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October 13, 2023

The Honorable Glenn Youngkin
Governor of Virginia
P.O. Box 1475
Richmond, VA 23218

The Honorable Barry D. Knight, Chair
Appropriations Committee
Virginia House of Delegates
1852 Mill Landing Road
Virginia Beach, VA 23457

The Honorable Janet D. Howell, Co-Chair
Finance and Appropriations Committee
Senate of Virginia
P.O. Box 2608
Reston, VA 20195-0608

Michael Maul, Director
Department of Planning and Budget
1111 East Broad Street
Room 5040
Richmond, VA 23219-1922

The Honorable George L. Barker, Co-Chair
Finance and Appropriations Committee
Senate of Virginia
P.O. Box 10527
Alexandria, VA 22310

Re: Item 48, Paragraph A, of the Appropriation Act, Chapter 2, 2022 Special Session I

Dear Governor Youngkin, Chairs Howell, Barker, Knight, and Mr. Maul:

After experiencing a period of high turnover among magistrates, the Office of the Executive Secretary (OES) sought additional funding to address the issue of magistrate retention. Additional funding was provided in the 2022 Appropriation Act, which requires OES to submit to you a report on the allocation of these funds and their effectiveness in addressing the workforce challenges in the Magistrate System. Please find below the details of the specific measures of effectiveness these salary adjustments have produced in reducing the number of departures and vacancies.

Overview of Magistrates

The Commonwealth of Virginia is served by 400 authorized magistrate positions. Magistrates are hired, trained and supervised by OES. Magistrates are independent judicial officers who serve as the first responders of the judicial system; they are often the first point of

contact that individuals have with Virginia's Judicial Branch. Magistrates hired after July 1, 2008 are required to have a bachelor's degree from an accredited institution of higher education pursuant to Virginia Code §19.2-37. Chief Magistrates must also be members in good standing of the Virginia State Bar pursuant to Virginia Code §19.2-36. Magistrates issue criminal warrants, civil processes, and search warrants. They also have the authority to issue Emergency Protective Orders and Emergency Substantial Risk Orders that can help alleviate potentially dangerous situations. In the context of mental health, magistrates issue the majority of Emergency Custody Orders and Temporary Detention Orders for persons experiencing a mental health crisis. Magistrates have the ability to authorize medical treatment for individuals that are unable to provide the necessary consent to treatment on their own. This work requires analysis of complex fact patterns and application of the relevant laws of the Commonwealth of Virginia. By providing these services around-the-clock, magistrates play a vital role in maintaining public safety and ensuring accessibility to the judicial system.

In order to adequately perform their duties, magistrates must possess a strong understanding of Virginia law. Once hired, new magistrates undergo extensive training that includes a 160-hour certification school, passage of a written certification exam, and 240 hours of supervised on the job training. These training requirements must be completed before a new magistrate is authorized to act independently. As a result, it can take at least three months to fill a vacant position with a certified magistrate capable of conducting hearings independently.

Once certified, magistrates must continue to obtain 20 hours of continuing education each year and attend various trainings conducted by OES to keep informed on new developments in the law. The additional information that magistrates gain from these trainings, coupled with the knowledge that they acquire from their daily work, is a valuable commodity that can only be acquired with time and experience. As such, when a veteran magistrate leaves the system, the loss of institutional knowledge is not quickly nor easily replaced.

Trends in Magistrate Hiring and Retention

In recent years, OES has experienced ongoing difficulty in hiring and retaining qualified individuals to serve as magistrates. As essential workers, magistrates continued to report to the office throughout the challenging days of the pandemic. The low salary range, demanding schedules, and limited opportunities for internal advancement made it difficult to attract and retain employees. Between July 1, 2018 and June 30, 2020, OES lost 146 of 400 magistrates, a system-wide turnover rate of 37%. At the local level, 35% of our 32 magisterial districts had turnover rates at 30% or more. The high rate of turnover caused a net decrease in the median experience level of Virginia magistrates. By 2020, the median experience level of Virginia magistrates had fallen to only 4.4 years, down from a 2008 high of 8.3 years.

Compensation was often cited as the reason for declined offers and departures from the system. A number of magistrates have recently left the magistrate system to join other state

agencies in both legal and non-legal capacities. They cited higher salaries, more regular schedules and opportunities for advancement as reasons for their decision.

