute their responsibilities immediately following employment? Is the combination of the expertise upon appointment and training throughout employment sufficient for the exercise of their authorities?

CURRENT QUALIFICATIONS AND TRAINING

Because the magistrate system is a creature of statute, the Code of Virginia sets out certain qualifications for appointment to magistrate positions. Currently, magistrates must have a bachelor's degree from an accredited institution of higher learning or equivalent experience.⁴ Va. Code § 19.2-38.1.

A. Education and Training Program

Although the magistrate system's education and training program will receive a detailed review in Chapter V, **Education and Professional Development**, competence issues can be evaluated only by considering qualifications for appointment and training together. An initial appointment as a magistrate begins with "a six-month probationary period during which the magistrate must complete the minimum training program as established by the Committee on District Courts and satisfactorily complete a certification examination." *Id.* The failure to pass that certification examination "shall preclude the magistrate from serving beyond the six-month probationary period." *Id.*

Magistrates and chief magistrates are appointed to four-year terms Va. Code § 19.2-38 and are required to satisfy continuing legal educational (CLE) requirements in order to be eligible for re-appointment to another term. The current certification and CLE programs are outlined in Chapter V, **Education and Professional Development**.

B. Supplementary Qualifications

In addition to the statutory requirement for a bachelor's degree, or equivalent, the position's responsibilities are also instructive in determining appropriate qualifications, and they are discussed in detail in the *Magistrate Position Description*, in Appendix 11. These responsibilities shed light on the type of knowledge, skills, and abilities magistrates should have in lieu of, or as an enhancement to, a bachelor's degree. Briefly, they include the ability to conduct neutral and impartial hearings; knowledge of relevant laws and ordinances; the ability to conduct research limited to the scope of

⁴ Any magistrate appointed to an original term between July 1, 1985 and June 3, 1995 was "required to have a high school diploma or General Education Development Certificate." Va. Code § 19.2-38.1.

their responsibilities; strong communication skills to elicit relevant information, to convey decisions as well as some degree of the rationale for decisions, and to maintain order and decorum during hearings; and a working knowledge of personal computer systems, such as WORD and EXCEL.

Chief magistrates should possess the qualifications to be a magistrate as well as knowledge of and skill in executing managerial principles and practices, such as directing and training staff and providing effective performance feedback. See the *Chief Magistrate Description*, in Appendix 11.

C. Are Qualifications Sufficient?

The primary question for qualifications is, *Are the qualifications sufficient to ensure that the eventual successful candidate for a magistrate position is competent to exercise the authority of a magistrate immediately following appointment?*

To assist in evaluating this question, the qualifications and experience of magistrates and chief magistrates responding to the 2002 survey are presented below and are compared to the qualifications and experience of magistrates in 1995 when the Joint Legislative and Review Commission (JLARC) conducted a study of the magistrate system.

D. Educational Background of Current Magistrates

In 2002, 54.9% of the magistrates responding to the survey had an educational level of a bachelor's degree or higher, contrasted with 36.2% in 1995.

The pattern was somewhat different for chief magistrates. In 2002, 40% of the chief magistrates responding to the survey had an educational level of a bachelor's degree or higher contrasted with 35.5% in 1995. The disparity may be due, at least in part, to the number of chief magistrates who, because they have been in the magistrate system for a longer period, entered the system prior to the degree requirement which became effective July 1, 1995. Chief magistrates on the payroll as of July 1, 2002, had an average of approximately 15 years of court system experience; this translates to beginning court employment during 1987, much earlier than the bachelor's degree requirement.

	Magistrates				Chief Magistrates			
	2002		1995		2002		1995	
Education	Number	Percent	Number	Percent	Number	Percent	Number	Percent
HS, GED	33	13.04%	73	23.03%	6	24.00%	8	25.03%
Attended college	62	24.51%	101	31.86%	7	28.00%	10	31.86%
Associate degree	19	7.51%	28	8.83%	2	8.00%	2	8.83%
Bachelor's degree	101	39.92%	79	24.92%	2	8.00%	7	24.92%
Graduate degree	31	12.25%	20	6.31%	5	20.00%	1	6.31%
Law degree	1	0.40%	16	5.05%	0	0.00%	3	5.05%
Licensed attorney	6	2.37%	0	0.00%	3	12.00%	0	0.00%
Total	253	100.00%	317	100.00%	25	100.00%	31	100.00%

E. Primary Work Experience Immediately Prior to Magistrate Position

Approximately one-third of the magistrates and chief magistrates responding to the surveys both in 2002 and in 1995 had joined the magistrate system from the private sector. The next largest source of magistrates and chief magistrates, law enforcement, was the prior employment for approximately 20%. Finally, as of July 1, 2002, magistrates and chief magistrates on the payroll had approximately 9.2 years and 15 years of court system service, respectively.

Experience	Magistrates				Chief Magistrates			
	2002		1995		2002		1995	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Practicing attorney	4	1.58%	5	1.67%	1	4.17%	2	6.67%
Other law, legal services	22	8.70%	18	6.00%	4	16.67%	0	0.00%
Law enforcement	52	20.55%	57	19.00%	5	20.86%	6	20.00%
Private industry	86	33.99%	127	42.33%	8	33.33%	11	36.67%
Military	30	11.86%	21	7.00%	3	12.50%	5	16.67%
Government	34	13.44%	45	15.00%	1	4.17%	5	16.67%
Other	<u>25</u>	<u>9.88%</u>	<u>27</u>	<u>9.00%</u>	<u>2</u>	<u>8.33%</u>	<u>1</u>	<u>3.33%</u>
Total	253	100.00%	300	100.00%	24	100.00%	30	100.01%

In round numbers, approximately one-third of magistrates and one-quarter of chief magistrates had retired from their previous positions in both 2002 and 1995 as indicated by their responses to the following question:

Question 101. Did you retire from the primary employment selected in the previous question?

	Magistrates				Chief Magistrates			
	2002		1995		2002		1995	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Yes	89	35.46%	n/a	31.00%	7	28.00%	n/a	26.00%
No	<u>162</u>	<u>64.54%</u>	n/a	<u>69.00%</u>	18	<u>72.00%</u>	n/a	<u>74.00%</u>
Total	251	100.00%	n/a	100.00%	25	100.00%	n/a	100.00%

It is against this backdrop that research results describing the degree to which magistrates meet competence and fairness expectations should be evaluated.

RESEARCH RESULTS

The survey used to obtain feedback about magistrate system effectiveness contained ten questions addressing competence and fairness. Two questions, however, requested overall, or summary, assessments, and they will be the initial focus. They are ranked in ascending order of aggregate agreement.

Survey Questions	Total Agree	Neither Agree nor Disagree	Total Disagree
30. Overall, magistrates are fair.	72.6%	16.6%	9.2%
29. Overall, magistrates are competent.	74.0%	13.7%	11.2%

As was the case with service delivery issues, it is disappointing that strong rates of agreement are lacking. Lack of full confidence in individual magistrates' competence and fairness undermines confidence in the system as a whole to execute its judicial functions.

Respondents had practically the same view of magistrate fairness and competence. With agreement rates in the 70% range, one would normally expect correspondingly high disagreement rates; however, a significant number of the respondents, from 13% to 17% expressed no opinion by *Neither Agree nor Disagree*, accounting for relatively low disagreement rates. A small percentage provided no response at all.

ANALYSIS OF SUMMARY ISSUES

The analysis begins with a look behind the aggregate responses to determine if major system users share consistent views. The table is in ascending order of aggregate agreement.

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
30. Overall, magistrates are fair.	72.6%	50.9%	73.4%	56.8%	72.9%	75.3%	76.8%	63.9%
29. Overall, magistrates are competent.	74.0%	47.2%	74.5%	60.5%	73.7%	80.4%	76.6%	68.9%

**All Other Races/Ethnic Groups*

Members of races and ethnic groups other than white evaluated magistrate competence and fairness higher than any of the user groups in the table; females' evaluations were less favorable than males.

While the agreement rates for members of law enforcement mirror the aggregates, those of advocacy groups are well below the aggregates. Of all groups outside the magistrate system, attorneys possess the professional credential to most accurately evaluate the legal skills of magistrates. Barely half of the attorneys, members of both the prosecutorial and defense bar, *Agreed* or *Strongly Agreed* with the statements that magistrates are fair and competent

The highest rates of agreement, at 90% or more, came from magistrates and chief magistrates. Judges rates of agreement mirrored the aggregate.

To evaluate competence and fairness in more detail, an in-depth analysis of specific performance issues and then specific competencies necessary for satisfactory performance follows.

PERFORMANCE CATEGORIES

The following table considers performance outcomes and is ranked by the lowest rate of aggregate agreement; the summary questions are shown at the end. These categories provide insight into issues that may contribute to concerns about performance, in particular bail decisions and variance in outcomes depending on which magistrate conducts the hearings.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)							Male	Female
	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*			
26. Outcomes are not dependent on which magistrate conducts the hearing.	39.9%	19.8%	35.8%	29.6%	39.8%	47.4%	41.7%	36.1%	
27. Bail decisions have the desired effect of releasing accused persons who do not pose a threat to society or flight risk yet ensuring their appearance for trial.	58.8%	38.7%	59.4%	22.2%	58.9%	62.9%	61.5%	53.4%	
24. There is equal application of the law regardless of who appears before the magistrate.	64.1%	41.5%	69.4%	38.3%	65.1%	63.9%	69.9%	51.1%	
25. Magistrate decisions are appropriate and proportional for the type of hearing.	64.8%	40.6%	65.7%	44.4%	64.7%	75.3%	70.2%	53.8%	
22. Magistrates are impartial.	65.9%	39.6%	68.6%	44.4%	66.3%	72.2%	72.3%	52.1%	
28. Magistrates sufficiently preserve the constitutional safeguards of all citizens.	66.6%	42.4%	75.3%	49.4%	67.0%	75.3%	71.6%	56.7%	
21. Magistrates hear and understand what litigants have to say.	68.0%	44.3%	78.6%	53.1%	67.9%	76.3%	74.4%	53.8%	
23. Magistrate decisions comply with law.	68.4%	39.6%	68.3%	64.2%	68.5%	78.4%	71.5%	63.0%	
30. Overall, magistrates are fair.	72.6%	50.9%	73.4%	56.8%	72.9%	75.3%	76.8%	63.9%	
29. Overall, magistrates are competent.	74.0%	47.2%	74.5%	60.5%	73.7%	80.4%	76.6%	68.9%	

*All Other Races/Ethnic Groups

None of the performance categories received as high an agreement rate as either of the summary questions; all were below 70% agreement. The area of exceptionally low agreement rates from all responding groups was that *Outcomes are not dependent on which magistrate conducts the hearing*.

Patterns that became evident in Chapter III, **Magistrate Services**, continued. Law enforcement generally mirrored the aggregate, as did white respondents. Similarly, agreement rates of races and ethnic groups other than white were the same as or higher than those of white respondents. Females' rates of agreement were usually significantly below those of males.

Another continuing pattern is presented with the low rates of agreement from the system's users, including females and members of races and ethnic groups other than white, with the statements *There is equal application of the law regardless of who appears before the magistrate* and *Magistrates show no bias or prejudice* from Chapter III, **Magistrate Services**.

It is noteworthy that less than half the attorneys agreed that the desired standards were met. Their highest agreement rate was only 44% with the statement that *Magistrates bear and understand what litigants have to say*. Less than 40% agreed that *Magistrate decisions comply with law* or that bail decisions have the desired effect.

Advocacy groups also gave magistrates lower performance ratings. Only 22% agreed that bail decisions have the desired effect. One of the more favorable responses by advocacy groups, which brought an agreement rate of only 53%, that *Magistrates bear and understand what litigants have to say*.

Magistrates' and chief magistrates' rates of agreement were usually above 90% with one major exception. Consistent with the pattern for aggregate results, magistrates' and chief magistrates' lowest rates of agreement were 56% and 84%, respectively, with the statement that *Outcomes are not dependent on which magistrate conducts the hearing*.

Judges' rates of agreement for the specific performance categories were in the 60% - 69% range, with three exceptions. Their lowest rate of agreement was 40% that outcomes do not vary by magistrate. Only 54% expressed agreement that bail decisions have the desired effect, and only 57% agreed that *Magistrates sufficiently preserve the constitutional safeguards of all citizens*.

SPECIFIC COMPETENCIES

In addition to performance issues, the survey requested detailed feedback from those within the system about the competencies contributing to high performance. The following table in ascending order of aggregate agreement; the summary questions are shown at the end so that the evaluations of the components of competence can be compared with the *overall* evaluations.

Rates of Agreement
(Agreed or Strongly Agreed)

Survey Question	Aggregate	Ch. M.	Mags.	Judges
62.c. Magistrates are sufficiently competent in: Probable cause determinations for pre-trial seizures in civil matters.	42.3%	56.0%	39.2%	44.8%
62.g. Magistrates are sufficiently competent in: Visitation interference or child access issues.	45.6%	76.0%	51.8%	32.0%
65. Magistrates satisfactorily apply problem solving and analytical thinking during the hearing process.	71.7%	96.0%	85.1%	48.3%
62.d. Magistrates are sufficiently competent in: Emergency custody orders.	75.0%	92.0%	88.2%	52.9%
62.h. Magistrates are sufficiently competent in: Issuance of protective orders.	78.1%	92.0%	89.8%	58.7%
62.e. Magistrates are sufficiently competent in: Temporary detention orders.	80.1%	96.0%	92.5%	59.3%
64. Magistrates adequately fulfill their roles as objective, neutral decision-makers.	81.0%	96.0%	87.5%	69.2%
62.b. Magistrates are sufficiently competent in: Probable cause determinations for issuance of search warrants.	81.9%	96.0%	89.0%	69.2%
62.f. Magistrates are sufficiently competent in: Bail hearings	82.5%	96.0%	92.2%	66.3%
62.a. Magistrates are sufficiently competent in: Probable cause determinations for issuance of arrest warrants.	87.2%	96.0%	93.3%	76.7%
30. Overall, magistrates are fair.	72.6% *	96.0%	92.9%	75.0%
29. Overall, magistrates are competent.	74.0% *	96.0%	91.8%	77.9%

**These aggregate response rates represent the responses of all system users.*

Both chief magistrates' and magistrates' greatest concerns are in the areas of probable cause determinations for pre-trial seizures in civil matters and visitation interference or child access issues. Over 85% of magistrates and chief magistrates are comfortable with their proficiency in all other areas; this is consistent with their evaluations of specific performance issues analyzed earlier.

As in Chapter III, **Magistrate Services**, noting chief magistrates' evaluations of their districts may also be helpful in this context. Chief magistrates' overall satisfaction with their districts is consistent with their evaluation of both magistrate performance categories and specific competencies.

Rates of Agreement
(Agreed or Strongly Agreed)

Survey Question	Aggregate	Ch. M.	Mags.	Judges
107. Overall, I am satisfied with the performance of this district.	92.0%	92.0%	n/a	n/a

Judges' evaluations are not as positive. Their highest agreement rate was 77% for the statement that magistrates exhibit sufficient capabilities in probable cause determinations for issuance of arrest

warrants. In addition to probable cause determinations for pre-trial seizures and visitation issues, they were less satisfied with magistrates’ critical thinking skills. Only 48% agreed with the statement that *Magistrates satisfactorily apply problem solving and analytical thinking during the hearing process*. Their agreement rates in the other competencies were between 50% and 69%.

Finally, as in Chapter III, **Magistrate Services**, noting any perceived competency differences between full- and part-time magistrates may also provide insight. Magistrate service delivery in approximately 69% of the state is not through a full-time magistrate’s office located within the jurisdiction. Are part-time magistrates seen to be as competent as full-time magistrates? If not, could this view carry significant responsibility for the less than desirable performance ratings for magistrates as a whole? The following survey question asks those within the system to compare the performance of full- and part-time magistrates.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
63. Part-time magistrates perform their duties with the same effectiveness and competence as full-time magistrates.	50.7%	68.0%	61.2%	32.6%

Only half of the respondents agreed with the statement. Less than 70% of magistrates and chief magistrates agreed with this statement, and only 32.6% of responding judges agreed.

FOCUS GROUP COMMENTS

Focus group comments amplify the survey results. The complexity of job duties has increased significantly over the years. One magistrate reported that it now takes two to four years for many new magistrates to feel comfortable with their responsibilities where 15 years ago new magistrates needed only a year or a year-and-a-half. Law enforcement may actually seek out newer magistrates or those who are less confident to increase the probability that the process requested will be issued.

The minimal training following and during employment, when combined with the increasing complexities of the position, also contribute to competence and performance issues. One comment was that the system can tolerate only about two weeks of training for new magistrates because of the urgency to place the new magistrate on the schedule. New magistrates are in the awkward position of being required to perform complex responsibilities without adequate training. Bad practices are passed down informally from more senior magistrates to newer ones, and less than desirable behaviors become institutionalized. In some cases, chief magistrates’ other responsibilities or lack of skill in training also inhibit the success of new magistrates.

As described in Chapter III, **Magistrate Services**, certain magistrate behaviors also contribute to fairness concerns. Some magistrates let their own personal biases influence their decisions or permit themselves to be influenced by personal appearance or dress.

In other cases, competence concerns arise from magistrates’ need for to gain a fuller understanding of their role or to appropriately control the hearing. Some participants commented that magistrates ask incriminating questions of the accused in front of law enforcement officers. If

they respond to the magistrates' questions in front of law enforcement officers, then law enforcement may testify as to the information the accused gave magistrates, and the right to protection from self-incrimination is violated. Another way in which the rights of the accused may be compromised during hearings is that law enforcement officers may, in front of magistrates, suggest to the accused that the officer will request a low bail from the magistrate in return for cooperation from the accused. As described in Chapter II, **Magistrate Independence**, this suggests to the accused that magistrates are not independent and neutral but that magistrates and law enforcement are working together for the benefit of law enforcement.

Other comments reflect the concern identified in surveys that outcomes are dependent upon which magistrate conducts the hearing, suggesting that any number of inappropriate factors influence the final decision. Another perspective, however, is that different outcomes are due to different factual information being presented to magistrates as those requesting processes learn from their experience with the system.

Finally, a few comments noted that the lack of incentives to improve affect competence. Without performance or some other type of recognition increases, there is no incentive to improve or to stay with the system or to improve academically, such as to obtain an advanced degree.

COMMENTARY

In only 6 of the 21 survey questions in this section did 80% or more of the aggregate respondents see magistrates as meeting the desired outcomes for performance and competence. These 6 questions were directed only to magistrates, chief magistrates, and judges. The agreement rates were at or above 80% only because of the magistrates themselves. No judges' agreement rates were as high as 80%; for only three questions were judges' rates above 70%. Attorneys' highest agreement rate was 47.2%. Therefore, significant deliberation should be directed toward addressing magistrate competence.

APPLICATION OF PREVIOUS COMMITTEE ON DISTRICT COURTS' RECOMMENDATIONS

As is the case for most concerns with the system, magistrate competence does not exist in a vacuum. Several recommendations introduced in earlier sections address certain aspects of competence and performance.

A. Community Presence

An enhanced community presence should provide immediate and reliable feedback to chief magistrates and supervising authorities about perceived competence issues. Further, the system may be able to avail itself of community services, such as for conducting training programs.

B. Complaint Process for Administrative Issues

A credible and effectively administered complaint procedure should encourage members of the public to file their concerns with management. In addition to the opportunity to address any competence deficiencies and prescribe any appropriate corrective actions, chief magistrates will have documentation for future personnel actions if satisfactory progress is not attained.

C. A Manageable System: Institute Video Conferencing, Eliminate On-Call, Full-Time Employment, Sufficient Personnel Resources

Instituting video conferencing and expanded technologies should ease the administrative burden on chief magistrates as they conduct district-wide training and staff meetings and should lead to greater uniformity in procedure. Replacing part-time on-call employment with full-time and providing sufficient resources within the district enables more frequent and consistent training as well as instituting more standard office practices.

In addition, because part-time magistrates are not seen to be as competent or effective as full-time magistrates and because a majority of the state receives its services through part-time on-call offices, using full-time magistrates should significantly improve the perception of magistrate proficiency.

CONSIDERATION OF ADDITIONAL OPTIONS

The following description of options to address magistrate competence incorporates suggestions generated throughout the study. Committee on District Courts' recommendations to the General Assembly are provided following the description of options.

A. Qualifications

Magistrate competence is at the heart of magistrate system effectiveness and credibility; therefore, the embodiment of qualifications in statutes carries some significance. At the most fundamental level, the statutory requirement for a bachelor's degree or equivalent experience represents a conclusion by the General Assembly that the skills and experience typically associated with that credential bear upon the job of magistrate. The spare quality of the qualifications can add a valuable element of flexibility to the selection process. Too-detailed a set of qualifications, especially a set embodied in statute, could have the effect of unnecessarily screening out candidates who may be well-suited to serve as magistrates, but who do not possess a qualification that is more particular, less fundamental, and, possibly, less necessary than the current, basic set.

Although the qualifications are skeletal, they assure a certain level of educational accomplishment, or "equivalent experience." A particular question arises as to the strength or value of the criterion that a magistrate must possess "a bachelor's degree from an accredited institution of higher learning or equivalent experience." This criterion can be satisfied by a bachelor's degree in any discipline, no matter how far afield it may be from the operation of the judicial system or the work of the magistrate. If a candidate may possess any sort of bachelor's degree, with what professional quality or characteristic is that criterion meant to correlate? This criterion, standing alone, cannot serve to ensure any academic familiarity with the legal system, the criminal justice system, or even the jurisprudence underlying those systems. Of course, this criterion may also be satisfied by "equivalent experience," but this serves only to introduce more vagueness, since there are no indicia specified by statute for that "equivalency."

The seeming indeterminacy of this qualification may be a function of what value it is presumed to serve. If this requirement is construed as a guarantor of specific, detailed, substantive knowledge, then the fact that the bachelor's degree may be in any discipline seems indeterminate and unrelated to particular requirements of the position. However, if the requirement is construed as a possible

indicator — though neither a necessary indicator nor the only indicator — of the intellectual skills popularly associated with the successful completion of a program of higher education, then it is easier to impute a connection between that qualification and the demands of the magistrate role.

As an initial step, it may be instructive to review the qualifications of current magistrates in light of research results. Approximately 54% possess a bachelor's degree, and the average experience within the system is approximately 9 years. Therefore, by present criteria, current magistrates meet the requirement to have a bachelor's degree or equivalent experience. Yet, survey results show that only approximately 75% of respondents believe magistrates with their current qualifications meet *overall* competence and fairness standards. When evaluating specific performance and competence categories, both attorneys and judges' responses show significant variance from desired standards. Two major areas are lawful decisions and effective bail decisions. Less than 40% of attorneys agreed with the statements *Magistrate decisions comply with law* and *Bail decisions have the desired effect of releasing accused persons who do not pose a threat to society or flight risk yet ensuring their appearance for trial*. While not as low as attorneys, judges' agreement rates were approximately 64.5% and 54%, respectively.

In light of research results, the most serious concerns with the statutory qualifications revolve around the question of whether they are sufficiently comprehensive. As venture teams suggested solutions, there was a tension between whether to increase qualifications to require that newly appointed magistrates be attorneys, or whether to continue the current qualification of a bachelor's degree but to substantially upgrade the training programs. Further questions resulting from this deliberation are:

- What are the best means to provide the requisite improvements in competence?
- How can that competence level be measured?
- How can the competence level be maintained?

1. Options

In evaluating qualifications, the primary question is whether magistrates should begin employment capable of exercising their legal responsibilities, requiring only minimal training following employment. Or, should magistrates begin employment possessing good general skills and receive intensive training immediately following employment to develop the specialized knowledge and abilities required for magistrate functions.

a. Require Magistrates and Chief Magistrates to be Attorneys

One option to address competence is to require that magistrates be attorneys upon appointment. Because magistrates' primary responsibilities consist of the application of law to a set of facts, the only professional qualification with a direct connection to job duties is bar membership. Passing the bar examination is already well recognized as the sufficient standard enabling one to practice law in Virginia and is the professional certification of competency in the law.

In addition to job content, the need for the attorney qualification is supported by a number of factors. Magistrates' decisions are unsupervised and have significant impact upon both citizens' liberties and the ability of law enforcement to exercise their responsibilities. Less than half of the judges' believe that magistrates adequately apply analytical skills, which are necessary in the application of law to facts. Because institutional training programs are

generally established to supplement rather than to establish primary qualifications, it is doubtful that training programs would be sufficient to ensure attainment of the requisite critical thinking and analytical skill level.

Magistrates who are attorneys would, immediately upon employment, possess skills directly applicable to the exercise of magistrate functions. Their training following employment would be primarily an orientation to the system instead of an education in the elements of various laws and how to apply them. They would not, as focus group comments indicated occurs now, be called upon to handle technically complex responsibilities without appropriate preparation.

In addition, attorneys in good standing must fulfill continuing legal educational requirements, which would thereby ensure continuing legal competency. Institutional training programs, as they do now, could continue to provide updates applicable specifically to the magistrate role.

Requiring magistrates to be attorneys would therefore establish a direct competence requirement related to the responsibilities of the position and would establish the means by which the competency level could be measured initially and maintained.

Requiring chief magistrates to be attorneys would enable more competent legal training by the magistrates' direct supervisor as well as more effective performance evaluation. They could provide a more competent resource to magistrates as they analyze various legal principles and issues related to their responsibilities. Because the system functions within a legal environment, those bearing the greatest responsibility for its effectiveness should be legally competent.

b. Continue Current Qualification Enhanced by Significant Training

Another option revolves around how the position is defined. Instead of looking at magistrates' responsibilities as the application of law, another approach is to view their responsibilities as the application of reason, common sense, and life experiences to a set of issues that occur in a legal setting. With this definition, the attorney qualification is arguably less necessary. The bachelor's degree qualification offers a symbol of the professionalism associated with the magistrate role and an indicator of the intellectual skills necessary for the demands of that role.

Therefore, another option to improve competence is to continue the current educational requirement but to significantly enhance training immediately following employment. Because magistrate subject matter expertise is relatively narrow, it is within the sphere of intensive institutional training programs. Mastery of the training program can be measured by a certification examination.

The current CLE program updates magistrates' knowledge and skills as they pertain to their responsibilities throughout their careers, and magistrates must meet their CLE requirements in order to be eligible for re-appointment. To ensure adequate maintenance of their competencies, however, eligibility requirements for re-appointment could be expanded to include such things as re-certification tests, evaluation of any citizen complaints, and review of performance evaluations conducted by the supervisor.

Considering qualifications also raises the question of the type of candidates the magistrate system is likely to attract as vacancies occur and then to retain. With the salary ranges the Commonwealth would be able to offer, the magistrate system composed of attorneys would most likely attract relatively new attorneys. As they gain experience and their marketability increases, one would expect that they would leave the system for more lucrative careers resulting in higher turnover rates for magistrate positions.

Chapter III, **Magistrate Services**, concluded with several Committee on District Courts recommendations that should influence magistrate competence. One was that part-time magistrate employment should be eliminated in favor of full-time employment as video conferencing is implemented. Seemingly, with the establishment of a new staffing model, additional positions are supported which should relieve the tension resulting from magistrates being placed in their positions without sufficient preparation due to staff shortages. Finally, checklists can be developed for magistrates' voluntary use as they exercise their responsibilities.

Instituting an intensive training program immediately following employment combined with other administrative actions the Committee has recommended could have a dramatic impact upon proficiency. Therefore, a preferable approach would be to evaluate the effectiveness of this combination prior to making a dramatic change to qualifications.

Building on the expansion of the current educational criteria by an intensive training program to follow employment immediately, an increased emphasis for the chief magistrate position should be on management expertise.

2. Committee on District Courts' Recommendations

The attorney qualification should not be adopted for either magistrates or chief magistrates.

The current qualification of a bachelor's degree of equivalent experience should continue for both magistrates and chief magistrates. Where magistrates or chief magistrates are appointed based on equivalent experience, their minimum academic credential should be a high school diploma or General Education Development Certificate.

A comprehensive nine-week training program should enhance the bachelor's degree qualification for newly appointed magistrates as well as an additional week of management training for both new and current chief magistrates. New magistrates and chief magistrates should complete this program and pass certification examinations prior to being placed on the job. Estimated continuing annual costs are \$897,000, due to annual turnover anticipated at 47 magistrates and 4 chief magistrates. Because the Committee on District Courts' recommendations would secure new 43 new FTE positions, costs for the first year would be increased by \$228,000. The curriculum for new magistrates is shown in the document entitled *New Magistrate Curriculum* and cost computations are shown in the document entitled *Costs to Provide Fitness for Duty Institute*, in Appendix 14.

Magistrates and chief magistrates should continue to meet CLE requirements to qualify for re-appointment. In addition, a process using expanded criteria to certify eligibility for re-appointment should be evaluated as described in Chapter V, **Education and Professional Development**.

V. EDUCATION AND PROFESSIONAL DEVELOPMENT

DESCRIPTION OF THE ISSUE

Although the sphere of magistrates' legal authorities is narrow, it is far-reaching within that narrow sphere. As an example, magistrates have the power to grant or deny search warrants to law enforcement, thereby enabling or halting investigation and potential prosecution. With the qualification of a bachelor's degree or equivalent experience, the institutional training magistrates receive is fundamental to their gaining subject matter expertise upon appointment as well as to their continuing competence and professional development. Is training adequate, both at the beginning and throughout their service, to provide them with sufficient competencies in laws, court procedures, and the professional skills necessary to discharge their responsibilities effectively?

CURRENT PROFESSIONAL DEVELOPMENT PROGRAMS

A. Relevant Statutory Considerations

Virginia Code § 19.2-38.1 assigns to the Committee on District Courts the authority to establish minimum training standards for newly appointed and re-appointed magistrates. First time appointees must serve an initial six-month probationary period during which the magistrate appointee must complete the minimum training requirements established by the Committee and described in the next section. This statute also requires newly appointed magistrates to successfully complete a certification exam during their six-month probationary status period. The 1996 Acts of Assembly, Chapters 755 and 914, also require, beginning July 1, 1996, that the magistrate training program established by Committee include a mandatory component "addressing the issuance of warrants and detention orders in juvenile and family courts." Chapters 755 and 914, 1996 Acts of Assembly, Clause 3. Lastly, Virginia Code Section 19.2- 43 states that it is the duty of the Executive Secretary to assist the chief judges in the supervision and mandatory training of magistrates. That same statute also authorizes the executive secretary to conduct training sessions and meetings for magistrates and provide materials for their use.

B. Current Policies and Recommended Practices

Policy 606 in the **Staff Development** chapter of the PERSONNEL POLICY MANUAL provides the specific minimum training requirements for new and re-appointed magistrates. In order for newly appointed magistrates to successfully complete their six-month probationary period, chief magistrates must ensure that new magistrates receive a MAGISTRATES MANUAL. Prior to taking the requisite certification exam, chief magistrates must give new magistrates forty hours of training on the use and application of the MAGISTRATES MANUAL. During this training, chief magistrates must administer progress quizzes on the manual's chapters. Prior to enrolling in the magistrate certification course, chief magistrates must certify that this training has been completed and that the chief magistrate or a designee has given new magistrates thirty days of on-the-job training. When

these prerequisite requirements have been satisfied, new magistrates must attend the Magistrate Certification Course and successfully pass an examination on that course. The Office of the Executive Secretary of the Supreme Court of Virginia administers both the course and examination.

In Policy 606, the PERSONNEL POLICY MANUAL mandates that the certification course, at a minimum, must contain the following:

1. Professional ethics
2. Legal research
3. Determination of probable cause arrest warrants
4. Determination of probable cause search warrants
5. Civil procedure
6. Temporary detention orders
7. Bail procedures
8. Adult arrest procedure
9. Juvenile and domestic relations procedure
10. Accounting procedure
11. Interview techniques
12. Magistrate log
13. Offense element determination
14. Services in compliance with the American with Disabilities Act
15. Chief Magistrate training

Magistrates who successfully complete their probationary status training and certification have CLE requirements. To ensure magistrates maintain professional competence in the law, each magistrate is required to obtain twenty-four CLE credits during each four-year term. One CLE credit roughly equals a half-day of training for any course approved by the Committee on District Courts. However, each magistrate must attend at least one in-state Office of the Executive Secretary sponsored educational conference each fiscal year. Two CLE credits are awarded for attending for each Office of the Executive Secretary sponsored educational program attended. Any approved semester-long course lasting more than twelve classroom hours will earn six CLE credits.

The primary existing vehicles for delivering training to magistrates have been the statewide magistrates educational conferences and the magistrates' regional educational conferences organized and staffed largely by the Office of the Executive Secretary.⁵

C. Management Training

In addition to the magistrates' certification program and CLE requirements of magistrates, chief magistrates receive half-day seminars on management topics as a part of annual conferences. New chief magistrates are provided with a one-week management program during their first year of employment.

⁵ Until recent years, two statewide educational conferences were delivered to the magistrates. Unfortunately, due to state budget reductions, Office of the Executive Secretary was forced to eliminate temporarily the statewide educational conferences, thereby saving over \$100,000 a year.

RESEARCH RESULTS

The issues of magistrate competence and their educational programs are inextricably tied together. Therefore, recall from Chapter IV, **Magistrate Competence**, the degree to which magistrates are viewed as competent:

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)						Male	Female
	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*		
29. Overall, magistrates are competent.	74.0%	47.2%	74.5%	60.5%	73.7%	80.4%	76.6%	68.9%

**All Other Races/Ethnic Groups*

Approximately 74% of aggregate respondents agree with the statement that *Overall, magistrates are competent*. While judges' responses mirrored the aggregate, barely half of the attorneys who responded credited the magistrates with sufficient competence.

Further, with a large portion of the state receiving services through part-time magistrates, the following survey question requests those within the system to evaluate the competence of part-time magistrates.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
63. Part-time magistrates perform their duties with the same effectiveness and competence as full-time magistrates.	50.7%	68.0%	61.2%	32.6%

Only one-third of the judges and fewer than 70% of magistrates and chief magistrates credited part-time magistrates with the same competence and effectiveness as full-time magistrates. This result implies a greater need for training by part-time magistrates, yet delivery of intensive training is complicated through the probability that part-time magistrates have other primary employment and that the magistrate position supplements that income.

ANALYSIS OF SUMMARY ISSUES

Institutional educational and training programs generally intended to build upon the expertise magistrates bring with them to the system. The following questions request evaluation from those within the system of the overall sufficiency of magistrates' training programs.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
67. Overall, magistrates are well trained.	76.8%	92.0%	81.6%	67.4%
84. Overall, the combination of the Magistrate Manual, on the job, and certification training that newly hired magistrates receive during their probationary period develops sufficient competencies and skills to discharge their responsibilities.	81.1%	80.0%	81.2%	n/a

Approximately two-thirds of the judges believe that magistrates are well-trained, and approximately 80% of magistrates and chief magistrates believe that the components of the certification program for new magistrates provides them with sufficient skills to discharge their responsibilities. As has been the pattern, the disappointment is that the results are not more decisive.

There are several components of magistrate training and development. Each will be individually analyzed, beginning with the chief magistrate’s role not only following employment but also throughout the magistrate’s career.

CHIEF MAGISTRATE AS TRAINER AND COACH

A. Survey Results

Magistrate work products are the judicial decisions they make in response to legal issues placed before them. Supervising the quality of magistrates’ work products, therefore, is a delicate balance between: a) recognizing the independent nature of the judicial decisions themselves, b) evaluating the factors magistrates considered, and the resources they used, in making their decisions, and c) and the judgment they exercised. Providing feedback and coaching to an independent judicial officer requires subject matter expertise, an understanding of the magistrate role, and communication skills to provide meaningful and appropriate performance feedback. The following questions are ranked in ascending order of aggregate agreement.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)		
	Aggregate	Ch. M.	Mags.
92. The chief magistrate focuses upon such activities as performance feedback, educational opportunities, and learning experiences that will continuously enhance magistrates’ professional skills and abilities.	55.4%	92.0%	51.8%
91. Training provided by the chief magistrate is relevant to issues and problems magistrates routinely address.	62.1%	88.0%	59.6%
82. Following my initial appointment, the on the job training was helpful in my understanding my job responsibilities.	83.6%	80.0%	83.9%
106. I am able to spend a sufficient amount of time training magistrates in my judicial district.	n/a	56.0%	n/a

Although chief magistrates believe they provide effective learning experiences throughout magistrates' careers, less than 60% of the magistrates themselves agree. Interestingly, only a little over half of the chief magistrates believe they have sufficient time for training.

Approximately 80% of both magistrates and chief magistrates viewed the chief magistrates' training immediately following employment as beneficial.

B. Focus Group Comments

Focus group comments highlight the barriers to training indicated by chief magistrates. Some stated that many chief magistrates do not conduct effective on-the-job training for new magistrates, or do not conduct it at all. Others cited chief magistrate's numerous administrative responsibilities as hindrances to proper training. Routine, daily communications between chief magistrates and magistrates were also problematic. Insufficient feedback from chief magistrates causes performance problems for magistrates.

INSTITUTIONAL TRAINING

A. Survey Results

The following questions were directed only to magistrates and chief magistrates to evaluate the effectiveness of institutional training provided both at the beginning and throughout magistrates' careers.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)		
	Aggregate	Ch. M.	Mags.
94. Tests should be administered at the conclusion of the CLE to ensure that teaching points have been understood.	18.9%	24.0%	18.4%
95. Overall, post-probationary magistrates receive sufficient training to prepare them to discharge their professional responsibilities.	68.6%	88.0%	66.7%
93. The CLE requirement is an effective mechanism for keeping magistrates up to date on changes in law and procedure.	77.9%	84.0%	77.3%
81. Following my initial appointment, the Magistrate Manual training was clear, thorough, and helpful.	81.4%	80.0%	81.6%
83. The certification training provided by the Office of the Executive Secretary of the Supreme Court was clear, thorough, and helpful.	81.4%	76.0%	82.0%

These responses indicate that the most helpful institutional training provided is the certification program following employment. While approximately 78% of magistrates and chief magistrates believe the CLE programs are effective in keeping magistrates up to date, less than 70% felt that post-probationary magistrates receive sufficient training to discharge their responsibilities. Hardly anyone believed that testing following the CLE programs is a good idea.

B. Focus Group Comments

Focus group discussion centered on the certification class. The consensus was that too much material is covered in the one-week class. Many felt that training requirements are woefully inadequate. Yet, it seems that about as much training as the system can bear for a magistrate to receive is two weeks. After that, other magistrates, whether seasoned or not, have to fill in due to staff shortages. New magistrates are put on the spot to do the job without proper training. The effect is that bad practices get passed down through inexperience and some behaviors simply get institutionalized. Lack of training and continuing education, both for relatively new and seasoned magistrates, are reasons they make the wrong decisions. Inexperienced magistrates, or those who seem to issue in response to most requests, may be sought out.

JOB RESOURCES

A. Survey Results

In addition to formal and informal training programs, do magistrates have access to other resources to enable proper execution of their responsibilities?

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)		
	Aggregate	Ch. M.	Mags.
88. Magistrates have sufficient access to information that is useful in making determinations regarding requests for service by law enforcement officials, the accused, and the general public (e.g. public records such as court or DMV records).	78.6%	88.0%	77.6%
89. Overall, magistrates have sufficient resources to carry out their duties.	81.8%	92.0%	80.8%
86. The Magistrate Manual provides useful guidance for daily office operations.	87.9%	92.0%	87.5%
87. Magistrates have sufficient resources for making good decisions (e.g. Code of Virginia, Magistrate Manual).	91.4%	96.0%	91.0%

The most positive responses at over 90% agreement were that such resources as the Code of Virginia and the Magistrate Manual are sufficient for magistrates’ making good decisions. Close behind at approximately 88% agreement was that the Magistrate Manual is useful in daily operations. They see their current access to resources and relevant public information as being generally sufficient.

B. Focus Group Comments

While it is seen as a beneficial resource, the Magistrate Manual is too voluminous to use as a teaching aid. It is not organized into lesson plans or manageable teaching segments. Others felt that magistrate technical assistants from the Office of the Executive Secretary need to be available at all times, including evenings and weekends. Magistrates are having difficulty contacting them when they have questions.

COMMENTARY

Magistrate competence is a product of many factors, particularly the capabilities they bring with them to the system, the training they receive from chief magistrates and through formal programs, and their job resources. Attention is needed both immediately following employment to ensure that magistrates possess the requisite competencies to exercise their judicial functions and also throughout their careers.

Determining whether the requisite statutory elements are satisfied to justify issuing a warrant or related process may require a more sophisticated analysis, especially in those cases where the evidence presented does not squarely fit a prescribed statutory violation. As indicated in Chapter IV, **Magistrate Competence**, only approximately 70% of the respondents (who were all within the system) agreed that magistrates satisfactorily apply problem solving and analytical thinking during hearings; judges agreement rate was less than 50%. Not only does the professional development program need to address “nuts and bolts” education, such as the pre-trial seizures and child access issues identified through the survey, it should also provide opportunities for analytical development.

Venture teams offered numerous suggestions of how to expand magistrate educational opportunities and resources, as well as regarding the subject matter that should be covered. In summary, their theme was *intensive training*.

APPLICATION OF PREVIOUS COMMITTEE ON DISTRICT COURTS’ RECOMMENDATIONS

The effectiveness of education and professional development programs are intertwined with other aspects of the magistrate system, and previous recommendations will have an impact upon potential solutions.

A. Community Presence

With chief magistrates developing a more pro-active presence in the community, they will become more acquainted with local resources and become able to tap them for relevant topical issues.

B. Complaint Process for Administrative Issues

A credible process can serve as an incentive for magistrates to obtain the training they need so that they present themselves in a professional and competent manner and do not provoke the filing of complaints.

C. Magistrate Procedures

As a basic step, magistrates should have all relevant and appropriate resources at their disposal as they conduct hearings and make their decisions. By building upon an expanded community presence, magistrates should be able to draw upon existing community services so that they have as much information as is appropriately available when needed, such as for bond decisions. Establishing additional resources, such as reference checklists, will assist magistrates as they have questions with processes they may handle infrequently as well as ensure that all appropriate criteria have been evaluated.

D. A Manageable System: Institute Video Conferencing, Eliminate On-Call, Full-Time Employment, Sufficient Personnel Resources

The use of video conferencing and the expanded use of technology will provide a link among magistrates so that training sessions can be held simultaneously throughout the district. Training materials can be downloaded to personal computers within each district so that they are continuously available to all magistrates. Eliminating part-time magistrates in favor of full-time employment will mean that magistrates can avail themselves of training opportunities without interference from other primary employment. The staffing formula considers the training time needed both immediately following employment and throughout employment. Proper staffing levels should reduce the tension between providing magistrate services and obtaining training.

Technology should be maximized in any way possible, including for administrative actions such as data retrieval and quality control. Ideally, all magistrate offices and courts should be linked with compatible systems. Consideration should be given to magistrates having the resources to routinely access Virginia Criminal Information Network (VCIN) to run prior records checks as part of bonding decisions.

CONSIDERATION OF INTENSIVE TRAINING AND EXPANDED DELIVERY SYSTEMS

The following description of options to address education and professional development issues incorporates suggestions generated throughout the study. Committee on District Courts' recommendations to the General Assembly are provided following the discussion.

Some suggestions, such as surveying magistrate job content and basing training programs on this job content, have already been completed. The long-term curriculum currently in place for magistrates and chief magistrates addresses many concerns raised throughout this study, such as intercultural communication, domestic violence issues, technology literacy, professional ethics, listening skills, how to manage hearings, communicating unpopular decisions along with appropriate reasons, and stress management. Styles of communication are also important, including the ability to be technically correct and also understandable to the person who is not legally trained. CLE requirements should be retained, customer service should be emphasized, and management training should be expanded for chief magistrates. All programs should be continuously refined in order to ensure that magistrates maintain competence in their core functional areas throughout their careers.

Chief magistrates and magistrate supervising authorities should also expand their local training programs and staff meetings to enhance magistrate skills and should themselves receive additional management training to continuously upgrade their skills.

The system's managers need specific competencies manage effectively. Leadership and management development programs should be provided by the magistrate system itself. In addition, individual managers should be held accountable for enhancing their own abilities.

As the Office of the Executive Secretary and chief magistrates institute more widespread use of technology for service delivery, its ability to improve delivery of educational and training programs should also be exploited. New and enhanced programs and delivery vehicles are currently being considered within the Office of the Executive Secretary, and this process should continue.

1. Options

One option is to increase the probationary period during which magistrates attend an expanded certification program and pass an examination. Immediately upon employment, magistrates would be enrolled in the program and released to perform magistrate functions only following successfully passing the certification examination. The certification program can be followed by at least one month of the chief magistrate's coaching the new magistrate through on-the-job training and observing the new magistrate's conduct of hearings and analysis of issues presented. Finally, the chief magistrate should perform monthly performance evaluations for the duration of the probationary period. Continuing magistrates should also receive the benefit of taking the expanded certification course although they may not need as extensive a program. A bonus could be provided to continuing magistrates for successfully completing the program and passing the examination.

A more formal process to assess fitness for re-appointment to successive terms was suggested consisting of a re-certification program to be developed by the Office of the Executive Secretary. In addition to such components as reviews of performance evaluations during the current term, CLE coursework completed, and any complaints filed during the term, magistrates and chief magistrates could be required to pass re-certification examinations.

2. Committee on District Courts' Recommendations

While the probationary period should remain at six months, an expanded certification program of nine weeks to include certification testing should be developed for new magistrates. Included is an additional week of management training for both new and current chief magistrates. Estimated one-time costs for the first year are \$228,000 (for the 43 new magistrates recommended in Chapter III, **Magistrate Services**) with continuing annual costs of \$897,000 due to turnover. The curriculum and cost calculations are available in Appendix 14.

While continuing the existing CLE programs as well as oversight and training provided by chief magistrates and magistrate supervising authorities, tentative support was provided to a re-certification program outlining criteria for re-appointment to new terms. Final action should be dependent upon the specific requirements of the program.

VI. RECRUITMENT AND SELECTION

DESCRIPTION OF THE ISSUE

As noted previously, the ability and character of the men and women of the judicial system who interpret and apply the laws directly affect the administration of justice. This is as true for magistrates, as independent judicial officers, as it is for judges. Therefore, an appraisal of the magistrate system must include an assessment of the policies, practices and procedures that result in the magistrate work force in place today.

Ensuring the recruitment and selection of well-qualified magistrates becomes more important when considered in light of the independent nature of the judicial role. Substantive decisions of magistrates in individual cases are not reviewed as a function of supervision.

Unlike the election of judges by a separate branch of government or the direct election of circuit court clerks by locality, the selection and employment of magistrates has characteristics similar to a typical employment process: advertising an opening, review of applications, interviewing, and the managerial choice of the successful candidate. These typical employment practices contrast with the distinctive characteristics of the employment process for magistrates: there are statutorily defined requirements for the process; a judicial officer is responsible for the selection process; and the successful candidate will both be supervised by a judicial officer and will operate as an independent judicial officer. It is against the backdrop of this unique employment process that an assessment of the entire recruitment and selection process for magistrates must take place.

CURRENT RECRUITMENT AND SELECTION PRACTICES

A. Relevant Statutory Considerations

The process for the selection of magistrates is not simply a product of the administrative choices of the hiring and supporting entities. Statutory requirements also shape the policies and procedures that guide the selection process. A detailed assessment, therefore, should begin with a review of both of these considerations.

As the magistrate system is a creature of statute, the Code of Virginia sets out certain criteria that shape the selection process, both as to how that process must work and necessary qualifications.

Magistrates are appointed to serve in one of the 32 judicial districts in Virginia. That appointment is made by the chief circuit judge whose jurisdiction encompasses the district for which the magistrate is to be appointed. Va. Code § 19.2-35. The chief circuit judge also has “full supervisory authority” over the magistrates in the jurisdiction, although that authority may be delegated to the chief general district court judge. *Id.* That delegation comprises only the authority to supervise, not the authority to appoint. The authority — indeed, the responsibility — to appoint a magistrate remains with the chief circuit judge.

The chief circuit judge may also appoint a chief magistrate for the district. Va. Code § 19.2-36. While the statutory language is permissive, chief circuit judges have uniformly exercised that authority, so that, in fact, each district does have a chief magistrate. 2002 Virginia State of the Judiciary Report, p. A-137. The chief magistrate is appointed for the purpose of maintaining the proper schedules, assisting in the training of the magistrates within such judicial district and to be responsible to the chief circuit judge for the conduct of the magistrates and to further assist the chief circuit judge in the operation of the magistrate system. Va. Code § 19.2-36. Therefore, there is a statutory basis for the chief magistrate to play a role in the selection process for magistrates, should the chief circuit judge call for such assistance.⁶

B. Current Policies and Recommended Practices

Although not set by statute, the recruitment process for magistrate positions is shaped by policies and recommended practices created respectively by both the Committee on District Courts, the body statutorily charged with establishing the policy and administrative framework of the magistrate system, and the Office of the Executive Secretary of the Supreme Court of Virginia, the administrative office of the court system.

Many recruitment procedures have been established in order to achieve specific objectives. As an example, vacancies should be advertised in order to invite application from all interested and qualified persons, both within and outside the system. In order to advance within the system, current magistrates must know where opportunities are and evaluate their interest in them. In order to be an open and vibrant system, both the institutional knowledge of current personnel and the infusion of experience outside the system are needed. Other procedures have been established to incorporate generally recognized best practices into the court system's recruitment and selection process.

The recruitment and selection process contains both centralized and decentralized functions.

1. Centralized Role

Centralized responsibilities for the magistrate system are those which can best be performed using efficiencies associated with the start-up and administration of processes on behalf of a large and widely dispersed user group. They are generally the responsibility of the Office of the Executive Secretary under the direction of the Committee on District Courts. As with many specialties, development of policies and procedures is most efficiently performed by persons with subject-matter expertise instead of on an ad hoc basis by appointing authorities as vacancies occur. Therefore, deviations from established procedures should occur only for important and clearly articulated business reasons. Office of the Executive Secretary products and services most directly supporting the magistrate recruitment and selection process are the PERSONNEL

⁶ The Office of the Executive Secretary has developed a job description for the chief magistrate position, Appendix 11, as a part of the PERSONNEL POLICY MANUAL. That job description includes "interviewing applicants and making personnel recommendations to the appointing authorities" as one of the responsibilities of the chief magistrate. The PERSONNEL POLICY MANUAL was developed at the behest of the Committee on District Courts, the statutory body vested with a number of policy development and oversight responsibilities towards the district court system and the magistrate system. Va. Code § 16.1-69.33. The Committee on District Courts has approved the PERSONNEL POLICY MANUAL itself.

POLICY MANUAL, the *Judicial Branch Recruitment Register*, and ad hoc management support provided upon request.

a. PERSONNEL POLICY MANUAL

The PERSONNEL POLICY MANUAL outlines recruitment and selection policies and procedures. These policies and procedures consider relevant federal and state laws, as well as best practices, and specify the framework to be used throughout the state. This manual, including its management guidelines, is the primary resource for chief magistrates when filling vacant magistrate positions. It provides not only the relevant policies but also, through management guidelines, provides information about how to implement the policies. As an example, the guidelines include sample advertisements, applicant screening checklists, formats for conducting interviews as well as potential questions, and resources for conducting background checks. In addition, the management guidelines describe common mistakes and contain suggestions about how to obtain appropriate information in a lawful manner.

b. *Judicial Branch Recruitment Register*

The *Judicial Branch Recruitment Register* is the system's resource for widespread publication of vacancies. It is continuously updated and posted on the court system's Internet, www.courts.state.va.us. It is also posted on the Commonwealth of Virginia's recruitment web page, <http://www.vec.state.va.us/vecportal/seeker/listing.cfm>, so that individuals inquiring about employment opportunities in Virginia using this source have access to magistrate openings. On a semi-monthly basis, it is circulated (both electronically and by paper) to over 100 recruitment sources within Virginia, including placement services and colleges and universities throughout the state. To encourage advancement within the system, it is e-mailed to chief magistrates, magistrates and district court clerks for posting in their offices.

c. Management Support

Also falling under this centralized umbrella, the Office of the Executive Secretary is a resource to chief magistrates and appointing authorities when they request assistance with the process. This assistance encompasses a full range of services. At one end of the spectrum is simply providing more in-depth information in response to specific questions; at the other end is actually conducting the entire recruitment process, limited primarily to chief magistrates, on behalf of the appointing authority.

2. Decentralized Role

While under uniform statewide policies and administration, magistrate system operation is local. Magistrate services in any locality follow statewide policies and procedures but are governed by the needs, values, and customs of that locality. Membership in the community is of value in judicial administration; therefore, magistrates (as well as district and circuit court judges) must be residents of the district they are appointed to serve. In 1999, the Code of Virginia was revised to expand recruitment capabilities to permit magistrates to be residents of adjoining districts. To the extent possible, knowledge of a community's local culture as well as the

individuals within a locality is relevant in making certain judicial decisions, such as when evaluating the individual’s probability of flight in bail determinations. Filling vacancies as they occur throughout the state is therefore decentralized due in some degree to the desirability of familiarity with the community and the wide variation in working schedules and types of offices served.

As magistrate vacancies occur, chief magistrates typically conduct the entire recruitment effort, beginning with publicizing the vacancy. The chief magistrate is required to advertise through the local newspaper and may use the *Judicial Branch Recruitment Register* as well as other relevant local resources to invite application. As an example, the chief magistrate may contact community colleges or universities in the area to attract their graduates to magistrate employment opportunities. Chief magistrates also typically evaluate applications, conduct interviews and background checks, and finally develop and present appointment recommendations to the chief circuit judge. Following employment, chief magistrates are responsible for orienting, training, evaluating performance, and coaching the new magistrates.

Although the vast majority of vacancies are for magistrate positions, as chief magistrates leave the system the supervising judge is responsible for conducting these same steps to employ replacements.

RESEARCH RESULTS

In evaluating the effectiveness of the selection process, the first examination is of the end result. Does the process result in well-qualified magistrates?

The survey used to obtain feedback about magistrate system effectiveness posed several questions addressing recruitment and selection to all survey participants. One question, however, requested an *overall*, or summary, assessment, and it will be the initial focus.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)		
	Total Agree	Neither Agree nor Disagree	Total Disagree
35. Overall, the recruitment and selection process results in well-qualified magistrates.	45.3%	34.1%	15.6%

The results of this question are extremely disappointing with only 45% of the respondents agreeing with the desired standard. As has been the pattern throughout the survey, the disagreement rate does not match the strength with which the respondents failed to agree with the statement. In other words, one would expect a disagreement rate of approximately 55%, yet only 15.6% disagreed. Instead, 34.1% expressed that they *Neither Agreed Nor Disagreed* with the statement, and an additional 5% simply did not respond to the question at all. Therefore, another interpretation of these results would be to classify the responses as ambiguous.

ANALYSIS OF SUMMARY ISSUES

A. Survey Results – Agreement Rates

The analysis expands into additional questions that provide perspective on the *overall* result. The following table ranks the questions in ascending order of aggregate agreement.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
34. The recruitment and selection process is fair.	42.6%	23.6%	26.2%	14.8%	43.3%	38.1%	45.3%	37.0%
33. The magistrate workforce is sufficiently diverse.	50.2%	34.0%	48.0%	27.2%	51.1%	48.5%	56.2%	35.7%
32. Magistrate vacancies are open to all candidates.	52.7%	31.1%	35.8%	27.2%	53.2%	54.6%	54.0%	51.8%
35. Overall, the recruitment and selection process results in well-qualified magistrates.	45.3%	26.4%	32.8%	25.9%	46.0%	43.3%	47.8%	40.0%

**All Other Races/Ethnic Groups*

Aggregate agreement rates in all categories are so low that the system is not seen as soundly meeting any of the recruitment and selection standards. Even the survey question *Magistrate vacancies are open to all candidates*, which received the most favorable response, had an agreement rate of only 52.7%. All magistrate system user communities viewed the greatest problem in this area as the fairness of the recruitment and selection process.

There is not great disparity in the way white respondents and members of races and ethnic groups other than white view selection. While disparity is not great in the way males and females see the system, females see it less favorably than males, except that in diversity the disparity is significant. Also continuing is the trend in which attorneys and advocacy group rates of agreement are much lower than the aggregate

B. Survey Results – Disagreement Rates

With such low rates of agreement, rates of disagreement received further evaluation. Rates of disagreement are ranked in *descending* order of aggregate *disagreement* to identify the most significant problems.

Rates of *Disagreement* (Disagreed or Strongly Disagreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	White	All Others*	Male	Female
33. The magistrate workforce is sufficiently diverse.	11.9%	16.0%	10.3%	29.6%	11.0%	20.6%	9.2%	19.0%
34. The recruitment and selection process is fair.	7.9%	12.2%	6.6%	4.9%	7.1%	13.4%	7.1%	9.5%
32. Magistrate vacancies are open to all candidates.	7.5%	13.2%	8.1%	6.2%	6.9%	13.4%	7.5%	7.9%
35. Overall, the recruitment and selection process results in well-qualified magistrates.	15.6%	28.3%	15.9%	17.3%	15.8%	15.5%	15.0%	17.7%

*All Other Races/Ethnic Groups

When looking at the responses for individual groups, all responses mirrored the aggregate for the *overall* question, with the exception of attorneys. Their views were much more definitive. Their agreement rate was only 26.4% and their disagreement rate was 28.3%, almost twice as high as the aggregate disagreement rate. Interestingly though, 41.5% of attorneys chose *Neither Agreed Nor Disagreed* with the statement.

For the remaining three statements, the aggregate disagreement rate continues the trend of failing to match the strength of the low agreement rates. Similarly, between 47% and 61% *Neither Agreed Nor Disagreed*.

While the disagreement rate of law enforcement generally mirrors the aggregate, the disagreement rate of attorneys is significantly higher in all aspects of recruitment. For attorneys, the main concern appears to be the inability to attract well-qualified persons to magistrate positions. For advocacy groups, the main concern appears to be insufficient diversity. Similarly, races and ethnic groups other than white and females expressed disagreement that the system is sufficiently diverse at rates approximately twice as high as white and male respondents, respectively.

CHIEF MAGISTRATES, JUDGES, MAGISTRATES, DISTRICT CLERKS EVALUATIONS

A. Survey Results

These responses cause speculation about how those who conduct the recruitment see the process and its results, as well as how those within the system who have closest contact with it see the process. The data do not separate out chief judges or magistrate supervising authorities. Over the years, many circuit and general district court judges have had the opportunity to serve in this latter capacity, although no juvenile and domestic relations district court judges have. Chief magistrates' responses are the views of those who actually conduct the recruitment and selection process, although the extent of their involvement varies with the management style of their supervising judges.

For ease of comparison, questions are presented in numeric order with the summary question last.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Ch. M.	Judges	Mags.	Dist. Clk.
32. Magistrate vacancies are open to all candidates.	52.7%	96.0%	68.0%	74.5%	53.7%
33. The magistrate workforce is sufficiently diverse.	50.2%	72.0%	55.8%	73.7%	33.1%
34. The recruitment and selection process is fair.	42.6%	76.0%	61.0%	65.1%	33.1%
35. Overall, the recruitment and selection process results in well-qualified magistrates.	45.3%	76.0%	65.1%	63.1%	34.7%

Interestingly, even for those within the system, including chief magistrates who are charged with conducting recruitment efforts, agreement rates are generally less than 80%. Chief magistrates' agreement rate was high at 96% for only the one question of whether vacancies are open to all candidates.

Rates of Disagreement (Disagreed or Strongly Disagreed)

Survey Question	Aggregate	Ch. M.	Judges	Mags.	Dist. Clk.
32. Magistrate vacancies are open to all candidates.	7.5%	0.00%	2.9%	10.2%	4.1%
33. The magistrate workforce is sufficiently diverse.	11.9%	8.0%	14.0%	7.8%	9.9%
34. The recruitment and selection process is fair.	7.9%	8.0%	2.9%	11.8%	7.4%
35. Overall, the recruitment and selection process results in well-qualified magistrates.	15.6%	0.00%	11.0%	13.3%	16.5%

Neither Agreed nor Disagreed

Survey Question	Aggregate	Ch. M.	Judges	Mags.	Dist. Clk.
32. Magistrate vacancies are open to all candidates.	35.1%	4.0%	26.2%	14.1%	35.5%
33. The magistrate workforce is sufficiently diverse.	33.8%	16.0%	27.9%	16.9%	49.6%
34. The recruitment and selection process is fair.	44.3%	16.0%	31.4%	22.0%	51.2%
35. Overall, the recruitment and selection process results in well-qualified magistrates.	34.1%	20.0%	20.9%	20.8%	42.1%

Those within the system reflect the pattern of the aggregate with relatively low disagreement rates. District court clerks expressed the highest disagreement rate of 16.5% with the statement that the process results in well-qualified magistrates. Significant percentages chose *Neither Agree nor Disagree*.

B. Focus Group Comments

Several focus group participants felt there should be more cultural diversity among magistrates. Others said that magistrate positions do not appear to be adequately advertised, resulting in failing to attract the best candidates. The perception is widespread that judges and chief magistrates have already determined the individuals who should fill vacant magistrate positions, including through nepotism. Even when advertised, therefore, many are reluctant to apply so that they do not jeopardize their current employment. Further, there are differing interpretations of whether an individual's qualifications meet the requirement for a bachelor's degree or equivalent, resulting in differing levels of ability among magistrates. Some chief magistrates may feel that two to four years of law enforcement experience is equivalent to a bachelor's degree, while others do not. These discrepancies result in a process that inconsistently and unfairly assesses employment backgrounds.

UNDERLYING CAUSES OF RECRUITMENT AND SELECTION PROBLEMS

The next steps examine possible reasons for these results. The first reviews are of the means taken to publicize employment opportunities and of the tools used to distinguish applicant qualifications. The final evaluation will be of those factors that attract application for positions.

A. Publicizing Vacancies

The following survey questions were addressed to chief magistrates and look at their advertisement practices.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)
	Chief Magistrates
116.f. When filling magistrate vacancies in your district, the following steps are consistently taken: Use the Virginia Employment Commission	32.0%
116.a. When filling magistrate vacancies in your district, the following steps are consistently taken: Advertise the position and necessary qualifications in a local newspaper	76.0%

Chief magistrates seldom use the Virginia Employment Commission (VEC) in their recruitment efforts, and only 32% of the chief magistrates responding to this survey consistently advertise vacancies. Anecdotal information is that VEC services vary around the state depending on a number of factors, including location of VEC offices and their staffing levels. Further, listing the vacancy with the Office of the Executive Secretary Judicial Branch Recruitment Register automatically registers it with the VEC through electronic connection. Of greater concern is that only 76% consistently advertise in local newspapers even though advertisement is required by policy.

B. Selection Methods

Other areas of evaluation are to what extent chief magistrates are involved in the process, what procedural steps they use, and how effective those steps are.

Rates of Agreement
(Agreed or Strongly Agreed)

Survey Question	Chief Magistrates
115. I am very involved in the magistrate recruitment and selection process in this district.	76.0%
116.b. When filling magistrate vacancies in your district, the following steps are consistently taken: Screen applicants to determine whether they meet minimum qualifications.	80.0%
116.c. When filling magistrate vacancies in your district, the following steps are consistently taken: Use interview questions that focus on position responsibilities and applicant qualifications.	80.0%
116.d. When filling magistrate vacancies in your district, the following steps are consistently taken: Obtain and check employment references.	72.0%
116.e. When filling magistrate vacancies in your district, the following steps are consistently taken: Investigate criminal history.	76.0%
118. Overall, the procedures and mechanisms currently used to recruit and select magistrates are sufficient to employ a high performance work force.	58.3%

Most chief magistrates are involved in the recruitment and selection process in their districts, and most use the procedural tools recommended for the recruitment process; however, these tools and the process are not seen as being sufficient to employ a high performance work force.

C. Focus Group Comments

Many focus group participants believed that chief magistrates and judges were selected due to their substantive knowledge, not their management skills. Lack of ability in recruitment, screening, interviewing, negatively affects the caliber of those recommended to judges and selected for magistrates. Additionally, the lack of sufficient personnel affects the selection process and ultimate decision. There is an urgency to fill a vacancy because of the pressure on remaining magistrates to cover for the vacancy, so the appointing authority may not always take the time to select the best person for the job.

APPEAL OF POSITION

A. Compensation, Part-Time On-Call Nature, Qualifications

Other questions were addressed to both chief magistrates and magistrates to evaluate the appeal of the position. Factors that have significant influence on the size of the applicant pool are the compensation package, the part-time on-call nature of many magistrate positions, and qualifications.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)	
	Chief Magistrates	Magistrates
<u>Compensation</u>		
117.a. The following have not limited or restricted my ability to hire magistrates for vacant positions: State salary levels.	12.5%	n/a
69.a. The following characteristics attract and retain well-qualified persons to the magistrate system: Salary	24.0%	13.7%
69.b. The following characteristics attract and retain well-qualified persons to the magistrate system: Benefits	76.0%	49.8%
<u>Part-Time On-Call Nature</u>		
117.d. The following have not limited or restricted my ability to hire magistrates for vacant positions: The on-call nature of the position.	25.0%	n/a
117.c. The following have not limited or restricted my ability to hire magistrates for vacant positions: The part-time nature of the position.	35.7%	n/a
73. Being on-call and responding within 20 minutes of being called for service offers more advantages than disadvantages.	12.0%	19.2%
72. The flexibility of a part-time magistrate's position is beneficial in attracting well-qualified persons.	16.0%	22.7%
<u>Qualifications</u>		
117.b. The following have not limited or restricted my ability to hire magistrates for vacant positions: The requirement for newly appointed magistrates to have a bachelor's degree or equivalent experience	45.8%	n/a

Rather than attracting applicants, magistrate system salaries hinder the system's recruitment ability. Normally a desired goal is that salary levels actually enhance the employer's ability to hire personnel. The standard for the magistrate system, however, is not so high. As indicated in survey question 117.a, the desired goal is simply that salary levels do not restrict the ability to hire magistrates. Only 12.5% of the responding chief magistrates agree that this objective is met.

Similarly, another desired goal is that working conditions, like salary, would enhance the ability to hire personnel. As indicated in survey questions 117.c and d, the desired goal is simply that the part-time and on-call aspects do not restrict the ability to hire magistrates. Fewer than 38% of the responding chief magistrates agree that this objective is met.

Finally, a desired goal is that qualifications for the position also enhance the ability to hire personnel. As indicated in survey question 117.b, the desired goal is simply that the bachelor's degree requirement (or equivalent experience) does not restrict the ability to hire magistrates. Fewer than 46% of the responding chief magistrates agree that this objective is met.

B. Intangible Factors

Other factors that may attract persons to magistrate system employment are intangible and relate both to the job content and characteristics of the position. The following questions are ranked by Magistrates' agreement rate presenting those attributes that are most appealing to current personnel.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)	
	Chief Magistrates	Magistrates
69. The following characteristics attract and retain well-qualified persons to the magistrate system:		
f. Intellectual challenge of responsibilities.	84.0%	83.1%
h. Importance of decisions.	80.0%	82.4%
k. Contribution to social good.	64.0%	78.0%
d. Uniqueness of position.	72.0%	74.1%
g. Autonomy of decisions.	80.0%	72.9%
e. Quasi-judicial role.	72.0%	69.0%
c. Working with Virginia law and legal issues.	68.0%	67.5%
i. Authority of position.	80.0%	65.9%
j. Status in community.	48.0%	52.2%
l. Camaraderie and collegiality with other magistrates	52.0%	48.2%

The most appealing of these ten factors of magistrate system employment are the *intellectual challenge* and *importance of the decisions*. *Contribution to social good* ranked third to magistrates and eighth to chief magistrates. Interestingly, however, none of the ten factors described in the survey drew an exceptionally high agreement rate.

Of least appeal to both chief magistrates and magistrates was *collegiality with other magistrates* and *status in the community*.

C. Schedule, Coverage for Absences

It may be possible to deduce the reputation magistrate system employment enjoys in the community by the responses of the magistrates themselves. To some extent the opinions of magistrates about their working conditions become known in the community and most likely influence the desirability of the position. The following questions solicit these opinions and enable some inference as to the impact of working conditions on the size of the applicant pool.

They are ranked by Magistrates' agreement rate presenting the most positive attributes first.

Rates of Agreement
(Agreed or Strongly Agreed)

Survey Question	Chief Magistrates	Magistrates
74. Coverage for planned magistrate leave is appropriately addressed through scheduling.	88.0%	54.5%
76. Coverage for unplanned magistrate leave is appropriately addressed through schedule adjustments.	88.0%	50.2%
75. Coverage for planned magistrate leave is provided without undue burden on other magistrates.	60.0%	38.4%
77. Coverage for unplanned magistrate leave is provided without undue burden on other magistrates.	52.0%	29.4%
71. Working day, evening, midnight, and week-end shifts offers more advantages than disadvantages.	16.0%	20.8%

Unfortunately, less than 55% of the magistrates view any aspect of scheduling issues positively. Chief magistrates have positive opinions of their ability to cover planned absences. On the other hand, they have quite unfavorable view of the ability to cover unplanned absences and the shift work aspects of the system.

The need to provide 24-hour per day services translates to shift work. The unique nature of the position means that only other magistrates can provide *fill-in* coverage during absences. This aspect together with the small cadre of magistrates in any individual locality govern coverage when magistrates take vacation or other types of leave.

D. A Good Place to Work

The following questions seek a general appraisal of whether the magistrate system is perceived as a good place to work. These responses incorporate the aspects of employment described previously as well as any others of importance to current personnel.

Rates of Agreement
(Agreed or Strongly Agreed)

Survey Question	Chief Magistrates	Magistrates
78. Morale is good.	76.0%	42.0%
79. Overall, the magistrate system is a good place to work.	84.0%	64.7%

Magistrates' rates of agreement with the conditions described in the statements are significantly less than those of chief magistrates. Only four out of ten magistrates have good morale. Fewer than 65% feel the system is a good place to work. Although chief magistrates are more satisfied with system employment, they acknowledge the morale issues.

As was the case for other intangible factors, these less than desirable results enable one to infer that the community may not see the magistrate system as one of the better employers in the area. The subtle influences of reputation, along with the objective measure of the competitiveness of the compensation package, drive the system's ability to attract and to employ well-qualified magistrates.

E. Focus Group Comments

Focus group participants stated that salaries are too low to attract and retain magistrates, particularly for part-time positions, and magistrates need another source of income. Applicants perceive Class I through IV magistrate positions, generally part-time on-call positions, as simply a second job. Thus, the system was seen to favor retirees who have a retirement benefit to supplement the magistrate salary. Because experienced magistrates have not received performance increases for a number of years, their salaries are very close to newly hired magistrates, which creates morale issues. Without performance or some other type of recognition increases, there is no incentive to improve or to stay with the system. There are no incentives to improve academically, such as to obtain an advanced degree.

Focus group members voiced the expectation that an on-call magistrate will respond within 20 minutes is unrealistic. Some magistrates apparently believe that there is no incentive for magistrates to respond in the middle of the night, and the after hours on-call creates high turnover.

COMMENTARY

The research process and resulting data identified at least one question without an answer. In examining ten characteristics of the position and their ability to draw persons to the system, none received a more favorable rating than 84%. None stood out as a definitive reason to seek out magistrate employment. Does these results mean that the reason(s) for seeking out magistrate employment have simply not been articulated? Or, does it mean that magistrate positions have no overarching enticement, so that the attraction to magistrate employment is the same as for any other administrative office job? The answer to these questions influences the approaches chosen as solutions to the recruitment and selection problems identified. Information resulting from this research leads toward the conclusion that there is no perceived special attraction and that magistrate employment is in the same arena as other conventional employment.

The first opportunity to create a competent and diverse magistrate workforce that delivers satisfactory services is with recruitment of well-qualified personnel. Fewer than half of the survey respondents believed the system meets this goal, and this sentiment was echoed in the focus groups, with significant commentary concerning the lack of visibility of employment opportunities in the system.

Does the system's management share the same view as those outside the system? Survey results show that although chief magistrates evaluations are generally more positive in this area than other groups, chief magistrates do recognize these issues. Judges, whose attitudes in this regard are generally more favorable than the attitudes of those outside the system, still recognize serious problems with this aspect of the system. If the system's leaders recognize these problems, why have corrective actions not been taken? One possible explanation, which emerges from this analysis, is that the system itself is not readily managed. Complex administrative issues, combined with the independent nature of the magistrate role, are in the hands of supervising judges who already have

full-time judicial responsibilities. Perhaps solutions appear to be so multifaceted that realistic corrective actions just do not become apparent. So few of the underlying causes are discrete; very frequently they have a rippling effect to other related issues.

The effectiveness of the process in hiring well-qualified persons rests in large part upon the skill of the persons conducting the process. Recruitment is decentralized and conducted on an ad hoc basis and often under hurried conditions. Not only has training in administrative responsibilities been brief for chief magistrates, they do not generally develop expertise through continuous recruitment efforts required by repeated turnover. For example, of 32 districts four employed no new magistrates during the period from July 1, 2001, through June 30, 2003.

Another issue is the time available to devote to recruitment. If the chief magistrate must make a choice between extending the recruitment process or filling the position with an individual less qualified but who can provide needed coverage, the decision may easily fall to filling the position more quickly. Delivering quality magistrate services then becomes more heavily dependent upon the effectiveness of the probationary training and continuing education programs.

In terms of selection techniques themselves, a great deal of weight is given to the interview portion of the process. While interviews are good tools, they are not the only indicators of how well applicants are prepared for the responsibilities of the position. In addition, the interview may not be the best measure of an applicant's suitability. An applicant is normally striving to portray a positive image during the interview that may not continue on the job if employed. Effective interviews require that recruiters have taken time to develop questions relevant to the magistrate position and that obtain sufficient information to evaluate applicants' experience in light of magistrate responsibilities. Often chief magistrates do not have the time to commit to this task.

Panels composed of several people are often used to conduct interviews. Using panels enables evaluation from several perspectives relevant to the position and can significantly reduce bias from any one member. However, if the panel is not trained or is not diverse, it can easily make the same errors as a chief magistrate operating alone and fail to meet the goal of employing the best-qualified individual.

Many competencies required for the magistrate position are not easily or objectively measured. Evaluating applicants' credentials and potential for success in the position is hampered by the lack of more quantitative measures or subjective tools developed specifically to evaluate certain factors. Screening criteria currently in place do not include drug testing, psychological testing to evaluate readiness for the pressures of the position, exercises to evaluate judgment, or skill testing.

Evaluating applicants' past performance and its relation to the magistrate position through employment references has become increasingly difficult. Most employers now provide only basic information, such as verification of employment, due to fear of litigation even though there is statutory protection from liability as long as the employer is not acting in bad faith. Va. Code § 8.01-46.1

In terms of results, there is always some possibility that any procedure, including a wholly localized one, may result in the appointment of friends, relatives, or colleagues, and it may appear that the appointment is not based on merit. Even if the appointment is based on the knowledge, skills, and abilities of the applicant, there may be an impression of partiality in the appointment process.

Finally there is no formal mechanism in place to evaluate the effectiveness of the recruitment process. Problems or concerns often arise only anecdotally.

APPLICATION OF PREVIOUS COMMITTEE ON DISTRICT COURTS' RECOMMENDATIONS

Many Committee on District Courts' recommendations from earlier sections serve as building blocks for potential solutions to selection issues.

A. Community Presence

Developing an enhanced presence in the community should enable chief magistrates to increase the visibility of magistrate employment opportunities and to attract persons from more widely diverse backgrounds. Generally, local agencies are willing and sometimes anxious to publicize vacancies within their networks. They have an interest in the system's hiring competent individuals and may be willing to assist with specific selection tasks, such as through participating as a member of an interview panel.

B. Clear and Accessible Information

Increasing the accessibility of information about the magistrate system should raise the system's visibility to the public in general. The quality of the information and the style of presentation can themselves influence the regard and professionalism with which the system is viewed.

C. Complaint Process for Administrative Issues

A credible complaint process will enable individuals who believe recruitment procedures have been inappropriate or discriminatory to address these concerns with management. It should enhance the accountability of managers for any use of inappropriate recruitment steps or selection criteria and thereby positively influence the public's perception of the openness and fairness of the recruitment and selection process.

D. Magistrate Physical Plants

The physical working environment has a dramatic effect upon the appeal of any position. If facilities are unsafe and unkempt, they detract from rather than contribute to the desirability of employment, and other factors are needed as an offset to attract applicants with the educational and professional qualities desired. Any improvements in the physical environs should have a positive impact on the appeal of employment in the magistrate system.

E. A Manageable System: Institute Video Conferencing, Expand Use of Technology, Eliminate On-Call, Establish Full-Time Employment, Secure Sufficient Personnel Resources

As indicated in Chapter III, **Magistrate Services**, the system's managers need a manageable system in order to be effective managers. A number of Committee on District Courts' recommendations from this section not only improve the manageability of the system, they also address significant issues related to the working conditions of magistrates and therefore the appeal of the position to potential applicants. Institution of expanded technology not only serves the purposes described for magistrate services, it will also aid in improvements for the recruitment process eventually enabling automating many of the steps. Obtaining relevant demographic and

other statistical information can become almost transparent to applying for the position. Similarly, expanding technology will invite more creative ways of conducting recruitment events and increasing visibility of magistrate system opportunities.

Working conditions associated with the part-time on-call nature of magistrate employment are extremely significant in detracting from the appeal of magistrate employment. The necessity that magistrate services be available twenty-four hours a day leads to shift work, with the concomitant drawback of rotating hours and the perceived detriment of a job that entails a non-typical schedule. In the less populous areas, the requirement of constant availability while on-call may affect engagement in other activities, yet does not promise full engagement with professional responsibilities during that period. Because these positions are usually part-time, magistrates often hold other employment. They are repeatedly called out during evening hours thereby interfering with their ability to perform their other employment responsibilities due to lack of rest. Less than 25% of both magistrates and chief magistrates thought any advantages associated with part-time on-call positions were beneficial in recruitment. Stepping down in expectations, another objective was that at least part-time on-call positions should not inhibit hiring; however, less than 25% of chief magistrates agree that this goal is met. The use of video conferencing will enable 24-hour accessibility to magistrate services and the elimination of part-time on-call employment as video conferencing is instituted. Full-time employment enables a more competitive compensation package and thereby the probability of larger applicant pools. As part-time magistrates were seen to be less competent than full-time magistrates, full-time employment should also contribute to attracting more qualified personnel. Because approximately so much of the state is now served through the part-time on-call system, replacing it should have widespread effects on the quality of magistrate recruits.

While the shift-work aspect of the system remains with its 24-hour service requirement, the Committee on District Courts' use of a formula which considers absence from the workplace in its minimum staffing criteria supports obtaining sufficient personnel and should address coverage issues during both planned and unplanned leave. A sufficient cadre of magistrates for each office should also reduce the urgency management feels in filling positions. Further back-up coverage will be available from other hub offices within the district. In addition, this formula should enable magistrates to enjoy the leave benefits associated with the position without having to feel that they must work extra as a consequence of leave.

While the chief circuit court judge is not, and cannot be, a full-time manager, the chief magistrate is a full-time manager. The development of a manageable system removes acceptable excuses for hurried or improper recruitment and enables accountability.

F. Qualifications

Survey results and focus group comments indicated that the qualifications themselves sometimes restrict the number of applicants who may be interested in magistrate opportunities and also affect the fairness with which applications are evaluated. Although the Committee on District Courts' recommendation was to continue the current education and experience requirements, it also recommended that the Office of the Executive Secretary develop more useful guidelines for evaluating equivalency of a bachelor's degree. These enhanced guidelines should contribute to a more consistent and fair screening process by chief magistrates. Another benefit may be advertisements that more clearly describe the skills and abilities sought. Use of video conferencing

and associated technology, such as personal computers and printers, requires magistrates to possess the requisite skills to operate the equipment and software applications, provide assistance to the public, resolve basic performance issues. As society becomes more technology literate, it is reasonable to expect magistrates to bring these skills with them upon employment as well as to provide continuing training to upgrade skills as technology advances.

CONSIDERATION OF ADDITIONAL OPTIONS

The ability to attract applicants is a function not only of publicizing employment opportunities but also of the appeal of the position, typically measured through pay, benefits, and working conditions. The following description of options to address recruitment and selection issues incorporates suggestions generated throughout the study. Committee on District Courts' recommendations to the General Assembly are provided following each topic.

A. An Open Recruitment Process

To attract well-qualified persons, employment opportunities within the system must be visible and the recruitment process itself must be seen as open rather than closed.

As an agent of the court system operating in a public role that is dependent upon the public trust, the composition of the magistrate workforce must be sufficiently diverse to indicate both that the position of magistrate is open to interested qualified applicants from across society and that the deliberations of magistrates are appropriately responsive to the demographic nuances of society.

The fairness of the recruitment and selection process speaks to public confidence in the magistrate system. One of the most fundamental values of the court system is fairness; therefore, perceptions of unfairness in employment of magistrates can lead to a weakening of confidence in the system as it executes its statutory functions. While consistent administration through the state does not ensure fairness, it is an important building block of fairness.

