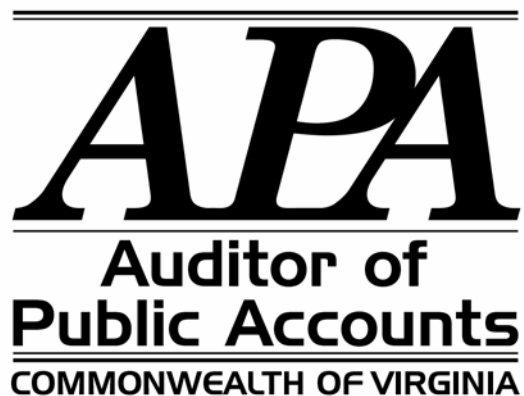


**VIRGINIA CIRCUIT COURTS  
STATEWIDE REPORT**

**REPORT ON AUDITS  
DURING THE PERIOD  
July 1, 2005 THROUGH JUNE 30, 2006**



## **AUDIT SUMMARY**

During our audits of Clerks of Circuit Court for the fiscal year 2006, we identified the following three findings that we consider statewide issues that are common to several circuit courts:

- Properly assess and record court fees and costs;
- Properly manage accounts receivable; and
- 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, to 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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# Commonwealth of Virginia

**Walter J. Kucharski, Auditor**

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

September 28, 2006

The Honorable Tim Kaine  
Governor of Virginia  
State Capitol  
Richmond, Virginia

The Honorable Thomas K. Norment, Jr.  
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 2006 work plan and covers fiscal period July 1, 2005 through June 30, 2006. 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 Court 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 assessed risk for individual courts to determine the amount of testing we performed.

During this period, we conducted 100 Clerks of Circuit Court audits and noted findings in eight offices. We previously communicated findings for individual circuit court audits to the appropriate Clerks of the Circuit Court, Chief Judges, local governing bodies, and the Executive Secretary of the Supreme Court. At the time we issue each report, the Clerk of the Circuit Court audited has the opportunity to submit their corrective action plan which would state what action the Clerk would take to remediate the finding. We include these responses in the final audit report for each court.

This report summarizes the findings from our individual audits that we consider statewide issues that are 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 three findings that we consider statewide issues common to several circuit courts:

- Properly Assess and Record Court Fees and Costs;
- Properly Manage Accounts Receivable; and
- Properly Monitor and Disburse Liability Accounts.

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

In accordance with the provisions of Item 66 (I) of Chapter 951 of the 2005 Acts of the Assembly and Item 64 (I) of Chapter 3 of the 2006 Acts of the Assembly, we found that the following Clerks had internal control findings repeated for two consecutive audit periods. We continue to conduct audits and provide the Compensation Board any additional clerks who have repeated findings for two consecutive audit periods.

#### **OFFICES HAVING REPEATED FINDINGS**

County of Buchanan  
County of Giles  
County of Greensville  
City of Petersburg  
County of Powhatan  
County of Smyth  
County of Washington

Although there are seven clerks’ audits with internal control findings repeated for two consecutive audit periods, this represents a reduction in the number of clerks by 10. We believe that the actions of the General Assembly have had the intended results of correcting internal controls. We are conducting audits on two courts that have had prior findings and, if we find that they have repeated findings, we will report this information to the Compensation Board.

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

MMT:jab  
jab:27

## STATEWIDE INTERNAL CONTROL AND COMPLIANCE ISSUES

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

### 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 such costs as court-appointed attorney/public defender fees, DUI conviction fees, forensic laboratory fees, and the application of fixed felony or misdemeanor fees. Clerks need to be more diligent and assess court costs and fees in accordance with the Code of Virginia. Clerks should always use current fee schedules and, when practical, attend the Supreme Court's periodic regional training sessions to help keep staff abreast of any changes in costs and fees.

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

|             |             |
|-------------|-------------|
| Buchanan*   | Smyth       |
| Greensville | Sussex      |
| Petersburg* | Washington* |
| Powhatan    |             |

\* Indicates repeat finding from prior year's audit

### 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 and the locality.
- 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 up to two and one-half months after sentencing. Clerks should promptly enter all fines and costs in the automated financial system to ensure that the collection process can proceed.
- Some clerks failed to record judgments for delinquent accounts in the Judgment Lien Docket Book as required by Section 8.01-446 of the Code of Virginia.

- Some clerks failed to promptly report delinquent accounts to the Department of Motor Vehicles. We noted reporting delays of up to 19 months 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 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, untimely reports to the Department of Motor Vehicles, all hinder collection efforts and the delayed recording of judgments result in lost revenue for the Commonwealth and localities.

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

|             |            |
|-------------|------------|
| Buchanan*   | Powhatan   |
| Giles       | Smyth*     |
| Petersburg* | Washington |

\*Indicates repeat finding from prior year's audit

#### Properly Monitor and Disburse Liabilities

Some clerks do not properly monitor or promptly disburse liabilities such as civil and criminal bonds and unclaimed properties. Specifically, we identified the following weaknesses:

- Some Clerks were unnecessarily holding condemnation, restitution, and civil or criminal bonds. 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.
- Some Clerks failed to prepare the annual Unclaimed Property Report as required by Section 55-210.12 of the Code of Virginia. 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:

|             |            |
|-------------|------------|
| Buchanan    | Powhatan*  |
| Giles*      | Washington |
| Petersburg* |            |

\*Indicates repeat finding from prior year's audit

## APPENDIX

### 2006 Circuit Court Audits

The following list shows those Circuit Courts audited during the period July 1, 2005 through June 20, 2006.

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

\*\* Denotes audit with one or more findings.



SUPREME COURT OFFICIALS

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

The Honorable Karl Hade  
Executive Secretary  
Office of the Executive Secretary of the Supreme Court of Virginia