



Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295

Richmond, Virginia 23218

Walter J. Kucharski, Auditor

November 18, 2004

The Honorable John T. Frey
Clerk of the Circuit Court
County of Fairfax

Board of Supervisors
County of Fairfax

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Fairfax for the period April 2003 through September 2004.

Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

Our audit was more limited than would be necessary to provide assurance on internal controls or to provide an opinion on overall compliance with laws and regulations. Because of inherent limitations in internal controls, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal controls to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

We noted a certain matter involving internal control and its operation that we consider to be a reportable condition. A reportable condition involves a matter coming to our attention relating to a deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The reportable condition is in the subsection titled "Internal Control/Compliance Findings and Auditor's Recommendations."

We do not believe this condition is a material weakness. A material weakness is a significant deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability and go undetected.

The results of our tests of compliance with applicable laws and regulations disclosed an instance of noncompliance. This instance of noncompliance entitled "Properly Assess Criminal Fees" is described in the subsection titled "Internal Control/Compliance Findings and Auditor's Recommendations."

We discussed our findings with the Clerk on November 18, 2004 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:aom

cc: The Honorable Michael P. McWeeny, Chief Judge
Anthony H. Griffin, County Executive
Bruce Haynes, Executive Secretary
Compensation Board
Paul Delosh, Director of Technical Assistance
Supreme Court of Virginia
Martin Watts, Court Analyst
Supreme Court of Virginia
Director, Admin and Public Records
Department of Accounts

INTERNAL CONTROL/COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS

The following finding is a reportable internal control matter that could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability. Included in this report is the Clerk's written corrective action plan to remediate this finding.

Strengthen Accounts Receivable Procedures and Improve Internal Controls

As noted in our previous reports, the Clerk's office uses two internally developed and designed automated systems for processing court information. The Clerk's office had these systems developed and implemented in the mid 1980's before the Commonwealth of Virginia began its automation of the entire judicial system.

One system records the receipt of all money in the court; and the other system records case activity as well as fines and costs. These systems cannot share information and do not interface with the Commonwealth of Virginia's Supreme Court statewide systems. The Clerk's staff must manually enter financial data into both in-house systems separately and then enter summary information into the Supreme Court's financial management system.

Because of the age of these systems and the design options available at the time, neither system provides an optimum internal control environment. For example, the case management system cannot track changes to individual fines and costs accounts. Therefore, the Clerk cannot use the system to effectively monitor, review or approve account updates or changes. The inability to effectively monitor this activity degrades the Clerk's ability to detect errors, fraud or other loss of funds.

As a result of the weaknesses in the Clerk's current system, exceptions continue to occur in the establishing, monitoring and collecting of the court's receivables. We found the following conditions.

- The Clerk does not consistently notify the Department of Motor Vehicles of delinquent fines and costs. Section 46.2-395 of the Code of Virginia requires clerks to report all unpaid criminal and traffic cases. In seven of the 12 cases eligible for license suspension tested, the Clerk failed to notify the Department of Motor Vehicles for periods ranging from six weeks up to 19 months after accounts became delinquent. Since, driver's license suspension is an important tool for the collection of delinquent fines and costs, the Clerk should promptly report all cases with delinquent fines and costs.
- The Clerk does not consistently send delinquent fines and costs to the Department of Taxation for collections. In six of ten unpaid cases eligible for collections tested, the Clerk had not reported the delinquent accounts for periods ranging from six weeks up to six months later. One account remained unreported ten months later. To maximize collections, the Clerk should promptly report all unpaid fines and costs to the Department of Taxation.
- The Clerk did not properly record all delinquent fines and costs in the Judgment Lien Docket as required by Section 8.01-446 of the Code of Virginia. In 13 of 20 unpaid cases tested, the Clerk did not enter judgments for periods ranging from five to 13 months late.

To maximize collection efforts, the Clerk should promptly record all unpaid fines and costs in the Judgment Lien Docket Book.