Survey responses and focus group comments indicated that advertising vacancies does not occur with consistency, leading to the perception of a closed process. In addition, venture team participants commented widely that most had never even seen advertisements for magistrate vacancies and that advertising broadly is an elementary and critical step. A review of personnel and financial records during fiscal years 2002 and 2003 shows that 110 magistrates left the system. The Office of the Executive Secretary processed payments for approximately 122 magistrate advertisements during that period at a cost of \$42,306, an average of \$347 per advertisement. This data would indicate that a significant number of vacancies are being advertised in local media; however, the advertisement may be published only once or twice. This would require persons interested in magistrate employment opportunities to review the newspapers on the dates of the advertisement; otherwise they would not see the advertisement.

While statistics are not obtained concerning the size and demographic statistics of applicant pools, the Office of the Executive Secretary receives anecdotal reports of inadequate applicant pools, or of pools with only two or three applicants, who do not meet even minimum qualifications. The most frequently reported cause is insufficient salary. This occurs primarily in rural areas for part-time on-call positions. The Office of the Executive Secretary does not generally receive this report for Magistrate VI positions. However, a review of the 2003 demographic information for

both the magistrate system workforce and newly employed magistrates in the system may be instructive.

	Workforce				New			
	White	All Others*	Male	Female	White	All Others*	Male	Female
Magistrates	89.0%	11.0%	64.6%	35.4%	85.4%	14.6%	58.5%	41.5%
Chief Magistrates	83.9%	16.1%	61.3%	38.7%	100.0%**	0.0%	100.0%**	0.0%

* All Other Races/Ethnic Groups

**Only one chief magistrate was hired during the period.

While the framework currently in place provides the foundation for sound recruitment using well-accepted policies and practices, it is a time-consuming, labor-intensive process and is added to the already full schedules of chief magistrates or supervising judges.

Decentralized recruitment takes advantage of local management’s first hand knowledge of the needs of the position and community, so local needs can be more accurately addressed and met. In addition, it permits discretion as to how extensive the recruitment process should be. Persons with the best and most pertinent information about a specific issue make decisions about those issues. If the applicant pool is either sufficient or insufficient for the needs of the position, the local manager can assess and make a good decision concerning ending or extending the recruitment period. A disadvantage, however, is that it generally requires recruitment of replacement magistrates only in response to resignations. The timing of a recruitment effort cannot be controlled; for example it will not generally coincide with college graduations. A class of new magistrates cannot be employed for initial training with subsequent placement throughout the state due to such things as budget constraints and different appointing authorities for each district. Finally, recruitment is the responsibility of supervising judges and chief magistrates, who receive only limited training in recruitment and selection.

With the Judicial Branch Recruitment Register, the magistrate system maintains some continuing visibility at colleges, universities, and other recruitment sources within the state. With both the court system’s web and the state’s recruitment web site through the Virginia Employment Commission, listings of magistrate vacancies are easily accessible from any location. However, this requires the applicant to seek out the system; there are no recruitment drives, job fairs, recruitment trips to colleges, or other such events to raise the visibility of magistrate employment opportunities. There is no requirement for local managers to use the Judicial Branch Recruitment Register, which has the most probability of publicizing the vacancy to the broadest audience. The urgency of filling the position so that the new magistrate can work needed shifts combined with the labor-intensive recruitment process produce significant pressures to complete the recruitment process as quickly as possible.

1. Options

Available options cover a broad range beginning with continuing the current centralized / decentralized roles of the Office of the Executive Secretary and local managers to instituting a heavily centralized process with referral of top candidates to local management for appointment.

The option presenting the least change is to continue the current process but to seek improvements in training and visibility of advertisements. The previous Committee on District Courts' recommendations should offer some immediate improvements. An enhanced community presence should provide a broader forum for recruitment, and sufficient staff should remove some of the pressures to fill the position immediately. These circumstances should permit an expanded time for publicizing vacancies as well as a greater time commitment from management for the selection process.

Developing a more proactive process is another option. The Office of the Executive Secretary can expand statewide recruitment sources used for the Judicial Branch Recruitment Register and evaluate ways in which to institute broader publication of employment opportunities, considering such ideas as job fairs. Chief magistrate comments were that the tools available to them in selecting the best-qualified applicants for hire are insufficient. The Office of the Executive Secretary could also explore developing selection criteria in addition to interviews to enable more refined discernment among qualified applicants.

Moving to an enhanced centralized role, the Office of the Executive Secretary could audit the local recruitment process evaluating such things as the frequency, adequacy, and breadth of advertisements; the comprehensiveness and appropriateness of interview questions; the scope of background checks; and any favoritism or nepotism perceptions resulting from the selection decision.

Still another variation in a centralized role would be for the Office of the Executive Secretary to receive and evaluate applications for magistrate positions to promote consistent standards on a statewide basis. Those who meet minimum qualifications would be placed on a certified list from which local managers would conduct interviews and make appointments.

Finally, the most centralized option would be to transfer the recruitment process to the Office of the Executive Secretary to remove such labor-intensive tasks as screening applications and interviews from local managers. Only the top candidates would be referred to local managers for selection. Much litigation stems from hiring and promotion decisions. The process is lengthy and complex, and thereby fraught with opportunities for error. Assigning the bulk of these tasks to an entity charged with conducting them on a continuing basis as its highest priority reduces the probability of errors that are natural due to inexperience in recruitment or due to hurrying the process due to workplace pressures.

2. Committee on District Courts' Recommendations

The current centralized / decentralized roles of the Office of the Executive Secretary and local managers with involvement of chief magistrates as directed by supervising judges should continue. The Office of the Executive Secretary, however, should explore methods to improve the entire recruitment and selection process, including a potential expansion of selection tools. Objective 6.4 of the **2004 – 2006 Comprehensive Plan for the Judiciary** addresses workforce

issues, including the need for an enhanced capability to broadcast and heighten visibility of employment opportunities within the magistrate system.

B. Competitive Compensation Package

Less than 25% of the survey respondents agreed that magistrate system salary levels attracts persons to magistrate system employment and then retain them, and focus group comments confirmed this perspective.

To place these views in context, the classification and pay system should be described. Magistrate classifications, excluding chief magistrates, range from I to VI. The higher the magistrate classification, the more in-office shifts the magistrate works. Magistrates VI are full-time magistrates who work only in-office shifts. Magistrates IV and V are considered full-time magistrates for benefits purposes, but will generally work from 25 – 40 hours per week on average. Their assignments are a combination of in-office and on-call shifts.

The lower the classification, the more on-call shifts the magistrate works. Some part-time magistrates (classes I, II, and III) may cover localities with a low volume by themselves primarily through on-call shifts. Others may provide time off coverage for full-time magistrates within the district.

An important feature of magistrate working conditions is the on-call nature of many positions and how it is considered for pay purposes. The pay system emphasizes the magistrates' in-office shift time (activity time). While on-call time is not considered work time, the system does offer a minimal acknowledgement of its inconveniences by converting on-call hours to full-time equivalent (FTE) hours at the rate of 31 on-call hours to 1 in-person shift hour. The combination of in-person shift and on-call shift hours determines the classification, and pay is based on classification.

Example

A magistrate may work an in-person shift from 8:00 a.m. to 4:00 p.m. on Monday and then be on-call until 8:00 a.m. Tuesday morning. The 16 on-call hours are converted to a .5 full-time equivalent (FTE) hour. When both the in-person shift hours (8 hours) and the on-call time (.5 FTE hour) are considered together, they result in 8.5 FTE work hours for that 24-hour shift.

The classifications, average weekly FTE hours anticipated by classification, and pay range for each classification follow:

Classification	Average Weekly FTE Hours	November 25, 2003 Salary Range	
		Statewide	Northern Virginia
I	Up to 8	\$5,578.60 - \$8,896.60	\$6,791.80 - \$10,826.00
II	9 – 16	\$11,157.20 - \$17,793.20	\$13,583.60 - \$21,652.00
III	17 – 24	\$16,735.80 - \$26,689.80	\$20,375.40 - \$32,478.00
IV	25 – 32	\$22,314.40 - \$35,586.40	\$27,167.20 - \$43,304.00
V	33 – 40	\$27,893.00 - \$44,483.00	\$33,959.00 - \$54,130.00
VI	35 – 45	\$30,783.00 - \$49,072.00	\$37,459.00 - \$59,711.00
Chief Magistrate		\$35,669.00 - \$56,848.00	\$43,396.00 - \$69,187.00

In summary, the on-call feature is the source of much consternation among magistrates, not only because of its inconvenience while on-call, but also because of the low acknowledgement of this inconvenience for pay purposes.

While full-time Magistrate VI positions are competitive with hearing officers in the Executive Branch of Virginia state government, the comparison does not address the difference in working conditions. Hearing officers work normal business hours, Monday through Friday, while magistrates work evenings and weekends. Further state salaries were not increased at all due to financial constraints between November 2000 and November 2003. Even if magistrates are competitive with hearing officers, state salaries typically fall behind the private sector; the three-year period without increases has simply increased the disparity.

Salary levels are also affected by whether the vacant position is full- or part-time. Keeping in mind that only 31% of the state's jurisdictions are served through a full-time magistrate's office located within the jurisdiction, perhaps one explanation for such low rates of agreement that salary is a draw to the position is that salaries are so low due to the part-time on-call nature. While statistical data is not available, anecdotal information is that recruitment difficulties occur more frequently in rural rather than urban areas. The recommendation from Chapter III, **Magistrate Services**, to eliminate the part-time on-call system as video conferencing is systematically implemented will address compensation issues by instituting full-time employment opportunities and the associated benefits package.

1. Options

State compensation philosophy has been to pay competitive wages, however, budgetary crises of the past few years have hindered meeting this goal as it relates to other comparable public and private sector employers. One option is to raise magistrate salaries so that they conform to other sector markets. Magistrate positions are unique in the state and have significant impact upon fundamental individual rights. Attracting well-qualified persons to magistrate positions is a high priority. This would mean, however, that magistrates would then be paid at higher rates than their most comparable position in the Executive Branch.

Another option is to continue the competitive position with Executive Branch positions but to recognize the different working conditions. Best compensation practices encourage remuneration for unfavorable working conditions. Where other Executive Branch agencies use shift work, typically these positions are paid a differential of approximately 9.3%. Instituting this differential for magistrates would continue magistrate salary comparability with hearing officers and institute within the Judicial Branch a widely used practice in the Executive Branch under similar circumstances.

2. Committee on District Courts' Recommendations

With elimination of the on-call requirement, the conversion of on-call time to activity time at the rate of 31 on-call hours to 1 active work hour will be discontinued; therefore, on-call classifications from Class I through V should be discontinued. The current salary rates for full-time magistrates, Class VI and Chief Magistrates, should continue with the current geographic differential for Northern Virginia. As described in Chapter III, **Magistrate Services**, upgrading

currently existing part-time magistrates to full-time Class VI positions, on the basis of the 2002 magistrate statistical data, can be accomplished at cost of \$67,000. This estimate is contained in the document entitled *Additional Costs for Current System Upgrades*, in Appendix 12.

The salary rates for magistrates should be enhanced by a 9.3% differential due to the unfavorable working conditions of day, evening, and weekend shift schedules. The anticipated cost of the 9.3% differential is \$1,529,000 and is contained in the document entitled *Additional Costs for Shift Differential*, Appendix 12.

C. A Good Place to Work

Fewer than half of the magistrates responding to the survey felt that morale was good, and fewer than 65% felt that the system is a good place to work.

While this problem is significant, by itself it is too vague to analyze and address. The assumption is that it is the sum of numerous parts, which are being evaluated throughout the report. Of particular significance are the compensation issues and working conditions associated with the part-time on-call system. If the assumption is accurate, addressing these specific parts of the problem will result in a significant improvement both in morale and in the system's being seen as a good place to work. These views from within communicate themselves to the community and exert significant influence on the system's ability to attract and retain well-qualified magistrates.

VII. MANAGEMENT AND OVERSIGHT

DESCRIPTION OF THE ISSUE

Effective leadership and management in any organization are essential to its success. An evaluation of the magistrate system therefore naturally includes an evaluation of its management component. Recognizing that the role of the magistrate is to provide an independent review of complaints brought by the Commonwealth or citizens, is the current structure for providing oversight of individual magistrate performance, and magistrate office operations generally, sufficient to ensure proper performance? Are magistrates adequately serving local needs? How are problems addressed and resolved? What follow-up mechanisms are in place to ensure adherence to policy decisions and continuous quality? As an important participant in the criminal justice community, are magistrate system issues properly presented and considered in local decisions?

CURRENT STRUCTURE

The very nature of the magistrate position and the judiciary complicate supervision. The magistrate system is a collection of independent judicial officers under the management authority of an independent judiciary. Magistrates' judicial decisions themselves are not subject to administrative review, because they are an exercise of the discretion fundamental to all judicial positions though those decisions may be subject to appeal to a higher tribunal. However, factors surrounding decisions are necessary and appropriate management concerns, including such issues as scheduling, customer service, and competence in the law.

A. District Management Team

While the Code of Virginia establishes a consistent management structure for all districts, it also provides flexibility to retain or to delegate supervisory authorities. As cited above, the chief circuit court judge, by statute is responsible for the appointment and removal of magistrates within the district and thus is called the *appointing authority*. Chief judges are elected by the other circuit judges in the circuit and serve two-year terms. Va. Code § 17.1-501.

This same statute permits the chief circuit court judge either to retain supervision of the district's magistrates or to delegate supervision to the chief general district court judge. The judge primarily responsible for supervision of the district's magistrate system is known as the *magistrate supervising authority*. Like chief circuit judges, chief general district judges are elected by the other general district judges in the district and serve two-year terms. Va. Code § 16.1-69.11.

The chief magistrate of a district is responsible to the *magistrate supervising authority* (as well as to the *appointing authority* if supervision has been delegated) for the conduct of the magistrates and for the overall operation of the magistrate system within the district. As the first-line supervisor, the chief magistrate has the most direct and frequent communications not only with the magistrates but

also with those parties whom magistrates serve within the district to ensure appropriate services and administration.

As of July 1, 2003, 16 chief circuit court judges retained the supervising function, and 16 delegated the function to the chief general district court judges. Therefore, in 16 districts the *district management team* is composed of the chief circuit court judge and chief magistrate. In the remaining 16 districts, the *district management team* is composed of the chief circuit court judge, the chief general district court judge, and the chief magistrate. Job descriptions for the Magistrate Supervising Authority and the Chief Magistrate positions in Appendix 11.

B. Central Support

While responsibility for magistrate services within each judicial district rests with the *district management team*, the Committee on District Courts is the policy body for the entire magistrate system. The Office of the Executive Secretary of the Supreme Court of Virginia provides support services to magistrates statewide at the direction of both the Committee on District Courts and the Code of Virginia. These services include staffing and personnel assistance, financial support, data processing, legal research, educational and training support, and technical assistance. Further, it conducts operational audits resulting in reports with recommendations to local management for its consideration and action as it deems appropriate.

RESEARCH RESULTS

As indicated in earlier sections, the primary methods of obtaining feedback about the magistrate system were the use of surveys and focus groups. The first step in analyzing this data was to review survey questions that provided summary responses about management. The following table ranks the questions in ascending order of aggregate agreement.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)		
	Total Agree	Neither Agree nor Disagree	Total Disagree
40. Overall, the magistrate system receives sufficient oversight.	44.8%	30.7%	22.0%
60. Overall, the district is effectively managed.	69.0%	15.7%	13.5%
107. Overall, I am satisfied with the performance of this district.	92.0%	4.0%	4.0%

All user groups received the first question (question 40). Less than half of the respondents agreed that the system receives sufficient oversight and almost one quarter disagreed with the statement. As is the pattern throughout this report, almost one-third chose *Neither Agree nor Disagree*.

Only magistrates, chief magistrates, and judges received the second (question 60); and only chief magistrates received the third (question 107). The desired confidence in the system's management is expressed only with the last question, reflecting the views of chief magistrates. Less than 70% of those within the system agree that their districts are effectively managed.

ANALYSIS OF SUMMARY ISSUES

In-depth analysis reviews agreement rates according to major users of the system as well as those within the system. The table is ranked in ascending order of aggregate agreement rate.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)								
	Aggregate	Attys.	Law Enf.	Advocacy	Circuit Clerks	District Clerks	Ch. M.	Mags	Judges
40. Overall, the magistrate system receives sufficient oversight.	44.8%	26.4%	37.6%	22.2%	28.8%	38.0%	84.0%	62.0%	56.4%
60. Overall, the district is effectively managed.	69.0%	n/a	n/a	n/a	n/a	n/a	96.0%	65.5%	70.3%
107. Overall, I am satisfied with the performance of this district.	92.0%	n/a	n/a	n/a	n/a	n/a	92.0%	n/a	n/a

Generally, the system's users were far less satisfied with oversight than those within the system. Circuit and district court clerks' offices receive processes from magistrates, which requires continuous coordination, and less than 40% evaluated oversight as sufficient. While their opinions were more favorable, 70% or fewer magistrates and judges were satisfied with management effectiveness and oversight. Chief magistrates expressed the highest agreement rates; however, their 84% agreement that oversight is sufficient lacked the strength of their satisfaction for questions 60 and 107.

Because the methods of providing oversight vary by district, additional questions focused on specific aspects of management.

JUDICIAL OVERSIGHT

A. Survey Results

Magistrate supervising authorities are themselves judges who may hear cases begun through magistrate hearings. While this arrangement offers advantages, there are also offsetting disadvantages. Do advantages outweigh disadvantages? Conceptually, it is appropriate for judges to supervise judicial officers. The major practical advantage of this supervisory and legal structure is that judges may be able to provide immediate feedback to magistrates resulting in improved legal skills. On the other hand, do conflicts of interest arise where the supervising judge may provide instructions to magistrates compromising the exercise of their judicial discretion?

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
58. Vesting “supervisory oversight” with the same person(s) who is responsible for the appellant review of magistrate decisions results in appropriate and competent evaluation and feedback to magistrates concerning their decision-making.	56.4%	60.0%	53.3%	60.5%
57. Vesting “supervisory oversight” with the same person(s) who is responsible for the appellant review of magistrate decisions does not negatively affect the judicial independence of the magistrate’s decision making.	61.7%	64.0%	57.6%	67.4%

The responses indicate that judicial feedback to magistrates regarding their legal skills does not happen with the frequency one might imagine. Further, less than 70% of judges, magistrates, and chief magistrates agreed that magistrates’ independence is held intact through this supervisory relationship.

B. Focus Group Comments

Focus group comments substantiated these survey results. Some judges are perceived as not desiring to perform oversight responsibilities and, therefore, are not as effective managers or coaches. In other circumstances, it appeared that judges and Commonwealth Attorneys develop procedures to circumvent the magistrate, such as in establishing protocols for citizen felony warrant requests. Still other judges are thought to require magistrates to act in ways magistrates believe to be in conflict with the MAGISTRATES MANUAL. As an example, judges may have results they want in certain circumstances (such as the requirement of a cash bond) and will convey that to the magistrate.

CHIEF MAGISTRATE OVERSIGHT

A. Survey Results

As the immediate supervisor for the system and the individual most likely charged with obtaining feedback from the system’s user communities, chief magistrates play a critical role in articulating performance standards and in ensuring their delivery. An essential factor contributing to magistrate effectiveness is the feedback and coaching magistrates receive from their chief magistrates. Do these supervisory activities occur with sufficient frequency and skill that they are important to magistrates’ continuous and progressive advancement in knowledge, judgment, and skills?

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
55. Chief magistrates are effective in ensuring that high quality magistrate services are delivered.	65.5%	92.0%	66.7%	59.9%
54. Chief magistrates provide adequate guidance for daily operations in magistrate office(s) throughout the district.	67.9%	84.0%	67.5%	66.3%

Although chief magistrates are generally satisfied with their management, only about two-thirds of the magistrates and judges agreed that they are as effective as desired in ensuring quality services and operations. Chief magistrates themselves were not as satisfied with the daily guidance they provide to offices throughout the district as they have been for other topics.

B. Focus Group Comments

Among relevant focus group comments were that insufficient feedback from chief magistrates causes performance problems for magistrates. In addition, there is no one to whom the magistrate can direct questions at the time the question occurs.

CHIEF MAGISTRATE AND MAGISTRATE SUPERVISING AUTHORITY TEAM

A. Survey Results

A strong management team is very important to consistently high quality services throughout the district. With a strong management team, communications are clear, and policy and procedural decisions have support at all management levels. Thus, a sense of strength, unity, and commitment will be conveyed throughout the magistrate system and its user community.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	Ch. M.	Mags.	Judges
38. The current management authorities adequately exercise their oversight responsibilities.	46.6%	31.2%	38.4%	27.2%	88.0%	62.7%	57.6%
37. The current structure for providing oversight of individual magistrate performance and magistrate office operations generally is sufficient to ensure proper performance.	47.6%	26.4%	39.9%	29.6%	84.0%	66.7%	57.6%
56. The chief magistrate and the supervising judge (whether circuit or district judge) form an effective management team.	56.9%	n/a	n/a	n/a	84.0%	53.3%	58.1%
53. Chief magistrates and supervising judges clearly understand their responsibilities.	69.9%	n/a	n/a	n/a	92.0%	63.9%	75.6%

Less than 40% of responding attorneys, law enforcement officers, or advocacy group representatives agreed that current management authorities adequately exercise their oversight responsibilities or that the current structure is sufficient to ensure proper performance.

Only between 50% and 75% of magistrates and judges agreed that the desired outcomes were met for any of the questions of team effectiveness. As the only full-time manager within the system and as the position charged with the most immediate monitoring of the system, chief magistrates evaluations were more favorable for all questions.

B. Focus Group Comments

The most striking focus group comments were that the present structure of a chief magistrate and supervising judge is just too loose and ineffective. Judges rely on chief magistrates, and chief magistrates cannot cover all offices within a district.

COMPLAINTS CONCERNING ADMINISTRATIVE ISSUES

A. Survey Results

Evaluating how effectively complaints about magistrate services are handled is a prominent factor in evaluating management effectiveness. Unfortunately, it is often difficult to differentiate between a complaint about the administrative services of magistrates and dissatisfaction with their judicial decisions. To the complainant, the administrative and judicial may seem inextricably tied together. The manager, however, must separate them as each must be handled properly.

The following sets of survey questions examine both the administrative complaint process and legal recourse. Questions are ranked in ascending order of aggregate agreement to identify those topics of greatest concern.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)						
	Aggregate	Attys.	Law Enf.	Advocacy	Ch. M.	Mags.	Judges
43. Persons with complaints about poor treatment or lack of professionalism address those complaints to the appropriate authority.	40.0%	22.6%	32.5%	19.8%	88.0%	68.2%	41.9%
45. Overall, complaints about poor treatment or lack of professionalism are adequately addressed.	41.9%	25.5%	30.6%	29.6%	84.0%	67.5%	50.0%
42. Adequate mechanisms are in place to address poor treatment of the public or lack of professionalism.	43.6%	23.6%	33.9%	21.0%	88.0%	70.6%	51.2%
44. Persons with complaints are accorded courtesy, respect, and dignity.	49.0%	31.1%	39.9%	34.6%	96.0%	77.6%	52.3%

Less than half of the aggregate respondents agreed that any of these desired outcomes are met. Among attorneys and advocacy group representatives, the highest agreement rate was approximately one-third - for the statement that persons with complaints are treated with respect. Only around one-half of the judges, and between 65% and 78% of magistrates, agreed that desired outcomes are met. Chief magistrates agreement rates were highest, ranging from 84% to 96%.

As has been the pattern throughout the survey, between 30% and 40% chose *Neither Agree nor Disagree* as a response.

B. Focus Group Comments

Focus group comments add depth and texture to these survey results. The group consensus was that the complaint system for magistrates is virtually unknown to the public and to law enforcement and is not credible as it presently exists. Complaints are not uniformly addressed throughout the state. Using the same form for complaints about sexual harassment as well as other inappropriate behaviors, such as incompetence, is too confusing. Persons with complaints about the magistrate system just do not feel comfortable taking the complaint to the judge. Going to chief magistrates is also ineffective. In some circumstances, chief magistrates avoid problem magistrates rather than deal with the person's behavior. There is also concern that magistrates would retaliate against those who complain. The current complaint form requests a signature, and often people with complaints do not want to sign the form. Unless they do, however, it is difficult for the chief magistrate to follow up.

LEGAL RECOURSE

A. Survey Results

Separate from addressing complaints about administrative issues is the concern that there is appropriate legal recourse from magistrate decisions. Because there is no managerial oversight of the judicial decision itself, the questions of whether there are adequate avenues for judicial review of magistrate decisions and whether these avenues are widely known are important. Ideally, those who receive complaints would first be able to distinguish between whether the issue should be directed toward an administrative process or whether it requires judicial review and then to provide information to the complainant about how to proceed.

Rates of Agreement (Agreed or Strongly Agreed)

Survey Question	Aggregate	Attys.	Law Enf.	Advocacy	Ch. M.	Mags.	Judges
48. Persons with complaints about poor or legally deficient decisions are aware of the appropriate legal remedies.	27.3%	18.9%	22.9%	13.6%	52.0%	47.5%	23.3%
51. Overall, complaints about poor or legally deficient magistrates' decisions are adequately addressed.	38.7%	17.0%	29.2%	23.5%	88.0%	58.8%	51.7%
47. Adequate mechanisms are in place to address poor or legally deficient magistrates' decisions.	42.0%	27.3%	31.0%	19.8%	72.0%	59.2%	58.7%

Less than half of the aggregate respondents - and less than one-third of attorneys, law enforcement officers, and advocacy group respondents - felt the desired outcomes were met. Significantly, less than 60% of judges and magistrates agreed. Chief magistrates had the highest agreement rates ranging from 52% to 88%.

B. Focus Group Comments

The primary focus group comment was that adequate mechanisms are in place to address substantive legal decisions by magistrates, but often people are unfamiliar with them.

ACCOUNTABILITY

A. Survey Results

Finally, an important facet of management effectiveness is accountability. Do managers follow-up, provide appropriate feedback and coaching to those under their supervision regarding performance, and hold them accountable if performance issues are not satisfactorily addressed?

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)						
	Aggregate	Attys.	Law Enf.	Advocacy	Ch. M.	Mags.	Judges
39. Magistrates who do not discharge their responsibilities are held accountable by a higher authority.	43.2%	22.6%	33.6%	18.5%	68.0%	56.9%	60.5%

The highest rate of agreement that this standard is met is from chief magistrates at only 68%. Less than 20% of advocacy group respondents felt magistrates are accountable.

B. Focus Group Comments

Focus group comments mirrored this statistic. Lack of accountability, staffing, and other issues such as training, are of such magnitude that they need to be addressed now. Further, chief magistrates who do not complete performance evaluations, prepare schedules, or implement recommended improvements are not held accountable.

ADEQUATE RESOURCES

A. Survey Results

In order to be effective, managers must have adequate resources. Even though the recipients of magistrate services do not see an efficient or effective operation, managers may be *doing the best they can with what they have*. The following areas focus on the resources available to the system’s managers.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)			
	Aggregate	Ch. M.	Mags.	Judges
59. My district has an adequate number of staff to handle the current workload.	41.4%	36.0%	38.0%	47.1%
63. Part-time magistrates perform their duties with the same effectiveness and competence as full-time magistrates.	50.7%	68.0%	61.2%	32.6%

The following questions focus specifically on the resources available to chief magistrates as the primary manager within each district.

Survey Question	Rates of Agreement (Agreed or Strongly Agreed)	
	Ch. M.	Mags.
106. I am able to spend a sufficient amount of time training magistrates in my judicial district.	56.0%	
113. Overall, I have sufficient resources to adequately carry out my management functions.	80.0%	
109. The training provided me in carrying out my administrative and personnel duties as chief magistrate is sufficient.	84.0%	
110. The Personnel Policy Manual is a good resource for questions about my personnel management responsibilities.	88.0%	
86. The Magistrate Manual provides useful guidance for daily office operations.	92.0%	87.5%
111. Technical assistance received from the Office of the Executive Secretary (regardless of which department) has been adequate.	96.0%	
112. I implement the vast majority of the recommendations received from the Office of the Executive Secretary concerning the management and operation of the district.	96.0%	

Fewer than half of the system’s responding magistrates, chief magistrates, and judges believed the system has sufficient personnel. Among the resource topics identified in the survey, the staffing shortage is the issue of greatest concern to chief magistrates.

As indicated throughout this report, part-time magistrates serve a large portion of the state, and only about half of the aggregate respondents believe part-time magistrates perform with the same effectiveness as full-time magistrates.

Corresponding with weak agreement that chief magistrates provide adequate daily guidance (question 54), chief magistrates identified the lack of sufficient time to conduct training for their magistrates as an issue. The majority expressed satisfaction with the quality of various manuals and assistance received from the Office of the Executive Secretary.

B. Focus Group Comments

While focus groups commented more heavily in other areas, it was noted that staffing levels have not kept up with population increases, the increased time required for magistrate transactions, or increases in law enforcement personnel, thereby complicating an already difficult management function.

COMMENTARY

Research results show that only chief magistrates are generally satisfied with the performance of their district and the effectiveness with which their district is managed, even though they are not satisfied with the system's accountability. This may suggest that chief magistrates see isolated performance issues but that in general, they are comfortable with magistrate services and management.

All other respondent categories, including judges and magistrates, felt that management effectiveness was sorely lacking.

The areas of greatest concern to chief magistrates are the need for increased time to devote to training and the insufficiency of legal recourse from magistrate decisions. Neither magistrates, chief magistrates, nor judges believed that judicial supervisory oversight results in feedback that is helpful to magistrates concerning their judicial decision-making, and each group recognized some compromising of magistrate judicial discretion.

If the system's leadership and management effectiveness are seen to be as inadequate, as these survey results indicate, why has something not been done? Do its managers lack perception, skills, a commitment to quality service, or resources? Is the management structure appropriate? Are there sufficient qualified managers? Or, is the system so complex that it presents apparently unassailable management hurdles? Does the public see the system as so remote and unapproachable that those with complaints do not present them for resolution? Do they lack knowledge about the avenues that are open to them? Or, are they simply worn down by management unresponsiveness?

APPLICATION OF PREVIOUS COMMITTEE ON DISTRICT COURTS' RECOMMENDATIONS

The likelihood is that each of these factors contributes to management problems. As has been the pattern for other issues, earlier Committee on District Courts' recommendations provide building blocks to address management concerns.

A. Community Presence

In sharp contrast to the other respondents, chief magistrates expressed overall satisfaction with management effectiveness. At first blush, this suggests a lack of perception. To the extent that they do not have a full appreciation of the service needs of their user communities, an enhanced community presence should open communications and sharpen chief magistrates' perceptions enabling them to make appropriate management adjustments where needed.

B. Clear and Accessible Information

Increasing the clarity and accessibility of information about the magistrate system should ease some perceptions of remoteness and unapproachability simply by making the system more familiar to the public. Both survey results and focus group comments indicated that a significant number of system users do not have knowledge of their legal options and are reluctant to address their concerns to either judges or magistrates. Using system publications to outline options, using clear language understandable by persons at all educational levels, and ensuring widespread distribution of these materials should be helpful in addressing the problem of insufficient knowledge.

C. Complaint Process for Administrative Issues

A visible, formal, and institutionalized complaint process that publicizes the number of complaints received according to management's finding of *Founded* or *Unfounded* should improve management credibility within the community.

The system's managers will have an incentive to resolve issues due to the publicizing of complaint statistics. Because complaints should be evaluated when magistrates are considered for re-appointment to successive terms, magistrates also will have incentive to provide appropriate service so that complaints do not develop.

Where needed, appropriate change should result from complaints and should be visible to the public in terms of improved services. Chief magistrates can build upon their community contacts by calling upon them for support in developing appropriate curative mechanisms.

A credible and visible complaint process should improve the accountability of the magistrate system itself, and therefore of its managers, to the general public.

D. Magistrate Physical Plants, Access for Non-English Speaking Persons

Magistrates' physical environment influences the public's perception of management effectiveness. Inaccessible and badly maintained facilities, along with service barriers for those with disabilities or language issues, leave the impression that management ignores basic and fundamental needs of its user community. Upgrading physical plants, pursuing improvements through facilities audits, and improving interpreter services enable the system's managers to demonstrate pro-active steps to the community, thus building confidence in management effectiveness.

E. A Manageable System: Institute Video Conferencing, Expand Use of Technology, Eliminate On-Call, Establish Full-Time Employment, Secure Sufficient Personnel Resources

As described in Chapter III, **Magistrate Services**, the system's managers need a manageable system in order to be effective. They can be held accountable for high quality services only when it is actually possible to deliver them.

Chief magistrates expressed overall satisfaction with management effectiveness, although other respondents found it severely lacking. Perhaps their more positive evaluation represents a practical posture rather than insensitivity or lack of commitment to the needs of their communities. While the system's management may not achieve the excellence desired, chief magistrates may well believe that management effectiveness is actually within acceptable limits in light of the circumstances in which the system operates. Approximately 69% of the Commonwealth's counties and cities receive their magistrate services through some variation of the part-time on-call system or through videoconferencing access to a magistrate's office in another jurisdiction. The vast majority of these jurisdictions rely on part-time on-call magistrates. Only half of the responding judges, magistrates and chief magistrates believe part-time magistrates operate with the same competence and effectiveness as full-time magistrates. Further, less than half of these respondents believe they have sufficient personnel resources.

A number of the Committee on District Courts' recommendations improves the manageability of the system:

Systematically instituting video conferencing enables the elimination of on-call services and the replacement of part-time positions with full-time employment. Full-time employment, sufficient personnel resources, and improved working conditions enable the system to compete more effectively with other comparable employers for qualified personnel. Chief magistrates' role can change from continuously addressing ad hoc emergencies to managing a stable system.

Video conferencing and expanded use of technology also increases options for how to manage. Chief magistrates expressed great concern that they are unable to train their magistrates as they would like. Video technology enables district-wide and interactive staff meetings and training seminars.

The district personal computers can house policy, procedural, or training information common to all magistrates. Improved technology should expand the means available to chief magistrates to perform their administrative functions by providing them with current and easily accessible information. Examples include using technology in evaluating workload and personnel resource commitments as well as magistrate performance statistics, such as the ratio of warrants issued to those requested.

The changes recommended earlier establish a more manageable system and therefore should enable chief magistrates to provide increased and more meaningful leadership to their magistrates as well as to the communities they serve.

Of all that have been considered, these actions will have the most far-reaching impact for management effectiveness. Further, they will also have the most far-reaching impact in transforming the system into *a good place to work*.

F. An Open Recruitment Process

As described in Chapter VI, **Recruitment and Selection**, the perception is that a magistrate workforce that is not diverse cannot effectively serve a diverse population, and this perception undermines public confidence in both the system and its management. Not only should a more open process create a more diverse workforce, it should enable the magistrate system to exhibit a greater affinity with the entire population served. Increasing diversity in the workforce therefore builds public confidence in management effectiveness.

G. Competitive Compensation Package, A Good Place to Work

The cumulative effect of these actions as well as a competitive compensation package should result in the system's being seen as *a good place to work*. Attracting well-qualified individuals to magistrate system employment is fundamental to improving magistrate system services and thereby confidence in management effectiveness.

CONSIDERATION OF ADDITIONAL OPTIONS

While the actions described should enhance management effectiveness as by-products of their primary goals, are there other changes that should be directed specifically toward upgrading management effectiveness? The following description of options to address management and oversight issues incorporates suggestions generated throughout the study. Committee on District Courts' recommendations to the General Assembly are provided following each topic.

A. Appointing and Supervising Authority

Chief magistrates are subject to ever-changing appointing and supervising authorities because of the two-year terms of chief judges. With approximately half the state's chief circuit judges delegating supervising authority to chief general district judges, there is inconsistency in management structure and style throughout the state. On the other hand, the ability to delegate provides flexibility to use the management capabilities of each circuit's judges to best advantage. This becomes a more important feature when considering that management is often only an "add-on" function for judges and that judges rarely have formal preparation for supervisory and administrative functions.

Chief circuit judges are more removed from the magistrate system since most magistrate processes are directed to the district courts. While chief circuit judges therefore do not have the same first-hand knowledge of magistrate operations, leaving the appointing authority with them enhances the independent nature of the magistrate role. District judges have most contact with the system and thereby the most accurate knowledge of its strengths and weaknesses. This positioning also enables some compromise of the independence of the magistrate role due to the ability to control continuation of employment. In addition, neither chief circuit nor general district judges has the familiarity with the intricacies of juvenile and domestic relations district court issues.

1. Options

One option is to continue the current process of the chief circuit court judge as appointing authority with the option of delegating supervisory authority to the chief general district court judge. Another is to establish either the chief general district or chief juvenile and domestic relations district judge as the appointing and supervising authority. Still another is to require consultation with the other chief judges, regardless of which chief judge becomes the appointing authority. Each of these options would leave appointment and supervision to local officials as they are in the best position to monitor high quality services to the community. Judicial appointment ensures that appointments to magistrate positions are made by those with most expertise to evaluate legal competence.

An option of much greater magnitude is to transfer appointment and supervision from judges to a central administrative office, such as the Office of the Executive Secretary of the Supreme Court of Virginia. This option is appealing if one believes that the range and complexity of non-judicial issues facing each district require professional management, not as an add-on to other functions but as the primary responsibility of individuals formally prepared for its challenges. Also with this philosophy one would believe that statewide standards, uniformity, and consistent management oversight provide greater advantages and that due to a mobile society local nuances have become less germane to administrative services.

2. Committee on District Courts' Recommendations

Management of each district should remain a local function with continued the Office of the Executive Secretary support in its current configuration. The appointing authority should continue to be the chief circuit court judge for both magistrates and chief magistrates, but in consultation with the district's chief general and juvenile and domestic relations district court judges.

B. Assistant Chief Magistrates

Several venture teams noted that chief magistrates are the key to success of the system. They set the tone of the work force and should lead and train by example. Chief magistrates usually supervise large geographic areas with multiple magistrate offices and are often mired in the details of scheduling and coverage issues. The largest geographic areas are usually rural and served by part-time on-call magistrates, presenting unique management challenges.

1. Options

Some venture team participants suggested that the range of chief magistrate responsibilities is too great to accomplish without support. Other views were that an assistant chief magistrate position does not compete with the need for sufficient magistrate personnel. Chief magistrates need to be freed from providing back-up coverage and addressing other ad hoc emergencies due to insufficient resources. Upgrading magistrate positions to full-time, eliminating on-call status, and establishing competitive compensation packages are much higher priorities and much more important to chief magistrate effectiveness than an assistant chief magistrate.

2. Committee on District Courts' Recommendation

Assistant chief magistrate positions are not recommended.

C. More Active Managers, Accountability

Several venture team participants commented on the need for the system's chief magistrates and magistrate supervising authorities to be more actively involved with magistrates, as well as with the communities they serve. Although the system is locally managed, some magistrates have never met their supervising judges and rarely see their chief magistrates. Communications are infrequent, and then they are often one-way.

A strong community presence implies not only that feedback about problems is invited but also that appropriate corrective actions will be taken. Where appropriate change does not occur, accountability calls for holding those who have caused the problems responsible; for determining a course of action; and for implementing that course of action.

The need to ensure appropriate change expands the call for accountability beyond individual magistrates to the responsible management official. The primary role of management is to ensure high quality services and smooth operations within budgetary constraints. Not only should magistrates be held accountable for their performance, system managers should also be held accountable for those functions within their purview.

1. Options

Obvious solutions are for these managers to become more actively engaged in their roles as leaders and managers of the system. Venture teams suggested a number of common sense steps, such as instituting regular visits or meetings not only with magistrates but with community organizations using magistrate services, inviting speakers from the community to discuss issues, providing feedback quickly and in a consistent manner concerning procedural errors, evaluating trends and statistical information. Chief magistrates should use both announced and unannounced visits to magistrates' offices, sit with magistrates as they conduct hearings, survey

the community periodically, and evaluate files and documents for appropriate procedural compliance. Further suggestions were either to develop new systems or to use existing performance standards and to conduct performance evaluations for compliance with those standards using feedback from the complaint process as appropriate. Pay and advancement should be tied to performance evaluations.

In summary, those who are engaged with and committed to the system project a competent, continuous, and positive presence both to the magistrates and to the community.

2. Committee on District Courts' Recommendations

The system's management should take a more active role in management and oversight, including community involvement; observing magistrates while conducting hearings; using currently existing performance standards, or developing new ones, to evaluate performance for compliance with those standards; and taking appropriate corrective actions.

VIII. CONCLUSION

SUMMARY OF PROBLEMS

A number of major issues with magistrate system services and oversight were identified through this process. House Joint Resolution 32 of the 2002 General Assembly highlighted several concerns, including the selection, training, oversight, and accountability of magistrates; magistrate competence; and the need to ensure a uniform statewide system for taking and resolving complaints and inquiries.

