

**AUDIT REPORT
OF
SHERIDAN COUNTY COURT**

JULY 1, 2003 THROUGH JUNE 30, 2004

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Issued on December 8, 2004

SHERIDAN COUNTY COURT

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SHERIDAN COUNTY COURT

SUMMARY OF COMMENTS

During our audit of Sheridan County Court, we noted certain matters involving the internal control over financial reporting and other operational matters that are presented here. These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the areas as follows:

1. ***Segregation of Duties:*** One individual was capable of handling all phases of a transaction from beginning to end.
2. ***Unclaimed Property:*** The County Court did not remit trust balances which were over three years old and had not been reported to the State Treasurer in accordance with State Statute.
3. ***Non-waiverable Court Costs:*** The County Court non-monetarily receipted court costs, which according to Statute are non-waiverable, when defendants' sat out time in jail.
4. ***Monthly Report Review:*** The County Court was not consistent and/or timely in its review of monthly case balance and non-case receipt reports.

More detailed information on the above items is provided hereafter. It should be noted that this report is critical in nature as it contains only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Court.

Draft copies of this report were furnished to the Court to provide them an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Where no response has been included, the Court declined to respond. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next audit.

We appreciate the cooperation and courtesy extended to our auditors during the course of the audit.

SHERIDAN COUNTY COURT

COMMENTS AND RECOMMENDATIONS

1. Segregation of Duties

Good internal control includes a plan of organization, procedures, and records designed to safeguard assets and provide reliable financial records. A system of internal control should include proper segregation of duties so no one individual is capable of handling all phases of a transaction from beginning to end.

We noted the office of the County Court had a lack of segregation of duties as one person was capable of handling all aspects of processing transactions from beginning to end. A lack of segregation of duties increases the risk of possible errors or irregularities. However, due to a limited number of personnel, an adequate segregation of duties is not possible without additional cost. Personnel are under the direction of both the Nebraska State Court Administrator and the Presiding Judge. We have noted this comment in previous audits.

We recommend the County Court and the Nebraska State Court Administrator review this situation. As always, the cost of hiring additional personnel versus the benefit of a proper segregation of duties must be weighed.

2. Unclaimed Property

Neb. Rev. Stat. Section 25-2717 R.R.S. 1995 requires the County Judge to notify the State Treasurer regarding any fees, money, or costs due or belonging to persons which have not been paid or demanded within three years from the date the funds were paid to the County Court, and, at the direction of the State Treasurer, to remit such funds to the State Treasurer for deposit pursuant to the Unclaimed Property Act.

As of June 30, 2004, the Court had ten checks, totaling \$20, which had been outstanding for at least three years and, as of November 8, 2004, had not been remitted to the State Treasurer in accordance with the Unclaimed Property Act.

We recommend the County Court work to promptly remit all unclaimed property in its possession in accordance with State Statute.

3. Non-waiverable Court Costs

Neb. Rev. Stat. Section 29-2709 R.S.Supp., 2003, states, when any costs in misdemeanor, traffic, felony preliminary, or juvenile cases in county court, except for those costs provided for in subsection (3) of section 24-703 (judge's retirement fee), two dollars of the fee provided in section 33-107.01 (legal services fee), the court automation fee provided in section 33-107.03, and the uniform

SHERIDAN COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

3. Non-waiverable Court Costs (Continued)

data analysis fee provided in section 47-633, are found by a county judge to be uncollectible for any reason, including the dismissal of the case, such costs shall be deemed waived unless the judge, in his or her discretion, enters an order assessing such portion of the costs as by law would be paid over by the County Court to the State Treasurer.

When defendants were credited for time spent in jail in lieu of paying fines/costs, the County Court non-monetarily receipted those costs which, according to Statute, are non-waiverable.

This was also noted in the prior audit.

We recommend the County Court ensure the amount of non-waiverable court costs on dismissed and/or otherwise uncollectible cases, including cases involving the jailing of defendants, be waived and/or claimed only in accordance with statute.

County Court's Response: Our response is that, in cases where court costs are assessed against a defendant and the defendant is committed to jail in lieu of paying the costs, such costs are not uncollectible.