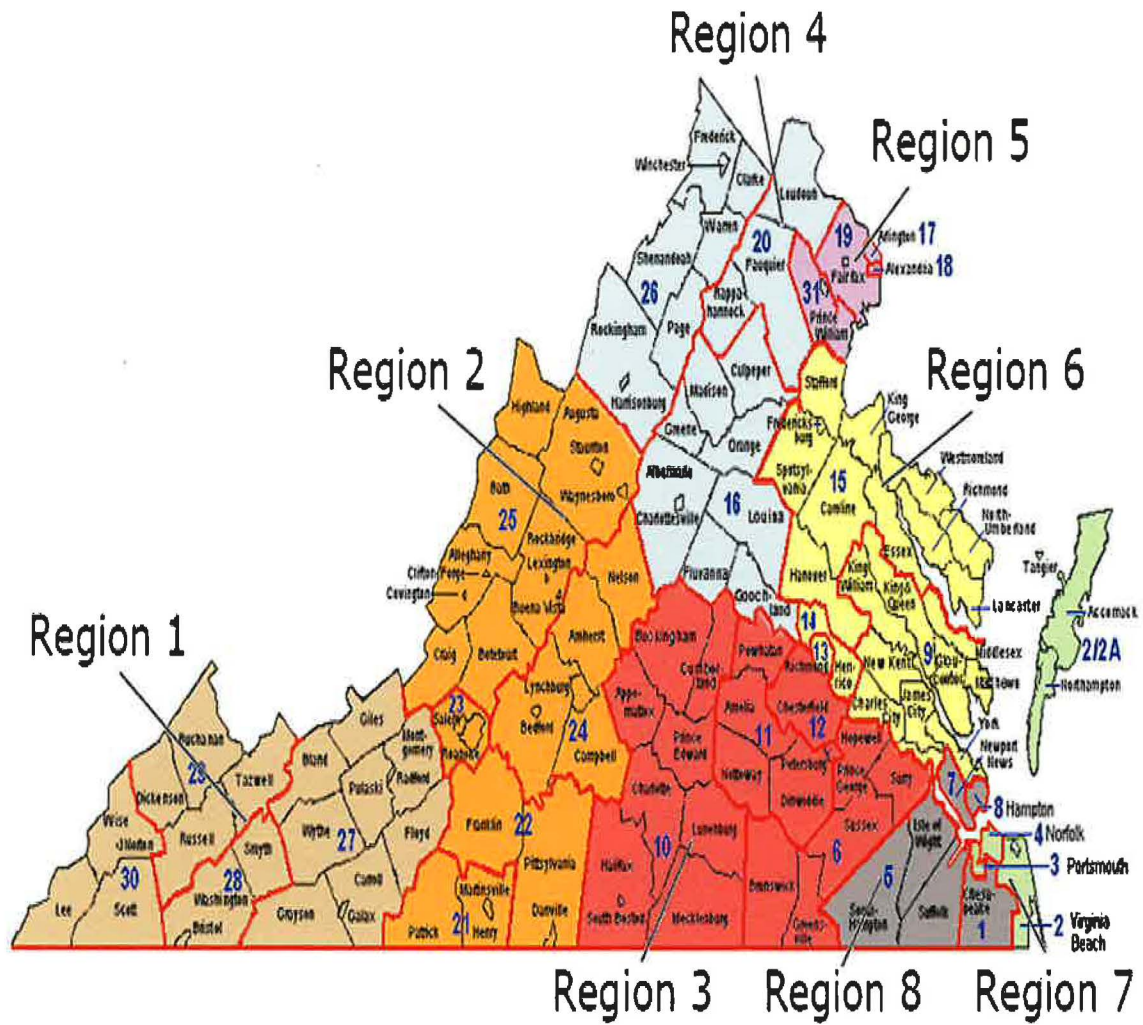
Magistrate Retention Plan

In 2022, OES developed a plan to address magistrate retention and requested additional funding from the General Assembly to implement this plan. The 2022 Appropriation Act appropriated \$3,885,675 in the first year and \$4,079,959 in the second year for implementation of the retention plan.

The plan developed by OES increased the salaries of existing magistrates to at least \$54,000.00. As many magistrates were previously earning a salary in the mid \$40,000 range, this represented a notable increase in compensation. New magistrates hired after implementation of the plan were brought in at a comparable level, factoring in their education and experience. In an effort to mitigate salary compression and reward experienced magistrates for their years of service, an additional salary increase was provided to veteran magistrates. Magistrates with 2-4 years of experience received an additional \$1,000.00 in salary; those with 4-6 years of experience received an additional \$1,500.00; those with 6-8 years of experience received an additional \$2,000.00; those with 8-10 years of experience received an additional \$2,500.00 and those with 10 or more years of experience received an additional \$3,000.00. With the additional funds provided by the legislature, OES implemented this plan in July of 2022 and magistrates saw the salary increases beginning in their August 2022 paychecks.

Methodology

In reviewing the impact of the magistrate retention plan, OES collected and reviewed data from Virginia's eight magisterial regions. A map of Virginia's eight magisterial regions appears on the next page. Each region is shown in a different color. The boundaries of individual districts within each region are outlined in red and district numbers appear in blue.



Data was collected on each region’s retention rate, as measured by the number of positions that remained filled each calendar year. OES also looked at the number of vacancies that accrued during each two-year fiscal cycle and further examined the years of service of each departing magistrate at the time they separated from service. Finally, the median years of experience of all magistrates across the Commonwealth was calculated based on the years of experience of each magistrate.

Results

Although it has only been 14 months since the magistrate retention plan was first implemented, there are indications that it is having a positive effect in reducing turnover. Retention data from the eight magisterial regions, presented in Table 1 below, shows improved retention in seven of the eight regions.

