



**Auditor of State
Betty Montgomery**

**DOMESTIC RELATIONS DIVISION OF THE BUTLER COUNTY COURT OF COMMON PLEAS
BUTLER COUNTY**

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Auditor of State Betty Montgomery

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

June 18, 2005

Sharon L. Kennedy
Administrative Judge
Butler County Court of Common Pleas
Division of Domestic Relations
Government Services Center
315 High Street (2nd floor)
Hamilton, Ohio 45011

To Judge Kennedy:

We have performed the procedures enumerated below as of January 7, 2005, which were agreed to by the Butler County Court of Common Pleas, Division of Domestic Relations (Court), in response to your January 6, 2005 letter in which you requested that we review "payout and other matters related to the change of administration." In subsequent meetings with you, we determined that you wanted us to:

- Compare amounts collected by the Court (for providing compact disks of audio recordings) to amounts deposited in an outside bank account.
- Confirm that amounts paid to individuals from the outside bank account were for services rendered and that accounts were reconciled.
- Confirm leave balances for certain employees.

The transition is the responsibility of the present and former officeholder. We followed the American Institute of Certified Public Accountants' attestation standards for agreed-upon procedures engagements. The sufficiency of the procedures is solely the responsibility of the Court. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures related to these areas were as follows:

Compare amounts collected (for providing compact disks of court hearings) to amounts deposited in an outside bank account.

Procedures applied to amounts collected from January 1, 2001 through December 31, 2004

- We agreed transcript request information and deposit amounts recorded on Excel spreadsheets prepared by Judge Kennedy to a sample of 25 randomly selected transcript files maintained by the Court transcriber.
- We agreed the deposit amount recorded on the Excel spreadsheets for each transcript request to the Deposit Journal (handwritten) maintained by the Court Transcriber;

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- We agreed transcript requests recorded on the Excel spreadsheets to the original transcript ledger (handwritten) maintained by the Court Transcriber;
- We agreed the deposits in the Deposit Journal (handwritten) to both the bank statements and the original check register (handwritten) maintained by Court Transcriber;
- We agreed all of the \$5 entries on the Deposit Journal to the Excel spreadsheets. A request for an audio recording is \$5 therefore we assumed that all \$5 entries on the Excel spreadsheets and the Deposit Journal were for the request for an audio recording.

Results of procedures

- Transcript request information and deposit amounts recorded on Excel spreadsheets prepared by Judge Kennedy agreed to transcript files maintained by the Court Transcriber; the deposit amount recorded on the Excel spreadsheets for each transcript request tested agreed to the Deposit Journal (handwritten) maintained by the Court Transcriber; transcript requests recorded on the Excel spreadsheets agreed to the original transcript ledger (handwritten) maintained by the Court Transcriber; and deposits in the Deposit Journal (handwritten) agreed to both the bank statements and the original check register (handwritten) maintained by Court Transcriber; all of the \$5 entries on the Deposit Journal agreed to the Excel spreadsheets.

Confirm that amounts paid to individuals from the outside account were for services rendered and that that account was reconciled for the period January 1, 2001 through December 31, 2004.

- We agreed the original check register (handwritten) information prepared by the Court transcriber to a Quicken check register prepared by Judge Kennedy;
- We agreed the Quicken check register to the bank statements and recalculated the monthly bank reconciliations;
- We agreed checks from the Quicken check register written for transcribers and for refunds to clients to transcript requests documented on the Excel spreadsheets.

Results of procedures:

- We identified six checks totaling \$682.85 issued between May 24, 2001 and April 15, 2002 to vendors that do not provide transcriber services, including Donatos Pizza, Jenni Bevis, Leta Kranbuhl and HR Direct. Purchases made by Jenni Bevis and Leta Kranbuhl were for the Domestic Violence and Family Units. However, these payments were partially offset by a \$500 donation received by the Court from a local attorney in April 2001. The Court Administrator responded to the donor in April, 2001 " . . . we understand that you desire the money to go for items that will assist children while they participate in the supervised visitation program or wait at the court while their parent(s) go through the lengthy Domestic Violence process." Based on invoices provided by the Court, the \$682.85 was spent as follows: \$10.60 to Jenni Bevis for a "DV Unit Book; \$269.70 to Leta Kranbuhl (\$197.88 unidentified and \$63.59 for a storage bin; \$8.23 for pop related to a unit leaders meeting); \$101.65 to Donatos related to a unit leaders meeting; \$300.90 to HR Direct for DV Unit posters.
- We confirmed that the Court Transcriber closed the outside bank account on January 4, 2005. Judge Kennedy deposited the balance of the bank account into the County General Fund in the amount of \$1,266.30 on January 10, 2005.
- We confirmed per discussion with Judge Kennedy and obtaining new policy that as of January 11, 2005: transcript requests are transcribed by Court personnel as a function of the Court; the Court updated its transcript policy on that date; and the Court's policy is that all related money collected is deposited into the County General Fund.

