

**VIRGINIA CIRCUIT COURTS
STATEWIDE REPORT**

**REPORT ON AUDITS
DURING THE PERIOD
JULY 1, 2003 THROUGH JUNE 30, 2004**



AUDIT SUMMARY

During our audits of Clerks of Circuit Court for the fiscal year 2004, we identified the following six findings that we consider statewide issues that are common to several circuit courts:

- Properly reconcile bank account
- Properly manage accounts receivable
- Properly assess and record court fees and costs
- Improve receipting procedures
- Improve trust fund management
- 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**

October 15, 2004

The Honorable Mark R. Warner
Governor of Virginia
State Capitol
Richmond, Virginia

The Honorable Lacey E. Putney
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 2004 work plan and covers fiscal periods through June 30, 2004. 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 assesses risk for individual courts to determine the amount of testing we would perform.

During this period, we conducted 97 Clerks of Circuit Court audits and noted findings in 30 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.

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

- Properly Reconcile Bank Account
- Properly Manage Accounts Receivable
- Properly Assess and Record Court Fees and Costs
- Improve Receipting Procedures
- Improve Trust Fund Management
- Properly Monitor and Disburse Liabilities

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

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

JMS/kva
kva:28

STATEWIDE INTERNAL CONTROL AND COMPLIANCE ISSUES

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

Properly Reconcile Bank Account

Reconciling the bank statement to the checkbook to the automated accounting system is a very important process in maintaining strong internal controls within the clerk's office. When done properly and timely, the bank reconciliation helps determine that all transactions have been recorded, any errors have been detected and corrected, and the accounting records accurately reflect the amount of money in the bank. Conversely, failing to properly reconcile the bank account significantly increases the chances that errors, theft, omissions, or other irregularities could go undetected. We noted the following weaknesses regarding the reconciliation of clerks' bank accounts.

- Some clerks do not properly resolve differences between the bank statement and the court's automated financial system. We noted differences stemming from returned checks or routine bank service and new check fees not recorded in the system, and uncorrected deposit errors. In one court, we noted differences ranging from \$321 to \$177,000 that went unresolved for up to five months. In other courts, we noted that reconciling items totaling more than \$7,400 went unresolved for up to 18 months.
- Some clerks fail to reconcile their bank accounts to the automated financial system for periods up to nine months. We also noted that in some courts, the clerk or other supervisory staff did not routinely review the monthly reconciliations.

Clerks should properly reconcile their bank accounts to the checkbook and the automated financial system each month and resolve all differences timely. Clerks who may not fully understand the reconciliation process in an automated system environment should immediately seek assistance and training from the Supreme Court. Failing to reconcile the bank account monthly or not resolving all differences promptly significantly increase the risk of errors, fraud, or other irregularities going undetected.

We noted bank reconciliation issues at the following Clerks of Circuit Court offices:

Accomack County
Caroline County
Loudoun County*

Northampton County
Scott County
City of Winchester*

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 ten 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 promptly report delinquent accounts to the Department of Motor Vehicles. We noted reporting delays of up to one year 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.
- Some clerks failed to respond to the Department of Taxation's Set-Off Match reports timely resulting in lost opportunities to recover delinquent fines and costs.

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, and not responding to tax set-off reports all hinder collection efforts and result in lost revenue for the Commonwealth and localities.

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

Buchanan County
Caroline County*
Charles City County*
Louisa County*
Montgomery County
Northampton County

Prince William County*
Rockingham County*
Scott County
Smyth County*
Stafford County

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 time-to-pay administrative fees, court-appointed attorney/public defender fees, drug offender fees, forensic laboratory fees, sentencing 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 County
Caroline County*
Giles County*
Louisa County*
Northumberland County*
City of Petersburg*

Powhatan County
Prince William County
Pulaski County*
City of Salem*
Sussex County

Improve Receipting Procedures

Some clerks do not properly receipt funds, record them in the financial system, or promptly deposit collections. We noted the following receipting or depositing issues:

