



Commonwealth of Virginia

Walter J. Kucharski, Auditor

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

January 10, 2010

The Honorable Gino W. Williams
Chief Judge
County of Montgomery General District Court
1 East Main Street, Suite 201
Christiansburg, VA 24073

Audit Period: July 1, 2008 through June 30, 2009
Court System: County of Montgomery
Judicial District: Twenty-seventh

We are performing a statewide audit of the General District Courts. During our review of this court, we conducted certain audit procedures, as we deemed appropriate.

Management of this court is an important part of the court's accountability, since you are responsible for establishing and maintaining internal controls and complying with applicable laws and regulations. During our review, we noted certain matters that required management's attention and corrective action. These matters included:

Background information:

The Clerk's office experienced a turnover in the clerk's position during the audit period. The former Clerk resigned in October 2008. The current Clerk was a deputy clerk within the office, before assuming these duties in December 2008.

Properly Bill Fines and Costs

The Clerk and her staff is not properly billing and collecting fines and court appointed attorney fees involving local and state charges as required by Section 19.2-163 of the Code of Virginia. Auditor tested three cases and noted the following errors.

- In one case, the clerk's staff did not properly bill the locality for the court appointed attorney fees, involving a local case. Instead, the clerk's staff erroneously billed the Commonwealth which paid \$120 and miscoded the payment of unpaid court appointed attorney fees causing the Commonwealth to receive the collection.

- In one case, the Clerk erroneously billed a defendant for court appointed attorney fees totaling \$120.
- In one case, the Clerk incorrectly identified the charge against the defendant as a local violation rather than state resulting in a loss of revenue to the Commonwealth totaling \$100.

We recommend the clerk research all similar cases, make the appropriate corrections case paperwork, and where appropriate, bill the localities for the applicable court appointed attorney fees. Further, we recommend the Clerk and her staff work with the Office of the Executive Secretary to receive training in these billing practices.

Request Tax Set Off Refunds

The Clerk did not request tax set off refunds totaling \$2,707 for individuals that owe delinquent court costs and fines as required by Section 58.1-524 (A) of the Code of Virginia. A Court must request the tax refunds through the Virginia Department of Taxation's automated accounting system called the Integrated Revenue Management System. We recommend the Clerk properly request tax set off refunds to maximize collections.

Properly Maintain Court Appointed Attorney Records

The Clerk did not consistently maintain court-appointed attorney waivers as required by the Court-Appointed Counsel Guidelines and Procedures Manual. A waiver provides a detailed explanation of additional fees requested. We recommend the Clerk maintain records in accordance with the Court Appointed Counsel Guidelines and Procedures Manual.

Properly Require Timesheets

The Judge does not require court-appointed attorney timesheets as required by the Court-Appointed Counsel Guidelines and Procedures Manual. The timesheet provides a detailed accounting of the time spent on a case and justification for additional fees requested. We recommend the Judge require court-appointed attorney timesheets in accordance with the Court Appointed Counsel Guidelines and Procedures Manual.

During the audit period, the Supreme Court of Virginia had no formal guidance regarding approval of Clerk's leave submitted to the electronic leave reporting system. The Supreme Court of Virginia has since issued interim guidance regarding the implementation of internal controls over this process, and this court promptly implemented those controls.

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We acknowledge the cooperation extended to us by the Court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:clj

cc: The Honorable Randal J. Duncan, Judge
Kimberly W. McKittrick, Clerk
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia