



GAIL P. CLAYTON
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF SURRY

FOR THE PERIOD
JULY 1, 2015 THROUGH DECEMBER 31, 2016

Auditor of Public Accounts
Martha S. Mavredes, CPA
www.apa.virginia.gov
(804) 225-3350



COMMENTS TO MANAGEMENT

We noted the following matter 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.

Properly Bill and Collect Court Costs (New)

The Clerk did not properly bill and collect court costs in accordance with the Code of Virginia and Supreme Court of Virginia fee schedules. In six of fifteen accounts tested, the auditor noted the following errors.

- On three accounts, the Clerk did not utilize information available through the Local Inmate Data System (LIDS) to determine whether a defendant needs to have a DNA sample taken, resulting in the Clerk erroneously charging \$53 to each defendant for samples previously taken.
- On one account, a defendant was erroneously charged \$158 for a court appointed attorney.
- On one account, a defendant was erroneously charged \$592 for two felony convictions instead of one revocation conviction.
- On two accounts, defendants were not charged \$292 in approved court appointed attorney fees and expenses.
- On one account, a defendant was not charged for jury fees of \$780.

The Clerk should correct the specific cases noted above and should establish a system of review to minimize the likelihood of billing errors going undetected. In all cases, the Clerk should bill and collect court costs in accordance with Code of Virginia.

-TABLE OF CONTENTS-

Pages

COMMENTS TO MANAGEMENT

AUDIT LETTER

1-2

CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN

3-5



Martha S. Mavredes, CPA
Auditor of Public Accounts

Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

March 24, 2017

The Honorable Gail P. Clayton
Clerk of the Circuit Court
County of Surry

Judy Lyttle, Chairperson
Board of Supervisors
County of Surry

Audit Period: July 1, 2015 through December 31, 2016
Court System: County of Surry

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of this locality 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 a matter involving internal control and its operation necessary to bring to management's attention. The matter is discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate this matter provided by the Clerk are included as an enclosure to this report.

We discussed this comment with the Clerk and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

MSM: clj

cc: The Honorable W. Allen Sharrett, Chief Judge
Tyrone W. Franklin, 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

Circuit Court Of Surry County

Gail P. Clayton, Clerk

P.O. Box 203

Surry, VA 23883

Telephone: (757) 294-3161

Fax: (757) 294-0471

W. Allan Sharrett, Chief Judge

Terms:

*Fourth Tuesdays in January,
March, May, July, September and
November*

Nathan C. Lee, Judge

April 18, 2017

Ms. Martha Mavredes
Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218

Re: Audit Period July 1, 2015 to December 31, 2016

Dear Ms. Mavredes:

I wish to thank Ms. Katherine St. Lawrence for the week she spent here reviewing our workload for the past eighteen months. As always she was very approachable, thorough and receptive to comments. Before addressing the management point, I would like to reiterate that I believe the goal of the auditor and the circuit court clerk are one in the same--- to make certain that this office is providing efficient, accurate and timely service while maintaining fiscal integrity. To that end, I acknowledge that clerical errors were made in several criminal accounts but I want to place that within its context without sounding defensive or appearing to offer up excuses.

First, let me clarify what constitutes an account. For my purposes an account could be up to four or five cases for a defendant wherein the fines and costs were consolidated to be reflected in a single charge/account. Secondly, during criminal court I am always multitasking. From making certain the docket is accurate to assuring that all incarcerated defendants are transported. I also maintain the file for the judge's review while simultaneously tracking the proceedings in order to swear in witnesses, mark exhibits and finally draft orders to include fines and costs. We pride ourselves on providing defendants with their fines and costs at sentencing so that they can enter into any payment agreement prior to leaving the courthouse. This allows them to retain their driver's license and hopefully forgo any interest assessment on their account. Furthermore, immediately assessing the fines and costs creates a judgment that will be available for docketing on the next day. Though these tasks are repetitive sometimes errors do occur. Again, all criminal

APR 21 2017 AM 9:46

sentencings usually result in one account for the defendant regardless of the number of charges. The rationale is to assist staff with setting up payment agreements and preventing judgments from being overlooked for docketing. As you will note, there are a series of steps that must be undertaken before one gets to the fines and costs. Needless to say, the more steps then the more opportunity for error.

Now to the specific matters that resulted in the management point.

- As to not using LIDS, with the multitude of tasks already being undertaken at hearings, I have not been using the system. Now that I am aware that it is part of the auditor's review, I have revisited all cases filed since January 1, 2017 and I am keeping two lists, defendants with DNA samples as of date of filing and defendants without DNA samples.
- This office regularly combines all criminal fines and costs under one case when the defendant has several charges. In this particular matter, the defendant had two charges, one certified and one appealed. The defendant was convicted of the felony but the misdemeanor appeal was nolle prossed and therefore no fines and costs assessed on that particular charge. However, when the list of the allowances was received from the attorney, I erroneously assessed the attorney fees for the misdemeanor. In an effort to be more accurate, it may be in my best interest to assess fines and costs on each individual case and therefore curtail future mistakes.
- The defendant had two revocation charges and I can't explain what happened except to apologize to the defendant and correct the judgment as well as the revocation order. In the future, I will pay more attention to the charges listed.
- The first of the two cases involves a defendant who had three felony charges, one taken under advisement and the two others nolle prossed. Before the end of the deferral period, a capias to show cause was issued for the defendant for failing to abide by the terms of her deferral and a capias was issued for failure to appear. At sentencing the defendant was convicted of the initial felony, felony failure to appear and the show cause. Upon receiving the list of allowances from the attorney, I did not include the attorney fees for the revocation. As stated above, all fines and costs for a defendant upon a single sentencing event are included under one case. Again, to be more accurate, I will start assessing fines and costs under each individual case. This should help with errors. Also this same defendant had a letter submitted from the General District Court Clerk on October 15, 2014 assessing additional attorney fees not reflected on the warrant that was received when the case was opened on September 19, 2014. Case number two involves a defendant who had a felony certified from general district court. However, all the proceedings involving the defendant in this court were undertaken by a retained attorney. Therefore, I did not assess the court-appointed counsel fees from the lower court, which reflected one thing on the warrant received on December 15, 2015 and something different in a later received letter dated December 28, 2014. Also, when this case was presented to the grand jury on January 26, 2016, the retained attorney was noted as counsel of record per correspondence of January 21, 2016. In the future, I will review the general district court warrant.

- The jury costs were not entered for the defendant who has four felony charges on appeal to the Court of Appeals. We are still assessing costs per any orders from the Court of Appeals. The jury fees have been assessed and it is my understanding that the amount should be for those persons who actually heard the case and not for all the persons who appeared for the jury panel.

Again, I would like to thank Ms. Katherine St. Lawrence for the comprehensive audit and her assistance and guidance on issues that are unique to this Court. I want to congratulate my staff for having done an exemplary job in receipting-- from the recordation of land instruments to the filing of civil cases. Also, our fiduciary filings were without error but the criminal assessment of court-appointed fees and LIDS are troublesome and areas that I need to improve upon, which is duly noted and a plan is in place to rectify.

Sincerely,

A handwritten signature in black ink, appearing to read "Gail P. Clayton", with a long horizontal flourish extending to the right.

Gail P. Clayton