PART-TIME ON-CALL SYSTEM

The major underlying cause for magistrate system problems rests with its reliance on part-time on-call magistrates and the difficulty that reliance creates for ready, timely access to magistrate services. The most effective, responsive, and user-friendly means of providing services is through full-time offices in each county and city. Such offices are open 24 hours per day, 7 days per week, and are staffed by full-time magistrates. This arrangement, however, is not financially feasible in lower volume localities. Therefore, many localities receive their magistrate services through either some variation of the part-time on-call system. As demonstrated by the map entitled *Localities without Full-Time Magistrate Offices* on the next page, fully 69% of the Commonwealth's jurisdictions do not have a full-time magistrate's office within their boundaries. These jurisdictions without full-time offices represent 29% of the population and also constitute approximately 78% of the geographic area within the state. The vast majority of the jurisdictions without a full-time magistrate's office within their boundaries rely on part-time on-call magistrates. However, some of these jurisdictions rely on a video conferencing hook-up with a full-time magistrate's office in the proximate area. These video arrangements were not developed systematically and some, therefore, have something of an ad hoc quality.

In light of the management and service complexities associated with this system, a large majority of the counties and cities in the Commonwealth experience considerable difficulty in obtaining magistrate services. Therefore, significant improvements can be provided statewide by addressing the part-time on-call system.

In this system, those desiring magistrate service contact on-call magistrates, usually through the dispatcher at the Sheriff's office. These on-call magistrates are engaged in personal activities but are expected to meet the person requesting service at the magistrate office within approximately 20 minutes.

On-call positions range in the number of hours worked each week. In some localities, the demands for service mean that the magistrates are on-call a majority of the time with few *activity* hours, or hours spent actively performing magistrate responsibilities. At the other end of the spectrum, magistrates work specified shifts and are on-call for the balance of a schedule. In higher volume localities, magistrates' *activity* time may range from 25 to 40 hours per week with on-call hours in addition to these *activity* hours.

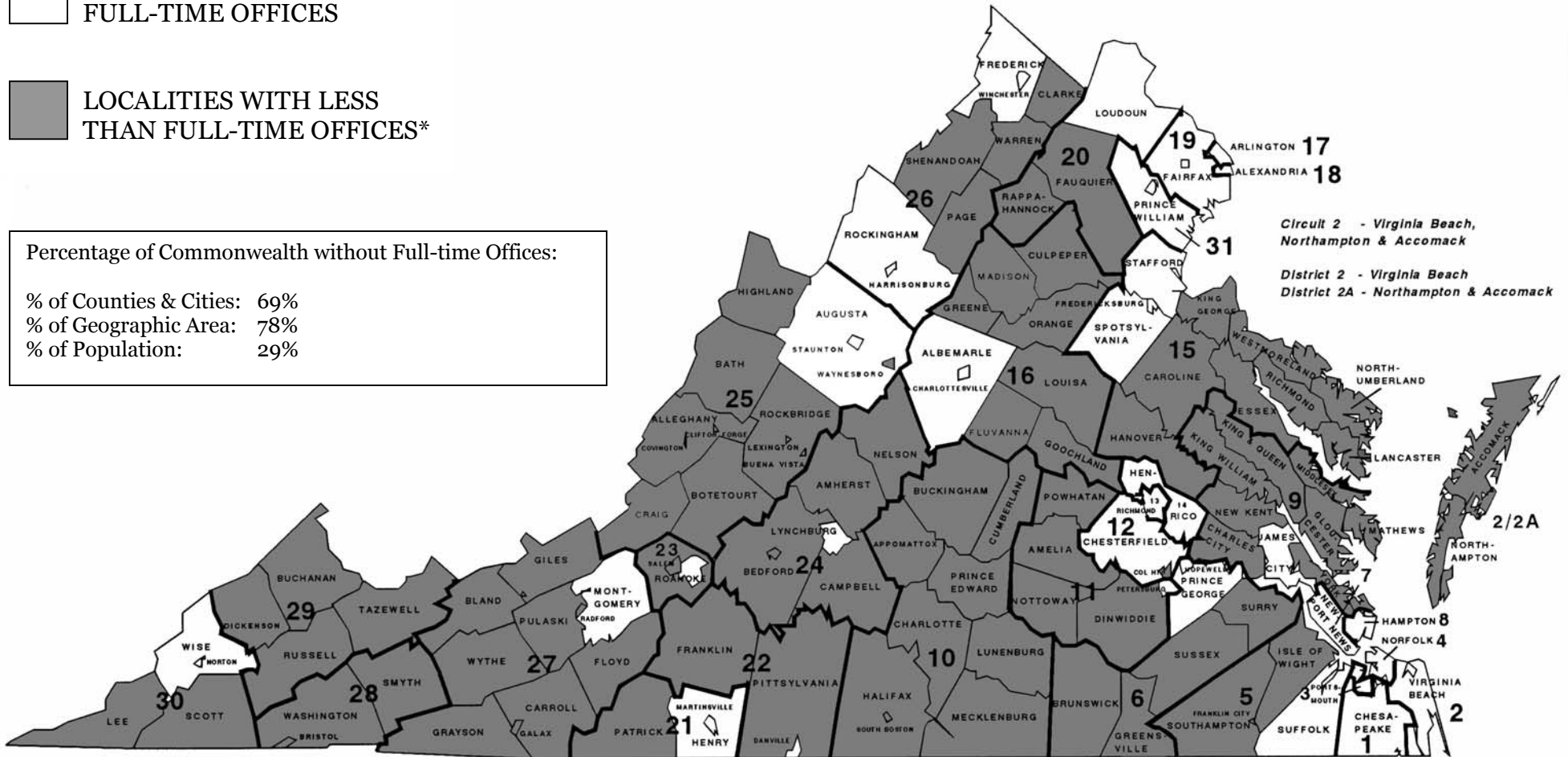
LOCALITIES WITHOUT FULL-TIME MAGISTRATE OFFICES

LOCALITIES WITH FULL-TIME OFFICES

LOCALITIES WITH LESS THAN FULL-TIME OFFICES*

Percentage of Commonwealth without Full-time Offices:

% of Counties & Cities: 69%
 % of Geographic Area: 78%
 % of Population: 29%



*Majority of these jurisdictions are served by part-time on-call offices.

The part-time on-call nature of these positions affects the ability to attract qualified applicants due to part-time pay and undesirable working conditions.

The dearth of qualified applicants and sparse staffing levels means that managers place a higher priority on obtaining an individual to fill vacant positions than on qualifications or performance issues following employment. When considering follow up for performance issues, chief magistrates must always consider the circumstances they will face if the magistrate being counseled simply quits. Chief magistrates are required to balance the harmful effects of the performance issues on the one hand against the likelihood of finding a replacement magistrate who is as qualified and will not present as serious performance issues on the other hand. Another consideration is how to provide magistrate services in the event of turnover. This will mean that other on-call magistrates must work additional time, that the chief magistrate must provide the coverage, or that at least some portion of magistrate services will be provided through another locality.

The complexities associated with the on-call system create an undesirable working environment and a system with enormous management challenges.

PROPOSED SOLUTIONS

While the report contains more detail, the following provides a summary of the major proposals recommended to the General Assembly and their costs.

10. Systematically and comprehensively institute video conferencing and eliminate the on-call system as video conferencing is implemented. This concept would establish full-time, 24-hour per day, hub offices in each district. Part-time in-person shift offices would be established in each non-hub locality, and the chief magistrate would set office hours. After-hours video connections with hub offices would be through law enforcement offices.

As a part of the implementation plan, establish a process through which magistrate system leadership meets with local officials to outline a video conferencing proposal for the district, identify foreseeable problems associated with video conferencing, develop mutually agreeable solutions to identified problems, and establish a follow-up evaluation procedure.

11. As video conferencing is implemented, eliminate part-time on-call magistrate employment and replace it with full-time employment, using the staffing criteria outlined in the document entitled *Minimum FTE for Full-Time Office*, Appendix 13. Establish magistrate pay at the full-time Magistrate VI classification. Applying the staffing criteria to the 2002 magistrate statistical information, 43 new full-time positions would be required in addition to the transitions of existing part-time magistrate positions to full-time.
12. Institute a 9.3% salary differential in recognition of shift work.
13. Continue the current qualification of a bachelor's degree or equivalent experience for magistrates and chief magistrates. If magistrates or chief magistrates qualify through equivalent experience, however, the minimum educational qualification is a high school diploma or General Education Development Certificate.

14. Institute intensive nine-week certification program for new magistrates immediately following employment. For new chief magistrates, add a second week of management training to the current program. For continuing chief magistrates, add one week of management development training.

The estimated costs for recommendations 1 through 5 are:

	One-Time	Annual
Video Conferencing Equipment, Annual Capital Costs for Replacement Equipment	\$630,000	\$ 327,000
Video Conferencing Continuing Costs (Line Usage)		979,000
Transition of existing part-time magistrates to full-time Class VI positions		67,000
Addition of 43 new full-time-equivalent (FTE) Class VI positions		2,002,000
Addition of 9.3% Differential		1,529,000
Training for 43 new magistrates, annual turnover	<u>228,000</u>	<u>897,000</u>
Total	\$858,000	\$ 5,801,000

15. Establish a complaint process to be administered locally. Magistrate complaints should be filed with chief magistrates, and chief magistrate complaints should be filed with magistrate supervising authorities. In response to complaints about magistrates, chief magistrates should make findings of *Founded* or *Unfounded* and report the total number of complaints by category.
16. Continue the chief circuit court judge as the appointing authority for magistrates and chief magistrates, but in consultation with the chief general district and chief juvenile and domestic relations district court judges.
17. Tentatively approve a re-certification process to qualify for appointment to successive terms. The re-certification process may include a review of continuing legal education (CLE) coursework, performance evaluations, complaints filed, testing, and Office of the Executive Secretary of the Supreme Court of Virginia, certification of fitness for re-appointment. Final approval for such a program is contingent upon its development.
18. Repeal of Section 19.2-42 from the Code of Virginia, which names the Commonwealth Attorney as the legal advisor for magistrates.

Appendix 1:

House Joint Resolution 32 2002 General Assembly

HOUSE JOINT RESOLUTION NO. 32

Requesting the Committee on District Courts of the Supreme Court of Virginia to study the magistrate system in Virginia.

Agreed to by the House of Delegates, February 12, 2002

Agreed to by the Senate, March 5, 2002

WHEREAS, the Virginia magistrate system was established in 1974 as part of a statewide court reorganization plan; and

WHEREAS, the principal function of the magistrate is to provide an independent, unbiased review of complaints brought to the office by police officers, sheriffs, deputies, and citizens; and

WHEREAS, magistrates have the authority and responsibility to issue arrest warrants and search warrants, to authorize bail or jail commitment for persons charged with certain offenses, to issue civil warrants, misdemeanor summons and subpoenas, to issue emergency custody and protective orders, and temporary detention orders and out of service orders; and

WHEREAS, magistrates have no power to take any action unless authority has been expressly conferred by statute; and

WHEREAS, the selection, training, supervision and evaluation of magistrates and the laws governing magistrates should be reviewed periodically to ensure that magistrates are functioning within their primary mission as public servants and gatekeepers of the criminal justice system; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Committee on District Courts of the Supreme Court of Virginia be requested to study the magistrate system in Virginia. The Committee shall review the laws and administrative policies governing the selection, training, oversight and evaluation of magistrates to ensure that magistrates have a basic competency in law and court procedures that is uniform and consistent across the Commonwealth. In conducting the study, the Committee is requested to review magistrate policies and operations within judicial circuits to ensure that there is accountability for the actions of magistrates, and that there is a uniform statewide system for taking and resolving complaints and inquiries about the actions of magistrates, particularly in the decision-making process used for determining bail and setting bond in domestic and family violence cases.

All agencies of the Commonwealth shall provide assistance to the Committee, upon request.

The Committee on District Courts shall complete its work by November 30, 2002, and shall submit its written findings and recommendations to the Governor and the 2003 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Appendix 2:

Magistrate Study Advisory Committee Membership

**MAGISTRATE STUDY ADVISORY COMMITTEE
HOUSE JOINT RESOLUTION 32**

Richard E. Trodden
Commonwealth's Attorney
Arlington County
1425 N. Courthouse Road, 5th Floor
Arlington, VA 22201

Steven D. Benjamin, Esq.
11 South 12th Street
P. O. Box 2464
Richmond, VA 23218

Ryant L. Washington, Sheriff
Fluvanna County
P. O. Box 113
Palmyra, VA 22963

Chief John J. Skinner
Manassas Police Department
9518 Fairview Avenue
Manassas, VA 22110

Hon. William L. Wellons, Chief Judge
10th Judicial Circuit
Lunenburg Circuit Court
Courthouse
Lunenburg, VA 23952

Hon. Joseph E. Hess, Judge
Buena Vista Combined District Court
2039 Sycamore Ave.
Buena Vista, VA 24416

Hon. Gayl B. Carr, Judge
Fairfax Juvenile & Domestic Relations
District Court
4000 Chain Bridge Rd.
Fairfax, VA 22030

Rosemary R. Harris, Chief Magistrate
Thirteenth Judicial District
Safety Building
501 N. Ninth Street
Richmond, VA 23219

Tracey L. Jenkins, Director
Hampton-Newport News Criminal Justice
Agency
136 Kings Way
Hampton, VA 23669

Donald W. Stokes, Magistrate
Twenty-fourth Judicial District
524 Ninth Street
Lynchburg, VA 24504

Nancy Wood
Goochland-Powhatan Community Services
Board
3910 Old Buckingham Road
Powhatan, VA 23139

Bonnie L. Simmons, Clerk
Harrisonburg/Rockingham General District
Court
53 Court Square
Room 132
Harrisonburg, VA 22801

Sue B. Flanagan, Clerk
Bristol Juvenile & Domestic Relations
District Court
City Hall
497 Cumberland St.

Appendix 3:

Materials Available From the Office of the Executive Secretary, Supreme Court of Virginia

**MATERIALS AVAILABLE
FROM THE
OFFICE OF THE EXECUTIVE SECRETARY,**

2002 Magistrate Study Survey, October 17, 2002 (Includes Aggregate Responses, Responses by Participant Group, and Comments from Survey Recipients)

2002 Magistrate Study Survey, Volume II, November, 2002 (Cross Tabs by Types of Respondent, Race, Gender)

Magistrate Performance Standards, Magistrate Performance Evaluation, Chief Magistrate Performance Evaluation

Policy 205. Registering A Complaint

Problem Resolution Process: District Court and Magistrate Systems

Wording from Informational Poster entitled ***Attention: All Members of the Public***; Policy 206. Management Responsibility (Describing Requirement to Post the InfoPoster) under heading **Disseminate Policy, Train, #1.**

Policy 606. Professional Development for Magistrates

Recruitment and Selection Policies and Procedures

Appendix 4:

Magistrate Study Participant Groups

Magistrate Study Participant Groups

Survey Group Participants	Number Of Surveys Mailed
District/Circuit Judges	384
District Court Clerks	190
Circuit Court Clerks	121
Chief Magistrates	32
Magistrates	418
Regional Jail Superintendents	18
Law Enforcement (Chiefs Of Police, Sheriffs, & 1 st /Sgt State Police)	412
Commonwealth Attorneys	119
Bar Associations	116
Public Defenders	21
Advocacy Groups	132
Total	1963

Focus Group Participants:

- Magistrate Study Advisory Committee, House Joint Resolution 32
- Magistrates and Chief Magistrates

Venture Team Participants:

- 4 Regional Teams with Representatives of:
 - Circuit and District Judges
 - District Court Clerks
 - Chiefs of Police
 - Sheriffs
 - State Police
 - Commonwealth Attorneys
 - Public Defenders
 - Criminal Defense Bar
 - Hispanic Bar
 - Victims and Witnesses of Crime Services
 - Virginians Against Domestic Violence
 - Community Services Boards
 - NAACP
 - Father, Children and Family Issues Organizations
- 1 Magistrate and Chief Magistrate Group

Appendix 5:

**Survey Responses
And
Focus Group Summaries**

	Page
Survey Response Rate Table	114
Responses to Survey Questions	115
Focus Group 1 Summary	132
Focus Group 2 Summary	142

Survey Response Rates

SURVEY GROUP	NUMBER OF SURVEYS MAILED	NUMBER OF SURVEYS RETURNED	% Response
DISTRICT/CIRCUIT JUDGES	384	172	44.8%
DISTRICT COURT CLERKS	190	121	63.7%
CIRCUIT COURT CLERKS	121	59	48.7%
CHIEF MAGISTRATES	32	25	78.1%
MAGISTRATES	418	255	61.0%
REGIONAL JAIL SUPERINTENDENTS	18	16	88.9%
LAW ENFORCEMENT (Chiefs of Police, Sheriffs, & 1 st /Sgt State Police)	412	271	65.8%
COMMONWEALTH ATTORNEYS	119	70	58.8%
BAR ASSOCIATIONS	116	25	21.6%
PUBLIC DEFENDERS	21	11	52.4%
CITIZEN GROUPS/ ADVOCACY ORGANIZATIONS (Victims and Witnesses of Crime Services, Virginians Against Domestic Violence, Community Service Boards, NAACP, Virginia Fatherhood Initiative, Equal Parents-Equal Time, Fathers for Virginia, Children and Family Coalition of Virginia, Virginia Bail Bondsmen Assoc., National Alliance for Mental Illness, ACLU, Pretrial Directors/Coordinators)	132	81	61.4%
TOTAL	1963	1106	56.3%

MAGISTRATE SYSTEM SURVEY - MASTER

In order to best meet the needs of the community, magistrate services are provided in various ways throughout the Commonwealth. Generally, services are provided through two types of offices:

- a. Full-time offices, which are open and staffed twenty-four hours per day, or
- b. Part-time offices, which are on-call offices with either some scheduled in-office hours or none.

Because of their differing forms, we would appreciate your responding to this survey for **only one** office type even though you may have experience with both. Please designate below the office type your responses will describe throughout the survey:

TYPE OF MAGISTRATE OFFICE

- 1. My responses throughout this survey will be for *(please check (✓) one)*:
 - a. Full-time Office 58.3%
 - b. Part-time Office 38.5%

ACCESS TO JUSTICE <i>(Please circle your responses)</i>	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
2. Magistrate offices are safe and convenient.	4.8%	11.4%	13.2%	49.5%	20.4%	.7%
3. Magistrate procedures facilitate access to magistrate services.	3.1%	9.0%	18.7%	53.3%	14.5%	1.5%
4. Magistrate services are available without undue hardship.	3.4%	12.9%	14.4%	52.0%	16.3%	1.0%
5. Magistrate services are available to persons with disabilities.	2.0%	5.5%	14.4%	58.0%	19.2%	.9%
6. Physical barriers to magistrate services do not exist.	2.5%	11.8%	23.4%	44.0%	16.4%	1.9%
7. Language barriers do not prevent persons from using magistrate services.	4.0%	16.1%	37.5%	35.1%	6.3%	1.0%
8. Overall, magistrates provide adequate access to justice.	2.4%	7.0%	12.0%	58.8%	18.9%	1.0%
9. Additional Comments: (Please elaborate or provide additional information. Attach additional comments pages if needed.)						

EXTERNAL & INTERNAL - TO EVERYONE, INCL. COMM ATTY, SHERIFF, ETC. + DIST & CIRC CLERKS, JUDGES, MAGS

COURTESY AND RESPONSIVENESS	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
10. Magistrates are dependable.	2.0%	6.1%	15.6%	51.1%	24.3%	1.0%
11. Magistrates assist those who are unfamiliar with magistrate procedures.	1.0%	6.6%	22.3%	47.9%	21.0%	1.2%
12. Magistrates show understanding and patience.	3.1%	9.0%	25.7%	46.5%	14.4%	1.4%
13. Magistrates show no bias or prejudice.	3.7%	9.6%	24.6%	45.4%	15.4%	1.4%
14. Overall, magistrates accord respect, dignity, and courtesy to the public.	2.0%	5.9%	19.3%	52.7%	18.4%	1.8%
15. Additional Comments: _____						

TIMELINESS	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
16. Magistrates are promptly available to conduct hearings.	4.1%	11.1%	20.3%	43.6%	19.4%	1.5%
17. Hearings are concluded in a timely fashion.	2.1%	6.1%	21.4%	47.9%	20.5%	1.9%
18. A minimal number of appearances are required to obtain a decision (e.g. parties are not required to keep coming back).	.6%	2.4%	20.9%	51.4%	22.4%	2.3%
19. Overall, magistrates handle their responsibilities timely.	1.2%	4.9%	18.7%	50.9%	22.2%	2.1%
20. Additional Comments: _____						

EXTERNAL & INTERNAL - TO EVERYONE, INCL. COMM ATTY, SHERIFF, ETC. + DIST & CIRC CLERKS, JUDGES, MAGS

COMPETENCE AND FAIRNESS

21. Magistrates hear and understand what litigants have to say.	1.2%	4.3%	24.4%	53.9%	14.1%	2.1%
22. Magistrates are impartial.	1.7%	9.0%	21.4%	50.0%	15.9%	1.9%
23. Magistrate decisions comply with law.	2.4%	8.4%	18.8%	50.9%	17.5%	2.0%
24. There is equal application of the law regardless of who appears before the magistrate.	3.1%	9.2%	21.7%	45.8%	18.4%	1.9%
25. Magistrate decisions are appropriate and proportional for the type of hearing.	2.4%	8.0%	22.9%	50.0%	14.8%	1.9%
26. Outcomes are not dependent on which magistrate conducts the hearing.	9.8%	22.3%	26.6%	31.8%	8.0%	1.4%
27. Bail decisions have the desired effect of releasing accused persons who do not pose a threat to society or flight risk yet ensuring their appearance for trial.	5.0%	14.8%	19.6%	46.2%	12.6%	1.8%
28. Magistrates sufficiently preserve the constitutional safeguards of all citizens.	2.3%	5.1%	24.4%	50.5%	16.1%	1.6%
29. Overall, magistrates are competent.	2.7%	8.5%	13.7%	56.1%	17.9%	1.1%
30. Overall, magistrates are fair.	2.4%	6.8%	16.6%	54.1%	18.5%	1.6%
31. Additional Comments: _____						

EXTERNAL & INTERNAL - TO EVERYONE, INCL. COMM ATTY, SHERIFF, ETC. + DIST & CIRC CLERKS, JUDGES, MAGS

SELECTING MAGISTRATES	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
32. Magistrate vacancies are open to all candidates.	1.9%	5.6%	35.1%	36.8%	15.9%	4.7%
33. The magistrate work force is sufficiently diverse.	2.6%	9.3%	33.8%	38.2%	11.9%	4.1%
34. The recruitment and selection process is fair.	2.1%	5.8%	44.3%	30.7%	11.8%	5.2%
35. Overall, the recruitment and selection process results in well-qualified magistrates.	5.9%	9.7%	34.1%	35.0%	10.3%	5.1%
36. Additional Comments: _____						

OVERSIGHT AND ACCOUNTABILITY

37. The current structure for providing oversight of individual magistrate performance and magistrate office operations generally is sufficient to ensure proper performance.	7.5%	14.4%	28.3%	38.6%	9.0%	2.3%
38. The current management authorities adequately exercise their oversight responsibilities.	7.1%	13.6%	30.2%	35.4%	11.1%	2.5%
39. Magistrates who do not discharge their responsibilities are held accountable by a higher authority.	8.3%	14.3%	31.6%	33.5%	9.8%	2.5%
40. Overall, the magistrate system receives sufficient oversight.	7.8%	14.2%	30.7%	35.1%	9.8%	2.4%
41. Additional Comments: _____						

EXTERNAL & INTERNAL - TO EVERYONE, INCL. COMM ATTY, SHERIFF, ETC. + DIST & CIRC CLERKS, JUDGES, MAGS

COMPLAINTS ABOUT POOR TREATMENT	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
42. Adequate mechanisms are in place to address poor treatment of the public or lack of professionalism.	6.0%	14.6%	32.8%	34.5%	9.0%	3.1%
43. Persons with complaints about poor treatment or lack of professionalism address those complaints to the appropriate authority.	3.6%	12.7%	40.3%	32.3%	7.7%	3.3%
44. Persons with complaints are accorded courtesy, respect, and dignity.	1.9%	5.6%	40.2%	36.8%	12.2%	3.3%
45. Overall, complaints about poor treatment or lack of professionalism are adequately addressed.	4.6%	10.9%	39.2%	31.7%	10.1%	3.3%
46. Additional Comments: _____						

INDEPENDENCE AND COMPLAINTS ABOUT MAGISTRATE DECISIONS

47. Adequate mechanisms are in place to address poor or legally deficient magistrates' decisions.	7.1%	16.5%	31.9%	34.6%	7.3%	2.4%
48. Persons with complaints about poor or legally deficient decisions are aware of the appropriate legal remedies.	7.1%	20.4%	42.7%	22.2%	5.1%	2.4%
49. When discharging their responsibilities as judicial officers, magistrates are sufficiently insulated from undue pressures (e.g. from law enforcement or other branches of government).	3.9%	8.7%	30.1%	44.8%	10.2%	2.4%
50. The public sees magistrates as independent and free from undue influence by other governmental entities.	4.0%	14.8%	42.6%	31.0%	5.2%	2.4%
51. Overall, complaints about poor or legally deficient magistrates' decisions are adequately addressed.	6.6%	12.9%	38.4%	31.2%	7.5%	3.3%
52. Additional Comments: _____						

INTERNAL - To DIST & CIRC JUDGES; MAGISTRATES, CHIEF MAGISTRATES. NOT TO DIST & CIRC CLERKS.

MANAGEMENT ISSUES	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
53. Chief magistrates and supervising judges clearly understand their responsibilities.	4.9%	8.8%	14.2%	43.1%	26.8%	2.2%
54. Chief magistrates provide adequate guidance for daily operations in magistrate office(s) throughout the district.	5.3%	9.5%	15.3%	41.6%	26.3%	2.0%
55. Chief magistrates are effective in ensuring that high quality magistrate services are delivered.	6.2%	8.4%	18.4%	40.5%	25.0%	1.5%
56. The chief magistrate and the supervising judge (whether circuit or district judge) form an effective management team.	6.6%	10.2%	23.9%	33.6%	23.2%	2.4%
57. Vesting “supervisory oversight” with the same person(s) who is responsible for the appellant review of magistrate decisions does not negatively affect the judicial independence of the magistrate’s decision making.	3.5%	8.8%	22.6%	45.6%	16.2%	3.3%
58. Vesting “supervisory oversight” with the same person(s) who is responsible for the appellant review of magistrate decisions results in appropriate and competent evaluation and feedback to magistrates concerning their decision making.	3.5%	10.2%	27.2%	41.6%	14.8%	2.7%
59. My district has an adequate number of staff to handle the current workload.	16.4%	24.8%	16.4%	32.3%	9.1%	1.1%
60. Overall, the district is effectively managed.	4.9%	8.6%	15.7%	48.7%	20.4%	1.8%
61. Additional Comments: _____						

INTERNAL - TO DIST & CIRC JUDGES; MAGISTRATES, CHIEF MAGISTRATES. NOT TO DIST & CIRC CLERKS.

COMPETENCE AND TRAINING		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
62.	Magistrates are sufficiently competent in the following areas of law and procedure:						
a.	Probable cause determinations for issuance of arrest warrants	1.1%	3.1%	6.9%	62.6%	24.6%	1.8%
b.	Probable cause determinations for issuance of search warrants	1.1%	3.1%	11.9%	61.5%	20.4%	2.0%
c.	Probable cause determinations for pre-trial seizures in civil matters	3.1%	10.2%	41.2%	35.4%	6.9%	3.3%
d.	Emergency custody orders	.7%	4.4%	17.5%	52.7%	22.3%	2.4%
e.	Temporary detention orders	.9%	2.4%	14.2%	55.8%	24.3%	2.4%
f.	Bail hearings	2.2%	6.2%	6.9%	54.4%	28.1%	2.2%
g.	Visitation interference or child access issues	2.9%	9.5%	38.1%	35.2%	10.4%	4.0%
h.	Issuance of protective orders	1.5%	3.8%	12.8%	55.5%	22.6%	3.8%
63.	Part-time magistrates perform their duties with the same effectiveness and competence as full-time magistrates.	2.2%	5.3%	34.1%	30.8%	19.9%	7.7%
64.	Magistrates adequately fulfill their roles as objective, neutral decision-makers.	.7%	4.0%	12.2%	57.1%	23.9%	2.2%
65.	Magistrates satisfactorily apply problem solving and analytical thinking during the hearing process.	.9%	4.9%	20.4%	53.3%	18.4%	2.2%
66.	Overall, magistrates are competent.	1.5%	3.3%	7.7%	62.4%	23.2%	1.8%
67.	Overall, magistrates are well trained.	2.9%	4.6%	13.5%	55.8%	21.0%	2.2%
68.	Additional Comments: _____						

TO MAGISTRATES & CHIEF MAGISTRATES

SALARY AND WORKING CONDITIONS		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
69.	The following characteristics attract and retain well-qualified persons to the magistrate system:						
a.	Salary	40.0%	25.7%	18.6%	6.1%	8.6%	1.1%
b.	Benefits	9.3%	15.0%	22.9%	39.6%	12.5%	.7%
c.	Working with Virginia law and legal issues	.7%	2.5%	28.6%	58.6%	8.9%	.7%
d.	Uniqueness of position	1.1%	2.9%	21.4%	58.2%	15.7%	.7%
e.	Quasi-judicial role	1.1%	3.2%	25.0%	53.9%	15.4%	1.4%
f.	Intellectual challenge of responsibilities	.7%	1.8%	12.9%	63.2%	20.0%	1.4%
g.	Autonomy of decisions	1.8%	2.5%	21.1%	55.0%	18.6%	1.1%
h.	Importance of decisions	.4%	1.1%	15.4%	56.8%	25.4%	1.1%
i.	Authority of position	2.1%	5.0%	24.3%	51.1%	16.1%	1.4%
j.	Status in community	4.3%	10.7%	32.1%	40.7%	11.1%	1.1%
k.	Contribution to social good	1.1%	4.3%	16.8%	56.1%	20.7%	1.1%
l.	Camaraderie and collegiality with other magistrates	5.0%	11.1%	33.9%	37.1%	11.4%	1.4%
70.	The need to avoid even the appearance of conflicts of interest has not curtailed or restricted my social or professional relationships.	5.4%	13.6%	13.9%	41.4%	23.9%	1.8%
71.	Working day, evening, midnight, and week-end shifts offers more advantages than disadvantages.	20.7%	31.1%	25.7%	13.6%	6.8%	2.1%
72.	The flexibility of a part-time magistrate's position is beneficial in attracting well-qualified persons.	14.3%	19.6%	37.5%	17.5%	4.6%	6.4%
73.	Being on-call and responding within 20 minutes of being called for service offers more advantages than disadvantages.	15.0%	21.4%	36.8%	15.7%	2.9%	8.2%
74.	Coverage for planned magistrate leave is appropriately addressed through scheduling.	14.3%	10.4%	16.4%	42.5%	15.0%	1.4%

TO MAGISTRATES & CHIEF MAGISTRATES

SALARY AND WORKING CONDITIONS, CONTINUED		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
75.	Coverage for planned magistrate leave is provided without undue burden on other magistrates.	19.6%	22.5%	16.1%	30.4%	10.0%	1.4%
76.	Coverage for unplanned magistrate leave is appropriately addressed through schedule adjustments.	13.9%	11.1%	19.6%	45.0%	8.6%	1.8%
77.	Coverage for unplanned magistrate leave is provided without undue burden on other magistrates.	21.1%	28.2%	18.2%	25.0%	6.4%	1.1%
78.	Morale is good.	11.4%	21.1%	21.1%	34.6%	10.4%	1.4%
79.	Overall, the magistrate system is a good place to work.	4.3%	10.4%	16.1%	48.9%	17.5%	2.9%
80.	Additional Comments: _____						

TRAINING FOLLOWING APPOINTMENT

81.	Following my initial appointment, the <i>Magistrate Manual</i> training was clear, thorough, and helpful.	2.1%	3.2%	10.7%	58.2%	23.2%	2.5%
82.	Following my initial appointment, the <i>on the job training</i> was helpful in my understanding my job responsibilities.	1.8%	4.3%	7.9%	49.6%	33.9%	2.5%
83.	The <i>certification training</i> provided by the Office of the Executive Secretary of the Supreme Court was clear, thorough, and helpful.	1.4%	3.6%	10.7%	52.1%	29.3%	2.9%
84.	Overall, the combination of the Magistrate Manual, on the job, and certification training that newly hired magistrates receive during their probationary period develops sufficient competencies and skills to discharge their responsibilities.	2.1%	5.7%	8.6%	52.5%	28.6%	2.5%
85.	Additional Comments: _____						

TO MAGISTRATES & CHIEF MAGISTRATES

JOB RESOURCES	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
86. The Magistrate Manual provides useful guidance for daily office operations.	1.1%	2.5%	7.9%	55.0%	32.9%	.7%
87. Magistrates have sufficient resources for making good decisions (e.g. Code of Virginia, Magistrate Manual).	1.1%	1.8%	5.0%	55.4%	36.1%	.7%
88. Magistrates have sufficient access to information that is useful in making determinations regarding requests for service by law enforcement officials, the accused, and the general public (e.g. public records such as court or DMV records).	2.5%	8.6%	9.3%	51.4%	27.1%	1.1%
89. Overall, magistrates have sufficient resources to carry out their duties.	1.8%	4.6%	8.2%	57.1%	24.6%	3.6%
90. Additional Comments: _____						

PROFESSIONAL DEVELOPMENT

91. Training provided by the chief magistrate is relevant to issues and problems magistrates routinely address.	7.5%	7.9%	20.0%	39.3%	22.9%	2.5%
92. The chief magistrate focuses upon such activities as performance feedback, educational opportunities, and learning experiences that will continuously enhance magistrates' professional skills and abilities.	10.7%	12.5%	19.3%	33.9%	21.4%	2.1%
93. The CLE requirement is an effective mechanism for keeping magistrates up to date on changes in law and procedure.	2.5%	5.7%	11.4%	52.9%	25.0%	2.5%
94. Tests should be administered at the conclusion of the CLE to ensure that teaching points have been understood.	19.3%	28.6%	30.0%	12.5%	6.4%	3.2%
95. Overall, post-probationary magistrates receive sufficient training to prepare them to discharge their professional responsibilities.	4.3%	7.1%	17.5%	55.0%	13.6%	2.5%
96. Additional Comments: _____						

TO MAGISTRATES & CHIEF MAGISTRATES

BACKGROUND INFORMATION

The following questions request general information about your background and your office. Please check (✓) the applicable box and write in any information requested.

97. What is your current magistrate position classification?

- a. 6 Magistrate I
- b. 18 Magistrate II
- c. 32 Magistrate III
- d. 36 Magistrate IV
- e. 47 Magistrate V
- f. 109 Magistrate VI
- g. 26 Chief Magistrate

98. Which statement best describes your current work schedule?

- a. 144 I work on a shift basis only
- b. 60 I work on an availability (on-call) basis only
- c. 62 I work on a combination shift and availability (on-call) basis
- d. 12 Other (Please specify): _____

99. What is your current educational background?

- a. 0 No high school
- b. 0 Some high school
- c. 39 High school diploma or GED certificate
- d. 69 Attended college
- e. 21 Associate degree
- f. 103 Bachelor's degree
- g. 36 Graduate degree
- h. 1 Law degree
- i. 9 Licensed attorney

TO MAGISTRATES & CHIEF MAGISTRATES

100. What was your **primary** work experience immediately prior to your appointment to the magistrate system? (Please check **only one** box.)
- a. 5 Practicing attorney
 - b. 26 Other law or legal services
 - c. 57 Law enforcement
 - d. 94 Private industry or business
 - e. 33 Military
 - f. 35 Federal/state/local government (Please specify):

 - g. 27 Other (Please specify):

101. Did you retire from the primary employment selected in the previous question?
- a. 96 Yes
 - b. 180 No
102. In addition to your current employment as a magistrate or chief magistrate, are you currently employed elsewhere?
- a. 66 Yes (If YES, please continue with 103)
 - b. 210 No (If NO, please skip to 104)
103. What other employment do you currently hold, and how many hours do you work in this capacity each week?

Results reported in 2002 Magistrate Study Survey, October 17, 2002

104. Please check (√) **any** of the following that are provided by your local government:
- a. 2 Automobile for use on official magistrate business
 - b. 57 Mileage expense reimbursement
 - c. 107 Computer equipment for processing transactions
 - d. 6 Administrative or clerical support staff
 - e. 36 Salary supplement
 - f. 132 Pager
 - g. 33 Cell Phone
 - h. 19 Other, please specify

TO CHIEF MAGISTRATES

CHIEF MAGISTRATE MANAGEMENT

105. Please estimate the percentage of your work time in a typical month that you spend on the following duties. Percentages should add to 100.

RESULTS REPORTED IN 2002 MAGISTRATE STUDY SURVEY, OCTOBER 17, 2002		Percentage of Time / Activity
a. Oversee and supervise district's magistrate system		%
b. Participate in magistrate recruitment, selection, and appointment process		%
c. Conduct magistrate training and professional development		%
d. Fill in for absent magistrates or short-staffed offices		%
e. Travel to magistrate offices in my district to gather information, observe, monitor		%
f. Interact with local officials to obtain feedback re effectiveness of magistrate system in district		%
g. Other (Please specify): _____		%
Total (Column should add to 100 percent.)		100%

		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
<i>Please circle your response.</i>							
106.	I am able to spend a sufficient amount of time training magistrates in my judicial district.	4.0%	16.0%	24.0%	36.0%	20.0%	0.0%
107.	Overall, I am satisfied with the performance of this district.	0.0%	4.0%	4.0%	48.0%	44.0%	0.0%
108.	Additional Comments: _____						

TO CHIEF MAGISTRATES

CHIEF MAGISTRATE JOB RESOURCES		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
109.	The training provided me in carrying out my administrative and personnel duties as chief magistrate is sufficient.	0.0%	8.0%	8.0%	68.0%	16.0%	0.0%
110.	The Personnel Policy Manual is a good resource for questions about my personnel management responsibilities.	0.0%	0.0%	12.0%	68.0%	20.0%	0.0%
111.	Technical assistance received from the Office of the Executive Secretary (regardless of which department) has been adequate.	0.0%	0.0%	4.0%	60.0%	36.0%	0.0%
112.	I implement the vast majority of the recommendations received from the Office of the Executive Secretary concerning the management and operation of the district.	0.0%	0.0%	4.0%	64.0%	32.0%	0.0%
113.	Overall, I have sufficient resources to adequately carry out my management functions.	4.0%	12.0%	4.0%	64.0%	16.0%	0.0%
114.	Additional Comments: _____						

FILLING VACANCIES (If you have not filled a vacancy since 1999, Please skip to 120.)

115.	I am very involved in the magistrate recruitment and selection process in this district.	0.0%	0.0%	4.0%	16.0%	60.0%	20.0%
116.	When filling magistrate vacancies in your district, the following steps are consistently taken:						
a.	Advertise the position and necessary qualifications in a local newspaper	0.0%	0.0%	0.0%	24.0%	52.0%	24.0%

TO CHIEF MAGISTRATES

FILLING VACANCIES, CONTINUED		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	No Response
b.	Screen applicants to determine whether they meet minimum qualifications	0.0%	0.0%	0.0%	20.0%	60.0%	20.0%
c.	Use interview questions that focus on position responsibilities and applicant qualifications	0.0%	0.0%	0.0%	20.0%	60.0%	20.0%
d.	Obtain and check employment references	0.0%	0.0%	8.0%	28.0%	44.0%	20.0%
e.	Investigate criminal history	0.0%	0.0%	4.0%	28.0%	48.0%	20.0%
f.	Use the Virginia Employment Commission	8.0%	12.0%	28.0%	8.0%	24.0%	20.0%
g.	Other (please list): _____	0.0%	4.2%	4.2%	4.2%	8.3%	79.2%
117.	The following have not limited or restricted my ability to hire magistrates for vacant positions:						
a.	State salary levels.	33.3%	20.8%	16.7%	12.5%	0.0%	16.7%
b.	The requirement for newly appointed magistrates to have a bachelor's degree or equivalent experience.	0.0%	12.5%	20.8%	33.3%	12.5%	20.8%
c.	The part-time nature of the position. <i>(Please skip this question if you have not recruited for a Magistrate I, II, or III since 1999.)</i>	8.3%	20.8%	8.3%	20.8%	0.0%	41.7%
d.	The on-call nature of the position. <i>(Please skip this question if you have not recruited for an on-call office since 1999.)</i>	8.3%	20.8%	8.3%	12.5%	0.0%	50.0%
118.	Overall, the procedures and mechanisms currently used to recruit and select magistrates are sufficient to employ a high performance work force.	4.2%	4.2%	16.7%	45.8%	12.5%	16.7%
119.	Additional Comments: _____						

TO CHIEF MAGISTRATES

TURNOVER *(If there was no turnover in your district during 2001, please skip to 122)*

Number

Results reported in 2002 Magistrate Study Survey, October 17, 2002

120. Please enter the number of magistrate terminations and retirements in your district in calendar year **2001**:

Reasons for Turnover

121. Please enter the number who left according to the **principal** reason. Choose only 1 principal reason per terminating magistrate. This total should equal the number of terminations and retirements above.

