

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION**

**HJR 225 Final Report:  
Study on Commonwealth's Attorneys**

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



**HOUSE DOCUMENT NO. 38**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2006**





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December 31, 2005

TO: The Honorable Mark Warner, Governor of Virginia

And

Members of the Virginia General Assembly

The 2004 General Assembly, through House Joint Resolution 225, requested the Virginia State Crime Commission to study the quality and efficiency of Commonwealth Attorney's Offices.

Enclosed for your review and consideration is the final report which has been prepared in response to this request. The Commission received assistance from all affected agencies and gratefully acknowledges their input into this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K Stolle".

Kenneth W. Stolle  
Chairman



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## **I. Authority**

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The *Code of Virginia*, §30-156, authorizes the Virginia State Crime Commission (Crime Commission) to study, report and make recommendations “on all areas of public safety and protection.” Additionally, the Crime Commission is to study “compensation of persons in law enforcement and related fields” and to study “trial and punishment of criminal offenders.” Section 30-158(3) empowers the Crime Commission to “conduct studies and gather information and data in order to accomplish its purposes as set forth in §30-156. . . and formulate its recommendations to the Governor and the General Assembly.”

Pursuant to House Joint Resolution 225 (2004),<sup>1</sup> Crime Commission staff conducted a two-year study to examine the provision of prosecutorial services by Commonwealth’s Attorneys in Virginia.

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## **II. Executive Summary**

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During the 2004 Session of the Virginia General Assembly, Delegate Robert F. McDonnell introduced House Joint Resolution 225 (HJR 225), which directed the Crime Commission to study the operations of all Commonwealth’s Attorneys’ offices. Specifically, the objectives of the two-year study were to:

- Examine the quality of prosecutorial representation;
- Assess the efficiency by which prosecutorial services are provided;
- Determine the impact of existing workloads;
- Identify any disparity in workload per attorney;
- Examine training and technical support services provided;
- Review opportunities for continuing legal education;
- Assess the ability to hire and retain qualified prosecutors;
- Determine reasonable caseload per attorney;
- Determine the appropriate role of localities in providing support for Commonwealth’s Attorneys;
- Identify disparity among offices in the ability to provide quality prosecutorial representation to each locality; and,
- Examine considerations that would, if implemented, reduce pre-trial delay and minimize the costs of pretrial incarceration.

Crime Commission staff utilized several methodologies to address the directives of the two-year study mandate, including telephone interviews with other states’ statewide prosecutor agencies and coordinators, analysis of 50 states’ enabling statutes and regulatory codes, review of relevant literature, survey of all elected and assistant Virginia Commonwealth’s Attorneys and compilation of all relevant statutory references to Commonwealth’s Attorneys responsibilities in the *Code of Virginia*. A legislatively mandated presentation to the Crime Commission was at the January 10, 2006 meeting.

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<sup>1</sup> HJR 225 (Va. 2004). See attachment A.

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### III. Methodology

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During the first year of the study, staff used multiple research methodologies to examine the various prosecutorial models across the 50 states.<sup>2</sup> Structured telephone interviews were conducted with representatives and coordinators from other statewide prosecutor agencies. Information was collected to provide an understanding of the variations in:

- technical support;
- training;
- continuing education;
- information sharing (including the provision of brief-banks and case management systems); and,
- legislative activities conducted by the various statewide prosecutor agencies.

In addition to telephone interviews, staff also conducted a 50-state analysis of enabling statutes and regulatory codes, analyzed past prosecutorial studies, and reviewed national literature regarding state prosecutor staffing standards.

In 2005, staff developed and disseminated a survey instrument to all 120 Commonwealth's Attorneys' offices that addressed: current staff and salaries; staff separations; resource needs; training; workload levels; and, employment considerations. For purposes of analysis, the information was broken into three categories: Elected versus Assistant Commonwealth's Attorneys; geographic region; and, size of office.<sup>3</sup> In addition, the statutory duties of Commonwealth's Attorneys in the *Code of Virginia* were reviewed.

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<sup>2</sup> The Crime Commission staff contacted statewide prosecutor agencies. In most instances, staff conducted telephone interviews with administrative officials. The following agencies were contacted: Alabama, Alabama District Attorneys Association; Alaska, Alaska State Prosecutors Association; Arizona, Arizona Prosecuting Attorneys Advisory Council; Arkansas, Arkansas Office of the Prosecutor Coordinator; California, California District Attorneys Association; Colorado, Colorado District Attorneys Council; Connecticut, Executive Assistant State's Attorney; Delaware, Deputy Attorney General; Florida, Executive Director Florida Prosecuting Attorneys Assoc., Inc.; Georgia, Prosecuting Attorneys' Council of Georgia; Hawaii, Department of the Prosecuting Attorney; Idaho, Idaho Prosecuting Attorneys Association, Inc.; Illinois, Illinois States Attorney; Indiana, Indiana Prosecuting Attorneys Council; Iowa, Iowa County Attorneys; Kansas, Kansas County and District Attorneys Association; Kentucky, Prosecutors Advisory Council; Louisiana, Louisiana District Attorneys Association; Maryland, Maryland State's Attorneys' Association; Massachusetts, Massachusetts District Attorneys Association; Michigan, Michigan Prosecuting Attorneys Coordinating Council; Minnesota, Minnesota County Attorneys Association; Mississippi, Mississippi Prosecutors Association; Missouri, Missouri Office of Prosecution Services; Nevada, Advisory Council for Prosecuting Attorneys; New Hampshire, Merrimac County Prosecutors Office; New Jersey, New Jersey Division of Criminal Justice (part of the Attorney General's Office); New Mexico, Administrative office of the District Attorneys; New York, New York State District Attorney's Association; North Carolina, North Carolina Conference of District Attorneys; Ohio, Ohio Prosecuting Attorneys Association; Oklahoma, Oklahoma District Attorneys Council; Oregon, Oregon District Attorneys Association; Pennsylvania, Pennsylvania District Attorneys Association; South Carolina, Commission of Prosecution Coordination; Tennessee, Tennessee District Attorneys General Conference; Texas, Texas District and County Attorneys Association; Utah, Utah Prosecution Council; Vermont, Vermont Department of State's Attorneys and Sheriffs; Virginia, Virginia Commonwealth's Attorneys' Services Council; West Virginia, West Virginia Prosecuting Attorneys Institute; Wisconsin, Wisconsin State Prosecutor's Office.

<sup>3</sup> See attachment B "Commonwealth's Attorney's Offices by Region and Size of Office."

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## IV. Background

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### *History*

Since 1851, Commonwealth's Attorneys have been locally elected county or city officers, commonly referred to as "constitutional officers" as specified by Article VII, Section 4 of the Virginia Constitution.<sup>4</sup> Until 1934, Commonwealth's Attorneys were paid under a "fee" system. At that time, the Commonwealth began to compensate half of the Commonwealth's Attorneys' salaries from the Appropriations Act - the other half was paid by each respective locality.

As the funding for Commonwealth's Attorneys changed, so did the way in which funds were distributed. In 1934, the Compensation Board was created and tasked with determining the salaries of Commonwealth's Attorneys, as well as, those of county/city Commissioners of Revenue and Treasurers.<sup>5</sup> Currently, the Compensation Board is responsible for distributing the State's appropriations to Commonwealth's Attorneys, Sheriffs, Commissioners of Revenue, Treasurers and Clerks of Court. In Fiscal Year (FY) 2005, the Compensation Board's budget for distribution to constitutional officers was \$519,748,414.<sup>6</sup>

In 1988, the Joint Legislative Audit and Review Commission (JLARC) conducted a comprehensive study on Commonwealth's Attorneys.<sup>7</sup> JLARC determined of the 121 Commonwealth's Attorneys representing various localities, 40 percent (49 of 121) served on a full-time basis and 60 percent (72 of 121) served on a part-time basis.<sup>8</sup> Part-time Commonwealth's Attorneys were permitted to maintain private practices in addition to their elected positions. In some cases, Commonwealth's Attorneys also served as the local city or county attorney. In 1993, the General Assembly approved legislation that required all jurisdictions with a population of 17,000 or more people to have a full-time Commonwealth's Attorney.<sup>9</sup> Commonwealth's Attorneys serving at that time were grandfathered under statute.<sup>10</sup>

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<sup>4</sup> VA. CONST. art.VII, § 4. "There shall be elected by the qualified voters of each county . . . *an attorney for the Commonwealth* . . . The duties and compensation of such officers shall be prescribed by general law or special act." *Id.* (emphasis supplied)

<sup>5</sup> VA. CODE ANN. § 15.2-1636.5 (Michie 2003). According to statute, the Compensation Board consists of the Auditor of Public Accounts and State Tax Commissioner, as ex officio members, and one member appointed by the Governor who serves as the Chairman.

<sup>6</sup> All facts and figures relating to the Compensation Board were gathered through meetings with Compensation Board staff and through information posted on the Compensation Board web site. Budgetary information is posted under "Constitutional Officers Budgets and Salaries" available at <<http://www.scb.state.va.us/>>.

<sup>7</sup> *Technical Report of the Joint Legislative Audit and Review Commission on Statewide Staffing Standards for the Funding of Commonwealth's Attorneys*, House Document No. 70 (1990).

<sup>8</sup> *Id.*

<sup>9</sup> VA. CODE ANN. § 15.2-1627.1 (Michie 2003).

<sup>10</sup> *Id.*

## Compensation Board of Virginia

During FY 2005, only 11 percent (13 of 120) of Commonwealth's Attorneys served on a part-time basis.<sup>11</sup> In FY 2005, the Compensation Board approved and funded 535 Full Time Equivalent (FTE) attorney positions, including both elected and non-elected assistant attorney positions, which is illustrated in Table 1.<sup>12</sup> More than one-third of the Commonwealth's Attorneys' offices have 1.5 state-approved attorney positions or fewer. In comparison, Richmond City has the largest state supported legal staff with 29 funded FTE's.<sup>13</sup>

<b>Number of Attorney Positions Approved:</b>	<b>Number of Offices (N= 120)</b>	<b>Percent of Offices</b>
1 to 1.5 attorneys	41	34%
2 to 5 attorneys	58	48%
6 to 13 attorneys	13	11%
15 to 29 attorneys	8	7%

The Compensation Board, as mentioned earlier, establishes appropriate state-determined staffing standards for Commonwealth's Attorney offices. These standards are based on the three-year average of the number of felony defendants, the three-year average of the number of sentencing events, and a weighted workload factor which considers office size and economies of scale.<sup>14</sup> The current staffing standards formula does *not* consider the prosecution of misdemeanors or local ordinances. However in 2003, there were over 350,000 misdemeanor criminal cases filed in Virginia's court system (in both Circuit and General District courts).<sup>15</sup> With respect to support staff, current staffing standards require one paralegal for every four attorneys and one clerical position for every two attorneys.

Using the Compensation Board's staffing standards for FY 2005, 62 percent of Commonwealth's Attorneys' offices were understaffed for their attorney positions, which indicates a total of 317 positions not funded by the Compensation Board.<sup>16</sup> This number includes 175 attorneys, 74 secretaries and 68 paralegals. Table 2 illustrates the FY 2005 attorney staffing levels of seven different offices. Based on these staffing standards, all of the offices were understaffed by at least six attorney positions.

<sup>11</sup> *Supra* note 5 and accompanying text.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> See attachment C.

<sup>15</sup> STATE OF THE JUDICIARY REPORT, Va. Sup. Ct. (2003).

<sup>16</sup> See attachment C.

**Table 2:  
Staffing Levels**

<b>Office</b>	<b>Attorneys Needed under Staffing Standards</b>	<b>Compensation Board Authorized Positions</b>	<b>Unfunded Attorney Positions</b>	<b>Percent Under-funded</b>
Henrico	30	17	13	43%
Norfolk	38	27	11	29%
Chesapeake	23	13	10	43%
Portsmouth	22	13	9	41%
Newport News	24	18	6	25%
Prince William	24	18	6	25%
Stafford	12	6	6	50%

\* Source: Virginia State Compensation Board (Fall 2004 for FY 2005 budget.)

It should be noted that when examining the Compensation Board's staffing standards for FY 2006, 64 percent of Commonwealth's Attorney offices will be understaffed for their attorney positions.<sup>17</sup> A total of 220 positions in Commonwealth's Attorney offices will not be funded by the Compensation Board in FY 2006. These non-funded positions account for 170 attorneys, 14 secretaries and 36 paralegals.

### ***Ethical Considerations for Attorney Workload***

Recently, the Standing Committee on Legal Ethics of the Virginia State Bar published an opinion regarding understaffing of Commonwealth's Attorneys' offices in the context of a non-binding Legal Ethics Opinion (LEO).<sup>18</sup> Issued in August of 2004, this LEO advised that any Commonwealth's Attorney who operates with a caseload so overly large that it prevents diligent and competent representation violates the Rules of Professional Conduct.<sup>19</sup> The LEO also counseled that an elected Commonwealth's Attorney would violate Rule 5.1, which requires lawyers in a managerial position to ensure that Rules of Professional Conduct are followed, by assigning an impermissibly large caseload to an Assistant Commonwealth's Attorney.<sup>20</sup>

<sup>17</sup> FY 2006 Compensation Board Staffing Standards, *see* attachment D.

<sup>18</sup> *See* Legal Ethics Opinion 1798 (2004). The LEO reads, in pertinent part, ". . .whether a particular attorney's caseload is in fact of such a detrimental size is so context-specific as to be a determination proper only for a fact-finder and is, therefore, outside the purview of this Committee. Nonetheless, if a Commonwealth's Attorney has in fact assigned such an impermissibly large caseload to an Assistant Commonwealth's Attorney, the facts that the client is the amorphous Commonwealth and that the Commonwealth's Attorney has himself a large caseload provide no safe harbor from the requirements of Rule 5.1." *Id.* *See* attachment E.

<sup>19</sup> *See generally* Rules 1.1 & 1.2, Rules of the Virginia Supreme Court (2004). Rule 1.1 provides that "A lawyer shall provide competent representation to a client." *Id.* Rule 1.1 goes on to define "competent representation" as "requir[ing] the legal knowledge, skill, thoroughness and preparation necessary for the representation." *Id.*

<sup>20</sup> *See generally* Rule 5.1(b), Rules of the Virginia Supreme Court (2004). Under Rule 5.1(b), "a lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct." *Id.*

## ***Commonwealth's Attorneys' Services Council***

The Commonwealth's Attorneys' Services Council (CASC) was created in 1978 to provide professional training for prosecutors in Virginia. It consists of four elected officers of the Virginia Association of Commonwealth's Attorneys (VACA), the past president of the Council, and one elected Commonwealth's Attorney from each of the congressional delegations. According to statute, a Commonwealth's Attorney may only serve in an elected association office once during his tenure in office.<sup>21</sup>

Section 2.2-2618 of the *Code of Virginia* specifies CASC duties and tasks it with coordinating training and continuing education; updating prosecutors on changes to the law affecting their duties; contracting or entering into agreements with state or federal agencies and educational institutions; obtaining statistical reports from Commonwealth's Attorneys related to performance, function, and workload; receiving and establishing an equitable distribution plan for allocation of public and private funds; and, maintaining close contact with the Attorney General and all Commonwealth's Attorneys regarding research, education and minimum standards. The Commonwealth's Attorneys' Services Council, with the concurrence of the Governor, hires an Administrator for its day-to-day operations. The Secretary of Administration oversees the allocation of the state funding for local Commonwealth's Attorneys' offices and the Secretary of Public Safety oversees CASC funding. Virginia's model for funding Commonwealth's Attorneys' offices will be discussed later and is unique as compared to other states' models.

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## **V. Financial Overview**

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As detailed earlier, the Compensation Board distributes all state funds appropriated for Commonwealth's Attorneys. However, these are not the only funds received by Commonwealth's Attorneys' offices as most local offices are supplemented, at least in part, by their respective localities. Although most localities do supplement the state funds for personnel costs, the distribution formula used by the Compensation Board does not consider *any* local supplements. From FY 1999 to FY 2005, the General Assembly appropriated the following amounts to local Commonwealth's Attorneys' offices (through the Compensation Board):<sup>22</sup>

- \$39,478,891 (FY 1999);
- \$47,377,776 (FY 2001);
- \$43,248,433 (FY 2003); and,
- \$45,114,580 (FY 2005).

During this period of time (FY 1999 to FY 2005), the General Assembly's appropriation for Commonwealth's Attorney's grew by 14 percent.

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<sup>21</sup> VA. CODE ANN. § 2.2-2617 (Michie 2005).

<sup>22</sup> Appropriations for local Commonwealth's Attorneys' offices are given on a biennial basis.



***Commonwealth's Attorneys' Funding as Compared to Other Agencies***

Table 3 illustrates the rate at which appropriations for various law enforcement and judicial entities grew during this time period between FY 1999 and FY 2005.<sup>23</sup> Note that the number of law enforcement and judicial entities appropriations have increased at a faster rate than those for Commonwealth's Attorneys' offices.

<b>Agency/Entity</b>	<b>Increase (FY 99 – FY 05)</b>
Circuit Courts	14%
Combined District Courts	38%
<i>Commonwealth's Attorneys' Offices</i>	<i>14%</i>
Commonwealth's Attorneys' Services Council	24%
Court of Appeals	27%
Criminal Fund	39%
Department of Corrections	27%
Department of Juvenile Justice	3%
General District Courts	36%
Indigent Defense Commission (Admin.)	69%
Juvenile & Domestic Relations Courts	67%
Public Defender Offices	100%
Sheriffs' Departments	20%
State Police	24%
Supreme Court	56%

\* Source: Crime Commission Analysis of Appropriations Acts FY 99 to FY 05.

***State Funding for Prosecution and Indigent Defense Services***

In FY 2005 state appropriations for indigent defense services in the Commonwealth are almost double those for prosecution services personnel and administrative costs.<sup>24</sup> Table 4 delineates state appropriations for prosecution as compared to indigent defense. Of the total amount appropriated for Commonwealth's Attorneys' offices in FY 2005, approximately one percent was reserved for the CASC to provide staff salaries and funding to meet its statutory requirements.

<sup>23</sup> See attachment F.

<sup>24</sup> Note: Local supplements for Commonwealth's Attorneys' offices are not taken into consideration.

<b>Table 4: Comparison of State Appropriations for Prosecution and Indigent Defense</b>	
<b>Agency/Entity</b>	<b>FY 2005 Budget Allocation</b>
Commonwealth's Attorneys	\$45,114,580
Commonwealth's Attorneys' Services Council	\$631,939
Compensation Board (Admin.)	\$30,419
<b>Total for Prosecution</b>	<b>\$45,776,938</b>
Estimated Court Appointed Counsel Fees	\$53,002,451
Public Defenders	\$29,703,094
Indigent Defense Commission (Admin.)	\$1,660,074
<b>Total for Indigent Defense</b>	<b>\$84,365,619</b>

\* Sources: Crime Commission Analysis of Appropriations Acts FY 99 to FY 05; Virginia State Compensation Board (Fall 2004); and, Virginia Indigent Defense Commission (Fall 2004).

### **Local Supplements**

The Compensation Board tracks local supplements amounts through voluntary disclosure by local Commonwealth's Attorneys. While this information is requested, it is not considered in the distribution formula for state funds. Most of these local supplements are for personnel costs. As shown below in Table 5, since FY 2000, local supplements have comprised an increasing percentage of the total funding for personnel in Commonwealth's Attorneys' offices.<sup>25</sup> Specifically, the percentage of total funding received from the state was 88 percent whereas 12 percent of total funding was received through local supplements. However, in FY 2005, Commonwealth's Attorneys' offices received 79 percent of their total funding from the state and 21 percent from local supplements.

<b>Table 5: State and Local Funding Totals</b>		
	<b>FY 2000</b>	<b>FY 2005</b>
Compensation Board	\$34,222,000	\$39,616,000
<i>Compensation Board's % of Total</i>	88%	79%
Local Supplements	\$4,855,000	\$10,802,000
<i>Local Supplement's % of Total</i>	12%	21%
<b>Total</b>	<b>\$39,122,000</b>	<b>\$50,418,000</b>

\* Source: Virginia State Compensation Board (Fall 2004)

<sup>25</sup> See attachment G.

Analysis of FY 2005 Compensation Board data disclosed that some Commonwealth's Attorneys' offices received a substantial portion of their personnel funding from their respective local governments:

- Prince George 84% (\$ 844,600);
- Tazewell 52% (\$ 374,440);
- Prince William 47% (\$ 911,460);
- Arlington 46% (\$ 725,308);
- Loudon 38% (\$ 286,607);
- Powhatan 38% (\$ 84,109);
- Virginia Beach 36% (\$ 910,983); and,
- Stafford 36% (\$ 254,093).

Although several cities and counties heavily supplement their respective Commonwealth's Attorneys' offices, 40 percent (48 of 120) of Commonwealth's Attorneys' offices receive no local supplements. Examples of the largest offices that received no local supplements during FY 2005:

- Rockingham (pop. 67,725);
- Pittsylvania (pop. 61,745);
- Washington (pop. 51,103);
- Wise (pop. 40,123);
- Accomack (pop. 38,305); and,
- Isle of Wight (pop. 29,728).

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## **VI. 50 State Survey**

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Representatives of statewide prosecutor agencies were surveyed by telephone to determine the extent to which they provide technical support, training/continuing education, information sharing (brief-bank/case management systems) and legislative support for their respective state prosecutors. Forty-two statewide prosecutor agencies or coordinators responded, only 8 statewide prosecutor agencies did not.<sup>26</sup> In addition, other state entities were contacted to supplement or to verify information provided by the prosecutor coordinators, including state websites, written reports, statutes, and administrative codes.<sup>27</sup>

### ***State Prosecution Systems across the 50 States***

In general, there are two basic models for prosecution: a centralized model and a decentralized model. In the centralized model, prosecutors report directly to the state attorney general or chief prosecutor. Under the decentralized model, prosecutors are elected either as a local officer or sometimes (as in Virginia) as a constitutional officer.

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<sup>26</sup> See note 2.

<sup>27</sup> It should be noted that the quality of information gathered in the 50-state survey was impacted by varied cooperation from state to state and availability of information.

There are five states that adhere to the centralized model. In four of these states (Alaska, Delaware, New Jersey, and Rhode Island), the state's Attorney General is appointed or elected and is responsible for oversight of prosecutions in all state offices. The fifth state, Connecticut, has a Chief State's Attorney who is elected and oversees all state prosecutor offices. Under a centralized model, the Attorney General's office or Chief State Prosecutor is responsible for: training prosecutors and staff, determination of budgeting/funding, technical assistance, obtaining and disbursing grant funding, and developing operating standards.

The overwhelming majority of the states, including Virginia, utilize a decentralized model where prosecutors are elected as either a local officer or as a constitutional officer. There are 11 states that have over 80 elected prosecutors, including: Texas (155), Virginia (120), Missouri (115), Kansas (105), Illinois (102), Iowa (99), Nebraska (93), Indiana (90), Ohio (88), Minnesota (87), and Michigan (83). Under a decentralized model, independent organizations or state agencies provide services ranging from training alone, to the full range of services as described above. Only two states, New Hampshire and North Dakota, have no agencies to address training for prosecutors statewide.

Budgets and staff for statewide organizations ranged from one FTE with a budget of \$126,000 for the Nevada Advisory Council for Prosecuting Attorneys to 42 FTEs with a budget of \$3,850,000 for the Prosecuting Attorneys' Council of Georgia.

#### ***Other State Prosecutor Coordinator Agencies***

Of the other Statewide Prosecutor Coordinator agencies, 28 have duties beyond training prosecutors. These additional duties include: provision of technical assistance to prosecutors, preparation and submission of budgets for prosecutor's offices, and, lobbying or pursuing legislative initiatives on behalf of prosecutors with the state legislature.

Staff identified four state agencies possessing strong technical and financial support services for state prosecutors. Generally these agencies provide budgeting, training, technical support, and legislative support. Brief descriptions of the four agencies are outlined in the following paragraphs.

##### Example #1: Georgia

The Prosecuting Attorneys' Council of Georgia is a state agency under the judicial branch of government. The Georgia Council supports prosecutors in the state by: providing training, giving legal research assistance upon request, giving trial assistance upon request, disseminating opinions of Georgia Appellate Courts, establishing salary schedules for all state-paid personnel employed by the district attorneys, establishing travel budgets for each judicial circuit, paying travel expenses, acting as fiscal officer for the prosecuting attorneys, and preparing and submitting budget estimates of state appropriations necessary for the maintenance and operations of district attorneys and solicitors-general.

