

APPENDIX C

WORKING WITH THE VIRGINIA COURTS

Working With The Virginia Courts

I. Understanding the Law

- A. Constitutional law: Virginia and United States Constitutions establish principles of law
- B. Statutory law: legislatures (Virginia General Assembly and the U.S. Congress) enact statutes which are collected in codes (Virginia Code and U.S. Code, respectively)
- C. Administrative law: government agencies promulgate regulations on authority delegated by legislatures (e.g., Human Rights Regulations)
- D. Case law: appellate courts resolve questions in the law not made clear elsewhere; appellate decisions establish precedent that trial courts within the same jurisdiction must follow
- E. Federal law may supersede any state law in conflict if it is specifically designed to preempt state law.

II. The Court Systems

- A. Organization of Virginia Courts (see [flow chart](#) in this chapter)
 - 1. District Courts
 - a. General District Courts
 - (1) civil trials involving relatively small claims
 - (2) misdemeanor trials (less serious criminal offenses)
 - (3) felony preliminary hearings (more serious criminal offenses)
 - (4) civil commitment and emergency revocation of NGRI conditional release (district court judges or "special justices")
 - b. Juvenile and Domestic Relations District Courts
 - (1) delinquency and status offenses
 - (2) custody, support of children
 - (3) crimes against children or within families (preliminary hearings in felony cases, trials in misdemeanor cases)
 - (4) concurrent jurisdiction for commitment of adults with general district court (' 16.1-241 B.)

2. Circuit Courts
 - a. Civil cases involving relatively large claims
 - b. Felony trials
 - c. Misdemeanor "appeals" (new trial)
 3. Court of Appeals
 - a. No trials
 - b. Hears appeals on the record from circuit court decisions
 4. Supreme Court
 - a. No trials
 - b. Hears appeals on the record from trial court decisions and decisions of the Court of Appeals, in some cases
- B. Federal courts hear federal cases.
1. Trials in cases arising under federal law (e.g., defendants charged with federal crimes or diversity of citizenship cases involving citizens from different states)
 2. Appeals involving federal claims (e.g., violation of constitutional rights)
 3. Federal insanity acquittees committed to federal facilities under federal law
- C. Most crimes are prosecuted in state courts.

III. Working Effectively with the Courts

- A. Knowing the players
1. Commonwealth's attorney: prosecutor
 2. Defense attorney may be
 - a. The public defender in some Virginia county/city jurisdictions,
 - b. A court-appointed attorney, or
 - c. Employed by defendant
 3. Magistrate: judicial officer who issues warrants, sets bail, and issues temporary detention orders

4. Special Justice: attorney appointed to serve as civil commitment judge
 5. Clerk: controls docket, maintains records
- B. Communicating with the courts: general rules
1. Stay relevant
 2. Do not give opinions you cannot support with data
 3. Do not give opinions outside your area of expertise
 4. Be concise
 5. Watch for jargon: define, explain, or avoid
 - a. Diagnostic labels (e.g., schizophrenia)
 - b. Mental status terminology (e.g., affect)
 - c. Medication names (e.g., Mellaril)
 6. Stay calm and try not to be intimidated by the adversarial nature of the courts
- C. Communicating with the courts: in writing
1. Address correspondence to the judge to "The Honorable (name of judge)"
 2. Organize reports carefully
 3. Keep facts separate from opinions and recommendations
 4. Provide the source for facts (e.g., "The acquittee's brother reported that.....")
 5. Support opinions and recommendations with clear rationale
- D. Communicating with the courts: orally
1. As a "fact witness"
 - a. Present just the facts
 - b. Do not present inferences or opinions
 2. As an "expert witness"
 - a. May present inferences and opinions if based on "specialized" clinical knowledge or skills that will add to what the court would

- be able to discern for itself
- b. Requires qualification as an expert
 - (1) educational requirements vary according to issues asked to address
 - (2) specialized training and experience (such as evaluating/treating defendants, offenders, NGRI acquttees)
 - (3) appropriate evaluation procedure
- c. Speak only in response to questions; do not volunteer information
- d. Say what you know and acknowledge what you do not know

VIRGINIA COURTS

VIRGINIA JUDICIAL BRANCH