A defendant who is convicted of a misdemeanor must have the costs of prosecution assessed against him. Cf. §29-2207, RRS Nebr.

If the defendant is not allowed to enter into a time payment agreement, or if he violates a time payment agreement, he is committed to jail until the costs are paid or he is otherwise discharged according to law. Cf. §29-2206, RRS Nebr.

The defendant is then held in jail until the costs are paid. If cash payment is not made, the defendant receives credit on the costs of sixty dollars for each day held in jail. Cf. §29-2412, RRS Nebr.

The costs are collected and paid by the credit for imprisonment; they are not uncollectible. Billing the County for any such costs would amount to double payment.

The Court staff does not bill the County for such costs on the instruction of the County Judge, because to do otherwise would amount to an unconstitutional taking.

The County Judge and the Auditor disagree on this matter, but there has been no statutory change since a similar response was made to the last audit, and no policy, procedure, rule, or other communication has been received from the State Court Administrator requiring a change in our interpretation of the statutes.

SHERIDAN COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

3. Non-waiverable Court Costs (Concluded)

Auditors' Response: This issue has been referred to the State Court Administrator for further clarification.

4. Monthly Report Review

Good internal control and sound business practices require consistent and timely review of monthly accounting reports, including for the County Courts the monthly case balance and non-case receipt reports, in order to determine if the reported information is complete and accurate and to make corrective action whenever necessary.

Review of the June 30, 2004 monthly case balance report noted two traffic case balances, totaling \$333, which represented payments in full, however, neither had been applied to their respective fines/costs.

When monthly accounting reports are not reviewed on a consistent basis, corrective actions as might be necessary, would not be detected in a timely manner.

We recommend the County Court review all monthly accounting reports, including the monthly case balance and non-case receipt reports, on a consistent and timely basis and take corrective actions, whenever necessary, to resolve discrepancies.

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SHERIDAN COUNTY COURT

INDEPENDENT AUDITORS' REPORT

We have audited the accompanying financial statement of Sheridan County Court as of and for the fiscal year ended June 30, 2004, as listed in the Table of Contents. The financial statement is the responsibility of the Court's management. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statement was prepared on the basis of cash receipts and disbursements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

Also, as discussed in Note 1, the financial statement presents only the Court's Agency Funds activity and does not purport to, and does not, present fairly the assets, liabilities, and results of operations of Sheridan County Court for the year then ended in conformity with the cash receipts and disbursements basis of accounting.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the assets and liabilities arising from cash transactions of the Agency Funds of Sheridan County Court as of June 30, 2004, and the related activity for the fiscal year then ended, on the basis of accounting described in Note 1.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 8, 2004, on our consideration of Sheridan County Court's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Pat Reding, CPA

Assistant Deputy Auditor

November 8, 2004

SHERIDAN COUNTY COURT
RUSHVILLE, NEBRASKA
STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
AGENCY FUNDS

For the Fiscal Year Ended June 30, 2004

| | Balance July 1, 2003 | Additions | Deductions | Balance June 30, 2004 |
|------------------------------|-------------------------|-------------------|-------------------|--------------------------|
| ASSETS | | | | |
| Cash and Deposits | \$ 27,222 | \$ 229,212 | \$ 213,966 | \$ 42,468 |
| LIABILITIES | | | | |
| Due to State Treasurer: | | | | |
| Regular Fees | \$ 2,671 | \$ 39,609 | \$ 37,691 | \$ 4,589 |
| Law Enforcement Fees | 118 | 3,647 | 3,373 | 392 |
| State Judges Retirement Fund | 249 | 7,494 | 6,922 | 821 |
| Court Administrative Fees | 432 | 16,790 | 15,818 | 1,404 |
| Legal Services Fees | 312 | 10,146 | 9,391 | 1,067 |
| Due to County Treasurer: | | | | |
| Regular Fines | 7,511 | 97,503 | 94,009 | 11,005 |
| Overload Fines | - | 775 | 775 | - |
| Regular Fees | 189 | 5,279 | 5,013 | 455 |
| Due to Municipalities: | | | | |
| Regular Fines | - | 100 | 100 | - |
| Trust Fund Payable | 15,740 | 47,869 | 40,874 | 22,735 |
| Total Liabilities | \$ 27,222 | \$ 229,212 | \$ 213,966 | \$ 42,468 |

The accompanying notes are an integral part of the financial statement.

