VIRGINIA CIRCUIT COURT SYSTEMS

REPORT ON AUDIT

DATED

SEPTEMBER 27, 2006

Auditor of Public Accounts
COMMONWEALTH OF VIRGINIA

AUDIT SUMMARY

An enterprise approach to the development of Circuit Court administrative systems does not exist. No group or agency has the statutory authority to ensure both enterprise-wide data exchange standards and the collaboration of system development efforts among the individual courts. The need to maximize the use of funds is essential since Circuit Court Clerks have significant resources available to begin implementing systems to manage various administrative functions.

Although the Virginia Constitution makes the Chief Justice of the Supreme Court the administrative head of the judicial system, he does not have the statutory authority to coordinate and oversee the development of administrative systems with the Circuit Courts. Additionally, the current statutes are silent as to whether for administrative purposes the individual circuit courts comprise a Circuit Court system which would then allow for the development of an enterprise system. If the Circuit Courts do represent an enterprise, then there is the opportunity to provide uniform system development and data exchange standards.

To maximize the use of available resources, eliminate potential duplication of efforts and system development and improve the oversight of funding usage, a summary of some of our recommendations is below.

- The General Assembly may wish to develop a strategic direction for the use of Technology Trust Funds for systems other than remote land records so the Commonwealth will receive the maximum benefit from the use of these funds.

- General Assembly may wish to clarify the judicial system as a statewide enterprise to help provide direction to future systems and exchange of information.

- The General Assembly may wish to clarify the role of the Supreme Court in the development and implementation of system development and data exchange standards.

- The General Assembly may wish to give the Supreme Court systems development authority over circuit court systems. This authority could allow the Supreme Court to require circuit courts to receive the Supreme Court's approval throughout predefined phases of the implementation process. We recommend the first approval point come after the circuit court produces documentation showing the need for a new system. The second approval point would come when the circuit court is ready to select a vendor to enter a detailed design phase, which is when they would review the system capabilities, ensure that the court would be able to use the system, and prove that it meets defined data standards. The final approval would come prior to implementing the system, proving the vendor has met requirements set forth in the documentation/contract.

There are other recommendations in our report.

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Virginia Circuit Court Systems

Introduction

During the 1996 session, the General Assembly enacted Section 17.1-279 of the Code of Virginia which established the Technology Trust Fund and authorized circuit courts to collect a fee to offset the cost of setting up remote access to land records. The fee was three dollars from 1996 until July 2003 when the fee went to five dollars. The entire fee, except one dollar, goes directly back to the court originating the fee and the remaining one dollar resides in a pool for allocation to courts not generating sufficient fees to pay for remote access to land records. The Compensation Board has responsibility for monitoring the collection and subsequent remittance of the Technology Trust Fund and for allocating the remaining one dollar amount to smaller courts.

To date, the Technology Trust Fund has received over $75 million, of which the Compensation Board has distributed about $38 million back to the courts. In addition, through the years the Technology Trust Fund has been reduced by about $18 million as a result of transfers to the General Fund and other budget reductions, leaving a cash balance in the Technology Trust Fund of $19 million. The $38 million returned to the courts includes both courts originating the fee and those allocated money from the one dollar pool.

In addition to the Technology Trust Fund fee, the clerk of the circuit court may also charge a user fee for accessing land records once they are available on-line. Due to technical and legal reasons many clerks still do not provide remote access to land records. However, all clerks are required to have their records on-line by July 2007.

Concerns About System Development Efforts

Amendments to Section 17.1-279 of the Code of Virginia expanded the use of Technology Trust Funds by permitting circuit courts to use the fees they generate to automate other functions in addition to remote land records. Several clerks have used or are considering this option and we are concerned that without proper oversight and a coordinated effort, it could result in uncontrolled, duplicative spending to develop systems to meet similar needs.

With the creation of the Virginia Information Technologies Agency and the related Information Technology Investment Board, the Commonwealth has placed an increased emphasis on developing enterprise solutions rather than entity by entity systems development. Considering this enterprise philosophy, we have undertaken this review of the development of court systems.

Since 1986, the Supreme Court of Virginia has operated in an enterprise fashion by providing all courts the opportunity to use two systems that they have developed. Although the Supreme Court cannot mandate that the circuit courts use these systems, the General Assembly took actions to initially have the circuit courts use the system. However, we are concerned that the Technology Trust Fund amendments may provide a funding source that will allow courts to independently develop their own systems without any oversight or control to focus on the enterprise needs of the Commonwealth. We believe this independent development will disrupt the Supreme Court's current enterprise philosophy and may result in individual courts developing systems that cannot exchange information between courts and other entities, such as the Supreme Court.

While our review includes land records system, we limited our review to only the use and application of Technology Trust Funds and user access fees for providing this on-line service. We did not include remote land records within the enterprise philosophy discussed above because land records have historically been a

local function within the circuit court clerk's office for purpose of establishing ownership, boundaries and taxation. Automating these records should occur as part of the local government's assessment and land record systems and subject to control and appropriation by the local governing body. However, we believe an enterprise approach that includes at least setting minimum data exchange standards might reduce systems cost and enhance the ability of clerks to provide remote access.

