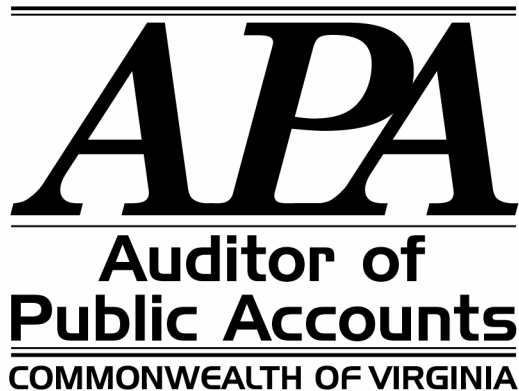


**VIRGINIA CIRCUIT COURTS
STATEWIDE REPORT**

**REPORT ON AUDIT
DURING THE PERIOD ENDING
JUNE 30, 2003**



AUDIT SUMMARY

During our audits of Clerks of Circuit Courts for the work plan fiscal year 2003, we identified the following six findings that we consider statewide issues that are common to several circuit courts:

- Properly Reconcile Bank Account
- Improve Receipting Procedures and Safeguard Assets
- Properly Manage Accounts Receivable
- Properly Assess and Record Court Fees and Costs
- Improve Trust Fund Management
- Properly Monitor and Disburse Liabilities

Statewide issues are those internal control findings or compliance issues that require that the Executive Secretary of the Supreme Court, as the circuit court administrator, consider issuing new guidelines or providing training to help specific clerks' offices improve. In addition, the Executive Secretary should consider including these issues when conducting statewide training for all clerks' offices.

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November 15, 2003

The Honorable Mark R. Warner
Governor of Virginia
State Capitol
Richmond, Virginia

The Honorable Kevin G. Miller
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We are pleased to submit our statewide report on the **Virginia Circuit Court System**. This report represents the results of audits conducted in our fiscal 2003 work plan and cover fiscal periods through June 30, 2003. The Supreme Court of Virginia establishes the rules of practice and procedure for the circuit courts while the Executive Secretary of the Supreme Court acts as the administrator of the circuit court system.

Our audits determined whether the Clerks of the Circuit Courts have maintained accountability over collections, established internal controls, and complied with state laws and regulations. We used a risk-based audit approach for circuit courts that assesses risk for each individual court to determine the amount of testing we would perform.

During this period, we conducted 115 Clerks of Circuit Court audits and noted findings in 50 offices. We did not complete audits of six clerk's offices during the period. We have previously communicated findings for individual circuit court audits to the appropriate Clerks of the Circuit Courts, Chief Judges, and local governing bodies.

This report summarizes the findings from our individual audits that we consider statewide issues that were common to several clerks' offices. Statewide issues are those internal control findings or compliance issues that require that the Executive Secretary of the Supreme Court, as the circuit court administrator, consider issuing new guidelines or provide training to help these offices improve. In addition, the Executive Secretary of the Supreme Court periodically holds training for all clerks' offices and should consider emphasizing these matters during future training sessions.

We identified the following six findings that we consider statewide issues common to several circuit courts:

- Properly Reconcile Bank Account
- Improve Receipting Procedures and Safeguard Assets
- Improve Accounts Receivable Management
- Properly Assess and Record Court Fees and Costs
- Improve Trust Fund Management
- Properly Monitor and Disburse Liabilities

We have included a further discussion of each of these statewide findings in the “Statewide Internal Control and Compliance Issues” section of this report.

This report is intended for the information of the Governor and General Assembly, court management, and the citizens of the Commonwealth of Virginia and is a public record. We discussed the findings contained in this report with court management at the completion of our individual clerk’s office audits during the period.

AUDITOR OF PUBLIC ACCOUNTS

JMS:whb
whb:23

STATEWIDE INTERNAL CONTROL AND COMPLIANCE ISSUES

We identified the following six findings that we consider statewide issues common to several circuit courts.