- a. Failed to meet certification or CLE requirements
- b. Accepted other higher paying employment
- c. Part-time magistrate position conflicted with primary employment
- d. Disliked part-time or on-call nature of magistrate position
- e. Terminated for cause
- f. Mutual agreement
- g. Retired from magistrate position
- h. Principal reason for termination unknown
- i. Other (please specify): _____
- j. Total:

TO CHIEF MAGISTRATES

RESPONDENT DATA (FOR STATISTICAL PURPOSES ONLY)

122. Gender (please check (√) one): 71.3% Male _____ 28.7% Female _____

123. Race (please check (√) one):

- | | | | | | |
|---------------------------|--------------|-------------|-------------|-------------------------------------|------------|
| a. White, except Hispanic | <u>90.8%</u> | c. Hispanic | <u>1.0%</u> | e. Native American / Alaskan Native | <u>.5%</u> |
| b. African-American | <u>6.9%</u> | d. Asian | <u>.4%</u> | f. Other, clarify _____ | <u>.5%</u> |

FOR CIRCUIT AND DISTRICT COURT JUDGES:

124. With respect to the magistrate system, please check the block if you have served as either:

- a. An appointing Authority b. A supervising authority

125. **Additional Comments:** _____

FOCUS GROUP SUMMARY FOR MAGISTRATE STUDY ADVISORY COMMITTEE

SEPTEMBER 5, 2002

This document presents a summary of the focus group's reactions and opinions regarding magistrate system performance in several categories. The sections entitled *Focus Group Guidelines* are taken from the material participants received when they were invited to serve and identify the desired performance standards for each category. They are set apart in this summary for ease in comparing focus group views with the desired standards.

ACCESS TO JUSTICE

(All citizens are able to make use of the magistrate system/offices)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems which should be rectified.

- Magistrate procedures facilitate/don't deter use of magistrates
- Opportunity to use magistrate services without undue hardship
- Locations of magistrates' offices are safe/convenient
- Physical barriers for disabled do not exist
- Language barriers do not exist

The proximity to or co-mingling of magistrates offices with law enforcement areas results in a perception by the public and the accused that magistrates are not neutrals, they are not impartial, and that law enforcement and magistrates are working together; resulting in the process not being unbiased.

In small rural communities like Fluvanna, the magistrate is not perceived to be a neutral because the magistrate's office is in such close proximity to law enforcement offices. There the magistrate shares offices with the sheriff's office and the only partition separating the magistrate is a mobile partition. The public does not feel they are treated fairly or impartially.

This is a particularly difficult problem with those persons subject to involuntary civil commitment proceedings who do not want to go to the magistrate's office in the sheriff's department for fear that they will be arrested. Understanding the boundaries and role differences between law enforcement offices and magistrates is especially difficult for those with mental illnesses.

Magistrates' offices simply do not seem to be a high priority for local government. Local governments do not feel that the provision of adequate facilities for the magistrates' offices is their responsibility, in some instances.

The host of issues with the magistrates' offices also includes safety issues for citizens involved. The location of the magistrate's office often is difficult for the public to find; they often are unreachable because of doors being locked after hours and often are in locations where many citizens would not feel safe going to at night, even if they are able to find out where they are.

Other problems raised by advisory group members included physical barriers at magistrates' offices, particularly for access for the disabled. Again, the problem of magistrate facilities seeming to be a low priority for the locality was seen as an important factor.

The disparity between magistrates' offices in different localities is a problem as well, with some areas having adequate quarters and others being wholly inadequate.

Numerous concerns were raised by focus group participants regarding the difficulties for law enforcement personnel, clerks, and others when there are not full-time magistrate offices. Said one participant, "The problem with part-time magistrates has everything to do with who is hired, what their training is and what their availability is."

Other problems mentioned were that the system of part-time magistrates (magistrates are not needed for full shifts and are on-calls for when needed) has not worked well in reality. On-call magistrates have other jobs and customers have to wait hours until another magistrate can be found when someone is at work. Some magistrates simply are not responsive. One situation mentioned was where a magistrate was needed, and he got off work but then went home to have dinner before he went to serve the customer, thus making law enforcement personnel, the defendant and others involved wait for a long period of time.

One of the magistrate focus group participants reported the story from the magistrates' perspective: the fact that magistrates sometimes live far away from their homes means that once home, they must pay for their own gas to go back to work. Sometimes they get home having traveled some distance to work only to be called back to work as soon as they arrive home.

One participant mentioned her concern that the lack of access to magistrates might mean that people are reluctant or unwilling to use the magistrates because of the hassle involved. An officer mentioned that some police will not make arrests at certain times of the day because they know no magistrate is available and they cannot "baby-sit a defendant" for what could become four hours while waiting for a magistrate. Too many hurdles are involved in having recourse to a magistrate when one is not readily available.

One attorney mentioned his concern that many people do not know what the magistrate is, where the office is, or what the magistrate can do. He also is concerned that when it is too time-consuming or cumbersome to utilize the magistrates to get a search warrant, the police might be trying to find other ways to get around the proper process and find some way to conduct a warrant less arrest.

The significant increase in non-English speakers throughout the state results in an inability for magistrates, law enforcement and the courts (especially at arraignment) to communicate with defendants and witnesses who cannot speak the language.

With Virginia's growing diversity, the need for interpreters and translators has grown to be critical. This is a problem for all agencies of the criminal justice sector and the courts. In Lynchburg, the sheriff reported that both the department and the magistrates are being overwhelmed with the need for interpreters.

Language barriers with non-English speakers are a tremendous issue, particularly with such changes as “driving without a license” and “driving under the influence.” For example, the inability to explain bond procedures and the arrest process complicates the entire event. The basic questions asked by magistrates and assessment of defendants becomes more difficult when the accused does not understand English and cannot answer in English as well as when the magistrate is unaware of cultural differences. A particularly poignant example is the need of the magistrate to assess whether the defendant is a flight risk. in the context of the bail process.

Participants emphasized that Spanish is not the only language where trained interpreters are badly needed, because Russian, Vietnamese, Korean and dozens of other languages are heard in courts.

The costs associated with interpreters also are an issue. There needs to be more of an in-depth, systematic examination of the compensation of interpreters participating in the arrest process and court hearings.

Cultural issues also are at play, even when the accused is fluent in English. Someone from a country where “wife beating” is an accepted practice cannot understand why the accused is being brought to the magistrate's office for assault. This lack of cultural fluency also dovetails with the inability to secure qualified interpreters.

Another participant was concerned about the reliance on the interpreter. ("That we have to rely on interpreters is a big problem.") It is cumbersome, perhaps inaccurate (witnesses sometimes correct interpreters), and this reliance on an interpreter serves as a barrier between the magistrate and the accused, which was experienced as a problem.

COURTESY AND RESPONSIVENESS

(Magistrates should be courteous and responsive to the public and accord respect to all.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

- Magistrates are available to assist the public
- Assist those unfamiliar with magistrate procedures
- No bias or prejudice shown
- Respect, dignity and courtesy shown by entire office
- Understanding and patience shown
- Able to perform magistrate services dependably and accurately

The public can get very dissatisfied when the magistrate does not issue the warrant they request because it is a discretionary matter and, in the magistrate's opinion, the problem does not rise to the level of issuing a process.

From the magistrates' perspective, an issue is lack of training or knowledge by the law enforcement officers in showing probable cause or knowing probable cause when they see it.

Numerous complaints were voiced about the treatment of citizens and professionals, including mental health workers, by magistrates. Participants said when magistrates refer to women as "girls," it is totally unacceptable and is interpreted as a derogatory statement. Mental health professionals,

according to one participant, are treated fairly disrespectfully when they come to the magistrate for an involuntary civil commitment because these processes take time and constitute an activity that magistrates evidence as not being part of their "real" jobs.

One criminal justice professional added that she had heard magistrates behave in a manner that is far worse than rude. She has heard magistrates call defendants "scum" and other terms and has heard them speak of police officers and criminal justice personnel in belittling or derogatory terms.

According to one of the magistrate advisory study members, one of the problems magistrates face in terms of responsiveness is that magistrates cannot control their workflow. They can have empty offices for several hours and then several citizens, law enforcement officers, and others can appear or call for assistance. If a citizen cannot get a magistrate's attention for a period of time, they may regard the magistrate as being unresponsive when; in fact, the magistrate is working on another individual's case. The lack of support staff exacerbates this problem significantly.

TIMELINESS

(Magistrates' actions should be taken in a timely fashion.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Promptly available to conduct hearing

Hearing concluded in timely fashion

Minimal number of appearances required (public/law enforcement do not have to keep coming back)

There is a lack of timeliness by magistrates in being available and issuing processes.

One participant mentioned that she has heard stories of officers being made to wait for a couple of hours and then told that they had to take the defendant to the magistrate's home locality to get the person in front of a magistrate. In addition, a mental health professional mentioned instances where they are made to appear before the magistrate multiple times.

Another participant offered that the twenty-minute response time is not feasible; again because the magistrate has other jobs, they do not answer their phones when they are on-call, or they have personal affairs to take care of.

A judge participant said that at times it is difficult for judges to get the correct information about what problems exist in the magistrate's office because of reluctance to criticize the office in front of a judge.

Law enforcement officers engage in magistrate shopping for more favorable results.

Some participants said that some law enforcement officers do not want to deal with the resistance of certain magistrates and will wait until another magistrate is available before bringing a defendant or a request for process.

Communication and coordination is a problem even for larger offices because of the volume of complaints handled by magistrates on the telephone or in their offices. Sometimes people cannot be

served immediately. This is also true in rural areas where it takes magistrates some time simply to get to their offices.

The consensus of opinion regarding part-time magistrate offices is that they do not work well. Said one participant summing up the issue: "When you have a part-time effort, you have part-time results."

FAIRNESS

(The actions taken by magistrates are just, equitable, and consistent.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Litigants heard/understood

Similarly situated citizens receive similar treatment

Decisions comply with law

Decisions appropriate/proportional for type of hearing

Outcome not dependent on which magistrate conducts hearing

Impartial/impartiality shown

Equal application of law regardless of who appears before magistrate

Magistrates ask incriminating questions of the accused in front of law enforcement officers.

A problem arises when someone in the custody of a police officer is brought before the magistrate and the magistrate, in discharging his or her duties, asks a question that reveals incriminating evidence about which the police officer is then free to testify. When individuals are before the magistrate, a quasi-judicial officer, they feel they must answer the magistrate's question and the magistrate has no duty to advise persons in custody of their rights.

The personal biases of magistrates influence decision-making. A few participants expressed the opinion that the attitudes of some magistrates and their biases "bleed over" into the magistrate's decision-making. No particular information was forthcoming about which biases formed the basis of these statements.

In terms of fairness, one of the issues raised was inconsistency in decision-making, such as in bond decisions. One participant suggested that differing results is not necessarily a negative, because magistrates must listen to both sides of the story and need to address the facts of each individual case and make their decisions accordingly.

The issue of disputes between magistrates and law enforcement officers about whether the magistrate in a particular district has jurisdiction over a matter also was mentioned. One magistrate will not issue a temporary detention order (TDO) because of a jurisdictional issue (the event occurred in an adjoining district), while others feel in fact the magistrate has the authority to issue the process but does not want to do the work involved.

Also in terms of fairness, a participant said that both judges and magistrates must understand the populations and cultures they serve. Such understanding is helpful in avoiding bias and misunderstanding; magistrates must treat people well by better understanding the populations they serve.

INDEPENDENCE AND ACCOUNTABILITY

(Magistrates operate as independent judicial officers and are accountable for their decisions.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Magistrate system and magistrates are insulated from undue political pressures (e.g., from law enforcement, supervisory judges, executive and legislative branch)
Public perceives magistrates as independent, not unduly influenced by other governmental entities
Magistrates not discharging responsibilities are held accountable by higher authority

Magistrates' close association with law enforcement personnel leads to perceptions of inappropriate relationships or bias toward law enforcement.

The close proximity of the offices of magistrates and law enforcement agencies and the regularity of contact between officers and magistrates puts (or appears to put) pressure on magistrates to issue the processes requested, according to some participants. Others said magistrates either seem to be too close to law enforcement personnel or have a conflictive relationship with police and sheriffs. In addition, conflicts of interest between those who work in magistrates' offices and law enforcement offices were cited as a problem.

The lack of oversight of magistrates and lack of information about the activities in offices in large districts results in lack of proper accountability.

The need for a more organized structure between all those who deal with magistrates was cited as a problem. The present hierarchy of a chief magistrate and the supervising authority is too loose and is ineffective, according to one participant. When problems of inconsistency come up, there is no immediate structure to know about it or to do something about it. Judges say they must rely on the chief magistrates, but the chief magistrates themselves have a tough time, particularly in rural areas, getting to all the offices and understanding the specific problems and needs for training.

Insufficient feedback from chief magistrates for magistrates causes problems in their performance.

There is too little feedback for magistrates because no one is there for the magistrate to ask, "Did I use the right criteria in issuing that process? Did I use the right form?" said one magistrate. There also is too little follow-up on magistrates' training needs.

There is a perception in the defense bar that magistrates perform no more than a rubber-stamping of what law enforcement seeks, particularly in terms of arrest and search warrants.

Particularly in drug cases, there is a perception that magistrates do nothing but rubber-stamp the decisions of law enforcement. Law enforcement often uses affidavits that are formula-based and it appears that they use old affidavits and simply change the addresses of the defendants, said one defense attorney. Lawyers find deficiencies in the logic used in decision-making by magistrates. A Commonwealth's Attorney member suggested there was no problem using form affidavits; law

enforcement officers know what constitutes probable cause and they deal with many drug cases where the facts are the same.

Also mentioned was the problem of inadequate record keeping in the computer systems in magistrates' offices. Magistrates cannot tell attorneys what processes were issued if some time has passed because those records are not kept in the magistrate's computer system. Magistrates cannot look back on their own records to say what arrest warrants were issued on a defendant. The fact that magistrates have no authority to act as record-keepers was mentioned by one magistrate.

Finally, the problem of officers using their leverage with the magistrates in order to induce cooperation from someone they have just arrested was raised. That is, the police officer will say to the accused, "If you cooperate with me, I'll ask the magistrate for a low bail or recognizance bond." This may be an acceptable practice but it has implications for fairness, independence and accountability for the system, said a participant.

SELECTING MAGISTRATES: ADVERTISEMENT, RECRUITMENT AND HIRING

(The recruitment and selection process is fairly administered, open to all candidates and does result in well-qualified magistrates)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Existing qualifications, whether established by law or policy, are sufficient to ensure a competent magistrate workforce

Current recruitment process does generate an adequate, diverse, and qualified pool of applicants

Characteristics of the role attract and retain qualified applicants

Procedures used in the process for selecting magistrates are sufficient to ensure the hiring of the most qualified candidates

The procedures are fair

The procedures are consistently administered throughout the state

Sufficient objectivity, diligence and skill are exercised by the Chief Magistrate and appointing authority in the selection of magistrates

There was fairly widespread consensus of the participants that there is a lack of adequate advertisement for magistrate positions and this may mean the system is not attracting the best candidates.

The first issue mentioned was the lack of advertisement for magistrate positions; at least two participants saying these positions are never on the statewide recruitment register. Further, this participant noted what she considered to be conflicts of interest where a father/daughter combination and the brother of the chief magistrate are employed as magistrates.

Part-time work and present salaries are insufficient incentives to apply for jobs as magistrates.

Another participant said she believes that part of the problem with lack of diversity in magistrate candidates is that few people are interested in the lower classifications for magistrate

because the money is insufficient to serve as an incentive for anyone to apply. Once they are hired, there is a high level of turnover because of the necessity for being on-call in the middle of the night, the fact that magistrates have to pay for their own commuting expenses, and as one participant put it, they decide after one too many calls, "I'm just not going to go down there." "It's not worth it to them."

Also on this issue, a participant mentioned that not everyone reads the newspaper, or has Internet access to find out about the positions.

Further, skepticism was expressed over the ability of the chief magistrate to screen the applications properly and recommend the most appropriate candidates to the judges. The chief magistrates need more guidance in selecting candidates for recommendations to the judges.

Chief magistrates, like judges and many other professionals, were selected for their positions because of their substantive knowledge not their management skills, said one participant. Managing people is a whole, different "ball game," said one participant, and it does not come easily. Chief magistrates need a great deal more training than they currently receive.

TRAINING MAGISTRATES: INITIAL TRAINING, CONTINUING EDUCATION, ON-THE-JOB TRAINING

(There is adequate training for magistrates, both at the beginning and throughout their service to provide them with sufficient competencies in law, court procedures, and the professional skills necessary to discharge their responsibilities effectively)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

The Court System is using effective teaching methodologies and providing effective learning events

We do ensure magistrates maintain continuing competencies in their core functional areas throughout their careers as magistrates

Probationary magistrates receive adequate training to prepare them for their professional duties

The training adequately prepares magistrates to fulfill their roles as objective, neutral decision-makers

The consensus of opinion among the group was that present training requirements for magistrates is woefully inadequate.

As one participant concluded, "About as much training as the system can stand for a magistrate to get is two weeks." New magistrates get a week of training through the Office of the Executive Secretary of the Supreme Court in Richmond, which is helpful but insufficient. Then with I, II, and III magistrates, when a vacancy occurs, the other magistrates, seasoned or not, have to fill in, according to one advisory group member. Thus, people are getting put on the spot to do the job and they are not properly trained. The effect is that bad practices get passed down through inexperience and because some behaviors simply get institutionalized as new magistrates just follow what their colleagues do. More supervisory staff is needed to assist with training magistrates.

OVERSIGHT

(Recognizing that the role of the magistrate is to provide an independent review of complaints brought by the Commonwealth or citizens, the current structure for providing oversight of individual magistrate performance, and the magistrate office operations is generally, sufficient to ensure proper performance)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

- The current entities responsible for the oversight of the magistrate do adequately exercise their oversight responsibility
- The current structure does contribute to the disparate application of state-wide policy and procedures
- Vesting “supervisory oversight” in the same hands as are responsible for the appellate review of magistrate decisions does undermine and threaten the judicial independence of the magistrate’s decision making
- The existing mechanisms are adequate to ensure the accountability of magistrate actions
- There are clear and well-understood performance standards for magistrates’ management
- There are consequences when local management diverges from established policies and procedures adopted by the Committee on District Courts or by statute (e.g. re-appointing a new magistrate who has failed the certification exam up to 4 times)

Lack of accountability, staffing and the other issues such as training, are of such magnitude that they need to be addressed now, concluded one participant. In some areas, there is a lack of participation by chief magistrates in forums to address problems, and this leads to a perception of lack of concern.

One participant asked that the study conducted by the Joint Legislative Audit and Review Commission again be reviewed for those recommendations.

Another suggested that, while the magistrates are under the supervision of the circuit courts (unless that supervision has been delegated to the chief general district court judge), there should be more meetings of the chief judges of each of the three levels of trial courts with the resident magistrates so that common problems could be resolved.

COMPLAINT SYSTEM

(There is an adequate mechanism/system whereby citizens/law enforcement/other consumers of magistrate services can file complaints about the treatment received or about the actions taken by the magistrate)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems which should be rectified.

There are mechanisms in place adequate to address poor or legally deficient magistrates' decisions (e.g. bail and protective orders)

There are sufficient mechanisms to address issues re: magistrates' courtesy, responsiveness, and professionalism

Adequate mechanisms do exist to allow citizens to complain about barriers to timely and physical access to magistrate services

The complaint system for magistrates, such as it exists, is virtually unknown to the public, law enforcement personnel, and the public. As it exists, the process is not credible and is not handled uniformly throughout the state.

The lack of knowledge, communication, and understanding about how to file a complaint about a magistrate causes ill feelings towards the magistrate system overall. Participants expressed confusion about whether or how to use the form for complaining about sexual harassment by magistrates to also complain about different behaviors, such as incompetence. There is also mistrust of going to the judges to complain because it is the judges' responsibility to oversee the magistrate system.

Going to the chief magistrates to complain about magistrates also is ineffective, according to one participant, who said she knew chief magistrates who so schedule themselves as not to have to work with problem employees.

One participant suggested there should be a complaint procedure, such as the Judicial Inquiry Review Commission for magistrates. At least, there should be some definitive guidelines so that the proper procedures can be exercised and followed, he said.

In addition, there is some concern that no one wants to complain because of the fear of retaliation, particularly where magistrates may be related to each other. Sometimes people do not want to sign the complaint form, but unless they do, it is difficult for a chief magistrate to follow up on the complaint.

FOCUS GROUP SUMMARY FOR MAGISTRATES AND CHIEF MAGISTRATES

SEPTEMBER 26, 2002

This document presents a summary of the focus group's reactions and opinions regarding magistrate system performance in several categories. The sections entitled *Focus Group Guidelines* are taken from the material participants received when they were invited to serve and identify the desired performance standards for each category. They are set apart in this summary for ease in comparing focus group views with the desired standards.

ACCESS TO JUSTICE

(All citizens are able to make use of the magistrate system/offices)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems which should be rectified.

- Magistrate procedures facilitate/don't deter use of magistrates
- Opportunity to use magistrate services without undue hardship
- Locations of magistrates' offices are safe/convenient
- Physical barriers for disabled do not exist
- Language barriers do not exist

The public has direct access to the magistrate office during normal business hours but not after hours. The office in Richmond is presently located in the John Marshall Courts Building and the public does not have access after hours or on weekends. That office recently implemented video conferencing equipment. After hours and on the weekends the public has access to the magistrate through the police precincts, which are connected via videoconference equipment. Magistrates do not have control how the public gains access through the video equipment. There is a learning curve for law enforcement on using the equipment. Plus the equipment has been creating delays in processing requests for warrants, etc. Officers will wait until they have 4 or 5 arrests before bringing the individuals before the magistrate, thereby creating a backlog.

In other jurisdictions Sheriffs have decided that they will not use the videoconferencing equipment and advise the public to return when a magistrate is on duty.

Relying on the locality for facilities is a problem. In District Twenty-Nine, out of four magistrate offices, only one has janitorial services. The magistrates are not provided facilities and the facilities are not maintained.

When new facilities are being planned, the local government decides how they are going to design the magistrate office without input from the Chief Magistrates. They assume needs to fit their budget constraints. When they placed the videoconferencing system in Richmond the areas needed to be reconfigured based on the magistrate needs. Accommodations for magistrates seem to be a "begrudged afterthought."

There exists great disparity between urban and rural localities. Urban magistrate offices are nicer--money is available. A magistrate from Fairfax was very pleased with her facilities. However, no one else shared this opinion.

Magistrates do not seem to be viewed by the locality as an important part of government. Until magistrates are viewed as part of the public safety community they will not be treated with respect and credibility.

There should be the opportunity to use magistrate services without undue hardship. There are not enough resources to utilize the new equipment. If a magistrate in Richmond needs to fax a document, they cannot be connected to the videoconferencing system because both machines share the same telephone line.

The magistrates have access to interpreters, but the process to use an interpreter is burdensome. Hispanic populations are increasing. Written instructions are not available to explain access to the magistrate in language other than English. This is a growing statewide problem. Telephone interpreting services are not working as they should. "Language Line" is adequate, but one magistrate (who is currently learning to speak Spanish) has found that the interpreters are not translating, but giving their slant on what is being said. There need to be standards on the "Language Line".

Law enforcement is unaware that magistrates may not use them as interpreters.

COURTESY AND RESPONSIVENESS

(Magistrates should be courteous and responsive to the public and accord respect to all.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

- Magistrates are available to assist the public
- Assist those unfamiliar with magistrate procedures
- No bias or prejudice shown
- Respect, dignity and courtesy shown by entire office
- Understanding and patience shown
- Able to perform magistrate services dependably and accurately

There may be different treatment of the public by the magistrate based on personal appearance or dress. There is more bias shown toward the magistrates by law enforcement when the magistrates do not issue a requested process.

A common problem is that the public has been coached by law enforcement on what they should ask for and then the public becomes upset when they cannot get that process.

Magistrate shopping is a problem. An inexperienced magistrate is targeted for search warrants. A magistrate who issues all requests is sought after by law enforcement.

TIMELINESS

(Magistrates' actions should be taken in a timely fashion.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Promptly available to conduct hearing

Hearing concluded in timely fashion

Minimal number of appearances required (public/law enforcement do not have to keep coming back)

One magistrate reported that "We are attempting to provide a service in 2002 with the same staffing level we had in the 1980's." The staffing levels have not kept up with population increases and increases in law enforcement personnel, and this disparity has overwhelmed offices.

Staffing for the district court clerks' offices is increasing, populations are increasing, judicial staff has increased, but the magistrate staffing remains the same. It takes longer now to process warrants, bonds, and other processes. It used to take 10 minutes to process one charge of driving under the influence, but now it takes 30 - 40 minutes by the time all the testimony has been heard and other tasks completed. If the magistrates are to deal with the public in a timely fashion, staffing levels will need to increase.

Delays in bonding may be due to the jail not notifying or delaying notification to the magistrate that someone is waiting to be bonded. Not receiving the appropriate or accurate legal process from the court creates a timeliness issue statewide. When magistrates receive legal processes that are not completed correctly, magistrates have to correct them before they can release individuals for bond. For example, the magistrate may receive a continuance order with no dates or times for the next hearing. Properly trained deputy clerks are a problem. Inaccurate legal processes doubles the time it takes magistrates to issue processes.

If there is only one magistrate trying to take care of a number of requests for service simultaneously, there is going to be delay.

In a bonding situation, if an officer does not bring the current criminal history for a would-be defendant, it may take 20 - 30 minutes for the officer to collect the information and return to the magistrate's office. The officer's not being prepared results in delay in issuing the legal process.

The standard of a 20 - 30 minute response time is unrealistic. "There is nothing to motivate a part-time, on call, magistrate to respond at 2:00 a.m.--no mileage reimbursement or shift differential to offer a magistrate." A magistrate may live farther than 20 minutes from a magistrate office, especially if she is covering two localities.

There is also an unrealistic expectation on the part of law enforcement in "turnover time" for their officers. An officer will make 4 or 5 arrests and bring them before a magistrate via videoconferencing all at once. A magistrate may be answering phones from dispatchers, dealing with the public and conducting hearings. To conduct a fair hearing it may take 15 - 20 minutes and when you multiply this by 5 officers, 10 phone calls and crisis intervention, the entire set of tasks may take 2 - 3 hours. Then the law enforcement supervisor makes a complaint that it takes their officers too long to get a process. A law enforcement supervisor may not visit the magistrate office

to understand the pace of the work, but may instead send an email to the Chief Magistrate complaining about their officers spending too much time in the magistrate office.

One magistrate reported that "Some magistrates refuse to come out at night."

FAIRNESS

(The actions taken by magistrates are just, equitable, and consistent.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Litigants heard/understood

Similarly situated citizens receive similar treatment

Decisions comply with law

Decisions appropriate/proportional for type of hearing

Outcome not dependent on which magistrate conducts hearing

Impartial/impartiality shown

Equal application of law regardless of who appears before magistrate

There are occasions when Commonwealth's Attorneys criticize the magistrate's judgment when a magistrate does not find probable cause. Rather than criticizing magistrates, Commonwealth's Attorneys should pursue other avenues open to them. Magistrates should not become the targets of criticism due to their decisions.

The public is not educated on what information the magistrate needs in order to make a decision. This may result in citizens' feeling like they have not been given fair treatment by the magistrate.

There will always be perceived unfairness because magistrates are individuals who have different backgrounds, and bring differences to the job. As a result, different magistrates will interpret the same story differently.

The magistrate certification class needs to be at least 2 weeks with 8 hours spent on how to be impartial on bail hearings. Training needs to be expanded to ensure fairness.

There are magistrates who will issue a process whenever one is requested and this makes it difficult for the magistrate who does question law enforcement and denies a process. Some magistrates may be trying to avoid complaints from law enforcement by granting processes.

Some magistrates will have better "interviewing skills" and be able to glean information that was not initially offered, which could make a big difference in the final decision.

INDEPENDENCE AND ACCOUNTABILITY

(Magistrates operate as independent judicial officers and are accountable for their decisions.)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Magistrate system and magistrates are insulated from undue political pressures (e.g., from law enforcement, supervisory judges, executive and legislative branch)
Public perceives magistrates as independent, not unduly influenced by other governmental entities
Magistrates not discharging responsibilities are held accountable by higher authority

Citizens believe the magistrates work for law enforcement and are accountable to law enforcement. Because the office is in the jail or in close proximity to the sheriff's office, or police department, it is perceived that the magistrates are associated with that department, rather than being considered an independent entity. There is an erroneous perception by the public that magistrates are supposed to issue whatever process is requested by law enforcement.

Complaints from Commonwealth's Attorneys are fairly common when a magistrate does not issue a process.

There are chief magistrates who are not completing performance evaluations, or schedules, or implementing recommendations from evaluations made by the Office of the Executive Secretary of the Supreme Court. These evaluations may be sent directly to the judges, but the judges do not necessarily follow through on recommendations contained in these reports. A magistrate reported that in one district the impression is that the chief circuit judge, who is the magistrate supervising authority, does not want to be bothered by magistrate issues. Accountability is not consistent within judicial districts. The rotation of supervising authority among chief judges creates problems and causes inconsistencies.

Some judges will orally advise a magistrate to do something in a manner that magistrates believe to be in direct conflict with the MAGISTRATES MANUAL. Judges will have certain things that they want done on certain cases and will indicate that preference.

Another magistrate reported that in one district, the judges and Commonwealth's Attorney will not "allow" magistrates to write a felony warrant on a citizen complaint because the Commonwealth's Attorney contends that a citizen cannot present his case before the grand jury. Therefore, if a citizen comes before that magistrate for a felony warrant, the magistrate sends the citizen to the sheriff's office for investigation and that can take 6 to 12 weeks before the citizen finally gets an answer. The citizen may conclude that the delay is due to the magistrate. [This also impacts the "Timeliness" issue.]

SELECTING MAGISTRATES: ADVERTISEMENT, RECRUITMENT AND HIRING

(The recruitment and selection process is fairly administered, open to all candidates and does result in well-qualified magistrates)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

Existing qualifications, whether established by law or policy, are sufficient to ensure a competent magistrate workforce

Current recruitment process does generate an adequate, diverse, and qualified pool of applicants

Characteristics of the role attract and retain qualified applicants

Procedures used in the process for selecting magistrates are sufficient to ensure the hiring of the most qualified candidates

The procedures are fair

The procedures are consistently administered throughout the state

Sufficient objectivity, diligence and skill are exercised by the Chief Magistrate and appointing authority in the selection of magistrates

It was expressed by all that low salary is a significant issue. It is difficult to retain qualified magistrates with the current salary. The allure of the job wears off shortly after the magistrate is hired.

There is concern about retention of qualified magistrates if salaries do not increase. A magistrate who has been in the system a number of years is making close to the same salary as newly hired magistrates.

There is no incentive to stay when there have been no step increases, nothing for knowledge or longevity, nothing for self-improvement.

There is no incentive to improve academically. No one cares if a magistrate obtains a graduate degree. Other organizations recognize these advancements through compensation.

There is overall concern about whether chief judges and chief magistrates use the recruitment process to fill vacancies. There is political influence in the hiring process. There are citizens within a particular district who may not apply for magistrate jobs because they perceive that the chief magistrate or chief judge already has a candidate to fill the vacancy. This inhibits applicants because they do not want to jeopardize their current jobs if there is no chance of being hired into a magistrate position.

There needs to be more cultural diversity among the magistrates, especially with the increasingly diverse population.

There is an urgency to get a vacancy filled because the remaining magistrates have to pick up the slack. Therefore, the appointing authority may not always take the time to select the best person for the job.

Newly hired magistrates must possess either a bachelor's degree or equivalent experience. However, there are differing interpretations of this requirement. Some chief magistrates may feel

that two to four years of law enforcement experience is equivalent to a bachelor's degree, while others do not.

The system seems to favor retirees who have a retirement benefit to supplement the magistrate salary. The income is considered low, and magistrates need another source of income. A focus group participant understood that a magistrate in his district was not able to afford childcare on her salary and would not have been able to stay in the position had it not been for her mother providing free childcare. Applicants perceive the Class I through IV positions (part time, on-call magistrate positions) as simply a second job.

TRAINING MAGISTRATES: INITIAL TRAINING, CONTINUING EDUCATION, ON-THE-JOB TRAINING

(There is adequate training for magistrates, both at the beginning and throughout their service to provide them with sufficient competencies in law, court procedures, and the professional skills necessary to discharge their responsibilities effectively)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

The Court System is using effective teaching methodologies and providing effective learning events

We do ensure magistrates maintain continuing competencies in their core functional areas throughout their careers as magistrates

Probationary magistrates receive adequate training to prepare them for their professional duties

The training adequately prepares magistrates to fulfill their roles as objective, neutral decision-makers

The magistrate certification class needs to be longer. Too much material is covered in the four to five day classes.

The magistrate technical assistants of the Office of the Executive Secretary need to be available at all times, including evenings and weekends. Magistrates are having difficulty getting in touch with these technical assistants when they have questions. They play an important role and that role needs to be expanded.

The lack of training and lack of continuing education are reasons magistrates make the wrong decisions. This is true with the more seasoned magistrate who "thinks he knows it all."

New magistrates are coming to certification school without on-the-job training. Many chief magistrates do not conduct effective on-the-job training for newly hired magistrates. "In my certification class there were two people who failed the test. One said that he had only seen the chief magistrate once and the other had not seen the chief magistrate at all since he had been hired."

One chief magistrate feels the MAGISTRATES MANUAL is too voluminous to use as a textbook. It would be helpful to have lesson plans that break the manual down into manageable teaching segments.

The administrative responsibilities of the chief magistrate hinder proper training of newly hired magistrates. A chief magistrate who has 20 - 30 magistrates to supervise has difficulty training and taking care of the other problems that arise, i.e. scheduling, leave, and handling complaints.

The role of the magistrate has changed. Therefore, responded one magistrate, "When I was first appointed about 14 years ago it took about one to one-and-a-half years to feel comfortable. Now it takes two to four years to feel comfortable with the job because it is more complicated."

A magistrate needs to have support and cooperation from the chief magistrate and the other magistrates for further education. Law enforcement is encouraged to continue their education and is compensated for higher degrees. The magistrate system has fallen behind by failing to support magistrates who want to further their education. There is difficulty scheduling coursework to not conflict with magistrate responsibilities.

OVERSIGHT

(Recognizing that the role of the magistrate is to provide an independent review of complaints brought by the Commonwealth or citizens, the current structure for providing oversight of individual magistrate performance, and the magistrate office operations is generally, sufficient to ensure proper performance)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems, which should be rectified.

The current entities responsible for the oversight of the magistrate do adequately exercise their oversight responsibility

The current structure does contribute to the disparate application of state-wide policy and procedures

Vesting "supervisory oversight" in the same hands as are responsible for the appellate review of magistrate decisions does undermine and threaten the judicial independence of the magistrate's decision making

The existing mechanisms are adequate to ensure the accountability of magistrate actions

There are clear and well-understood performance standards for magistrates' management

There are consequences when local management diverges from established policies and procedures adopted by the Committee on District Courts or by statute (e.g. re-appointing a new magistrate who has failed the certification exam up to 4 times)

One magistrate responded "I've never met our chief judge, and he has supervisory authority over me. I've never had any feedback."

The exercise of the oversight responsibility is not consistent around the state. In some localities, the chief district judge is the supervising authority. In others it is the chief circuit judge. The magistrates are more closely associated with the district courts based on the processes they issue. There needs to be consistency and accountability at one level, preferably the district courts.

One magistrate reported, "I was called to task by the district court judge because of a decision I made. I denied a warrant, the chief magistrate denied the warrant and two weeks later the district

judge questioned the decision I made." They (the magistrate, chief magistrate and judge) came to an understanding, but the magistrate nonetheless felt pressure from the judge.

Performance standards for the chief magistrate have not kept up with the changes made within the criminal justice system and the private sector. The chief magistrates are still operating under the standards of the 1980's.

COMPLAINT SYSTEM

(There is an adequate mechanism/system whereby citizens/law enforcement/other consumers of magistrate services can file complaints about the treatment received or about the actions taken by the magistrate)

Focus Group Guidelines: The following is a list of specific performance categories. For each category, please describe any problems which should be rectified.

There are mechanisms in place adequate to address poor or legally deficient magistrates' decisions (e.g. bail and protective orders)

There are sufficient mechanisms to address issues re: magistrates' courtesy, responsiveness, and professionalism

Adequate mechanisms do exist to allow citizens to complain about barriers to timely and physical access to magistrate services

There needs to be a clear, well-defined, system for registering complaints about magistrates. There appear to be two types of complaints: customer service by a magistrate vs. a substantive decision made by the magistrate as a neutral judicial officer. Focus should be on the consumer who feels that he or she has been treated in a rude or untimely manner. There needs to be an appropriate mechanism in place to address the first type of concern. Would-be complainants need to be educated to understand that there are appellate and other legal avenues to address unhappiness with substantive legal decisions by magistrates.

Unless a magistrate issues the process the citizen wants, there will be complaints. Complaints are made surrounding domestic violence or protective orders, and when these complaints are investigated it may be found that the magistrate had not been given all the information needed to ensure the safety of an individual. For example, one focus group member received a complaint from a domestic violence advocate because the magistrate had released an individual who had severely beaten his wife. The magistrate was unaware of the beating and the subsequent hospital stay by the wife. Had the magistrate been aware of these circumstances, he would not have released the husband.

During the Focus Group meeting, there was a common sentiment that there needed to be more training or education of magistrates, as well as more training of individuals who work with magistrates. Problems arise because of lack of knowledge or understanding of the magistrate system by the public, law enforcement, and the magistrates themselves.

Appendix 6:

Venture Team Package

	Page
Background for Venture Team Participants	152
Magistrate Study Areas Targeted for Improvement	155
Magistrate Study: Perspectives	156
Venture Team Guidelines	163

BACKGROUND FOR VENTURE TEAM PARTICIPANTS

1. METHODOLOGY

To identify areas for improvement, members of the Office of the Executive Secretary have completed a number of activities, including staff analyses, focus group meetings, and, most significantly, comprehensive state-wide surveys of attorneys, law enforcement personnel, magistrates and other system users. A total of 1,963 surveys was mailed, with 1,106 responding, for a response rate of 56.3%. The organizations receiving the surveys and their response rates are attached.

The first step in targeting areas for improvement was to identify those survey questions which requested an *overall evaluation* about a performance area, such as oversight. Survey questions were stated in positive terms to communicate the standard of service delivery desired. For example, the question, “*Overall, the magistrate system receives sufficient oversight.*” conveys the desired standard and requests agreement or disagreement with the statement. Those *overall evaluations* with the highest disagreement identified the areas targeted for improvement.

This process resulted in the page entitled *Magistrate Study Areas Targeted for Improvement*. It is organized into four general themes identified by survey respondents and focus group members to be significant issues. The numerical data to the right reports the survey responses by question.

A comment is required about Groups 3 and 4. While some of the survey questions requesting *overall evaluations* in these areas did not receive high disagreement from the total survey population, individual questions within these categories did. Focus groups also had significant discussion concerning these issues. Finally, surveys from specific groups (such as attorneys and various citizen groups) registered higher rates of dissatisfaction. For these reasons, suggestions for improvement are also sought in these areas.

2. MAGISTRATE STUDY: PERSPECTIVES

To provide context, a document entitled *Magistrate Study: Perspectives* is also enclosed. It contains specific survey responses that shed light on the targeted areas. These survey responses are reported by whether they were the evaluation of those both within and outside the judicial system, or whether they represent the evaluation of certain segments within the system, such as the magistrates themselves. In addition, this document contains summary observations from focus group participants, which evolve from their personal experiences with the system.

There are a few general comments about the survey responses themselves.

1. The surveys requested respondents to indicate whether they were evaluating full-time or part-time magistrate offices. Generally, there were no significant differences in responses regardless of which type of office was being evaluated.
2. The survey responses provided are total (aggregate) results, that is, the combined results of all respondent groups.

