

From: **Alisa Padden** <[apadden@vacourts.gov](mailto:apadden@vacourts.gov)>  
Date: Tue, Dec 3, 2024 at 2:52 PM  
Subject: General District Court Benchbook agenda item for 12/4/24 Council meeting  
To: Alan Gernhardt <[agernhardt@dls.virginia.gov](mailto:agernhardt@dls.virginia.gov)>

Alan,

I noticed the inclusion of “General District Court Benchbook & FOIA Procedures for Petitions for Mandamus or Injunction” under the “Other Business” agenda item for the FOIA Council meeting tomorrow afternoon. I am not able to attend the Council meeting tomorrow but am providing the following information in the event there are any questions about the Benchbook or our Office’s role.

The following is my most recent response to Mr. Marcus’ inquiries regarding the General District Court Benchbook. The Benchbook is created by the members of the Benchbook Committee of the Association of District Court Judges of Virginia, which is a private, voluntary association separate and distinct from the Judicial Conference of Virginia for District Courts established by Va. Code § 16.1-218. The current edition of the Benchbook is available [here](#). Please note that I suggested that Mr. Marcus may write a letter to the Chair of the Benchbook Committee to express his concerns. As of this afternoon, this Office has not received any such letter.

Please let me know if you or the Council would like any additional information.

Alisa

**From:** Alisa Padden  
**Sent:** Wednesday, October 30, 2024 12:30 PM  
**To:** Theodore Marcus <[tcmarcus@live.com](mailto:tcmarcus@live.com)>  
**Subject:** Your requests for records regarding the General District Court Benchbook

Dear Mr. Marcus,

On Friday, October 25, 2024, I responded to your request for records maintained by the Office of the Executive Secretary pertaining to the 2023 edition of the General District Court Benchbook. You have since sent several additional emails requesting records and communicating your disagreement with specific language contained in the General District Court Benchbook to several employees in the Office of the Executive Secretary. This is in response to your email sent to me, dated Friday October 25, 2024 and received on Monday, October 28, 2024, your email sent to me, dated Saturday, October 26, 2024 and received on Monday, October 28, 2024, your email sent to Karl Hade and Eddie Macon, dated Monday October 28, 2024 and received that day, and your email sent to me dated Tuesday, October 29, 2024 and received that day.

The Office of the Executive Secretary is the administrative office of the court system in the Commonwealth. As such, we provide administrative support to the courts in areas such as human resources, fiscal services and information technology. As I informed you in my email dated Friday, October 25, 2024, the role of this Office with regard to the General District Court Benchbook is quite limited. The content of the Benchbook is drafted and created by judges who are members of the Association of District Court Judges of Virginia. Members of the Benchbook Committee of the Association of District Court Judges of Virginia send the materials for the

newest edition to the Department of Legal Research in the Office of the Executive Secretary for formatting and distribution. This Office does not have supervisory authority over district court judges. Neither the Association of District Court Judges of Virginia nor the Benchbook Committee are committees established by the Office of the Executive Secretary, the Committee on District Courts or the Supreme Court of Virginia. As an attachment to my email to you on Friday, October 25, 2024, I included a list of members of the Benchbook Committee, which identifies the Honorable Gene A. Woolard (Retired) as Chair of the Benchbook Committee. You may wish to express your concerns with content of the Benchbook in a letter to Judge Woolard as Chair of the Committee. If you choose to do so, you may send a letter to Judge Woolard, C/O Latashia Sutton, Department of Legal Research, Office of the Executive Secretary, Supreme Court of Virginia, 100 North 9<sup>th</sup> Street, Richmond VA 23219.

By email dated Friday, October 25, 2024, and received on Monday, October 28, 2024, you requested information regarding the “provision [you] are most concerned about on page 202 of the 2023 benchbook... ***‘providing a copy of a petition before filing is not a substitute for service of process after filing.’***” (emphasis yours). By email dated and received on Monday, October 28, 2024, you clarified your request seeking “...when, exactly, the benchbook was changed,” presumably referencing the provision on page 202 of the 2023 benchbook that you cited in your email dated October 25, 2024.

The provision referenced in your inquires is found in the Freedom of Information Act chapter of the Benchbook in the subsection entitled “The Seven-Day Hearing Requirement.” I have attached the Freedom of Information Act chapters of the 2014 through 2017 Benchbook editions. Please refer to the subsection entitled “The Seven-Day Hearing Requirement” found in the 2014-2017 Benchbook editions, all of which appear to contain the language you assert was changed.

You requested “records reflecting discussions, votes, presentations, or research associated with the revision of the Benchbook’s prior language (see, e.g., the material quoted above) and the new language found at page 202 of the 2023 Benchbook (and at various pages of the edits in 2018, 2019, 2020, 2021 and 2022)” and “records reflecting any input from any person (public or private sector) concerning the procedures to be applied in VFOIA mandamus cases under s. 2.2-3713 of the Virginia Code.” This Office has no records responsive to this request.

In your email dated October 25, 2024, you also requested the email addresses for Mr. Hade and Mr. Macon. Mr. Hade’s email address is [khade@vacourts.gov](mailto:khade@vacourts.gov) and Mr. Macon’s email address is [emac@vacourts.gov](mailto:emac@vacourts.gov). You have since sent an email, dated October 28, 2024 to Mr. Hade and Mr. Macon. This email acknowledges receipt of your email by Mr. Hade and Mr. Macon, who have requested that I respond on their behalf.

Your email sent to me on October 29, 2024 and received that day repeats your request for “copies of the VFOIA-related provisions of the District Court benchbooks for 2015, 2016 and 2017.” As indicated above, I have attached the relevant provisions of the Benchbooks for 2014 through 2017.

Your email of Tuesday October 29, 2024 also requests “records reflecting all proposed new language associated with the VFOIA mandamus requirements (i.e., the changed provisions from what appears in 2014 to what is now in the 2023 benchbook and, as shown, what is in the benchbook at least as of 2018 per your prior production of records).” As indicated above, the language you have cited in your requests - “providing a copy of a petition before filing is not a substitute for service of process after filing” - appears in all editions of the Benchbook

containing a Freedom of Information Act Chapter from the 2014 Edition through the 2023 Edition under the heading "The Seven-Day Hearing Requirement." There are no records responsive to your request for "changed provisions" relating to this language.

Your email correspondence with this Office, beginning October 18, 2024, has been voluminous. I have attempted to address each of your requests for records received since my prior response on Friday, October 25, 2024. If you believe that any of your requests for records maintained by the Office of the Executive Secretary have not been addressed, please identify any such requests with specificity.

The cost to provide the attached records were minimal, and any fees associated with this request have been waived.

Alisa

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