Strategic Direction for Technology Trust Funds

The original purpose of the Technology Trust Fund was to collect a fee to enable courts to implement remote access to land records. How the courts would achieve this goal was the responsibility of the individual clerks, and not the responsibility of the Supreme Court. The statute's only strategic direction was to establish statewide access to and modernization of land records.

The original deadline for meeting this strategic direction has shifted over time, with the current deadline set at July 2007. Currently, all courts have certified that they will have remote access to land records available by that deadline and our review indicates that all clerks' offices have developed electronic records, although for legal or technical reasons they have not yet made them available on-line. While this strategic direction is almost accomplished, we believe it could have been achieved faster and cheaper had there been an universal agreement between all courts on the structure and form of land record information and if that record was then interfaced to a central repository to permit statewide access to all land records.

We are concerned with Code of Virginia amendments expanding the use of Technology Trust Funds to pay for court systems other than remote land records. If courts are allowed to continue their independent systems development approach, as they did with land records, the Commonwealth could again spend years and millions of dollars developing multiple systems to deal with processes and issues that are common to all courts.

We believe that expanding the use of the Technology Trust Fund revenues within a strategic direction that allows for individual court development will result in fragmented systems that will only serve the needs of an individual clerk or circuit court. We believe developing a strategic direction that encourages collaboration and supports an enterprise philosophy will result in less costly and more efficient systems.

Recommendation 1

The General Assembly may wish to develop a strategic direction for the use of Technology Trust Funds for systems other than remote land records so the Commonwealth will receive the maximum benefit from the use of these funds.

Definition of the Court Enterprise

Virginia's circuit courts are the trial courts of general jurisdiction and have the authority to try a full range of civil and criminal cases. The circuit court system consists of 120 circuit courts within 31 judicial circuits in the Commonwealth's various counties and cities.

The clerk of each circuit court is a constitutional officer elected to an eight-year term. The clerk handles the court's administrative functions and also has authority to probate wills, grant administration of estates and appoint guardians. The clerk is the custodian of the court records and the clerk's office also records deeds and issues marriage licenses.

Historically, the clerk has had responsibility over his circuit courts' information technology systems. Neither the Virginia Supreme Court nor any other agency provides oversight to the circuit courts use or development of information technology, although most circuit courts have elected to use systems that Supreme Court currently provides. The only oversight offered in the Code of Virginia, Section 58.1-3173, is that the Comptroller of the Commonwealth will approve the system of accounting for each court of record in the Commonwealth. There are no other boards or agencies that oversee the information technology resources purchased or built in terms of court computer systems.

The Virginia Constitution Article 6 Section 1 states, "The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish." The Virginia Constitution continues in Article 6 Section 4 to state, "The Chief Justice of the Supreme Court shall be the administrative head of the judicial system."

Although the Virginia Constitution deals with a judicial system that encompasses the circuit courts and the clerks, the General Assembly has neither established nor defined the relationship of the Supreme Court to the operations of the circuit court clerks. However, the Constitution does appear to make it clear that case management, financial administration related to cases, and system development to support this function are part of the judicial system and therefore the responsibility of the Supreme Court.

Recommendation 2

The General Assembly may wish to clarify the judicial system as a statewide enterprise to help provide direction to future systems and exchange of information.

Data Standards and Consistency

Circuit courts that use the Supreme Court's systems can send detailed financial, case, and records information to the Supreme Court. However, those circuit courts with their own built or purchased systems, can only send summary data at best. This problem exists because neither the Supreme Court nor any other group has set common data standards and none have authority to mandate that circuit courts using non-Supreme Court systems provide data, even if standards did exist.

While historically courts may have voluntarily chosen to use the Supreme Court's system, we are concerned that this may change with the availability of Technology Trust Funds to pay for courts to develop their own systems. There is a greater need now for the exchange of information between entities, the application of consistent systems development methodologies, the collaboration of efforts, and the economies of scale. Generally, circuit courts have similar processes, similar rules and standards, similar data needs, and the requirement to share information to other entities. These similar processes and needs should become the primary consideration of future systems development efforts.

Effective enterprise system development requires a body, such as the Supreme Court, to define what data the enterprise needs and in what form. Having these standards would ensure that courts developing their own systems understand what data they must provide and in what form so that the system can exchange data across the enterprise. Complying with the data standard does not always require the development of only one system for all courts or set a single method for acquiring the data; however, it does define the data needs that a developed system must meet.

Recommendation 3

The General Assembly may wish to clarify the role of the Supreme Court in the development and implementation of system development and data exchange standards. With this authority the Supreme Court could establish common data exchange standards between circuit courts and the Supreme Court. Without these data exchange standards, circuit courts that implement systems other than those provided by the Supreme Court may not be able to provide the Supreme Court with detailed financial and case information.

We also recommend the General Assembly consider amending the Code of Virginia to allow the Supreme Court to mandate that circuit courts must implement systems that meet the data exchange standards required by the Supreme Court.