Confirm leave balances for certain employees.

1. Compare leave activity recorded on three different leave records

We performed a physical inspection of Court leave records and noted that the Court maintained the following leave records: 1) Excel spreadsheets (used by the Court as the official record for leave accrual, usage and balances); 2) forms titled *Application for Approval of Absence* (Application); and 3) a GroupWise calendar.

We compared the leave activity and balances of employees classified by former Administrative Judge Spillane as “exempt” on the Excel spreadsheets for 2001 through 2004 to the leave activity recorded on

the GroupWise calendar and the Applications. We noted that the leave recorded on the GroupWise calendar exceeded the leave recorded on the Excel spreadsheet by 824 hours. Court employees indicated to us that these discrepancies were a result of exempt employees using unrecorded compensatory time.

We recalculated the amount of employee leave used by employees based on the leave recorded on the GroupWise calendar. Certain entries on the GroupWise calendar listed only an employee name, so for purposes of this calculation, unless it was otherwise indicated on the GroupWise calendar, we assumed that an employee used 7 hours for each day their name was recorded on the calendar.

Leave amounts recorded on the GroupWise calendar in excess of the amounts recorded on the Excel spreadsheets were as follow:

<i>Name - Position</i>	<i>Leave recorded on the GroupWise calendar in excess of hours recorded as leave on the Excel spreadsheet</i>	<i>Comments</i>
Allen, Paul: Manager of Court Operations	3.5 hours	Received payout on 09/16/02
Boyle, Jennifer: Communication Training Coordinator	31.5 hours	Still currently employed by the Domestic Relations Court
Sharon Cole: Supervisor, Domestic Violence Unit	50 hours	Received payout on 06/07/04
Hershner, Chrystal: Administrative Assistant	170 hours	Requesting pay out – separation date 01/18/05
Kessler, Eva: Magistrate	14 hours	Requesting pay out – separation date 12/31/04 – Elected judge of DR Court effective 01/01/05
Kranbuhl, Leta: Supervisor – Family Unit	7 hours	Received payout on 01/30/04
Lovelace, Linda: Court Administrator	283.50 hours	Requesting pay out – separation date 12/31/04
Moreland, Vickie: Magistrate	38.5 hours	Still currently employed by the Domestic Relations Court
Parker, Debi: Magistrate	55 hours	Still currently employed by the Domestic Relations Court

Rice, Kelly: Magistrate	7 hours	Still currently employed by the Domestic Relations Court
Shaw, Cathy Case Management Supervisor	87.5 hours	Received payout on 09/19/03
Sorey, Roger: Magistrate	41.5 hours	Still currently employed by the Domestic Relations Court
Withrow, Larry: Bailiff Supervisor	35 hours	Still currently employed by the Domestic Relations Court
<i>Total</i>	<i>824 hours</i>	

2. *Compare leave policies followed by the Court with the Personnel Manual and guidance provided by the County Prosecutor.*

We compared the compensatory time procedures followed by Judge Spillane with the *Personnel Policy Manual for Butler County Common Pleas Court Domestic Relations Division* (Personnel Manual). The Personnel Manual stated, in part:

- Section 5.1: B.1 Exempt employees are not entitled to any compensatory time for overtime, whether in cash or in compensatory time off.
- Section 5.2: A Normally, overtime must be authorized by the appointing authority or designee in advance of the overtime being worked.

However, according to Court employees and leave indicated on the GroupWise calendar, Judge Spillane routinely granted compensatory time to exempt employees. We could find no evidence of the authorization of overtime authorized in advance or any record of compensatory time accrual, usage or balances.