##### Example #2: South Carolina

The Commission of Prosecution Coordination in South Carolina supports state prosecutors (who are called "Solicitors") by: coordinating all administrative functions of the

offices of the Solicitors and any affiliate services operating in conjunction with the Solicitors' offices, submitting the budgets of the Solicitors and their affiliate services to the General Assembly, developing legal education programs and training programs for Solicitors and their affiliate services, providing legal updates on matters affecting the prosecution of cases in South Carolina; organizing and providing seminars to help increase the effectiveness and efficiency of the prosecution of criminal cases, and acting as a clearinghouse and distribution source for publications involving Solicitors and their affiliate services.<sup>28</sup>

South Carolina's Commission of Prosecution Coordination consists of members from across the government. The Commission includes the following: Chairmen of the House and Senate Judiciary Committees, Chief of Law Enforcement Division, Director of Public Safety, Director of a Judicial Pretrial Intervention Program, a Judicial Circuit Victim-Witness Assistance Advocate, and five Judicial Circuit Solicitors.

#### Example #3: Oklahoma

The Oklahoma District Attorneys' Council is part of the executive branch of state government that supports prosecutors in a variety of areas. These areas include: centralizing payroll, personnel and insurance efforts, centralizing technological efforts (currently implementing a case management system), providing legal research services for district attorney offices, providing a "traffic resource person" who advises district attorneys and provides training, serving as a liaison to district attorney offices with multi-jurisdictional task forces, coordinating continuing legal education for attorneys within the district attorneys system, and training for district attorney investigators, victim witness coordinators and other support staff.

#### Example #4: Texas

The Texas District and County Attorneys' Association is a non-profit organization that serves Texas prosecutors and state attorneys by: producing comprehensive continuing legal education courses for prosecutors, investigators and key personnel, providing technical assistance to the prosecution community and related criminal justice agencies, and serving as a liaison between prosecutors and other organizations in the day to day administration of criminal justice.

In sum, by examining the structures and duties of other states' prosecutor coordinator agencies, staff was able to compare Virginia's CASC with other existing models and gain additional insight into various operations and structures.

### ***Staffing Standards***

In 2002, the American Prosecutors Research Institute (APRI), along with the Bureau of Justice Assistance, published the results of a national workload assessment project.<sup>29</sup> This study found that formulating uniform staffing standards is not possible because of factors that create substantial variation across the country. However, the project *did* recommend the adoption of a workload standard that analyzed case weights (based on complexity) to determine the number of

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<sup>28</sup> See attachment H.

<sup>29</sup> American Prosecutors Research Institute, *HOW MANY CASES SHOULD A PROSECUTOR HANDLE? RESULTS OF THE NATIONAL WORKLOAD ASSESSMENT PROJECT* (2002).

hours needed for a given case combined with the number of cases per year to determine the number of FTEs required in a given office.<sup>30</sup>

Staff reviewed the APRI proposed standard and discovered it to be quite different from Virginia's, which utilizes the number of felony defendants and/or sentencing events to determine staffing levels for prosecutors offices. Staff also reviewed other states methods as well and found variation in funding mechanisms. For example New Mexico uses a performance based system<sup>31</sup> while Tennessee uses a population based system that requires one prosecutor for every 20,000 people.

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## **VII. Commonwealth's Attorneys' Survey Findings**

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Elected and Assistant Commonwealth's Attorneys were surveyed in order to gain a comprehensive overview of their current resources, personnel, training, resource needs and workload levels. Two separate survey instruments were designed with the first survey addressing Elected Commonwealth's Attorneys<sup>32</sup> and the other addressing Assistant Commonwealth's Attorneys<sup>33</sup>. The survey instruments were created by Crime Commission staff with assistance from Commonwealth's Attorneys representatives from VACA and CASC. The survey focused on the following areas:

- Overview;
- Current Staff and Salaries (Elected only);
- Staff Separations (Elected only);
- Resource Needs and Training; and,
- Workload and Employment Considerations.

### ***Response Rate***

Seventy-nine percent (95 of 120) of the Commonwealth's Attorneys' offices responded to the survey. Survey responses were then divided and classified into the following categories for purposes of analysis: Elected Commonwealth's Attorneys versus Assistant Attorneys, size of office,<sup>34</sup> and geographic region. Seventy-four percent (89 of 120) of Elected Commonwealth's Attorneys and 70 percent (402 of 575) of Assistant Commonwealth's Attorneys responded. The response rate per size of office was:

- 100% (5 of 5) for super size offices;
- 90% (9 of 10) for large offices;

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<sup>30</sup> *Id.*

<sup>31</sup> New Mexico uses a "Performance based" budgeting system, which focuses on the percentage of cases dismissed under its 6 month rule (speedy trial), and the time period from which the case is filed to final disposition, to arrive at staffing levels.

<sup>32</sup> Elected Commonwealth's Attorney Survey, *see* attachment I.

<sup>33</sup> Assistant Commonwealth's Attorney Survey, *see* attachment J.

<sup>34</sup> Office size classified as: small, mid, large and super. It is determined by the Compensation Board and formulated by using the three month average of felony defendants, felony sentencing events, and current FTE Attorney staffing.

- 86% (36 of 42) for medium offices; and,
- 71% (45 of 63) for small offices.

Table 6 illustrates the number of offices in each region followed by the percent of those offices responding to the survey. The fourth column indicates the percent of total attorney submissions for that each region. Typically, Northern Virginia and the Hampton Roads region offices are larger than the Western region offices; therefore there are more attorney submissions per office in the Northern Virginia and Hampton Roads regions. The Hampton Roads region comprised 29 percent of all attorney submissions and had had the highest regional office response rate as well. Conversely, the Western region had the lowest percentage of offices responding and the lowest number of responding attorneys.

<b>Table 6: Regional Response Rate</b>			
<b>Region</b>	<b>Number of Offices in Region</b>	<b>Percent of Offices Responding (n)</b>	<b>Percent of Region's Attorney Responses of Total Responses</b>
Central	31	74% (23)	21.8%
Hampton Roads	16	87% (14)	29.3%
Northern Virginia	19	84% (16)	21.8%
Piedmont	34	82% (28)	19.6%
Western	20	70% (14)	7.5%

### ***Current Staff and Salaries***

This section focused on determining the overall personnel resources currently available in each office and positions open, but not funded by the Commonwealth. The information requested for each employee included:

- Employment status (full/part time);
- Current annual salary;
- Starting salary;
- Source of employee's funding (Compensation Board, local funding, or grant funding); and,
- Types of employee benefits offered (i.e., retirement, insurance).

The Elected Commonwealth's Attorneys also provided information concerning employee separations from August 2003 to August 2005 for each office.

## *Salaries*

The average salaries, as of August 1, 2005, for Assistant and Elected Commonwealth's Attorneys were:

- Average Salary for Full-time (FT) Assistants: \$ 67,456
  - Full-time, More than 5 years: \$ 81,024
  - Full-time, Less than 5 years: \$ 60,135
  
- Average Salary for Full-time (FT) Elected: \$ 115,260
  - Full-time, More than 5 years: \$ 116,066
  - Full-time, Less than 5 years: \$ 110,154

The Western region has the lowest average assistant attorney salary at \$50,719 and Northern Virginia has the highest at \$74,756. However, each region has some offices in the lower salary range where the assistant attorneys average under \$53,500.<sup>35</sup> This is generally concentrated in the more rural counties and cities, such as Pulaski, Rockingham, Prince George, Sussex, and Buchanan.<sup>36</sup> Conversely, the more urban or developed localities had higher average assistant attorney salaries; for example, Prince William County, Henrico County, Arlington County, Virginia Beach, and Suffolk all had average assistant attorney salaries above \$66,500.

A contributing factor to salary disparity is the amount of local funding that each office receives. Localities that contribute salary supplements tend to increase the salary levels in their locality. For example, Henrico County has an average salary of \$75,657 with an average local salary supplement of \$23,782. On the other hand, the average salary in Pulaski County is \$46,351, with local supplement of \$0.

Regarding perceptions of salaries, only 9 percent (7 of 77) of Elected and 17 percent (67 of 392) of Assistant Commonwealth's Attorneys believe the current level of compensation for Assistants was "appropriate." Eighty-seven percent (67 of 77) of Elected and 82 percent (300 of 367) of Assistant Commonwealth's Attorneys believe that the current level of compensation limits the availability of qualified applicants.

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<sup>35</sup> For more detail concerning average salaries by locality, *see* attachment K. The average salaries were compiled based on data submitted by the Commonwealth's Attorneys.

<sup>36</sup> *Id.*



**Staff Separations**

Turnover in Commonwealth’s Attorneys offices can limit the office’s effectiveness. A recent ABA commission report noted the difficulty of retaining public legal services attorneys such as prosecutors.<sup>37</sup> As such, the length of tenure and total separations for each office were examined. Additionally, the relationship between average salary and staff turnover was assessed.

Table 7 illustrates the number and percentage of separations, as well as, average years of service for each of the different office sizes. Clearly, the Super Size offices are having the most difficulty retaining attorneys, in that almost half of their assistant attorneys left during the two year period sampled; the average attorney retention for the super size offices is over 1 ¼ years shorter than the next office size.

<b>Size of Office</b>	<b>Total Attorneys (n=453)</b>	<b>Total Separations (n=131)</b>	<b>% Separations p/attorney in region</b>	<b>Avg. years of service</b>
Super	143	68	48%	3.5
Large	141	30	21%	4.9
Mid	123	30	24%	6.6
Small	46	9	20%	6.0

Table 8 delineates the number and percentage of separations, as well as, average years of service for the various regions. The Hampton Roads region had 56 attorney separations and 43 percent (56 of 131) of all attorneys separated in the Commonwealth. The Western and Hampton Roads region had the same percentage of separations per assistant attorney; however, the Western region had one-sixth of Hampton Roads’ separations. Of those separated, the Central and Piedmont regions had the shortest average years 3.6 years and 2.9 years, respectively.

<sup>37</sup> ABA COMMISSION ON LOAN REPAYMENT AND FORGIVENESS, LIFTING THE BURDEN: LAW STUDENT DEBT AND BARRIER TO PUBLIC SERVICE THE FINAL REPORT OF THE ABA COMMISSION ON LOAN REPAYMENT AND FORGIVENESS (2003), available at <http://www.abanet.org/legalservices/downloads/lrap/lrapfinalreport.pdf>.

<b>Region</b>	<b>Total Attorneys (n=453)</b>	<b>Total Separations (n=131)</b>	<b>% Separation p/attorney in region</b>	<b>Avg. years of service</b>
Central	106	29	27%	3.6
Hampton Roads	143	56	39%	5.3
Northern Virginia	112	30	27%	4.6
Piedmont	69	13	19%	2.9
Western	23	9	39%	5.5

As Table 9 below indicates, the average assistant attorney salary varied among the size of office and by state allocation and local supplement provided. While the Super-sized offices ranked first in average state salary and second in average attorney salary and local supplement, they also averaged the highest separations per attorney.

<b>Office Size</b>	<b>Average Attorney Salary<sup>38</sup></b>	<b>Average State Salary</b>	<b>Average Local Salary Supplement</b>	<b>Separations per Attorney</b>
Super	\$ 67,262	\$ 47,497	\$ 25,664	48%
Large	\$ 72,626	\$ 42,247	\$ 30,368	21%
Mid	\$ 62,219	\$ 45,315	\$ 19,209	25%
Small	\$ 51,844	\$ 37,278	\$ 14,006	21%

Super-sized offices are located in larger urban areas, where retention is the most challenging; some of the offices most challenged by retention are listed below in Table 10. The inability to retain attorneys promotes less qualified and experienced assistant Commonwealth's Attorneys. It also increases workload for other attorneys because of understaffing and increases training cost, as the office has to retrain more incoming attorneys.

<sup>38</sup> Average Attorney salary is comprised of the state allocation, local supplement, state grants and federal grants.

<b>Office</b>	<b>Average Salary</b>	<b># of Attorneys</b>	<b># of Attorney Separations</b>
Norfolk	\$67,537	32	17
Richmond City	\$62,857	35	16
Fairfax County/City	\$65,680	19	13
Newport News	\$60,700	20	9
Hampton	\$54,849	14	8

### ***Funding***

Two areas were examined by staff concerning financial issues: sources of funding and local budget versus Compensation Board allocation. The Compensation Board asks, but does not require, each office to provide a copy of its budget each fiscal year. The responding Commonwealth's Attorneys provided information relating to the funding from the Compensation Board, localities, and from state/federal grant sources. The results for funding categories, by region, are listed below in Table 11:

<b>Region</b>	<b>Total State Comp</b>	<b>Total Local</b>	<b>State Grants Total</b>	<b>Federal Grants Total</b>
Central	61%	27%	6%	6%
Hampton Roads	53%	37%	6%	5%
Northern Virginia	52%	43%	4%	2%
Piedmont	71%	16%	9%	3%
Western	87%	8%	5%	0%
<b>Total</b>	<b>59%</b>	<b>31%</b>	<b>6%</b>	<b>4%</b>

Overall, funding received from the Compensation Board comprised 59 percent of all funding received by offices across the Commonwealth. However, not all regions provide local supplements at the same rate. The Hampton Roads and Northern Virginia localities provided the most supplements to the offices, 37 percent and 43 percent respectively.

Not all positions are funded by the Compensation Board and local supplements, some positions are funded by state and federal grants. No elected Commonwealth's Attorneys were grant funded. Eighty-eight offices received state or federal grant funding for the following positions:

- 35 Assistant Commonwealth's Attorneys;
- 32 Administrative;
- 10 Paralegals; and,
- 107 Other Personnel (majority are Victim-Witness personnel).

Responding offices also included a copy of their FY 2006 local budget. The total local budget was compared to the total Compensation Board allocation<sup>39</sup> and the difference between the Compensation Board allocation and local budgets, by region, is listed in Table 12 below.

<b>Table 12: FY 2006 Compensation Board Allocations, Local Budget and Difference by Region</b>			
<b>Region</b>	<b>Compensation Board Allocation</b>	<b>Difference Paid by Locality and Other Sources</b>	<b>Commonwealth's Attorney's Offices' Budgets</b>
Central	\$ 5,261,000	\$ 3,918,000	\$ 9,179,000
Hampton Roads	\$ 9,865,000	\$11,348,000	\$ 21,213,000
Northern Virginia	\$ 9,376,000	\$13,422,000	\$ 22,798,000
Piedmont	\$ 7,035,000	\$ 2,745,000	\$ 9,780,000
Western	\$ 3,417,000	\$ 416,000	\$ 3,834,000
<b>Total</b>	<b>\$ 34,955,000</b>	<b>\$31,849,000</b>	<b>\$ 66,804,000</b>

Overall, the Compensation Board allocation comprises more the half of the operating expenses for Commonwealth's Attorneys' offices across the Commonwealth. However, in the Hampton Roads and Northern Virginia regions, localities contribute over half of the offices operating budgets.

### ***Resource Needs***

While having the requisite number of attorneys is important, there are other needs such as equipment, research tools and the availability of support staff each office needs to perform its duties effectively. Inadequate equipment, tools and staff can decrease the effectiveness of attorneys, which will be addressed in the following sections.

### ***Computer Equipment***

Both Elected and Assistant Commonwealth's Attorneys stated some of their offices' computer equipment/software were adequate. Forty-six percent (40 of 87) of Elected Commonwealth's Attorneys and 57 percent (223 of 391) of Assistant Commonwealth's Attorneys indicated that they had an adequate amount of computer equipment, systems and software. Interestingly, the Assistant Commonwealth's Attorneys thought the computer

<sup>39</sup> The Compensation Board figures are based on salaries and fringe benefits paid by the Commonwealth for each office. The local budget numbers include categories such as salary and fringe benefits, maintenance (office equipment, building), utilities, office supplies, postage services, telecommunication services, travel and education, computer related costs, office/building lease, books/ publications, and memberships, just to list a few. In almost all of the local budgets, there was no discernment between the Compensation Board allocation for salaries and what the locality allocated for salaries and fringe benefits.

equipment was more adequate, than their superiors, the Commonwealth's Attorneys. According to the 205 respondents, the top five reported computer equipment/software needs were:

- 22% Laptops;
- 16% Printers;
- 15% Wireless courtroom access/presentation software;
- 13% Scanners; and,
- 12% Personal Digital Assistant (PDA).

### *Research Tools*

Availability of legal research tools varied by office. While most were available in all or almost all offices, such as Geronimo and the *Code of Virginia*, other resources like Lexis/Nexis and Westlaw were not as common. Table 13 outlines the various research tools and the number of offices where the tool was available to at least one attorney.

<b>Table 13: Legal Research Tools</b>		
<b>Research Tool</b>	<b>Number of Offices*</b>	<b>Percent of Offices</b>
Geronimo	94 of 95	99%
Code of Virginia	95 of 95	100%
Friend on Evidence	85 of 95	89%
Criminal Law Case Finder	77 of 95	81%
Costello's VA Crim. Pro.	40 of 95	42%
Groot's Criminal Offense	61 of 95	64%
Bacigal's Criminal Procedure	60 of 95	63%
Lexis/Nexis CD	19 of 95	20%
Lexis/Nexis	26 of 95	27%
Model Jury Instructions	93 of 95	98%
Westlaw	7 of 95	7%

\* Indicates that office had tool for at least one attorney.

### *Support Staff*

Support staff assist in a variety of ways from legal research, administrative functions, investigations, to working with victims and witnesses. There was a significant difference of opinion of whether the support staff was adequate. As with computer equipment, Elected Commonwealth's Attorneys perceived more challenges with support staff adequacy than the Assistant Commonwealth's Attorneys. Sixty-seven percent (60 of 85) of Elected Commonwealth's Attorneys and 47 percent (191 of 393) of Assistant Commonwealth's

Attorneys felt that there was not adequate assistance from support staff available. For the Elected and Assistant Commonwealth's Attorneys indicating that there was not adequate support staff assistance, the following needs were cited:

- 40% Paralegals;
- 39% Administrative/Clerical; and,
- 21% Other Support Staff (Investigators, Information Technology Specialists, and Victim-Witness Personnel).

### ***Experience***

Experience as a Commonwealth's Attorney or Assistant is essential for prosecutorial effectiveness. In general, Elected Commonwealth's Attorneys had much more experience than their Assistants. Two-thirds (60 of 89) of Elected Commonwealth's Attorneys have 10 years or more of experience in prosecution and 53 percent (48 of 89) had 10 or more years experience as an Elected Commonwealth's Attorney. Only 31 percent of Assistant Commonwealth's Attorneys had more than 10 years experience in prosecution.

Over three-fourths of Elected Commonwealth Attorneys and Assistant Commonwealth Attorneys had legal experience other than being a prosecutor. Ninety percent of (79 of 88) Elected Commonwealth's Attorneys and 79 percent (313 of 397) of Assistant Commonwealth's Attorneys had prior experience. Examples of prior experience included private criminal defense, public defender office, and general practice.

### ***Training Opportunities***

Commonwealth's Attorneys needed requisite skills, knowledge and training to be effective prosecutor. Elected and Assistant Commonwealth's Attorneys were asked about CASC's training opportunities and whether the training adequately prepared them for their jobs. Over three-fourths thought the training opportunities adequately prepared them for their jobs. Specifically, 89 percent (75 of 84) of Elected Commonwealth's Attorneys, and 77 percent (300 of 389) of Assistant Commonwealth's Attorneys believed the training was adequate. Even though, the training had high marks, there were some training areas desired by Assistant Commonwealth's Attorneys which included: trial advocacy, DNA/forensics, cross-examination, white-collar crimes, and computer crimes.

### ***Workload Considerations***

As previously discussed, Commonwealth's Attorneys' offices vary in size, staffing allocation, separations, training, legal resources and local supplements; offices also differ in number of cases prosecuted and time spent preparing for cases. The cases prosecuted can differ by sheer number of crimes in the locality, as well as, which crimes are prosecuted. These factors may significantly affect the workload requirements for one office when compared to another. This section will address misdemeanor prosecutions and how attorneys perceive time available to adequately prepare and conduct their various types of cases.

*Misdemeanor Prosecution*

The *Code of Virginia* gives Commonwealth’s Attorneys the discretion to prosecute misdemeanors and requires them to prosecute felonies.<sup>40</sup> This discretion allows for a significant variance in misdemeanor prosecution from office to office, which can affect overall workload. Currently, there is no centralized accurate way to determine the level of misdemeanor prosecution by Commonwealth’s Attorneys’ offices.<sup>41</sup>

Accordingly, survey questions were designed to ascertain the amount of time each office spends prosecuting. Offices significantly differed in their General District and Juvenile/Domestic Relations court time, also offices varied in the time spent prosecuting felonies. As offices vary significantly in size, so does the amount of time spent in court. For example: in General District Court (GDC); some average 1 hour a week, while another averaged over 220 hours. For Juvenile Domestic Relations District Courts (J&DR) range was 0 hours to 50 hours per week per office. As for misdemeanors, the range in GDC was 1 to 120 hours and for J&DR 1 to 50 hours.

There is a significant amount of misdemeanor prosecution by the Commonwealth’s Attorneys’ offices across the Commonwealth. While not every office allocates the same amount of time to misdemeanor prosecution, the average office spends at least 22 hours a week in both courts prosecuting misdemeanors. This amount of time, on average, is greater than the time they spend on felonies. Table 14 shows the state averages by felony or misdemeanor by court as well as those averages by office size.

<b>Table 14: Commonwealth’s Attorneys’ Offices Weekly In Court Time Prosecuting Felonies and Misdemeanors by Office Size</b>				
	<b>GDC Felonies</b>	<b>GDC Misdemeanors</b>	<b>J&amp;DR Felonies</b>	<b>J&amp;DR Misdemeanors</b>
Super	129.3	77.3	30.0	38.7
Large	26.3	24.8	16.3	20.0
Mid	13.0	13.2	7.0	10.3
Small	4.2	7.2	2.0	4.2
<b>Total</b>	<b>14.2</b>	<b>13.7</b>	<b>6.1</b>	<b>9.2</b>

All (86 of 86) of the Elected Commonwealth’s Attorneys’ reported prosecuting *at least* some misdemeanor offenses regularly and 56 percent (48 of 86) of offices routinely prosecute all

<sup>40</sup> VA. CODE ANN. §15.2-1627 (Michie 2003). For more detail concerning the statutory requirements of prosecution, see attachment K.

<sup>41</sup> Supreme Court of Virginia’s case system (Court Automated Information System) does has a field for representation by the Commonwealth in misdemeanor cases, however it is not a mandatory field and is not often used.

misdemeanors. Examples of misdemeanors Elected Commonwealth’s Attorney’s and Assistants regularly prosecute include:

- Domestic Violence;
- All Class One and Two Misdemeanors;
- D.U.I., 2nd D.U.I.;
- School Offenses; and,
- Defendant Represented by Counsel.

The Elected Commonwealth’s Attorneys whose offices prosecute misdemeanors were asked to provide examples of the criteria they use to determine which ones to prosecute. The criteria mentioned included: penalty of incarceration, defendant represented by counsel,<sup>42</sup> seriousness of crime, requests (police, judicial, victim, and witness), gang activity, and availability of manpower.

*Assistant Attorney In-Court Time*

There is a wide range of how many hours Assistant Commonwealth’s Attorneys spend on felonies and misdemeanors in GDC and J&DR, as well as, in-court activities. For felonies in J&DR courts some assistants spent 20 hours a week in court, while others spent none. Assistants time in J&DR courts prosecuting misdemeanors ranged from one hour to 35 hours a week. For misdemeanors and felonies in GDC’s, the range was the same with some assistants spending 35 hours a week in court with some spending no time in court.

<b>Table 15: Average Assistant Commonwealth’s Attorneys Weekly Time Prosecuting Felonies and Misdemeanors by Office Size</b>				
	<b>GDC Felonies</b>	<b>GDC Misdemeanors</b>	<b>J&amp;DR Felonies</b>	<b>J&amp;DR Misdemeanors</b>
Super	4.6	4.0	2.5	2.5
Large	4.6	5.4	2.4	3.9
Mid	3.9	5.0	2.2	3.4
Small	2.9	6.0	1.9	4.2
<b>Total</b>	<b>4.2</b>	<b>5.0</b>	<b>2.3</b>	<b>3.4</b>

<sup>42</sup> It should be noted that defendants in misdemeanor cases facing imprisonment must be represented by counsel. *Argersinger v. Hamlin*, 407 U.S. 25, 92 S. Ct. 2006, 32 L. Ed. 2d 530 (1972).