Role of the Compensation Board

The Compensation Board approves the Commonwealth's share of the Constitutional Officer's budgets for office operations. As part of this responsibility, the Compensation Board also allocates Technology Trust Fund monies in accordance with the statute. Since it inception, the Technology Trust Fund has received over $75 million and the Compensation Board has returned about $38 million back to the courts.

Additionally, the Compensation Board had approval to use $18 million to offset operating budget reductions in the Clerks' offices. As of June 30, 2006, the Compensation Board has a cash balance of available fund of $ 19 million.

Although the Code of Virginia does not specify the support that courts must provide to the Compensation Board before receiving these monies, the Compensation Board has developed policies and procedures defining their distribution process. For example, courts requesting to receive Technology Trust Fund money must provide the Compensation Board with the statutory reason for requesting this money. Courts requesting Technology Trust Fund money from the allocation pool must certify to the Compensation Board that the technology improvements will accommodate secure remote access to land records on a statewide basis.

The Compensation Board's only role relative to the management and oversight of the Technology Trust Fund is to distribute these funds back to the courts as they request it in their budgets. The Compensation Board does not provide nor does it have the authority to exercise any oversight regarding how the courts use the funds once received, recommend or require specific systems or technologies, provide systems development oversight set data standards, or ensure that individual court systems can exchange information with the Supreme Court or others.

Recommendation 4

The General Assembly may wish to continue to allow the Compensation Board to distribute Technology Trust Funds within the uses defined by the Code of Virginia; however, require that the Supreme Court or some other entity authorize the use of the funds before releasing them to the courts. The Supreme Court or other entity's authorization would ensure that the court is following a defined systems development methodology and data exchange standards. In addition, if the General Assembly clarifies the judicial system as the court enterprise, they may wish to authorize the Compensation Board to distribute Technology Trust Funds to pay for an enterprise court solution rather than distributing the monies court by court.

Information Technology Project Oversight and Standards

Although many courts have voluntarily chosen to use Supreme Court provided systems, many have chosen to only implement some, but not all of the available systems. Based on data gathered in our surveys, we anticipate circuit courts buying or building new systems in the upcoming years, especially due to the availability of Technology Trust Funds to pay for them. Out of the 120 circuit courts in the Commonwealth, Fairfax is the only one that has completely separated itself from the Supreme Court's provided systems. In addition, 49 circuit courts have separated from the Supreme Court for at least one system.

Since no group or agency has authority to oversee circuit courts systems development, potentially all 120 circuit courts could individually implement different systems for financial, case, and records management. However, if an agency had systems development oversight responsibility, they could require the circuit courts to collaborate and implement new systems for a fraction of the price. Collaboration could also benefit smaller circuit courts that do not have enough resources to purchase or develop systems other than those provided by the Supreme Court. In addition, an oversight agency, such as the Supreme Court, could select some courts to build new systems that they could then require other courts to use, ultimately leading to all circuit courts using one centrally maintained and supported system.

Recommendation 5

The General Assembly may wish to give the Supreme Court systems development authority over circuit court systems. This authority could allow the Supreme Court to require circuit courts to receive the Supreme Court's approval throughout predefined phases of the implementation process. We recommend the first approval point come after the circuit court produces documentation showing the need for a new system. The second approval point would come when the circuit court is ready to select a vendor to enter a detailed design phase, which is when they would review the system capabilities, ensure that the court would be able to use the system, and prove that it meets defined data standards. The final approval would come prior to implementing the system, proving the vendor has met requirements set forth in the contract.

After speaking with clerks from seven circuit courts that have spent at least $300,000 on implementing systems, we conclude that few have or follow formal, documented systems development policies and procedures. The clerks explained that they follow their local procurement procedures and their respective procurement offices played a big role in the entire procurement process. However, procurement is only one aspect of the systems development process.

When we asked who from the clerk's staff had responsibility for overseeing the system implementation, or acting as the project manager, they all said they were very involved in the implementation and several also appointed a staff member to serve as the liaison between the vendor, procurement department and the clerk's office. Additionally, most individuals had little or no formal training in systems development project management. The lack of formal, documented systems development policies and procedures as well as inexperienced staff could lead to mismanaged projects.

As a result of the current system not meeting their needs Fairfax is seeking to replace their system, although the court implemented the current system less than three years ago. Fairfax implemented a court system in 2004 and since then has determined that the vendor cannot meet their needs in terms of the criminal component of case management. The Fairfax Circuit Court Clerk explained that Virginia is a very unique and complex state when it comes to recording cases and related financial activity in the criminal portion of the court system. This problem has caused Fairfax to begin to accept vendor demo presentations and the court plans to officially post a Request for Proposal in October of 2006 to find a replacement system. Rough costs estimates are $3 to $5 million dollars to implement as well as hundreds of thousands of dollars for annual maintenance/support.

Recommendation 6

If the General Assembly should designate an agency, such as Supreme Court, with authority to approve and oversee circuit court systems development efforts, we recommend that this agency adopt formal systems development policies and procedures that all circuit courts must follow. We recommend that the Supreme Court adopt the Virginia Information Technologies Agency Project Management Standard, which follows project management best practices.

