

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA



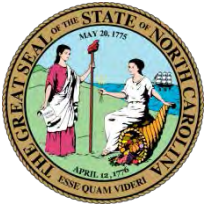
YANCEY COUNTY CLERK OF SUPERIOR COURT

BURNSVILLE, NORTH CAROLINA
FINANCIAL RELATED AUDIT
SEPTEMBER 2015



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STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

September 17, 2015

The Honorable Pat McCrory, Governor
The General Assembly of North Carolina
The Honorable Tammy McEntyre, Yancey County Clerk of Superior Court

This report presents the results of our financial related audit at Yancey 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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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 Yancey 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 April 30, 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 \$3,750,528.71 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 \$25,428.80 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, \$35,200.00 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 response for finding number 1.

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 \$3,750,529 in receipts during the audit period of July 2014 to April 2015.

Specifically, four out of six employees had access to the Financial Management System (FMS), the Automated Criminal/Infractions System (ACIS) / Criminal Court Information System (CCIS), and/or the Civil Case Processing System (VCAP) as follows:

- Two employees had cashier rights in FMS and update access to VCAP and ACIS/CCIS, which allowed the same person to potentially misappropriate funds by collecting cash from a civil or criminal payment, bypassing receipt entry into FMS, and updating VCAP and/or ACIS/CCIS to indicate all costs have been paid.
- Two employees had head bookkeeper rights in FMS and update access to VCAP, which allowed the same person to potentially edit cost bills and payee amounts. One of these employees had additional access that would allow the employee to delete civil 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.

The Clerk's Office did not ensure that the initial system access rights assignments created the proper segregation of duties. According to the Clerk, the small staff size makes it difficult to achieve proper duty segregation. Additionally, the Clerk's Office did not perform the quarterly reviews of employee system access rights to identify inadequate segregation of duties.

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*.

Auditor Response: In the Clerk's response below, the Clerk stated that their office is working with AOC to implement compensating controls for those employees with ACIS/CCIS access and is willing to apply the recommendations. 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: As to the Improper system access, I fully accept and understand the fact that the employees in my office have system access, but I also know that despite the findings there is no evidence of fraud. There is a compensating control VCAP report to be reviewed to be somewhat of a cross check for employees with VCAP and FMS access which will be reviewed by me in the future. Regarding the employees with access to ACIS and CCIS Clerks of Court in our small offices are working with AOC and implementing compensating control and will be willing to apply the recommendations. It is virtually impossible to serve the public efficiently and effectively with the proposed segregation of duties that have been adopted. When everyone is at work we have five (5) staff members and myself. An example of a typical day in a small office. Traffic court is going on there's two staff members upstairs moving 250 traffic cases you have a galley full of people including Judges and District Attorney, that leaves 4 in the office. 1) is doing the bookkeeping, handling an adoption or a foreclosure 2) is answering the phone waiting on the public part of the 250 folks that are here for traffic court are coming to pay tickets, and Attorney across the street needs to file a new Civil Action, Small claims court is going on and judgment has been entered, parties come in and want to appeal now all seven phone lines are ringing 3) is setting up three emergency non-secured custody orders for abuse and neglect because mom and dad have been arrested and left their 3 kids unattended; while helping to wait on the counter, because she is the second cashier and by the way one of the defendants upstairs in court have been sent downstairs to pay the traffic citation that has revoked their license and you need to close out that case so they can go across the street and apply for their driving license and bring that back to the Judge and District Attorney before they can go forward with their Driving While License Revoked case 4) is also answering the phone and a family has just lost their loved one and has come into the Clerk's Office to open up an Estate. But wait just a minute while we get a Clerk to come from the courtroom before we can carry out these task because there's no one left. This is a typical day in the Clerk's Office with such a small staff. How about if one of the 5 get up with a fever or their child is sick or a family member has died. It is very difficult to conduct business with the limited staff.

2. DEFICIENCIES IN THE SAFEGUARDING OF ASSETS

The Clerk's Office has not implemented adequate internal controls to safeguard magistrates' cash collections. During the audit period, cash collected by magistrates after the Clerk's office hours are placed in non-locking bank bags and stored in a safe until the next day's deposit. These funds are accessible to all five magistrates. Failure to properly safeguard assets increases the risk of misappropriation and unauthorized transactions.

According to the Clerk, she thought the use of non-locking bank bags was sufficient to secure magistrates' collections.

The *Clerk of Superior Court Financial Policies and Procedures Manual* provides guidance regarding security measures necessary for cash received through the issuance of manual receipts, including the use of locking bank bags to limit access and keep funds secure when submitting collections to the Clerk's Office.

Recommendation: The Clerk's Office should follow the guidance in the *Clerk of Superior Court Financial Policies and Procedures Manual* and implement controls, such as obtaining individual locking bank bags, to ensure each magistrate's cash collections are secured and access to these assets are restricted until their final deposit.

Clerk's Response: As to deficiencies in the safeguarding of assets, I agree that we did not have individual locking bank bags for each magistrate. I felt before that having a safe where the magistrate's could lock up any money they may have collected over night was a solution, however I now understand the need for locking bags and they were purchased while the auditors were conducting the audit and proper procedure was implemented while the auditors were still here. The usual procedure during normal working hours are the magistrate upon writing a receipt for money turn it into the cashier immediately.

3. FAILURE TO COMPEL ESTATE INVENTORY FILINGS OR FEE COLLECTION

The Clerk's Office failed to compel the 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 39 estates in the audit period that required an inventory to be filed and identified 17 (44%) estates in which the Clerk failed to take action through a written request to compel the personal representative to file the inventory. No inventory had been filed for 13 of these estates at the time of our audit. For the 26 estates where an inventory had been filed, auditors identified 13 (50%) estates in which fees of \$3,692 were not collected when the inventory was filed and there was no evidence in the file that the Clerk's Office sought collection of these fees at the time of the inventory filing by the personal representative.

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, they do not have adequate staffing to ensure that the estate inventories are tracked, compelled, and filed, and fees are collected. Even though it is the Clerk's procedure to collect fees at the time of the inventory filing, the documentation in the file did not support any evidence of collection attempts and/or reasons for collection delays.

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. In addition, documentation should be maintained in the file to support that the Clerk's Office sought collection of the estate fees from the personal representative at the time of the inventory filing.

Clerk's Response: As to failure to compel estate inventory filings or fee collections, I agree and we have corrected in the following manner. The Estate Clerk is now aware of the AOC Estate Module tracking system and how it will aid him in sending notices. I will advise that during the audit that all 17 have been filed since. As to fees being collected the Estate clerk was trained by the previous Estate clerk to collect the fees at the closing of the Estate. The audit didn't show that he did not collect the fees only that he waited until the end. Yancey County is classified as a small rural county most of which when filing an estate the family don't have access to the funds or the means to pay themselves and generally wait until they're closing the Estate. Going forward the Estate Clerk will make a note in the file if someone is unable to pay at the onset of the filing. Since the Audit the Estate Clerk has been printing copies of compelling documents and keeping them in the relevant files and has been provided with a Stamp to stamp the file to better track filings.

ORDERING INFORMATION

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This audit was conducted in 233 hours at an approximate cost of \$22,222.