OFFICE OF THE EXECUTIVE SECRETARY
OF THE SUPREME COURT OF VIRGINIA
CLERK OF THE SUPREME COURT
CLERK OF THE COURT OF APPEALS AND
THE JUDICIAL INQUIRY AND REVIEW COMMISSION

REPORT ON AUDIT

FOR THE YEAR ENDED

JUNE 30, 2007

APA

Auditor of Public Accounts

COMMONWEALTH OF VIRGINIA

AUDIT SUMMARY

This report includes the Office of the Executive Secretary of the Supreme Court of Virginia, Clerk of the Supreme Court, Clerk of the Court of Appeals, and the Judicial Inquiry and Review Commission.

Our audit of these agencies for the fiscal year ended June 30, 2007, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- matters involving internal control and its operations necessary to bring to management's attention; and
- one instance of noncompliance with applicable laws and regulations or other matters that is required to be reported.

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AUDIT FINDINGS AND RECOMMENDATIONS

Properly Complete Employment Eligibility Verification Forms.

The Supreme Court of Virginia and other court agencies are not properly completing Employment Eligibility Verification (I-9) forms in accordance with guidance issued by the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security. In our audit sample of I-9 forms completed in fiscal year 2007, we found improperly completed forms for the majority of the employees we tested.

The U.S. Department of Homeland Security regulates the process for completing the I-9 forms and failure to complete the forms properly can result in significant penalties to both the employee and employer. The federal government has increased its enforcement efforts related to hiring illegal immigrants, which makes having an effective I-9 process in place more important.

Due to the potential sanctions, we recommend that the Supreme Court obtain training for its staff on the guidelines for completing I-9 forms. We also recommend that the Supreme Court develop and follow internal policies and procedures to ensure compliance with the U.S. Department of Homeland Security guidelines and communicate the requirements for completion to other agencies under its control. Finally, we recommend that the Supreme Court devise a plan of action to begin updating all incorrect I-9 forms currently on file.

Evaluate Managerial Oversight Controls

The Supreme Court has direct responsibility for the oversight of the General, Juvenile and Domestic Relations, and Combined District Courts. The Supreme Court receives appropriations to pay for the Judges and staff of these courts, as well as some other Courts. While, the Supreme Court does pay the salaries of the Circuit Court judges and some other expenses, most of the operational oversight of these courts rests with the elected Clerk of the Circuit Court. Our comments in this area exclude the operational aspects of the Circuit Courts.

In exercising its oversight responsibilities, the Supreme Court provides the courts with a central and uniform case management and financial system, extensive policies and procedures for use of the systems, human resource management, and processing of other financial transactions. Additionally, the Supreme Court operates a help desk to respond to system problems and a Court Services Unit to provide on-site as well as other support functions. Finally, the Supreme Court provides both the Judges and court staff continuing education to understand how changes will affect court operations.

While this process provides the Chief Justice and the Executive Secretary a sound framework to oversee the courts, the current process of oversight still relies on a number of controls and processes, which come from when the courts were independent local courts and had no automation. While Judges and the Court Clerks will always be the key fundamental internal controls in this system, the Supreme Court could provide both the central office staff as well as the Judges and Court Clerks with information, which could improve their oversight and their ability to detect and correct problems and issues.

The current oversight system relies on reaction to problems, which addresses issues after they have occurred. There is limited information that would allow Judges, Court Clerks, or central office staff to analyze and detect potential problems before they occur. If a Court Clerk is not performing their duties properly and it is unclear which Judge had oversight responsibilities, it could lead to problems occurring with

court collections, payroll, financial transactions and other matters, which would go undetected until an audit or a complaint from the public.

In both large and small courts, the processing of many transactions does not achieve good segregation of duties or supervisory review. Court Clerks and Judges approve their own leave taken, approve certain financial transactions, review asset and revenue reconciliations, and prepare financial reports without outside review except during an audit. We are not advocating the addition of staff to achieve better internal control, but are suggesting that the Supreme Court should enhance its ability to oversee and review trend information to highlight problems and issues that may be developing.

Since the Supreme Court is undertaking projects to enhance the court management and financial management systems, it would be an ideal opportunity to gather information and develop reports that could identify unhealthy trends in internal controls, financial and performance issues, and begin to address them before a problem occurs or an audit finds major issues. These system changes are also the opportunity to re-evaluate the way the Supreme Court ensures that its internal control systems are adequate and not depend on one individual recording, reviewing, and approving financial transactions, without either supervisory review or oversight.

AGENCY HIGHLIGHTS

Titles 16.1 and 17 of the Code of Virginia establish the Office of the Executive Secretary of the Supreme Court and administration of the judicial system's 319 courts including the Supreme Court and Court of Appeals, with approximately 2,900 salaried and full-time wage employees. The Executive Secretary maintains the Court Automated Information System, which accumulates financial and case information for the courts. The Executive Secretary also provides human resources services and administrative services, including payment and payroll processing for the courts and magistrates, the Judicial Inquiry and Review Commission, and the Virginia Criminal Sentencing Commission. A brief summary of the agencies' missions follows.

Clerk of the Supreme Court

The Clerk of the Supreme Court is where individuals file appealed criminal and civil cases and apply for permission to practice law in Virginia courts. The Supreme Court appoints the Clerk, who serves at its pleasure. The Clerk's office receives, processes, and maintains permanent records of appeals and other official documents filed with the Court. The Clerk also maintains records of qualified attorneys.

Court of Appeals of Virginia

The Court of Appeals of Virginia is an intermediate appellate court for criminal and civil cases. The Clerk of the Court of Appeals, appointed by the Court, serves at its pleasure. The Clerk processes and maintains permanent records of appeals and other official documents filed with the Court.

Judicial Inquiry and Review Commission

The Judicial Inquiry and Review Commission investigates complaints of judicial misconduct or serious mental or physical disability. The Commission employs staff that assist in the investigation of complaints of misconduct against all state court judges, members of the State Corporation Commission, and members of the Virginia Worker's Compensation Commission.

Budget and Financial Information

The following table summarizes the fiscal year 2007 budgeted versus actual expenses for the Office of the Executive Secretary and the related agencies. This financial information comes from the Commonwealth Accounting and Reporting System.

Fiscal Year 2007

Agency	Budget	Actual
Supreme Court	$ 32,329,063	$ 30,518,038
Circuit Courts	79,674,940	79,489,936
General District Courts	87,294,009	87,050,753
J&DR District Courts	70,553,305	70,485,726
Combined District Courts	28,584,426	28,564,597
Magistrates	19,943,364	19,943,364
Court of Appeals	7,694,058	7,694,058
Judicial Inquiry and Review Commission	713,890	526,480
Virginia Criminal Sentencing Commission	978,500	932,462
Total	$327,764,555	$325,205,414

Expenses consisted mostly of payroll, contracts, and equipment. Contractual service expenses include the Criminal Fund, which primarily consists of payments to court appointed attorneys, court reporters, court-related medical expenses, interpreters, and other associated expenses. Equipment expenses are primarily for Information Technology items and reference materials. The variance between Supreme Court budgeted and actual expenses was primarily related to drug court fund reimbursements carried over to fiscal year 2008, unexpended court technology fund amounts due to the first year of the program, and the model jury fund no longer received revenue. Refer below to the breakdown of total expenses by type for the Courts.

Expenses By Type Fiscal Year 2007

Expense Type	Amount
Personal services	$193,972,936
Contractual services	113,300,286
Supplies and materials	2,465,822
Transfer payments	3,187,320
Continuous charges	3,822,286
Equipment	8,456,760
Total	$325,205,414

Information Security

In Fiscal Year 2007, the Supreme Court contracted with IBM to conduct a risk assessment of their data center. IBM noted areas of concern and made several recommendations. Supreme Court has reviewed the recommendations and has begun an action plan to resolve the issues. We will continue to monitor the Supreme Court's progress in this area.

Commonwealth of Virginia

Walter J. Kucharski, Auditor

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

May 6, 2008

The Honorable Timothy M. Kaine
Governor of Virginia
State Capital
Richmond, Virginia

The Honorable M. Kirkland Cox
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have audited the financial records and operations of the **Office of the Executive Secretary of the Supreme Court of Virginia, the Clerk of the Supreme Court, the Clerk of the Court of Appeals, and the Judicial Inquiry and Review Commission** for the year ended June 30, 2007. We conducted this performance audit in accordance with generally accepted Government Auditing Standards, issued by the Comptroller General of the United States. 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.

Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions on the Commonwealth Accounting and Reporting System, review the adequacy of the court's internal controls, test compliance with applicable laws and regulations, and review corrective actions of audit findings from prior year reports.

Audit Scope and Methodology

Management has the responsibility for establishing and maintaining internal control 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.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered materiality and control risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

Expenditures
Appropriations
Payroll
Leave processing

We performed audit tests to determine whether controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that the Office of the Executive Secretary of the Supreme Court of Virginia, the Clerk of the Supreme Court, the Clerk of the Court of Appeals, and the Judicial Inquiry and Review Commission properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System. Financial transactions are recorded on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted matters involving internal control and operations that we consider necessary to be reported to management. The results of our tests of compliance with applicable laws and regulations disclosed an instance of noncompliance that is required to be reported under Government Auditing Standards. These matters are described in the section entitled "Audit Findings and Recommendations."

The Agency has taken adequate corrective action with respect to audit findings reported in the prior year that are not repeated in this letter.

Exit Conference and Report Distribution

We discussed this report with management on June 18, 2008. Management's response has been included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

CGC/clj

EXECUTIVE SECRETARY
KARL R. HADE

ASSISTANT EXECUTIVE SECRETARY & LEGAL COUNSEL
EDWARD M. MACON

COURT IMPROVEMENT PROGRAM
LELIA BAUM HOPPER, DIRECTOR

EDUCATIONAL SERVICES
CAROLINE E. KIRKPATRICK, DIRECTOR

FISCAL SERVICES
JOHN B. RICKMAN, DIRECTOR

HISTORICAL COMMISSION
MELINDA LEWIS, DIRECTOR

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LEGISLATIVE & PUBLIC RELATIONS
KATYA N. HERNDON, DIRECTOR

June 30, 2008

Mr. Walter J. Kucharski
Auditor Of Public Accounts
James Monroe Building
101 North 14th Street
Richmond, VA 23219

Dear Mr. Kucharski:

Thank you for providing us the opportunity to review the draft audit report for the Supreme Court of Virginia for the period July 1, 2006 through June 30, 2007.

Very truly yours,

Karl R. Hade
Executive Secretary

AGENCY OFFICIALS

OFFICE OF THE EXECUTIVE SECRETARY OF THE SUPREME COURT OF VIRGINIA

Honorable Leroy R. Hassell, Sr., Chief Justice

Karl R. Hade, Executive Secretary

CLERK OF THE SUPREME COURT

Patricia L. Harrington, Clerk

CLERK OF THE COURT OF APPEALS

Honorable Walter S. Felton, Jr., Chief Judge

Cynthia L. McCoy, Clerk

JUDICIAL INQUIRY AND REVIEW COMMISSION

Donald R. Curry