Fully Cost Technology Trust Fund and Remote Access Fees

As noted earlier, the origin for the Technology Trust Fund fee was to provide statewide remote access to land records. Subsequent statutory changes have altered this objective, but not the fundamental purpose of providing remote access to land records. A number of courts have achieved this objective and continue to collect the fee.

In addition to the fee, all of the courts charge a remote access fee, which may include both a sign up fees and monthly charge. These fees in theory pay for the cost of maintaining the remote access and its software support.

None of the courts have performed an analysis of the on-going administrative and maintenance cost of remote access and compared that amount to the collected access fees and related Technology Trust Fund fees. Additionally, no guidance exists on what operating and other costs the Technology Trust Fund fee should support versus what costs the remote access fee should support. Since full costing of the program does not exist, the General Assembly does not have information to consider if either fee amount is appropriate, excessive or should be eliminated.

Recommendation 7

The General Assembly may wish to study the Technology Trust Fund and remote access user fees to determine if either fee is appropriate, excessive or should be eliminated. Further, if the General Assembly decides to retain the fees, it may be possible to establish a single fee by user versus a fee for each land record recordation.

Background on Circuit Court Systems and Funding

The following background sections provide an in-depth explanation of the court system and technology funding sources. While some of this background may duplicate information contained in earlier sections of this report, it may provide the reader with a more comprehensive understanding of topics discussed earlier in the report.

Background on Virginia Court Systems

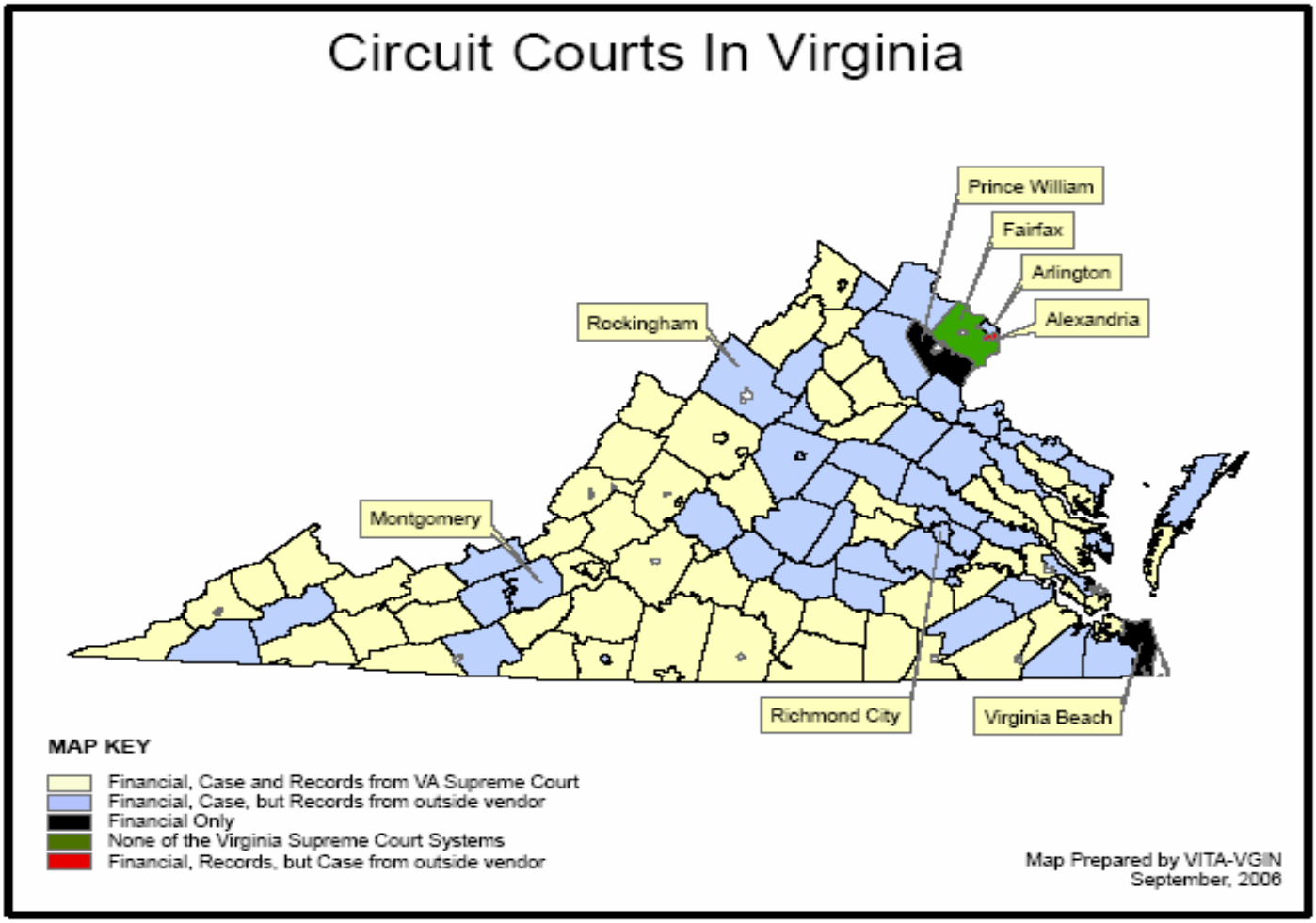
The Virginia Supreme Court has two primary computer systems used throughout the Commonwealth, the Financial Management System (FMS) and the Case Management System (CMS). Supreme Court staff created both systems in 1986 using mainframe technology and subsequently implemented the systems in a majority of circuit courts beginning that same year. Circuit courts can elect to use these Supreme Court systems, purchase one from another vendor, or develop them in-house.