3. An important objective of the survey, focus groups, and venture teams is to obtain views of those both within and outside the judicial system. Toward that end, eleven different groups received surveys. Naturally, within these categories, responses varied across all groups. As a rule, the following variances occurred for the *overall evaluation* questions:

- a. **Law Enforcement:** Law enforcement responses generally mirrored the aggregate results with the exception of timeliness. In this area, law enforcement's rate of disagreement that magistrates meet the service standard was approximately twice as high as the aggregate results.

As an example, the aggregate responses showed a 6.1% disagreement rate with the statement that *Overall, magistrates handle their responsibilities timely*. The disagreement rate for law enforcement was 12.2%.

- b. **Jail Superintendents:** Jail superintendents' responses followed the law enforcement pattern. As a group, their responses typically matched the aggregate results with the exception of timeliness, where their disagreement rate also was approximately twice as high.
- c. **Attorneys:** When all categories of attorneys were combined, their rate of disagreement was generally *at least* twice as high as the aggregate results. The exception for attorneys was timeliness, where their evaluation generally matched the aggregate results.

For example, the aggregate responses showed an 11.2% disagreement rate with the statement that *Overall, magistrates are competent*. The disagreement rate for attorneys (without regard to whether they represented prosecution or defense) was 34.9%.

As a note, the rate of disagreement grew to approximately 3 times as high as the aggregate results when examining individual survey questions in the Competence and Fairness category.

Using two examples, attorneys' disagreement rate of 41.5% with the statement that *Magistrate decisions comply with law* compared with a 10.8% disagreement rate across all groups. Similarly, attorney's disagreement rate of 22.7% with the statement that *Magistrates sufficiently preserve the constitutional safeguards of all citizens* compared with a 7.4% disagreement rate across all groups.

- d. **Citizen Groups, Advocacy Organizations:** Like attorneys, the responses from these associations generally registered a higher rate of disagreement that service actually meets the desired standard. Their rate of disagreement was approximately 1.5 times higher than the aggregate results.

As an example, the aggregate survey responses showed a 7.9% disagreement rate with the statement that *Overall, magistrates accord respect, dignity, and courtesy to the public*. The disagreement rate for members of citizen groups and advocacy organizations was 21%.

- e. **Race:** Responses for races and ethnic groups other than white were generally in agreement with the aggregate results across all groups with the exception of selection of magistrates. In this area, their rate of disagreement was approximately twice as high as the aggregate results.

As an example, the aggregate responses showed a 7.5% disagreement rate with the statement that *Magistrate vacancies are open to all candidates*. The disagreement rate for respondents from races and ethnic groups other than white was 13.4%.

- f. **Gender:** Female responses were generally in agreement with the aggregate results with the exceptions of respect and courtesy, impartiality, fairness, and a sufficiently diverse workforce. In these areas, female rates of disagreement were approximately 1.5 times higher than the aggregate results.

As an example, the aggregate responses showed an 11.9% disagreement rate with the statement that *The magistrate workforce is sufficiently diverse*. The disagreement rate for female respondents was 19%.

Magistrate Study Areas Targeted for Improvement

		Survey Responses				
		<i>Total Disagree</i>	Neither Agree nor Disagree	<i>Total Agree</i>	No Response	Total %
Group 1: Management, Oversight, and Recourse						
1	Overall, the magistrate system receives sufficient oversight.	22.00%	30.70%	44.90%	2.40%	100.00%
2	Overall, complaints about poor or legally deficient magistrates' decisions are adequately addressed.	19.50%	38.40%	38.70%	3.30%	99.90%
3	Overall, complaints about poor treatment or lack of professionalism are adequately addressed.	15.50%	39.20%	41.80%	3.30%	99.80%
Group 2: Selection						
4	Overall, the recruitment and selection process results in well-qualified magistrates.	15.60%	34.10%	45.30%	5.10%	100.10%
Group 3: Competence and Fairness						
5	Overall, magistrates are competent.	11.20%	13.70%	74.00%	1.10%	100.00%
6	Overall, magistrates are fair.	9.20%	16.60%	72.60%	1.60%	100.00%
Group 4: Service Delivery						
7	Overall, magistrates accord respect, dignity, and courtesy to the public.	7.90%	19.30%	71.10%	1.80%	100.10%
8	Overall, magistrates handle their responsibilities timely.	6.10%	18.70%	73.10%	2.10%	100.00%

Magistrate Study: Perspectives

Group 1: Management, Oversight, and Recourse		Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
<u>Related Survey Responses within and outside Judicial System</u>						
1	Persons with complaints about poor or legally deficient decisions are aware of the appropriate legal remedies.	27.5%	42.7%	27.3%	2.4%	99.9%
2	Adequate mechanisms are in place to address poor or legally deficient magistrates' decisions.	23.6%	31.9%	41.9%	2.4%	99.8%
3	Magistrates who do not discharge their responsibilities are held accountable by a higher authority.	22.6%	31.6%	43.3%	2.5%	100.0%
4	The current structure for providing oversight of individual magistrate performance and magistrate office operations generally is sufficient to ensure proper performance.	21.9%	28.3%	47.6%	2.3%	100.1%
5	The current management authorities adequately exercise their oversight responsibilities.	20.7%	30.2%	46.5%	2.5%	99.9%
6	Adequate mechanisms are in place to address poor treatment of the public or lack of professionalism.	20.6%	32.8%	43.5%	3.1%	100.0%
7	The public sees magistrates as independent and free from undue influence by other governmental entities.	18.8%	42.6%	36.2%	2.4%	100.0%
8	Persons with complaints about poor treatment or lack of professionalism address those complaints to the appropriate authority.	16.3%	40.3%	40.0%	3.3%	99.9%
9	When discharging their responsibilities as judicial officers, magistrates are sufficiently insulated from undue pressures (e.g. from law enforcement or other branches of government).	12.6%	30.1%	55.0%	2.4%	100.1%
10	Persons with complaints are accorded courtesy, respect, and dignity.	7.5%	40.2%	49.0%	3.3%	100.0%
<u>Related Survey Responses from Judges, Magistrates, and Chief Magistrates</u>						
11	My district has an adequate number of staff to handle the current workload.	41.2%	16.4%	41.4%	1.1%	100.1%
12	The chief magistrate and the supervising judge (whether circuit or district judge) form an effective management team.	16.8%	23.9%	56.8%	2.4%	99.9%
13	Chief magistrates provide adequate guidance for daily operations in magistrate office(s) throughout the district.	14.8%	15.3%	67.9%	2.0%	100.0%
14	Chief magistrates are effective in ensuring that high quality magistrate services are delivered.	14.6%	18.4%	65.5%	1.5%	100.0%
15	Chief magistrates and supervising judges clearly understand their responsibilities.	13.7%	14.2%	69.9%	2.2%	100.0%
16	Vesting "supervisory oversight" with the same person(s) who is responsible for the appellant review of magistrate decisions results in appropriate and competent evaluation and feedback to magistrates concerning their decision making.	13.7%	27.2%	56.4%	2.7%	100.0%
17	Overall, the district is effectively managed.	13.5%	15.7%	69.1%	1.8%	100.1%
18	Vesting "supervisory oversight" with the same person(s) who is responsible for the appellant review of magistrate decisions does not negatively affect the judicial independence of the magistrate's decision making.	12.3%	22.6%	61.8%	3.3%	100.0%
<u>Related Survey Responses from Chief Magistrates</u>						
19	Overall, I have sufficient resources to adequately carry out my management functions.	16.0%	4.0%	80.0%	0.0%	100.0%
20	Overall, I am satisfied with the performance of this district.	4.0%	4.0%	92.0%	0.0%	100.0%

Magistrate Study: Perspectives

Group 1: Management, Oversight, and Recourse (continued)

Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
-------------------	-------------------------------	----------------	----------------	---------

Related Focus Group Comments

- 21 Lack of accountability, staffing, and other issues such as training, are of such magnitude that they need to be addressed now.
- 22 The present structure of a chief magistrate and supervising judge is too loose and ineffective. Judges rely on chief magistrates and chief magistrates can not cover all offices.
- 23 Some judges do not desire to perform oversight responsibilities.
- 24 Chief magistrates who do not complete performance evaluations, prepare schedules, or implement recommended improvements are not held accountable.
- 25 Some judges will require magistrates to act in conflict with the Magistrates Manual. They may have things they want done on certain cases and will convey that to the magistrate.
- 26 Sometimes judges and Commonwealth Attorneys develop procedures to by-pass the magistrate, such as in citizen felony warrant requests.
- 27 The public often believes magistrate work for law enforcement and are accountable to them.
- 28 Staffing levels have not kept up with population increases, the increased time required for magistrate transactions, and increases in law enforcement personnel.
- 29 Complaints arise from both the public and magistrates themselves in some part due to misunderstandings about the role of the magistrate and expectations of what they are to accomplish.
- 30 Mechanisms are in place to address substantive legal decisions by magistrates; but often people are unfamiliar with them.
- 31 The complaint system for magistrates is virtually unknown to the public and to law enforcement.
- 32 The complaint system is not credible as it presently exists; complaints are not uniformly addressed throughout the state.
- 33 Using the same form for complaints about sexual harassment as well as other inappropriate behaviors, such as incompetence, is too confusing.
- 34 Persons with complaints about the magistrate system do not feel comfortable taking the complaint to the judge.
- 35 Going to chief magistrates is also ineffective. In some circumstances, chief magistrates also avoid problem magistrates rather than deal with the person's behavior.
- 36 There is concern that magistrates would retaliate against those who complain.
- 37 The current complaint form requests a signature, and often people with complaints do not want to sign the form. Unless they do, however, it is difficult for the chief magistrate to follow up.

Magistrate Study: Perspectives

Group 2: Selection

		Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
<u>Related Survey Responses within and outside Judicial System</u>						
1	The magistrate work force is sufficiently diverse.	11.9%	33.8%	50.1%	4.1%	99.9%
2	The recruitment and selection process is fair.	7.9%	44.3%	42.5%	5.2%	99.9%
3	Magistrate vacancies are open to all candidates.	7.5%	35.1%	52.7%	4.7%	100.0%
<u>Related Survey Responses from Magistrates and Chief Magistrates</u>						
4	Salary attracts and retains well-qualified persons to the magistrate system.	65.7%	18.6%	14.7%	1.1%	100.1%
5	Working day, evening, midnight, and week-end shifts offers more advantages than disadvantages.	51.8%	25.7%	20.4%	2.1%	100.0%
6	Coverage for unplanned magistrate leave is provided without undue burden on other magistrates.	49.3%	18.2%	31.4%	1.1%	100.0%
7	Coverage for planned magistrate leave is provided without undue burden on other magistrates.	42.1%	16.1%	40.4%	1.4%	100.0%
8	Being on-call and responding within 20 minutes of being called for service offers more advantages than disadvantages.	36.4%	36.8%	18.6%	8.2%	100.0%
9	The flexibility of a part-time magistrate's position is beneficial in attracting well-qualified persons.	33.9%	37.5%	22.1%	6.4%	99.9%
10	Morale is good.	32.5%	21.1%	45.0%	1.4%	100.0%
11	Coverage for unplanned magistrate leave is appropriately addressed through schedule adjustments.	25.0%	19.6%	53.6%	1.8%	100.0%
12	Coverage for planned magistrate leave is appropriately addressed through scheduling.	24.7%	16.4%	57.5%	1.4%	100.0%
13	Benefits attracts and retains well-qualified persons to the magistrate system.	24.3%	22.9%	52.1%	0.7%	100.0%
14	The need to avoid even the appearance of conflicts of interest has not curtailed or restricted my social or professional relationships.	19.0%	13.9%	65.3%	1.8%	100.0%
15	Camaraderie and collegiality with other magistrates attracts and retains well-qualified persons to the magistrate system.	16.1%	33.9%	48.5%	1.4%	99.9%
16	Status in community attracts and retains well-qualified persons to the magistrate system.	15.0%	32.1%	51.8%	1.1%	100.0%
17	Overall, the magistrate system is a good place to work.	14.7%	16.1%	66.4%	2.9%	100.1%
<u>Related Survey Responses from Chief Magistrates</u>						
18	State salary levels have not limited or restricted my ability to hire magistrates for vacant positions.	54.1%	16.7%	12.5%	16.7%	100.0%
19	The part-time nature of the position has not limited or restricted my ability to hire magistrates for vacant positions. (Please skip this question if you have not recruited for a Magistrate I, II, or III since 1999.)	29.1%	8.3%	20.8%	41.7%	99.9%
20	The on-call nature of the position. (Please skip this question if you have not recruited for an on-call office since 1999.)	29.1%	8.3%	12.5%	50.0%	99.9%
21	The requirement for newly appointed magistrates to have a bachelor's degree or equivalent experience has not limited or restricted my ability to hire magistrates for vacant positions.	12.5%	20.8%	45.8%	20.8%	99.9%
22	Overall, the procedures and mechanisms currently used to recruit and select magistrates are sufficient to employ a high performance work force.	8.4%	16.7%	58.3%	16.7%	100.1%
23	I am very involved in the magistrate recruitment and selection process in this district.	0.0%	4.0%	76.0%	20.0%	100.0%

Magistrate Study: Perspectives

Group 2: Selection (continued)

Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
-------------------	-------------------------------	----------------	----------------	---------

Related Focus Group Comments

- 24 Magistrate positions do not appear to be adequately advertised resulting in failing to attract the best candidates.
- 25 Chief magistrates and judges were selected due to their substantive knowledge, not their management skills. Lack of ability in recruitment, screening, interviewing, etc., affects those recommended to judges and selection of most qualified persons.
- 26 Perception is strong that judges and chief magistrates have already determined individuals who should fill vacant magistrate positions, including through nepotism. Even when advertised, therefore, many are reluctant to apply so that they do not jeopardize their current employment if they do not actually have an opportunity with the magistrate system.
- 27 The pay for part-time magistrates is too low to attract anyone. There is high turnover because the necessity of being on-call in the middle of the night. After too many calls is just not worth it.
- 28 There is an urgency to get a vacancy filled because remaining magistrates have to pick up the slack. So, the appointing authority may not always take the time to select the best person for the job.
- 29 There are differing interpretations of whether an individual's qualifications meet the requirement for a bachelor's degree or equivalent, resulting in differing levels of ability among magistrates. Some chief magistrates may feel that 2 - 4 years of law enforcement experience is equivalent to a bachelor's degree, while others do not.
- 30 There needs to be more cultural diversity among magistrates, especially with the increasingly diverse population.
- 31 Salaries are too low to attract and retain magistrates.
- 32 The system seems to favor retirees who have a retirement benefit to supplement the magistrate salary. The income is considered low and magistrates need another source of income.
- 33 Applicants perceive Class I - IV positions (part-time, on-call) as simply a second job.
- 34 There is no incentive for magistrates to respond in the middle of the night.
- 35 The 20 minute response expectation is unrealistic.
- 36 Because experienced magistrates have not received performance increases for so many years, their salaries are very close to newly hired magistrates.
- 37 Without performance or some other type of recognition increases, there is no incentive to improve or to stay with the system.
- 38 There are no incentives to improve academically, such as to obtain an advanced degree.

Magistrate Study: Perspectives

Group 3: Competence and Fairness

		Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
<u>Related Survey Responses within and outside Judicial System</u>						
1	Outcomes are not dependent on which magistrate conducts the hearing.	32.1%	26.6%	39.8%	1.4%	99.9%
2	Bail decisions have the desired effect of releasing accused persons who do not pose a threat to society or flight risk yet ensuring	19.8%	19.6%	58.8%	1.8%	100.0%
3	Magistrates show no bias or prejudice.	13.3%	24.6%	60.8%	1.4%	100.1%
4	There is equal application of the law regardless of who appears before the magistrate.	12.3%	21.7%	64.2%	1.9%	100.1%
5	Magistrate decisions comply with law.	10.8%	18.8%	68.4%	2.0%	100.0%
6	Magistrates are impartial.	10.7%	21.4%	65.9%	1.9%	99.9%
7	Magistrate decisions are appropriate and proportional for the type of hearing.	10.4%	22.9%	64.8%	1.9%	100.0%
8	Magistrates sufficiently preserve the constitutional safeguards of all citizens.	7.4%	24.4%	66.6%	1.6%	100.0%
<u>Related Survey Responses from Judges, Magistrates, and Chief Magistrates</u>						
9	Magistrates are sufficiently competent in probable cause determinations for pre-trial seizures in civil matters	13.3%	41.2%	42.3%	3.3%	100.1%
10	Magistrates are sufficiently competent in visitation interference or child access issues	12.4%	38.1%	45.6%	4.0%	100.1%
11	Overall, magistrates are well trained.	7.5%	13.5%	76.8%	2.2%	100.0%
12	Overall, magistrates are competent.	4.8%	7.7%	85.6%	1.8%	99.9%
<u>Related Survey Responses from Magistrates and Chief Magistrates</u>						
13	Tests should be administered at the conclusion of the CLE to ensure that teaching points have been understood.	47.9%	30.0%	18.9%	3.2%	100.0%
14	The chief magistrate focuses upon such activities as performance feedback, educational opportunities, and learning experiences that will continuously enhance magistrates' professional skills and abilities.	23.2%	19.3%	55.3%	2.1%	99.9%
15	Training provided by the chief magistrate is relevant to issues and problems magistrates routinely address.	15.4%	20.0%	62.2%	2.5%	100.1%
16	Overall, post-probationary magistrates receive sufficient training to prepare them to discharge their professional responsibilities.	11.4%	17.5%	68.6%	2.5%	100.0%
17	Magistrates have sufficient access to information that is useful in making determinations regarding requests for service by law enforcement officials, the accused, and the general public (e.g. public records such as court or DMV records).	11.1%	9.3%	78.5%	1.1%	100.0%
18	Overall, the combination of the Magistrate Manual, on the job, and certification training that newly hired magistrates receive during their probationary period develops sufficient competencies and skills to discharge their responsibilities.	7.8%	8.6%	81.1%	2.5%	100.0%
19	Overall, magistrates have sufficient resources to carry out their duties.	6.4%	8.2%	81.7%	3.6%	99.9%
<u>Related Survey Responses from Chief Magistrates</u>						
20	I am able to spend a sufficient amount of time training magistrates in my judicial district.	20.0%	24.0%	56.0%	0.0%	100.0%

Magistrate Study: Perspectives

Group 3: Competence and Fairness (continued)

Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
-------------------	-------------------------------	----------------	----------------	---------

Related Focus Group Comments

- 21 Magistrates may ask incriminating questions of the accused in front of law enforcement officers in violation of their protection against self-incrimination.
- 22 Magistrates may be inconsistent in their decisions, such as in bonding. Perhaps it is due to unfairness; and perhaps it is due to different information presented.
- 23 To be fair, magistrates should understand the population and culture they serve.
- 24 Personal biases of some magistrates bleed over into their decisions; there may be different treatment based on personal appearance or dress.
- 25 There is a perception that magistrates generally perform only a rubber-stamping of what law enforcement seeks, particularly in drug cases.
- 26 The proximity to or co-mingling of magistrates offices with law enforcement areas results in a perception that magistrates are not neutrals and that law enforcement and magistrates are working together resulting in a process that is biased.
- 27 Law enforcement officers may, in front of magistrates, suggest to the accused that with cooperation the officer will request a low bail from the magistrate. This detracts from the accused seeing the
- 28 Inexperienced magistrates, or those who seem to issue in response to most requests, may be sought out.
- 29 Some law enforcement officers do not want to deal with some magistrates because of their resistance and wait until another magistrate is available.
- 30 The proximity of magistrates and law enforcement office areas also may put pressure on magistrates to issue processes requested or result in conflictive relationships.
- 31 Insufficient feedback from chief magistrates causes performance problems for magistrates. There is no one for the magistrate to question about correct criteria in decisions, correct forms, etc. at the time the question occurs.
- 32 Training requirements are woefully inadequate.
- 33 About as much training as the system can stand for a magistrate to receive is 2 weeks. After that, other magistrates, whether seasoned or not, have to fill in. New magistrates are put on the spot to do the job without proper training. The effect is that bad practices get passed down through inexperience and some behaviors simply get institutionalized.
- 34 Lack of training and continuing education, both for relatively new and seasoned magistrates, are reasons they make the wrong decisions.
- 35 The magistrate position has become more complicated. About 15 years ago, a new magistrate needed about 1 or 1.5 years to feel comfortable with the responsibilities. Now, it takes 2 - 4 years.
- 36 Many chief magistrates do not conduct effective on-the-job training for new magistrates, or do not conduct it at all.
- 37 Too much material is covered in the 4 to 5 day certification class.
- 38 Magistrate Technical Assistants from OES need to be available at all times, including evenings and week-ends. Magistrates are having difficulty contacting them when they have questions.
- 39 Chief magistrate's numerous administrative responsibilities hinder proper training.
- 40 The Magistrate Manual is too voluminous to use as a teaching aid. It is not organized into lesson plans or manageable teaching segments.
- 41 The magistrate system does not encourage further education, as law enforcement does. Not only does it not result in higher pay, it is difficult to schedule coursework due to magistrate schedules.

Magistrate Study: Perspectives

Group 4: Service Delivery

	Total Disagree	Neither Agree nor Disagree	Total Agree	No Response	Total %
<u>Related Survey Responses within and outside Judicial System</u>					
1 Language barriers do not prevent persons from using magistrate services.	20.1%	37.5%	41.4%	1.0%	100.0%
2 Magistrate services are available without undue hardship.	16.3%	14.4%	68.3%	1.0%	100.0%
3 Magistrate offices are safe and convenient.	16.2%	13.2%	69.9%	0.7%	100.0%
4 Magistrates are promptly available to conduct hearings.	15.2%	20.3%	63.0%	1.5%	100.0%
5 Physical barriers to magistrate services do not exist.	14.3%	23.4%	60.4%	1.9%	100.0%
6 Magistrate procedures facilitate access to magistrate services.	12.1%	18.7%	67.8%	1.5%	100.1%
7 Magistrates show understanding and patience.	12.1%	25.7%	60.9%	1.4%	100.1%

Related Focus Group Comments

- 8 The significant increase in non-English speakers throughout the state results in an inability to communicate with those who cannot speak English.
- 9 In addition to language difficulties, cultural differences also impede magistrate service delivery.
- 10 Interpreter services are burdensome, costly, and sometimes inaccurate.
- 11 The hurdles involved in accessing magistrates results in law enforcement not making some arrests or finding another way to get around the need for magistrate services.
- 12 There are significant problems with access to part-time magistrates offices
- 13 A part-time effort = part-time results.
- 14 On-call magistrates are not readily available resulting in law enforcement and the public waiting hours for service. Sometimes they are told to go to another locality.
- 15 Some magistrates refuse to respond when called, especially at night.
- 16 Sometimes people just cannot be served immediately, and this is true for both urban and rural offices. Magistrate must handle multiple in-person customers, telephone calls, video conferences, faxes, etc. Law enforcement has an unrealistic expectation of how long conducting magistrate business may take.
- 17 Providing services timely is very difficult without sufficient staff.
- 18 Delays in bonding may be due to the jail not notifying the magistrate timely that someone is ready to be bonded, or the officer's failure to bring necessary information, such as criminal history.
- 19 Incorrect papers from the courts also create timeliness issues because the magistrate must obtain correct information and update the paperwork prior to taking action. For example, magistrate may receive continuance order with no date or time of the next hearing.
- 20 The public is not educated about the information needed by the magistrate, so they are not prepared.
- 21 The public, law enforcement, and Commonwealth Attorneys can become dissatisfied when magistrates do not issue the warrant they request when, in the magistrate's opinion, the problem does not rise to the level of issuing a process.
- 22 Magistrates under time pressures due to several people waiting may appear rude and unresponsive.
- 23 Lack of support staff increases time pressures caused when several customers are waiting.
- 24 Some magistrates treat many people rudely and derogatorily.
- 25 The adequacy of magistrate quarters varies throughout the Commonwealth with many being wholly inadequate.
- 26 Local governments place low priority on magistrate offices and coordinate little with chief magistrates when planning renovations or new facilities.

MAGISTRATE STUDY – HOUSE JOINT RESOLUTION NO. 32 VENTURE TEAM GUIDELINES

I. BACKGROUND AND PURPOSE

HJR 32- requested the Committee on District Courts to study the Virginia magistrate system and its laws and policies governing selection, training, oversight and evaluation of magistrates, and accountability. The objective is to ensure that magistrates have a basic competency in law and court procedure that is uniform and consistent throughout Virginia.

II. GROUND RULES

Moderator is an impartial facilitator of the group discussion
No right or wrong answers- voice your candid personal opinions
Need to hear from everyone, one at a time
We will hold our discussion within the specified timeframe

*Resist the temptation to describe problems during today's discussion. The **solutions** to the problems you generate today will be presented to the Magistrate Study Advisory Committee for its consideration.*

III. TODAY'S PURPOSE

To generate a list of your suggested solutions to the *Magistrate Study Areas Targeted for Improvement*.

1. Improve management, oversight, and recourse
 - Addressing complaints about poor or legally deficient decisions
 - Addressing complaints about poor treatment or lack of professionalism
 - Accountability for chief magistrates and magistrates who do not properly discharge their responsibilities
 - Effective management of the district
 - Magistrate independence from undue pressures
 - Sufficient staff resources
2. Improve selection process and working conditions to attract well-qualified magistrates
 - Greater diversity within magistrate workforce
 - Fair recruitment and selection process open to all candidates
 - Salary, benefits, and incentives to attract and retain qualified magistrates
 - Working conditions, including those associated with part-time services in many areas, to attract and retain qualified magistrates
 - Qualifications

3. Improve competence and fairness
 - Outcomes generally independent of which magistrate conducts hearing if same facts are presented
 - Sound bail decisions
 - Magistrate impartiality / no bias or prejudice
 - Magistrate decisions comply with law, safeguard citizens' constitutional rights
 - Qualifications
 - Training / testing sufficient to ensure competence

4. Improve Service Delivery
 - Magistrate services available promptly, as cited by members of law enforcement and jail superintendents
 - Language barriers
 - Safe and convenient offices without physical barriers
 - Consistently courteous and respectful magistrate conduct, as cited by members of various boards and associations and female respondents

IV. DISCLOSURE

Your remarks will be recorded in order to help summarize this group's opinions and thoughts. Findings will be summarized and distributed without attribution.

Appendix 7:

Suggested Solutions By Venture Team

SUGGESTED SOLUTIONS BY VENTURE TEAM

1. Community Education and Communication

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
1.	Admin.	Educate public, other agencies about role of magistrates. Inform them that magistrates can not always do what they want.			Educate public about what they can expect from magistrates, about the process. (Legal system is intimidating)
2.	Admin.	Create a brochure specially tailored to each office containing role of magistrate, what parties should present, telephone numbers of local services, other information relevant to area	<p>Create pamphlet that is simple to understand and readily available. It should:</p> <ul style="list-style-type: none"> - Provide information about historical significance of magistrate position (position is important; magistrates should be proud of position) - Describe magistrate functions, as well as what magistrate is not empowered to do - Provide opportunity for feedback, including compliments, suggestions - Describe mechanism to complain - Provide mailing address of chief magistrate, supervising judge 	<p>Provide informational pamphlet about magistrate's role, how to present information to magistrate, purposes of hearings. Design to be user-friendly.</p> <p>Notify citizens that statements made in front of magistrates can be used against them in court (e.g. police officer hears response to magistrate question and may testify as to the accused's answer, even though the accused may not be required to answer based on constitutional self-incrimination protections)</p>	<p>Provide information sheet about magistrate system as part of paperwork at time of arrest / when see magistrate so that accused can review after leaving the office</p> <p>Provide local information, including court schedule, when court hears bail reviews, alternatives (e.g. magistrate may not release accused)</p> <p>Design pamphlet to be understandable for persons with low literacy</p>
3.	Admin.				Publicize accomplishments, positive news about magistrate system

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax	
4.	Admin. (use I-CAN)	Create professionally developed video about magistrate's role for public containing things like mock hearings. Video could be available on internet as educational tool as well as to civic organizations. Video could also include entire breadth of criminal justice system, beginning with request for warrant, criteria for granting, and following through court, etc.	Publicize magistrate system role, services in newspaper, media (e.g. press releases) Publication could mirror pamphlet			Create video tape for public to watch while in magistrate waiting room or at jail explaining the magistrate system
5.	Admin.		Institute program to expose law students to magistrate system, including its role and importance			
6.	Admin.	Educate policy makers in value of magistrates (e.g. save time and expense of judges)				
7.	Admin.	Develop team work between chief judge and chief magistrate to deliver magistrate system message to localities, General Assembly				
8.	Admin.	Establish as part of chief magistrates' role that they should educate other agencies in the appropriate role and function of magistrates; get to know problems of other agencies so magistrates can provide good service				
9.	Admin.	Establish as part of magistrates' role that they should meet judges, law enforcement, others in community with which magistrates interact and get to know them and their needs	Develop mechanisms to increase face to face, informal communication, dialog between magistrates and agencies served			

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
10.	Admin.	Institute / encourage magistrates to participate in training opportunities to / with community. (e.g. chief magistrate and magistrates become visible more frequently at civic functions, community events)		Institute training programs with community service agencies to inform them of: - How to file complaints about magistrate services - What other avenues they have in order to obtain review of their request for process	
11.	Admin.	Increase coordination between law enforcement and magistrates where increased presence may be needed for specific events (e.g. concerts)	Coordinate with law enforcement, others when there are changes in magistrate office locations, procedures so they can adjust, train if necessary		
12.	Admin. Do Not Encourage	Institute volunteer magistrates / observers (from community services, etc.)			

NOTE: Volunteers / Observers / Interns:

Probably covered by blanket bond.

Could be of limited service to assist public; however, many questions they receive would require knowledge that magistrates have.

Can they observe magistrate hearings or are they confidential? Can probably observe most with exception of mental detention and juvenile issues

If volunteers / interns can be present and observe magistrate hearings, could the press observe when desired? Probably yes, same as volunteers / interns.

Volunteers could not handle funds, receive guilty pleas, execute magistrate functions.

Clerical paperwork functions should be transferred to pc's.

SUGGESTED SOLUTIONS BY VENTURE TEAM

2. Providing Magistrate Services

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
	Video Conferencing				
13. ALT. DOC.	Use video conferencing	Expand use of video conferencing	Use video conferencing	Use video conferencing to provide 24-hour coverage for multi-locality areas	Use video conferencing
14. ALT. DOC.				Use video conferencing to address working conditions of part-time, on-call magistrates (also, 20 minutes is a long time to deal with an unruly person)	Install video capability in part-time magistrates' homes to address on-call issues
	NOTE:	Work from office, not home			
15. Admin. Pursue As Possible	Obtain funding from state to pay for video equipment, line charges, other related expenses				
16. Admin.		Educate magistrates, other system users re video conferencing; hold demonstrations. Emphasize reliability of system			
17. Admin.		Train magistrates, law enforcement so that they develop technical skill to use video equipment			
18. Admin.		Conduct video conferencing pilot programs; publicize results	Address problems associated with videoconferencing (paperwork jams, too many people in line for video magistrate)		
19. ALT. DOC.	Establish statewide jurisdiction for magistrates				Establish statewide jurisdiction

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
20. ALT. DOC.					Continue present jurisdiction: - Magistrates should know local culture - Bond may be considered reasonable in one locality but not in another
	Full-Time Offices, Magistrates				
21. ALT. DOC.	Use full-time offices	Establish full-time offices staffed 24 / 7			Establish full-time offices; connect by video to satellite offices staffed at peak hours
22. ALT. DOC.					Provide access to live magistrates (not just video magistrates) by locating full-time offices within reasonable drive of majority of population
23. ALT. DOC.		Implement full-time magistrates across state instead of using part-time magistrates		Eliminate part-time positions; use full-time. This should contribute to: - Regular hours - Better working conditions - Professionalism in office	
24. ALT. DOC.	Provide more magistrates so that offices are sufficiently staffed			Provide sufficient magistrates	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
	Access, Security, Neutrality, Working Conditions				
25. ALT. DOC. Use Courthouse Facilities Guidelines	Locate magistrate offices in the courthouse or in freestanding buildings. They should not be in police departments or jails	Remove magistrate offices from proximity to law enforcement offices	Locate magistrates offices so that they are readily accessible to public, including those with disabilities, even when magistrate services are needed during late hours (they should not be deep within the confines of a law enforcement area where citizens, representatives of community service organizations have access to them only by crossing a number of law enforcement checkpoints)		Provide citizen direct access to magistrate office; office should not be a part of local law enforcement
26. ALT. DOC.	Locate magistrate offices in the jail because this is the closest location to customers and offers most security, both for public and magistrates	Provide magistrate services from safe, controlled environment. Best place is local jail			
27. ALT. DOC.	Connect magistrate office to jail without having office as an integral part of jail. Magistrate offices can be composed of a separate suite with conference room and intake office. Magistrate services can be provided behind security window.				Locate magistrate office in law enforcement office but provide with separate chamber
28. ALT. DOC.	Provide law enforcement protection in magistrate offices both for public and for magistrate safety		Provide security for part-time magistrates and members of the public (separate from Sheriff)		

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
29. ALT. DOC.		Establish consistency in where services are to be performed			
30. ALT. DOC.		Require magistrates to go to the office to provide service (possible exception is on call magistrate meeting law enforcement for search warrant) Services should not be provided from such places as local gas station.			
31. ALT. DOC.			Enable magistrates to work from home or regional offices	See Comment # 14	See Comment # 14
	NOTE: Work from office, not home				
32. ALT. DOC. & Admin. Use Courthouse Facilities Guidelines	Establish statutory requirements for magistrate offices to upgrade status and communicate independent nature (part of judiciary and not of law enforcement) using symbols of judicial system, such as: - Seal of SCV, VA - Flags - Square footage and sample floor plan (or minimum standards) - Disability access - Separate waiting area - Place for confidential, sensitive hearings for such issues as sexual abuse, domestic violence (not jail in front of jail personnel, prisoners, visitors)	Eliminate physical barriers to service	Locate magistrate offices so that message to public is that magistrates want to be accessible (not that accessing them is so formidable that requests for services are discouraged)	Establish statewide standards for location of magistrate offices. They should be accessible to the bulk of the public. (e.g. avoid locating offices at places that are not on the bus line)	Establish magistrate office similar to Town Home in Loudoun, includes safe and neutral office, bench for magistrate
33. Admin.	Post signs that this is the magistrates office and a part of the judicial system				

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
34. Admin.	Use official name tags, name plates identifying magistrates (e.g. public often overlooks female magistrates and considers them clerical personnel instead of magistrates)				
35. Admin.	Provide cell phones to magistrates			Provide pagers, cell phones to magistrates (even in full-time offices, public should be able to call magistrates when on lunch break for immediate service; certain transactions, ECO & EPO, can be handled by telephone)	
	NOTE: Favor only if on call				
36. Admin.	Provide mechanism to manage magistrate waiting room (who is next to be served, order, etc.)				
37. ALT. DOC.	Create receptionist position to answer the telephone, respond to questions, direct people who are searching for offices other than magistrates			Provide support staff for high volume offices to handle paperwork, public	
38. ALT. DOC.				Provide more magistrates, pc's instead of support staff	
39. Admin.	Provide Code of VA, other important resources (e.g. training materials by Professor Bacigal)				
40. Admin.	Display magistrate certification certificates, pictures of courthouses				

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
41. Admin. Model after dist. ct system	Obtain state funding to assist in support of office for less affluent counties / cities			Fund magistrate offices, including proper desks and pc's, from neutral government (should not be law enforcement; some suggest state)	
42. ALT. DOC. & Admin. Eliminate on-call	Develop realistic response time (20 minutes is unrealistic; disqualifies persons who do not live within 20 minutes of office or puts chief magistrate in position to bend rule)			See Comment # 14	
43. ALT. DOC. & Admin.				Permit permanent shift assignment instead of requiring rotating shifts	Minimize rotating shifts (video conferencing would be helpful in accomplishing this)
44. Admin. Not Practical, use video				Provide dual coverage over lunch break so public can be served (e.g. ECO)	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
45. Admin.	<p>Use Courthouse Facilities Guidelines</p> <p>OES does not favor bringing in meals due to expense, impression to public</p>	<p>Improve working conditions by:</p> <ul style="list-style-type: none"> - Bringing in meals - Furnishing private rest room (not rest room shared with public) - Furnishing nice offices (office should be place of pride), clean, safe - Providing separate entry and exit from general public - Providing comfortable and private area to hear complainant, others 		Bring in meals to magistrate	<p>Provide physically comfortable working environment for magistrate and public:</p> <ul style="list-style-type: none"> - Independent office with private space - Easily accessible and easily found by public - Signage - Parking - Safe office as well as parking area and waiting area for family - Environment should lessen stress - Magistrate office should have waiting room with private office for magistrate - Provide heat and air conditioning
46. Admin.	<p>Language, Hearing Impaired Access</p>		Provide informational pamphlet in multiple languages		Provide informational pamphlet in multiple languages
47. Admin.		Use telephone services, TDD, hearing interpreters to provide services for non-English speaking members of the public or hearing impaired	Provide notice that language hot line is available	Use language line	Use language line

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
48. Admin. Support certified interpreter, but not system based on personal preference				Provide interpreters familiar with court procedures, certified	Develop statewide contract for language line addressing court needs (e.g. Hispanic and Middle-Eastern men do not feel comfortable using female interpreter for certain sensitive discussions)
49. Admin.					Provide sign language interpreters for hearing impaired persons
50. Admin. Do Not Favor – Expense				Institute procedure to record sessions requiring interpreter	
51. Admin. Do Not Favor - Access				Institute mechanism for defendant to reimburse state for interpreter	
52. Admin.			Maintain list of interpreters available by telephone or in person		
53. Admin. Priority: certified, language line		Develop access to community services that can help identify and provide services to persons with special needs	Use volunteer interpreters (from such resources as churches, universities, Hispanic Bar Association)		
54. Admin.			Avoid legalese, explain meaning to individuals before the magistrate when legalese is necessary		

SUGGESTED SOLUTIONS BY VENTURE TEAM

3. Selection and Qualifications

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
	Open the Employment Process				
55. ALT. DOC. Current policies address	Develop OES mandated hiring process			Assign SCV to develop standards for recruitment and selection program	Establish formal recruitment policies, procedures, including: - Open, competitive process - Broad advertisement - Structured interviews asking same questions to each applicant - Interview panel
56. Admin.	Remove favoritism / nepotism from employment		Improve recruitment to address perception that magistrates are hand picked		
57. Admin.	Promote from within				
58. Admin.				Improve hiring process to recruit more diverse workforce, with higher qualification standards; this will require higher pay	
59. Admin.		Advertise vacancies in newspapers (most have never seen an advertisement)	Advertise broadly and everywhere (most have never seen an advertisement)	Publicize broadly, state-wide (most have never seen an advertisement)	Advertise broadly (most have never seen an advertisement)
60. Admin.		Advertise benefits of employment in recruitment efforts			
61. Admin. State currently pays				Obtain state funding for advertising	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
62. Admin.	Develop and cultivate recruitment sources (e.g. professors at colleges, universities)	Use mailing lists, contacts with community leaders, colleges and universities to publicize vacancies	Establish contacts with recruitment sources (e.g. VCU Criminal Justice Program), colleges and universities with minority and female enrollments	Cultivate recruitment sources, including African-American colleges and universities, League of Older Americans, NCO Association, Judge Advocate CORE)	Use community outreach for recruitment
63. Admin.		Forward ads to organizations serving specific communities	Use same recruitment sources as probation / intake officers	Notify community organizations, especially those with frequent contact with magistrate system, of employment opportunities (e.g. Virginians against Domestic Violence) and request them to publicize among their membership	
64. Admin.			Participate in job fairs	Go to colleges and universities to recruit	
65. Admin.		Encourage chief magistrates and magistrates to be active in community, participate in speakers bureau (e.g. high schools, colleges, recruitment opportunities, civic leagues)	Encourage chief magistrates and magistrates to educate community in their role. Participate in community training academies, speak for civic organizations, Bar organizations (e.g. speakers' bureau)		
66. ALT. DOC.	Establish centralized hiring			Use centralized hiring process	
67. ALT. DOC.	Change appointing authority to OES, other central administrative structure (there are so many variations among chief circuit court judges)				

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
68.	Admin.		Use ad hoc committee to screen applications / interview and make recommendations to the appointing authority. Committee membership could include citizens, law enforcement officers, members of legal community	Involve all 3 chief judges (circuit, general district, juvenile and domestic relations) along with chief magistrate in application review, interviewing, decision-making	
69.	Admin. Evaluate as Implement New Recruitment Procedures	<p>Improve selection techniques, including:</p> <ul style="list-style-type: none"> - Competency exams - Conduct psychological tests (evaluate for bias against women, minorities) - Ask interview questions about biases - Conduct criminal records check - Develop written tests for communication skills, ability to state thoughts <p>Qualifications</p>			
70.	ALT. DOC.		Require law degree because magistrates are making legal decisions. Current work is not sufficient on its face (e.g. warrants are issued without a charge)	Require magistrates to be attorneys; then pay close to district court judge level	Require magistrates to be attorneys, include mandatory CLE and SCV training (attorneys less likely to be intimidated)