*Workload Levels*

Elected and Assistant Commonwealth’s Attorneys were asked if they had enough time to prosecute cases in the following categories: non-violent felonies, violent felonies, non-violent misdemeanors, and violent misdemeanors.<sup>43</sup> Overall, two-thirds of Elected and Assistant Commonwealth’s Attorneys thought they had adequate time to prepare for violent felony cases. For the remaining grouping, the Elected Commonwealth’s Attorneys thought they had less time to adequately prepare for cases than their Assistants. The biggest difference was non-violent misdemeanors, where over half of Elected Commonwealth’s Attorneys did not think they had enough time to prepare.

<b>Table 16: Adequate Time to Prepare for Cases</b>				
	Felony Cases		Misdemeanor Cases	
	Violent	Non-Violent	Violent	Non-Violent
<b>Elected</b>	67%	51%	55%	45%
<b>Assistant</b>	66%	66%	64%	65%

Regarding workload manageability, fifty-seven percent of Assistant Commonwealth’s Attorneys indicated that their workloads were manageable, but 36 percent thought it excessive. Elected Commonwealth’s Attorneys were divided: 46 percent thought it their workload was excessive and the same percentage reported it was manageable.<sup>44</sup>

When workloads were compared according to region, three indicated manageable workloads: Central (59%), Northern Virginia (70%), and Western (60%). Within the other two regions, perceptions of workload manageability was divided: Hampton Roads had 46 percent that thought it excessive and 46 percent thought it manageable; and Piedmont had 44 percent thought it excessive and 46 percent manageable.

Workload analysis by size of office shows that the Super offices perceive the workload as excessive more often than their counterparts. Over half of the attorneys for the three smaller offices indicated a manageable workload: Large (62%), Medium (54%), and, Small (64%). But in the Super-size offices which included Fairfax/Fairfax City, Henrico County, Norfolk, Virginia Beach and Richmond City, 55 percent indicated the workload was excessive.

<sup>43</sup> Footnote on survey for these misdemeanors stated “Misdemeanors such as Assault and Battery, Sexual Battery, Brandishing, etc.”

<sup>44</sup> This survey question had two further options when asked to “describe your overall workload:” small and other. Only one Assistant Commonwealth’s Attorney stated a small workload, no elected representatives did. The remaining responses for both groups were “other.”

## *Considerations*

When reviewing salaries, separations, and workload staff determined it was important to assess other office facets such as: morale, current staff future plans, student-debt burden, and overall concerns for these impact the current and future state of Commonwealth's Attorney offices.

### *Office Morale*

Across Virginia, Assistant Commonwealth's Attorneys varied in their perceptions of morale. The vast majority (92%) thought morale level was medium or high. Almost half, thought office morale was high.

- 49% (195 of 397) high morale;
- 43% (170 of 397) medium morale; and,
- 8% (32 of 397) low morale.

However, when viewed by office size, high morale was most often reported in the Small offices at 79 percent. The Super-size offices had the least percentage of Assistants that had high morale at 28 percent. Fifty-nine percent of Large office Assistants had high morale, and 48 percent of Mid-size office assistants.

### *Prosecution as a Career*

Elected and Assistant Commonwealth's Attorneys were asked about their long-term interest in making prosecution a career. A strong majority of both Elected and Assistant Commonwealth's Attorneys planning on making prosecution a career:

- 85% (76 of 89) Elected Commonwealth's Attorneys, and
- 82% (331 of 402) Assistant Commonwealth's Attorneys.

Attorneys that indicated they had no plans to make prosecution a career where then asked to provide a job preference after leaving the Commonwealth's Attorneys office. The most common examples were:

- Private Practice;
- Judicial;
- Defense;
- Civil Litigation; and,
- U.S. Attorney.

These attorneys were also asked to provide incentives that would encourage them to make prosecution a career. Generally, the responses included improved benefits, such as:

- Increased pay;
- Retirement/ Accelerated Retirement/VALORS;
- Loan forgiveness program;
- Merit pay;
- Reduced caseload; and,
- Performance bonuses.

*Student Loan Forgiveness*

Assistants Commonwealth’s Attorneys were asked about their student loan debt. Fifty-four percent (215 of 397) of Assistants indicated that they had outstanding student loan debt. Of the 215 assistants with debt, the vast majority carries debt in excess of \$25,000<sup>45</sup> and over one-third have debt exceeding \$75,000.

<b>Amount of Student Loan Debt</b>	<b>Number of Assistant CA’s</b>
Less than \$25,000	40
\$25,000 to \$50,000	54
\$50,000 to \$75,000	47
Over \$75,000	72

Some states have programs that assist in loan repayments for public defenders, with several including prosecutors.<sup>46</sup> As a group, 97 percent (254 of 261) of Assistants responded that a loan forgiveness program would be an incentive to make prosecution a career. As mentioned before, Assistants that did not plan to be career prosecutors stated a loan forgiveness program would be an incentive to make prosecution their career choice.

<sup>45</sup> According to a 2002 study by the Association for Legal Career Professionals, Equal Justice Works, and the Partnership for Public Service, 94 percent of law students borrowed money to attend law school. Additionally, the trend for law school tuition to outpace salaries, even for associates at large firms, has continued to increase and is showing signs of increasing even more. See generally Leigh Jones, *As Salaries Rise, So Does the Debt*, *Law .com*, (February 1, 2006), at [<http://www.law.com/jsp/law/careercenter/lawArticleCareerCenter.jsp?id=1138701909390>.]

<sup>46</sup> Typically Loan Repayment Assistance Programs (LRAPs) assist graduates working in low paying public interest and government positions with their loan payments. Eight states have LRAPs: Arizona; Florida; Maryland; Minnesota; New Hampshire; North Carolina; Texas; and, Vermont. Only two states, Maryland and North Carolina, include prosecutors as a qualifying public interest position. New York has recently started a one year pilot program, and California has a program, but is currently unfunded. Other than the state programs, prosecutors may apply for LRAPs under their respective law school programs for public interest law. Currently, two Virginia law schools offer LRAPs for prosecutors: University of Virginia and Washington and Lee University. For the last five years, there has been an effort to introduce federal legislation to set up a LRAP that covers government attorneys, including prosecutors, as well as, public defenders. Currently, there are bills in both the U.S. Senate and House of Representatives, See H. R. 1753, H.R. 198, S. 2039, available at <http://thomas.loc.gov/cgi-bin/thomas>.

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## VIII. Commonwealth's Attorneys Statutory Duties

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Pursuant to the study mandate, staff reviewed the statutory responsibilities of Commonwealth's Attorneys. All statutory references to Commonwealth's Attorney duties were compiled and analyzed to determine the nature of the responsibilities and whether the duties were discretionary, shared or absolute. Approximately 500 *Code of Virginia* sections contained references to Commonwealth's Attorneys. There are over 300 entries that contained a requirement for the Commonwealth's Attorney to act.<sup>47</sup> The duties can be classified into three distinct categories: required prosecution, discretionary prosecution and civil duties.

The Commonwealth's Attorneys are required to prosecute all felony cases,<sup>48</sup> which are the overwhelming majority of cases they prosecute. There are some instances where Commonwealth's Attorneys are required to prosecute cases upon the recommendation of a Director, Commissioner, or some other state authority; many of these offenses are misdemeanors. The recommendations come from a diverse set of government agencies with varied areas of responsibilities; oversight examples include: agriculture, air pollution, labor and industry, coal mine safety, public service companies, truancy cases, and unemployment compensation.

Commonwealth's Attorneys have the discretion to prosecute many cases, including Class 1, 2 and 3 misdemeanors, as well as, violations where the conviction carries a penalty of confinement in jail or a fine of \$500 or more. Additionally, Commonwealth's Attorneys have the discretion to prosecute cases under a variety of scenarios. For example, Commonwealth's Attorneys have the discretion to prosecute cases according to *Code of Virginia* §2.2-511 in the following areas:

- Alcoholic Beverage Control;
- Elections and the electoral process;
- Motor vehicles and their operation;
- Handling of funds by state bureaus, agencies, commissions or departments;
- Theft of state property;
- Child pornography and sexually explicit material involving children; and,
- Unlicensed law practice.

Commonwealth's Attorneys are also responsible for a number of civil duties too which can include: enforcing all forfeitures, advising and monitoring agencies of state concerning disclosures, docketing judgments in favor of the Commonwealth, defending local officers from suit, and advising school boards. In some situations, Commonwealth's Attorneys may have certain responsibilities depending upon certain factors. For example, the Commonwealth's Attorney has to carry out several advisory duties to local government, if no local city/county attorney is available. Some of these civil duties are shared with either local city/county attorneys or with the Attorney General's office. In these situations, the Commonwealth's

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<sup>47</sup> A comprehensive list of all affirmative duties specified in the *Code of Virginia* can be found in attachment L.

<sup>48</sup> They do, however, have the ability to Nolle Prosequi for cases when necessary.

Attorney is relieved of duty when the locality has a city/county attorney. Overall, the Commonwealth's Attorneys is responsible to their locality for a variety of roles.

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## **IX. Summary**

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Overall, the study focused on the historical aspects of Commonwealth's Attorneys, recent and current funding of offices, how the Virginia prosecutorial system compares to other state systems, and a survey of Elected and Assistant Commonwealth's Attorneys concerning staff and salaries, resources needs and training, and workload/employment considerations.

Under Virginia's current funding system for Commonwealth's Attorneys, the Compensation Board is responsible for determining personnel needs for each office and the allocation of funds to each office. In the past few years, the Compensation Board has been unable to allocate personnel funding according to the level required by the funding formula. Increasingly, local governments are providing increased funding for Commonwealth's Attorneys, and in some areas of the Commonwealth, are providing more funding than the Compensation Board. Every Commonwealth's Attorneys prosecutes misdemeanors, and several prosecute a considerable amount, however, the current funding formula does not take the level of misdemeanor prosecution into consideration.

Virginia follows a decentralized prosecutorial system like most states. In this system the prosecutors are locally elected constitutional officers, with the prosecutor coordinating agencies providing training and some administrative and technical support. The only significant difference in Virginia's version of the decentralized system is that CASC, unlike some other prosecutor coordinators agencies, is not involved with requesting or administering funding.

The survey identified important areas of concern such as insufficient retirement benefits, inadequate state funding, and high workloads that detract the quality of work. While most Elected and Assistant Commonwealth's Attorneys plan to make prosecution a career, "inadequate" pay and considerable student loan debt may influence their decision to stay in prosecution. Staff separations were also of concern and retention seems most challenging in the Super-size and more urban offices.

Commonwealth's Attorneys are an essential part of Virginia's criminal justice system. Commonwealth's Attorneys offices are part of the larger public safety function that protects our communities and effective Commonwealth's Attorneys offices are necessary for the future safety of the Commonwealth. Without effective and adequately funded prosecutors, criminal cases cannot be pursued and decided in a timely or just manner.

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## **X. Acknowledgements**

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The Virginia State Crime Commission extends its appreciation to the following agencies and individuals for their assistance on this study:

### **Virginia Association of Commonwealth's Attorneys**

*The Honorable Eileen M. Addison*  
*The Honorable Joel R. Branscom*  
*The Honorable Harvey L. Bryant*  
*The Honorable Robert L. Bushnell*  
*The Honorable Linda D. Curtis*  
*The Honorable Michael E. McGinty*  
*The Honorable William G. Petty*

### **Commonwealth's Attorneys' Services Council**

*Susan B. Goldsticker, Administrator*

### **Compensation Board**

*Bruce W. Haynes, Executive Secretary*  
*Robyn M. de Socio, Assistant Executive Secretary*  
*Charlotte W. Luck, Senior Budget Analyst*

### **Virginia Criminal Sentencing Commission**

*Meredith Farrar-Owens, Deputy Director*

# **ATTACHMENT A**





2004 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 225

*Directing the Virginia State Crime Commission to conduct a statewide study of the operations of the offices of Commonwealth's Attorneys. Report.*

Agreed to by the House of Delegates, February 17, 2004  
Agreed to by the Senate, March 9, 2004

WHEREAS, Commonwealth's Attorneys are an integral part of Virginia's criminal justice system and as such they have a critical role in enhancing public safety in the Commonwealth; and

WHEREAS, the ability of Commonwealth's Attorneys to seek justice is dependent upon their ability to recruit, hire, train and retain sufficient qualified and experienced assistants to carry out the many responsibilities assigned to that office; and

WHEREAS, while the Commonwealth has made it a matter of public policy to establish full-time career prosecutors in the vast majority of jurisdictions, the Commonwealth has never conducted an in-depth examination of the staffing, training and support needs of Virginia's full-time prosecutors; and

WHEREAS, there currently exists a great disparity in the amount of local support provided by localities to the various Commonwealth's Attorneys Offices resulting in a disparity in the number and types of cases individual offices are able to prosecute; and

WHEREAS, there is an increased public demand that Commonwealth's Attorneys appear and prosecute serious misdemeanor cases such as driving under the influence and domestic violence; and

WHEREAS, Commonwealth's Attorney offices statewide are currently understaffed by 147 assistant attorney positions and 124 legal support positions based on the Compensation Board approved staffing standards; and

WHEREAS, criminal prosecution has become an increasingly complex and specialized profession as a result forensic advances, such as DNA and legal requirements occasioned by the increase of appellate decisions from the Court of Appeals and Supreme Court; and

WHEREAS, the consequence of prosecutors who are not well trained and current on legal and evidentiary changes is acquittal of guilty defendants or reversal and retrial of convictions at great public cost; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to conduct a statewide study of the operations of the offices of the Commonwealth's Attorneys. The Commission shall study the quality of prosecutorial representation and the efficiency by which prosecutorial services are provided. The study of quality of prosecutorial representation shall examine the impact, if any, of the existing workloads in the Commonwealth's Attorneys' offices, any disparity in workload per attorney, training and technical support for attorneys for the Commonwealth versus judicial and criminal justice system agencies, opportunities for continuing legal education specifically geared towards career prosecutors, and the Commonwealth's Attorneys' ability to hire and retain qualified prosecutors in their offices. Consideration of efficiency of service shall include a determination of a reasonable case load per attorney, the appropriate role of localities in providing support for Commonwealth's Attorneys, disparities among offices in their ability to provide quality prosecutorial representation to each locality, and considerations that would, if implemented, reduce pre-trial delay and thus minimize the costs of pre-trial incarceration.

The Virginia State Crime Commission shall submit to the Division of Legislative Automated Systems an executive summary and report of its progress in meeting the directives of this resolution no later than the first day of the 2006 Regular Session of the General Assembly. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

ENROLLED

HJ225ER



# **ATTACHMENT B**



## Commonwealth's Attorney's Offices by Region and Size of Office

Locality	Region Code	Office Size*
Accomack	Hampton	Small
Albemarle	Piedmont	Mid
Alexandria	NOVA	Large
Alleghany	Piedmont	Small
Amelia	Central	Small
Amherst	Piedmont	Mid
Appomattox	Piedmont	Small
Arlington	NOVA	Large
Augusta	Piedmont	Mid
Bath	Piedmont	Small
Bedford County/City	Piedmont	Mid
Bland	Western	Small
Botetourt	Piedmont	Small
Bristol	Western	Mid
Brunswick	Central	Small
Buchanan	Western	Small
Buckingham	Piedmont	Small
Buena Vista	Piedmont	Small
Campbell	Piedmont	Mid
Caroline	Central	Small
Carroll	Western	Mid
Charles City	Central	Small
Charlotte	Piedmont	Small
Charlottesville	Piedmont	Mid
Chesapeake	Hampton	Large
Chesterfield	Central	Large
Clarke	NOVA	Small
Colonial Heights	Central	Mid
Craig	Piedmont	Small
Culpeper	NOVA	Small
Cumberland	Piedmont	Small
Danville	Piedmont	Mid
Dickenson	Western	Small
Dinwiddie	Central	Small
Essex	Central	Small
Fairfax County/City	NOVA	Super
Fauquier	NOVA	Mid
Floyd	Western	Small
Fluvanna	Central	Small
Franklin Cnty	Piedmont	Mid
Frederick	NOVA	Mid
Fredericksburg	NOVA	Mid
Giles	Western	Small
Gloucester	Hampton	Small
Goochland	Central	Small
Grayson	Western	Small
Green/Empor	Central	Small
Greene	Hampton	Small
Halifax/South Boston	Piedmont	Mid
Hampton	Hampton	Large
Hanover	Central	Mid

## Commonwealth's Attorney's Offices by Region and Size of Office

Locality	Region Code	Office Size*
Henrico	Central	Super
Henry	Piedmont	Mid
Highland	Piedmont	Small
Hopewell	Central	Mid
Isle of Wight	Hampton	Small
James City	Central	Mid
King & Queen	Central	Small
King George	Central	Small
King William	Central	Small
Lancaster	Central	Small
Lee	Western	Mid
Loudoun	NOVA	Mid
Louisa	Central	Small
Lunenburg	Piedmont	Small
Lynchburg	Piedmont	Mid
Madison	NOVA	Small
Martinsville	Piedmont	Mid
Mathews	Central	Small
Mecklenburg	Piedmont	Mid
Middlesex	Central	Small
Montgomery	Western	Mid
Nelson	Piedmont	Small
New Kent	Central	Small
Newport News	Hampton	Large
Norfolk	Hampton	Super
Northampton	Hampton	Small
Northumberland	Central	Small
Nottoway	Central	Small
Orange	NOVA	Small
Page	NOVA	Small
Patrick	Western	Small
Petersburg	Central	Mid
Pittsylvania	Piedmont	Mid
Portsmouth	Hampton	Large
Powhatan	Central	Small
Prince Edward	Piedmont	Small
Prince George	Central	Small
Prince William	NOVA	Large
Pulaski	Western	Mid
Radford	Western	Small
Rappahannock	NOVA	Small
Richmond City	Central	Super
Richmond Cnty	Central	Small
RoanokeCo	Piedmont	Mid
RoanokeCty	Piedmont	Large
Rockbridge	Piedmont	Small
Rockingham	NOVA	Mid
Russell	Western	Small
Salem	Piedmont	Small
Scott	Western	Small
Shenandoah	NOVA	Small

## Commonwealth's Attorney's Offices by Region and Size of Office

Locality	Region Code	Office Size*
Smyth	Western	Mid
Southampton	Hampton	Mid
Spotsylvania	NOVA	Mid
Stafford	NOVA	Large
Staunton	Piedmont	Mid
Suffolk	Hampton	Mid
Surry	Hampton	Small
Sussex	Central	Small
Tazewell	Western	Mid
Va. Beach	Hampton	Super
Warren	NOVA	Small
Washington	Western	Mid
Waynesboro	Piedmont	Mid
Westmoreland	Central	Small
Winchester	Piedmont	Mid
Wise	Western	Mid
Wythe	Western	Mid
York/Poquoson	Hampton	Mid
* Office Size is defined by the Compensation Board		





# **ATTACHMENT C**





**Compensation Board Criteria for Allocating New Assistant Attorney Positions in Commonwealth's Attorneys' Offices**

FIPS	Locality	Rank Asst. Attys	# Atty Positions FY05	FY06 Net Reduction after Annualization and Restoration	FTE Reduction based on average Atty Sal (\$48,255)	# Positions FY05	Avg Defendants + Avg Sent Events CY01-03	Ratings AVG CY01-03	#Total Pos Needed	#Add'l Positions Needed	# Whole Positions Needed	% of Need
195	Wise/Norton	27	4	-11,522	-0.2	3.8	533	MID	6.3	2.5	3	66.6%
175	Southampton/Franklin	26	3	-12,318	-0.3	2.7	391	MID	4.6	1.9	2	67.5%
1	Accomack	25	2.5	-6,713	-0.1	2.4	279	SMALL	4.0	1.6	2	68.8%
690	Martinsville	24	3	-14,589	-0.3	2.7	422	MID	5.0	2.3	2	84.0%
740	Portsmouth	23	13	-50,934	-1.1	11.9	2,199	LARGE	22.0	10.1	10	84.1%
83	Halifax	22	3	-11,958	-0.3	2.8	432	MID	5.1	2.3	2	84.7%
185	Tazewell	21	5	-20,478	-0.4	4.6	722	MID	8.5	3.9	4	85.6%
590	Danville	20	6	-16,823	-0.4	5.7	892	MID	10.5	4.9	5	85.8%
630	Fredericksburg	19	4	-9,092	-0.2	3.8	613	MID	7.2	3.4	3	89.1%
155	Pulaski	18	4	-17,949	-0.4	3.6	585	MID	6.9	3.3	3	89.7%
87	Henrico	17	17	-68,099	-1.4	15.6	2,969	LARGE	29.7	14.1	14	90.4%
550	Chesapeake	16	13	-49,981	-1.0	12.0	2,283	LARGE	22.8	10.9	11	90.9%
15	Augusta	15	3	-2,292	-0.1	3.0	479	MID	5.6	2.7	3	90.9%
89	Henry	14	4	-18,385	-0.4	3.6	610	MID	7.2	3.6	4	98.4%
133	Northumberland	13	1	-5,529	-0.1	0.9	123	SMALL	1.8	0.9	1	99.0%
11	Appomattox	12	1	-6,166	-0.1	0.9	122	SMALL	1.7	0.9	1	99.3%
179	Stafford	11	6	-18,119	-0.4	5.6	1,172	LARGE	11.7	6.1	6	108.4%
9	Amherst	10	2	-7,849	-0.2	1.8	276	SMALL	3.9	2.1	2	114.6%
139	Page	9	1.5	-6,379	-0.1	1.4	212	SMALL	3.0	1.7	2	121.8%
105	Lee	8	2	-7,345	-0.2	1.9	351	MID	4.1	2.3	2	123.7%
135	Nottoway	6	1	-6,827	-0.1	0.9	139	SMALL	2.0	1.1	1	131.9%
197	Wythe	5	2	0	-	2.0	432	MID	5.1	3.1	3	153.9%
71	Giles	4	1	-5,307	-0.1	0.9	166	SMALL	2.4	1.5	1	165.9%
167	Russell	3	1.5	-9,636	-0.2	1.3	248	SMALL	3.6	2.3	2	172.8%
53	Dinwiddie*	2	1.5	-4,561	-0.1	1.4	275	SMALL	3.9	2.5	3	179.5%
131	Northampton	1	1	-2,737	-0.1	0.9	190	SMALL	2.7	1.8	2	187.8%
<b>TOTALS</b>			<b>529</b>	<b>-1,914,918</b>	<b>-39.7</b>	<b>489.3</b>	<b>64,350</b>		<b>694.4</b>	<b>205.0</b>	<b>211</b>	

# **ATTACHMENT D**



COMPENSATION BOARD CRITERIA FOR ALLOCATING  
NEW ASSISTANT COMMONWEALTH'S ATTORNEY POSITIONS  
IN COMMONWEALTH'S ATTORNEYS' OFFICES

October 24, 2000  
Amended January 16, 2005

**These staffing standards, recommended by the Virginia Association of Commonwealth's Attorneys and approved by the Compensation Board, may not reflect all duties performed by the Commonwealth Attorney. Positions needed for each office are based only upon the duties and workload measures identified specifically in the Staffing Standards. Many Commonwealth's Attorneys perform additional duties at their discretion or provide other services not required by state law. The number of Compensation Board funded positions due in a specific Commonwealth's Attorney's office are based upon duties required by law to be performed by the Commonwealth Attorney, or duties which nearly all Commonwealth's Attorneys perform.**

1. The position (or positions) must be requested by the Commonwealth's Attorney as part of the Compensation Board annual budget request process.
2. The basis of the request must be only the statutorily prescribed duty of the prosecution of felonies.
3. Funds and positions must be appropriated by the General Assembly.
4. The Compensation Board will use the staffing methodology and weighted three-year average workload criteria developed by the Virginia Association of Commonwealth's Attorneys (VACA), to determine the appropriate level of Compensation Board assistant Commonwealth's Attorney support for each office requesting additional positions.
5. The Compensation Board shall determine the number of additional positions to be allocated to any one office based upon criteria 1-4, inclusive, and additional positions shall be allocated in the order of percentage of need, where the offices with the highest percentage of need will receive positions first. The percentage of need is determined by calculating the percentage that the number of additional positions needed is of the total number of current positions.

## STAFFING METHODOLOGY

1. The formula calculates the sum of a three-year average of felony defendants plus a three-year average of sentencing events, resulting in an average total workload figure. The workload figure is divided by a specified factor that has been devised to take into account economies of scale in larger offices, with the result being the total number of attorney positions due in the office.