The Supreme Court is currently working on a multi-phased upgrade of both of these systems by adding a JAVA front end and converting the data to DB2 as part of the first phase. Subsequent phases will include design changes and added functionality. These changes will allow the court to propel their systems to a more modern and easier to use platform. They are currently gathering requirements for the JAVA and DB2 upgrade and are anticipating a statewide implementation of phase one FMS upgrade in the third quarter of 2007, followed by phase one CMS upgrade in the first quarter of 2008.

The Supreme Court created a Records Management System (RMS) in 1991. Prior to 1991 several circuit courts tried to purchase a RMS system for their court but found it very costly and with their limited budget not feasible. The courts requested the Supreme Court assist them by building a system that the courts could use and pay for through a service fee. The Supreme Court agreed, and created RMS. As of the survey result date of August 31, 2006, out of the 120 circuit courts, 69 use the Supreme Court's RMS system, 49 have purchased their own system, and two have built their own version of RMS internally.

The map on the page 8 displays the 120 circuit courts in the Commonwealth and what systems they are using at their circuit courts based on our survey data.

The map below displays the 120 circuit courts in the Commonwealth and what systems they are using at their circuit courts based on our survey data.



Background on Court Systems Funding Sources

Circuit courts have two main funding sources they use to pay for new systems and their maintenance; the Technology Trust Fund and the Remote Access Subscriber Fee. Since its inception in 1996, circuit courts have collected about $75 million in Technology Trust Fund revenue that they have remitted to the Commonwealth. The Compensation Board has then re-distributed about $38 million in Technology Trust Funds back to circuit courts to pay for technology-related costs.

The Remote Access Subscriber Fee is a relatively new fee that circuit courts charge monthly to users that access court land records over the Internet. The circuit courts can keep these fees to offset the costs of providing this service.

Technology Trust Fund

Based on the survey that our staff completed of all 120 circuit court clerks offices, about 40 percent of them created or purchased their own land record systems using primarily Technology Trust Funds (TTF), at a cost of about $36 million. The remaining circuit courts used systems supplied by the Supreme Court and therefore did not spend TTF funds on new systems implementations, but may have spend TTF funds towards on-going maintenance or new equipment.

The General Assembly created the Technology Trust Fund in 1996, and the statute has undergone several amendments, most recently in 2006. The Fund allows each circuit court to collect five dollars fee from each civil action they record and deposit the fee into the TTF. The Compensation Board then distributes four of every five dollars collected back to the circuit courts to pay for technology related projects. The following is a partial list of some technology uses.

- Develop and update individual land records automation plans
- Implement automation plans to modernize land records and to provide secure remote access
- Obtain and update office automation and IT equipment
- Preserve, maintain, or enhance systems
- Improve public access to court records

Circuit courts must offer Internet access to their land records by July 1, 2007 and courts can use TTF monies to create this online access. In order to receive these funds, the circuit court clerks must certify to the Compensation Board that their court will allow Internet access to land records on or before July 1, 2007. Once the circuit court clerk provides secure Internet access, they can apply to the Compensation Board for more funds from the TTF to improve the civil and criminal divisions of their office, but again, only up to the amount of revenue their court generates.

The Compensation Board can allocate the remaining dollar out of every five dollars to fund studies to develop land record automation plans or to help circuit courts that do not generate enough revenue, based on five dollars per civil action, to pay for public Internet access to their land records.

The Compensation Board and staff do not possess either the staff or the expertise to oversee the implementation of the projects. Additionally, the Compensation Board does not have the authority to evaluate either the merit or cost effectiveness of proposed projects. Finally, the Compensation Board has no ability to encourage or fund collaborative efforts which would benefit more than one court.

Remote Access Subscriber Fee

The Code of Virginia allows circuit courts to charge users a fee for Internet access to their land records. The Code does not specify a maximum fee for this service, but we found it averages $59 per user, per month. The money that the circuit courts collect from users remains in a non-reverting local fund to cover the costs of granting access to the various records. These funds are then available for circuit courts to use to build or purchase systems that they feel are necessary; however, there is no oversight to prevent circuit courts from implementing individual and disparate systems at every circuit court.

Our review found that all circuit court clerks have certified to the Compensation Board that they will have Internet access to land records by the July 1, 2007 deadline. Therefore, all are eligible to apply for and have received funds from the TTF to create these online access systems. We estimate about 80 percent of the circuit courts have their Internet accessible land records up and running, but we do not know how many individuals use these systems. For one larger circuit court, they stated they have about 2000 users and therefore we estimate they will generate approximately $600,000 a year in revenue from the remote access subscriber fee.

