

**OFFICE OF THE EXECUTIVE SECRETARY
OF THE SUPREME COURT OF VIRGINIA
CLERK OF THE SUPREME COURT
CLERK OF THE COURT OF APPEALS AND
THE JUDICIAL INQUIRY AND REVIEW COMMISSION**

**REPORT ON AUDIT
FOR THE PERIOD JULY 1, 2004
THROUGH JUNE 30, 2006**



AUDIT SUMMARY

This report includes the Office of the Executive Secretary of the Supreme Court of Virginia, Clerk of the Supreme Court, Clerk of the Court of Appeals, and the Judicial Inquiry and Review Commission.

Our audit of these agencies for the period July 1, 2004 through June 30, 2006 found:

- proper recording and reporting of transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- no matters involving internal control and its operations necessary to bring to management's attention; and
- one instance of noncompliance with applicable laws and regulations or other matters that is required to be reported .

Information Systems Environment at the Supreme Court

This report does not include any information systems reviews or test work. Our office will be issuing a special report in the near future to cover this area of the Supreme Court. The special study will cover topics such as systems security, systems development, and information technology strategic planning.

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AUDIT FINDINGS AND RECOMMENDATIONS

Improve Procedures for Reporting Fraud

There was a potential fraud discovered in Fairfax County Circuit Court that went unreported to the Auditor of Public Accounts by either the Circuit Court Clerk or the Supreme Court. Reporting potential fraud cases to the Auditor of Public Accounts and the Superintendent of State Police is a requirement of Section 30-138 of the Code of Virginia. Neither the Circuit Court Clerk nor the Supreme Court reported the fraud to our office.

In addition to failing to report the fraud, both the Circuit Court Clerk and the Supreme Court have different opinions of who has responsibility for controlling and monitoring the type of service which resulted in the fraud. Finally, the Circuit Court Clerk reported the matter to the Supreme Court in order to have the investigation started and, therefore, assumed the Supreme Court would handle the fraud reporting.

It is evident there is lack of communication and understanding of policy issues between the local courts and the Supreme Court. We recommend the Supreme Court, not only in this specific matter but others as well, review all similar transactions to determine accountability and responsibility for activities between the local court and the Supreme Court. As part of this review the Supreme Court should determine which party has responsibility for reporting potential frauds to both the Auditor of Public Accounts and the Superintendent of State Police.

AGENCIES HIGHLIGHTS AND FINANCIAL INFORMATION

Titles 16.1 and 17 of the Code of Virginia establish the Office of the Executive Secretary of the Supreme Court and administration of the judicial system's 326 courts including the Supreme Court and Court of Appeals, with approximately 2,900 salaried and full-time wage employees. The Executive Secretary maintains the Court Automated Information System, which accumulates financial and case information for the courts. The Executive Secretary also provides administrative services, including payment and payroll processing for the courts and magistrates, the Judicial Inquiry and Review Commission, and the Virginia Criminal Sentencing Commission. The salaries of the Circuit Court judges as well as the salaries of both the General District, Juvenile and Domestic Relations, and Combined court judges and clerks are part of the Supreme courts annual budget. A brief summary of the agencies' missions follows.

Clerk of the Supreme Court

The Clerk of the Supreme Court is where individuals file appealed criminal and civil cases and apply for permission to practice law in Virginia courts. The Supreme Court appoints the Clerk, who serves at its pleasure. The Clerk's office receives, processes, and maintains permanent records of appeals and other official documents filed with the Court. The Clerk also maintains records of qualified attorneys.

Court of Appeals of Virginia

The Court of Appeals of Virginia is an intermediate appellate court for criminal and civil cases. The Clerk of the Court of Appeals, appointed by the Court, serves at its pleasure. The Clerk processes and maintains permanent records of appeals and other official documents filed with the Court.

Judicial Inquiry and Review Commission

The Judicial Inquiry and Review Commission investigates complaints of judicial misconduct or serious mental or physical disability. The Commission employs staff that assist in the investigation of complaints of misconduct against all state court judges, members of the State Corporation Commission, and members of the Virginia Worker's Compensation Commission.

Budget and Financial Information

The following tables summarize the fiscal year 2006 and 2005 budgeted versus actual expenses for the Office of the Executive Secretary and the related agencies. Expenses consisted mostly of payroll, contracts, equipment, and continuous charges, such as rent. This financial information comes from the Commonwealth Accounting and Reporting System.