2. The data elements are as follows:

3-Year Average Defendants Data is the average of the number of felony defendants in the Circuit Court for each locality for the three most recent calendar years, as reported by the Supreme Court.

3-Year Average Sentencing Events is the average of the number of felony sentencing events in the Circuit Court for each locality for the three most recent fiscal years as reported by the Virginia Sentencing Commission.

Current F.T.E. Attorney Staffing is adjusted to reflect the actual salary amounts reduced as a result of FY03 budget reductions, based upon the most recent Compensation Board salary average of an attorney position.

3. Offices are grouped based on the size of the office (determined by the average total workload figure), and assigned an escalating workload factor assuming economies of scale. Compensation Board funded assistant Commonwealth's Attorneys who are part-time (i.e., eligible to engage in private law practice) are to be considered as 0.5 of a F.T.E. position for staffing standards purposes, instead of as 1 F.T.E. position.

Office Size	Range of Workload Totals (avg defendants + avg sentencing events) per Office Size	Factor
SUPER	3,000+	125
LARGE	1,000-2,999	100
MID	300-999	85
SMALL	0-299	70

4. The formula is as follows:

$$\# \text{ of Attorneys} = \frac{\text{Workload Total (3yr avg felony defendants + 3yr avg sentencing events)}}{\text{Factor}}$$

5. Amendments: The January 16, 2005 amendments recommended by the Virginia Association of Commonwealth's Attorneys (VACA) and approved by the Compensation Board changed "... most recent calendar years..." of sentencing events to "... most recent fiscal years..." and considers the effect of FY04 budget reductions on salaries by reducing the current F.T.E. attorney positions by the FY06 un-restored salary reduction in each office based upon the average salary, as of July 1, 2005, of a Compensation Board funded assistant attorney position.



Commonwealth's Attorneys FY06 Staffing Standards  
Assistant Commonwealth's Attorneys

FIPS	LOCALITY	# Pos FY06	AVG DEFENDANTS CY02		RATING CY04	AVG CY02- CY04	# TOTAL POS NEED	# ADDL POS NEED	# WHOLE POS NEED FY06	% OF NEED
			04 + AVG SENT EVENTS FY02-04	EVENTS						
071	Giles	0.89	170	SMALL	SMALL	2.42	1.53	2	172.33%	
133	Northumberland	0.89	166	SMALL	SMALL	2.37	1.49	1	167.83%	
135	Nottoway	0.86	152	SMALL	SMALL	2.18	1.32	1	153.48%	
590	Danville	5.65	914	MID	MID	10.76	5.11	5	90.34%	
179	Stafford	6.62	1,253	LARGE	LARGE	12.53	5.91	6	89.20%	
125	Nelson	0.91	112	SMALL	SMALL	1.60	0.69	1	76.22%	
740	Portsmouth	12.94	2,235	LARGE	LARGE	22.35	9.41	9	72.66%	
001	Accomack	2.36	275	SMALL	SMALL	3.92	1.56	2	66.20%	
077	Grayson/Galax	1.80	208	SMALL	SMALL	2.97	1.18	1	65.43%	
185	Tazewell	5.58	761	MID	MID	8.95	3.38	3	60.57%	
175	Southampton/Franklin*	2.74	371	MID	MID	4.36	1.62	2	59.02%	
630	Fredericksburg	4.81	637	MID	MID	7.50	2.69	3	55.83%	
143	Pittsylvania	3.62	477	MID	MID	5.61	1.99	2	54.89%	
033	Caroline	0.92	99	SMALL	SMALL	1.41	0.49	0	53.46%	
053	Dinwiddie	2.41	257	SMALL	SMALL	3.68	1.27	1	52.83%	
079	Greene	0.92	97	SMALL	SMALL	1.39	0.47	0	50.79%	
089	Henry	4.62	589	MID	MID	6.93	2.31	2	50.10%	
037	Charlotte	0.94	98	SMALL	SMALL	1.40	0.47	0	50.00%	
085	Hanover	6.49	689	MID	MID	8.11	1.62	2	24.90%	
750	Radford	1.79	184	SMALL	SMALL	2.63	0.84	1	46.70%	
570	Colonial Heights	3.69	459	MID	MID	5.40	1.72	2	46.63%	
073	Gloucester	2.70	277	SMALL	SMALL	3.96	1.26	1	46.52%	
087	Henrico	16.59	3,013	SUPER	SUPER	24.11	7.52	8	45.32%	
067	Franklin	3.59	444	MID	MID	5.22	1.63	2	45.31%	
047	Culpeper	2.72	276	SMALL	SMALL	3.95	1.23	1	45.31%	
550	Chesapeake	15.96	2,320	LARGE	LARGE	23.20	7.23	7	45.30%	
153	Prince William/Man/Man Pk	17.74	2,575	LARGE	LARGE	25.75	8.01	8	45.15%	
710	Norfolk	26.00	4,692	SUPER	SUPER	37.53	11.53	12	44.35%	
155	Pulaski	4.63	567	MID	MID	6.67	2.04	2	44.13%	
015	Augusta	3.95	484	MID	MID	5.69	1.74	2	44.06%	
149	Prince George	2.35	236	SMALL	SMALL	3.38	1.03	1	43.83%	
095	James City/Williamsburg*	3.93	480	MID	MID	5.65	1.72	2	43.74%	
007	Amelia	0.86	86	SMALL	SMALL	1.22	0.37	0	42.73%	

Commonwealth's Attorneys FY06 Staffing Standards  
Assistant Commonwealth's Attorneys

AVG DEFENDANTS CY02-

FIPS	LOCALITY	# Pos FY06	AVG DEFENDANTS CY02-04	AVG SENT EVENTS CY04	RATING	AVG CY02- CY04	# TOTAL POS NEED	# ADDL POS NEED	# WHOLE POS NEED FY06	% OF NEED
840	Winchester	4.61	556	MID	MID	6.54	1.94	2	42.03%	
127	New Kent	0.94	93	SMALL	SMALL	1.33	0.39	0	41.82%	
163	Rockbridge/Lexington	2.98	296	SMALL	SMALL	4.22	1.24	1	41.62%	
105	Lee	2.85	341	MID	MID	4.02	1.17	1	41.01%	
035	Carroll/Galax	3.00	358	MID	MID	4.21	1.21	1	40.39%	
195	Wise/Norton	4.76	568	MID	MID	6.68	1.92	2	40.27%	
141	Patrick	1.96	192	SMALL	SMALL	2.74	0.78	1	40.03%	
191	Washington	2.77	329	MID	MID	3.87	1.10	1	39.79%	
041	Chesterfield	15.63	2,173	LARGE	LARGE	21.73	6.09	6	38.97%	
161	Roanoke	4.57	539	MID	MID	6.34	1.77	2	38.70%	
139	Page	2.37	229	SMALL	SMALL	3.27	0.90	1	37.96%	
117	Mecklenburg	2.79	327	MID	MID	3.85	1.06	1	37.78%	
700	Newport News	16.63	2,276	LARGE	LARGE	22.76	6.13	6	36.86%	
177	Spotsylvania	5.74	663	MID	MID	7.80	2.06	2	35.93%	
680	Lynchburg	8.27	951	MID	MID	11.19	2.93	3	35.38%	
775	Salem	2.27	215	SMALL	SMALL	3.07	0.79	1	34.98%	
019	Bedford/Bedford City*	3.60	412	MID	MID	4.85	1.26	1	34.91%	
031	Campbell	3.62	414	MID	MID	4.87	1.25	1	34.45%	
121	Montgomery	4.60	525	MID	MID	6.18	1.58	2	34.32%	
540	Charlottesville	4.54	519	MID	MID	6.10	1.56	2	34.29%	
065	Fluvanna	1.00	94	SMALL	SMALL	1.34	0.34	0	34.29%	
800	Suffolk	7.31	831	MID	MID	9.78	2.47	2	33.72%	
810	Virginia Beach	22.03	3,674	SUPER	SUPER	29.39	7.36	7	33.39%	
107	Loudoun	5.66	637	MID	MID	7.49	1.83	2	32.36%	
187	Warren	2.75	252	SMALL	SMALL	3.60	0.85	1	31.06%	
137	Orange	1.78	163	SMALL	SMALL	2.33	0.55	1	30.90%	
820	Waynesboro	2.73	303	MID	MID	3.57	0.84	1	30.79%	
069	Frederick	3.69	406	MID	MID	4.78	1.09	1	29.53%	
165	Rockingham/Harrisonburg*	7.51	824	MID	MID	9.70	2.19	2	29.11%	
023	Botetourt	2.86	258	SMALL	SMALL	3.69	0.83	1	28.91%	
131	Northampton	1.94	175	SMALL	SMALL	2.50	0.56	1	28.89%	
197	Wythe	4.00	437	MID	MID	5.15	1.15	1	28.63%	
690	Martinsville	3.70	402	MID	MID	4.73	1.03	1	27.90%	

Commonwealth's Attorneys FY06 Staffing Standards  
Assistant Commonwealth's Attorneys

AVG DEFENDANTS CY02.

FIPS	LOCALITY	# Pos FY06	AVG DEFENDANTS CY02	FY02-04	RATING CY04	AVG CY02- CY04	# TOTAL POS NEED	# ADDL POS NEED	# WHOLE POS NEED FY06	% OF NEED
730	Petersburg	7.48	808		MID	9.51	2.02	2	27.06%	
061	Fauquier	3.91	422		MID	4.96	1.05	1	26.80%	
027	Buchanan	2.50	222		SMALL	3.17	0.67	1	26.67%	
169	Scott	1.40	124		SMALL	1.77	0.37	0	26.26%	
013	Arlington/Falls Church*	11.95	1,504		LARGE	15.04	3.09	3	25.89%	
093	Isle of Wight	2.72	240		SMALL	3.42	0.70	1	25.73%	
009	Amherst	2.84	302		MID	3.55	0.71	1	25.08%	
081	Greensville/Emporia	3.14	270		SMALL	3.86	0.72	1	22.83%	
173	Smyth	3.72	389		MID	4.57	0.85	1	22.83%	
025	Brunswick	2.00	172		SMALL	2.45	0.45	0	22.62%	
530	Buena Vista	0.95	81		SMALL	1.16	0.21	0	22.13%	
111	Lunenburg	0.96	82		SMALL	1.17	0.21	0	22.08%	
051	Dickenson	1.33	112		SMALL	1.60	0.27	0	20.37%	
083	Halifax	3.75	380		MID	4.47	0.72	1	19.25%	
510	Alexandria	9.51	1,134		LARGE	11.34	1.82	2	19.16%	
171	Shenandoah	2.77	231		SMALL	3.30	0.53	1	19.11%	
101	King William	0.96	78		SMALL	1.12	0.16	0	16.91%	
005	Alleghany/Covington	2.49	199		SMALL	2.84	0.35	0	14.22%	
011	Appomattox	1.87	149		SMALL	2.13	0.26	0	13.95%	
003	Albemarle	4.56	440		MID	5.18	0.62	1	13.62%	
147	Prince Edward	3.32	262		SMALL	3.74	0.41	0	12.44%	
770	Roanoke	11.04	1,236		LARGE	12.36	1.32	1	11.92%	
199	York/Poquoson*	4.64	441		MID	5.19	0.55	1	11.91%	
790	Staunton	3.77	357		MID	4.20	0.42	0	11.21%	
670	Hopewell	3.60	333		MID	3.92	0.32	0	8.80%	
520	Bristol	3.74	346		MID	4.07	0.33	0	8.75%	
029	Buckingham	1.41	106		SMALL	1.51	0.10	0	7.38%	
167	Russell	3.30	248		SMALL	3.54	0.24	0	7.21%	
159	Richmond	0.93	70		SMALL	1.00	0.06	0	6.74%	
109	Louisa	1.87	139		SMALL	1.99	0.12	0	6.50%	
760	Richmond	26.43	3,468		SUPER	27.75	1.32	1	4.99%	
650	Hampton	12.11	1,270		LARGE	12.70	0.59	1	4.86%	
036	Charles City	0.93	66		SMALL	0.94	0.01	0	1.41%	

Commonwealth's Attorneys FY06 Staffing Standards  
Assistant Commonwealth's Attorneys

FIPS	LOCALITY	# Pos FY06	AVG DEFENDANTS CY02-04 + AVG SENT EVENTS FY02-04		RATING CY04	# TOTAL POS NEED	# ADDL POS NEED	# WHOLE POS NEED FY06	% OF NEED
			68	124					
113	Madison	0.96	68	SMALL	0.97	0.01	0	1.11%	
183	Sussex	1.79	124	SMALL	1.78	(0.01)	0	-0.68%	
059	Fairfax/Fairfax City	24.49	3,007	SUPER	24.06	(0.43)	0	-1.76%	
063	Floyd	1.00	68	SMALL	0.97	(0.03)	0	-3.33%	
193	Westmoreland	2.00	133	SMALL	1.90	(0.10)	0	-5.24%	
099	King George	2.48	159	SMALL	2.27	(0.21)	0	-8.57%	
075	Goochland	1.93	119	SMALL	1.70	(0.23)	0	-11.77%	
043	Clarke	1.33	81	SMALL	1.15	(0.18)	0	-13.21%	
145	Powhatan	1.33	78	SMALL	1.12	(0.21)	0	-15.85%	
103	Lancaster	2.00	114	SMALL	1.62	(0.38)	0	-18.81%	
097	King and Queen	0.87	47	SMALL	0.67	(0.19)	0	-22.41%	
119	Middlesex	0.93	48	SMALL	0.69	(0.24)	0	-26.06%	
049	Cumberland	0.95	47	SMALL	0.67	(0.29)	0	-30.05%	
157	Rappahannock	0.92	35	SMALL	0.50	(0.41)	0	-45.04%	
021	Bland	0.92	35	SMALL	0.50	(0.43)	0	-46.35%	
057	Essex	0.88	33	SMALL	0.47	(0.41)	0	-46.61%	
115	Mathews	0.94	34	SMALL	0.49	(0.45)	0	-48.23%	
181	Surry	0.94	33	SMALL	0.47	(0.47)	0	-50.40%	
045	Craig	0.94	24	SMALL	0.34	(0.60)	0	-63.84%	
017	Bath	0.94	19	SMALL	0.28	(0.66)	0	-70.51%	
091	Highland	0.94	11	SMALL	0.16	(0.78)	0	-83.21%	
<b>TOTALS</b>			<b>535.32</b>	<b>66,084</b>	<b>700.75</b>	<b>165.44</b>	<b>170</b>		

Commonwealth's Attorneys FY06 Staffing Standards  
Administrative Support Staff

FIPS	LOCALITY	# ASST ATTY POS FY06	FY06		FY06 CURRENT		FY06 ADDT'L		FY06 ADDT'L		FY06 NET		FY06 WHOLE		FY06 WHOLE FT		% OF NEED
			CURRENT ADMIN POS	ADMIN POS	PARALEGAL POS	ADMIN POS DUE	PARALEGAL POS DUE	ADMIN POS DUE	ADDT'L POS DUE	PARALEGAL POS DUE	ADDT'L POS DUE	FT ADMIN POS DUE	PARALEGAL POS DUE	WHOLE POS DUE	WHOLE FT POS DUE		
820	Waynesboro	2.73	1	0	0	0.36	0.68	1.05	0	1	1.05	0	1	104.64%			
005	Alleghany/Covington	2.49	1	0	0	0.24	0.62	0.87	0	1	0.87	0	1	86.67%			
099	King George	2.48	1	0	0	0.24	0.62	0.86	0	1	0.86	0	1	86.33%			
173	Smyth	3.72	1.5	0	0	0.36	0.93	1.29	0	1	1.29	0	1	86.13%			
059	Fairfax/Fairfax City	24.49	8	2	2	4.24	4.12	8.36	4	4	8.36	4	4	83.65%			
001	Accomack	2.36	1	0	0	0.18	0.59	0.77	0	1	0.77	0	1	77.07%			
775	Salem	2.27	1	0	0	0.14	0.57	0.70	0	1	0.70	0	1	70.40%			
025	Brunswick	2.00	1	0	0	0.00	0.50	0.50	0	1	0.50	0	1	50.00%			
153	Prince William/Man/Man Pk	17.74	8	1	1	0.87	3.44	4.31	1	3	4.31	1	3	47.84%			
141	Patrick	1.96	1	0	0	-0.02	0.49	0.47	0	0	0.47	0	0	46.91%			
131	Northampton	1.94	1	0	0	-0.03	0.49	0.46	0	0	0.46	0	0	45.75%			
075	Goochland	1.93	1	0	0	-0.04	0.48	0.45	0	0	0.45	0	0	44.50%			
101	King William	0.96	0.5	0	0	-0.02	0.24	0.22	0	0	0.22	0	0	43.58%			
049	Cumberland	0.95	0.5	0	0	-0.02	0.24	0.21	0	0	0.21	0	0	42.96%			
181	Surry	0.94	0.5	0	0	-0.03	0.24	0.21	0	0	0.21	0	0	41.13%			
017	Bath	0.94	0.5	0	0	-0.03	0.23	0.20	0	0	0.20	0	0	40.49%			
011	Appomattox	1.87	1	0	0	-0.06	0.47	0.40	0	0	0.40	0	0	40.42%			
091	Highland	0.94	0.5	0	0	-0.03	0.23	0.20	0	0	0.20	0	0	40.36%			
045	Craig	0.94	0.5	0	0	-0.03	0.23	0.20	0	0	0.20	0	0	40.26%			
119	Middlesex	0.93	0.5	0	0	-0.03	0.23	0.20	0	0	0.20	0	0	40.07%			
199	York/Poquoson*	4.64	2.5	0	0	-0.18	1.16	0.98	0	1	0.98	0	1	39.08%			
690	Martinsville	3.70	1	1	1	0.85	-0.08	0.77	1	0	0.77	1	0	38.66%			
089	Henry	4.62	2.5	0	0	-0.19	1.15	0.96	0	1	0.96	0	1	38.57%			
069	Frederick	3.69	1	1	1	0.85	-0.08	0.77	1	0	0.77	1	0	38.40%			
079	Greene	0.92	0.5	0	0	-0.04	0.23	0.19	0	0	0.19	0	0	38.32%			
570	Colonial Heights	3.69	2	0	0	-0.16	0.92	0.76	0	1	0.76	0	1	38.20%			
121	Montgomery	4.60	2.5	0	0	-0.20	1.15	0.95	0	1	0.95	0	1	37.95%			
041	Chesterfield	15.63	6.5	2	2	1.32	1.91	3.23	1	2	3.23	1	2	37.95%			
033	Caroline	0.92	0.5	0	0	-0.04	0.23	0.19	0	0	0.19	0	0	37.78%			
161	Roanoke	4.57	2.5	0	0	-0.21	1.14	0.93	0	1	0.93	0	1	37.15%			
003	Albemarle	4.56	1.5	1	1	0.78	0.14	0.92	1	0	0.92	1	0	36.68%			
540	Charlottesville	4.54	2.5	0	0	-0.23	1.14	0.91	0	1	0.91	0	1	36.32%			
077	Grayson/Galax	1.80	1	0	0	-0.10	0.45	0.35	0	0	0.35	0	0	34.71%			
750	Radford	1.79	1	0	0	-0.10	0.45	0.34	0	0	0.34	0	0	34.39%			

Commonwealth's Attorneys FY06 Staffing Standards  
Administrative Support Staff

FIPS	LOCALITY	# ASST ATTY POS FY06	FY06		FY06 CURRENT		FY06 ADD'T'L		FY06 NET		FY06 WHOLE		FY06 WHOLE FT		% OF NEED
			CURRENT ADMIN POS	ADMIN POS	PARALEGAL POS	ADMIN POS DUE	PARALEGAL POS DUE	ADD'T'L POS DUE	FT ADMIN POS DUE	PARALEGAL POS DUE	WHOLE FT POS DUE				
183	Sussex	1.79	1	0	0	-0.11	0.45	0.34	0	0	0	0	0	34.12%	
137	Orange	1.78	1	0	0	-0.11	0.44	0.33	0	0	0	0	0	33.42%	
550	Chesapeake	15.96	6	3	1.98	0.99	2.97	2	2	1	1	1	1	33.04%	
087	Henrico	16.59	8.5	1	-0.21	3.15	2.94	0	0	3	3	3	3	30.96%	
510	Alexandria	9.51	5.5	0	-0.74	2.38	1.64	0	0	2	2	2	2	29.74%	
165	Rockingham/Harrisonburg*	7.51	3.5	1	0.26	0.88	1.13	0	0	1	1	1	1	25.19%	
730	Petersburg	7.48	3.5	1	0.24	0.87	1.11	0	0	1	1	1	1	24.69%	
147	Prince Edward	3.32	2	0	-0.34	0.83	0.49	0	0	0	0	0	0	24.67%	
177	Spotsylvania	5.74	2.5	1	0.37	0.44	0.81	0	0	1	1	1	1	23.02%	
800	Suffolk	7.31	3.5	1	0.16	0.83	0.98	0	0	1	1	1	1	21.85%	
590	Danville	5.65	2.5	1	0.33	0.41	0.74	0	0	1	1	1	1	21.10%	
185	Tazewell	5.58	2.5	1	0.29	0.39	0.68	0	0	1	1	1	1	19.48%	
700	Newport News	16.63	7.5	3	0.81	1.16	1.97	1	1	1	1	1	1	18.78%	
015	Augusta	3.95	1.5	1	0.48	-0.01	0.46	0	0	0	0	0	0	18.58%	
095	James City/Williamsburg*	3.93	1.5	1	0.47	-0.02	0.45	0	0	0	0	0	0	17.94%	
061	Fauquier	3.91	2.5	0	-0.54	0.98	0.43	0	0	0	0	0	0	17.37%	
155	Pulaski	4.63	2	1	0.31	0.16	0.47	0	0	0	0	0	0	15.70%	
840	Winchester	4.61	2	1	0.30	0.15	0.45	0	0	0	0	0	0	15.14%	
680	Lynchburg	8.27	1.5	4	2.63	-1.93	0.70	1	1	0	0	0	0	12.73%	
083	Halifax	3.75	2	0.5	-0.12	0.44	0.31	0	0	0	0	0	0	12.57%	
035	Carroll/Galax	3.00	2	0	-0.50	0.75	0.25	0	0	0	0	0	0	12.50%	
163	Rockbridge/Lexington	2.98	2	0	-0.51	0.75	0.24	0	0	0	0	0	0	11.85%	
179	Stafford	6.62	3	1.5	0.31	0.16	0.47	0	0	0	0	0	0	10.41%	
143	Pittsylvania	3.62	2.5	0	-0.69	0.91	0.22	0	0	0	0	0	0	8.69%	
031	Campbell	3.62	1.5	1	0.31	-0.10	0.21	0	0	0	0	0	0	8.59%	
085	Hanover	6.49	3.5	1	-0.25	0.62	0.37	0	0	0	0	0	0	8.21%	
670	Hopewell	3.60	1.5	1	0.30	-0.10	0.20	0	0	0	0	0	0	8.03%	
019	Bedford/Bedford City*	3.60	2.5	0	-0.70	0.90	0.20	0	0	0	0	0	0	7.87%	
023	Botetourt	2.86	2	0	-0.57	0.72	0.15	0	0	0	0	0	0	7.36%	
650	Hampton	12.11	5	3.5	1.06	-0.47	0.58	1	1	0	0	0	0	6.86%	
105	Lee	2.85	1	1	0.42	-0.29	0.14	0	0	0	0	0	0	6.79%	
009	Amherst	2.84	2	0	-0.58	0.71	0.13	0	0	0	0	0	0	6.40%	
029	Buckingham	1.41	1	0	-0.29	0.35	0.06	0	0	0	0	0	0	5.77%	
169	Scott	1.40	1	0	-0.30	0.35	0.05	0	0	0	0	0	0	4.94%	