Table 1

Retention Rate			
Magistrate Regions	2020	2021	2022
Region 1	84.62%	85%	86.79%
Region 2	83.87%	88.33%	71.19%
Region 3	85.42%	61.70%	62.50%
Region 4	82.93%	81%	90.00%
Region 5	81.03%	77.97%	90.74%
Region 6	82.54%	62.50%	72.41%
Region 7	82.61%	73.91%	76.09%
Region 8	77.14%	85.29%	88.57%
AVERAGE	82.52%	77%	79.79%

The data show retention improvement in every region except Region 2 between 2021 and 2022 and indicate a statewide retention rate of 79.79%. Despite this general positive trend during the short time that the retention plan has been in effect, the data also show the long-term challenges that OES continues to face in this area. Region 2 suffered a significant drop in retention between 2021 and 2022 and Region 3 continues to deal with significant turnover as magistrates there are often able to find better paying jobs in the Richmond area, often with other government agencies. The improvement in three of the seven remaining regions, though positive, was still less than 3%. In addition, three of eight regions had retention rates of less than 75% during the 2022 year, as indicated by the red shading. Finally, the average retention rate among all regions, though improved from 2021 to 2022, still lags behind the average rate for 2020. In short, this data suggests that, while the magistrate retention plan is helping, there is still work to be done.

In preparing this report, OES reviewed information about magistrates who left the system since July 1, 2014. The departures were organized into periods corresponding with the two-year fiscal cycle. In addition, the departures were categorized by the years of service that each departing magistrate had accrued at the time of their departure. This information is presented in Table 2 on the following page.

Table 2

Experience Level	Magistrate Departures				
	7/1/14-6/30/16	7/1/16-6/30/18	7/1/18-6/30/20	7/1/20-6/30/22	7/1/22-9/30/23
<2 years	42	40	45	75	27
<5 years	36	34	31	54	16
5-10 years	23	15	31	19	11
10-20 years	8	12	20	15	7
>20 years	8	13	12	8	5
TOTAL	117	114	139	171	66 **

**As the current two year cycle is not complete, the Total reflect departures through September of 2023. As of September 30, 2023 there are 29 vacant magistrate positions.

The data on departures shows a noticeable increase in magistrate departures during the 2018 and 2020 cycles. The number of departures for the current cycle, which saw implementation of the retention plan, is on track to be significantly lower. Current departures through September of 2023 stand at 66. Assuming the departure rate remains constant for the remainder of the cycle, it is projected that the total number of departures for the full two-year cycle will reach 102, an amount significantly lower than previous cycles.

Another measure of improvement can be found in reviewing data involving years of service at separation. OES had noted a trend in recent years of newer magistrates (those with five or fewer years of service) leaving at a higher rate than their more experienced colleagues. The departure rate was especially high with magistrates having less than two years of experience. This trend peaked between July 2020 and June 2022, when Virginia lost 75 magistrates with less than two years of service and another 54 with less than five years of service. Between July 2022, when the retention plan was implemented, until September 2023, Virginia lost just 26 magistrates with less than two years of service while only 14 magistrates with less than five years of service departed the magistrate system. The limited data currently available suggests that the magistrate retention plan has slowed the departure of newly hired magistrates, allowing them to gain valuable on the job experience.

As maintaining a core of experienced magistrates is beneficial to the effective operation of the Magistrate System, OES periodically looks at the median years of experience of Virginia magistrates. In 2008, the median experience level of Virginia magistrates stood at 8.3 years. By 2020, the median experience level of magistrates had declined to 4.4 years. That rate dipped

slightly to 4.3 in 2022. In surveying the median experience level of magistrates in Virginia as of July 1, 2023, the median experience remained unchanged at 4.3 years.

Summary

As the magistrate retention plan became effective in July of 2022 and this report is being submitted in October 2023, there is only a limited amount of data to review to assess the plan's effectiveness. As the magistrate retention plan has only been in effect for 14 months, there has not been a sufficient amount of time for the plan to generate significant improvement in magistrate median years of experience. It is encouraging, however, to note that the trending decline in median experience rate seems to have stabilized. OES anticipates that, as fewer new magistrates leave the magistrate system for other opportunities, the median experience level of magistrates should increase over time. Early indications suggest that the plan is helping to increase the retention rate of magistrates as the statewide retention rate has improved by almost 3%. The information collected also indicates that fewer new magistrates are leaving the system within the first five years of service. Should these trends continue over time, OES anticipates that more magistrates will remain in the system for a longer period of time, gaining valuable experience that will aid them in the performance of their duties. The result will be an increase the median experience level of all magistrates and improvement to the operational effectiveness of the magistrate system.

OES will continue to monitor this data to evaluate the effectiveness of the retention plan. If additional information is needed, please do not hesitate to contact me at 786-6455.

With kind regards, I am

Very truly yours,



Karl R. Hade

KRH:jrp