



## At the Corner of *Courthouse & Justice*

### Mission Statement

The mission of the Prince George Commonwealth's Attorney's Office is to help make the County of Prince George a safe place to live, work and play by prosecuting those cases where there is sufficient, legally admissible evidence in a manner that: (1) respects the dignity of those who are the unfortunate victims of crime and (2) promotes the ends of justice.

### Community Outreach

Members of the Commonwealth Attorney's Office are available to make appearances and presentations to civic and community groups.

If your group or organization wants to schedule a presentation or appearance by a member of the Prince George Commonwealth's Attorney's Office, please contact the office staff at (804) 733-2790.



## A message from the Commonwealth's Attorney

Welcome to the second issue of our newsletter, ***At the Corner of Courthouse & Justice***. My office has been extremely busy working with community leaders, the Prince George Police Department, courthouse staff and members of our community to make sure Prince George County is among the safest in the region to live, work, play and raise our families. As always, your feedback is greatly appreciated.

The feedback after issue one indicated that people wanted to see numbers. With some reservation, we have included numbers in this issue of *At the Corner of Courthouse & Justice*. This reservation comes from the fact that I don't believe the numbers always provide a true picture of what's actually happening. Numbers without explanation are just plain numbers. Justice very rarely has much to do with aggregate numbers. Quite often they don't reveal mitigating information or aggregating factors in a particular criminal case. This issue contains the numbers many of you have requested combined with explanations that I believe are necessary to tell the real story.

This issue could be entitled, "The Drug Issue." We will use a lot of space in this issue addressing drug use and the distribution of drugs in this issue. Our experience tells us that drugs impact each and everyone one of us on a daily basis. Many crimes committed in our county begin with drug use. A driver under the influence of drugs puts us all at risk. The person who steals money to buy drugs puts our property at risk. Many domestic violence situations involve some drug use. This drug use requires police officers to be called out for service and drives up the costs of keeping the public safe. We have to work to change the behavior of those who choose to use drugs.

Drug distributors are businessmen who profit off from the misery of others' addictions. This profit is also generated at the expense of the safety and security of our citizens. We believe that the best way to deter drug dealers is to aggressively prosecute them, thereby raising their costs of doing business in a manner that encourages them and others who would distribute drugs to refrain from doing so in the future.

We look forward to working for you at the corner of courthouse and justice.

*Jay "C" Paul*



### DUTIES OF THE COMMONWEALTH'S ATTORNEYS' OFFICE

The Commonwealth's Attorney's Office for the County of Prince George prosecutes all felony and misdemeanor cases in the Prince George Circuit Court, the Prince George General District Court, and the Prince George Juvenile and Domestic Relations District Court.

In addition to these duties, the Prince George Commonwealth's Attorney's office is also responsible for the following:

Responding to Motions filed in any criminal case;

Providing legal advice, when called upon, to local law enforcement in the investigation of criminal offenses;

Providing legal training to local officials and law enforcement officers;

Filing legal actions to force individuals to forfeit property and money from crimes;

Answering Petitions for Appeal in the Court of Appeals and Supreme Court of Virginia; and

Participating in the Hopewell, Prince George, Surry Drug Court.

*This office does not handle civil cases such as divorces, landlord/tenant disputes, estates, wills, real estate, etc.*

The Prince George County Commonwealth's Attorney's Office is proud to begin its 10<sup>th</sup> year as attorney advisors to the Model Judiciary Program ("MJP") at Prince George High School. The MJP is sponsored by the Virginia YMCA and the Young Lawyers Division of the Virginia Bar Association.

The purpose of the MJP is to provide students with an opportunity to learn about Virginia's judicial system by acting as attorneys, jurors, and witnesses in a simulated trial and appellate argument.

Attorneys from the CA's Office, students and the school advisor, Sabine Labossiere, meet at least two days a week from November to April to prepare for the competition. During the initial trial phase, approximately 30 students participate in mock trials against other schools in the Richmond Metro area in a circuit court in front of a real judge. Only 2 to 4 students will be selected to compete in the appellate rounds.

The first appellate round is before the Court of Appeals of Virginia. This is a competitive round and only the best student attorneys throughout the Commonwealth are selected to argue before the Supreme Court of Virginia. At least one Prince George High School student has been selected to go to the MJP Supreme Court round for the past 4 years and by winning his/her appellate round. We had one student, Jenn Peterson named the best overall appellant in Virginia. Stay tuned, we'll report the results in a future edition of *At the Corner of Courthouse & Justice*.