Properly Reconcile Bank Account

Reconciling the bank statement to the check book to the automated accounting system is a very important process in maintaining strong internal controls within the clerk's office. When done properly and timely, the bank reconciliation helps determine that all transactions have been recorded, any errors have been detected and corrected, and the accounting records accurately reflect the amount of money in the bank. Conversely, failing to properly reconcile the bank account significantly increases the chances that errors, theft, omissions, or other irregularities could go undetected. We noted the following weaknesses regarding the reconciliation of clerks' bank accounts.

- Some clerks do not properly resolve differences between the bank statement and the court's automated financial system. We noted differences stemming from returned checks or routine bank service and new check fees not recorded in the system, and uncorrected deposit errors. In one court, we noted that over \$6,200 in bank service charges dating back more than 15 months remained unrecorded in the system. In another court we noted that other reconciling items totaling more than \$885 went unresolved for up to 13 months.
- Some clerks do not reconcile their bank account to the automated financial system for periods up to eleven months. We also noted that in some courts, the clerk or other supervisory staff did not routinely review the monthly reconciliations.

Clerks should properly reconcile their bank accounts to the check book and the automated financial system each month and resolve all differences timely. Clerks who may not fully understand the reconciliation process in an automated system environment should immediately seek assistance and training from the Supreme Court. Failing to reconcile the bank account monthly or not resolving all differences promptly significantly increase the risk of errors, fraud, or other irregularities going undetected.

We noted bank reconciliation issues at the following Clerks of Circuit Court offices:

| | |
|--------------------|--------------------|
| Amherst County | City of Norfolk |
| Arlington County | City of Salem |
| Buchanan County | Smyth County |
| City of Chesapeake | Washington County |
| Dinwiddie County | City of Winchester |
| Loudoun County | |

Improve Receipting Procedures and Safeguard Assets

Some clerks do not properly receipt funds, record them in the financial system, or properly secure collections. We noted the following receipting and/or unsecured funds issues.

- Deed recordation fees totaling more than \$7,600 in checks that had not yet been recorded in the financial system, were left unsecured in one clerk's office. In another office, a several-week backlog in receipting and depositing funds resulted

from the clerk's failure to promptly process deeds. Clerks claim that high volumes of deed instruments coupled with limited personnel have severely limited their ability to process deeds and receipt and deposit collections timely. Section 17.1-271 of the Code of Virginia requires clerks to deposit collections within a reasonable time and failing to promptly receipt and deposit funds could result in loss, theft, or misappropriation of funds.

- In another office, staff improperly gave receipts showing full payment for amounts due the court, because staff did not verify amount due or compare the check amount to the amount due. Staff did not normally discover the error until completing the end-of-day reconciliations. Then, instead of voiding the original incorrect receipt and recording the correct amount, court staff recorded a shortage in the financial management system. Staff would then record an overpayment when the customer paid the remaining balance.

Issuing receipts for full payment when only receiving a partial payment could seriously hinder the Court's ability to make later collection on the unpaid amount. This error could result in lost revenue for the Commonwealth. We recommended that the Clerk stop this procedure immediately and begin following the established receipting procedures as outlined in the Financial Management System User's Guide. Recording shortages and overages in lieu of properly receipting payments results in an inadequate audit trail and increases the risk of misappropriation or loss of funds. Also, the Clerk should require staff to thoroughly examine checks for the correct amount before issuing receipts.

- Delays of for up to 35 days occurred before receipting and recording fees from appealed district court cases.
- Final estate settlements totaling more that \$1,300 in checks remained unrecorded for up to nine months. We found the checks unsecured on a deputy clerk's desk.
- Hunting and fishing license fees were collected but not promptly recorded or deposited, which ultimately led to the loss of funds totaling over \$100.

We note receipting or depositing issues at the following Clerks of Circuit Court offices:

City of Chesapeake
Frederick County
Giles County
Montgomery County
Roanoke County

Rockingham County
City of Suffolk
Warren County
Washington County

Improve Accounts Receivable Management

We found that many clerks do not properly establish, monitor, or collect accounts receivable. Specifically, we found the following conditions:

- Some clerks altered fines and costs due dates in the court's financial management system without a court order or obtaining a signed pay agreement in accordance

with Section 19.2-354 of the Code of Virginia. All fines and costs are payable immediately upon final disposition unless otherwise ordered by the court or evidenced by a written payment plan. Court staff should not alter due dates unless they have an established or revised payment agreement so that defendants understand their obligation to the court. Allowing due date changes without proper supporting documentation significantly raises the risk of loss of funds due the Commonwealth.