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
71. ALT. DOC.	Define the experience that is equivalent to a bachelor's degree, or develop a formula that may be applied	Bolster bachelor's degree qualification with training following appointment that is specific to position, including familiarity with statutes, special issues such as mental health, use of automated systems. Qualifications are not as important as training	Enhance current qualifications with legal training, similar to training of state police, but do not require law degree.	Develop standard qualification, Bachelor's degree Enhance with intensive training	Require more specific Bachelor's degree (instead of attorney; lose attorneys due to pay levels)
72. Admin.		Require breathing time (e.g. 6 months) between service as law enforcement officer and magistrate in same jurisdiction			
73. Admin. Do Not Favor		Employ bi-lingual magistrates			
74. Admin.		Require typing, accurate data entry skills			
75. Admin.		Require communication skills. - Magistrates should be able to articulate their decisions. - Magistrates should be receptive to feedback.		Require interpersonal and communication skills	
76. ALT. DOC.				Require that chief magistrates have higher qualifications than magistrates, emphasizing management abilities and experience	

SUGGESTED SOLUTIONS BY VENTURE TEAM

4. Pay and Benefits

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
77. ALT. DOC.	Establish pay and benefits equitable with other public officials (e.g. law enforcement)		Establish benchmark positions (e.g. law enforcement, probation, intake officers)	Pay magistrates more	
78. ALT. DOC.				Keep pay rate for full-time magistrates; eliminate part-time magistrates	
79. ALT. DOC.		Enhance benefits package	Establish salary and benefits structure comparable to benchmark positions		
80. Admin. Questionable	Provide pay incentive for advanced education	Make salary attractive to persons with bachelor's degree		Institute pay incentives for additional education (excluding CLE, which is normal part of job requirement)	
81. ALT. DOC.		Establish pay recognition for shift and week-end work schedule			
82. ALT. DOC.				Institute geographic pay differential	Continue local supplements to address need for Northern Virginia differential for competitive salaries
83. Admin.	Provide pay incentive for language skills to be used on job				
84. Admin. DO NOT FAVOR	Provide compensatory time off for magistrates who address academies, community colleges, concerning the magistrate role				
85. Admin.				Develop incentives for part-time magistrates (e.g. health insurance)	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
86.	ALT. DOC. & Admin. Have policy				Develop uniform mileage policies (e.g. provide night mileage for on-call, government car, etc.)
87.	Admin.		Develop career advancement track tied to performance		Develop career track (e.g. senior magistrate)
88.	ALT. DOC.	Provide sufficient staff so magistrates can actually use benefits of position (e.g. leave; at present magistrates have leave benefits but are unable to take leave due to staff shortages, need to fill in for others' time off)			Develop very good back-up system for sick leave, other emergencies, so magistrates can use their leave and benefits

SUGGESTED SOLUTIONS BY VENTURE TEAM

5. Procedures

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
89.	ALT. DOC.			Establish consistent procedures (e.g. require use of criminal complaint form) as one mechanism of addressing magistrate shopping	
90.	ALT. DOC.		<p>Develop method for magistrate to make brief written note of reasons for determination (e.g. bond decisions, failure to issue warrant). Could be a check-off form. Judges, attorneys should have access to this form to respond to questions from complainant / public as well as to make their own decisions relative to their cases.</p> <p>Process could be like sentencing guidelines (e.g. note when depart from standards, provide reasons. Could be a check-off form with pre-stated reasons, such as attitude, prior record). It should not be a scoring system but should include a minimum statement of reasons for decisions to educate public and enable attorney to challenge decision.</p>		Institute magistrate worksheet to note reasons for their decisions
91.	ALT. DOC.	Institute a bond worksheet, similar to sentencing guidelines, so there will be uniform decision-making process statewide	Develop bond worksheet that is uniform throughout the state	Develop form for magistrate to document reason for bond decision; to be used by supervisor to evaluate magistrate	Develop mechanism to help determine bond: <ul style="list-style-type: none"> - Risk assessment tool - Point system - Something similar to sentencing guidelines

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
92. ALT. DOC.			Chief judge and chief magistrate work together to develop procedures in district (e.g. sheet for use within district to ensure appropriate steps in bond determinations)		
93. ALT. DOC.	Continue current procedures of evaluating each case independently (not in favor of bond worksheet)				
94. ALT. DOC.	Use Bail Determination sheet (make its use mandatory). Require review by chief magistrate; available to judge as opportunity to review and ensure appropriate procedures followed				
95. Admin. Can use any info rec'd. Consider VCIN			All magistrate offices should be equipped with pc's so they can access VCIN. All magistrates should run prior record check as part of bond decision		Institute mechanisms to give magistrates more information when setting bond: - Employment - Family Example: Fairfax Court Services, Pre-Trial Release Services
96. Admin. Already have Affid of Surety form					Develop forms for property bonds (\$5000 bond assessed when not needed)
97. Admin. Can do this now					Change statute to permit custodian release v. surety

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
98. Admin. Should already be involved		Use community services for consultation, resource as needed in individual cases (e.g. mental health issues)			
99. Admin. Evaluate			Enable issuance of Temporary Detention Orders by telephone (create a list of evaluators' names and assign code)	Introduce legislation to expand transactions that can be handled by telephone	
100. Do Not Favor				Introduce legislation that enables magistrate to issue felony warrants only after law enforcement investigation (cost affected with requirement to appoint attorneys)	
101. Do Not Favor				Institute procedure requiring both sides to be before magistrate before warrant is issued	
102. Admin. Not practical / safety				Require magistrates to view accused either by video or in person (example: civil commitments)	
103. Admin.				Study technology applications for magistrate system	Use technology for data retrieval, asset allocation decisions based on workload, quality control, obtaining case type information

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
104. ALT. DOC.				Develop checklists for pc's (e.g. elements of various offenses, civil commitments); include relevant questions to ask	Develop automated checklists to include the elements of offenses, questions to ask (like benchbook)
105. Admin.				Link all magistrate offices and courts with compatible systems	
106. Admin. Current law				Introduce legislation to permit acceptance of faxed papers	

SUGGESTED SOLUTIONS BY VENTURE TEAM

6. Management

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
ALT. DOC.	Complaint Mechanisms				
107. Admin.	Establish a standard procedure to file complaints	Develop readily available complaint and resolution process (pamphlet) Use a perforated card as part of the pamphlet so the card could be placed in a box for collection, similar to suggestion box	Create method for anonymous complaints for both members of the public and attorneys. - Forms / cards should be available in a public area - Process should enable addressing actual problems as well as perceptions - Process should enable citizen to express any frustration	Provide information in writing about how to file complaint; could be in form of brochure at window Develop brochure with tear-off portion so persons, organizations can provide feedback	Develop pamphlet to educate public about how magistrates perform their functions; how any complaint process works; things complainant should do; things person handling complaint should do Pamphlet should include line similar to: If you have issues to address, here's how to handle it.
108. Admin.				Ensure wide distribution of complaint form	Make complaint pamphlet available at magistrate window and easily accessible
109. Admin.					Establish consequences to magistrates, chief magistrate if the complaint form is not available
110. Admin.			Cards concerning magistrates could go to the chief magistrate; those concerning chief magistrates would go to a higher source (State Police has similar form)	Direct complaints to chief magistrate, then neutral government agency (SCV), not judge	
111. Admin.				Include notice in complaint brochure that the citizen should approach the district court judge if not satisfied with outcome	
112. Admin.				Provide complaint material so	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
113. Admin.				that citizen may take material with him or her when leaving the office and obtain help, if needed, in how to file complaint Enable an advocacy agency to file complaint on behalf of an individual with a complaint (e.g. battered person may be quite reluctant to file complaint)	
114. ALT. DOC.					Place magistrates under Judicial Inquiry and Review Commission (JIRC), or some other uniform, standard, statewide system for handling complaints. (Process should be removed from area where appointment is made for neutrality and to remove pressure from local manager. Management should stay with chief magistrate, supervising judge)
115. ALT. DOC.					Develop two-tier complaint committees: - regional - then to state (or JIRC)
116. Admin.					Include experienced magistrates with knowledge of the system and its functions on any complaint board. Other members: - Attorney - Active members in community organizations - Cross section; diversity of interests
117. ALT. DOC.	Oversight		Institute procedure for appropriate follow-up to complainants. If	Institute procedures for follow-up to complainant Where there	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
118. Admin.			<p>complainant is known, notify him / her that complaint is received and is being addressed, keeping in mind confidentiality of personnel actions. Some notification is preferable to no response at all. Certain changes in behavior or tone of office (e.g. to correct rudeness) should be evident to observer without knowledge of personnel action taken.</p> <p>Use other appropriate community resources, non-profit organizations to follow up with specific types of problems</p>	<p>is no response, the impression is that nothing is done .</p>	
119. ALT. DOC.					<p>Institute procedure to make number of complaints and types of service issues public information (but not information about specific magistrate personnel actions)</p>
120. Admin.	<p>Handle interagency complaints through appropriate channels (supervisor to supervisor) Chief magistrate should then investigate</p>	<p>Institute mechanism for law enforcement to provide input to chief magistrates concerning magistrate professionalism, service quality</p>			
121. ALT. DOC.		<p>Use statistical information to identify potential problems (e.g. magistrate shopping may be indicated if one magistrate is issuing more warrants and working same general schedules as others; bond decisions may be inappropriate if fewer bonds are issued than average)</p>			

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
122. ALT. DOC.		Use video tape to provide feedback. Options include taping: - During all work hours - Randomly - Only for training purposes		Use video, tape to record all magistrate transactions	
123. ALT. DOC.					Employ persons to request test services of magistrates for purpose of evaluating them. Ensure that these individuals do not provide false information under oath.
124. Admin.					Take complaints into account when re-appointing magistrates
125. Admin. Supv. Training issue			Develop uniform method of relaying problems back to magistrates (e.g. warrants are dismissed due to lack of complainant's signature)	Request district court judges to provide feedback concerning poor or legally deficient warrants to the MSA	Provide feedback to magistrates concerning their decisions (ideally the next day)
126. Do Not Favor			Establish some point in process where magistrates defend their decisions as others must (e.g. law enforcement, Commonwealth Attorney)		
127. ALT. DOC.	Change appointment and management authority to OES (e.g. Deal with magistrates and chief magistrates who do not perform well or are incompetent through central authority; if OES wants to combine 2 offices for efficiencies, it is not possible if judges do not agree)			Assign to SCV responsibility for recruitment, hiring, training, establishing performance standards	Establish within SCV Director of Magistrate Services as manager of system to visit each locality and assess performance

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
128. ALT. DOC.			Place supervision of magistrates with chief general district court judge, not chief circuit court judge. District judges have more opportunity to evaluate magistrate work as it generally goes to general district court.	Retain local appointment authority	Continue management with judge due to judicial nature of magistrate position
129. Admin. Ability to require varies with Alternative	Request chief judge to supervise magistrates, take more interest. Magistrates need their support				Require magistrate supervisors to supervise, using formalized procedures, internal checks, evaluating patterns and trends
130. Admin.	Hold chief magistrate accountable for performance of district, remove if chief magistrate does not train magistrates				Require chief magistrate to take position seriously; chief magistrate sets tone of work force; should lead and train by example
Admin.	NOTE: Chief magistrates are both the weakest part and the best opportunity for success of magistrate system				NOTE: Chief magistrates are most important link in success of magistrate system
131. ALT. DOC.	Create assistant chief magistrate classification				
132. ALT. DOC.	Instead of assistant chief magistrate, free chief magistrates from providing back-up coverage, recruitment, putting out fires from too few magistrates so they can communicate with other agencies with which magistrates interact; address problems				

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
133. Admin.	Use video conferencing for district staff meetings, training	Institute quarterly meetings conducted by supervising judge with specific and standing agenda items, including: <ul style="list-style-type: none"> - Complaints - Procedural issues - Workload issues - Trends, patterns suggested by statistical information, issues - Training - Speakers with frequent contact with magistrates (e.g. mental health) 			
134. Admin.		Include agency heads, other officials as standing members in quarterly meetings (e.g. Chief of Police, Sheriff, community service providers)			
135. Admin.		Institute regular meetings between chief magistrate and magistrates			
136. Admin. Depends on Alternative	Provide ability to suspend magistrates without pay				
Performance Evaluations					
137. ALT. DOC. & Admin.	Develop standards for performance and training; administer from central office		Develop magistrate and chief magistrate performance evaluation program.	Assign to SCV responsibility for establishing performance standards and evaluation system	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
138. ALT. DOC. & Admin.	Require chief magistrates to monitor performance of magistrates Require chief magistrate to look in files, pull documents, evaluate whether guidelines have been followed (especially for FTA)	Institute annual performance evaluations	Institute increased observation of magistrate performance by chief magistrate: - Use both announced and unannounced visits to magistrate offices - Schedule magistrate to work in location where chief magistrate is working for observation		
139. ALT. DOC. & Admin.			Hold magistrates more accountable. Evaluate patterns (e.g. bonds generally set too high or too low)		
140. Admin.		Obtain input from other groups using magistrate services concerning magistrate performance	Develop formal method of obtaining input from those with interaction with magistrates (e.g. state police)		Survey community periodically (bi-annually) to evaluate magistrate services; inquire of law enforcement, Commonwealth Attorney, judges more frequently
141. Admin.			Institute chief magistrates visits to localities within district for communication with managers of organizations interacting with magistrate system, evaluation of services		
142. Admin.			Develop mechanism for magistrates to self-evaluate their performance		

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
143. Admin.		Use pamphlet feedback as accountability tool	Evaluate feedback cards for patterns and trends (e.g. continuous feedback that Magistrate A is rude) Use feedback from complaint mechanism (satisfaction or dissatisfaction rating, comments) as appropriate in performance evaluation		
144. ALT. DOC. & Admin.			Provide chief general district judge tools for magistrate evaluation, including: - Checklist for bond decisions - Form to document reasons for determinations	Provide evaluation tools to supervisor: - Form for documenting reasons for bond decisions - Require use of criminal complaint form and documentation of reasons for issuance decision	
145. Admin. Depends on Alt; supv role				Assign responsibility to SCV to review bond and criminal complaint forms and rate magistrates' work	
146. Admin.		Tie pay and advancement to performance evaluation			

SUGGESTED SOLUTIONS BY VENTURE TEAM

7. Education and Training

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
ALT. DOC.		TRAIN, TRAIN, TRAIN	TRAIN, TRAIN, TRAIN	TRAIN, TRAIN, TRAIN	TRAIN, TRAIN, TRAIN
	Probationary Period				
147. ALT. DOC.				Develop mechanism to better prepare new magistrates before being thrown into fray	
148. Admin.				Send new magistrate to Richmond monthly for training	
149. ALT. DOC.		Increase probationary period (e.g. 1 year)			
150. ALT. DOC.		Provide magistrate with increased on-site training with experienced magistrate. Magistrate may be sent to another jurisdiction (e.g. urban locality) where another magistrate is available to train.	Use more experienced magistrates to work with, train newly appointed magistrates		
151. ALT. DOC.		Increase performance review frequency (monthly) during orientation / probationary period			
	Specific Content Suggestions				
152. Admin.					Establish formal team building seminars; consider training time as work time and pay magistrates for their time while attending
153. Admin.				Assign SCV to survey job content, establish training needs based on job content (like DCJS)	
154. Admin.				Assign SCV to develop standard	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax	
155.	Admin.	Train magistrates so that they know their role, what functions they are / are not empowered to perform (the better magistrates know their job, the less stress they experience)			training program based on job survey Enhance training on magistrate role: - Judicial officers but not judges - How to exercise discretion (correct belief among many magistrates that they should not decline requests for warrants) - Inform of immunity from suit	
156.	Admin.		Professionalism		How to treat people with respect	
157.	Admin.		Computer literacy			
158.	Admin.		Case Management System access and use			
159.	Admin.		Mental health			
160.	Admin.		Keep personal biases out of decisions	Keep personal experiences from influencing decisions (mental health)		
161.	Admin.		Social issues training	Domestic violence generally, protective orders - When protective order should be issued - What are the legal standards		
162.	Admin.			How to conduct an interview (how to ask questions appropriately to obtain needed information)		
163.	Admin.			How to talk with / interview persons under influence of a substance (e.g. alcohol)	How to handle difficult people	How to handle difficult people, highly emotional people
164.	Admin.		Diversity, cultural norms	Diversity, cultural awareness	Diversity training, other cultures	
165.	Admin.				Communication styles among cultural groups	

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
166. Admin.					Train magistrates that interpreter services should be provided by an independent person, not the Commonwealth Attorney, law enforcement, or party to proceeding
167. Admin.				Stress management	
168. Admin.	<p>How to turn down requests appropriately, including such things as:</p> <ul style="list-style-type: none"> - Explaining reasons for decisions - How to back up decisions by referring to law, policy - Providing information about magistrate role, purpose - Giving alternatives - Using appropriate communication style (may also need enhanced training in communication skills) 	<p>Communications skills</p> <ul style="list-style-type: none"> - Articulate decisions, reasons - Receive feedback 	<p>Improve understanding of roles of organizations serving community</p> <ul style="list-style-type: none"> - Law enforcement - Child services <p>Provide information about shelters when person before magistrate has no home address</p>		<p>Ensure magistrates are knowledgeable about other public service agencies so they can provide helpful alternatives to citizen when magistrate finds no probable cause to issue warrant</p> <p>Magistrates can be first door in multi-door judicial system by referring citizens in a civil direction even when the original complaint was criminal</p>
169. Admin.			Probable cause (develop a clear definition of probable cause)	Constitutional law, statutes, ECO, TDO procedures	Broad-based constitutional training
170. Admin.			Bond / detention		<p>Alternatives to bonds:</p> <ul style="list-style-type: none"> - Cash - Corporate surety - Release to 3rd party custody (parents/ employer)
171. Admin.					Train magistrates to be open to information about the accused from others having knowledge of him / her; not only law

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax enforcement
172.	ALT. DOC. & Admin.	Instruct magistrates to address law enforcement comments from which the accused could infer that magistrates might be unduly influenced by law enforcement; also instruct magistrates to report this conduct when it occurs.	<p>Correct / teach how to address certain practices:</p> <ul style="list-style-type: none"> - Casual conversation / joking with law enforcement during hearings leaves impression of magistrate partiality toward law enforcement - Statements in magistrate's presence by law enforcement that if accused cooperates, law enforcement will request low bail from magistrates - Edit computer generated warrants (e.g. in drug charges, were drugs found in possession?) - Warrants should be legally sufficient (e.g. they should state the crime, distinguish between levels of assault, necessary signatures should be obtained) - There should be distinctions between dates of offense, date of complaint, date of issuance - Inform the accused that their responses to magistrates questions heard by police officers can be used against them in court 	How to avoid chilling the constitutional rights of the accused by clarifying that information provided to magistrate in police officer's presence can be used against them in court	Train magistrates that when conducting hearings they should address law enforcement, others formally and professionally, not by first name
173.	Do Not Favor			Introduce legislation to clarify what dialog is appropriate in magistrate's and police officer's presence and what can be used in court	
174.	Admin. Supv / training issue	Cross warrants (first in time gets warrant; second is denied)	Train to abolish practice where first person to the magistrate gets the warrant, and the second does not.	Cross warrants	

	ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
175.	Do Not Favor				Introduce legislation that magistrate suspicion of warrant requested from spite is not reason to deny issuance	
176.	Admin. Has auth. § 19.2 - 72				Clarify whether magistrate has authority to issue more serious warrant than requested by law enforcement, Commonwealth Attorney	
177.	Admin.			Educate magistrates in the ripple effect of their errors by inviting defense attorneys and prosecutors as training faculty at conferences, other training opportunities		
178.	Admin.	Provide chief magistrates training, refresher courses		Provide management training to chief magistrates	Provide management training to chief magistrates - Supervisory training - Scheduling - How to address employee with poor performance - How to conduct performance evaluations - Substance abuse - Cycle of violence - Complaints - Diversity, cultural understanding (e.g. Hispanic surnames) - Language, social differences	Provide management training to chief magistrates

ACTION	Magistrates Training Resource, Delivery, Evaluation Suggestions	Norfolk	Richmond	Roanoke	Fairfax
179.	Admin.			Institute mechanism for magistrates to attend court sessions to see, understand the full process of magistrate transactions	
180.	Admin.	Use management meetings to invite Commonwealth Attorney, Public Defender to train on specific issues Expand training to include speakers from citizen groups, boards. Use training opportunities with other organizations (e.g. Family Law Updates may be made available to magistrates)	Use speakers from agencies with which magistrates interact frequently (e.g. community services boards, parent education boards, Bar) to train at conferences or other training opportunities	Use local organizations (e.g. community services, mental health, domestic violence) as training resources Obtain input to programs from more diverse groups	Develop training program using input from law enforcement, prosecutors, defense attorneys, judges, community services
181.	Admin.			Join with other organizations to create tasks forces to address real and perceived bias; learn about other cultures, nationalities. Example: film about Hate	
182.	Admin.			Institute regional training and evaluation semi-annually	
		Institute OES sponsored regional training among various components of system (circuit clerk deputies, district court clerks, magistrates, etc.) to educate about why specific papers and procedures are needed, what magistrates do in relation to each office			

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
183. Admin.		Provide more intensive training following General Assembly			
184. Admin.		Provide more frequent training to enable magistrates to absorb and process new material			
185. Admin.	Re-instate CLE's			Require continuing legal education Send magistrates to standing, continuing programs state-wide	
186. Admin.	Break into smaller groups at conferences				
187. Admin.	Develop cutting-edge magistrate curriculum, using video or other medium Train magistrates so that they are on cutting-edge	Update manuals annually	Develop teaching manual organized into lesson plans / manageable teaching segments	Convert manual into more user-friendly document	
188. Admin.					Use role-playing: <ul style="list-style-type: none"> - Poor treatment - Non-English speaker - Disagree with law enforcement - Release on bond to family who has been drinking or other awkward circumstance - Angry, upset persons - How to give opportunity to be heard - Instill confidence that citizen is being treated fairly - Problems can be caused by the way things were done, not only what was done (treatment of persons charged with same offense but different in appearance, race, etc.) (Use similar material as provided to new judges)

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
189. Admin.	Place training materials on line			Develop on-line training packages - Test to make sure magistrate took training - Use low volume shifts for on line training	
190. Admin.	Develop video training materials, place on line			Use video for distance training	
191. Admin.	Require chief magistrates to conduct additional training using conference materials			Institute field training program using chief magistrate or magistrate on staff	
192. ALT. DOC. & Admin.	Re-certify magistrates		Develop standard tests	Administer standard tests based on standard training requirements; require 100% compliance	
193. ALT. DOC. & Admin.	Use quizzes to be returned to chief magistrates			Conduct testing every 2 years	
194. Admin.				Use pre- and post-tests for in-service training	
	Other				
195. ALT. DOC. & Admin.				Establish mechanism to provide consistent advice to magistrates re meaning of Code, interpretation	
196. ALT. DOC.	Obtain different legal advisor from Commonwealth Attorney, who is not neutral			Refer legal questions to an attorney	

	ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
197.	ALT. DOC.	Establish OES as legal advisor				
198.	ALT. DOC. & Admin.	Establish 24 / 7 OES technical assistance			Establish 24-hour resource for magistrates when they have questions	
199.	Admin.			Subsidize further education for magistrates	Subsidize further training for magistrates	
200.	Admin.			Establish procedure for Magistrates' Association to provide input into training needs		

SUGGESTED SOLUTIONS BY VENTURE TEAM

8. Other Discussion Items

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
201. ALT. DOC. Do Not Favor			<p>Eliminate magistrate system</p> <ul style="list-style-type: none"> - Commonwealth Attorney should be charging agent (probable cause determinations are made by: law enforcement officer, magistrate, preliminary hearing, grand jury; all are not needed) <p>Issues:</p> <ul style="list-style-type: none"> - Who should issue search warrants? - How should mental health needs be met during non-business hours? 		
202. Admin. Model after dist ct system	Pay for quality system, including physical plant, supporting equipment and supplies, magistrates, and supporting personnel		<p>Improve accoutrements of the office so that they communicate a status appropriate to an independent judicial officer. Establish uniform standards (office space, equipment) and establish a responsible entity. Status includes training, salary, and accountability and requires time and financial investment</p>	Obtain state funding for all expenses of magistrate system	<p>Demonstrate support and respect for position. Invite magistrate as a player / participant in criminal justice community; invite participation in criminal justice forums</p> <p>Integrate magistrates with bench in formal and informal ways</p> <p>Magistrate experience is isolated experience, so magistrate should be supported within system</p>

ACTION	Magistrates	Norfolk	Richmond	Roanoke	Fairfax
203.	Admin.	Articulate important function (constitutional and statutory) of magistrates and ways in which magistrates protect citizens' rights; system needs to provide sufficient financial support (including time commitment) for quality services; magistrates need to carry themselves with dignity, have appropriate appearance; offices should convey pride respect that system has for magistrates and function	Establish mechanism for magistrate input to policy bodies for system		
204.	Admin.		Magistrates need to know that someone listens to them – that they have a voice		

Appendix 8:

Magistrate Study Advisory Committee Proposals From Individual Members

	Page
Ad Hoc Comments	208
Honorable Gayl B. Carr, Judge	209
John J. Skinner, Chief of Police	210
Donald W. Stokes, Magistrate	212

AD HOC COMMENTS

1. Change the current complaint procedure to fit magistrate system needs. Outline the appropriate steps (e.g. chief magistrate and ultimately to chief circuit court judge). Specify what feedback the complainant can expect to receive (e.g. personnel actions are confidential).
2. Develop a management training track to be available at conferences for judges and chief magistrates. The track should be optional for judges and mandatory for chief magistrates. Typical topics are the employment process, hiring, handling complaints and grievances, performance evaluations.
3. Identify a senior magistrate to assist the chief magistrate in training, as it is difficult for chief magistrates to handle the hands-on training for each jurisdiction.
4. In order to be more “user friendly” for the individuals who need magistrate services, I would recommend staffing each office on a full-time basis, with magistrates being on 24 hours per day. I constantly hear complaints from individuals (including police officers, deputies, etc.) that state trying to “catch the magistrate at the right time:” is an inconvenience. While it might be impossible to staff every office in this manner, the video-magistrate system could be utilized to provide the 24-hour coverage. This would prevent numerous trips to locate a magistrate and it would also prevent the inconvenience of waiting on a magistrate only to have him/her refuse to respond.
5. Education on proper use of the video equipment for all parties.
6. Develop uniform standards for recruitment and hiring process. In addition, remove hiring authority from chief judge/chief magistrate and place this authority with the Executive Secretary’s office.
7. Provide legal education for all magistrates, including the chief, and mandate same. This could be provided by use of the video equipment. In addition, develop a mechanism to determine attendance/participation by magistrate staff.
8. Develop “regional” offices across the state, staffed by the Office of the Executive Secretary, to supervise the magistrates and remove this responsibility from the Chief Circuit Judge (or Chief General District Judge). This is an administrative duty the judges do not have time to handle and, in addition, the supervising authority normally changes each two years.

To: Cathy Agee

From: Gayl B. Carr, Judge

Date: January 13, 2003

Subject: Magistrate Study Advisory Committee, House Joint Resolution 32

Ms. Agee:

I wanted to provide you with a few thoughts on the Magistrate Study Advisory Committee. I had an opportunity to review the materials and to speak with a former Magistrate from Fairfax County. I look forward to the meeting tomorrow. Thank you.

TRAINING/QUALIFICATIONS-More intensive training with particular emphasis on the importance of independent decision making and understanding the community in which you serve. Sensitivity training should be a priority such as dealing with the public and difficult people. Search and seizure lectures by Professor Bacigal of the University Of Richmond, T.C. Williams School of Law would serve useful on a continuing basis.

TRAINING/QUALIFICATIONS-Mandate continuing legal education each year for all Magistrates.
PROCEDURES-Develop, or mandate, use of a bail determination check list, bench book or risk assessment guideline to use as a tool in making decisions on bail or release. These tools should be designed by the state and adjusted to reflect local community norms and customs. Mandate Magistrate review and access to criminal records (VCIN, NCIC, etc) prior to any bail or release determination.

JUDICIAL OVERSIGHT-Supervisory responsibilities over the Magistrate System should directly involve the judges of the Juvenile and General District Court Judges since the decisions of the magistrate directly, and more frequently, impact those two courts.

COMMUNITY EDUCATION/JUDICIAL OVERSIGHT-Mandate frequent meetings between the Chief Magistrate and the Chief Judges (including juvenile and general district court judges) should be encouraged.
FULL-TIME OFFICES/MAGISTRATES-Establishment of a statewide ability to make determinations to avoid the problems with on-call issues (such as the pilot program used for juveniles and issuance of detention orders from one centralized location). Courts that have video-conferencing equipment and are not using it should allow the Magistrates to use the equipment.

ACCESS/SECURITY/NEUTRALITY/WORKING CONDITIONS-Use more resources from the community to provide the support services that are not available through a paid position. For example, Community volunteers, criminal justice majors from local Colleges and University's, law students and the like. These individuals will either volunteer because they love to serve within their community or will serve in exchange for credits toward their respective degrees. Their responsibilities may include everything from clerical duties, to interviewing the public to assisting the magistrates as needed.

ACCESS/SECURITY/NEUTRALITY/WORKING CONDITIONS-Develop a volunteer interpreter program (similar to the one developed in Fairfax County) where volunteers are recruited for interpreting and translating documents for the majority of the languages spoken in the community. Train Magistrates that interpreter services should be provided by a trained (a professional) and independent interpreter rather than relatives, neighbors, police officers, prosecutors, taxi cab drivers, etc.

EMPLOYMENT PROCESS-Establish formal recruitment policies and procedures. For example, the position must be advertised and follow the format of the state in terms of an interview panel. Discourage or eliminate nepotism. Increase the pay.

COMMUNITY EDUCATION-Require mandatory posting of signage, in each Magistrate office, regarding the Magistrate system, how it works and the complaint process.



CITY OF MANASSAS VIRGINIA

OFFICE OF THE CHIEF OF POLICE

9518 Fairview Avenue
Manassas, Virginia 20110
Office (703) 257-8001
Fax (703) 368-6966
www.manassascity.org

John J. Skinner
Chief of Police

January 13, 2003

Mr. Robert N. Baldwin
Executive Secretary
Supreme Court of Virginia
Administrative Office
Third Floor
100 North Ninth Street
Richmond, Virginia 23219-2334

RE: Magistrate Study Advisory Committee, House Joint Resolution 32

Dear Mr. Baldwin:

I regret that an unexpected schedule conflict will not allow me to attend tomorrow's Study Committee meeting in Richmond. As the Committee is currently in the process of developing draft findings and recommendations, I would like to forward the following comments for consideration.

I serve as the representative for the Virginia Chiefs of Police and believe there are legitimate concerns expressed by my colleagues state-wide related to three specific areas of the state's magistrate system. Please consider the following areas of concern in the priority as listed below:

Issue 1. There is a desire for enhanced accountability for the actions of magistrates when there is disagreement or complaint regarding basic competency in law decisions, court procedures as well as professional conduct of magistrates.

Action: It is proposed that a uniform, state-wide system for documenting, investigating, resolving and notifying complainants be established. And further, this complaint resolution procedure be published for the general public, easily accessible and monitored year-to-year for the purpose of analyzing trends and/or "early warning signs" concerning potential individual magistrate practices or conduct.

Issue 2. There are legitimate concerns regarding access to timely and quality magistrate services in many areas of the state. There is a desire for enhanced magistrate staffing and schedule coverage in order to maximize citizen responsiveness and law enforcement productivity by reducing "waiting time", "drive time" and "prisoner handling" issues.

Action: It is proposed that magistrate video teleconferencing be expanded state-wide to enhance current and future systemic magistrate staffing and availability. Given the current bleak state and federal economy, the use of video technology for appearances before a magistrate should provide many potential benefits and improved manageability of the magistrate system. Clearly, substantial advances in technology have made this technology less expensive and easier to install and use. In lieu of significant budgetary increases for additional magistrate system staffing and compensation, this would appear to be the most feasible course of action for the near term future.

Issue 3. Lastly, it is clear from the Study Committee's state-wide survey and venture team meetings that magistrate's staffing, compensation, selection and training standards, and office space needs are entirely inadequate.

It should be noted the Chief Magistrate for the 31st Judicial District (District 31) has not had a single staffing increase in 17 years — while the population and number of law enforcement officers has nearly tripled! It is virtually impossible for the magistrate system to adequately support and provide the necessary magistrate services in demand.

Action(s): Specific short-term and long-term strategies should be developed to enhance the above noted deficiencies and better position the Magistrate System for effective and efficient service delivery well into the 21st century.

Again, I regret not being able to personally convey my comments and appreciate your assistance.

Sincerely,

John J. Skinner
Chief of Police

JJS/lrf

cc: Cathy Agee, Human Resources Department

Appendix 9:

Alternatives Document

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
ROLE									
1. Should magistrate role change? If so, how?	N/a	No	No	Adopted Recommendation	No	No	Magistrate functions would be modeled after federal magistrate system to include some trial authorities. Their authorities would not be as broad as district court judges, but broader than those of current magistrates Current magistrate duties combined with amended powers of US Magistrates.	Office of magistrate as it currently exists would be abolished. District court judges would absorb all magistrate functions. All aspects of district court system for judges would remain in place	
MGMT ISSUES									
2. OVERVIEW	Local management OES supports local management	Same as Current	Same as Current	Adopted Recommendation - Same as current	OES TA would establish mag. system procedures as well as supervise and train magistrate system management personnel. Chief magistrates would be eliminated and replaced with regional managers appointed by OES. Regional managers would appoint, supv magistrates. Regional managers would have regional supv auth instead of district auth	Same as Col. 4	Same as Col. 4 Regional Managers would appoint on recommendation of Merit Selection Panel.	Continue current: chief judge assume administrative supervision of magistrate functions; no other specific oversight. OES role would continue as support	

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
APPT. AUTHORITY									
3.	Chief Magistrate	Chief Circuit Judge	Chief Gen District Judge	Chief General District Judge Amend: in consultation with chief circuit and chief JDR judges	Chief Circuit Court Judge in consultation with chief general district and chief JDR judges	Executive Secretary	Executive Secretary	Executive Secretary	Continue current: judges within district elect chief
4.	Magistrates	Chief Circuit Judge	Chief Magistrate	Chief Magistrate	Chief Circuit Court Judge in consultation with chief general district and chief JDR judges	Regional Manager	Regional Manager	Regional Manager with rec of Merit Selection Panel	Continue current: General Assembly elects judges
DAILY SUPERVISION									
5.	Chief Magistrate	MSA (either Chief Circuit or General District Judge)	Same as Col. 3	Chief General District Judge Eliminate MSA	MSA (either Chief Circuit or General District Judge)	OES TA	OES TA	OES TA	Continue current: none
6.	Magistrates	Chief Magistrate	Same as Col. 3	Chief Magistrate is supv authority for training, performance evaluations, and admin. functions, such as scheduling and leave	Adopted Recommendation — Same as current	Regional Manager is supv authority for training, performance evaluations, and admin. functions, such as scheduling and leave	Same as Col. 4	Same as Col. 4	Continue current: chief judges are supervisory authorities for admin. functions, such as scheduling and leave
JURISDICTION									
7.	Statewide or district wide?	District-wide with authority in contiguous political sub- divisions	Same as Current	Same as Current	Adopted Recommendation — Same as current	Statewide	Statewide	Jurisdiction of court (district) except for emergencies (statewide)	Jurisdiction of court (district)
COMPETENCE QUALIFICATIONS									
8.	Chief magistrate	Bachelor's, or equivalent Management experience	Same as Col. 3	Attorney, Member of VA State Bar Mgmt. experience	Bachelor's or Equivalent Management experience If qualification is through equivalent experience, minimum educational requirement is high school diploma or GED	Same as Col. 3	Same as Col. 3	Same as Col. 3	Same as district court judges

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
9.	Magistrate	Bachelor's Degree, or equivalent No concentration required	Bachelor's Degree No equiv. experience No concentration req.	Attorney, Member of VA State Bar Amend to Col. 2 NOTE: Some Committee members preferred magistrates to be attorneys	Bachelor's or Equivalent Management experience If qualification is through equivalent experience, minimum educational requirement is high school diploma or GED	Bachelor's Degree No equivalent experience No concentration required	Attorney, Member of VA State Bar	Attorney, Member of VA State Bar	Continue current: district judge must be attorney, member of VA State Bar
NEW PERSONNEL FITNESS FOR DUTY									
10.	Chief Magistrate	Employed with expectation of immediate fitness - Manual training - OES - OJT - OES certification	Same as Col. 3	Employed with expectation of immediate fitness	Adopted nine-week certification program. Satisfactory completion required prior to assuming responsibilities	Same as Col. 3	Same as Col. 3	Same as Col. 3	N/a
11.	Magistrates	Employ most qualified - Ch Mag Manual training - OJT - OES certification	Certification of fitness procedure: - OES conduct intensive training of 3 mo. duration to include VA law, observation of mags. conducting transactions - Chief Mag. coach for 1 mo. (use one-on-one OJT training, observe transactions) Following certification of fitness, Chief Mag. conduct mo. evals. during prob'ry. period	Already competent to hear issues presented to them by virtue of qualifications upon appointment Use pre-bench model to introduce to system, to conduct training in VA law & procedures, to conduct one-on-one on-the-job training and coaching with Chief Magistrate observing transactions Amend: include training from Alternative 2	Adopted nine-week certification program. Satisfactory completion required prior to assuming responsibilities	Same as Col. 2 (Certification of fitness)	Same as Col. 3 (Already competent)	Already competent to hear issues presented to them by virtue of qualifications upon appointment Use pre-bench to introduce to system.	Same as Col. 6
IS PROBATIONARY PERIOD NEEDED:									
12.	Chief Magistrate	Yes	Yes	Yes	Adopted Recommendation – Same as current	Yes	Yes	N/a	N/a
13.	Magistrates	Yes	Yes	Yes	Adopted Recommendation – Same as current	Yes	Yes	N/a	N/a

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCLHR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCLHR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
	IF SO, HOW LONG:								
14.	Chief Magistrate	6 mo.	1 year	1 year	Remain 6 months – Same as current	1 year	1 year	N/a	N/a
15.	Magistrates	6 mo.	1 year	1 year	Remain 6 months – Same as current	1 year	1 year	N/a	N/a
	IF PROBATION NEEDED, WHO DETERMINES IF EXPECTATIONS MET:								
16.	Chief Magistrate	MSA	Chief Gen District Judge	Chief General District Judge	Remain MSA	Executive Secretary	Executive Secretary	N/a	N/a
17.	Magistrates	Chief Magistrate	Chief Magistrate	Chief Magistrate	Remain Chief Magistrate	Regional Manager	Regional Manager	N/a	N/a
	TESTING FOR CERTIFICATION DURING PROB'TN?								
18.	Chief Magistrate	Yes	Yes	Yes	Adopted Recommendation – Same as current	Yes	Yes	N/a	N/a
19.	Magistrates	Yes	Yes	Yes	Adopted Recommendation – Same as current	Yes	Yes	N/a	N/a
	CLE								
20.	Chief Magistrate	Updates in law, procedures Management training	Same as Current	Same as Current	Adopted Recommendation – Same as current	Same as Current	Same as Current	Same as Current	Same as Current
21.	Magistrates	Updates in law, procedures Customer Service	Same as Current	Same as Current	Adopted Recommendation – Same as current	Same as Current	Same as Current	Same as Current	Same as Current
	TESTING AFTER CLE'S?								
22.	Chief Magistrate	No	No	No	Adopted Recommendation – Same as current	No	No	N/a	N/a
23.	Magistrates	No	No	No	Adopted Recommendation – Same as current	No	No	N/a	N/a