Court Technology Fund

In 2006, legislation passed establishing the Court Technology Fund as a special non-reverting fund administered by the Supreme Court. The Supreme Court allocates money in the Fund to projects for the purpose of staffing, advancing, updating, maintaining, replacing, repairing and supporting the telecommunications and technology systems of the judicial system.

The Supreme Court has already begun planning their use of the Court Technology Fund to the following areas:

- Increased data storage
- Replace/upgrade current backup systems
- Cycle outdated personal computers and printers at the courts in the Commonwealth
- Upgrade/replace their inventory management system
- Upgrade/replace the 250 videoconferencing units
- Upgrade/replace CMS and FMS
- Upgrade mainframe processor
- Network Redundancy

Commonwealth of Virginia

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Walter J. Kucharski, Auditor

September 27, 2006

The Honorable Timothy M. Kaine
Governor of Virginia
State Capital
Richmond, Virginia

The Honorable Thomas K. Norment, Jr.
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have completed a review of the use of Technology Trust Funds to support circuit courts systems development and are pleased to submit our report entitled "**Virginia Circuit Court Systems.**" We conducted our review in accordance with the standards for performance audits set forth in Government Auditing Standards, issued by the Comptroller General of the United States.

Objectives

We had five objectives for our review of Virginia Circuit Court Systems. These objectives sought to determine:

1. That proper oversight exist for systems at the 120 circuit court clerks offices.

2. That proper oversight exists to ensure new systems interface with other State agencies such as the Departments of Motor Vehicles, Taxation and State Police.

3. That proper management exists of remote access subscriber fee collected by circuit court clerks.

4. How the courts spend the Technology Trust Fund and who monitors these costs.

5. The amount of money spent on circuit court systems.

Scope and Methodology

In performing our review, we conducted a survey at all 120 Commonwealth circuit courts. Our survey covered the circuit courts main information technology systems, consisting of financial, case and records management. We determined whether the circuit courts used systems provided by the Supreme Court, other vendors, or developed the systems in-house. We gathered data on their implementation costs for their main information technology functions such as software and hardware. We also contacted circuit court clerks to discuss how they implemented their various systems. In addition, we met with the Supreme Court's information technology staff to understand their technology strategic plan as well as their role in approving, monitoring development of, and supporting the circuit courts information systems.

Conclusion

Generally we found that no oversight exists for circuit court clerks and that while most are currently using the Supreme Court of Virginia systems, this is strictly voluntary. While the Compensation Board tracks the receipt and subsequent allocation of Technology Trust Fund revenue, they do not monitor courts' spending or dictate a development approach that the courts must use. With amendments to Technology Trust Fund statutes allowing courts to use these funds for developing systems in addition to remote land records, we are concerned that lack of oversight and managed development may result in disparate systems that cannot exchange information. We believe that collaboration, central oversight, sound project management techniques, and data standards could result in more efficient and effective systems.

The General Assembly may wish to develop a strategic direction for the use of Technology Trust Funds and clarify the judicial system as a statewide enterprise to help provide direction to future systems and the exchange of information. Further, the General Assembly may wish to clarify the role of the Supreme Court in the development and implementation of system development and data exchange standards and amend the Code of Virginia to give the Supreme Court systems development authority over circuit courts and allow the Supreme Court to mandate that circuit courts must implement systems that meet the data exchange standards required by them.

AUDITOR OF PUBLIC ACCOUNTS

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Responses to the Report

Official Response of the Virginia Circuit Court Clerks' Association

Included is a response from FutureLaw, L.L.C., which represents the official response of the Virginia Circuit Court Clerks' Association (Association).

The response indicates that the Association only had 3 business days to respond to the report. We provided the members of the Association Executive Committee with drafts on the afternoon of September 27, 2006 and agreed to have them respond on the morning of October 5, 2006.

Their response includes a number of comments about recommendations and other materials in the report which we do not understand. Therefore, we offer no further comment on their response.

Note: Any agency or locality mentioned in this report was offered the opportunity to respond.

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Compensation Board
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October 4, 2006

Mr. Walter J. Kucharski
Auditor of Public Accounts
James Monroe Building
101 North 14th Street, 8th Floor
Richmond, VA 23219

Dear Walt:

Thank you for the opportunity to comment on your recent report "Virginia Court Systems" dated September 27, 2006. The Compensation Board has asked that I respond on their behalf.

Recommendation 1: The General Assembly may wish to develop a strategic direction for the use of Technology Trust Funds for systems other than remote land records so the Commonwealth will receive the maximum benefit from the use of these funds.

We concur with this recommendation and suggest that until such time as a strategic direction is determined that budget language should restrict the use of Technology Trust Fund (TTF) money to improvements to land records technology only.

Recommendation 2: The General Assembly may wish to clarify the judicial system as a statewide enterprise to help provide direction to future systems and exchange of information.

We concur with this recommendation.

Recommendation 3: The General Assembly may wish to clarify the role of the Supreme Court in the development and implementation of system development and data exchange standards. With this authority the Supreme Court could establish common data exchange standards between circuit courts and the Supreme Court. Without these data exchange standards, circuit courts that implement systems other than those provided by the Supreme Court may not be able to provide the Supreme Court with detailed financial and case information.