SHERIDAN COUNTY COURT
NOTES TO FINANCIAL STATEMENT
For the Fiscal Year Ended June 30, 2004

1. Summary of Significant Accounting Policies

A. Reporting Entity

The Sheridan County Court is established by State Statute and is administratively operated through the Court Administrator's Office of the Nebraska Supreme Court, which is part of the State of Nebraska reporting entity. The Statement of Changes in Assets and Liabilities Arising from Cash Transactions of the County Court reflects only the Agency Funds activity of the Court; the receipts, and their subsequent disbursement to the appropriate entities for which they were collected. The financial statement does not reflect the personal services expenses of the Court, which are paid by the Nebraska Supreme Court, or the operating expenses, which are paid by Sheridan County.

B. Basis of Accounting

The accounting records of the County Court Agency Funds are maintained, and the Statement of Changes in Assets and Liabilities Arising from Cash Transactions has been prepared, on the cash receipts and disbursements basis of accounting. Under this basis of accounting, fines, fees, and receipts relating to trust funds are shown as additions to assets and as an increase in the related liability when received. Likewise, disbursements are shown as deductions to assets and a decrease in the related liability when a check is written. This differs from Generally Accepted Accounting Principles (GAAP) which requires the accrual basis of accounting. Under GAAP, Agency Funds would be reported in the Statement of Net Assets. Agency Funds are not reported in the Statement of Changes of Fiduciary Net Assets. Agency Funds are used to report resources held by the reporting government in a purely custodial capacity. Agency Funds typically involve only the receipt, temporary investment, and remittance of fiduciary resources to individuals, private organizations, or other governments.

2. Deposits and Investments

Funds held by the County Court are deposited and invested in accordance with rules issued by the Supreme Court as directed by Neb. Rev. Stat. Section 25-2713 R.R.S. 1995. Funds are generally consolidated in an interest-bearing checking account; however, the Court may order certain trust funds to be invested separately. Any deposits in excess of the amount insured by the Federal Deposit Insurance Corporation are required by Neb. Rev. Stat. Section 77-2326.04 R.R.S. 2003 to be secured either by a surety bond or as provided in the Public Funds Deposit Security Act.

SHERIDAN COUNTY COURT
NOTES TO FINANCIAL STATEMENT
(Continued)

2. Deposits and Investments (Concluded)

The carrying amounts and bank balances of total deposits, consisting of a checking account, were as follows:

| | Total Cash and Deposit <u>Carrying Amount</u> | <u>Cash Amount</u> | Deposit <u>Carrying Amount</u> | <u>Bank Balance</u> |
|---------------|---|--------------------|-----------------------------------|---------------------|
| June 30, 2004 | \$ 42,468 | \$ 500 | \$ 41,968 | \$ 42,826 |

However, funds were entirely covered by federal depository insurance.

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SHERIDAN COUNTY COURT REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

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We have audited the financial statement of Sheridan County Court as of and for the year ended June 30, 2004, and have issued our report thereon dated November 8, 2004. The report was modified to emphasize that the financial statement presents only the Agency Funds of Sheridan County Court prepared on the basis of cash receipts and disbursements. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Sheridan County Court's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide an opinion on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Sheridan County Court's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. A reportable condition is described in the Comments Section of the report as Comment Number 1 (Segregation of Duties).

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe the reportable condition described above is a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Sheridan County Court's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We also noted certain additional items that we have reported to the management of Sheridan County Court in the Comments Section of this report as Comment Number 2 (Unclaimed Property), Comment Number 3 (Non-waiverable Court Costs), and Comment Number 4 (Monthly Report Review).

This report is intended solely for the information and use of the County Court, and the appropriate Federal and regulatory agencies. However, this report is a matter of public record and its distribution is not limited.

Pat Reding, CPA

Assistant Deputy Auditor

November 8, 2004