### Virginia Criminal Justice Conference

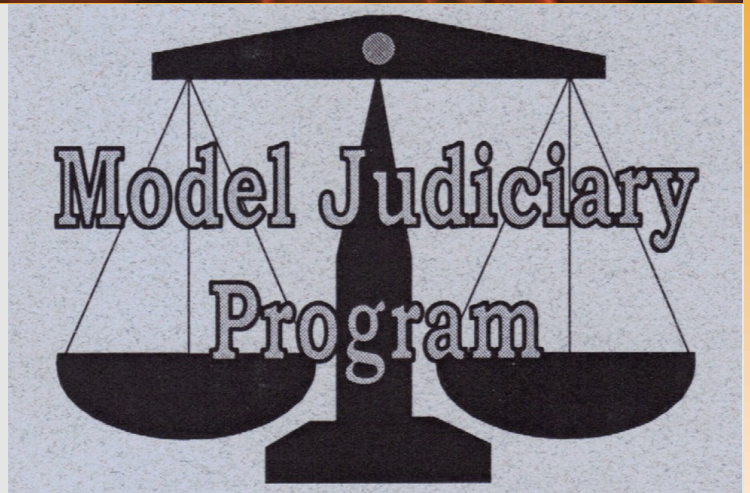
The Virginia Criminal Justice Conference was created in 2006 when then Henry County Commonwealth's Attorney Bob Bushnell and Norfolk criminal defense attorney Andrew Sacks gathered prosecutors and defenders to confer on criminal justice issues. With VTLA support, VCJC was established to develop information and proposals in areas where the courtroom adversaries might agree on ways to improve the criminal justice system.

The 50-plus members now include prosecutors, defense attorneys in private practice, public defenders, distinguished jurists from each level of Virginia courts, legal scholars, legislators, a representative of the Office of the Attorney General, and counsel to the House and Senate Courts Committees and the State Crime Commission.

VCJC's eighth annual meeting was held September 27<sup>th</sup> & 28<sup>th</sup> at the Stonewall Jackson Hotel in Staunton, where defense attorney John R. Fletcher of Tavss Fletcher and **Prince George County Commonwealth's Attorney Jay "C" Paul** took up the gavel from outgoing co-chairs Linwood Gregory and Esther Windmueller.

Matters considered at the 2013 session of the Conference included: information presented to persons waiving representation, expungement or sealing of records of certain misdemeanors, provisions to address non-predatory "sexting" incidents, and the effect of prepaid fines on other charges arising from the same incident.

Each proposal adopted by VCJC represents a substantial consensus among the members, but the group's study and discussion has been valuable even in areas where consensus is not possible. Most issues originate with VCJC members, but the Conference has also been asked by members of the General Assembly and the Office of the Executive Secretary of the Supreme Court to make recommendations on legislative and rule-making proposals.





# Drug Users

The Virginia Legislature and courts have stated through legislation and opinions that drug users in Virginia should be treated differently than drug distributors. This is evidenced by first offender drug statutes; sentencing guidelines which treat drug possession and distribution differently; and drug courts which have been established in many localities throughout the Commonwealth.

We firmly believe that the best way to take on illegal drug use is to encourage these individuals to change their behavior. These programs give individuals who use drugs illegally the opportunity to make the necessary changes so they can live a drug free life.

It should be noted that under no circumstances do these statutes or programs allow the accused to escape accountability or responsibility for their actions.

## Food for Thought

“Drugs are not a threat to American society because they are illegal.

They are illegal because they are a threat to American Society.”  
The National Center on Addiction and Substance Abuse at Columbia University

## Hopewell, Prince George, Surry Drug Court

The Hopewell, Prince George, Surry Drug Court (“Drug Court”) is an alternative to incarceration for selected **non-violent felons with substance abuse problems**. Drug Court combines intensive judicial supervision with mandatory drug testing, escalating sanctions, and treatment to help substance abusing offenders break the cycle of addiction and the crime that often accompanies it.

Drug Court is an intensive probation and therapeutic program run by the Drug Court Team. The Drug Court Team includes the Commonwealth's Attorney's Office, a defense attorney, defendants, a Circuit Court Judge, counselors and staff from Riverside Criminal Justice Agency.

The mission of the Drug Court is to hold offenders accountable for their actions while allowing them the opportunity to gain the tools they need to break the patterns of drug abuse and become productive members of society.

The Commonwealth's Attorney's Office fully supports the Drug Court Program. We appear in the Drug Court on a regular basis and believe that the program can help reduce drug use and associated criminal behavior. It is important to note that persons charged with dealing drugs, breaking and entering, or any felony act of violence are disqualified from consideration for Drug Court.

