



STATE OF NORTH CAROLINA

**GUILFORD COUNTY CLERK OF SUPERIOR COURT
FISCAL CONTROL AUDIT
GREENSBORO, NORTH CAROLINA**

OFFICE OF THE STATE AUDITOR

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THE HONORABLE DAVID L. CHURCHILL

CLERK OF SUPERIOR COURT



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AUDITOR'S TRANSMITTAL

November 10, 2011

The Honorable Beverly Eaves Perdue, Governor
The General Assembly of North Carolina
The Honorable David L. Churchill, Clerk of Superior Court

This report presents the results of our fiscal control audit at the Guilford 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 objective of a fiscal control audit is to identify improvements needed in internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or management of financial resources.

The results of our audit disclosed deficiencies in internal control and/or instances of noncompliance or other matters that are considered reportable under *Government Auditing Standards*. These items are described in the Audit Findings 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 cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

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OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS

OBJECTIVES, SCOPE, AND METHODOLOGY

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a fiscal control audit at the Guilford 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 objective of a fiscal control audit is to identify improvements needed in internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or management of financial resources. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

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. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

To accomplish our audit objectives, we gained an understanding of internal control over matters described below and evaluated the design of the internal control. We then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and balances. 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 *Internal Control Integrated Framework*, published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). As discussed in the framework, internal control consists of five interrelated components, which are (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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.

OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)

Our audit scope covered the period January 1, 2011 through June 30, 2011. During our audit, we considered internal control related to the following accounts and control objectives:

*Cash and Cash Equivalent*s - This classification includes change funds and cash on deposit in private bank accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. As of June 30, 2011, the Clerk had \$9,782,320 in Cash and Cash Equivalents.

Investments - This classification includes pooled investment accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. We also examined evidence to support compliance with finance-related laws and regulations over these assets. These laws and regulations set limits on authorized investments, set timing requirements for investing funds, provide for the Clerk to receive a fee for administering the investments and provide for allocation of interest to the beneficial owner or owners of the funds. As of June 30, 2011, the Clerk had \$5,253,769 in investments.

Trusts - This classification includes funds held by the Clerk for minors, incapacitated adults and others according to the terms of a court order, will or deed. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these accounts. We also examined evidence to support compliance with finance-related laws and regulations. These laws and regulations set guidelines for the receipt, administration and disbursement of these accounts. As of June 30, 2011, the Clerk had \$5,535,558 in trusts.

RESULTS

The results of our audit disclosed deficiencies in internal control and/or instances of noncompliance or other matters that are considered reportable under generally accepted government auditing standards. These items are described in the Audit Findings and Responses section of this report.

AUDIT FINDINGS AND RESPONSES

1. FAILURE TO ESCHEAT FUNDS TO THE STATE OR REMIT FUNDS TO RIGHTFUL OWNERS

The Guilford County Clerk of Superior Court (Clerk) has not remitted abandoned property in accordance with applicable laws. We tested cases totaling \$332,159 that were seven years old with balances in excess of \$2,000 and determined that \$322,627 or 97% were improperly held by the Clerk.

- We identified \$309,627 in funds held by the Clerk's Office that should have been remitted to the state in accordance with *North Carolina General Statute 116B.53(c)(12)*.
- We identified \$6,500 in forfeited cash bonds that should have been remitted to Guilford County for the benefit of the local school system in accordance with the North Carolina State Constitution and *North Carolina General Statute 15C-452*.
- We identified \$6,500 in cash bonds that should have been returned to the surety based on documents in the case file.

The *Clerk of Superior Court Financial Policies and Procedures Manual* requires aging reports be reviewed on a monthly basis to identify funds that are required to be escheated. This same review also identifies funds that should be disbursed to the rightful owner. The Clerk's Office had procedures in place to review the aging reports quarterly, but there was no control in place to ensure that funds were disbursed timely upon disposition of the case.

Recommendation: The Clerk's Office should establish internal controls to ensure that funds that should be escheated to the State, remitted to the County or returned to the rightful owner/surety are identified timely and properly disbursed.

Clerk's Response: We concur with this finding that the Guilford County Clerk of Superior Court has not always remitted abandoned property on time. In response to this finding, we have changed our internal procedures to review the Aging Reports on a monthly if not daily basis, instead of quarterly, to ensure that funds are disbursed in a timely manner.

