

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



SWAIN COUNTY CLERK OF SUPERIOR COURT

BRYSON CITY, NORTH CAROLINA

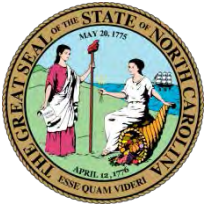
FINANCIAL RELATED AUDIT

OCTOBER 2015



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The Taxpayers' Watchdog

STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

October 1, 2015

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Hester G. Sitton, Swain County Clerk of Superior Court

This report presents the results of our financial related audit at the Swain County Clerk of Superior Court. Our work was performed by authority of Article 5A of Chapter 147 of the *North Carolina General Statutes* and was conducted in accordance with the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

The results of our audit identified deficiencies in internal control and/or instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the *Audit Findings Recommendations, and Responses* section of this report.

North Carolina General Statutes require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this report.

A handwritten signature in black ink that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

Table of Contents



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State Auditor

	PAGE
BACKGROUND	1
AUDIT OBJECTIVES AND SCOPE	2
METHODOLOGY	3
RESULTS AND CONCLUSIONS	4
AUDIT FINDINGS, RECOMMENDATIONS, AND RESPONSES	5
ORDERING INFORMATION	8

Article V, Chapter 147 of the North Carolina General Statutes, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at the Swain County Clerk of Superior Court. There were no special circumstances that caused us to conduct the audit, but rather it was performed as part of our effort to periodically examine and report on the financial practices of state agencies and institutions.

The voters of each county elect a Clerk of Superior Court for a four-year term. Clerks are responsible for all clerical and record-keeping functions of the superior court and district court. The Clerks' Offices collect, invest, and distribute assets in a fiduciary capacity. For example, the Clerks' Offices collect fines and court costs, hold cash and property bonds, administer estates on behalf of minors, and distribute resources to governmental and private parties as required.

The North Carolina Administrative Office of the Courts (NCAOC) provides statewide support services for the courts, including court programs and management services; information technology; human resources services; financial, legal, and legislative support; and purchasing services. In addition, the NCAOC prepares and administers the court system's budget.

The general objective of this financial related audit was to identify improvements needed in internal control over selected fiscal matters. Management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Errors or fraud may nevertheless occur and not be detected because of the inherent limitations of internal control. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or that compliance with policies and procedures may deteriorate. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

Our audit scope covered the period July 1, 2014 through March 31, 2015. During our audit, we considered internal control related to the following objectives:

Cash – The Clerk’s Office collects various fines, fees, and court costs daily, as well as collections for bonds, judgments, and other matters. We examined internal controls designed to ensure that the Clerk properly safeguards and accounts for cash receipts. We also examined internal controls designed to ensure compliance with laws and regulations related to depositing cash receipts. During the audit period, the Clerk collected \$1,263,992.97 in cash.

Estates – The Clerk’s Office ensures all estates are charged an application fee plus an assessment based on the value of the estate’s inventory. An estate inventory is to be filed by the representative of the estate. We examined internal controls designed to ensure that the Clerk properly obtains an inventory for each estate in compliance with laws and regulations. We also examined internal controls designed to ensure compliance with laws and regulations related to the appropriate assessment and collection of estate fees. During the audit period, the Clerk collected \$20,736.88 in estate fees.

Bond Forfeitures – The Clerk’s Office ensures that all motions or orders to set aside bond forfeitures meet specified criteria and are supported by required documentation. We examined internal controls designed to ensure compliance with laws and regulations related to the processing of these bond forfeitures. During the audit period, \$190,249.00 in bond forfeitures was set aside.

To accomplish the audit objectives, auditors gained an understanding of the Clerk's internal control over matters described in the *Audit Objectives and Scope* section of this report and evaluated the design of the internal control. Auditors then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, auditors interviewed personnel, observed operations, reviewed policies, analyzed accounting records, and examined documentation supporting recorded transactions and balances, as considered necessary in the circumstances. Whenever sampling was used, we applied a nonstatistical approach, but chose sample sizes comparable to those that would have been determined statistically. As a result, we were able to project our results to the population but not quantify the sampling risk.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components: (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

We conducted this audit in accordance with generally accepted government auditing standards applicable to performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Based on the results of audit procedures described in the *Methodology* section of this report, auditors identified deficiencies in internal control and/or instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the *Audit Findings, Recommendations, and Responses* section of this report. Management's responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

1. IMPROPER SYSTEM ACCESS INCREASED RISK OF UNDETECTED ERRORS AND FRAUD

Staff in the Clerk's Office had the ability to change and/or delete information in multiple systems, resulting in inadequate segregation of duties. Improper segregation of duties increased the risk that errors, unauthorized transactions, and fraud could have occurred and remained undetected. The Clerk's Office handled \$1,263,992.97 in receipts during the audit period July 2014 to March 2015.

Specifically, two out of six employees had inappropriate access to the Financial Management System (FMS) and Automated Criminal/Infraction System (ACIS) / Criminal Court Information System (CCIS) as follows:

- One employee had cashier rights in FMS and update access to ACIS/CCIS, which allowed the same person to potentially misappropriate funds by collecting cash from a criminal payment, bypassing receipt entry into FMS, and updating ACIS/CCIS to indicate all costs have been paid.
- One employee had head bookkeeper rights and jury clerk access in FMS which allows this individual to potentially misappropriate funds by creating fictitious jurors and posting payments to the jurors.

Additionally, one former employee had update access in CCIS even though the employee was no longer employed by the Clerk's Office.

