

**GERALD A. GIBSON
CLERK OF THE CIRCUIT COURT
of the
CITY OF DANVILLE**

**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**

March 3, 2010

The Honorable Gerald A. Gibson
Clerk of the Circuit Court
City of Danville

City Council
City of Danville

Audit Period: October 1, 2008 through December 31, 2009
Court System: City of Danville

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 these 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: alh

cc: The Honorable Joseph W. Milam Jr., Chief Judge
M. Lyle Lacy, III, 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

COMMENTS TO MANAGEMENT

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

Properly Bill Court Costs and Fines

The Clerk and his staff are not properly billing and collecting court-appointed attorney, public defender, fixed misdemeanor drug, fixed misdemeanor, or jail admission fees and fines as required by Sections 19.2-163, 19.2-163.4:1, 16.1-69.48:1, 15.2-1613.1, 17.1-275.8 and 19.2-340 of the Code of Virginia. Auditor tested 24 cases and noted the following errors.

- In one case, the Clerk erroneously billed a defendant for a fine and overcharged the fixed misdemeanor drug fee totaling \$565.
- In two cases, the Clerk did not properly bill the locality for the public defender fees, involving a local case, resulting in a loss of revenue to the Commonwealth totaling \$180. Additionally, the Clerk miscoded the defendants' accounts for the public defender fees owed from the district court totaling \$229.
- In one local case, the Clerk did not properly bill the locality for the public defender fees resulting in a loss of revenue to the Commonwealth totaling \$162. The Clerk miscoded the defendant's account for the public defender fees totaling \$162. Additionally, the Clerk over-charged the defendant for the public defender fees totaling \$4.
- In one case, the Clerk overcharged a defendant for court-appointed attorney fees totaling \$155.
- In one case, the Clerk overcharged a defendant for the fixed misdemeanor drug fee totaling \$65.
- In one case, the Clerk erroneously billed a defendant for the fixed misdemeanor fee totaling \$61.
- In one case, the Clerk did not bill a defendant for the jail admission fee totaling \$25.

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 and public defender fees. Further, we recommend the Clerk and his staff bill and collect court costs and fines in accordance with the Code of Virginia.

Promptly Deposit Collections

Since April 2009, the Clerk has been holding a check made payable to his office totaling \$21. The Clerk did not promptly deposit the check as required by Section 17.1-271 of the Code of Virginia. Holding a check in a court file could lead to a loss of funds. The Clerk should promptly deposit all collections in accordance with the Code of Virginia.

Promptly Prepare and Record Criminal Court Orders

The Clerk has not completed and recorded all criminal court orders from trial dates occurring in November and December 2009 as required by Section 17.1-124 of the Code of Virginia. We recommend the Clerk promptly prepare and record criminal court orders to help prevent a loss of records from occurring.



Gerald A. Gibson
Clerk of Circuit Court
City of Danville
P. O. Box 3300
Danville, Virginia 24543
434-799-5168



March 22, 2010

Walter J. Kucharski
Auditor of Public Accounts
P. O. Box 1295
Richmond, VA 23218-1295

RE: Clerk's Response and Corrective Action Plan
Audit Period: October 1, 2008 - December 31, 2009

Dear Mr. Kucharski:

The purpose of this letter is to formally address the items cited in your Audit Report for the period referenced above for this Court. Please note that this office diligently seeks to handle all matters in a manner that is in compliance with the Code of Virginia and provide the best possible service to the citizens of the City of Danville. Our corrective action plan is outlined below:

MP # 1: Properly Bill Court Costs and Fines

We have carefully reviewed the cases identified in the Audit Report as having errors in billing court costs and fines. All errors have been corrected and costs/fees have been properly applied, specifically as follows:

#1. The assessment of the fine of \$500 in the referenced case was reversed, as well as the over assessment of the misdemeanor drug fee of \$65. (These corrections were made while the auditors were here in our office).

#2. The locality has been billed for public defender fees involving the local cases. The miscoding of the defendant's accounts for public defender fees has been corrected for the two referenced cases.

#3. The locality has been billed for the public defender fees involving the local case referenced and the miscoding of the defendant's account for the public defender fees has been corrected. In addition, the defendant's account has been adjusted by \$4.

#4. The referenced case has been adjusted to correct the over assessment of \$155.

#5. The referenced case has been adjusted to correct the over assessment of \$65 for the misdemeanor drug fee.

#6. The defendant's account in the referenced case was credited \$61 for the fixed misdemeanor fee. As this account had been paid in full, a check was issued to the defendant in the amount of \$61.

#7. The jail fee of \$25 has been applied to the referenced case. This was simply an oversight.

The proper billing and collection of attorney's fees, fines and costs will be thoroughly reviewed with all appropriate staff members. Additional training has been implemented and ongoing review with staff members is planned with an added emphasis on accuracy and expansion of knowledge base. Ongoing assessments of cited costs will be made per Appendix C of the Circuit Court Clerk's Manual-Criminal and the Code of Virginia.

Our office has initiated a system to promptly address the issue of billing the locality for public defender fees for local violations. This process will utilize current guidelines as referenced in the Court-Appointed Attorney Manual and the Circuit Court Clerk's Manual-Criminal.

Applicable cases have been identified during the last audit period for public defender fees for services rendered for local violations and billing has been submitted to the locality. It is our plan to bill the City of Danville on a monthly basis going forward for applicable public defender fees.

MP # 2: Promptly Deposit Collections

The \$21.00 check referenced was inadvertently held for a Name Change filed with a divorce. This incident is rare and does not reflect our normal practice

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in this regard. Appropriate staff has been advised to ensure that there is no reoccurrence. We feel that this action is sufficient to remedy any future incidence of this nature.

MP # 3: Promptly Prepare and Record Criminal Court Orders

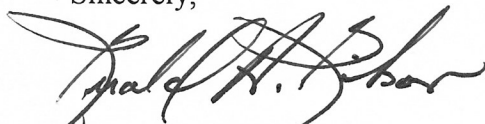
Please be advised that Supreme Court of Virginia statistics reflect that our current criminal caseload represents approximately 48% of the criminal docket in the 22nd Judicial Circuit. This factor, along with recent budget reductions, resulting in the loss of two (2) full-time positions, has severely impacted our ability to carry out the exorbitant workload generated by two courtrooms. The workload requirements exceed the hours of the workday and the budget has no provision for overtime pay. Furthermore, State Compensation Board standards reflect this office as understaffed by 1.4 employees even prior to the layoff of two additional persons required by the recent budget reduction.

In addition, due to the enormous criminal docket, a large portion of our civil term is now utilized for criminal cases, as well. This has greatly reduced the necessary time previously used to prepare court orders. However, criminal court orders are prepared as expeditiously as possible under the current workload and staffing conditions.

While it will be extremely difficult with current staffing, we plan to train at least one other staff member to assist with criminal court orders as soon as possible. To further remedy this matter, some tasks may be evaluated and redistributed to better enhance workflow and prompt preparation of court orders.

Because we strive diligently to perform all mandated duties per the Code of Virginia, it is our concern, as well as other Circuit Clerks, that proposed budget reductions would have an even greater impact in this regard.

Sincerely,



Gerald A. Gibson, Clerk

GAG/ash