2. MAGISTRATES' COLLECTIONS NOT DEPOSITED TIMELY

Magistrate collections were not remitted to the cashiers office in accordance with established policies, therefore the funds were not deposited within one day of receipt as required by state law. As a result, there is an increased risk of loss or misappropriation of cash collections.

AUDIT FINDINGS AND RESPONSES (CONTINUED)

The *Clerk of Superior Court Financial Policies and Procedures Manual* issued by the Administrative Office of the Courts states that magistrates should submit receipts, funds, and paperwork to the Clerk of Superior Court's cashier's office at the end of each shift. If the magistrate's shift ends after the Clerk's office hours, submission should be made during the next business day. In addition, *North Carolina General Statute 147-77* requires collected funds to be deposited daily.

We reviewed all the magistrates' receipt logs for the period of January 1, 2011 through June 30, 2011. During this time period there were 3,043 receipts submitted to the cashiers by magistrates. We identified 78 receipts that were turned in to cashiers two or more business days after receipt.

Further, we identified one magistrate that held receipts for two to eight business days after receipt while turning in other monies collected subsequent to the dates these receipts were collected. This magistrate was late depositing 22 receipts which were receipted on six separate days totaling \$3,335. Funds collected on three of these days were held after subsequent receipts had been deposited.

Recommendation: The Clerk's Office should strengthen internal controls to ensure that all funds collected by magistrates are submitted to the cashiers as prescribed by the Administrative Office of the Courts policy and procedures manual so that funds may be safeguarded and deposited daily as required by statute.

Clerk's Response: We do not dispute the finding that some magistrates did not submit receipts, funds and paperwork to the Clerk of Superior Court in a timely fashion. However, we do not concur with the recommendation that the Clerk's Office should strengthen internal controls to ensure that all funds collected by the magistrates are submitted so as to conform with the *Policy and Procedures Manual* for the following reason: The office of the Clerk of Superior Court has no direct supervisory control of the magistrates. In the Eighteenth Judicial District, magistrates are supervised by the Chief District Court Judge.

Auditor's Comment: The Clerk's Office should work with the magistrates and officials to whom they report to ensure the magistrates are aware of and follow the Administrative Office of the Court's policies regarding the timely deposit of receipts.

3. DEFICIENCIES IN SEGREGATION OF DUTIES

The Clerk's Office has given staff access rights to the information systems and assigned job functions that are incompatible with adequate segregation of duties and are not in compliance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. As a result, errors or misappropriations could occur and not be detected in a timely manner.

AUDIT FINDINGS AND RESPONSES (CONCLUDED)

Two employees who serve as cashiers have access rights within the financial system as well as update access within the automated criminal infraction system (ACIS). Update capabilities to enter, change, or delete information increases the risk that criminal citations could be waived in ACIS, resulting in unauthorized entries or possible misappropriation of assets.

In the *Clerk of Superior Court Financial Policies and Procedures Manual*, guidelines are established to maintain segregation of duties. Adequate segregation of duties involves assigning responsibilities for transactions such that the duties of one employee automatically provide a cross-check on the work of other employees. As noted in the manual, segregation of duties is important enough to be adopted whether efficiency or inefficiency is the consequence.

Recommendation: The Clerk's Office should grant access rights to the information system and assign duties in accordance with guidance contained in the *Clerk of Superior Court Financial Policies and Procedures Manual* or implement alternative compensating controls.

Clerk's Response: The audit revealed that two employees who serve as back-up cashiers in our High Point office also have access rights to the Automated Criminal Infraction System (ACIS). The fear is that such an arrangement could result in possible misappropriations of assets. Guilford County's unique situation with two fully functioning courthouses makes segregation of duties in the High Point office, with far fewer employees, a problem. Cash Receipting in the High Point office has long been a part of the Criminal Department. The majority of receipts in the High Point office are for criminal cases. It would be impractical within that department to have the back-up cashiers limited in their duties with access only to the Financial Management System. From a management of personnel standpoint, it is also impractical to place the back-up cashiers in another department. We do not agree that segregation of duties, no matter how inefficient, is necessary based on the void procedures currently in place. With these procedures, the risk that criminal citations could be waived in ACIS and result in unauthorized entries or possible misappropriation of funds is minimal, if not eliminated.

Auditors Comment: While void procedures are in place and working, these procedures do not sufficiently mitigate the risk that cashiers could divert cash received by not entering the transaction into the system and close the associated case file without detection. If it is impractical to completely segregate duties, management should ensure activities are closely monitored.

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