

**THOMAS E. ROBERTS  
CLERK OF THE CIRCUIT COURT  
FOR THE  
CITY OF STAUNTON**

**REPORT ON AUDIT  
FOR THE PERIOD  
JANUARY 1, 2011 THROUGH MARCH 31, 2012**



## COMMENTS TO MANAGEMENT

We noted the following matter involving internal control and its operation that has led or could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability.

### Properly Record and Collect Attorney Costs

In a sample of 33 cases tested, there were eight cases with errors.

- In three cases, the Clerk did not bill \$660 of public defender fees to the defendants.
- In five cases, the Clerk did not bill \$2,269 of court appointed attorney fees to the defendants

We recommend the Clerk correct the cases above and research all similar cases to make the appropriate corrections to case paperwork.



# Commonwealth of Virginia

## *Auditor of Public Accounts*

Walter J. Kucharski  
Auditor of Public Accounts

P.O. Box 1295  
Richmond, Virginia 23218

July 3, 2012

The Honorable Thomas E. Roberts  
Clerk of the Circuit Court  
City of Staunton

Lacey King, Mayor  
City of Staunton

Audit Period: January 1, 2011 through March 31, 2012  
Court System: City of Staunton

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court for this Court System and for the period noted above. 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.

### Management's Responsibility

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. Deficiencies in internal controls could possibly lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

We noted a matter involving internal control and its operation necessary to bring to management's attention. The matter is discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate this matter provided by the Clerk are included as an enclosure to this report.

We discussed this comment 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 Humes J. Franklin, Jr., Chief Judge  
Stephen F. Owens, 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



THE CIRCUIT COURT  
of the  
CITY OF STAUNTON



---

Thomas E. Roberts  
Clerk

113 E. Beverley Street  
3rd Floor  
Staunton, Virginia 24401  
540-332-3874

Cynthia Nuckols Marshall, *Deputy*  
Diane D. Mlinarcik, *Deputy*  
Heather Dixon, *Deputy*  
Julie W. Sheffer, *Deputy*

---

June 25, 2012

CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN

The cases cited in the Comments to Management primarily involve this office's policy of how to pay public defenders and court-appointed attorneys. This policy was established when Judge Franklin took office fifteen years ago and has been carried out since then. The policy was established to help deal with the fact that most of our criminal cases are handled by the public defenders office and also to make sure private attorneys were adequately paid. We were, in effect, paying and assessing a "flat fee" in many cases. Judge Franklin has entered several orders regarding this policy. Auditors have raised this issue several times in the past. We have always shown the auditors the current order, explained our policy, and never before have received an audit finding on this issue. For example, last year's auditors raised issues about the assessment of court-appointed attorney's fees but made no mention of the issue raised this year. We were billing court-appointed attorney fees in the same manner both years. The current audit team interprets Judge Franklin's orders as applying to attorneys who are working for the public defender's office, but not court-appointed attorneys in private practice. I am willing to accept this interpretation and assess court-appointed attorney fees in the manner the audit team suggests. However, I was given no notice of the auditor's new, different interpretation prior the beginning of this audit period and thus had no opportunity to make the recommended changes.

It should be noted that in one of the eight cases cited (CR11-249) there was no failure to bill court-appointed attorney fees.

It should also be noted that although another of the eight cases cited (CR10-189) technically involved court-appointed attorney fees, the mistake was actually just a typo (\$148 entered rather than \$158).

---

It should finally be noted that the Comments to Management are incorrect in stating that the clerk did not bill \$2,269 of court-appointed attorney fees. Even had the clerk been aware of the auditor's new interpretation and followed the new recommendations the correct figure is \$1,824.00 (CR10-116 - \$445, CR11-133 - \$445, CR10-238 - \$814, CR11-75 - \$120).

We have made the recommended changes in the costs imposed in all of the cited cases so there is no loss to the Commonwealth.

Since the audit I have changed our policy and we no longer issue the Clerk's Notice of Fines and Costs (Form 1351) to defendants in court immediately after sentencing. We are now determining criminal costs in the office after court, posting the costs to FMS, and then mailing the Clerk's Notice to the defendant. This allows more time to calculate the costs and will provide a higher level of accuracy.

Since the audit my two criminal/courtroom deputies and I have together assessed court costs for all criminal cases. This should also provide a higher level of accuracy. I plan to maintain this policy of the three of us working on court costs together in each criminal case until we are all comfortable that our procedures are sound.