

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



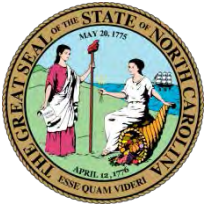
## MONTGOMERY COUNTY CLERK OF SUPERIOR COURT

TROY, NORTH CAROLINA  
FINANCIAL RELATED AUDIT  
SEPTEMBER 2015



**NC**  **OSA**  
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



**Beth A. Wood, CPA**  
State Auditor

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0600  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
<http://www.ncauditor.net>

## AUDITOR'S TRANSMITTAL

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September 21, 2015

The Honorable Pat McCrory, Governor  
The General Assembly of North Carolina  
The Honorable John K. Deaton, Montgomery Clerk of Superior Court

This report presents the results of our financial related audit at the Montgomery 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

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**Beth A. Wood, CPA**  
**State Auditor**

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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 Montgomery 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 February 28, 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 \$3,090,079 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 control 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 \$20,820 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, \$159,700 in bond forfeitures were 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.

Management's responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them. However, *Government Auditing Standards* require that we add explanatory comments to the report whenever an audit finding response is inconsistent or conflicts with the finding or recommendation. In accordance with this requirement and to ensure that the nature and seriousness of the findings are not minimized or misrepresented, we have provided comments to the Clerk's responses for both findings.

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

Staff within 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 \$3,090,079 in receipts during the audit period of July 1, 2014 to February 28, 2015.

Specifically, two out of ten employees had cashier access rights in the Financial Management System (FMS) and update access in the Automated Criminal/Infractions System (ACIS) and/or the Criminal Court Information System (CCIS) which allowed the same person to potentially enter or divert receipts and enter, change or delete criminal case information.

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.

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 his attention by the auditors.

Per the Clerk, the removal of conflicting access has not been made due to the limited number of staff in the Clerk's office nor has NCAOC established procedures to compensate for the risk created by having update access to FMS and ACIS and/or CCIS.

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.

*Recommendations:* The Clerk should ensure that access rights are properly assigned and are consistent with proper segregation of duties 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*.

*Auditor Response:* In the Clerk's response below, the Clerk stated that compensating controls devised by NCAOC were implemented in September 2015. Other information in the response, while informative and important, should not be considered to sufficiently mitigate the access risk existing at the time of the audit.

*Clerk's Response:* It is important to emphasize that no instances of fraud were identified during the audit period. With a relatively small staff, I do not have the luxury of a dedicated cashier. All my staff with cashier access are also required to perform other office functions.

My office maintains cash control procedures, that while not formal compensating controls, are designed to mitigate the risks of fraud in the receipting of cash. Handwritten receipt books, while rarely used, are periodically reviewed to make sure there are no missing receipts, that instances when such receipts were given were necessitated by failure of the computer Financial Cash Receipting system or its print capability. Any voided receipts are reviewed and signed off on by the head cashier and bookkeeper, thus two additional people involved in addition to the receipting cashier. Cash registers are reconciled daily in the close-out and deposit process. Any shortages/overages are reviewed and signed off on by me as elected clerk. Further any criminal cases for which any secured menu transaction has occurred, (i.e. name change, deletion, etc.) are included in a report generated by the ACIS/CCIS system and is reviewed by me for any irregularities.

Since the completion of the audit, NCAOC has devised compensating controls which consist of a report of all CCIS Update transactions for any clerk who also has cashier access. My first receipt of this report was September 14, 2015 and I have been going through a review of these transactions beginning immediately upon receipt. This report shows by cashier, entries concerning disposed cases and updates/changes to monies owed and monies paid. I review these reports to compare against the documentation in the file and in the Financial Management System (FMS) to make sure all transactions are proper. Reviewing these items in conjunction with the Clerks Secured Case Audit Report should be sufficient compensating controls to mitigate the risk of fraud arising from clerks with system access rights in both FMS and update access in ACIS/CCIS-CC.

### 2. UNTIMELY OR FAILURE TO COMPEL ESTATE INVENTORY FILINGS OR FEE COLLECTION

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

Auditors examined all 22 estates that required an inventory to be filed during the audit period. The following errors were identified:

- The Clerk's office did not take any action to compel the personal representative to file the inventory in five (23%) estates. The inventories were filed 43 to 88 days after the 90 day due date.

- The Clerk's written request requiring the inventory filings were issued 65 to 168 days late in eight (36%) estates. Two of the eight estate inventories were filed 80 and 119 days late, while six remained unfiled at the end of the audit.
- The Clerk's office did not collect \$1,375 in fees when the inventory was filed in four of the 22 (18%) estates.

In addition to the delay and potential loss in fee collections, the untimely filing of inventories could potentially impact the accuracy of the inventory.

According to the Clerk, they do not have adequate staff to ensure that estate inventories are compelled timely and individuals do not always have the money to pay the fees when they are due.

*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 *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 the inventories are filed.

*Auditor Response:* In the Clerk's response below, the Clerk acknowledges the duty to compel late filings as required by law and stated that processes are being implemented to address the problem noted in the audit. Other information in the response, while informative and important, should not be considered to sufficiently mitigate the risk of noncompliance existing at the time of the audit.

*Clerk's Response:* Not all estates have liquid assets sufficient to pay court costs at the time the Inventory is due/filed. Although not always collected specifically at the time of filing the Inventory, all estates are required to have all fees paid at the time the Estate is closed. Although payment of fees may be delayed by a failure to compel the inventory, these fees are not likely to be lost as they are collected at the end of the process if not before. If not paid, the Estate filings are not finally approved and closed and the Personal Representative is not discharged.

With regard to the accuracy of the inventory, the Clerk does not audit the inventory. Therefore the accuracy of the inventory is not questioned directly by the Clerk except as any perceived inaccuracies may be brought to the Clerk's attention by someone interested in the Estate.

Notwithstanding the above, I acknowledge that the Clerk's duty to compel late filings is required by N.C.G.S. 28A-20. Therefore I am in the process of addressing this problem in my office. The configuration of the Clerk's office and the designation of duties are such that I have only one dedicated estates clerk and I perform duties in the area of estates as needed. Prior to the current audit, I had been working on and continue to work toward the training of another clerk in the area of estates. While the size of my

staff prevents having two full time estates clerks, having two clerks on staff knowledgeable in Estates will afford me the opportunity to create procedures in which more proactive estate tracking can occur. In addition to the long-range goal as described, I have during the course of implementing that plan, been taking a hands-on approach to correct the issue of timely compelling inventories and other filings. On a monthly basis, I am creating a "service due" list through the AOC's Estate Tracking System and myself sending out notices and orders to file as applicable. Additionally I have developed a step-by-step "check off" guide to estate administration which is given to all personal representatives either before or at the time that Letters are issued. If the personal representative will follow the guide, he or she will know all steps that need to be taken and the time-frame in which it is to be done. Hopefully this will encourage timely filings and decrease the frequency of which our office has to send notices to file.

## ORDERING INFORMATION

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Office of the State Auditor  
State of North Carolina  
2 South Salisbury Street  
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For additional information contact:  
Bill Holmes  
Director of External Affairs  
**919-807-7513**



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This audit was conducted in 200.5 hours at an approximate cost of \$19,059.50.