- Some clerks failed to promptly enter unpaid fines and costs in the court's automated financial system. We found instances where clerks did not enter fines and costs for periods ranging from five days up to one year after sentencing. Additionally, clerks do not promptly enter judgments for failing to pay fines and costs in the Judgment Lien Docket, as required by Section 8.01-446 of the Code of Virginia. We found cases never entered into the Judgment Lien Docket book and others entered up to one year after trial date. Clerks should promptly enter all fines and costs in the automated financial system to ensure that the collection process can proceed. Judgments should be entered in the Judgment Lien Docket without delay.
- Some clerks failed to promptly report delinquent accounts to the Department of Motor Vehicles. We noted reporting delays of up to one year after accounts became past due and eligible for license suspension. Section 46.2-395 of the Code of Virginia requires clerks to report all unpaid criminal and traffic cases. Driver's license suspension is often an important tool for collecting delinquent fines and costs; therefore, clerks should promptly report delinquent accounts to the Department of Motor Vehicles.

Inadequate management of accounts receivable inhibits the collection of fines and costs. Clerks should follow Supreme Court guidance and the Code of Virginia requirements when establishing and managing the court's accounts receivable. The lack of such procedures, improper due date changes, and untimely reports to the Department of Motor Vehicles all hinder collection efforts and could result in the loss of revenue for the Commonwealth.

We noted accounts receivable issues at the following Clerk of Circuit Court offices:

Albemarle County
Arlington County
Buckingham County
Caroline County
Charles City County
Craig County
Fairfax County
Greene County
King George County
Loudoun County
Louisa County

Middlesex County
Northumberland County
City of Petersburg
Powhatan County
Prince George County
Prince William County
Roanoke County
Rockingham County
Smyth County
Washington County
Wythe County

Properly Assess and Record Court Fees and Costs

Some clerks do not properly assess and record fees and costs in accordance with the Code of Virginia. We found errors in the assessment of time-to-pay management fees, drug offender fees, public defender fees, forensic laboratory fees, and the application of fixed felony fees when defendants had multiple charges. We also found offices that did not enter all case information into the court's financial management system or altered amounts from the court-ordered amounts without supporting documentation. Clerks need to be more diligent in the proper assessment of fees and costs to help ensure compliance with the Code of Virginia.

We noted improper assessing of fees or costs at the following Clerk of Circuit Court offices:

| | |
|-----------------------|----------------------|
| Charles City County | City of Norfolk |
| Caroline County | City of Petersburg |
| Fairfax County | Prince George County |
| Giles County | Pulaski County |
| Greensville County | City of Salem |
| Louisa County | Spotsylvania County |
| Northumberland County | Wythe County |

Improve Trust Fund Management

Clerks need to improve the management of trust funds. In some instances, clerks did not properly reconcile trust fund accounts to bank statements, failed to post earned interest to trust fund accounts in the financial management system, and subsequently failed to report these amounts on the annual report to the court. At one court, we identified trust funds of approximately \$33,000 that the clerk failed to disburse in accordance with Section 8.01-600 of the Code of Virginia. Finally, several clerks did not properly or promptly submit the required annual report to the court.

Clerks should ensure that they properly invest, record, disburse, and report all trust funds in accordance with the Code of Virginia. Clerks should reconcile all trust fund bank balances to the financial system upon receipt of bank statements and promptly investigate and resolve any differences. Without an adequate reconciliation process, a clerk cannot ensure proper reporting and payout of trust fund accounts. By law, the clerk may be personally liable for any loss of income that results from inadequate procedures.