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We also recommend the General Assembly consider amending the Code of Virginia to allow the Supreme Court to mandate that circuit courts must implement systems that meet the data exchange standards required by the Supreme Court.

We concur with this recommendation.

Recommendation 4: The General Assembly may wish to continue to allow the Compensation Board to distribute Technology Trust Funds within the uses defined by the Code of Virginia; however, require that the Supreme Court or some other entity authorize the use of the funds before releasing them to the courts. The Supreme Court or other entity's authorization would ensure that the court is following a defined systems development methodology and data exchange standards. In addition, if the General Assembly clarifies the judicial system as the court enterprise, they may wish to authorize the Compensation Board to distribute Technology Trust Funds to pay for an enterprise court solution rather than distributing the monies court by court.

We concur with this recommendation. The General Assembly may also wish to require all Circuit Court Clerks to update their individual Land Records Automation Plans and submit them to the Virginia Information Technologies Agency (VITA) for approval by July 1, 2008 in order to receive TTF funding after that date. VITA costs for this review would be provided by the Compensation Board from $1 TTF proceeds.

Recommendation 5: The General Assembly may wish to give the Supreme Court systems development authority over circuit court systems. This authority could allow the Supreme Court to require circuit courts to receive the Supreme Court's approval throughout predefined phases of the implementation process. We recommend the first approval point come after the circuit court produces documentation showing the need for a new system. The second approval point would come when the circuit court is ready to select a vendor to enter a detailed design phase, which is when they would review the system capabilities, ensure that the court would be able to use the system, and prove that it meets defined data standards. The final approval would come prior to implementing the system, proving the vendor has met requirements set forth in the contract.

We concur with this recommendation.

Recommendation 6: If the General Assembly should designate an agency, such as Supreme Court, with authority to approve and oversee circuit court systems development efforts, we recommend that this agency adopt formal systems development policies and procedures that all circuit courts must follow. We recommend that the Supreme Court adopt the Virginia

Information Technologies Agency Project Management Standard, which follows project management best practices.

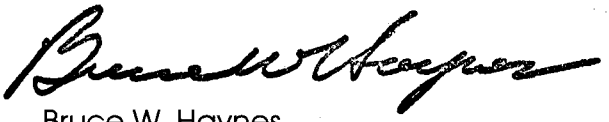
We concur with this recommendation.

Recommendation 7: The General Assembly may wish to study the Technology Trust Fund and remote access user fees to determine if either fee is appropriate, excessive or should be eliminated. Further, if the General Assembly decides to retain the fees, it may be possible to establish a single fee by user versus a fee for each land record recordation.

We concur with this recommendation. We also suggest that the study be completed by VITA, assisted by the Compensation Board, and completed by January 1, 2008. VITA costs for this study would be provided by the Compensation Board from $1 TTF proceeds.

We look forward to assisting you with the implementation of these recommendations.

Sincerely,



Bruce W. Haynes
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C: Frank Drew, Compensation Board Chairman
Janie E. Bowen, Compensation Board Member
Robyn M. de Socio, Assistant Executive Secretary
Wade A. Jewell, Budget and Finance Manager

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SENIOR JUSTICES
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October 5, 2006

Mr. Walter J. Kucharski
Auditor of Public Accounts
James Monroe Building
101 North 14th Street, 8th Floor
Richmond, VA 23219

Dear Mr. Kucharski:

The Office of the Executive Secretary of the Supreme Court of Virginia appreciates the opportunity to comment on your "Virginia Circuit Court Systems Report on Audit" dated September 27, 2006. The Chief Justice of the Supreme Court of Virginia and I have reviewed the report and we endorse and concur, rather strongly, with your recommendations. Rather than comment on each individual recommendation, we will respond generally. Also, we believe that the establishment of a uniform statewide automated judicial information technology is an indispensable component of an efficient judicial system.

During the past 20 years, the Supreme Court of Virginia has worked very hard to implement such a system. Every general district and juvenile and domestic relations district court in Virginia utilizes automated financial management and case management systems that have been developed, installed, and maintained by the Supreme Court of Virginia. Additionally, every magistrate office in Virginia uses information technology systems established, installed, and maintained by the Supreme Court of Virginia. The Supreme Court of Virginia also maintains the State judicial website and intranet.

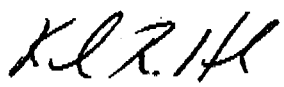
Every circuit court in Virginia, except one, uses the financial management system developed, installed, and maintained by the Supreme Court of Virginia. The circuit case management system, also developed, installed, and maintained by the Supreme Court of Virginia, is used by 117 of the 120 circuit courts. The Chief Justice has directed that all circuit court judges use information technology systems approved by the Supreme Court of Virginia because only those systems can provide the Supreme Court of Virginia with the data it needs for research, planning, and projections of the judicial system's needs. I note that currently every district court judge uses information technology systems that are maintained by the Supreme Court of Virginia.