- In one office, inconsistent handling of daily collections resulted in an overstatement of more than \$141 in cash collections for the audit period. Further, the bookkeeper did not use proper procedures for daily receipting overages/shortages. When a cash register had an overage, the bookkeeper would either remove the excess collections to an unsecured desk drawer or simply leave the overage in the cash drawer. When a deposit was short, the bookkeeper would use the accumulated cash overages to supplement the deposit in order to reconcile collections to the end of day report. The clerk should ensure that staff record overages and shortages in the accounting system. This allows the clerk to more closely monitor daily differences and take appropriate action to resolve potential training issues. This also significantly reduces the opportunity for fraud. Further, court funds should never be stored in an unsecured desk drawer.
- In another office, staff did not deposit five consecutive days of collections totaling over \$15,600 in the bank for up to six business days when the clerk was on vacation. Although staff stored the funds in the office safe, the safe typically remains unlocked during the day and can be readily accessible to visitors passing through the office to the Records Room. The clerk did not delegate responsibility for depositing daily collections when he was absent for the office. In this circumstance, delaying the deposit unnecessarily exposed court funds to an increased risk of loss to theft.
- In some courts, delays of up to 67 days occurred before receipting and recording fees from appealed district court cases. In another court, the hunting and fishing license fees collected were not promptly recorded or deposited.

We noted receipting or depositing issues at the following Clerks of Circuit Court offices:

Caroline County
Grayson County
Montgomery County*

Nottoway County
Washington County*

Improve Trust Fund Management

Clerks need to improve the management of trust funds. In some instances, clerks failed to post earned interest to trust fund accounts in the financial management system and subsequently failed to report these amounts on the annual report to the court. At one court, we identified trust funds totaling more than \$25,000

that the clerk failed to invest promptly in accordance with Section 8.01-600 of the Code of Virginia. Another clerk incorrectly calculated clerk's fees on trust funds which resulted in a \$700 loss to a trust fund beneficiary. Finally, several clerks did not properly or promptly submit the required annual report to the court.

Clerks should ensure that they properly invest, record, and report all trust funds in accordance with the Code of Virginia. By law, the clerk may be personally liable for any loss of income that results from inadequate procedures.

We noted trust fund findings at the following Clerk of Circuit Court offices:

Accomack County
Giles County*
Northampton County

Wythe County
City of Winchester*

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:

- Clerks were unnecessarily holding escrow, restitution, and civil or criminal bonds totaling more than \$33,500 up to five years after case disposition. 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.
- Clerks failed to prepare the annual Unclaimed Property Report as required by Section 55-210.12 of the Code of Virginia. We identified more than \$213,300 in property potentially eligible for escheatment to the Commonwealth. 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:

Accomack County*
Giles County*
Loudoun County*
Montgomery County*
City of Petersburg*

Nottoway County
Prince William County
Rockingham County*
Scott County
Wythe County

* Indicates repeat finding from prior year's audit

Circuit Court Audits

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|--------------------------|--------------------------------|-------------------------|
| Accomack County** | Halifax County | Powhatan County** |
| City of Alexandria | City of Hampton | Prince Edward County |
| Amelia County | Hanover County | Prince George County |
| Bath County | Henrico County | Prince William County** |
| Bedford County | Henry County** | Pulaski County** |
| Bland County | Highland County | City of Radford |
| Botetourt County | City of Hopewell | City of Richmond |
| City of Bristol | Isle of Wight County | Richmond County |
| Brunswick County | James City County/Williamsburg | City of Roanoke |
| Buchanan County** | King & Queen County | Roanoke County |
| City of Buena Vista | King George County** | Rockbridge County** |
| Caroline County** | King William County | Rockingham County** |
| Carroll County | Lancaster County | Russell County |
| Charles City County** | Lee County | City of Salem** |
| Charlotte County | Loudoun County** | Scott County** |
| City of Charlottesville | Louisa County** | Shenandoah County |
| City of Chesapeake | Madison County** | Smyth County** |
| Clarke County | City of Martinsville | Stafford County** |
| City of Colonial Heights | Mathews County | City of Suffolk |
| Craig County | Mecklenburg County | Surry County |
| Culpeper County | Middlesex County | Sussex County** |
| City of Danville | Montgomery County** | Tazewell County |
| Dickenson County | New Kent County | City of Virginia Beach |
| Dinwiddie County | City of Newport News | Warren County |
| Essex County | City of Norfolk | Washington County** |
| Fauquier County | Northampton County** | City of Waynesboro |
| Floyd County | Northumberland County** | Westmoreland County |
| Fluvanna County | Nottoway County** | City of Winchester** |
| Franklin County** | Orange County | Wise County & Norton |
| City of Fredericksburg | Patrick County | Wythe County** |
| Giles County** | City of Petersburg** | York County |
| Gloucester County | Pittsylvania County | |
| Grayson County** | City of Portsmouth | |

** Denotes audit with one or more findings

SUPREME COURT OFFICIALS

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

Robert N. Baldwin
Executive Secretary
Office of the Executive Secretary of the Supreme Court of Virginia