

**GWYNNE CHATHAM
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF WESTMORELAND**

**REPORT ON AUDIT
FOR THE PERIOD
OCTOBER 1, 2008 THROUGH DECEMBER 31, 2009**



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Commonwealth of Virginia

Walter J. Kucharski, Auditor

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

May 5, 2010

The Honorable Gwynne Chatham
Clerk of the Circuit Court
County of Westmoreland

Board of Supervisors
County of Westmoreland

Audit Period: October 1, 2008 through December 31, 2009
Court System: County of Westmoreland

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

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 J. Martin Bass, Chief Judge
Norm Risavi, County Administrator
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

COMMENTS TO MANAGEMENT

We noted the following matters 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.

Verify Charges to Properly Record and Collect Fines and Court-Appointed Attorney Fees

The Circuit Court receives cases from the District Court. When the Clerk receives cases in which the District Court Clerk has made an error classifying a case as either state or local, the Clerk does not consistently recognize and correct the error. Because the Clerk did not correct errors, the Commonwealth lost revenue totaling \$3,015. In the ten cases we tested, seven cases had errors paying fines and court-appointed attorney fees to the locality.

We recommend the Clerk meet with the District Court Clerk and the Chief Judge for the District Court to discuss the procedures for classifying cases as either state or local and how both the Clerks of the Circuit and District Courts will handle these cases in the future and correct any errors. While this letter discusses the impact of misclassified charges on the Circuit Court and Commonwealth, there is also an impact on the locality. We further recommend the Clerk examine any other cases and recover any funds for the Commonwealth.

Properly Collect Probate Clerk's Fees and Taxes

The Clerk does not collect all required Clerk's fees and taxes on probate filings in accordance with Section 17.1-275A of the Code of Virginia. We noted errors in seven of 15 filings tested.

- Five, had no collection of the appropriate recordation fees;
- Three, had no collection of the proper qualification fees; and
- One had the Clerk use the wrong estate value when calculating tax due.

These errors resulted in a loss of \$106 to the Commonwealth. We recommend the Clerk follow approved procedures to collect all required taxes and fees.

Respond to Debt Set-Off Notifications

The Clerk failed to respond to notifications from the Department of Taxation about available tax refunds totaling \$1,935 for taxpayers owing delinquent court costs. The Department of Taxation's procedures require the Clerk to electronically respond when notified of a match but during February and March 2009, one of the Clerk's staff failed to respond and collect from six notifications.

We recommend the Clerk instruct her staff to promptly respond to all Department of Taxation match notifications to ensure maximum delinquent court costs are collected.

Westmoreland Circuit Court
Gwynne J. Chatham, Clerk
P. O. Box 307
Montross, VA 22520
804-493-0108

April 26, 2010

Walter J. Kucharski
Auditor of Public Accounts
C/O 5575 Campus Drive
Virginia Beach, VA 23462

Dear Mr. Kucharski,

Thank you for the recent audit of cash receipts and disbursements handled by my office. Following the review by your staff, several irregularities were identified. I will address each below.

Verify Charges to Properly Record and Collect Fines and Court-Appointed Attorney Fees:

As cases are received from the General District Court, case data is retrieved via the Case Management System. The cases mentioned in the Audit Report derived from summonses issued by the Town of Colonial Beach Police and the Westmoreland Sheriff's Department. The code citations listed on each summons specified a state code violation rather than a local ordinance violation. After learning of this discrepancy, contact has been made with both departments regarding the inconsistent code use and Clerk's Office staff also reviews the summons and code citation to ensure proper data entry. In the cases examined in the Circuit Court audit, the error originated in the General District Court's data entry. Our staff has been instructed to verify the data collected by the General District Court to ensure proper entry and case identification in the Circuit Court. A meeting has also been scheduled with the General District Court to review data entry procedures and case classification to avoid future errors.

Properly Collect Probate Clerk's Fees and Taxes

The Deputy Clerk who handles Probate has been informed of the errors identified. The Probate Manual and Fee Schedule have been reviewed with her to avoid future errors.

Respond to Debt Set-Off Notifications

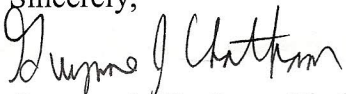
Following the last audit, I was instructed to have additional staff trained in debt set-off procedures and to have staff alternate collection duties on a monthly basis. Following those recommendations, we established an alternating schedule to handle the debt set-off.

Staff reported that no email notifications were received in early 2009 from the Department of Taxation. Contact was subsequently made with the Department of Taxation to update contact information and all notifications since mid-March, 2009 have been promptly handled and funds have been recovered from taxpayers owing delinquent court costs.

All of the deficiencies identified by the recent audit have been reviewed with my staff to prevent the same concerns from arising in the future.

If I may be of further assistance please do not hesitate to call.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gwynne J. Chatham". The signature is written in a cursive, flowing style.

Gwynne J. Chatham, Clerk