## FIRST OFFENDER PROGRAM

**Persons charged with a first drug possession offense may receive first offender treatment pursuant to Virginia Code § 18.2-251.**

This means that a person who has never been convicted of any drug offense may be eligible to have the drug possession charge dismissed after completion of probation and certain conditions that shall include:

- Substance abuse screening
- Substance abuse education and/or treatment
- Payment of costs - based on ability to pay
- Abstinence from drugs and alcohol
- Community service
  - 24 hours for a misdemeanor
  - 100 hours for a felony.
- Drug testing
- Other conditions such as Good Behavior

Upon successful completion of the terms & conditions imposed by the court, the charges against the person will be dismissed. This First Offender Program can only be used one time by a person.

The first offender program does not allow an individual to have other non-possession charges that he/she obtained at the same time as the possession charges dismissed. For instance, if the offender destroyed or stole property and was arrested at the same time the drugs were found, the first offender program would apply only to the drug possession charges and not to the property crime.

# Drug Dealers are not welcome in Prince George County

Illicit drug dealing is a business. People sell drugs to make a profit. These dealers do not seek government assistance in making sure they are conducting their business in a way that protects us all. These dealers take care of their own problems - often by the use of threats or violence. These problems can be as simple as collecting payment for drugs or as complicated as distribution issues. The problems caused by these dealers to the safety and security of the people in our county, state and country are enormous. The average drug dealer does not care about anything but profit and their own well-being. It is our belief that the only way to stop these dealers from operating in Prince George County is to make their cost of doing business rise to a level that causes them to take their business elsewhere. We accomplish this by working to increase the amount of incarceration time for drug dealers and by seizing assets gained through the illegal sale of drugs

Our office is in daily contact with detectives from the Vice and Narcotics Unit of the Prince George Police Department and are available 24 hours per day to assist them as needed. We assist with search warrants, charging documents, seizures and case evaluation. We thoroughly prepare every case for trial.

We have a reputation among defense attorneys and drug dealers as being fair firm with on drug distribution cases. We know this because the vice detectives tell us that dealers regularly tell informants that they don't want to deal drugs in Prince George County because it's too much trouble. Additionally, defense attorneys tell us that other jurisdictions are willing to drop charges if their client pleads guilty to a lesser number of charges and that our offers are not as good as what they can get in other localities. We do not subscribe to the "go along to get along" theory when it comes to drug dealers in Prince George County.

**“vice detectives tell us that dealers regularly tell informants that they don’t want to deal drugs in Prince George County because it’s too much trouble“**

Our case numbers also reflect the fact that we do not adhere to a "Catch & Release" method of prosecution with drug dealers in Prince George County. We strongly believe that a part of the dealer's cost of doing business should include a period of active incarceration. **That attached chart shows a numerical breakdown of the felony distribution charges prosecuted by our Commonwealth's Attorney's Office in Prince George County that were concluded in 2012 and 2013 through November.** Many factors can effect the numbers listed on this chart. Among these factors are: (1) the strength of the case; (2) whether or not the defendant was a cooperating witness for another case; (3) whether or not an informant would be compromised by a trial; and (4) the sentencing guidelines.

<b>Felony Drug Distribution Statistics</b>	<b>2012</b>	<b>2013</b>
<b>Number of Defendants</b>	<b>24</b>	<b>27</b>
<b>Number of defendants with at least 1 felony conviction</b>	<b>21</b>	<b>24</b>
<b>Number of Charges</b>	<b>81</b>	<b>83</b>
<b>Charges Nolle Prosequi (dropped)</b>	<b>11</b>	<b>1</b>
<b>Charges Dismissed</b>	<b>7</b>	<b>6</b>
<b>Trials</b>	<b>4</b>	<b>7</b>
<b>Defendant's found guilty at Trial</b>	<b>2</b>	<b>6</b>
<b>Defendants with Active jail or prison time</b>	<b>20</b>	<b>24</b>
<b>Defendants with Active time of at least 1 year</b>	<b>16</b>	<b>17</b>
<b>Defendants with Active time of greater than 1 year</b>	<b>12</b>	<b>14</b>
<b>Defendants with Active time of greater than 3 years</b>	<b>5</b>	<b>8</b>
<b>Defendants with Active time of greater than 5 years</b>	<b>3</b>	<b>4</b>

As a general rule, our office will not agree to any plea agreement on a drug distribution charge that does the following: (1) sentences the defendant to a period of active incarceration less than called for by the sentencing guidelines and (2) sentences the defendant to less total time (active & suspended) than allowed by law. Additionally, we are requiring the defendant in any drug distribution plea agreement to waive his/her 4th Amendment rights against search & seizure for a period of 3 years after release from incarceration.