- The Clerk does not establish accounts receivable on the case management system until after receiving sentencing orders. This often results in delays of up to two and a half months between final case disposition and the set up of the accounts receivable. We found six of 20 receivables established one month after final disposition, and two established up to two and a half months after final disposition. Promptly establishing accounts receivable is a vital process in efforts to collect fines and costs. The Clerk should revise the court's procedure of waiting for a sentencing order and set up accounts receivable immediately after final case disposition. This will help increase the likelihood of collecting unpaid fines and costs.
- We found where staff failed to record partial payments in the system for two cases and instead lowered the receivable assessments to compensate. Though receipts for the payment were included in the case files, there was no record of the payment in the court's accounts receivable system. Failing to properly record transactions in the system increases the risk of fraud and can lead to errors, omissions, and misappropriation of funds. The Clerk should ensure that all transactions are appropriately recorded in the system.

The Clerk is currently in the process of testing a new comprehensive automated case management system, which we understand will address the findings; however, we have not reviewed the system. As we have recommended in previous audits, the Clerk should ensure that any new system eliminates the need for entering data more than once and can interface or exchange information with statewide court systems. The new system should also provide an adequate audit trail for financial transactions and enhance the court's control environment. When implementing the new system, the Clerk should revise the court's procedures to ensure the proper establishing, monitoring and collection of receivables. Proper management of accounts receivable greatly enhances the collection of fines and costs.

The following finding is an instance of noncompliance with applicable laws or regulations that the Clerk needs to address.

Properly Assess Criminal Fees

Court staff do not consistently assess correct fees in criminal cases. For example, we found that staff incorrectly assess the DNA laboratory testing fee in felony cases reduced to misdemeanors. Section 19.2-310.2 of the Code of Virginia requires assessing this fee only for felony convictions. We also found that on cases appealed from the district court, staff do not assess the local courthouse and academy training fees when appropriate as required by Section 17.1-275.5 of the Code of Virginia.

The Clerk should ensure that staff are sufficiently trained in the proper assessment of court fees so that all such fees are assessed in accordance with the Code of Virginia.



JOHN T. FREY
CLERK OF CIRCUIT COURT

COMMONWEALTH OF VIRGINIA
Circuit Court of Fairfax County

4110 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030-4048
703-246-2770
TDD 703-352-4139



JANE M. DELIEE
CHIEF DEPUTY

December 3, 2004

Walter J. Kucharski
Auditor of Public Accounts
James Monroe Building
101 North 14th Street, 8th Floor
Richmond, VA 23219

Re: Corrective Action Plan to Audit for the period April 2003 through September 2004

Dear Mr. Kucharski:

The Fairfax Circuit Court Clerk's office is the largest Circuit Court Clerk's office in the Commonwealth of Virginia. It is viewed by many as one of the most efficient, technologically innovative and best-run courts in the country. Visitors from all over the United States and from many foreign countries come to visit this court to see how we do business.

According to the 2003 State of the Judiciary Report, issued by the Supreme Court of Virginia, the Fairfax Circuit Court handled 21,793 new cases last year, which accounts for 7.9% of the circuit court caseload in the Commonwealth of Virginia. This Court is one of the fastest in the Commonwealth, with 94.2% of the 4,759 new felony cases tried within 120 days of arrest (first in the Commonwealth); 79.6% of the 3,488 new misdemeanor cases tried within 60 days (second in the Commonwealth); and 82.5% of the 13,546 new civil cases concluded within 12 months (third in the Commonwealth). In addition, this office handles over 159 million dollars in revenues and an additional 18 million dollars in trust funds per year. This is despite the woefully inadequate funding provided by the Commonwealth of Virginia.

According to the staffing standards posted on the State Compensations Board's website, the Fairfax Circuit Court Clerk's office should be receiving funding for 164.89 positions. However, funding is provided for only 98 positions. This is a staffing shortage of 66.89 positions. To complicate matters, the Compensation Board's staffing formula does not provide staffing for supervisory positions, human resource personnel, accounting personnel, jury management personnel or for staff support of judges – all essential in a large court.