	2006	
<u>Agency</u>	<u>Budget</u>	<u>Actual</u>
Supreme Court	\$ 22,412,044	\$ 22,179,103
Court of Appeals	7,282,684	7,270,834
Circuit Courts	74,032,301	73,584,987
General District Courts	84,302,988	83,771,567
JDR Courts	67,104,426	66,806,519
Combined District Courts	27,347,138	27,301,281
Magistrates	20,448,329	20,448,329
Judicial Inquiry and Review Commission	<u>697,407</u>	<u>506,394</u>
Total	<u>\$ 303,627,317</u>	<u>\$ 301,869,014</u>

	2005	
<u>Agency</u>	<u>Budget</u>	<u>Actual</u>
Supreme Court	\$ 20,394,978	\$ 19,497,349
Court of Appeals	6,094,220	6,092,267
Circuit Courts	67,484,321	67,484,321
General District Courts	77,535,480	77,307,565
JDR Courts	62,424,265	62,404,157
Combined District Courts	25,011,598	24,871,631
Magistrates	19,100,893	19,100,893
Judicial Inquiry and Review Commission	<u>649,380</u>	<u>474,704</u>
Total	<u>\$ 278,695,135</u>	<u>\$ 277,232,887</u>



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

June 18, 2007

The Honorable Timothy M. Kaine
Governor of Virginia
State Capitol
Richmond, Virginia

The Honorable Thomas K. Norment, Jr.
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have audited selected financial records and operations of the **Office of the Executive Secretary of the Supreme Court of Virginia, the Clerk of the Supreme Court, the Clerk of the Court of Appeals, and the Judicial Inquiry and Review Commission** for the two years ended June 30, 2006. We conducted our audit in accordance with the Government Auditing Standards, issued by the Comptroller General of the United States.

AUDIT OBJECTIVES

Our audit's primary objective was to evaluate the accuracy of the courts' recording of financial transactions on the Commonwealth Accounting and Reporting System, review the adequacy of the courts' internal controls, test for compliance with applicable laws and regulations and review corrective actions of audit findings from prior year reports.

AUDIT SCOPE AND METHODOLOGY

The court's management has responsibility for establishing and maintaining internal control 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.

We gained an understanding of the overall internal controls, automated and manual, sufficient to plan the audit. We considered materiality and control risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions and account balances.

Payroll Expenditures
Revenues
Expenditures

This report does not include any information systems reviews or test work. Our office will be issuing a special report in the near future to cover this area of the Supreme Court. The special study will cover topics such as systems security, systems development, and information technology strategic planning.

We performed audit tests to determine whether the court's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the court's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

CONCLUSIONS

We found the Office of the Executive Secretary of the Supreme Court of Virginia, the Clerk of the Supreme Court, the Clerk of the Court of Appeals, and the Judicial Inquiry and Review Commission properly stated in all material respects, the amounts recorded and reported, in the Commonwealth Accounting and Reporting System. The courts records their financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System

We noted no matters involving internal control and its operation that we consider to be reported to management. The results of our tests of compliance with applicable laws, regulations, contracts, and grant agreements disclosed one instance of noncompliance that is required to be reported under Government Auditing Standards. This matter is discussed in the section titled "Audit Findings and Recommendations."

EXIT CONFERENCE AND REPORT DISTRIBUTION

We discussed this letter with management at an exit conference held on June 18, 2007. Management's response has been included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

CGC/whb

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June 19, 2007

Mr. Walter J. Kucharski
Auditor Of Public Accounts
James Monroe Building
101 North 14th Street
Richmond, VA 23219

Dear Mr. Kucharski:

We reviewed the draft audit report for the Supreme Court of Virginia for the period July 1, 2004 through June 30, 2006. In this report, you noted that a potential fraud discovered in Fairfax County Circuit Court went unreported to the Auditor of Public Accounts.

As we indicated earlier, we strongly believe that it was the responsibility of the Fairfax County Circuit Court Clerk to bring this issue to the attention of the Auditor of Public Accounts. The Circuit Court Clerk is a constitutionally elected official and does not report to this office. The Circuit Court Clerk reported this issue to the Virginia State Police and, therefore, it would be reasonable to assume that the Circuit Court Clerk's Office should be responsible for reporting this issue to Auditor of Public Accounts. In addition, as the services were being provided in the circuit court, the Circuit Court Clerk would be in the best position to determine if an interpreter was submitting requests for payment for services that were not provided.

In light of the misunderstanding by the Circuit Court Clerk in this specific matter, we will work with the circuit court clerks to ensure that they know it is their responsibility to report potential frauds to both the Superintendent of State Police and the Auditor of Public Accounts. In the future, should we be made aware of any such fraud, we will also notify your office so that your staff may follow up with the Circuit Court Clerk.

With kind regards and best wishes, I am

Very truly yours,

Karl R. Hade

cc: John B. Rickman, Director
Paul F. DeLosh, Director

OFFICIALS

OFFICE OF THE EXECUTIVE SECRETARY OF THE SUPREME COURT OF VIRGINIA

Honorable Leroy R. Hassell, Sr., Chief Justice

Karl R. Hade, Executive Secretary

CLERK OF THE SUPREME COURT

Patricia L Harrington, Clerk

CLERK OF THE COURT OF APPEALS

Honorable Walter S. Felton, Jr., Chief Judge

Cynthia L. McCoy, Clerk

JUDICIAL INQUIRY AND REVIEW COMMISSION

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