

Lawyers Have Key Role in Reorganized Magistrate System

Virginia's magisterial system — the first contact many people have with the state justice system — has been reorganized in the past year, in an effort by the Supreme Court of Virginia and the General Assembly to improve the qualifications, training, and consistency of service provided by magistrates statewide.

"Our goal is to make the magistrate system the best that it can be," said Paul F. DeLosh, director of the department of judicial services for the Office of the Executive Secretary (OES) of the Supreme Court of Virginia.

Variations in procedures and application of law by magistrates were documented in a 2007 report to the General Assembly by a Court study group chaired by Thomas S. Shadrack when he was a circuit judge in Virginia Beach.

The General Assembly accepted many of the Court's recommendations for change and proposed legislation that went into effect July 1, 2008.

Now, all chief magistrates hired after that date must be members of the Virginia State Bar, and the newly hired magistrates they supervise must have bachelor's degrees.

Eventually, all magistrates will work full-time — not the combination of part-time and full-time that existed under the previous system. Magistrates serve all cities and counties twenty-four hours a day, seven days a week. They conduct hearings in person or through a video-conferencing system.

The chain of command has been realigned. Instead of reporting to the chief circuit judge of a jurisdiction, magistrates and chief magistrates now are under the supervision of the OES. The

executive secretary hires magistrates in consultation with the chief circuit judges in each region.

The state's thirty-two judicial districts have been grouped into eight magisterial regions, each of which has a supervisor who manages and assists the chief magistrates in the region. Approximately 440 persons work as magistrates in Virginia, either full-time or part-time.

Certification requirements have been expanded to include a four-week training session in Richmond for new hires and thirty days of on-the-job training, with additional requirements for the chief magistrate. Training includes topics to prepare them for decisions they will have to make: bail procedures, establishing probable cause, and issuing summonses and arrest, search, and civil warrants.

Magistrates also must obtain twenty mandatory continuing legal education credits annually.

A manual has been developed to set out the requirements for magistrates: limitations on other employment (they can't be law-enforcement officers or work for the federal government, for example); policies to prevent nepotism; and conflict-of-interest rules.

The manual also includes the Canons of Conduct for Virginia Magistrates. Magistrates are required to:

- Avoid impropriety and the appearance of impropriety in all activities.
- Perform the duties of the office impartially and diligently. A magistrate's duties take precedence over all the

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magistrate's other activities. A magistrate should do his or her work promptly, disqualify himself from matters in which his impartiality may be questioned, and abstain from public comment about pending court proceedings.

- Refrain from political activity inappropriate to the office, including leading a political organization, holding a political office, or soliciting funds for political purposes.

Failure to comply with those canons can result in discipline, such as requiring the magistrate to take additional training or adverse personnel actions.

In addition, the canons encourage magistrates to "[u]phold the integrity and independence of the judiciary by maintaining and enforcing high standards of conduct." And the canons allow magistrates to engage in "activities designed to improve the law, the legal system, and the administration of justice."

The procedure for complaining about magistrates also has changed. Previously, complaints typically went to the chief judge who supervised magistrates in a locality, and procedures for handling complaints varied.

Complaints now are submitted on a standardized form to the OES, which reviews the complaint to determine whether it alleges misconduct under the Canons of Conduct. If it does, the mat-

ter is investigated by the magistrate's regional supervisor. Complainants are notified of the findings.

The complaint process is for violations of the canons only. The OES encourages persons with complaints about a magistrate not issuing a warrant or other process in a criminal matter to consult with law enforcement officials or the local commonwealth's attorney.

The manual emphasizes the importance of the magistrate's role on the front lines of Virginia justice.

"It is essential that all magistrates realize that they are members of the State judiciary and that their actions are a direct reflection on the quality of justice in Virginia, especially to tourists and non-residents who may never

pass through Virginia again," the manual states.

"The magistrate must be careful to preserve the neutrality of the office when interacting with an attorney for the Commonwealth or a defense attorney as both have a vested [interest] in the outcome of a decision."

Virginia's Magistrate System — Links to Resources

Report on the Virginia Magistrate System (2007)

[http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3472007/\\$file/RD347.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3472007/$file/RD347.pdf)

Magistrate System Organizational Chart

<http://www.courts.state.va.us/courtadmin/aoc/djs/resources/magistrateorgchart.pdf>

Chief Magistrates List

http://www.courts.state.va.us/directories/chief_magistrates.pdf

Magistrate Manual, with Canons of Conduct

<http://www.courts.state.va.us/courtadmin/aoc/djs/programs/mag/resources/magman/toc.pdf>

Magistrate Complaint Procedure

http://www.courts.state.va.us/courtadmin/aoc/djs/programs/mag/forms/complaint_form_inst.pdf

Complaint Form

http://www.courts.state.va.us/courtadmin/aoc/djs/programs/mag/forms/complaint_form.pdf