While no instances of fraud were identified during the audit period, an increased risk of undetected fraud existed because access rights and duties were not properly segregated.

The Clerk's Office did not ensure that the initial system access rights assignments created the proper segregation of duties. Additionally, the Clerk's Office did not properly perform the quarterly reviews of employee system access rights to identify inadequate segregation of duties.

Also during the audit period, the North Carolina Administrative Office of the Courts (NCAOC) executed the update functionality within CCIS and in doing so, access rights were automatically assigned within the system based on outdated roles and responsibilities. Appropriate communication between the two parties prior to this system update did not take place to ensure employee access rights were consistent with proper segregation of duties. As a result, the Clerk was unaware of the access rights assignments within the criminal system until it was brought to her attention by the auditors.

Adequate segregation of duties is required by the *Clerk of Superior Court Financial Policies and Procedures Manual*. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provide a cross-check of the work of other employees. The manual also requires quarterly reviews of employee system access rights.

Recommendation: The Clerk should reassign system access rights to properly segregate duties and perform quarterly reviews of employee system access rights in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*.

Also, prior to the implementation of, or changes to, computer systems used in the Clerk's Office, the Clerk should be proactive in working with NCAOC to ensure access rights are properly assigned and are consistent with proper segregation of duties in accordance with guidance contained in the *Clerk of Superior Court Financial Policies and Procedures Manual*.

Clerk's Response: As of 09/24/2015 the CCIS clerk has been removed as a permanent cashier and is now a temporary cashier. Cashier access will be granted as needed and will require security approval by the Clerk to NC AOC. A CCIS Update by Cashier Report will be generated when the CCIS clerk must perform cashier duties. The review of this report will act as a compensating control for CCIS Clerk/Cashier. The head bookkeeper no longer has jury clerk access in FMS. The former employee who had update access in CCIS was terminated 5-30-2014. The Separation From Employment Form (AOC-A-191) and The Security Form (AOC-A-151) Delete/Terminate Access for Existing User were both faxed and mailed 5-30-2014. This access to CCIS was granted without my authorization in September of 2014. Upon learning that this individual had been granted access to CCIS her access was removed.

2. UNTIMELY COMPELLING OF ESTATE INVENTORY FILINGS OR FEE COLLECTION

The Clerk's office did not compel the timely filing of estate inventories or collect estate fees in accordance with state law, resulting in a delay and potential loss in the collection of court costs and fees.

Auditors examined all 21 estates in the audit period that required an inventory to be filed and identified three (14%) estates that were not compelled timely to file inventories. The Clerk's written request requiring the inventory filings were issued 114 to 476 days late for these estates. Auditors also identified two estates in which fees of \$740.76 were not collected when the inventory was filed.

In addition to the delay and potential loss in fee collections, the untimely filing of inventories could delay the family of the deceased from finalizing the estate and could allow unauthorized transactions from the estate not being detected.

According to the Clerk, she has been working on cleaning up the estate files and had taken care of several.

North Carolina General Statute 28A-20 and the *North Carolina Clerk of Superior Court Procedures Manual*, Chapter 74, require the filing of an estate inventory within three months after the Clerk's appointment of the estate's personal representative. If an inventory is not filed, the Clerk must send a written request requiring the personal representative to file the inventory or give reason why the personal representative should not be replaced. Additionally, *North Carolina General Statute 7A-307(a)(2)* requires the Clerk to assess and collect the estate fees at the time the inventory is filed.

Recommendation: The Clerk's Office should follow state law and the *North Carolina Clerk of Superior Court Procedures Manual* to ensure appropriate action is taken to compel the timely filing of estate inventories, as well as collect fees at the time inventories are filed.

Clerk's Response: Unlike larger counties where The Clerk of Court is mostly a supervisory position, I am a working clerk. I strive to comply with all statutes in a timely manner. Due to an increase in court dates for both district and superior court and a very limited staff (5 persons), often I must help in the front office. There are times we have two courts going at the same time. Since the state audit I have attempted to collect the required Inventory fees and send notices of filings that are due.

3. UNTIMELY DEPOSIT OF MAGISTRATE RECEIPTS

Magistrate collections were not remitted to the Cashier's Office in accordance with established policies. The longer a magistrate takes to remit cash collections to the Cashier's Office, the greater the exposure to theft or loss of funds.

Auditors examined 98 magistrate receipts that were remitted to the Cashier's Office during our audit period. Auditors identified 24 receipts (24%) totaling \$1,460 that were submitted one to 47 days late.

The Clerk's Office did not establish sufficient oversight procedures to ensure the timely deposit of magistrate receipts with the Cashier's Office in accordance with NCAOC policy.

North Carolina General Statute 7A-103 grants authority to Clerks of Superior Court to "Compel an accounting by magistrates and compel the return to the clerk of superior court by the person having possession thereof, of all money, records, papers, dockets and books held by such magistrate by virtue or color of this office."

Additionally, the *Clerk of Superior Court Financial Policies and Procedures Manual* requires that magistrates submit their collections to the Clerk's Office by the close of the day, or during the next business day.

Recommendation: The Clerk's Office should implement oversight procedures sufficient to ensure the timely submission of magistrate receipts in accordance with the *North Carolina Clerk of Superior Court Financial Policies and Procedures Manual*.

Clerk's Response: The Clerk of Court has instructed magistrates to remit collections at the close of business each day or in the morning of the next business day to the Clerk of Court.

ORDERING INFORMATION

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This audit was conducted in 237 hours at an approximate cost of \$22,548