

**REPORT ON
CLERK OF THE CIRCUIT COURT
of the
COUNTY OF PRINCE WILLIAM, VIRGINIA
DAVID C. MABIE**

**FOR THE PERIOD
JANUARY 1, 2004 THROUGH DECEMBER 31, 2004**



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Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295

Richmond, Virginia 23218

Walter J. Kucharski, Auditor

April 20, 2005

The Honorable David C. Mabie
Clerk of the Circuit Court
County of Prince William

Board of Supervisors
County of Prince William

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Prince William for the period January 1, 2004 through December 31, 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.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system.

However 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 discussed in the section titled “Internal Control 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 no instances of noncompliance that are required to be reported.

We discussed these comments with the Clerk on April 20, 2005 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:slb

cc: The Honorable Richard B. Potter, Chief Judge
Craig S. Gerhart, 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 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. The Clerk's response and written corrective action plan to remediate this finding are included as an enclosure to this report.

Properly Assess Costs in Criminal Cases

The Clerk did not properly assess court fees. We found the Clerk did not assess the local courthouse security and local academy fees in 11 of 30 cases tested. Further, the Clerk failed to assess the jail processing fee in nine of 30 cases. Lastly, we found one case where the Clerk failed to assess the \$100 Driving While Intoxicated fee when appropriate and another case where the Clerk incorrectly assessed the \$150 Drug Offender fee.

Failing to properly assess court fees results in lost revenue for both the Commonwealth and the locality. The Clerk should ensure that staff assess all applicable fees consistently on criminal cases in accordance with the Code of Virginia and local ordinances.



OFFICE OF THE CLERK OF CIRCUIT COURT

Prince William County
Cities of Manassas and Manassas Park
Virginia

David C. Mabie
Clerk of the Court

Wendy Jones
Chief Deputy

Jim Shepherd
Audit Director
Auditor of Public Accounts
P.O. Box 1295
Richmond, VA 23281



9311 Lee Avenue
Manassas, Virginia 20110
(703) 792-6015
FAX (703) 792-4721

www.pwcgov.org/ccourt

April 28, 2005

Dear Mr. Shepherd:

On April 8th, 2005, the Auditor of Public Accounts concluded their audit of the Prince William Circuit Court. We are in receipt of your Draft Audit Report, which lists one audit finding, and our reply to that finding follows.

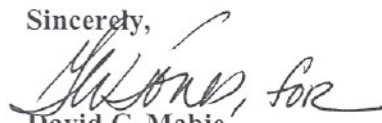
On the issue of failing to Properly Assess Costs in Criminal Cases, we have been cited for not properly assessing the local Courthouse Security Fee, Local Criminal Justice Academy Fee, and the Jail Processing Fee. In addition, a single instance was cited in which we failed to assess the Driving While Intoxicated fee and another in which we incorrectly assessed the Drug Offender Fee. The Courthouse Security Fee was being assessed only one time when there were multiple charges. This was based upon an e-mail from the Office of the Executive Secretary. The Local Academy Fee was not being charged in revocation of probation hearings. The reason for this is that the Criminal Manual (page 5-62) states that *...a proceeding to revoke probation is not a prosecution for a criminal offense...* The Manual also states that it is *Taxed against and collected from defendant upon conviction* (page B-30). The same is true of the Courthouse Security Fund (page B-26, assessed upon conviction). If it is not a criminal offense, how can there be a conviction? Of the 11 cases cited for the Local Academy Fee, we found that two were not Prince William County Warrants, 5 were revocations, 1 was nolle processed, 1 the fee was assessed and 2 where the fee was overlooked. Our Criminal Section immediately put into place all changes recommended by the field auditors. In May, the Fiscal Officer and various Criminal Section staff will attend Managing Your Office classes at the Supreme Court in Richmond. Finally, we are putting together a set of local "Fines and Costs Assessment Guidelines". These Guidelines will address all possible account codes and the circumstances that must exist to assess a fine or cost depending on situation and jurisdiction. We do not anticipate a repeat of this finding.

I would like to take this opportunity to address what I perceive to be a trend that is spiraling out of control when it comes to assessing fines and costs in criminal cases. You will recall the great effort that was spent over the past several years in trying to get the fixed fees established in both felony and misdemeanor cases. This has become meaningless as more and more costs are added. I certainly don't object to defendants being obligated to pay, but how much more can we add and then expect the clerk's office to manage such a complicated and convoluted set of rules?

We have three jurisdictions here and the rules don't apply to all three jurisdictions in every case. It has become more and more time consuming to review these files to determine just which costs need to be assessed. Of course you are aware that hiring more employees is not an option according to the General Assembly. I'm not sure you can play a role in any relief from this problem, but to recognize and acknowledge that this is indeed becoming a burden in terms of manageability. The process lends itself to more mistakes being made as more and more costs are allowed and the circumstances under which those costs are assessed are so variable.

Our office appreciates the efforts of your field auditors in correcting our procedures. We always think of the audit as an opportunity to learn. If anyone from your office has questions, please call Wendy Jones at 703 792-6018 or Lee Stewart at 703 792-6975. Thank you for your time.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Mabie, for". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David C. Mabie

Clerk of Circuit Court