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG CH JUDGE MAG: JUDGE
	FITNESS FOR RE-APPOINTMNT RE-CERTIFY?								
24.	Chief Magistrate	No	Same as Col. 3	Yes, to include CLE's met, OES generated tests locally administered, OES certification of fitness for re-appointment)	Concept approved – Implementation to be developed	Yes, to include CLE's met, testing, Chief General District Judge certification of fitness for re-appointment)	Same as Col. 4	Same as Col. 4	No
25.	Magistrates	No	Same as Col. 3	Yes, to include CLE's met, OES generated tests locally administered, OES certification of fitness for re-appointment)	Concept approved – Implementation to be developed	Yes, to include CLE's met, testing, Chief General District Judge certification of fitness for re-appointment)	Same as Col. 4	Same as Col. 4	No
	IF YES, WHEN?								
26.	Chief Magistrate	N/a	Same as Col. 3	Immediately prior to expiration of current term	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	N/a
27.	Magistrates	N/a	Same as Col. 3	Immediately prior to expiration of current term	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	N/a
	RE-APPOINTMENT AUTHORITY								
28.	Chief Magistrate	Chief Circuit Judge	Same as Col. 3	Chief General District Judge, subject to Re-certification	Chief Circuit Court Judge subject to Re-certification	Exec. Secretary, subject to Re-certification	Same as Col. 4	Same as Col. 4	Continue current: election by judges within district
29.	Magistrates	Chief Circuit Judge	Same as Col. 3	Chief Magistrate, subject to Re-certification	Chief Circuit Court Judge subject to Re-certification	Regional Manager, subject to Re-certification	Same as Col. 4	Regional Manager, subject to Merit Selection Panel rec	Continue current: election by Gen. Assembly

ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
LEGAL RESOURCE								
30. Who is magistrates' legal advisor	Commonwealth Attorney	Same as Col. 3	Chief Magistrate, as legal resource	Adopted Recommendation — Repeals Section 19.2-42	Regional Manager, as legal resource	Same as Col. 4	No advice needed. OES Legal Research Dept. continues to be available for research requests	Same as Col. 6
31. What is role of <i>legal advisor</i> ?	Information about new legislation Research requests Sounding board Opinion about what a particular statute means	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	Same as Current	Same as Current
32. What is excluded from legal advisor role?	Help in making judicial determination Whether required statutory elements have been met	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	Same as Current	Same as Current
33. Is 24/7 legal advice available?	No, in most districts	Same as Col. 3	Yes, as provided by Chief Magistrate availability	Adopted Recommendation	Yes, through rotation among Regional Managers	Same as Col. 4	Same as Col. 4	No
HOW TO PROVIDE MAGISTRATE SERVICES								
34. When and where should magistrate services be available?	24 hours / day 7 days / week (24 / 7) In community	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	Same as Current	Same as Current (Note: judges would also work 24 / 7 schedule)
VIDEO CONFERENCING								
35. Should video conf. be used to provide magistrate services?	Yes, if desired locally	Yes	Yes	Adopted Recommendation	Yes	Yes	Yes	Yes
36. Implementation plan?	No	Same as Col. 3	Develop plan and implement	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	Same as Col. 3

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
37.	How video system works	<ul style="list-style-type: none"> - Hub magistrate video offices, 24 / 7 - Local magistrate offices staffed part-time per specific schedule but without video connection - Hub offices connect to local law enforcement offices (but not local magistrate offices). - Local after-hours business conducted through video at law enforcement office - Hub offices located within reasonable driving time of local video offices to offer direct access to magistrates instead of access through law enforcement 	Same as Current	Same as Current	Adopted Recommendation — Same as current — Agreed to video Hub approach	Same as Current, and also: - Connect hub offices statewide	Same as Current, also: - Connect hub offices statewide	Same as Current	Same as Current
ON-CALL SYSTEM									
38.	Chief Magistrate	Normal business hours; address emergencies as needed for all job responsibilities	Same as Current	Same as Current	Adopted Recommendation — Same as current	No. Rotation among OES Regional Managers enables addressing emergencies	Same as Col. 4	Same as Col. 4	Continue current: must address emergencies as needed
39.	Magistrates	On-call	Eliminated	Eliminated	Approved Recommendation as video implemented	Eliminated	Eliminated	N/a	N/a
BACK-UP SYSTEM									
40.	Chief Magistrate	Mag Supv Authority (MSA)	Same as Col. 3	Chief General District Judge	MSA	Rotation among Reg Mgrs	Same as Col. 4	Same as Col. 4	N/a
41.	Magistrates	Other magistrates; Chief Magistrate	Same as Col. 3	Other video offices if in dist. or in adjacent district Sufficient FTE (time off considered in formula) Chief Mag in emergencies	Adopted Recommendation	Other video offices in state Same as Col. 3 N/a	Same as Col. 4 Same as Col. 3 N/a	Statewide jurisdiction for emergencies and time sensitive circumstances Sufficient FTE	Sufficient judges Substitute judge budget (Sub judge budget to remain at current level)

ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT	2.	3.	CDC DECISION	4.	5.	6. FED MAG SYST MODEL	7. DIST CT JUDGES
	LOCAL MANAGEMENT CH MAG: BCLHR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS		OES MGMT. CH MAG: ATTY MAG: BCLHR	OES MGMT. CH MAG: ATTY MAG: ATTY	OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: JUDGE
HOW TO DETERMINE NUMBERS OF FTE:								
42. Chief Magistrate	1 per district	1 per district	1 per district	Adopted Recommendation	To be determined, but less than 1 per district	To be determined, but less than 1 per district	To be determined	Statutory: 1 gd and jdr chief judge per district
43. Magistrates	Formula based on time anticipated by classification compared to actual time required to provide magistrate services	Same as Col. 3	5.0 for each full-time office (See Minimum FTE for Full-Time Office)	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	Continue current: CDC evaluates workload, recommends new positions; Gen Assembly creates any new judgeships
FULL- OR PART-TIME								
44. Chief Magistrates	Full-time with exception	Full-time	Full-time	Adopted Recommendation	Full-time	Full-time	Full-time	Continue current: chief judge responsibilities added to full-time judicial responsibilities
45. Magistrates	Full- and part-time	Full-time	Full-time	Adopted Recommendation – (\$2 Million – 392 positions)	Full-time	Full-time	Full-time	Continue current: full-time
SALARY (APPROX.)								
46. Magistrates	\$30,106-47,992 (Magistrate VI)	Same as Current	\$38,163 - \$59,581 (Pay Grade 13) With amendment to Bachelor's degree, salary is range of Mag. VI: \$30,106-47,992	Same as current	Same as Current	Same as Col. 3	\$83,042 (75% District Court Judge)	\$110,723
47. NOVA differential?	Yes, 20%	Same as Current	Same as Current	Adopted Recommendation – Same as current	Same as Current	Same as Current	No	No
48. Locality supplement?	Yes	No	No	Keep local supplements	No	No	No	No
49. Shift differential?	No	Yes, 9.3%	Yes, 9.3%	Adopted Recommendation – Approved shift differential	Yes, 9.3%	Yes, 9.3%	No	No

ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT	2.	3.	CDC DECISION	4.	5.	6. FED MAG SYST MODEL	7. DIST CT JUDGES
	LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS		OES MGMT. CH MAG: ATTY MAG: BCHLR	OES MGMT. CH MAG: ATTY MAG: ATTY	OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
50. Chief Magistrate	\$34,884 - \$55,597 (Chief Magistrate)	Same as Col. 3	\$45,800 - \$71,497 (Magistrate + 20%)	Same as current	Same as Col. 3	Same as Col. 3	\$99,650 (Magistrate + 20%)	\$110,723
51. NOVA differential?	Yes, 20%	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	No	N/a
52. Locality supplement?	Yes	No	No	Keep local supplements	No	No	No	N/a
53. Shift differential?	No	Yes, 9.3%	Yes, 9.3%	Adopted Recommendation - Approved shift differential	Yes, 9.3%	Yes, 9.3%	No	No
OVERSIGHT								
54. Should there be Quality Control Checks (review processes issued, observe hearings to ensure appropriate statutory criteria are considered, etc.)?	Yes	Yes	Yes	Adopted Recommendation — Same as current	Yes	Yes	N/a	N/a
55. Should there be statistical evaluations (e.g. transactions v issuances, leave, timeliness of repts)?	Yes	Yes	Yes	Adopted Recommendation — Same as current	Yes	Yes	N/a	N/a
56. Should videotapes be used as supv tool?	No	Same as Col. 3	Yes, on unannounced, periodic occasions Amend: no video taping either for reasons of management or verification of information provided. The Advisory Committee recommended against both continuous taping of all non-confidential magistrate transactions and unannounced, periodic taping.	Adopted Recommendation — no videotaping of proceedings	Same as Col. 3	Same as Col. 3	Same as Col. 3	N/a
57. Should testers be employed?	No	No	No	Adopted Recommendation — No testers	No	No	N/a	N/a

ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
	WHO CONDUCTS PERF. EVAL. FOR:							
58. Chief Magistrate	MSA	Chief Gen District Judge	Chief General District Judge	MSA — Same as current	OES TA	OES TA	OES TA	Continue current: none
59. Magistrates	Chief Magistrate	Chief Magistrate	Chief Magistrate	Adopted Recommendation — Same as current	Regional Manager	Regional Manager	Same as Col. 7	Use Judicial Performance Evaluation Model
60. What, if any, magistrate judicial functions is it appropriate to evaluate?	See Magistrate Performance Evaluation, Section 3, Quality of Decisions How (v. actual decisions) judicial functions performed (are background checks conducted, are manuals updated?) Pattern of decisions that appear to be unfounded	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	None	None
61. Application to Chief Magistrate?	Yes, to extent chief sits	Same as Col. 3	Yes, but Chief Magistrate will sit as magistrate infrequently	Adopted Recommendation — Same as current	N/a	N/a	N/a	N/a
COMPLAINTS								
WHO RECEIVES AND FOLLOWS-UP FOR:								
62. Chief Magistrate	MSA	Chief Gen District Judge	Chief General District Judge	MSA — Same as current	OES	OES	JIRC	JIRC
63. Magistrates	Chief Magistrate	Chief Magistrate	Chief Magistrate	Adopted Recommendation — Same as current	Regional Manager	Regional Manager	JIRC	JIRC
PUBLICIZE STATISTICS?								
64. Chief Magistrate	No	No	No	Adopted Recommendation — Same as current	No	No	No	No
65. Magistrates	No	Same as Col. 3	Yes Chief Magistrate should make finding of Founded or Unfounded. Report total complaints, by category.	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Continue current system for JIRC: confidential	Continue current system for JIRC: confidential

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCLHR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCLHR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
MAG. JUDICIAL FUNCTIONS									
66.	Managing Entity	None, independent	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	Same as Current	Continue current: none
67.	Mandatory use of automated or manual checklists / questions when making judicial decisions	No	No	No	Adopted Recommendation — Same as current	No	No	No	No
68.	Discretionary use of procedural tools	Some tools available	Same as Col. 3	Expand	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	Same as Col. 3
69.	Redress for Legal Issues	Issuance of warrant, search warrant: request to another magistrate; judge; Commonwealth Attorney for Grand Jury Bond: district court judge Protective order: another magistrate; judge TDO, civil detention, civil levy or seizure: another magistrate; district judge	Same as Current	Same as Current	Adopted Recommendation — Same as current	Same as Current	Same as Current	Same as Current	Appeal
70.	Changes needed?	No	No	No	Adopted Recommendation — Same as current	No	No	No	No
MAGISTRATE OFFICES									
71.	Full- or part-time?	Combination of full- and part-time offices	Same as Col. 3	Full-time hub offices Part-time local offices (see video description)	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	Current: clerks' offices are public offices for courts and judges; open 8 hours on business days. Issue: how to provide 24 / 7 service? Chief judge to schedule judge(s) to be in: - hub office (per 24 / 7 schedule) - local office (per specifically scheduled business hours)

	ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	2. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	3. LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS	CDC DECISION	4. OES MGMT. CH MAG: ATTY MAG: BCHLR	5. OES MGMT. CH MAG: ATTY MAG: ATTY	6. FED MAG SYST MODEL OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	7. DIST CT JUDGES LOCAL MANAGEMENT CH MAG: CH JUDGE MAG: JUDGE
72.	Locations: Part of jail, adjacent to jail, courthouse, stand alone?	Insofar as possible, quarters should be in public building	Same as Current	Same as Current	Adopted Recommendation – Same as current	Same as Current	Same as Current	Same as Current	Courthouse Use <i>VA Courthouse Facilities Guidelines</i>
73.	Facilities	Suitable quarters appropriate to conduct affairs of judicial officer, provide convenient access to public and law enforcement. Define <i>suitable</i> through <i>VA Courthouse Facilities Guidelines</i>	Same as Col. 3	Same as Current, and also: Add to Chief Magistrate's job tasks to conduct periodic facilities reviews for compliance with Facilities Guidelines.	Adopted Recommendation	Same as Col. 3	Same as Col. 3	Same as Col. 3	Magistrate hearings conducted in courtroom or magistrate office
EMPLOYMENT									
RECRUITMENT									
74.	Chief Magistrate	MSA, centralized assistance available upon request	Chief Gen District Judge, centralized assistance available upon request	Chief General District Judge Additional requirement: appointment must be from OES certified list	Leave as is currently	OES would conduct recruitment	Same as Col. 4	Same as Col. 4	N/a
75.	Magistrates	Chief Magistrate for MSA	Chief Magistrate	Chief Magistrate Additional requirement: appointment must be from OES certified list	Leave as is currently	Regional Manager	Regional Manager	Regional Manager	N/a
TERMS OF OFFICE									
76.	Chief Magistrate	4 years, revocable at pleasure of appointing authority	Same as Current	Same as Current	Adopted Recommendation – Same as current	Same as Current	Same as Current	6 years, unless removed by statutory procedure	Continue current: 2 years
77.	Magistrates	4 years, revocable at pleasure of appt. auth.	Same as Current	Same as Current	Adopted Recommendation – Same as current – Amend §19.2-38 to delete "Vacancies shall be filled for the un-expired term by the chief circuit judge."	Same as Current	Same as Current	6 years, unless removed by statutory procedure	Continue current: 6 years, unless removed by statutory procedure
REMOVAL AUTH.									
78.	Chief Magistrate	Chief Circuit Judge	Chief Gen District Judge	Chief General District Judge	Chief Circuit Court Judge	Executive Secretary	Executive Secretary	SCV upon filing of complaint by JIRC	Continue current: election by judges within district
79.	Magistrates	Chief Circuit Judge	Chief Magistrate	Chief Magistrate	Chief Circuit Court Judge	Regional Manager	Regional Manager	SCV upon filing of complaint by JIRC	Continue current: SCV upon filing of complaint by JIRC

ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT	2.	3.	CDC DECISION	4.	5.	6. FED MAG SYST MODEL	7. DIST CT JUDGES
	LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS		OES MGMT. CH MAG: ATTY MAG: BCHLR	OES MGMT. CH MAG: ATTY MAG: ATTY	OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY CH JUDGE MAG: JUDGE
ACCESS TO APPEALS PROCEDURE ?								
80. Chief Magistrate	Magistrate System Appeals Policy and Procedure with final appeal to panel	Same as Current	Same as Current	Adopted Recommendation — Same as current	Yes, procedure to be developed	Same as Col. 4	None	None
81. Magistrates	Magistrate System Appeals Policy and Procedure with final appeal to panel	Same as Current	Same as Current	Adopted Recommendation — Same as current	Yes, procedure to be developed	Same as Col. 4	None	None
ACCESS FOR EXPIRATION OF TERM NON-REAPPT?								
82. Chief Magistrate	None	None	None	Adopted Recommendation — Same as current	None	None	None	None
83. Magistrates	None	None	None	Adopted Recommendation — Same as current	None	None	None	None
OTHER								
ADMINISTRATIVE SUPPORT STAFF FOR:								
84. Chief Magistrate	None	None	None	Adopted Recommendation — Same as current	None, OES TA	None, OES TA	None, OES TA	Administrative support from clerks' offices
85. Magistrates	None	None	None	Adopted Recommendation — Same as current	None	None	None	Administrative support from clerks' offices
86. ASSISTANT CHIEF MAGISTRATE?	No, some unofficial delegation	No	No	Adopted Recommendation — Same as current	No	No	No	No
IMPLEMENT'N								
87. Lead time suggested?	Minimal	Yes	Yes	Not applicable	Yes	Yes	Yes	Yes

ISSUES WHO MANAGES? SUPV. COMPETENCE MAG. COMPETENCE	1. CURRENT	2.	3.	CDC DECISION	4.	5.	6. FED MAG SYST MODEL	7. DIST CT JUDGES
	LOCAL MANAGEMENT CH MAG: BCHLR, EQUIV MAG: BACHELOR, EQUIV ADMIN. CHANGES	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: BACHELOR'S	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY MAGISTRATE STUDY ADVISORY COMMITTEE RECOMMENDATIONS		OES MGMT. CH MAG: ATTY MAG: BCHLR	OES MGMT. CH MAG: ATTY MAG: ATTY	OES MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY	LOCAL MANAGEMENT CH MAG: ATTORNEY MAG: ATTORNEY CH MAG CH JUDGE MAG: JUDGE
Timetable for:								
88. Chief Magistrate appointing authority	N/a	7/1/04	7/1/04	Not applicable	7/1/10	7/1/10	7/1/10	7/1/10
89. Chief Magistrate qualifications	N/a	Same as Col. 3	Phased in between 7/1/04 and 7/1/10 -Current chief magistrates may continue to 7/1/10 -Replacements for vacancies must be attorneys	Not applicable	7/1/10	7/1/10	7/1/10	7/1/10
90. Magistrate appointing authority	N/a	Same as Col. 3	Phased in between 7/1/04 and 7/1/10 -Chief Magistrate appoints magistrates when attorney -Chief General District Judge appoints magistrates until Chief Magistrate is attorney	Not applicable	7/1/10	7/1/10	7/1/10	7/1/10
91. Magistrate qualifications	N/a	Same as Col. 3	Phased in between 7/1/04 and 7/1/10 -Current magistrates may continue to 7/1/10 -Replacements for vacancies must meet qualifications	Not applicable	7/1/10	7/1/10	7/1/10	7/1/10
92. Video conferencing, eliminating on-call	ASAP	ASAP	ASAP	As soon as possible	ASAP	ASAP	ASAP	ASAP

Appendix 10:

Virginia Courthouse Facilities Guidelines

2.2.16 Juvenile Holding Facility

Every juvenile and domestic relations court should be equipped with temporary holding facilities for juveniles and adults.

Commentary:

Juvenile and domestic relations district courts handle a wide range of juvenile cases involving violent and sometimes dangerous juveniles, as well as abused, neglected, and other non-violent juveniles. Each court needs facilities that can accommodate a wide range of types of juvenile offenders while awaiting hearing or trial. Additionally, in-custody adults may be called upon to testify on occasion, and separate holding areas need to be provided with sight and sound separation from that used by juveniles.

All juveniles should have a private holding area that is out of the public's view, and separate from adult offenders. Non-violent juveniles should be separated from violent and dangerous juvenile offenders and can be kept in a non-secure setting. Non-secure holding areas should be furnished to minimize stress, be located near the courtroom, and have private toilet facilities. They may be furnished with tables and chairs and may double as client interview rooms.

Violent and potentially dangerous juveniles require secure facilities with secure doors and windows, although the room should not be made to look like an adult holding cell. Secure detention holding facilities should be equipped with vandal-proof furnishings. Provision should be made for constant supervision by court staff. In larger courthouses, particularly where the caseload warrants a separate juvenile court facility, separate facilities for boys and girls should be provided.

In courts where there is seldom a need to handle violent/dangerous juveniles, the construction of secure holding facilities may not be warranted.

A minimum of 100 sq. ft. should be allowed. Additional juveniles will require an additional 15-20 sq. ft. each.

2.2.17 Magistrate's Office

If located in the courthouse, magistrates should be provided a private office, and a public hearing space equipped to handle small hearings involving 3-4 people.

Commentary:

Magistrates in Virginia provide independent review of complaints brought by citizens and law enforcement officers. A significant responsibility of the magistrate is to conduct bail hearings for persons charged with criminal offenses. Magistrates also issue various types of process such as arrest warrants, summonses, search warrants, subpoenas, civil warrants, civil seizures, emergency protective orders, emergency custody orders, and temporary mental and emergency medical detention orders. Magistrates also may accept prepayments for traffic infractions and minor misdemeanors.

The Code of Virginia provides that each county and city should provide suitable quarters for appointed magistrates. Magistrates' quarters should be located in a public facility and be appropriate to conduct the affairs of a judicial officer as well as provide convenient access to the public and law-enforcement officers. The county or city is to provide all furniture and other equipment necessary for the efficient operation of the office. When practical, the magistrate's office should be located at the county seat. Additional offices may be located at other locations when more than one magistrate is needed.

Magistrate services are available twenty-four hours a day, seven days a week. In urban areas there is generally someone on duty 24-hours a day; while in rural areas a magistrate may be on-call during the night.

Chief magistrates have the same powers as do other magistrates but are also responsible for the administrative operation of the district's magistrates. Chief Magistrates normally need a private office separated from the main public office for conducting private discussions with magistrates, governmental officials, and citizens. The Chief Magistrate's private office should be furnished with a desk and chair, side chairs for guests, filing cabinets for personnel and administrative records, bookshelves for storage of various manuals and the Code of Virginia, and a credenza.

The main public office should be conveniently located near an outside entrance to the building with convenient public access. The Magistrate is a judicial officer and the office should be clearly identified as an office of the court and not part of the Sheriff or police department. Both the public and law enforcement officers need easy access to the office 24-hours a day, without having uncontrolled access to the rest of the building.

Each office should have a small public waiting area with seating for 5 – 6 persons. The office should be divided into a public area and a private work area separated by a desk or counter. There should be a small holding area adjacent to the public area, or access to a holding area, where in-custody defendants can be held. The office should also have access to the courthouse's prisoner circulation system.

The office should be equipped with duress alarms that sound at the building's main security station. After hours it should sound at the main dispatch office of the sheriff or local police department. A video surveillance camera may also be installed to cover the

main public room. The camera should be activated whenever the duress alarm is sounded and should be viewable at the main security office.

A small safe is useful for purposes of securing cash that is transacted by way of cash bonds and prepayments, etc. Because magistrates are available 24-hours a day, a private toilet and small kitchenette are necessary. Other spaces include a supply room to house forms and office supplies and file storage space.

All workstations should be equipped with two quadriplex electrical outlets, two data, lines, and two phone lines. Each workstation should be capable of desktop videoconferencing. Other office equipment will include a personal computer with video display monitor and keyboard, printers, photocopier, scanner, fax machine, and shredder.

2.2.18 Probation and Court Services

Each juvenile and domestic relations district court should include adequate space for the court services unit.

Commentary:

In Virginia, court services offices handle juvenile and domestic relations cases, including the intake procedures for the juvenile court. If located in the courthouse, court services should be located so that they are easily accessible from the building's main public entrance. There should be a public waiting area, which is supervised by a receptionist and provides a comfortable and pleasant non-threatening environment.

Other requirements include private interview rooms, private offices for court services staff, a conference room, records rooms, and a temporary holding facility for juveniles who are to be placed in detention upon intake. Public restrooms should be available; staff should have separate private toilet facilities.

In larger communities, a secure juvenile holding facility may be needed to hold difficult or disruptive youths. This facility should be screened from waiting areas. Provision should be made for closed-circuit television monitors to observe the entrance to the holding area. All holding cells should be acoustically insulated.

Staff offices should be centrally located with access to the records room and interview rooms. They should be acoustically soundproofed and may double as interview rooms.

Space requirements measure approximately 120-150 sq. ft. for intake and private offices, 180-210 sq. ft. for a supervisor's office, and 200-300 sq. ft. for a conference room.

Each office work area requires two quadriplex electrical outlets, two phone and two data jacks. Private offices require normal electrical supply and normal room lighting with task lighting at the workstation. The office also will require other shared equipment including facsimile machines, television and VCR, photocopiers, shredders, and video conferencing equipment.

2.2.19 Attorney Lounge

In large multi-judge courts, consideration should be given to providing a lounge for the exclusive use of trial attorneys.

Commentary:

An area or lounge for the use of attorneys while waiting for trials to begin or between hearings is a useful convenience for members of the bar. The lounge should not, however, become a substitute for a client/witness interview room which should be located elsewhere. Also it should not become a replacement office for the attorneys. It should be used for group meetings, conferences with

colleagues, making telephone calls, and for reading or writing.

The presence of an attorney lounge indirectly benefits the court because attorneys are more likely to remain in the courthouse between hearings or

Appendix 11:

Job Descriptions

	Page
Magistrate Position Description	234
Chief Magistrate Description	237
Magistrate Supervising Authority	240

MAGISTRATE POSITION DESCRIPTION

CLASS CONCEPT/FUNCTION

Magistrates serve as the immediate buffer between law enforcement and citizens and authorize or deny law enforcement the ability to detain individuals suspected of crimes. In addition, they provide services in disputes involving citizens vs. citizens. These functions are available 24 hours per day.

Magistrates conduct hearings as the first step in the legal process to determine whether there is probable cause to move forward in one of the following statutory procedures -- to issue arrest or search warrants in criminal cases, to issue a temporary detention order in either civil, medical or criminal cases, or to authorize pre-trial seizures in civil matters. Where individuals have been arrested, magistrates are called upon to conduct bail hearings to determine whether they should be committed to jail or released, and, if released, the conditions of release. Magistrates have discretion in decision-making; however, the process used in decision-making must be in accordance with requirements established by both the United States and Virginia Constitutions, court decisions and the Code of Virginia. In addition, magistrates also have responsibilities in the issuance of civil warrants as well as such functions as the administration of oaths, acceptance of prepayments for traffic infractions and pre-payable misdemeanors and maintenance of certain accounting records. Magistrates prepare legal documents by use of typewriters or personal computers.

DISTINGUISHING FEATURES OF THE WORK

COMPLEXITY OF WORK

Magistrates perform work of considerable difficulty involving conducting hearings in response to requests from law enforcement officials, privately employed security guards, or citizens. These hearings may be conducted in the presence of only the complainant or in the presence of both the complainant and the accused. The work involves first interviewing the complaining party, the accused, and other appropriate persons to obtain the facts necessary to establish probable cause or to determine committal/release. Secondly, it involves analyzing those facts for that individual case to determine if they meet the general requirements established by statute. Magistrates preside over the hearings, maintain order and proper decorum, administer oaths, define issues, interpret and explain pertinent laws, take testimony, question parties, and issue or decline to issue the legal processes requested.

SUPERVISION GIVEN

Supervision is typically not a factor unless an experienced magistrate provides "on the job" training for a newly appointed magistrate.

SUPERVISION RECEIVED

Supervision received is in terms of training and scheduling. Decisions in individual cases are not reviewed; however, individuals who have been incarcerated must be brought before a judge on the next court date for arraignment. Reviews through performance evaluations by the chief magistrate, the supervisor, are in terms of the process used to make decisions, the treatment of the public, the magistrate's observed demeanor, and in response to complaints.

SCOPE

Magistrates conduct one- and two-party hearings at local office sites and may, on occasion, travel to another locality within a judicial district to perform magistrate functions or perform these functions through electronic audio and video telecommunications systems. Rather than being called upon to determine guilt or innocence, magistrates are called upon to determine whether there is probable cause to deny persons their liberty taking into account such factors as the evidence brought before them, the seriousness of the accusation, and the potential danger to society or to the accused.

IMPACT OF ACTIONS

Magistrates' decisions have serious impact upon both the individual and society. Poor decisions may result in the inappropriate loss of a person's liberty, or conversely, the inappropriate freedom of a person dangerous to society. Errors of this type may become extremely visible to the public. Where magistrates inappropriately exercise their authorities, the Commonwealth may be liable for financial damages.

PERSONAL CONTACTS

Magistrates have most frequent contacts with law enforcement officers, community business people, the Commonwealth attorney, local attorneys, court officials, and citizens. In addition, they may have inquiries from the press concerning cases of public interest.

KNOWLEDGES, SKILLS, AND ABILITIES

KNOWLEDGES

Substantial knowledge of the Code of Virginia and local ordinances concerning criminal and traffic offenses, involuntary detentions, conditions of detention and release, as well as the elements of establishing probable cause. Substantial knowledge of the procedural requirements for each transaction including the appropriate forms, wording, financial records, service of process, and time constraints.

SKILLS

Basic skill in the use of a typewriter or a personal computer.

ABILITIES

Ability to conduct neutral, impartial hearings; to maintain dignity, order, and decorum throughout the hearings; to ascertain and evaluate relevant facts; to read, explain, and apply laws and ordinances; to conduct research concerning legal questions; to work independently; to communicate effectively with other persons; to work effectively with the public, law enforcement officers, members of the business community, members of the court system, and other magistrates.

QUALIFICATIONS GUIDE

EDUCATION AND EXPERIENCE

Bachelor's degree is required for magistrates appointed to original terms after July 1, 1995.

Progressively responsible experience in responding to questions from the public; applying laws, general regulations, policies to specific circumstances; interviewing; dealing with difficult, sensitive, and hostile situations; receiving and accounting for money.

A combination of education and experience indicating possession of the preceding knowledges, skills, and abilities may substitute for the Bachelor's degree.

CHIEF MAGISTRATE DESCRIPTION

CLASS CONCEPT/FUNCTION

Chief magistrates are the first line managers of the Magistrate System for their judicial districts. Their purpose is to assure the orderly, lawful, effective, timely, and courteous transaction of magistrate business. Chief magistrates implement decisions made by the Court System's policy body and those made by their chief circuit and district court judges as well as make recommendations that will improve the district's operations.

DISTINGUISHING FEATURES OF THE WORK

COMPLEXITY OF WORK

Chief magistrates perform work of considerable difficulty that involves overseeing the magistrate program within the district to ensure quality and efficiency of services provided. Within their districts they are responsible and accountable for scheduling 24-hour per day magistrate services; interviewing applicants and making personnel recommendations to the appointing authorities; training, supervising and conducting performance evaluations for their magistrates; resolving employment issues; developing and maintaining smooth working relationships among the various criminal justice agencies, the courts, the public, and the magistrates' offices; and resolving any issues between the magistrates' offices and these various external entities. Chief magistrates also have all statutory powers of magistrates and may provide back-up magistrate services when necessary. In addition, chief magistrates prepare and analyze state and local budgets as well as various management reports.

SUPERVISION GIVEN

Provides direction to all magistrates within the district.

SUPERVISION RECEIVED

Works under the broad, general direction of the chief judge of the district and independently makes those administrative decisions necessary to manage and direct the delivery of magistrate services within the district.

SCOPE

Administers the delivery of magistrate services within the judicial district, which may include several political jurisdictions. This involves scheduling and supervision of the district's magistrates as well as liaison with the public and the numerous agencies frequently using magistrate services.

Impact of Actions

Improper scheduling of magistrate services may cause undue inconvenience to members of the public and inordinate waiting time for police officers, removing them from continued law enforcement duties and leaving the public without proper protection. Incomplete training and development of magistrates' abilities and job knowledge may result in inappropriate deprivation of a citizen's liberty or the inappropriate release of persons dangerous to society. Magistrate services of unstable or inconsistent quality deprive the public of the highest quality of justice and may result in highly visible errors and financial damages for the Commonwealth.

PERSONAL CONTACTS

Frequent contacts with judges, chief judges, state and local law enforcement officials and management, Commonwealth Attorneys, court officials, community business people, attorneys, and citizens in all localities within the district. In addition, they may have inquiries from the press concerning cases of public interest.

KNOWLEDGES, SKILLS, AND ABILITIES

KNOWLEDGES

Substantial knowledge of all magistrate responsibilities as well as a good working knowledge of scheduling techniques and managerial principles and practices.

SKILLS

Basic skill in the use of a typewriter or a personal computer.

ABILITIES

In addition to the abilities required of magistrates, demonstrated ability to manage, direct, and train a staff of independently operating judicial officers; to develop, implement, explain, and apply policies and procedures; to communicate effectively both orally and in writing; to work with district and Court System management, users of the district's magistrate system, and the public

Qualifications Guide

EDUCATION AND EXPERIENCE

Bachelor's degree is required for magistrates appointed to original terms after July 1, 1995.

Progressively responsible experience in areas required for magistrates plus experience in assuring that high quality services are provided. Experience in supervision, training, preparing work schedules, conducting performance evaluations, recruitment, resolving work place problems among employees, budget preparation, and fostering cooperative and effective relationships among various agencies.

An equivalent combination of training and experience indicating possession of the preceding knowledges, skills, and abilities may substitute for the Bachelor's degree

MAGISTRATE SUPERVISING AUTHORITY DESCRIPTION

The chief circuit court judge may delegate general supervisory authority to the chief general district court judge in a district. Whether this responsibility rests with the chief circuit court or chief general district court judge, the Magistrate Supervising Authority has general management responsibility over the Magistrate System in the district. In this capacity, the chief judge so designated has full authority over all operational aspects of the System and over all magistrates with the exception that appointment or removal remains with the chief circuit court judge.

Within the guidelines established by policy or legislation, the Magistrate Supervising Authority sets operating procedures and policies in the district. In the absence of policies or statutes concerning specific issues, decisions shall be guided by reasonableness; equity to the judges, personnel, courts and magistrates; and any other relevant data. The advice and counsel of other district judges, court officers, magistrates, or other persons may be sought as a part of the decision-making process. Specific administrative tasks may be delegated to the chief magistrate in accordance with the Code of Virginia and the chief magistrate's position description. The Magistrate Supervising Authority is the Magistrate System's liaison with the Committee on District Courts (CDC), Office of the Executive Secretary (OES), or other agencies in all administrative matters.

ILLUSTRATIVE EXAMPLES OF RESPONSIBILITIES

1. Establish the hours and locations at which the magistrates' offices shall be open to the public in accordance with the Committee on District Courts policies.
2. Serve as the district authority in resolving questions concerning workloads, conflicts, or other problems in the magistrates' offices.
3. Maintain the effectiveness of the magistrate's through- out the district and solicit suggestions concerning the overall improvement of magistrate services or procedures.
4. Implement policies of the CDC within the district.
5. Establish and implement policies and procedures not in conflict with those of the CDC or legislation that shall govern the activities of all magistrates in the district.
6. Keep magistrates informed of statutory and policy changes.
7. Supervise the magistrates in the district.
8. Prepare and administer the biennial budget for the district.
9. Establish and conduct periodic administrative reviews concerning the various operational activities for the Magistrate System.
10. Conduct periodic district wide meetings to establish uniform district policies and resolve any problems.

Appendix 12:

Cost Calculations

	Page
Video Implementation	242
Additional Costs of Current System Upgrades	243
Additional Costs for Shift Differential	244

**Video Implementation
Magistrate Study - HJR 32, 2002 General Assembly Session**

One-Time Costs

Equipment Still to be Purchased	Number	Cost
State	16	\$122,704.00
Local	<u>62</u>	<u>\$507,222.00</u>
Total One-Time Costs	78	\$629,926.00

Annual Costs

1. Annual Capital Costs

Equipment Replacement Costs (4 year life)	<u>Number Replaced Annually</u>	<u>Cost per Unit</u>	
	40	\$8,181.00	\$327,240.00

2. Continuing Costs

Fixed Costs	\$407,285.00
Line Usage Costs	<u>\$571,634.00</u>
Total Continuing Costs	\$978,919.00

Total Annual Costs	\$1,306,159.00
---------------------------	-----------------------

Additional Costs for Current System Upgrades

Costs Include 2.25% Salary Increases Effective November 2003
Magistrate Study - HJR 32, 2002 General Assembly Session

1. Eliminate On-Call
2. Continue Current Qualifications, or Implement Bachelor's Degree Qualification without Equivalent Experience
3. Upgrade to Full-Time Magistrates, Class VI
4. Staff to Hear 2.2 Transactions per Hour

	Upgrades w/o Shift Differential
Magistrates	\$56,901.00
Chief Magistrates	\$9,626.00
Total	\$66,527.00
New Positions	\$2,002,030.00
System Total	\$2,068,557.00

Additional Costs for Shift Differential

Costs Include 2.25% Salary Increases Effective November 2003

Magistrate Study - HJR 32, 2002 General Assembly Session

	Shift Differential
Magistrates	\$1,358,552.00
Chief Magistrates	\$152,437.00
Total	\$1,510,989.00
New Positions	\$153,055.00
System Total	\$1,664,044.00
Shift Differential Requested for Continuing Operations through 2004 - 06 Budget	\$1,529,159.00
Difference:	\$134,885.00
(Shift Differential to Implement Magistrate Study - Shift Differential Requested for Continuing Operations)	

Appendix 13:

Minimum Full-time Equivalent For Full-time Office

Minimum FTE for Full-Time Office

How much service time per year does a full-time office provide?

1. Full-Time Office Service Time	<u>Hours</u>	/ 8 =	<u>Shifts</u>
a) Weekly (24 x 7)	168		21
b) Office Service Time per Year (52 weeks)	8,736		1,092

How much work time per full-time employee should be used in a staffing formula?

2. 1.0 FTE Work Hours per Year <i>without</i> Time Off			
a) Weekly	40		5
b) Work Time per Year (52 weeks)	2,080		260
3. Time Off per Year			
a) 12 Holidays	96		12
b) 16 Annual Leave Days	128		16
c) 5 VSDP Family and Personal Days	40		5
d) 9 Sick Leave Days	72		9
e) 3 Conference Days	<u>24</u>		<u>3</u>
f) Time Off	360		45
4. Staffing Formula Work Time per Year			
a) Work Time per Year	2,080		260
b) Reduced by Time Off	<u>- 360</u>		<u>- 45</u>
c) Staffing Formula Work Time per Year	1,720		215

How many employees are needed to staff a full-time office?

5. Office Service Time per Year / Staffing Formula Work Time per Year = FTE per Full-Time Office			
a) Office Service Time	8,736		1,092
b) Divided by Work Time	1,720		215
c) FTE per Full-Time Office	5.0		5.0

Staffing Formula for Part-Time Offices

1. Determine number of Transactions
2. Standard: 2.2 Transactions per Work Hour (1 Transaction every 27 minutes)
3. Divide Transactions by 2.2 to determine Office Service Time
4. Divide Office Service Time by 1,720 to determine FTE for Part-Time Office

Resulting FTE

Magistrates	392.0
Chief Magistrates	<u>32.0</u>
Total	424.0

Appendix 14:

New Magistrate Curriculum, Costs to Provide Fitness for Duty Institute

New Magistrate Curriculum

Curriculum	# Days	Faculty
Virginia Court System/Case Flow: includes all aspects of the court system in Virginia. The progression of both a civil and a criminal case through the system through appeal. Discussion and training on the case management system, automated magistrate system, interfaces, magistrate log and workload statistics	3	OES
Ethics and Canons of Conduct: This topic should be expanded to include several actual cases (without naming particular personalities or localities)	½	OES
Introduction to Criminal Law: The genesis of Virginia criminal law, as well as basic concepts, terms, and principles underlying criminal law	2	Contract
Accounting/Prepayments	½	OES
Legal Research/Practical exercises	1	Contract
	1	OES
Criminal Procedure/Arrest Procedure	3	OES
Search Warrants/Practical Exercises	3	Contract
Bail/Practical Exercises	3	OES
Public Relations/Interviewing Techniques/Practice Hearings	3	Contract
Civil Procedure/Civil Forms training/Practical Exercises	5	OES
Juvenile & Domestic Relations Procedures/Practical Exercises	2	OES
Emergency Custody/Temporary Detention Procedures/Practical Exercises	1½	OES
	½	Contract
Federal Procedures	½	Contract
Benefits Overview	½	OES
Overview of Elements of Specific Crimes/Practical Exercises	5	OES
Testing	1	OES

New Magistrate Curriculum: 36 days, 9 weeks Contract Faculty: 10 days

Less than 75% is failing. For newly appointed magistrates, failing will result in termination.

Chief Magistrate Responsibilities:

- Coach for 1 month (through one-on-one on-the-job training and observing transactions)
- Conduct monthly evaluations during probationary period

**Magistrate Study - HJR 32, 2002 General Assembly Session
Costs to Provide Fitness for Duty Institute**

Summary

Continuing Institutes for Turnover Magistrates

Institute Training -- Turnover	Information	Additional Expenses	
		Annual	One-Time
Magistrates			
Number New Magistrates due to Turnover	47		
Replacement Coverage		\$314,712	
<i>(Costs consider hour-for-hour additional pay for replacement magistrates)</i>			
Attendee Expenses		\$249,570	
Outside Faculty		\$25,000	
Sub-Total Magistrates		\$589,282	
Chief Magistrates			
Number New Chief Magistrates due to Turnover	4		
5% Acting Pay		\$2,080	
Attendee Expenses		\$23,600	
Outside Faculty		\$2,000	
Sub-Total Chief Magistrates		\$27,680	
Total: Institute Training -- Turnover		\$616,962	
Additional Considerations			
Downtime between Fitness for Duty Institute and Assuming Magistrate Duties			
Number of Magistrates Experiencing Downtime	14		
Number of Weeks Downtime	7		
Sub-Total		\$94,472	
2 Faculty Positions			
Sub-Total		\$160,000	
Administrative Costs			
Sub-Total		\$25,625	
Total: Additional Considerations		\$280,097	
One-Time Costs for 43 New Magistrates			
Cost for 43 New Magistrates			
Attendee Expenses			\$228,330
Total: Continuing Institutes for Turnover Magistrates		\$897,059	\$228,330