Commonwealth's Attorneys FY06 Staffing Standards  
Administrative Support Staff

FIPS	LOCALITY	# ASST ATTY POS FY06	FY06 CURRENT ADMIN POS	FY06 CURRENT		FY06 ADDT'L		FY06 NET		FY06 WHOLE		FY06 WHOLE FT		% OF NEED
				PARALEGAL POS	ADMIN POS DUE	PARALEGAL POS DUE	ADMIN POS DUE	ADDT'L POS DUE	FT ADMIN POS DUE	PARALEGAL POS DUE	WHOLE FT POS DUE			
760	Richmond	26.43	14	5	-0.79	1.61	0.82	0	1	4.32%				
171	Shenandoah	2.77	2	0	-0.61	0.69	0.08	0	0	4.04%				
770	Roanoke	11.04	6	2	-0.48	0.76	0.28	0	0	3.54%				
630	Fredericksburg	4.81	2.5	1	-0.09	0.20	0.11	0	0	3.11%				
187	Warren	2.75	2	0	-0.63	0.69	0.06	0	0	3.01%				
175	Southampton/Franklin*	2.74	2	0	-0.63	0.69	0.06	0	0	2.93%				
093	Isle of Wight	2.72	2	0	-0.64	0.68	0.04	0	0	2.12%				
195	Wise/Norton	4.76	2	1.5	0.38	-0.31	0.07	0	0	2.03%				
197	Wythe	4.00	2	1	0.00	0.00	0.00	0	0	0.00%				
145	Powhatan	1.33	1	0	-0.34	0.33	0.00	0	0	-0.26%				
051	Dickenson	1.33	1	0	-0.34	0.33	0.00	0	0	-0.31%				
043	Clarke	1.33	1	0	-0.34	0.33	0.00	0	0	-0.41%				
167	Russell	3.30	1.5	1	0.15	-0.17	-0.02	0	0	-0.99%				
810	Virginia Beach	22.03	15.5	2	-4.48	3.51	-0.98	0	0	-5.58%				
790	Staunton	3.77	2	1	-0.11	-0.06	-0.17	0	0	-5.67%				
013	Arlington/Falls Church*	11.95	6	3.5	-0.03	-0.51	-0.54	0	0	-5.68%				
027	Buchanan	2.50	2	0	-0.75	0.63	-0.13	0	0	-6.25%				
520	Bristol	3.74	2	1	-0.13	-0.06	-0.19	0	0	-6.42%				
740	Portsmouth	12.94	7	3.5	-0.53	-0.26	-0.79	0	0	-7.54%				
053	Dinwiddie	2.41	2	0	-0.80	0.60	-0.20	0	0	-9.79%				
067	Franklin	3.59	3	0	-1.20	0.90	-0.31	0	0	-10.20%				
139	Page	2.37	2	0	-0.82	0.59	-0.22	0	0	-11.21%				
149	Prince George	2.35	2	0	-0.83	0.59	-0.24	0	0	-11.97%				
107	Loudoun	5.66	5	0	-2.17	1.42	-0.75	0	0	-15.07%				
710	Norfolk	26.00	15	8	-2.00	-1.50	-3.50	0	0	-15.21%				
117	Mecklenburg	2.79	2.5	0	-1.10	0.70	-0.40	0	0	-16.15%				
191	Washington	2.77	2.5	0	-1.11	0.69	-0.42	0	0	-16.85%				
047	Culpeper	2.72	1.5	1	-0.14	-0.32	-0.46	0	0	-18.50%				
073	Gloucester	2.70	2.5	0	-1.15	0.68	-0.47	0	0	-18.88%				
081	Greensville/Emporia	3.14	2	1	-0.43	-0.21	-0.64	0	0	-21.49%				
193	Westmoreland	2.00	1	1	0.00	-0.50	-0.50	0	0	-25.00%				
103	Lancaster	2.00	2	0	-1.00	0.50	-0.50	0	0	-25.00%				
063	Floyd	1.00	1	0	-0.50	0.25	-0.25	0	0	-25.00%				
065	Fluvanna	1.00	1	0	-0.50	0.25	-0.25	0	0	-25.00%				

Commonwealth's Attorneys FY06 Staffing Standards  
 Administrative Support Staff

FIPS	LOCALITY	# ASST ATTY POS FY06	FY06		FY06 CURRENT		FY06 ADDT'L		FY06 NET		FY06 WHOLE		FY06 WHOLE FT		% OF NEED
			ADMIN	POS	PARALEGAL	POS	ADMIN	PARALEGAL	ADDT'L	FT ADMIN	PARALEGAL	POS DUE	POS DUE	POS DUE	
111	Lunenburg	0.96	1	0	0	0	-0.52	0.24	-0.28	0	0	0	-28.03%		
113	Madison	0.96	1	0	0	0	-0.52	0.24	-0.28	0	0	0	-28.30%		
530	Buena Vista	0.95	1	0	0	0	-0.53	0.24	-0.29	0	0	0	-28.94%		
115	Mathews	0.94	1	0	0	0	-0.53	0.23	-0.30	0	0	0	-29.63%		
127	New Kent	0.94	1	0	0	0	-0.53	0.23	-0.30	0	0	0	-29.74%		
037	Charlotte	0.94	1	0	0	0	-0.53	0.23	-0.30	0	0	0	-29.76%		
109	Louisa	1.87	2	0	0	0	-1.07	0.47	-0.60	0	0	0	-29.91%		
159	Richmond	0.93	1	0	0	0	-0.53	0.23	-0.30	0	0	0	-30.07%		
036	Charles City	0.93	1	0	0	0	-0.54	0.23	-0.30	0	0	0	-30.27%		
021	Bland	0.92	1	0	0	0	-0.54	0.23	-0.31	0	0	0	-30.76%		
157	Rappahannock	0.92	1	0	0	0	-0.54	0.23	-0.31	0	0	0	-31.11%		
125	Nelson	0.91	1	0	0	0	-0.55	0.23	-0.32	0	0	0	-31.90%		
071	Giles	0.89	1	0	0	0	-0.55	0.22	-0.33	0	0	0	-33.25%		
133	Northumberland	0.89	1	0	0	0	-0.56	0.22	-0.34	0	0	0	-33.59%		
057	Essex	0.88	1	0	0	0	-0.56	0.22	-0.34	0	0	0	-33.78%		
097	King and Queen	0.87	1	0	0	0	-0.57	0.22	-0.35	0	0	0	-35.10%		
135	Nottoway	0.86	1	0	0	0	-0.57	0.21	-0.36	0	0	0	-35.61%		
007	Amelia	0.86	1	0	0	0	-0.57	0.21	-0.36	0	0	0	-35.69%		
<b>TOTALS</b>		<b>535.32</b>	<b>289</b>	<b>72</b>	<b>(21)</b>	<b>62</b>	<b>40</b>	<b>14</b>	<b>36</b>						



# **ATTACHMENT E**



## VIRGINIA STATE BAR

### LEGAL ETHICS OPINION 1798

#### ARE COMMONWEALTH'S ATTORNEYS HELD TO THE SAME ETHICAL REQUIREMENTS AS OTHER ATTORNEYS?

You have presented two hypotheticals involving the Commonwealth's Attorneys Office of Metro County, which has seven assistants. Based on staffing standards developed by the state agency that funds the Commonwealth's Attorney's Office, the office should have at least 3 additional prosecutors to handle the felony caseload of that jurisdiction. As a result, Assistant Commonwealth's Attorney Smith is assigned far more cases than the state standards suggest he should be handling. Due to recent reductions in staff, Smith is also required to take over the caseload of another prosecutor that left the office and the position cannot be filled. Because of his heavy caseload, Smith does not have adequate time to prepare the cases he takes to trial. Smith tells his boss, the Commonwealth's Attorney, that his caseload is too high and that he does not have the time needed to properly prepare his cases for trial. The Commonwealth's Attorney responds that he knows the office is understaffed, but given the current lack of funding, there is nothing he can do about it. Despite his acknowledgement that the Commonwealth's Attorney has the authority to decline cases for prosecution, and is not mandated by statute to prosecute misdemeanor cases, Smith's boss tells him it would not be wise politically to say no to any victim regardless of the caseload.

#### Hypothetical 1

Assistant Commonwealth's Attorney Smith is assigned to prosecute Defendant Jones for rape. As a direct result of his high caseload, Smith does not have time to start preparing the Jones case for trial until two weeks prior to the trial date. When he reviews the file, he learns that the only evidence against Jones is DNA that was discovered on the victim. By statute, the Commonwealth is required to give the defense attorney 21 days notice of its intent to present DNA evidence.<sup>[1]</sup> This notice had not been provided. The trial judge refuses to grant a continuance, and the case is dismissed.

#### Hypothetical 2

Assistant Commonwealth's Attorney Smith is also assigned to handle the General District Court misdemeanor docket. Although the Commonwealth's Attorney is not required by statute to appear and prosecute misdemeanor cases, Smith's boss wants a prosecutor present for all cases in which the defendant is represented by an attorney. The General District Court docket contains approximately one hundred misdemeanor cases each day. Smith is not provided with any police reports prior to trial for purposes of preparation, nor is he able to review the court papers to verify that lab reports or breath test certificates have been properly filed. In most cases, his first knowledge of the facts comes a few moments prior to the case being called for trial. In a prosecution for misdemeanor possession of marijuana, Smith has the officer describe the arrest. As Smith listens to the facts, he realizes that a necessary witness was not subpoenaed by the officer. In addition, when he attempts to admit the lab analysis to prove the item seized was

marijuana, he learns that it has not been filed with the court seven days prior to trial as required by statute. As a result of the missing witness and the inadmissibility of the lab analysis, the case is dismissed.

You have asked the Committee to opine, under the facts of the inquiry, the following questions:

1) Has Assistant Commonwealth's Attorney Smith violated Rule 1.1's duty of competence and Rule 1.3's duty of diligence in the above hypothetical scenarios when his failure to do that which is required is directly attributable to the exceptionally high caseload he is required to carry?

2) Has the Commonwealth's Attorney violated his supervisory duties under Rule 5.1 by assigning Smith more cases than he can reasonably be expected to prosecute in a competent and diligent manner?

Fundamental to your first question is whether Commonwealth's Attorneys are held to the same ethical requirements as other attorneys. Specifically, can the handling of a busy caseload ever trigger a violation of Rules 1.1 and 1.3 by a Commonwealth's Attorney?

Rule 1.1 requires an attorney to provide competent representation for his client; the rule defines "competent" as including "the legal knowledge, skill thoroughness and preparation reasonably necessary for the representation." Further pertinent clarification is found in Comment 5 to Rule 1.1; "adequate preparation" is presented as an aspect of the duty of competence.

Rule 1.3 requires an attorney to perform his legal services with diligence and promptness. Comment 1 to that rule notes that a lawyer should control his work load, "so that each matter can be handled adequately." Also, Comment 2 to that rule explains that the duty of diligence includes *timely* performance of the legal work. As expressed in that comment, a "client's interests often can be adversely affected by the passage of time or the change of conditions."

The language of Rules 1.1 and 1.3 includes no exceptions; there is no language creating a different standard for prosecutors. The "Scope" section for the Rules of Professional Conduct states that the rules "apply to all lawyers, whether practicing in the private or public sector." While that section does reference that Commonwealth Attorneys may have additional authority under state and/or constitutional law, nothing in the Scope section creates a lower standard for ethical compliance with the rules for prosecutors. The general duties of competence and diligence apply equally to all attorneys licensed to practice in Virginia, including Commonwealth's Attorneys.<sup>[2]</sup>

The Committee recognizes that Commonwealth's Attorneys have a somewhat different attorney/client relationship than that of attorneys in the private sector. The client for Commonwealth's Attorneys is the Commonwealth of Virginia. That client must receive the same protection under the ethics rules as any client obtaining legal services.

Any attorney serving as a Commonwealth's Attorney, in fulfilling his duties of competence and diligence, must be mindful of a pertinent directive from Rule 1.16.

Paragraph (a)

of Rule 1.16 dictates that a lawyer not accept or continue a particular representation if it means violating another ethical rule. As explained in Comment [1] to the rule:

A lawyer should not accept or continue representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion.

This Committee finds persuasive the analysis and conclusions drawn by the Arizona Bar regarding a prosecutor's obligations, in its Ethics Opinion 86-4:

Ethical Rule 1.16 makes clear that a lawyer with a maximum caseload must decline new cases or terminate representation where the representation will result in violation of the Rules of Professional Conduct or other law. Consequently, where the demands of an extreme caseload make an attorney unable to devote sufficient attention to a particular case, acceptance of that case will cause a violation of Ethical Rules 1.1 on competent representation, 1.3 on attorney diligence and 1.16 for failing to decline or terminate representation where the representation will violate these rules.

Thus, a lawyer who accepts more cases than he can competently prosecute will be committing an ethical violation.

This Committee agrees and opines that a Commonwealth's Attorney who operates with a caseload so overly large as to preclude competent, diligent representation in each case is in violation of the ethics rules.<sup>[3]</sup>

Your inquiry presents very specific details regarding Attorney Smith's cases and asks whether those details constitute a violation of Rules 1.1 and 1.3. Whether a particular matter has been handled with competence and diligence is very fact-specific, involving many factors such as the complexity of the matter as well as the knowledge, skill and preparation needed for the matter. Such a context-specific determination is for a fact-finder and goes beyond the purview of this Committee. Accordingly, the Committee declines to opine as to whether the two instances provided violate the rules. Nonetheless, the Committee notes that if an attorney fails to take critical steps or makes a critical mistake in a client's case where such omission or error rises to the level of a Rule 1.1 and/or 1.3 violation, the fact that the attorney represents the Commonwealth and has a large caseload does not provide a safe harbor.

Your second question regards the supervision of Attorney Smith. If Attorney Smith has violated Rule 1.1 and/or Rule 1.3, is there any ethical issue faced by the lead Commonwealth's Attorney who supervises him?

Rule 5.1 (a) requires that a lawyer in a managerial position make reasonable efforts to ensure that the firm has measures in place so that lawyers in the office conform to the Rules of Professional Conduct. Also, paragraph (b) of Rule 5.1 states that where one attorney has direct supervision over another lawyer, the supervisor should make reasonable efforts to ensure the other lawyer complies with the Rules of Professional Conduct. The rule continues in paragraph (c) to hold responsible a supervising attorney for the ethical violations of an attorney he supervises if the supervisor orders or knowingly ratifies the conduct involved. In elaborating upon those duties, Comment [2] to the rule presents a list of procedures a supervising attorney should have in place; one example is a procedure to “identify dates by which actions must be taken in pending matters.”

Those provisions do place responsibility on the shoulders of a Commonwealth’s Attorney for having in place policies and procedures to establish an office that practices within the parameters of the Rules of Professional Conduct and that the Commonwealth’s Attorney properly supervise the Assistant Commonwealth’s Attorneys reporting to him to assure ethical compliance. Attorney Smith in struggling with his caseload and missing important deadlines was under the supervision of the Commonwealth’s Attorney. That lead attorney in deciding the case load to be borne by Attorney Smith is in a position to render impossible Attorney Smith’s ability to work competently and diligently. Where a supervising attorney assigns a caseload so large as to preclude any hope of the supervised attorney’s ethically representing the client (or clients), that supervisor would be in violation of Rule 5.1.

As in question one above, whether a particular attorney’s caseload is in fact of such a detrimental size is so context-specific as to be a determination proper only for a fact-finder and is, therefore, outside the purview of this Committee. Nonetheless, if a Commonwealth’s Attorney has in fact assigned such an impermissibly large caseload to an Assistant Commonwealth’s Attorney, the facts that the client is the amorphous Commonwealth and that the Commonwealth’s Attorney has himself a large caseload provide no safe harbor from the requirements of Rule 5.1.

This opinion is advisory only, based only on the facts you presented and not binding on any court or tribunal.

Committee Opinion  
June 30, 2004  
As Revised  
August 3, 2004

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<sup>[1]</sup> Virginia Code §19.2-270.5.

<sup>[2]</sup> Although this opinion addresses workloads for prosecutors, excessive caseloads for public defenders and court-appointed counsel raise the same ethical problems if each client's case cannot be attended to with reasonable diligence and competence.

<sup>[3]</sup> In addition, Comment 1 to Rule 3.8 provides:

A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice *and that guilt is decided on the basis of sufficient evidence.* (emphasis added).

Rule 3.8 (a) prohibits a prosecutor from initiating or maintaining a charge once the prosecutor *knows* that the charge is not supportable by probable cause. The term "knows" as used in this rule denotes *actual* knowledge on the part of the prosecutor. While the cited rule may not be violated under the circumstances presented in your hypothetical, the inability of the prosecutor, due to his or her crushing caseload, to prepare his or her case and evaluate the strength of the Commonwealth's case frustrates these principles.





# **ATTACHMENT F**



## FY99 /FY05 Law Enforcement /Judicial Entities Comparison

Agency/Entity	FY99 Budget Allocation	FY05 Budget Allocation	% increase from FY99 to FY 05
Public Defender Commission/Indigent Defense Commission	\$ 15,638,528	\$ 31,363,168	101%
J & DR Courts	\$ 37,728,092	\$ 63,114,443	67%
Supreme Court	\$ 11,465,076	\$ 17,850,457	56%
Combined District Courts	\$ 12,837,800	\$ 17,716,538	38%
General District Courts	\$ 56,146,728	\$ 76,245,091	36%
Department of Corrections	\$ 612,869,733	\$ 781,398,804	27%
Court of Appeals	\$ 4,624,983	\$ 5,864,977	27%
State Police	\$ 137,409,193	\$ 170,587,323	24%
Commonwealth's Attorneys Services Council	\$ 509,457	\$ 631,939	24%
Sheriffs	\$ 270,908,574	\$ 325,503,606	20%
Circuit Courts	\$ 60,419,258	\$ 69,106,566	14%
Commonwealth's Attorneys	\$ 39,478,891	\$ 45,114,580	14%
Department of Juvenile Justice	\$ 183,157,143	\$ 187,759,903	3%

Source: Budget Bills as enacted by the General Assembly , HB 30 (1998) and HB 5001 (2004)



# **ATTACHMENT G**



# FY00/FY05 Compensation Board Base Salary and Local Supplement

<b>FY 2000 Compensation Board Base Salary and Local Supplement</b>					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	<b>Total for FY 2000 = \$ 34,222,487</b>	<b>Total For FY 2000 = \$4,855,206</b>	<b>Total Combined for FY 2000 = \$39,121,734</b>	<b>Local Support % of Total = 12%</b>	<b>Comp Board % of Total = 88%</b>
ACCOMACK	\$ 171,324	\$ -	\$ 171,324	0%	100%
ALBEMARLE	\$ 324,737	\$ 26,834	\$ 351,571	8%	92%
ALEXANDRIA	\$ 610,448	\$ 162,016	\$ 772,464	21%	79%
ALEXANDRIA DRUG PROS	\$ 83,313	\$ 9,755	\$ 93,068	10%	90%
ALLEGHANY	\$ 134,309	\$ -	\$ 134,309	0%	100%
AMELIA	\$ 115,641	\$ -	\$ 115,641	0%	100%
AMHERST	\$ 147,947	\$ 10,000	\$ 157,947	6%	94%
APPOMATTOX	\$ 114,402	\$ -	\$ 114,402	0%	100%
ARLINGTON	\$ 827,061	\$ 474,692	\$ 1,301,753	36%	64%
AUGUSTA	\$ 211,655	\$ -	\$ 211,655	0%	100%
BATH	\$ 50,278	\$ -	\$ 50,278	0%	100%
BEDFORD	\$ 275,509	\$ -	\$ 275,509	0%	100%
BLAND	\$ 50,278	\$ -	\$ 50,278	0%	100%
BOTETOURT	\$ 177,742	\$ -	\$ 177,742	0%	100%
BRISTOL	\$ 145,413	\$ 1,708	\$ 147,121	1%	99%
BRUNSWICK	\$ 125,868	\$ -	\$ 125,868	0%	100%
BUCHANAN	\$ 190,351	\$ -	\$ 190,351	0%	100%
BUCKINGHAM	\$ 88,689	\$ -	\$ 88,689	0%	100%
BUENA VISTA	\$ 50,763	\$ -	\$ 50,763	0%	100%
CAMPBELL	\$ 282,966	\$ 2,400	\$ 285,366	1%	99%
CAROLINE	\$ 65,089	\$ 1,938	\$ 67,027	3%	97%
CARROLL	\$ 160,231	\$ -	\$ 160,231	0%	100%
CHARLES CITY	\$ 60,924	\$ -	\$ 60,924	0%	100%
CHARLOTTE	\$ 61,086	\$ -	\$ 105,127	0%	58%
CHARLOTTESVILLE	\$ 329,017	\$ 6,488	\$ 335,505	2%	98%
CHESAPEAKE	\$ 697,292	\$ 152,880	\$ 850,172	18%	82%
CHESTERFIELD	\$ 1,057,914	\$ 257,964	\$ 1,315,878	20%	80%
CHESTERFLD DRUG PROS	\$ 71,375	\$ 3,021	\$ 74,396	4%	96%
CLARKE	\$ 135,106	\$ -	\$ 135,106	0%	100%
CLIFTON FORGE	\$ 52,934	\$ -	\$ 52,934	0%	100%
COLONIAL HEIGHTS	\$ 178,565	\$ 11,178	\$ 189,743	6%	94%
CRAIG	\$ 51,532	\$ -	\$ 51,532	0%	100%
CULPEPER	\$ 200,850	\$ 32,078	\$ 232,928	14%	86%
CUMBERLAND	\$ 54,174	\$ -	\$ 54,174	0%	100%
DANVILLE	\$ 380,442	\$ 11,800	\$ 392,242	3%	97%
DICKENSON COUNTY	\$ 130,693	\$ -	\$ 130,693	0%	100%
DINWIDDIE	\$ 90,074	\$ -	\$ 90,074	0%	100%
ESSEX	\$ 113,802	\$ 113,802	\$ 227,604	50%	50%
FAIRFAX	\$ 1,042,080	\$ 291,917	\$ 1,333,997	22%	78%
FAUQUIER COUNTY	\$ 239,288	\$ 41,412	\$ 280,700	15%	85%
FLOYD	\$ 112,643	\$ -	\$ 112,643	0%	100%
FLUVANNA	\$ 116,936	\$ -	\$ 116,936	0%	100%
FRANKLIN	\$ 226,722	\$ -	\$ 226,722	0%	100%

# FY00/FY05 Compensation Board Base Salary and Local Supplement

<b>FY 2000 Compensation Board Base Salary and Local Supplement</b>					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	<b>Total for FY 2000 = \$ 34,222,487</b>	<b>Total For FY 2000 = \$4,855,206</b>	<b>Total Combined for FY 2000 = \$39,121,734</b>	<b>Local Support % of Total = 12%</b>	<b>Comp Board % of Total = 88%</b>
FREDERICK	\$ 216,401	\$ -	\$ 216,401	0%	100%
FREDERICKSBURG	\$ 267,886	\$ 51,835	\$ 319,721	16%	84%
GILES	\$ 107,562	\$ -	\$ 107,562	0%	100%
GLOUCESTER	\$ 217,600	\$ -	\$ 217,600	0%	100%
GOOCHLAND	\$ 145,941	\$ 16,849	\$ 162,790	10%	90%
GRAYSON	\$ 134,051	\$ -	\$ 134,051	0%	100%
GREENE	\$ 56,210	\$ -	\$ 56,210	0%	100%
GREENSVILLE	\$ 212,836	\$ -	\$ 212,836	0%	100%
HALIFAX	\$ 227,182	\$ -	\$ 227,182	0%	100%
HALIFAX CO DRUG PROS	\$ 75,329	\$ -	\$ 75,329	0%	100%
HAMPTN CTY DRUG PROS	\$ 115,495	\$ 19,100	\$ 134,595	14%	86%
HAMPTON	\$ 800,877	\$ 67,300	\$ 868,177	8%	92%
HANOVER	\$ 329,441	\$ 84,248	\$ 413,689	20%	80%
HENRICO	\$ 1,076,833	\$ 386,639	\$ 1,463,472	26%	74%
HENRICO CO DRUG PROS	\$ 82,705	\$ 1,590	\$ 84,295	2%	98%
HENRY	\$ 239,355	\$ 6,321	\$ 245,676	3%	97%
HIGHLAND	\$ 50,518	\$ -	\$ 50,518	0%	100%
HOPEWELL	\$ 247,091	\$ -	\$ 247,091	0%	100%
ISLE OF WIGHT	\$ 148,423	\$ -	\$ 148,423	0%	100%
JAMES CITY	\$ 310,282	\$ 40,018	\$ 350,300	11%	89%
KING & QUEEN	\$ 106,246	\$ -	\$ 106,246	0%	100%
KING GEORGE	\$ 116,936	\$ -	\$ 116,936	0%	100%
KING WILLIAM	\$ 54,687	\$ -	\$ 54,687	0%	100%
LANCASTER	\$ 64,405	\$ -	\$ 64,405	0%	100%
LEE	\$ 146,596	\$ -	\$ 146,596	0%	100%
LOUDOUN	\$ 443,894	\$ 56,427	\$ 500,321	11%	89%
LOUISA	\$ 173,385	\$ 25,000	\$ 198,385	13%	87%
LUNENBURG	\$ 112,083	\$ -	\$ 112,083	0%	100%
LYNCHBURG	\$ 530,835	\$ 20,221	\$ 551,056	4%	96%
MADISON	\$ 112,643	\$ -	\$ 112,643	0%	100%
MARTINSVILLE	\$ 177,242	\$ 21,372	\$ 198,614	11%	89%
MATHEWS	\$ 112,083	\$ -	\$ 112,083	0%	100%
MECKLENBURG	\$ 194,946	\$ 1,494	\$ 196,440	1%	99%
MIDDLESEX	\$ 51,014	\$ -	\$ 51,014	0%	100%
MONTGOMERY	\$ 287,038	\$ -	\$ 287,038	0%	100%
NELSON	\$ 114,402	\$ -	\$ 114,402	0%	100%
NEW KENT	\$ 114,402	\$ -	\$ 114,402	0%	100%
NEWPORT NEWS	\$ 1,058,750	\$ 93,958	\$ 1,152,708	8%	92%
NORFOLK	\$ 1,666,382	\$ 397,380	\$ 2,063,762	19%	81%
NORTHAMPTON	\$ 116,281	\$ -	\$ 116,281	0%	100%
NORTHUMBERLAND	\$ 108,970	\$ -	\$ 108,970	0%	100%
NOTTOWAY	\$ 108,021	\$ -	\$ 108,021	0%	100%
ORANGE	\$ 154,963	\$ -	\$ 154,963	0%	100%



