Lawyers, litigants struggle at balky clerk’s office

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An understaffed clerk’s office in fast-growing Prince William County may have created a perfect storm for lawyers and others who had to navigate that courthouse in recent years. Multiple complaints about delays, errors and unhelpful staff suggest what can happen when clerks lack money to fill needed positions.

Criminal defense lawyers unleashed a volley of reports about erroneous docket entries and inaccessible assistants at the Prince William General District Court clerk’s office.

Some relief could be in sight. A new clerk is on the job at the court this month, and she says she is planning improvements.

But judges say the solution is mainly financial. There is a statewide need for 276 additional full-time positions in district court clerks’ offices, the Supreme Court says. The state budget now funds clerks’ offices at 80% of need.

**Multiple ‘horror stories’**

Lawyers used an online forum to share complaints among themselves, according to attorneys Virginia Lawyers Weekly contacted. The forum, managed by the Virginia Association of Criminal Defense Lawyers, is not open to the public or media. But a few lawyers willingly spoke about the issues or provided copies of court records.

They said the Prince William GDC is known for long waits at the windows or on the phone to get help from the clerk staff. When VLW tried to call the clerk’s traffic and criminal office, the call was placed on hold for 30 minutes before we hung up.

Andi Geloo of Fairfax said she documented eight mistakes in a month, including a client whose record showed a conviction even though the charge was dismissed in court by the judge.

Geloo provided documentation of four record-keeping errors, with evidence that at least two were ultimately corrected by the clerk.

Another lawyer said a client was charged with failure to appear after being advised his court date had been continued.

Paul Valois of Lynchburg said he appealed a traffic case in July of last year, but never heard from either the district or circuit court. Unable to get anyone by phone or email, Valois said he traveled to the Manassas courthouse and found the clerk’s office had lost the notice of appeal.

“It took me all day to get the appeal processed and the paperwork sent to circuit court,” Valois said. “It was like something out of a Monty Python sketch – I kept showing them the confirmation that they received the notice in July, and they kept maintaining that they hadn’t received it and refused to acknowledge the proof that they did,” he explained.

“That place was a zoo!” Valois added.

One lawyer wondered whether intentional retaliation or other motives were afoot, but another attorney said her experience was simply “equal opportunity incompetence.”

**Critical audit reports**

Lawyers are not the only ones who noticed problems at the Prince William GDC clerk’s office. Clerks’ offices in Virginia are audited by the state Auditor of Public Accounts.

In the most recent audit, reported on April 19, a repeated problem was discovered with voided transactions, which pose a risk for fraud. In four of 12 voided receipts tested, the clerk did not retain all copies. Two of the voided receipts lacked proper documentation about the reason for the voided transaction. The findings for voided transactions were precisely the same in an audit the year before.

Reports for fiscal years ending in 2017 and 2018 also showed the clerk failed to maintain complete supporting documentation for court-appointed attorney payments and waivers. The clerk also did not properly bill and collect court fines and costs, the audits said.

In 58 cases tested in the 2017 fiscal year, the auditor noted problems with 14:

* In two cases, charges were miscoded to the wrong locality in the court’s financial system, with losses of $750 to the applicable locality;
* In five local cases, the applicable localities were not billed for attorney fees of $600;
* In four cases, defendants were overcharged costs totaling $685 and
* In three cases, defendants were not assessed a total of $96 in costs.

In the audit for fiscal year 2018, the auditor tested 84 cases for billing and collection.

* In seven cases, defendants were not assessed costs totaling $3,920.
* In two appealed cases, costs of $1,500 were not certified to the circuit court.
* In four cases, the clerk erroneously billed the commonwealth instead of the locality for attorneys’ fees.
* In nine cases, coding errors resulted in losses to the state or local government.
* In two cases, defendants were overcharged costs of $170.

The APA audits are not the only check on clerks’ offices. Representatives of the Supreme Court’s administrative office visit regularly to check on financial and internal controls and other matters.

In a Sept. 20, 2017, visit, the PWC clerk was advised to give up using a manual check register, because the automated system created an electronic check register. “The keeping of a manual check register is time consuming and inefficient,” the court representative wrote in a report.

**New clerk**

Contacted about the reports, Chief Judge Wallace S. Covington III noted that a new clerk was on the job as of Sept. 1. Jacqueline R. “Jackie” Ward retired last month after 22 years of service.

The new head clerk – who formerly supervised the civil office – is Rhonda Ann Daley. She said she is meeting with her supervisory staff to address both “procedures” and “demeanors.”

“I do have plans to some training and to do some re-arranging,” Daley said.

She said lawyers with concerns should go directly to her.

District court personnel are appointed by and serve at the pleasure of the chief judge, under Virginia Code § 16.1-69.39.  Asked about attorney complaints, Covington referred to a regular dialogue the judges have with members of the Prince William County Bar Association.

In November, lawyers asked about delays in scanning case files for court-appointed lawyers. The judges said the clerks faced staff shortages.

“The clerks are doing their best to keep up with scanning but there are understaffed at this time because they are not fully funded. They even have unpaid volunteers to help scan documents into their file,” the judges responded, according to a summary in the bar association newsletter.

“The Court is open to input from the Bar regarding resolving some of these issues, especially case management,” the summary said.

**Busy court**

The numbers are daunting. In four decades, Prince William County has gone from a sleepy suburb to a thriving part of the Washington metropolitan area. The population more than doubled from 1990 to 2018, when the headcount reached 468,011.

The general district court is busier than most, on a per judge basis. The five judges averaged 24,765 filings per judge in 2018, 15% above the statewide average.

The judges held 34,829 hearings in 2018, 20% more than the statewide average.

The clerk’s office is “significantly understaffed,” according to a state Supreme Court spokesperson. With their current staffing at 69% of the district court staffing model, the office needs an additional 15.5 full-time positions to reach 100%, the spokesperson said.

**Pressure for funding**

The Supreme Court has sought funding to fill clerk positions around the state, but the General Assembly has kept the purse strings drawn.

In 2018, Chief Justice Donald W. Lemons compared the effort to “battlefield triage” as the court reallocated positions from a few overstaffed offices to beef up the understaffed courts.

That year, collections lawyers had come to Richmond pushing a bill to impose a deadline for clerks’ offices to issue process for high volume collection actions. A court representative persuaded lawmakers to block the bill, saying it would not address the underlying problem.

In the 2019 session, a budget amendment for an additional 50 deputy clerk positions in the district courts was introduced in the both the House and Senate, but no additional positions or funding were included in the final budget, the court spokesperson said.

About 50 district court clerks’ offices now operate below 80% of their proper staffing level, the court spokesperson said. “The Supreme Court will again pursue funding for additional deputy clerk positions in the 2020 Session,” she said.