The Supreme Court of Virginia has installed information technology systems for land records in 75 circuit courts. The Supreme Court of Virginia provides enhancements, support, and maintenance to all of the 75 circuit courts that use our land records system for approximately $1.2 million a year, resulting in a savings of literally millions of dollars for these circuit courts. Additionally, this system will ultimately allow a citizen or title examiner, located in his or her home or office, to search land records in numerous jurisdictions.

The Chief Justice and I are strongly committed to the concept of one information technology system that services all courts in Virginia and that system must be maintained by the Supreme Court of Virginia. For example, only information technology systems installed by the Supreme Court of Virginia are permitted to interface with the Department of Taxation, the State Police, Child Support Enforcement Services, the Department of Juvenile Justice, the Auditor of Public Accounts, and the Department of Motor Vehicles. The Supreme Court of Virginia is currently working with the Department of Criminal Justice to develop an integrated criminal justice database that will be used by courts, magistrates, commonwealth's attorneys, State Police, local police, and sheriffs throughout the Commonwealth. The Supreme Court of Virginia simply cannot permit private vendors to have access to the extremely sensitive data and personal information on Virginia's citizens that can be accessed in our information technology system. It is important that we always remember that our fellow Virginians are required to divulge their most sensitive personal information to judicial officers, and the judicial system has a responsibility to safeguard this information.

As you are aware, Article VI, § 4 of the Supreme Court of Virginia provides that "the Chief Justice of the Supreme Court shall be the administrative head of the judicial system." Certainly, the provision of information technology systems that are necessary to promote the efficient resolution of over five million judicial proceedings in this Commonwealth is within the Chief Justice's constitutionally prescribed responsibilities.

Sincerely,



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Executive Secretary

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October 4, 2006

Walter J. Kucharski
Auditor of Public Accounts
Commonwealth of Virginia
101 N. 14th Street, 8th Floor
P. O. Box 1295
Richmond, Virginia 23218

Re: Report on Audit of Virginia Circuit Court Systems (the "Report")
Dated September 27, 2006

Dear Walt:

We represent the Circuit Court Clerks who are elected constitutional officers in the Commonwealth and have served the Commonwealth with distinction, currently performing more than 800 statutory duties set out in the Code of Virginia. The Circuit Court Clerks will submit its detailed responses to the Governor and the Joint Legislative Audit and Review Committee in due course, as we are unable to provide a detailed and thoughtful response within 3 business days of the date of receipt of the Report, as you have requested.

As we evaluate the Report in more detail, I will have a number of questions that rise from the assumptions and recommendations you outline in the Report. For example, it would be helpful to understand who the "we" are, that you reference throughout the Report, since as legislative counsel to the Circuit Court Clerks, neither you or anyone else has ever expressed "concerns" to me about any of the issues raised in the Report. In fact, at the last "Clerks Commission" meeting on August 30th, I asked if anything was going on with Circuit Court Clerks and you indicated something like, "just the usual" when this Report was well in progress at that point. I would also appreciate you disclosing who requested that you conduct this "audit" and in particular, if the Supreme Court requested this "audit".

I would also observe that the Report recommends that the Virginia Supreme Court be given authority to "mandate" that Circuit Court Clerks use the Supreme Court systems, without any "audit" or "evaluation" of the Supreme Court's technologies. I

share your view that an "enterprise approach" would be constructive and to that end, I think it would be appropriate for VITA to be directed to "audit" and "evaluate" the Supreme Court's technology systems and make a recommendation to the Governor and the Joint Legislative Audit and Review Commission as to whether the Supreme Court should outsource its technologies to the private sector. It seems to me that the Commonwealth would benefit from having the private sector marketplace competing for the technology business of the judicial system and have the judicial system focus on its core functions. VITA could fairly easily establish data exchange, security and other standards to implement an "enterprise approach" throughout the court systems in the Commonwealth. If the "goal" as you outline in the Report is to save money and provide consistency, this would clearly do it, but for some reason, the Report did not even consider this "enterprise approach".

In the legislation dealing with redaction of social security numbers from land records documents in the 2006 General Assembly, the Supreme Court stated during the legislative process that it did not want to conduct the study being requested to determine what software solutions for redaction might exist in the marketplace. VITA is conducting that study and has private sector vendors at the table who have the software capacity today to redact social security numbers. I mention this for two reasons:

First. The Supreme Court properly recognizes VITA as the agency with the technology expertise to handle the study of innovative approaches to solve a difficult technology problem, and

Second. In order to pay for redaction of social security number, it will be necessary to increase the technology trust fund fee, since general fund revenues will not be available to pay for the redaction of social security numbers.

Thus, your recommendation to eliminate the technology trust fund fee for the purpose of allowing the Supreme Court to take control of technology systems in the offices of Circuit Court Clerks is not appropriate. Further, technology is not static and the technology systems will require regular upgrades and expansions.

These issues are complex, require technical review by VITA and deserve considerable study before any action is taken. We look forward to discussing the assumptions and recommendations with you in detail and to working with you and your office to reach the correct conclusions.

This letter will serve as the official public comment on behalf of all of the Circuit Court Clerks in the Commonwealth. Thank you.

Very truly yours,

John G. "Chip" Dicks