There have been times when circumstances dictate an exception to our general rule on dealing with drug distributors—but such exceptions are not the normal way we do business. Our statistics show that we do as well as anyone in the region at prosecuting drug distribution.

# Asset Forfeiture

## The Law

Virginia Code §19.2-386.22 allows for the seizure of *property used in substantial connection with or derived from illegal drug transactions*.

The law makes it possible for local law enforcement agencies, such as the Prince George County Police Department and Commonwealth's Attorney's Office to receive the proceeds from the sale of items obtained in substantial connection with drug trafficking, and to have forfeited to them, for agency usage, seized items that could be used to promote law enforcement.

The Commonwealth's Attorney's Office is given the responsibility of preparing and filing court related paperwork for items seized in Prince George County in connection with drug trafficking. Additionally, the CA's Office has the additionally responsibility of representing the Commonwealth in the forfeiture case in circuit court.

The money and/or property obtained from forfeiture actions related to drug transactions is split according to an agreement between the police department (65%) and Commonwealth's Attorney's office (35%) after the Virginia Department of Criminal Justice takes a handling fee of 10%.

Among the permissible uses of the money seized are the following: (1) Law Enforcement Training; (2) Law Enforcement Equipment and Operations and (3) Law Enforcement Facilities and Equipment.

However, these seized resources must be used to increase or supplement the resources of the receiving local law enforcement agency. These resources can not be used to replace or supplant the resources of the recipient. In other words, the budget of the law enforcement agency can not be reduced because the agency received funds from a drug related seizure.

## Seizures 2013 to November 2013

Year	Vehicles Seized	Vehicles sold back to Owner	Non-suited Cases	Cash Seized
2013	22	3	3	\$13,564
2012	15	5	2	\$14,202
2011	10	4	4	\$16,402
2010	13	1	3	\$9,988

- 1) **Vehicles sold back to owners** were sold back to the registered owner at fair market value.
- 2) **Non-suited cases** were cases in which cars had liens on them or in the case of 3 of these vehicles were sold to pay for a victims restitution.



## Use of Asset Forfeiture Funds by CA's Office

The Commonwealth's Attorney's Office has used asset forfeiture funds to enhance its ability to successfully prosecute cases in our county. We spent \$8,999.80 in seized funds on digital cameras for the police department to make it easier for our police department to obtain photographic evidence for court. We also spent \$1,474.88 to train our attorneys and further prepare them for court.

We have also used seized funds to upgrade our office and make it a better environment in which to work. We spent \$2,327.84 in 2011 remodeling the office to increase the space available for support staff and \$3,796.33 in 2013 for furniture for the support staff.

We were able to use \$3,000.00 in seized funds in 2013 toward office renovations which included providing the Victim Witness coordinator's office with a private area to meet with victims of crimes.



## Meet Eric Livingston —Senior Assistant Commonwealth's Attorney

Eric J. Livingston joined the Commonwealth's Attorney's Office in September of 2008.

He is a graduate of Virginia Commonwealth University and obtained his law degree from Regent University. Eric is a Chesterfield native and went to high school at Clover Hill in Midlothian. Eric is a former United States Marine and Gulf War veteran serving our country from 1987 to 1991. After his military service, Eric served his community as a police officer in Ocean City, Maryland from 1997 to 1999 and then as a police officer in Virginia Beach from 1999 to 2003 when he entered law school. While studying for his law degree, Eric interned at the Commonwealth's Attorney's Office in Portsmouth, Virginia where upon passing the bar exam he was employed as a full-time prosecutor. Upon his family's relocation back to Richmond, Eric joined the Prince George Commonwealth's Attorney's Office.



Eric is a dedicated prosecutor who is committed to serving the citizens of Prince George in his pursuit of justice for victims of crime.



Commonwealth's Attorney, Jay "C" Paul, along with Sergeant Earl Crawford and the Country Aire Neighborhood Watch, welcomed NASCAR representatives to Prince George County on September

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Food Basket donated by the Commonwealth's Attorney's office to the Food Bank as a part of a County Employee effort to help the food Bank.

## PROUD SUPPORTERS OF:



**Save the Date: February 1, 2014 - 9th Annual Black History Celebration—Call the CA's Office for details!**

**We wish you and your family a Merry Christmas and a safe Holiday Season!**