# FY00/FY05 Compensation Board Base Salary and Local Supplement

FY 2000 Compensation Board Base Salary and Local Supplement					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	Total for FY 2000 = \$ 34,222,487	Total For FY 2000 = \$4,855,206	Total Combined for FY 2000 = \$39,121,734	Local Support % of Total = 12%	Comp Board % of Total = 88%
PAGE	\$ 138,032	\$ -	\$ 138,032	0%	100%
PATRICK	\$ 79,364	\$ -	\$ 79,364	0%	100%
PETERSBURG	\$ 506,119	\$ 9,000	\$ 515,119	2%	98%
PITTSYLVANIA	\$ 276,298	\$ -	\$ 276,298	0%	100%
PORTSMOUTH	\$ 814,748	\$ 80,027	\$ 894,775	9%	91%
PORTSMTH CTY DRUG PR	\$ 72,983	\$ 1,128	\$ 74,111	2%	98%
POWHATAN	\$ 114,402	\$ 677	\$ 115,079	1%	99%
PRINCE EDWARD	\$ 162,208	\$ 7,000	\$ 169,208	4%	96%
PRINCE GEORGE	\$ 144,813	\$ -	\$ 144,813	0%	100%
PRINCE WILLIAM	\$ 958,781	\$ 472,828	\$ 1,431,609	33%	67%
PULASKI	\$ 240,682	\$ 10,430	\$ 251,112	4%	96%
RADFORD	\$ 113,802	\$ -	\$ 113,802	0%	100%
RAPPAHANNOCK	\$ 113,216	\$ -	\$ 113,216	0%	100%
RICHMOND	\$ 117,606	\$ 117,606	\$ 235,212	50%	50%
RICHMOND CITY	\$ 2,041,771	\$ 176,987	\$ 2,218,758	8%	92%
ROANKE CTY DRUG PROS	\$ 67,668	\$ 180	\$ 67,848	0%	100%
ROANOKE	\$ 337,350	\$ 54,321	\$ 391,671	14%	86%
ROANOKE CITY	\$ 696,700	\$ 112,286	\$ 808,986	14%	86%
ROCKBRIDGE	\$ 141,914	\$ -	\$ 141,914	0%	100%
ROCKINGHAM	\$ 355,519	\$ -	\$ 355,519	0%	100%
RUSSELL	\$ 146,360	\$ -	\$ 146,360	0%	100%
SALEM	\$ 173,879	\$ -	\$ 173,879	0%	100%
SCOTT	\$ 134,786	\$ -	\$ 134,786	0%	100%
SHENANDOAH	\$ 182,458	\$ -	\$ 182,458	0%	100%
SMYTH	\$ 186,250	\$ -	\$ 186,250	0%	100%
SOUTHAMPTON	\$ 168,764	\$ -	\$ 168,764	0%	100%
SPOTSYLVANIA	\$ 279,707	\$ 62,740	\$ 342,447	18%	82%
STAFFORD	\$ 327,370	\$ 124,218	\$ 451,588	28%	72%
STAUNTON	\$ 193,651	\$ -	\$ 193,651	0%	100%
SUFFOLK	\$ 467,259	\$ 83,471	\$ 550,730	15%	85%
SURRY	\$ 52,641	\$ -	\$ 52,641	0%	100%
SUSSEX	\$ 112,083	\$ 498	\$ 112,581	0%	100%
TAZEWELL	\$ 224,077	\$ -	\$ 224,077	0%	100%
VIRGINIA BEACH	\$ 1,445,909	\$ 548,163	\$ 1,994,072	27%	73%
WARREN	\$ 209,555	\$ 34,901	\$ 244,456	14%	86%
WASHINGTON	\$ 240,899	\$ -	\$ 240,899	0%	100%
WAYNESBORO	\$ 175,882	\$ 13,465	\$ 189,347	7%	93%
WESTMORELAND	\$ 128,244	\$ -	\$ 128,244	0%	100%
WINCHESTER	\$ 237,558	\$ 15,972	\$ 253,530	6%	94%
WISE	\$ 271,277	\$ -	\$ 271,277	0%	100%
WYTHE	\$ 89,598	\$ -	\$ 89,598	0%	100%
YORK	\$ 284,619	\$ 27,673	\$ 312,292	9%	91%
<b>GRAND TOTALS</b>					

# FY00/FY05 Compensation Board Base Salary and Local Supplement

<b>FY 2000 Compensation Board Base Salary and Local Supplement</b>					
<b>LOCALITY</b>	<b>COMP BOARD</b>	<b>LOCAL SUPP.</b>	<b>TOTAL</b>	<b>Local Sup % of Total</b>	<b>Comp Board % of Total</b>
	Total for FY 2000 = \$ 34,222,487	Total For FY 2000 = \$4,855,206	Total Combined for FY 2000 = \$39,121,734	Local Support % of Total = 12%	Comp Board % of Total = 88%
	\$ 34,222,487	\$ 4,855,206	\$ 39,121,734	12%	88%

Source: Population ( 2000 Census Data); Comp Board Funding and Local Supplements (Compensation Board, Local Supplement amount submitted to Comp Board by Each Locality) \*Note Discrepancy in Charlotte between FY2000 State Allocation and Total Funding

# FY00/FY05 Compensation Board Base Salary and Local Supplement

FY 2005 Compensation Board Base Salary and Local Supplement					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	Total for FY 2005 = \$39,615,617	Total For FY 2005 = \$10,802,287	Total Combined for FY 2005 = \$50,417,904	Local Support % of Total = 21%	Comp Board % of Total = 79%
ACCOMACK	\$ 200,674	\$ -	\$ 200,674	0%	100%
ALBEMARLE	\$ 363,384	\$ 89,441	\$ 452,825	20%	80%
ALEXANDRIA	\$ 674,509	\$ 362,937	\$ 1,037,446	35%	65%
ALEXANDRIA DRUG PROS	\$ 102,286	\$ 24,004	\$ 126,290	19%	81%
ALLEGHANY	\$ 208,394	\$ -	\$ 208,394	0%	100%
AMELIA	\$ 123,066	\$ 6,532	\$ 129,598	5%	95%
AMHERST	\$ 202,811	\$ 7,622	\$ 210,433	4%	96%
APPOMATTOX	\$ 127,520	\$ -	\$ 127,520	0%	100%
ARLINGTON	\$ 852,480	\$ 725,308	\$ 1,577,788	46%	54%
AUGUSTA	\$ 268,457	\$ 9,859	\$ 278,316	4%	96%
BATH	\$ 53,227	\$ 8,537	\$ 61,764	14%	86%
BEDFORD	\$ 301,017	\$ 39,212	\$ 340,229	12%	88%
BLAND	\$ 64,573	\$ -	\$ 64,573	0%	100%
BOTETOURT	\$ 221,090	\$ 6,069	\$ 227,159	3%	97%
BRISTOL	\$ 260,552	\$ -	\$ 260,552	0%	100%
BRUNSWICK	\$ 168,408	\$ -	\$ 168,408	0%	100%
BUCHANAN	\$ 221,728	\$ 5,000	\$ 226,728	2%	98%
BUCKINGHAM	\$ 99,772	\$ -	\$ 99,772	0%	100%
BUENA VISTA	\$ 120,343	\$ 2,232	\$ 122,575	2%	98%
CAMPBELL	\$ 321,621	\$ 37,700	\$ 359,321	10%	90%
CAROLINE	\$ 68,654	\$ 6,463	\$ 75,117	9%	91%
CARROLL	\$ 251,992	\$ -	\$ 251,992	0%	100%
CHARLES CITY	\$ 65,070	\$ 5,899	\$ 70,969	8%	92%
CHARLOTTE	\$ 114,748	\$ -	\$ 114,748	0%	100%
CHARLOTTESVILLE	\$ 377,525	\$ 55,526	\$ 433,051	13%	87%
CHESAPEAKE	\$ 850,778	\$ 366,198	\$ 1,216,976	30%	70%
CHESTERFIELD	\$ 1,086,378	\$ 449,305	\$ 1,535,683	29%	71%
CHESTERFLD DRUG PROS	\$ 75,168	\$ 21,699	\$ 96,867	22%	78%
CLARKE	\$ 142,818	\$ 6,794	\$ 149,612	5%	95%
COLONIAL HEIGHTS	\$ 250,896	\$ 20,668	\$ 271,564	8%	92%
CRAIG	\$ 54,112	\$ -	\$ 54,112	0%	100%
CULPEPER	\$ 252,060	\$ 74,530	\$ 326,590	23%	77%
CUMBERLAND	\$ 53,946	\$ -	\$ 53,946	0%	100%
DANVILLE	\$ 456,161	\$ 28,134	\$ 484,295	6%	94%
DICKENSON COUNTY	\$ 144,158	\$ 10,893	\$ 155,051	7%	93%
DINWIDDIE	\$ 101,615	\$ 2,411	\$ 104,026	2%	98%
ESSEX	\$ 122,198	\$ -	\$ 122,198	0%	100%
FAIRFAX	\$ 1,226,599	\$ 531,123	\$ 1,757,722	30%	70%
FAUQUIER COUNTY	\$ 282,372	\$ 104,837	\$ 387,209	27%	73%
FLOYD	\$ 126,379	\$ -	\$ 126,379	0%	100%
FLUVANNA	\$ 131,199	\$ -	\$ 131,199	0%	100%
FRANKLIN	\$ 337,604	\$ -	\$ 337,604	0%	100%

# FY00/FY05 Compensation Board Base Salary and Local Supplement

FY 2005 Compensation Board Base Salary and Local Supplement					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	<b>Total for FY 2005 = \$39,615,617</b>	<b>Total For FY 2005 = \$10,802,287</b>	<b>Total Combined for FY 2005 = \$50,417,904</b>	<b>Local Support % of Total = 21%</b>	<b>Comp Board % of Total = 79%</b>
FREDERICK	\$ 257,634	\$ 144,971	\$ 402,605	36%	64%
FREDERICKSBURG	\$ 294,755	\$ 108,266	\$ 403,021	27%	73%
GILES	\$ 119,982	\$ 5,152	\$ 125,134	4%	96%
GLOUCESTER	\$ 247,420	\$ 17,453	\$ 264,873	7%	93%
GOOCHLAND	\$ 199,833	\$ 59,345	\$ 259,178	23%	77%
GRAYSON	\$ 166,604	\$ -	\$ 166,604	0%	100%
GREENE	\$ 65,770	\$ -	\$ 65,770	0%	100%
GREENSVILLE	\$ 317,759	\$ -	\$ 317,759	0%	100%
HALIFAX	\$ 246,650	\$ 20,344	\$ 266,994	8%	92%
HALIFAX CO DRUG PROS	\$ 79,495	\$ -	\$ 79,495	0%	100%
HAMPTN CTY DRUG PROS	\$ 127,346	\$ 11,540	\$ 138,886	8%	92%
HAMPTON	\$ 886,313	\$ 78,280	\$ 964,593	8%	92%
HANOVER	\$ 413,034	\$ 182,466	\$ 595,500	31%	69%
HENRICO	\$ 1,138,112	\$ 604,482	\$ 1,742,594	35%	65%
HENRICO CO DRUG PROS	\$ 95,765	\$ 10,856	\$ 106,621	10%	90%
HENRY	\$ 315,248	\$ 27,017	\$ 342,265	8%	92%
HIGHLAND	\$ 53,141	\$ -	\$ 53,141	0%	100%
HOPEWELL	\$ 307,610	\$ -	\$ 307,610	0%	100%
ISLE OF WIGHT	\$ 214,494	\$ -	\$ 214,494	0%	100%
JAMES CITY	\$ 348,905	\$ 49,743	\$ 398,648	12%	88%
KING & QUEEN	\$ 111,520	\$ 15,048	\$ 126,568	12%	88%
KING GEORGE	\$ 149,977	\$ -	\$ 149,977	0%	100%
KING WILLIAM	\$ 59,351	\$ -	\$ 59,351	0%	100%
LANCASTER	\$ 134,310	\$ -	\$ 134,310	0%	100%
LEE	\$ 174,349	\$ -	\$ 174,349	0%	100%
LOUDOUN	\$ 476,389	\$ 286,607	\$ 762,996	38%	62%
LOUISA	\$ 216,374	\$ -	\$ 216,374	0%	100%
LUNENBURG	\$ 126,458	\$ 1,223	\$ 127,681	1%	99%
LYNCHBURG	\$ 573,654	\$ 61,046	\$ 634,700	10%	90%
MADISON	\$ 127,687	\$ -	\$ 127,687	0%	100%
MARTINSVILLE	\$ 239,303	\$ 5,250	\$ 244,553	2%	98%
MATHEWS	\$ 125,462	\$ 2,891	\$ 128,353	2%	98%
MECKLENBURG	\$ 229,912	\$ 9,600	\$ 239,512	4%	96%
MIDDLESEX	\$ 59,079	\$ -	\$ 59,079	0%	100%
MONTGOMERY	\$ 362,334	\$ 44,132	\$ 406,466	11%	89%
NELSON	\$ 124,041	\$ 4,217	\$ 128,258	3%	97%
NEW KENT	\$ 133,872	\$ 5,233	\$ 139,105	4%	96%
NEWPORT NEWS	\$ 1,090,702	\$ 207,808	\$ 1,298,510	16%	84%
NORFOLK	\$ 1,796,223	\$ 886,368	\$ 2,682,591	33%	67%
NORTHAMPTON	\$ 127,806	\$ -	\$ 127,806	0%	100%
NORTHUMBERLAND	\$ 119,766	\$ -	\$ 119,766	0%	100%
NOTTOWAY	\$ 118,608	\$ -	\$ 118,608	0%	100%
ORANGE	\$ 182,118	\$ 14,564	\$ 196,682	7%	93%

# FY00/FY05 Compensation Board Base Salary and Local Supplement

<b>FY 2005 Compensation Board Base Salary and Local Supplement</b>					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	<b>Total for FY 2005 = \$39,615,617</b>	<b>Total For FY 2005 = \$10,802,287</b>	<b>Total Combined for FY 2005 = \$50,417,904</b>	<b>Local Support % of Total = 21%</b>	<b>Comp Board % of Total = 79%</b>
PAGE	\$ 148,691	\$ 800	\$ 149,491	1%	99%
PATRICK	\$ 178,931	\$ -	\$ 178,931	0%	100%
PETERSBURG	\$ 539,226	\$ 10,000	\$ 549,226	2%	98%
PITTSYLVANIA	\$ 290,711	\$ -	\$ 290,711	0%	100%
PORTSMOUTH	\$ 863,583	\$ 209,705	\$ 1,073,288	20%	80%
PORTSMTH CTY DRUG PR	\$ 73,338	\$ 3,438	\$ 76,776	4%	96%
POWHATAN	\$ 138,370	\$ 84,109	\$ 222,479	38%	62%
PRINCE EDWARD	\$ 189,172	\$ 23,970	\$ 213,142	11%	89%
PRINCE GEORGE	\$ 158,130	\$ 844,600	\$ 1,002,730	84%	16%
PRINCE WILLIAM	\$ 1,022,603	\$ 911,460	\$ 1,934,063	47%	53%
PULASKI	\$ 308,372	\$ 4,746	\$ 313,118	2%	98%
RADFORD	\$ 176,381	\$ -	\$ 176,381	0%	100%
RAPPAHANNOCK	\$ 123,203	\$ 6,613	\$ 129,816	5%	95%
RICHMOND	\$ 128,783	\$ -	\$ 128,783	0%	100%
RICHMOND CITY	\$ 2,098,066	\$ 326,121	\$ 2,424,187	13%	87%
ROANKE CTY DRUG PROS	\$ 75,972	\$ -	\$ 75,972	0%	100%
ROANOKE	\$ 360,669	\$ 93,896	\$ 454,565	21%	79%
ROANOKE CITY	\$ 718,747	\$ 172,819	\$ 891,566	19%	81%
ROCKBRIDGE	\$ 243,927	\$ -	\$ 243,927	0%	100%
ROCKINGHAM	\$ 397,633	\$ -	\$ 397,633	0%	100%
RUSSELL	\$ 146,779	\$ 18,622	\$ 165,401	11%	89%
SALEM	\$ 174,020	\$ -	\$ 174,020	0%	100%
SCOTT	\$ 148,895	\$ -	\$ 148,895	0%	100%
SHENANDOAH	\$ 238,460	\$ 14,000	\$ 252,460	6%	94%
SMYTH	\$ 228,706	\$ 15,487	\$ 244,193	6%	94%
SOUTHAMPTON	\$ 244,731	\$ -	\$ 244,731	0%	100%
SPOTSYLVANIA	\$ 360,345	\$ 185,663	\$ 546,008	34%	66%
STAFFORD	\$ 454,825	\$ 254,093	\$ 708,918	36%	64%
STAUNTON	\$ 225,506	\$ -	\$ 225,506	0%	100%
SUFFOLK	\$ 566,052	\$ 193,155	\$ 759,207	25%	75%
SURRY	\$ 56,292	\$ -	\$ 56,292	0%	100%
SUSSEX	\$ 192,240	\$ 33,776	\$ 226,016	15%	85%
TAZEWELL	\$ 350,283	\$ 374,440	\$ 724,723	52%	48%
VIRGINIA BEACH	\$ 1,608,043	\$ 910,983	\$ 2,519,026	36%	64%
WARREN	\$ 237,708	\$ 40,080	\$ 277,788	14%	86%
WASHINGTON	\$ 266,085	\$ -	\$ 266,085	0%	100%
WAYNESBORO	\$ 234,933	\$ 26,492	\$ 261,425	10%	90%
WESTMORELAND	\$ 171,481	\$ -	\$ 171,481	0%	100%
WINCHESTER	\$ 323,413	\$ 51,017	\$ 374,430	14%	86%
WISE	\$ 307,516	\$ -	\$ 307,516	0%	100%
WYTHE	\$ 189,316	\$ -	\$ 189,316	0%	100%
YORK	\$ 371,973	\$ 119,367	\$ 491,340	24%	76%
<b>GRAND TOTALS</b>					

# FY00/FY05 Compensation Board Base Salary and Local Supplement

FY 2005 Compensation Board Base Salary and Local Supplement					
LOCALITY	COMP BOARD	LOCAL SUPP.	TOTAL	Local Sup % of Total	Comp Board % of Total
	Total for FY 2005 = \$39,615,617	Total For FY 2005 = \$10,802,287	Total Combined for FY 2005 = \$50,417,904	Local Support % of Total = 21%	Comp Board % of Total = 79%
	\$ 39,615,617	\$ 10,802,287	\$ 50,417,904	21%	79%

# **ATTACHMENT H**





# Commission of Prosecution Coordination, South Carolina Statutes

Code of Laws of South Carolina 1976 Annotated Currentness

Title 1. Administration of the Government

Chapter 7. Attorney General and Solicitors

Article 7. Commission on Prosecution Coordination

## § 1-7-920. Commission membership.

The commission is composed of the following persons for terms as indicated:

- (1) the Chairmen of the Senate and House Judiciary Committees for the terms for which they are elected or their legislative designees;
- (2) the Chief of the South Carolina Law Enforcement Division for the term for which he is appointed;
- (3) the Director of the Department of Public Safety shall serve during the term for which he is appointed;
- (4) a director of a Judicial Circuit Pretrial Intervention Program appointed by the Governor for a term of two years;
- (5) a Judicial Circuit Victim-Witness Assistance Advocate appointed by the Governor for a term of two years;
- (6) five judicial circuit solicitors appointed by the Governor for a term of four years. However, upon initial appointment, the Governor shall select one for a two-year term, two for a three-year term, and two for a four-year term. If a solicitor appointed to the commission is not re-elected, a vacancy occurs and it must be filled pursuant to the provisions of Section 1-7-930.

HISTORY: 1990 Act No. 485, § 1; 1996 Act No. 337, § 1.

### LIBRARY REFERENCES

Westlaw Key Number Search: 360k45.

States ¶45.

C.J.S. States §§ 79, 82, 136.

### RESEARCH REFERENCE

Encyclopedias

S.C. Jur. Attorney General § 6, Relationship to Solicitors.

S.C. Jur. Attorney General III Ref., Divisional References.

Code 1976 § 1-7-920, SC ST § 1-7-920

Code of Laws of South Carolina 1976 Annotated Currentness

Title 1. Administration of the Government

Chapter 7. Attorney General and Solicitors

Article 7. Commission on Prosecution Coordination

## § 1-7-940. Duties.

(A) The commission has the following duties:

- (1) coordinate all administrative functions of the offices of the solicitors and any affiliate services operating in conjunction with the solicitors' offices;
- (2) submit the budgets of the solicitors and their affiliate services to the General Assembly;

## Commission of Prosecution Coordination, South Carolina Statutes

(3) encourage and develop legal education programs and training programs for solicitors and their affiliate services, organize and provide seminars to help increase the effectiveness and efficiency of the prosecution of criminal cases in this State, and act as a clearinghouse and distribution source for publications involving solicitors and their affiliate services and provide legal updates on matters of law affecting the prosecution of cases in this State;

(4) provide blank indictments for the circuit solicitors.

(B) Nothing in this section may be construed to displace or otherwise affect the functions and responsibilities of the State Victim/Witness Assistance Program as established in Section 16-3-1410.

HISTORY: 1990 Act No. 485, § 1; 1992 Act No. 347, § 2.

### LIBRARY REFERENCES

Westlaw Key Number Search: 360k73.

States ¶73.

C.J.S. States §§ 130 to 136, 140.

Code 1976 § 1-7-940, SC ST § 1-7-940

Code of Laws of South Carolina 1976 Annotated Currentness

Title 1. Administration of the Government

¶Chapter 7. Attorney General and Solicitors

¶Article 7. Commission on Prosecution Coordination

⇒§ 1-7-950. Election of chairman and officers.

The chairman of the commission must be elected by a majority vote of the membership of the commission for a two-year term. A majority of the entire membership constitutes a quorum. Other officers as needed by the commission must be elected in the same manner.

HISTORY: 1990 Act No. 485, § 1.

### LIBRARY REFERENCES

Westlaw Key Number Searches: 360k46; 360k51.

States ¶46, 51.

C.J.S. States §§ 61, 80, 84, 87, 92, 102.

Code 1976 § 1-7-950, SC ST § 1-7-950

Code of Laws of South Carolina 1976 Annotated Currentness

Title 1. Administration of the Government

¶Chapter 7. Attorney General and Solicitors

¶Article 7. Commission on Prosecution Coordination

⇒§ 1-7-960. Executive director; staff.

## Commission of Prosecution Coordination, South Carolina Statutes

The commission has the authority to appoint an executive director who shall serve at the pleasure of the commission. He is responsible for the day-to-day operation of the commission and the coordination of the work with other state agencies. The commission has the authority to hire additional staff as provided for in the annual appropriations act in order to perform the duties of the commission.

HISTORY: 1990 Act No. 485, § 1.

### LIBRARY REFERENCES

Westlaw Key Number Search: 360k53.

States ~~53~~.

C.J.S. States §§ 81 to 83, 86, 93 to 98, 101, 136.