The 2004 audit of the Fairfax Circuit Court Clerk's office noted that "the Clerk's office uses two internally developed and designed automated systems for processing court information."

These systems are legacy systems developed by Fairfax County in the 1980's, which I inherited when I became clerk. On October 18, 2004, I implemented a new case management system which should help reduce some of the errors noted in the audit report.

The auditor is correct in stating that due to "the age of these systems and the design options available at the time, neither system provides an optimal internal control environment." However, the auditor's conclusion that due to "the weaknesses in the Clerk's current system, exceptions continue to occur in the establishing, monitoring and collecting of the court's receivables" is misleading. For example, the audit report states:

1. "The Clerk does not consistently notify the Department of Motor Vehicles of delinquent fines and costs ..."
2. "The Clerk does not consistently send delinquent fines and costs to the Department of Taxation for collections"
3. "The Clerk did not properly record all delinquent fines and costs in the Judgment Lien Docket"

In the Auditor of Public Accounts, "Virginia Circuit Courts Statewide Report, Report on Audits during the Period July 1, 2003 through June 30, 2004," the auditor reported a number of clerks' offices using the Supreme Court of Virginia's system which failed to promptly report delinquent accounts to the Department of Motor Vehicles or the Department of Taxation's set-off debt program. Therefore, it can be concluded that the issue is not the "Clerk's current system" since clerks' offices using the Supreme Court's system have the same problems.

The reality of the situation is that huge workloads, severe staffing shortages, and staff turnover have a major impact on the ability of the Clerk's office to process, track, report and docket delinquent fines and costs. In fact, even with our new case management system, without adequate staffing, these problems will persist into the future.

It is also important to put the audit findings into context. In the last year, the Fairfax Circuit Court Clerk's office sent 1,671 cases to the Department of Taxation's Set-Off Debt Department; 1,557 cases to the Department of Taxation's Debt Collections program; docketed 1,672 criminal judgments; and suspended 1,844 drivers' licenses.

I concur with the auditor's finding concerning the failure of staff to record partial payments in the accounts receivable system, even though receipts for the proper amounts were in the actual case file. This is a direct result of the weaknesses in our old system. The new case management system should eliminate this problem.

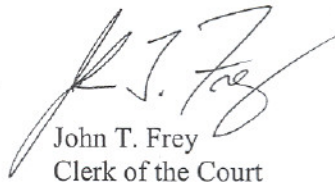
As to the final issue addressed in the audit report, I disagree with the auditor on the issue of establishing accounts receivables prior to receiving the sentencing order. While the auditor points out that waiting until the sentencing order is signed by a judge delays setting up the accounts receivable, the auditor fails to recognize the additional (unfunded) workload required to conduct an additional quality-control check in order to verify that the accounts receivable account set up on the day of court and the information in the sentencing order signed by a judge up to several weeks later are identical. This is a staffing resource issue, not an audit issue.

Furthermore, the audit report is misleading on this issue. The Clerk's office opens accounts receivable immediately if a defendant wants to pay their fines and costs or enter into a payment plan prior to the signed sentencing order being forwarded to the Clerk's office by the judge.

The major problem with the audit report is that your office fails to put things into perspective. Nothing in the audit report indicates the huge workload or staffing shortages experienced in the Fairfax Circuit Court Clerk's office. Yet, as a member of the Compensation Board, you have first-hand knowledge of the continuing staffing shortages and workload increases in my office.

The annual audit should be a tool and resource for the Clerk. It should be fair and balanced. It should make recommendations for improvement. However, there is a fine line between recommendations and trying to dictate policy. Ultimately, it is the elected Constitutional Officer, not the Auditor of Public Accounts, who has the duty and responsibility to set priorities in order to balance all the needs and requirements of the court with the actual resources available.

Sincerely,



John T. Frey
Clerk of the Court

JTF:skd