

**ASHBY R. PRITCHETT  
CLERK OF THE CIRCUIT COURT  
FOR THE  
CITY OF MARTINSVILLE**

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



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# Commonwealth of Virginia

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

**Walter J. Kucharski, Auditor**

February 23, 2010

The Honorable Ashby R. Pritchett  
Clerk of the Circuit Court  
City of Martinsville

City Council  
City of Martinsville

Audit Period: July 1, 2008 through December 31, 2009  
Court System: City of Martinsville

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 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

WJK:clj

cc: The Honorable David V. Williams, Chief Judge  
Clarence Monday, 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 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 Court Costs

The Clerk and his staff are not properly billing and collecting court appointed attorney and public defender fees involving local and state charges as required by Sections 19.2-163 and 19.2-163.4:1 of the Code of Virginia. Auditor tested 20 cases and noted the following errors.

- 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 \$240.
- In one local case, the Clerk's staff incorrectly billed the Commonwealth and then miscoded, who owed the amount for the court appointed attorney fees totaling \$158.

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 in accordance with the Code of Virginia.

# City of Martinsville

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ASHBY R. PRITCHETT, CLERK

March 4, 2010

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

RE: Response and Corrective Action Plan

Mr. Kucharski:

This will address the "Comments to Management" prepared by Randall Johnson, following an audit of the Martinsville Circuit Court Clerk's Office for the period covering July 1, 2008 through December 31, 2009.

Regarding the two instances reported, the following remedial actions were completed during Mr. Johnson's audit:

- In the two instances where it is reported the Clerk did not bill the locality for the Public Defender fee in a local case, the Clerk thereupon billed the locality, receipted payment of \$240 and remitted the payment to the Commonwealth.
- In the single instance where it is reported the Clerk billed the Commonwealth for the Public Defender fee in a local case, the Clerk thereupon billed the locality, receipted payment of \$158 and remitted the payment to the Commonwealth.

I note that in each instance described above, the Public Defender submitted a document to the Court, described as a "Public Defender Time Sheet", also known as a form DC-52. This form, endorsed by the Court, established the allowance that the Clerk posted as a receivable in the defendant's account. The auditor noted that we had failed to bill the City for these allowances.

Although the Court-Appointed Counsel Procedures & Guidelines Manual, at page 6-2 state ***"The public Defender is required to submit at the conclusion of trial form DC-52, Public Defender Time Sheet"***, our local Public Defender office only occasionally submits the form to the Court. The above Guidelines state ***"the Commonwealth of Virginia must be reimbursed by the locality for the amount of the court-appointed attorney fee awarded by the court."*** When the Public Defender fails to submit form DC-52, the Court does not authorize payment and the receivable is not established.

Walter J. Kucharski  
March 4, 2010  
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Realizing that the Public Defender fee must be "awarded by the court" to create the receivable, the Clerk at Mr. Johnson's suggestion prepared a "blanket" Order that was endorsed by the Court on February 4, 2010. This Order provides that *"...whenever services rendered by the Public Defender on violations of City ordinances...If the accused is found guilty or is otherwise assessed the costs of court -appointed counsel, the clerk shall for each case assess the sum of \$158, unless otherwise order by the court...."*

This Order will resolve the main management issue involving the assessment and payment for the services of the Public Defender for defending violations of local ordinances.

In accord with the recommendation to research similar cases, this task has been completed. The Clerk found no further instances of court-ordered allowances for the Public Defender that required billing the locality to recover fees due the Commonwealth.

The assessment process is well understood by the staff of the Martinsville Circuit Court Clerk's Office. We will continue to encourage a "best practice" approach of requiring the Public Defender to file a Public Defender Time Sheet (form DC-52) for every case involving the defense of violations of local ordinances.

Submission of a form DC-52 gives the Court an opportunity to individualize the value of legal services provided in each case. This process is much fairer to the defendant.

By default, should the Public Defender fail to submit form DC-52 for a case, the blanket order mentioned above will authorize the Clerk to assess, collect and remit to the Commonwealth a fixed amount for Public Defender services in defense of local cases.

I appreciate the helpful guidance and positive attitude of Randy Johnson in this matter.

Submitted by

A handwritten signature in cursive script, reading "Ashby R. Pritchett".

Ashby R. Pritchett, Clerk  
Martinsville Circuit Court