Code 1976 § 1-7-960, SC ST § 1-7-960



# **ATTACHMENT I**





# VIRGINIA STATE CRIME COMMISSION

## HJR 225 ELECTED COMMONWEALTH'S ATTORNEY SURVEY

Section 9-125 of the *Code of Virginia* authorizes the Virginia State Crime Commission to study and make recommendations on all areas of public safety in the Commonwealth. The 2004 Session of the Virginia General Assembly enacted House Joint Resolution 225 requesting the Virginia State Crime Commission to conduct a comprehensive study of Commonwealth's Attorneys. As part of this study, the Commission is surveying all Commonwealth's Attorneys to collect information on issues relating to staffing, salaries, and resource needs.

Please return the completed survey by **September 9, 2005**. If you have any questions, contact Tom Cleator, Staff Attorney, at (804) 225-4534. The General Assembly and the Virginia State Crime Commission thank you for your assistance in this important study effort.

### SECTION 1: Introductory Questions

1. How many years have you worked in the field of prosecution? \_\_\_\_\_ year(s)

1a. How many years have you worked as the elected Commonwealth's Attorney?

\_\_\_\_\_ year(s)

2. When did you pass the bar exam? \_\_\_\_\_ (month/year)

3. Prior to working in your current position, did you have additional legal experience outside of prosecution?

Yes (If YES, please go to question 3a.)

No (If NO, please go to Section 2.)

3a. If YES, what type of legal experience outside of prosecution did you have and how many years did you practice? (Please use the space below to explain.)

## SECTION 2: Current Staff and Salaries

This section of the survey is designed to seek information on each attorney working in your office as of **August 1, 2005**, including those persons funded by sources other than the Compensation Board. A description of the information required in each column follows. Please complete the following information for each attorney.

### SCHEDULE A Attorney Staff Sheets

- Column 1 First and last name of the attorney
- Column 2 Official job title of the attorney as of August 1, 2005
- Column 3 Date of hire (mm/dd/yy)
- Column 4 Employment status (full-time or part-time)
- Column 5 Starting annual salary of the attorney, as of the date of hire
- Column 6 Current annual salary, as of August 1, 2005

Columns 7-12 If the annual salary is paid by multiple sources, please note each of the funding sources and the corresponding annual amount. Examples of funding sources include:

- Annual state salary (*Compensation Board*)
- Annual local salary/salary supplement
- Annual state grant funds and/or supplement
- Source of state grant funds (*Please specify the agency funding grant.*)
- Annual federal grant funds
- Source of federal grant funds (*Please specify the agency funding grant.*)

Columns 13-25 These columns list a variety of possible employee benefits. For each attorney, check the box for those benefits that the employee was receiving as of August 1, 2005.

Eligible benefits include:

- Annual leave
- Sick leave
- Comp time
- Disability insurance
- Deferred compensation
- Health insurance (*personal*)
- Health insurance (*family*)
- Dental insurance
- Eye insurance
- Retirement (*VRS benefits*)
- Local retirement
- State Bar membership
- Professional memberships (*Please specify.*)



## SCHEDULE B Paralegal Staff Sheet

*This section of the survey is designed to seek information on each paralegal working in your office as of **August 1, 2005**, including those funded by sources other than the Compensation Board. A description of the information required in each column follows. Please complete the following information for each paralegal.*

Column 1      First and last name of the paralegal

Column 2      Official job title of the paralegal as of August 1, 2005

Column 3      Date of hire (mm/dd/yy)

Column 4      Employment status (full-time or part-time)

Column 5      Starting annual salary of the paralegal, as of the date of hire

Column 6      Current annual salary, as of August 1, 2005

Columns 7-12 If the salary is paid by multiple sources, please note each of the funding sources and the corresponding annual amount. Examples of funding sources include:

- Annual state salary (*Compensation Board*)
- Annual local salary/salary supplement
- Annual state grant funds and/or supplement
- Source of state grant funds (*Please specify the agency funding grant.*)
- Annual federal grant funds
- Source of federal grant funds (*Please specify the agency funding grant.*)

Columns 13-24 These columns list a variety of possible employee benefits. For each paralegal, check the box for those benefits that the employee was receiving as of August 1, 2005.

Eligible benefits include:

- Annual leave
- Sick leave
- Comp time
- Disability
- Deferred compensation
- Health insurance (*personal*)
- Health insurance (*family*)
- Dental insurance
- Eye insurance
- Retirement (*VRS benefits*)
- Local retirement
- Professional memberships (*Please specify.*)

↓ Proceed to Next Page

**SCHEDULE C**  
**Administrative Personnel Staff Sheet**

*This section of the survey is designed to seek information on all administrative personnel working in your office as of **August 1, 2005**, including those funded by sources other than the Compensation Board. A description of the information required in each column follows. Please complete the following information for each employee.*

- Column 1      First and last name of the employee
- Column 2      Official job title of the employee as of August 1, 2005
- Column 3      Date of hire (mm/dd/yy)
- Column 4      Employment status (full-time or part-time)
- Column 5      Starting annual salary of the employee, as of the date of hire
- Column 6      Current annual salary, as of August 1, 2005

Columns 7-12 If the salary is paid by multiple sources, please note each of the funding sources and the corresponding annual amount. Examples of funding sources include:

- Annual state salary (*Compensation Board*)
- Annual local salary/salary supplement
- Annual state grant funds and/or supplement
- Source of state grant funds (*Please specify the agency funding grant.*)
- Annual federal grant funds
- Source of federal grant funds (*Please specify the agency funding grant.*)

Columns 13-24 These columns list a variety of possible employee benefits. For each employee, check the box for those benefits that the employee was receiving as of August 1, 2005.

Eligible benefits include:

- Annual leave
- Sick leave
- Comp time
- Disability insurance
- Deferred compensation
- Health insurance (*personal*)
- Health insurance (*family*)
- Dental insurance
- Eye insurance
- Retirement (*VRS benefits*)
- Local retirement
- Professional memberships (*Please specify.*)

**SCHEDULE D**  
**Other Personnel Staff Sheet**

*This section of the survey is designed to seek information on all other personnel (e.g. Victim/Witness personnel, investigators, IT personnel, consumer affairs) working in your office as of **August 1, 2005**, including those funded by sources other than the Compensation Board. A description of the information required in each column follows. Please complete the following information for each employee.*

- Column 1     First and last name of the employee
- Column 2     Official job title of the employee as of August 1, 2005
- Column 3     Date of hire (mm/dd/yy)
- Column 4     Employment status (full-time or part-time)
- Column 5     Starting annual salary of the employee, as of the date of hire
- Column 6     Current annual salary, as of August 1, 2005

Columns 7-12 If the salary is paid by multiple sources, please note each of the funding sources and the corresponding annual amount. Examples of funding sources include:

- Annual state salary (*Compensation Board*)
- Annual local salary/salary supplement
- Annual state grant funds and/or supplement
- Source of state grant funds (*Please specify the agency funding grant.*)
- Annual federal grant funds
- Source of federal grant funds (*Please specify the agency funding grant.*)

Columns 13-24 These columns list a variety of possible employee benefits. For each employee, check the box for those benefits that the employee was receiving as of August 1, 2005.

Eligible benefits include:

- Annual leave
- Sick leave
- Comp time
- Disability insurance
- Deferred compensation
- Health insurance (*personal*)
- Health insurance (*family*)
- Dental insurance
- Eye insurance
- Retirement (*VRS benefits*)
- Local retirement
- Professional memberships (*Please specify.*)

↓ Proceed to Next Page

## SCHEDULE E Vacant Positions

*This section of the survey is designed to seek information on all vacant positions in your office as of **August 1, 2005**, including those funded by sources other than the Compensation Board. A description of the information required in each column follows. Please complete the following information for each position.*

Column 1      Official job title of the employee as of August 1, 2005

Column 2      Whether the position is fillable (currently funded and can be filled by hiring a qualified applicant, or unfillable, (hiring is prevented by a lack of funding for position).

Column 3      Employment status (full-time or part-time)

Column 4      Starting annual salary for the position, as of the date of hire

Columns 5-10 If the salary is paid by multiple sources, please note each of the funding sources and the corresponding annual amount. Examples of funding sources include:

- Annual state salary (Compensation Board)
- Annual local salary/salary supplement
- Annual state grant funds and/or supplement
- Source of state grant funds (*Please specify the agency funding grant.*)
- Annual federal grant funds
- Source of federal grant funds (*Please specify the agency funding grant.*)

Columns 11-23 These columns list a variety of possible employee benefits. For each employee, check the box for those benefits that the employee was receiving as of August 1, 2005.

Eligible benefits include:

- Annual leave
- Sick leave
- Comp time
- Disability insurance
- Deferred compensation
- Health insurance (*personal*)
- Health insurance (*family*)
- Dental insurance
- Eye insurance
- Retirement (*VRS benefits*)
- Local retirement
- Professional memberships (*Please specify.*)

↓ Proceed to Next Page

### SECTION 3: Staff Separations

*This section of the survey is designed to seek information on each employee that has separated from your office from **July 1, 2003 to August 1, 2005**. A description of the information required in each column follows. Please complete the information for each employee.*

- Column 1      Name of the separated employee
- Column 2      Official job title of the employee whose employment was separated between July 1, 2003 to August 1, 2005
- Column 3      The date the employee was hired by your office (mm/dd/yy)
- Column 4      The date the employee separated from your office (mm/dd/yy)
- Column 5      The separated employee's status with your office (full-time or part-time)
- Column 6      The reason for the employee's separation from the department, if known; examples of reasons include:
- Retirement
  - Family relocation
  - Better salary with another office
  - Better salary in private practice
  - Better salary with another government agency
  - Better/additional benefits offered by another office
  - Illness or death
  - Ascension to the bench
  - Termination
- Column 7      The separated employee's next place of employment, if known
- Column 8      The separated employee's salary at the date of separation

## SECTION 4: Resource Needs and Training

### **A. Equipment and Systems**

1. Which computer/computer systems listed below are being used by your office as of August 1, 2005? (Please check all that apply and provide the number of units available in the office.)

	<u>Computer Systems</u>	<u># of Specific Computer Systems</u>
Personal computer	<input type="checkbox"/>	_____
Portable Laptop computer	<input type="checkbox"/>	_____
VCAIS	<input type="checkbox"/>	_____
LAN system	<input type="checkbox"/>	_____
Personal Digital Assistant (PDA) – (i.e. Blackberry)	<input type="checkbox"/>	_____
Document reader	<input type="checkbox"/>	_____
Other (Please specify.) _____	<input type="checkbox"/>	_____

1a. Do you have an adequate amount of computer equipment/computer systems (desktops, scanners, laptops, printers, etc.)

- Yes (If YES, please go to question 2.)  
 No (If NO, please go to question 1b.)

1b. If NO, what particular computer equipment/computer systems do you need?  
 (Please use the space below to list.)

### **B. Access to Research Tools**

2. Which of the following research tools are available in your office? (Please check all that apply.)

- |  |   |
|--|---|
| <input type="checkbox"/> Geronimo<br><input type="checkbox"/> Code of Virginia<br><input type="checkbox"/> Friend on Evidence<br><input type="checkbox"/> Criminal Law Case Finder<br><input type="checkbox"/> Costello's Virginia Criminal Law and Procedure<br><input type="checkbox"/> Groot's Criminal Offenses and Defenses in VA | <input type="checkbox"/> Bacigal's Criminal Procedure (Virginia)<br><input type="checkbox"/> Lexis/ Nexis CD<br><input type="checkbox"/> Lexis/ Nexis<br><input type="checkbox"/> Model Jury Instructions<br><input type="checkbox"/> Westlaw<br><input type="checkbox"/> Other (Please specify.) _____ |
|--|---|

↓ Proceed to Next Page

2a. Which of the following research tools does each assistant Commonwealth's Attorney have a copy? *(Please check all that apply.)*

- |   |  |
|---|--|
| <input type="checkbox"/> Geronimo                                       | <input type="checkbox"/> Bacigal's Criminal Procedure (Virginia) |
| <input type="checkbox"/> Code of Virginia                               | <input type="checkbox"/> Lexis/ Nexis CD                         |
| <input type="checkbox"/> Friend on Evidence                             | <input type="checkbox"/> Lexis/ Nexis                            |
| <input type="checkbox"/> Criminal Law Case Finder                       | <input type="checkbox"/> Model Jury Instructions                 |
| <input type="checkbox"/> Costello's Virginia Criminal Law and Procedure | <input type="checkbox"/> Westlaw                                 |
| <input type="checkbox"/> Groot's Criminal Offenses and Defenses in VA   | <input type="checkbox"/> Other <i>(Please specify.)</i> _____    |

2b. Are there any additional research materials or tools that would be helpful for either your legal or support staff? *(Please provide a listing of materials and/or research tools.)*

**C. Support Staff Assistance**

3. Do you have adequate support staff assistance available to you?  
*(Support staff includes all non-attorney positions.)*

- Yes *(If YES, please go to question 4.)*
- No *(If NO, please go to question 3a.)*

3a. If NO, what additional support staff do you need? *(Please explain.)*

**D. Training/ Mentorships**

4. Please list all training seminars that you personally attended from July 1, 2004 to August 1, 2005.  
*(Please provide the name of the sponsor, CLE hours received and dates of the training.)*

<b><u>Name and sponsor of training</u></b>	<b><u>CLE hours</u></b>	<b><u>Date(s) of training</u></b>
--	-------------------------	-----------------------------------

5. Do you feel that the annual training opportunities (provided by the Commonwealth Attorney's Services Council) adequately prepare you for your job?

- Yes (If YES, please go to question 6.)
- No (If NO, please go to question 5a.)

5a. If NO, in what areas would you like to receive additional training to better prepare you for your job? (Please specify.)

6. Were you mentored by another Commonwealth's Attorney or prosecutor in your office prior to assuming your own cases?

- Yes (If YES, please go to question 6a.)
- No (If NO, please go to question 6b.)

6a. If YES, for how long? \_\_\_\_\_ (weeks)

6b. If NO, do you feel that it would have been helpful to have a mentor? (Please check one.)

- Yes
- No



## SECTION 5: Workload and Employment Considerations

### **A. Types and numbers of cases**

1. How many attorney hours per week does your office spend in General District Court on:

A. Felonies- \_\_\_\_\_ hour(s)

B. Misdemeanors- \_\_\_\_\_ hour(s)

2. How many attorney hours a week does your office spend in Juvenile and Domestic Court on:

A. Felonies- \_\_\_\_\_ hour(s)

B. Misdemeanors- \_\_\_\_\_ hour(s)

3. What, if any, misdemeanor offenses does your office routinely prosecute? *(Please check one.)*

- None *(If NONE, please go to question 5.)*
- Some *(If SOME, please go to questions 3a and 4.)*
- All *(If ALL, please go to question 5.)*

3a. List the types of misdemeanor offenses your office routinely prosecutes. *(Please explain.)*

4. What criteria do you use to determine which misdemeanor offenses to prosecute? *(Please specify.)*

### **B. Non-violent Felonies**

5. Do you have adequate time to prepare for each non-violent felony case? *(Please check one.)*

- Yes
- No

6. On average, how often do you or your assistants have a chance to interview witnesses in a non-violent felony case prior to a preliminary hearing? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

↓ Proceed to Next Page

7. On average, how many times do you or your assistants typically meet with a victim or family member during the course of a non-violent felony case? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

8. On average, how often do you or your assistants have a chance to interview witnesses in a non-violent felony case prior to trial? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

### **C. Violent Felonies**

9. Do you have adequate time to prepare for each violent felony<sup>1</sup>? *(Please check one.)*

- Yes
- No

10. On average, how often do you or your assistants have a chance to interview witnesses in a violent felony case prior to a preliminary hearing? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

11. On average, how many times do you or your assistants typically meet with a victim or family member during the course of a violent felony case? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

12. On average, how often do you or your assistants have a chance to interview witnesses in a violent felony case prior to trial? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

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<sup>1</sup> As defined in VA. CODE. ANN. § 19.2-297.1 (Michie 2004).

#### **D. Non-violent Misdemeanors**

13. Do you have adequate time to prepare for each non-violent misdemeanor? *(Please check one.)*
- Yes  
 No
14. How many times do you or your assistants typically meet with a victim or family member during the course of a non-violent misdemeanor case? *(Please check one.)*
- Never  
 Once  
 2-3 times  
 4-5 times  
 6 or more times
15. How often do you or your assistants have a chance to interview witnesses in a non-violent misdemeanor case prior to the day of trial? *(Please check one.)*
- Never  
 Once  
 2-3 times  
 4-5 times  
 6 or more times

#### **E. Violent Misdemeanors**

16. Do you have adequate time to prepare for each violent misdemeanor<sup>2</sup>? *(Please check one.)*
- Yes  
 No
17. On average, how many times do you or your assistants typically meet with a victim or family member during the course of a violent misdemeanor case? *(Please check one.)*
- Never  
 Once  
 2-3 times  
 4-5 times  
 6 or more times
18. On average, how often do you or your assistants have a chance to interview witnesses in a violent misdemeanor case prior to the day of trial? *(Please check one.)*
- Never  
 Once  
 2-3 times  
 4-5 times  
 6 or more times

---

<sup>2</sup> Misdemeanors such as Assault and Battery, Sexual Battery, Brandishing, etc.

## **F. Juvenile Cases**

19. On average, how many times do you or your assistants typically meet with a victim or family member during the course of a juvenile case? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

20. On average, how often do you or your assistants have a chance to interview witnesses in a juvenile case prior to the day of adjudicatory hearing? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

## **G. Overall Workload**

21. Which of the following describes your office's overall workload? *(Please check one.)*

- Excessive
- Manageable
- Too small
- Other *(Please specify.)* \_\_\_\_\_

22. What changes do think can be made to address excessive workloads? *(Please specify.)*

## **H. Compensation Levels**

23. Is the current level of compensation for Assistant Commonwealth's Attorneys appropriate? *(Please check one.)*

- Yes
- No

24. Does the current level of compensation limit the availability of qualified applicants for Assistant Commonwealth's Attorney positions? *(Please check one.)*

- Yes
- No

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25. What is current annual starting salary, in your office, for an Assistant Commonwealth's Attorney that has recently graduated from law school and passed the bar exam?

*(Please provide the annual fiscal year salary.)*

\$ \_\_\_\_\_ . 00

**I. Future Employment Considerations**

26. Do you plan on making prosecution your career?

Yes *(If YES, the survey is complete.)*

No *(If NO, please go to questions 26a-b.)*

26a. If NO, what career(s) might you be considering in the future? *(Please specify.)*

26b. If NO, what additional considerations or incentives might encourage you to be a career prosecutor? *(Please specify.)*

27. Please use the space below to address any other concerns or issues that have not been addressed in the survey. *(If additional space is needed for response, please attach extra sheets to back of survey.)*

28. Please attach a copy of your office's FY 2006 budget by funding category.

**Please return this survey by September 9, 2005 to:**

**Mr. Tom Cleator  
Virginia State Crime Commission  
General Assembly Building  
910 Capitol Street, Suite 915  
Richmond, Virginia 23219**

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# **ATTACHMENT J**







# VIRGINIA STATE CRIME COMMISSION

## HJR 225 ASSISTANT COMMONWEALTH'S ATTORNEYS SURVEY

Section 9-125 of the *Code of Virginia* authorizes the Virginia State Crime Commission to study and make recommendations on all areas of public safety in the Commonwealth. The 2004 Session of the Virginia General Assembly enacted House Joint Resolution 225 requesting the Virginia State Crime Commission to conduct a comprehensive study of Commonwealth's Attorneys. As part of this study, the Commission is surveying all Commonwealth's Attorneys to collect information on issues relating to staffing, salaries, and resource needs.

Please return the completed survey by **September 9, 2005**. If you have any questions, contact Tom Cleator, Staff Attorney, at (804) 225-4534. The General Assembly and the Virginia State Crime Commission thank you for your assistance in this important study effort.

### SECTION 1: Introductory Questions

1. How many years have you worked in the field of prosecution? \_\_\_\_\_ year(s)
  - 1a. How many years have you worked as an Assistant Commonwealth's Attorney?  
\_\_\_\_\_ year(s)
2. When did you pass the bar exam? \_\_\_\_\_ (month/year)
3. Prior to working in your current position, did you have additional legal experience outside of prosecution?
  - Yes (If YES, please go to question 3a.)
  - No (If NO, please go to Section 2.)
  - 3a. If YES, what type of legal experience outside of prosecution did you have and how many years did you practice? (Please use the space below to explain.)

**SECTION 2: Resource Needs and Training**

**A. Equipment and Systems**

1. Which computer/computer systems listed below are being used by your office as of August 1, 2005? (Please check all that apply and provide the number of units available in the office.)

	<u>Computer Systems</u>	<u># of Specific Computer Systems</u>
Personal computer	<input type="checkbox"/>	_____
Portable Laptop computer	<input type="checkbox"/>	_____
VCAIS	<input type="checkbox"/>	_____
LAN system	<input type="checkbox"/>	_____
Personal Digital Assistant (PDA) – (i.e. Blackberry)	<input type="checkbox"/>	_____
Document reader	<input type="checkbox"/>	_____
Other (Please specify.) _____	<input type="checkbox"/>	_____

1a. Do you have an adequate amount of computer equipment/computer systems (desktops, scanners, laptops, printers, etc.)

- Yes (If YES, please go to question 2.)  
 No (If NO, please go to question 1b.)

1b. If NO, what particular computer equipment/computer systems do you need?  
 (Please use the space below to list.)

**B. Access to Research Tools**

2. Which of the following research tools are available in your office? (Please check all that apply.)

- |   |  |
|---|--|
| <input type="checkbox"/> Geronimo                                       | <input type="checkbox"/> Bacigal's Criminal Procedure (Virginia) |
| <input type="checkbox"/> Code of Virginia                               | <input type="checkbox"/> Lexis/ Nexis CD                         |
| <input type="checkbox"/> Friend on Evidence                             | <input type="checkbox"/> Lexis/ Nexis                            |
| <input type="checkbox"/> Criminal Law Case Finder                       | <input type="checkbox"/> Model Jury Instructions                 |
| <input type="checkbox"/> Costello's Virginia Criminal Law and Procedure | <input type="checkbox"/> Westlaw                                 |
| <input type="checkbox"/> Groot's Criminal Offenses and Defenses in VA   | <input type="checkbox"/> Other (Please specify.) _____           |

2a. Which of the following research tools do you have a copy of or access to in your office?  
(Please check all that apply.)

- |   |  |
|---|--|
| <input type="checkbox"/> Geronimo                                       | <input type="checkbox"/> Bacigal's Criminal Procedure (Virginia) |
| <input type="checkbox"/> Code of Virginia                               | <input type="checkbox"/> Lexis/ Nexis CD                         |
| <input type="checkbox"/> Friend on Evidence                             | <input type="checkbox"/> Lexis/ Nexis                            |
| <input type="checkbox"/> Criminal Law Case Finder                       | <input type="checkbox"/> Model Jury Instructions                 |
| <input type="checkbox"/> Costello's Virginia Criminal Law and Procedure | <input type="checkbox"/> Westlaw                                 |
| <input type="checkbox"/> Groot's Criminal Offenses and Defenses in VA   | <input type="checkbox"/> Other (Please specify.) _____           |

2b. Are there any additional research materials or tools that would be helpful for either you or your support staff? (Please provide a listing of materials and/or research tools.)

**C. Support Staff Assistance**

3. Do you have adequate support staff assistance available to you?  
(Support staff includes all non-attorney positions.)

- Yes (If YES, please go to question 4.)
- No (If NO, please go to question 3a.)

3a. If NO, what additional support staff do you need? (Please explain.)

**D. Training/ Mentorships**

4. Please list all training seminars that you personally attended from July 1, 2004 to August 1, 2005.  
(Please provide the name of the sponsor, CLE hours received and dates of the training.)

**Name and sponsor of training**

**CLE hours**

**Date(s) of training**

5. Do you feel that the annual training opportunities (provided by the Commonwealth Attorney's Services Council) adequately prepare you for your job?

Yes (If YES, please go to question 6.)

No (If NO, please go to question 5a.)

5a. If NO, in what areas would you like to receive additional training to better prepare you for your job? (Please specify.)

6. Were you mentored by another Commonwealth's Attorney or prosecutor in your office prior to assuming your own cases?

Yes (If YES, please go to question 6a.)

No (If NO, please go to question 6b.)

6a. If YES, for how long? \_\_\_\_\_ (weeks)

6b. If NO, do you feel that it would have been helpful to have a mentor? (Please check one.)