We noted trust fund findings at the following Clerk of Circuit Court offices:

| | |
|---------------------|--------------------|
| Appomattox County | Greensville County |
| City of Buena Vista | City of Petersburg |
| Charles City County | City of Portsmouth |
| Giles County | Powhatan County |
| Gloucester County | City of Winchester |

Properly Monitor and Disburse Liabilities

Although we have noted considerable improvement in the management of liabilities during the period, some clerks are still not properly monitoring or promptly disbursing liabilities such as civil and criminal bonds and unclaimed properties. Specifically, we identified the following weaknesses:

- Clerks were unnecessarily holding escrow, restitution, and civil or criminal bonds totaling almost \$32,000 up to four years after case disposition. Section 58.1-3177 of the Code of Virginia provides that the Clerk may be personally liable for any loss of income for failing to pay out money so ordered by the court within 60 days of a court order. In some cases, a clerk's failure to properly disburse liabilities could result in a substantial personal liability.
- Clerks failed to prepare the annual Unclaimed Property Report as required by Section 55-210.12 of the Code of Virginia. We identified more than \$28,500 in property potentially eligible for escheatment to the Commonwealth. Clerks should review all liabilities and outstanding checks annually and report and escheat amounts over one year old to the State Treasurer. Clerks can be personally liable for interest and penalties for failing to send eligible property to the Division of Unclaimed Property.

Clerks should monitor liability accounts and promptly disburse these funds upon conclusion of the cases. Clerks should also send any unclaimed property to the Division of Unclaimed Property after applying due diligence procedures.

We noted liabilities issues at the following Clerk of Circuit Court offices:

Giles County
Loudoun County
Montgomery County
City of Petersburg

Powhatan County
Rockingham County
City of Salem

APPENDIX

Circuit Court Audits - July 1, 2002 Through August 31, 2003

| | | |
|--------------------------|--------------------------------|------------------------|
| Albemarle County* | Giles County* | Patrick County |
| City of Alexandria* | Gloucester County* | City of Petersburg* |
| Alleghany County | Goochland County | Pittsylvania County |
| Amelia County | Grayson County | City of Portsmouth* |
| Amherst County* | Greene County* | Powhatan County* |
| Appomattox County* | Greensville County* | Prince George County* |
| Arlington County* | Halifax County | Prince William County* |
| Augusta County | City of Hampton | Pulaski County* |
| Bath County | Hanover County | City of Radford |
| Bedford County | Henrico County | Rappahannock County |
| Bland County | Henry County | Richmond County |
| Botetourt County | Highland County* | City of Roanoke |
| City of Bristol | City of Hopewell | Roanoke County* |
| Brunswick County* | Isle of Wight County | Rockbridge County |
| Buchanan County* | James City County/Williamsburg | Rockingham County* |
| Buckingham County* | King & Queen County | Russell County |
| City of Buena Vista* | King George County* | City of Salem* |
| Campbell County | King William County | Scott County* |
| Caroline County* | Lancaster County | Shenandoah County* |
| Carroll County | Lee County | Smyth County* |
| Charles City County* | Loudoun County* | Southampton County |
| Charlotte County* | Louisa County* | Spotsylvania County* |
| City of Charlottesville | Lunenburg County | Stafford County |
| City of Chesapeake* | City of Lynchburg | City of Staunton |
| Chesterfield County | Madison County | City of Suffolk* |
| Clarke County | City of Martinsville | Surry County |
| City of Colonial Heights | Mathews County | Sussex County* |
| Craig County* | Mecklenburg County | Tazewell County* |
| Culpeper County | Middlesex County* | City of Virginia Beach |
| Cumberland County | Montgomery County* | Warren County* |
| Dickenson County | Nelson County | Washington County* |
| Dinwiddie County* | New Kent County | City of Waynesboro |
| Fairfax County* | City of Newport News | Westmoreland County* |
| Fauquier County | City of Norfolk* | City of Winchester* |
| Floyd County | Northampton County* | Wise County & Norton |
| Fluvanna County | Northumberland County | Wythe County* |
| Franklin County | Nottoway County | York County |
| Frederick County* | Orange County | |
| City of Fredericksburg | Page County | |

* Denotes audits with one or more findings

SUPREME COURT OFFICIALS

The Honorable Leroy Rountree Hassell, Sr.
Chief Justice of the Supreme Court of Virginia

Robert N. Baldwin, Executive Secretary
Office of the Executive Secretary of the Supreme Court of Virginia