

**REPORT ON  
CLERK OF THE CIRCUIT COURT  
for the  
CITY OF PETERSBURG, VIRGINIA  
BENJAMIN O. SCOTT**

**FOR THE PERIOD  
JULY 1, 2006 THROUGH JUNE 30, 2007**



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# Commonwealth of Virginia

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

**Walter J. Kucharski, Auditor**

March 21, 2008

The Honorable Benjamin O. Scott  
Clerk of the Circuit Court  
City of Petersburg

City Council  
City of Petersburg

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the City of Petersburg for the period July 1, 2006 through September 30, 2007.

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 matters involving internal control and its operation that we consider to be significant deficiencies. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential

will not be prevented or detected by the entity's internal control over financial reporting. The significant deficiencies are discussed in the section titled Internal Control and Compliance Findings and Auditor's Recommendations.

We do not believe these conditions are material weaknesses. A material weakness is a significant deficiency, or a combination thereof, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the second paragraph of this section and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

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 and we acknowledge the cooperation extended to us by the court during this engagement.

#### AUDITOR OF PUBLIC ACCOUNTS

WJK:clj

cc: The Honorable Thomas V. Warren, Chief Judge  
B. David Canada, City Manager  
Robyn M. de Socio, Executive Secretary  
Compensation Board  
Paul F. DeLosh, Director of Judicial Services  
Supreme Court of Virginia  
Director, Admin and Public Records  
Department of Accounts

## INTERNAL CONTROL AND COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS

The following findings are significant deficiencies regarding internal control matters 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 these findings are included as an enclosure to this report.

### Investigate and Pay Liability Balances

The Clerk does not disburse liability accounts as required by the Code of Virginia Section 55-210.12. As a result, the Clerk was holding criminal bonds, restitution, and refunds totaling \$2,478.00. The Clerk should immediately disburse all outstanding liabilities and remit all unclaimed liabilities to the Treasurer of Virginia.

### Properly Assess Fees

As noted in the last six audits, the Clerk continues to make mistakes when assessing court costs and fees on criminal cases. Specifically, we found assessment errors totaling \$5,040.00 for 42 of 110 criminal cases tested. Staff incorrectly assessed a wide range of fees and fines including: misdemeanor and felony fixed fees; district court appeal fees; court appointed attorney fees; state and local fines; jail admission fees; courthouse security fees; and DNA fees.

The Clerk should ensure his staff possesses an appropriate understanding of the court's automated system and appropriate accounting and office procedures. To reduce errors, the Clerk must provide adequate training to employees as needed. As we recommended in past audits, the Clerk should review staff work on a daily basis to ensure employees assess and collect all court costs and fees in accordance with the Code of Virginia.

*Hon. Thomas V. Warren, Chief Judge  
Nottoway, Virginia*

*Hon. James F. D'Alton, Jr. Judge  
Petersburg, Virginia*

*Hon. Pamela S. Baskervill  
Petersburg, Virginia*

*Shalva J. Braxton, Chief Deputy Clerk  
Kathleen Porwoll, Deputy Clerk II  
Erica Thorne, Deputy Clerk I  
Chenece Siscoe, Deputy Clerk I  
Ernestine James-Carrier, Circuit Court Liaison Officer*



*Tanesha Flowers, Deputy Clerk I  
Rhonda Gregory, Deputy Clerk II  
Shirley Woodley, Deputy Clerk II  
Suzette Walker, Deputy Clerk I*

*Office of  
Benjamin O. Scott  
Clerk of the  
Circuit Court of the City of Petersburg*

## **CORRECTIVE ACTION PLAN**

### **Investigate and Pay Liability Balances**

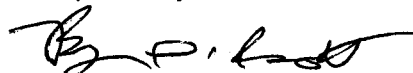
As of the date of this corrective action plan, all liabilities that are escheatable, have been remitted to the Commonwealth's Treasurer of Virginia's Unclaimed Property Division. There are no outstanding balances due to the Commonwealth.

### **Properly Assess Fees**

We performed a detail review of audit reports dating back to fiscal 1985. This comment has been in every audit report for at least the last 22 years. A major part of the problem appears to be the degree of manual calculating, manual updating, and the inordinate amount of human intervention in the assessment process. The difference between this year's findings, and most prior year's findings is the audit emphasis on error rates. It has always been our position that although the error rate is high, it is also misleading. The amount of human intervention involved in the assessment process is an historical problem. We believe that in order to obtain an acceptable error rate, the system of internal control must allow for a higher level of automation. One internal control weakness that has not been pointed out is the frequency of human calculating, updating, interpretation and judgement involved in this automated process. This weakness is an inherent weakness, one that must be eliminated at the systems development level. Most of the errors noted in the report are errors inherently dependent upon human intervention, not automation. The Financial Management System is approximately 20 years old. The Case Management System is at least as old. The Supreme Court of Virginia has recognized these facts, and is moving towards a more automated, interfaced environment. In the past, the Clerk has

provided adequate training to staff; however, staff turnover has been an issue (since the audit date, two thirds of the Criminal Division staff is new). An effective training cycle is impacted by turnover. Turnover impacts the assessment process, thus generating a higher error rate. Petersburg has a disproportionately high crime rate. The circuit court case load is disproportionately heavy. Resources must be carefully deployed in order to not allow the Criminal Division to negatively impact other areas that are not experiencing internal control problems. Therefore, to suggest that the clerk review all transactions, on a daily basis, is a recommendation that would be difficult to achieve. Over the course of the last twenty two years, the audit reports clearly show that the caseload of the Criminal Division has created a special set of problems for other aspects of the court's operations. Our approach to solving the historical auditing problems has been to eliminate any opinion qualifications first, then move towards correcting management points. This approach was effective, and has served us well. In terms of taking corrective action to fix this assessments issue, please note the following: We will continue, with assistance of the Office of Executive Secretary of the Supreme Court, and the State Auditor of Public Accounts, to provide adequate training to staff members. The Clerk will select, on a random basis, approximately one tenth of the criminal cases for fines and costs review. We shall discontinue attempting to assess lower court fines and costs. The Code of Virginia requires that the Circuit Court Clerk collect the fines and costs of the lower courts. If it has not been assessed by a lower court, we will not attempt to do so (this has been a point of contention with field audit staffs for years. The current audit team clarified this point quite well). The Chief Deputy Clerk has been asked by OES Supreme Court, to serve on the "CMS Conversion to JAVA Advisory Committee." We believe that a more automated interface between the lower courts and the circuit courts will evolve. Once a more automated interface between the courts, CMS, and FMS has been developed, error rates will be dramatically reduced or eliminated statewide. The projected completion date is 12/31/2011. In addition, one of our judges serves on the Chief Justice's Clerk's Commission. In order to improve the level of automation, we will work with the Commission to maintain a more pointed direction throughout this project.

Respectfully Submitted,

  
Benjamin O. Scott, Sr., CPA

Clerk of the Petersburg Circuit Court

February 26, 2008