Yes

No

## SECTION 3: Workload and Employment Considerations

### **A. Types and numbers of cases**

1. How many attorney hours per week do you spend in General District Court on:

A. Felonies- \_\_\_\_\_ hour(s)

B. Misdemeanors- \_\_\_\_\_ hour(s)

2. How many attorney hours per week do you spend in Juvenile and Domestic Court on:

A. Felonies- \_\_\_\_\_ hour(s)

B. Misdemeanors- \_\_\_\_\_ hour(s)

3. What, if any, misdemeanors does your office prosecute? *(Please specify.)*

### **B. Non-violent Felonies**

4. Do you have adequate time to prepare for each non-violent felony case? *(Please check one.)*

Yes

No

5. On average, how often do you have a chance to interview witnesses in a non-violent felony case prior to a preliminary hearing? *(Please check one.)*

Never

Once

2-3 times

4-5 times

6 or more times

6. On average, how many times do you typically meet with a victim or family member during the course of a non-violent felony case? *(Please check one.)*

Never

Once

2-3 times

4-5 times

6 or more times

7. On average, how often do you have a chance to interview witnesses in a non-violent felony case prior to trial? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times

**C. Violent Felonies**

8. Do you have adequate time to prepare for each violent felony<sup>1</sup>? *(Please check one.)*
- Yes
  - No

9. On average, how often do you have a chance to interview witnesses in a violent felony case prior to a preliminary hearing? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times

10. On average, how many times do you typically meet with a victim or family member during the course of a violent felony case? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times

11. On average, how often do you have a chance to interview witnesses in a violent felony case prior to trial? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times

---

<sup>1</sup> As defined in VA. CODE. ANN. § 19.2-297.1 (Michie 2004).

#### **D. Non-violent Misdemeanors**

12. Do you have adequate time to prepare for each non-violent misdemeanor? *(Please check one.)*
- Yes
  - No
13. How many times do you typically meet with a victim or family member during the course of a non-violent misdemeanor case? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times
14. How often do you have a chance to interview witnesses in a non-violent misdemeanor case prior to the day of trial? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times

#### **E. Violent Misdemeanors**

15. Do you have adequate time to prepare for each violent misdemeanor<sup>2</sup>? *(Please check one.)*
- Yes
  - No
16. On average, how many times do you typically meet with a victim or family member during the course of a violent misdemeanor case? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times
17. On average, how often do you have a chance to interview witnesses in a violent misdemeanor case prior to the day of trial? *(Please check one.)*
- Never
  - Once
  - 2-3 times
  - 4-5 times
  - 6 or more times

---

<sup>2</sup> Misdemeanors such as Assault and Battery, Sexual Battery, Brandishing, etc.

## **F. Juvenile Cases**

18. On average, how many times do you typically meet with a victim or family member during the course of a juvenile case? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

19. On average, how often do you have a chance to interview witnesses in a juvenile case prior to the day of adjudicatory hearing? *(Please check one.)*

- Never
- Once
- 2-3 times
- 4-5 times
- 6 or more times

## **G. Overall Workload**

20. Which of the following describes your overall workload? *(Please check one.)*

- Excessive
- Manageable
- Too small
- Other *(Please specify.)* \_\_\_\_\_

21. What changes can be made to address excessive workloads? *(Please specify.)*

## **H. Other**

22. Do you have an annual written evaluation of your performance by the Commonwealth's Attorney that forms the basis of pay raises and continued employment status? *(Please check one.)*

- Yes
- No

23. How would you rate the morale in your office? *(Please check one.)*

- High
- Medium
- Low



## I. Future Employment Considerations

24. Is the current level of compensation for Assistant Commonwealth's Attorneys appropriate?  
*(Please check one.)*

- Yes
- No

25. Does the current level of compensation affect the turnover for qualified applicants for Assistant Commonwealth's Attorneys positions? *(Please check one.)*

- Yes
- No
- Do not know

26. Do you plan on making prosecution your career? *(Please check one.)*

- Yes *(If YES, please go to question 27.)*
- No *(If NO, please go to questions 26a.)*

26a. If NO, what legal career options could you consider in the future? *(Please specify.)*

27. Do you currently have any outstanding student loan debt? *(Please check one.)*

- Yes *(If YES, please go to questions 27a-b.)*
- No *(If NO, please go to question 28.)*

27a. How much student loan debt do you have? *(Please check one.)*

- Less than \$25,000
- Between \$25,000 and \$50,000
- Between \$50,000 and \$75,000
- Greater than \$75,000

27b. Would a loan forgiveness program be an incentive to making prosecution a career?  
*(Please check one.)*

- Yes
- No

28. What additional considerations or incentives might encourage you to be a career prosecutor?  
*(Please specify.)*

29. Please use the space below to address any other concerns or issues that have not been addressed in the survey. *(If additional space is needed for response, please attach extra sheets to back of survey.)*

**Please return this survey by September 9, 2005 to:**

**Mr. Tom Cleator  
Virginia State Crime Commission  
General Assembly Building  
910 Capitol Street, Suite 915  
Richmond, Virginia 23219**

# **ATTACHMENT K**



## Assistant Commonwealth's Attorneys' Average Salaries by Locality

Locality	# of Attorneys in Office	Average Salaries as of 07/01/05	Average State Salary and/or supplement (Compensation Board)	Average Local Salary and/or salary supplement	Average State Grant funds and/or supplement	Average Federal Grant funds and/or supplement	Separations for 8/1/03-8/1/05
Pr. William	20	\$ 87,291	\$ 39,052	\$ 48,223	\$ -	\$ -	1
Powhatan	1	\$ 85,191	\$ 16,505	\$ 68,686	\$ -	\$ -	0
Frederick	3	\$ 84,612	\$ 36,948	\$ 47,664	\$ -	\$ -	2
Hanover	6	\$ 84,443	\$ 50,948	\$ 33,496	\$ -	\$ -	0
Arlington	18	\$ 83,952	\$ 34,404	\$ 41,689	\$ -	\$ 7,859	2
Mecklenburg	1	\$ 81,432	\$ 74,103	\$ 7,329	\$ -	\$ -	0
Stafford	10	\$ 80,812	\$ 25,828	\$ 33,157	\$ -	\$ -	0
Goochland	1	\$ 80,123	\$ 72,550	\$ 7,573	\$ -	\$ -	0
Suffolk	11	\$ 76,962	\$ 35,686	\$ 32,644	\$ -	\$ 8,631	1
Henrico	23	\$ 75,657	\$ 40,911	\$ 23,782	\$ -	\$ 1,530	7
Spotsylvania	7	\$ 75,560	\$ 32,712	\$ 42,188	\$ -	\$ -	2
Albemarle	4	\$ 74,713	\$ 49,676	\$ 25,037	\$ -	\$ -	0
Alexandria	13	\$ 74,683	\$ 47,132	\$ 27,551	\$ -	\$ -	3
Chesterfield	20	\$ 72,999	\$ 41,924	\$ 27,724	\$ -	\$ -	1
Chesapeake	15	\$ 70,346	\$ 34,406	\$ 35,940	\$ -	\$ -	2
Fredericksburg	4	\$ 69,435	\$ 44,138	\$ 25,297	\$ -	\$ -	4
Norfolk	32	\$ 67,537	\$ 36,208	\$ 30,465	\$ 857	\$ -	17
Va. Beach	34	\$ 66,744	\$ 31,882	\$ 29,969	\$ -	\$ 4,893	15
Fauquier	4	\$ 66,480	\$ 35,063	\$ 31,417	\$ -	\$ -	3
Amherst	2	\$ 66,280	\$ 56,649	\$ 9,632	\$ -	\$ -	1
Fairfax Cnty/Cty	19	\$ 65,680	\$ 45,181	\$ 20,499	\$ -	\$ -	13
RoanokeCty	11	\$ 64,297	\$ 45,293	\$ 13,781	\$ 4,773	\$ -	4
Williamsburg	4	\$ 63,792	\$ 45,632	\$ 18,159	\$ -	\$ -	2
Lynchburg	10	\$ 63,026	\$ 26,948	\$ 9,169	\$ 5,839	\$ 21,070	1
Richmond City	35	\$ 62,857	\$ 39,219	\$ 15,999	\$ -	\$ 9,086	16
King George	2	\$ 61,410	\$ 30,145	\$ 31,266	\$ -	\$ -	0
Salem	3	\$ 61,122	Not Reported	Not Reported	\$ -	\$ -	0
Appomattox	3	\$ 60,915	\$ 48,036	\$ 2,879	\$ 10,000	\$ -	0
Newport News	20	\$ 60,700	\$ 38,630	\$ 21,135	\$ -	\$ 2,500	9
Winchester	4	\$ 59,862	\$ 43,486	\$ 10,202	\$ -	\$ 5,425	0
Orange	1	\$ 58,694	\$ 51,193	\$ 7,501	\$ -	\$ -	0
York	6	\$ 58,588	\$ 34,436	\$ 21,416	\$ -	\$ 2,736	0
Rockbridge	2	\$ 58,431	\$ 58,431	\$ -	\$ -	\$ -	1
Bedford Cnty/Cty	4	\$ 57,545	\$ 32,511	\$ 25,034	\$ -	\$ -	0
Petersburg	6	\$ 57,405	\$ 56,238	\$ 1,167	\$ -	\$ -	0
Isle of Wight	1	\$ 57,401	\$ 57,401	\$ -	\$ -	\$ -	1
Henry	3	\$ 57,261	\$ 52,165	\$ 5,096	\$ -	\$ -	0
Carroll	2	\$ 57,000	\$ 57,000	\$ -	\$ -	\$ -	0
Radford	1	\$ 57,000	Not Reported	Not Reported	\$ -	\$ 10,000	1
Col. Heights	3	\$ 56,643	\$ 48,273	\$ 8,369	\$ -	\$ -	3
Montgomery	4	\$ 56,552	\$ 54,278	\$ 2,274	\$ -	\$ -	0
Fluvanna	1	\$ 56,400	\$ 13,580	\$ 43,000	\$ -	\$ -	0
Southampton	2	\$ 55,428	\$ 42,638	\$ 12,790	\$ -	\$ -	1
Patrick	1	\$ 55,411	\$ 55,411	\$ -	\$ -	\$ -	0
Bristol	2	\$ 54,954	\$ 54,954	\$ -	\$ -	\$ -	2
Hampton	14	\$ 54,849	\$ 48,564	\$ 6,286	\$ 3,489	\$ -	8
Danville	7	\$ 53,544	\$ 35,794	\$ 11,893	\$ 5,857	\$ -	2
Shenandoah	2	\$ 53,500	\$ 46,500	\$ 7,000	\$ -	\$ -	0
Gloucester	3	\$ 53,372	\$ 29,832	\$ 16,874	\$ -	\$ 6,667	0
Pr. Edward	2	\$ 53,260	\$ 32,663	\$ 20,597	\$ -	\$ -	0
Brunswick	1	\$ 52,532	\$ 48,032	\$ 4,500	\$ -	\$ -	1
Botetourt	2	\$ 52,151	\$ 46,637	\$ 5,514	\$ -	\$ -	1
Smyth	3	\$ 50,176	\$ 48,232	\$ 1,944	\$ -	\$ -	0
Louisa	2	\$ 49,653	\$ 35,352	\$ 1,278	\$ -	\$ 13,023	0
Page	2	\$ 48,351	\$ 34,891	\$ 13,540	\$ -	\$ -	0
Martinsville	3	\$ 46,864	\$ 45,530	\$ 1,333	\$ -	\$ -	1
Halifax/S. Boston	2	\$ 46,464	\$ 19,654	\$ 7,498	\$ 19,313	\$ -	1
Pulaski	2	\$ 46,351	\$ 46,351	\$ -	\$ -	\$ -	2
Pittsylvania	4	\$ 46,332	\$ 33,422	\$ 2,332	\$ 12,500	\$ -	2
Franklin Cnty	3	\$ 46,017	\$ 46,017	\$ 10,073	\$ -	\$ -	0
Rockingham	7	\$ 45,675	\$ 32,996	\$ 12,679	\$ 5,714	\$ -	0
Campbell	4	\$ 44,796	\$ 37,941	\$ 6,855	\$ 8,331	\$ -	0

## Assistant Commonwealth's Attorneys' Average Salaries by Locality

Locality	# of Attorneys in Office	Average Salaries as of 07/01/05	Average State Salary and/or supplement (Compensation Board)	Average Local Salary and/or salary supplement	Average State Grant funds and/or supplement	Average Federal Grant funds and/or supplement	Separations for 8/1/03-8/1/05
Prince George	2	\$ 41,379	\$ 36,577	\$ 4,802	\$ -	\$ -	0
Sussex	2	\$ 40,880	\$ 26,140	\$ 14,720	\$ -	\$ -	0
Russell	3	\$ 39,870	\$ 33,799	\$ 6,071	\$ -	\$ -	0
Buchanan	2	\$ 38,975	Not Reported	Not Reported	\$ -	\$ -	3
Washington	3	\$ 37,503	\$ 37,503	\$ 17,952	\$ -	\$ -	0
Staunton	3	\$ 33,907	Not Reported	Not Reported	\$ -	\$ -	0
Nelson	1	\$ 30,964	\$ -	\$ -	\$ 30,964	\$ -	0
Greene	1	\$ 30,930	\$ -	\$ -	\$ 30,930	\$ -	0
Madison	1	\$ 30,783	Not Reported	Not Reported	\$ 33,333	\$ -	0
Dinwiddie	1	\$ 22,964	\$ 22,964	\$ -	\$ -	\$ -	0
Buena Vista	1	Not Reported	Not Reported	Not Reported	Not Reported	Not Reported	0
Clarke	1	Not Reported	\$ 11,968	Not Reported	\$ -	\$ 19,000	0

\* The above information is compiled from local Commonwealth Attorneys submissions

\*\* Lee and Mathews counties did not have attorneys currently on staff at the time of the survey but both had one separation since Aug 03

\*\*\* This includes all 443 staff attorneys submitted (422 full-time and 21 part-time)

# **ATTACHMENT L**





# Commonwealth's Attorneys' Statutory Duties

## **Duties under Title 2.2 (General Provisions)**

### *Required*

§2.2-1107  
§2.2-3116  
§2.2-3126

### *Discretionary<sup>1</sup>*

§2.2-511  
§2.2-3119  
§2.2-3126

## **Duties under Title 3.1 (Agriculture, Horticulture, and Food)**

### *Required*

§3.1-126.12:2  
§3.1-249.72  
§3.1-275.6  
§3.1-295  
§3.1-307  
§3.1-392  
§3.1-415  
§3.1-459  
§3.1-562.9  
§3.1-719  
§3.1-796.27  
§3.1-796.106  
§3.1-796.107  
§3.1-844  
§3.1-884.29  
§3.1-1079  
§3.1-1103

### *Discretionary*

§3.1-249.70

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<sup>1</sup> Under some of the statutes listed in the "Discretionary" categories, Commonwealth's Attorneys are required to prosecute cases upon the recommendation of a Director, Commissioner, or some other state authority.

§3.1-295  
§3.1-359  
§3.1-401  
§3.1-616  
§3.1-690.2  
§3.1-722.11  
§3.1-775  
§3.1-796.106:1  
§3.1-966.1

**Duties under Title 4.1 (Alcoholic Beverage Control Act)**

*Required*

§4.1-340  
§4.1-339  
§4.1-349

*Discretionary*

§4.1-335

**Duties under Title 5.1 (Aviation)**

*Discretionary*

§5.1-157

**Duties under Title 6.1 (Banking and Finance)**

*Required*

§6.1-375

**Duties under Title 7.1 (Boundaries, Emblems, and Jurisdictions of the Commonwealth)**

*Required*

§7.1-25.1

**Duties under Title 8.01 (Civil Remedies and Procedure)**

*Required*

§8.01-448

*Discretionary*

§8.01-407

§8.01-637

**Duties under Title 9.1 (Commonwealth Public Safety)**

*Required*

§9.1-123

§9.1-909

*Discretionary*

§9.1-909

§9.1-121

**Duties under Title 10.1 (Conservation)**

*Required*

§10.1-501

§10.1-569

§10.1-1320.1

**Duties under Title 13.1 (Corporations)**

*Discretionary*

§13.1-569.1

**Duties under Title 15.2 (Counties, Cities, and Towns)**

*Required*

§15.2-512

§15.2-528

§15.2-836

§15.2-1507

§15.2-1626

§15.2-1627  
§15.2-1628  
§15.2-1719  
§15.2-1722  
§15.2-1725  
§15.2-3822

Required (shared)

§15.2-1245  
§15.2-1418  
§15.2-1519  
§15.2-1542  
§15.2-1702  
§15.2-3204  
§15.2-3521  
§15.2-3600  
§15.2-3703  
§15.2-3803  
§15.2-3903  
§15.2-4101  
§15.2-4102

Required (Administrative)

§15.2-1636.7

Discretionary

§15.2-1520  
§15.2-1606  
§15.2-1627

**Duties under Title 16.1 (Courts not of Record)**

Required

§16.1-232  
§16.1-250  
§16.1-250.1  
§16.1-253  
§16.1-302.1  
§16.1-330.1  
§16.1-269.6  
§16.1-356

Discretionary

§16.1-243  
§16.1-260  
§16.1-266.2  
§16.1-269  
§16.1-269.6  
§16.1-356

**Duties under Title 17.1 (Courts of Record)**

Required

§17.1-291

Discretionary

§17.1-913

**Duties under Title 18.2 (Crimes and Offenses Generally)**

Required

§18.2-246.5  
§18.2-254.1

Required (shared)

§18.2-43

Discretionary

§18.2-62  
§18.2-225  
§18.2-240  
§18.2-245  
§18.2-258.01  
§18.2-296  
§18.2-306  
§18.2-308  
§18.2-338  
§18.2-339  
§18.2-340.18  
§18.2-454  
§18.2-498.5

**Duties under Title 19.2 (Criminal Procedure)**

*Required*

§19.2-9  
§19.2-11.01  
§19.2-76.1  
§19.2-109  
§19.2-95  
§19.2-152.1:5  
§19.2-168.1  
§19.2-169.1  
§19.2-159.1  
§19.2-182.2  
§19.2-182.4  
§19.2-182.11  
§19.2-182.8  
§19.2-182.12  
§19.2-187  
§19.2-210  
§19.2-214  
§19.2-218.2  
§19.2-265.01  
§19.2-265.4  
§19.2-266.2  
§19.2-298.01  
§19.2-327.1  
§19.2-327.4  
§19.2-327.12  
§19.2-392.2  
§19.2-352  
§19.2-365  
§19.2-368.5  
§19.2-369  
§19.2-371  
§19.2-375  
§19.2-386.1  
§19.2-386.3  
§19.2-400  
§19.2-402

*Required (shared)*

§19.2-110  
§19.2-169.3  
§19.2-348

Discretionary

§19.2-10.1  
§19.2-11.01  
§19.2-54  
§19.2-71  
§19.2-76.1  
§19.2-123  
§19.2-124  
§19.2-132  
§19.2-155  
§19.2-156  
§19.2-160  
§19.2-165.1  
§19.2-169.1  
§19.2-169.3  
§19.2-182.11  
§19.2-183.1  
§19.2-188.2  
§19.2-191  
§19.2-193  
§19.2-201  
§19.2-206  
§19.2-210  
§19.2-212  
§19.2-215.1  
§19.2-217  
§19.2-218.1  
§19.2-241  
§19.2-264.4  
§19.2-267  
§19.2-269.1  
§19.2-270.2  
§19.2-270.4  
§19.2-270.4:1  
§19.2-278  
§19.2-300  
§19.2-304  
§19.2-316.2  
§19.2-368.3  
§19.2-386.5  
§19.2-386.23  
§19.2-386.29  
§19.2-386.30

§19.2-392.01  
§19.2-392.3  
§18.2-472.1

**Duties under Title 20 (Domestic Relations)**

*Required*

§20-22

*Discretionary*

§20-21

**Duties under Title 21 (Drainage, Soil Conservation, Sanitation and Public Facilities Districts)**

*Required*

§21-137.1

*Discretionary*

§21-220

**Duties under Title 22.1 (Education)**

*Required*

§22.1-268

*Required (shared)*

§22.1-154

*Discretionary*

§22.1-82  
§22.1-155  
§22.1-158  
§22.1-166.1



**Duties under Title 23 (Education Institutions)**

*Required*

§23-234.1

*Discretionary*

§23.1-321.3

**Duties under Title 24.2 (Elections)**

*Required*

§24.2-237

§24.2-422

§24.2-929

§24.2-940

§24.2-1019

*Required (shared)*

§24.2-687

*Discretionary*

§24.2-104

§24.2-121

**Duties under Title 27 (Fire Protection)**

*Required*

§27-48

§27-59

**Duties under Title 29.1 (Game, Inland Fisheries and Boating)**

*Required*

§29.1-553

**Duties under Title 30 (General Assembly)**

*Discretionary*

§30-122

**Duties under Title 32.1 (Health)**

*Required*

§32.1-283

§32.1-48.04

§32-321

*Discretionary*

§32.1-36.1

§32.1-276.9

§32.1-283.2

§32.1-285

§32.1-286

§32.1-321.3

**Duties under Title 33.1 (Highways, Bridges and Ferries)**

*Required*

§33.1-147

*Discretionary*

§33.1-211

**Duties under Title 36 (Housing)**

*Discretionary*

§36-14

**Duties under Title 37.1 (Institutions for the Mentally Ill; Mental Health in General)**

*Required*

§37.1-67.6

§37.1-104.2 (Repealed effective October 1, 2005)

**Duties under Title 40.1 (Labor and Employment)**

*Required*

§40.1-7  
§40.1-49.4  
§40.1-49.6  
§40.1-51.40

*Discretionary*

§40.1-28.4

**Duties under Title 45.1 (Mines and Mining)**

*Required*

§45.1-161.91  
§45.1-161.292:68

**Duties under Title 46.2 (Motor Vehicles)**

*Required*

§46.2-360  
§46.2-361  
§46.2-384  
§46.2-385  
§46.2-387  
§46.2-410.1  
§46.2-1133  
§46.2-1135

*Discretionary*

§46.2-869

**Duties under Title 47.1 (Notaries and Out of State Commissioners)**

*Discretionary*

§47.1-5

**Duties under Title 48 (Nuisances)**

*Discretionary*

§48-8  
§48-9  
§48-17

**Duties under Title 52 (State Police)**

*Discretionary*

§52-11.4

**Duties under Title 53.1 (Prisons and Other Methods of Correction)**

*Required*

§53.1-40.4  
§53.1-59  
§53.1-136  
§53.1-165  
§53.1-232.1

*Discretionary*

§53.1-131.2

**Duties under Title 54.1 (Professions and Occupations)**

*Discretionary*

§54.1-2400.2  
§54.1-2505  
§54.1-2964  
§54.1-3943  
§54.1-4010

**Duties under Title 55 (Property and Conveyances)**

*Required*

§55-172

*Discretionary*

§55-28 (Repealed effective July 1, 2006)

§55-29 (Repealed effective July 1, 2006)

**Duties under Title 56 (Public Service Companies)**

*Required*

§56-526

*Discretionary (shared)*

§56-235.8

§56-593

**Duties under Title 57 (Religious and Charitable Matters; Cemeteries)**

*Discretionary*

§57-23

§57-25

§57-59

**Duties under Title 58.1 (Taxation)**

*Required*

§58.1-3003

§58.1-3127

§58.1-3151

*Required (shared)*

§58.1-3226

§58.1-3981

§58.1-3984

Discretionary

§58.1-3226  
§58.1-3354  
§58.1-3907  
§58.1-3709  
§58.1-3959  
§58.1-3982

**Duties under Title 59.1 (Trade and Commerce)**

Required

§59.1-41.5  
§59.1-68.8  
§59.1-164

Discretionary

§59.1-9.15

Discretionary (shared)

§59.1-68.4  
§59.1-201  
§59.1-202  
§59.1-203  
§59.1-206  
§59.1-517  
§59.1-335.12  
§59.1-528

**Duties under Title 60.2 (Unemployment Compensation)**

Required

§60.2-119

**Duties under Title 62.1 (Waters of the State, Ports and Harbors)**

*Discretionary*

§62.1-194.1

§62.1-194.3

**Duties under Title 63.2 (Welfare; Social Services)**

*Required*

§63.2-1219

§63.2-1714

*Discretionary*

§63.2-522

§63.2-525

§63.2-1217

§63.2-1516.1

§63.2-1949

**Duties under Title 66 (Juvenile Justice)**

*Required*

§66-25.2