On January 29, 2005, the Butler County Prosecutor rendered an opinion relating to granting compensatory time to exempt employees. We compared what the Prosecutor advised in this opinion with the methodology the Court used to record leave, which was documented on the GroupWise calendar and the Excel spreadsheet. The Prosecutor's opinion included guidance on the application of the Fair Labor Standards Act (FLSC) and states in part:

"Our interpretation of these provisions is that exempt employees have no absolute fixed hours, and that an exempt employee's attendance is to be judged on an annual basis, rather than on a daily, or per-pay-period, basis. Instead, the appointing authority may approve the times, and even the days, when an exempt employee's attendance to the employee's duties is required. The appointing authority may vary, or approve a variance from, an exempt employee's work schedule, so long as the total hours the employee either worked, or was on an approved leave, are not less than the standard hours of work per year upon which the employee's salary is based."

"Our understanding is that the County Auditor requires that each appointing authority, or the appointing authority's designee, must approve, in writing, the payment to be made to each employee for each pay period. Based upon her statutory authority, the senior judge possesses the discretionary authority to approve pay requests from exempt employees without making pay reductions for absences during the Court's core work hours, and without requiring the employee to use available leave for such absences. If the appointing authority excuses an employee's absence from work without requiring the employee to use accrued leave, we must conclude, in the absence of evidence to the contrary, that the appointing authority was satisfied that the employee had worked sufficient hours to satisfy the annual work expectation for the position."

“Prior to the commencement of your current term, Judge Spillane clearly had the authority to approve the hours worked by each employee, and the hours to be charged against vacation or other leave for each employee. Given the scope of the senior judge’s statutory authority, and the fact that an exempt employee must generally be paid on a salary basis, we cannot necessarily conclude that Judge Spillane would have acted beyond the scope of her authority by approving payment of an exempt employee’s full bi-weekly salary despite the employee’s absence during the Court’s core work hours.”

“Upon the commencement of your term, you became the senior judge, and assumed the duty to approve pay requests submitted by exempt employees for your approval. However, we cannot conclude that, in the absence of fraud, you have the authority to modify an approval of a pay request which Judge Spillane made during her term. While exempt employees have no right to “comp time”, in the sense used by the FLSA and in the Policy Manual, your action regarding their pay requests must consider the amount of time which such employees actually worked, or were on approved leave, within the applicable calendar year, rather than on a daily basis. Even though this decision rests within your discretion, your determination must be reasonable based upon the policies in effect at the time their services were rendered and upon all other relevant facts and circumstances.”

“Additionally, we cannot conclude that the Policy Manual provides you with the authority to adjust an exempt employee’s vacation leave balance because of an absence previously approved by Judge Spillane. Section 6.3 of the Policy Manual states that employees are “eligible” for paid vacation leave according to eligibility guidelines set forth therein. Section 6.3.G. appears to require that an employee must request the use of vacation leave, and that management may approve, or deny, the request “in accordance with the workload requirements of the individual departments, at the discretion of the supervisor.” In the absence of a request for use of vacation leave, our conclusion is that the appointing authority has no power to unilaterally reduce the amount of vacation leave which has accrued to that employee.”

We noted that in the Prosecutor’s opinion, only the positions of Court Administrator, Family Unit Director the Domestic Violence Supervisor and the Magistrates are considered exempt, while former Judge Spillane considered thirteen positions to be exempt.

The Butler County Prosecutor’s opinion is that “Judge Spillane clearly had the authority to approve the hours worked by each employee, and the hours to be charged against vacation or other leave for each employee” and for the employees tested the *Application of Approval for Absence* forms were authorized by either Court Administrator Linda Lovelace or Judge Spillane in the form of either signature stamps or live signatures. The leave record on the *Application of Approval for Absence* forms agreed with the Excel spreadsheets, with the exception of those employees identified in the next section.

3. *Recalculate and compare leave usage and balances recorded on the Excel spreadsheets and Application of Approval for Absence forms*

We compared leave usage and balance recorded on the *Application of Approval for Absence* (Application) forms to those recorded on the Excel spreadsheets. The Application documents the request and authorization for leave requested and used by the employee. For certain employee records, we noted two sources of errors on the Excel spreadsheet (the official record for Court employee leave balances): amounts authorized as leave on the Application were not recorded on the Excel spreadsheet, and there were calculation errors in the Excel spreadsheet.

A summary of these errors and corrected leave balances follow:

Employee - Position	Error in leave balances on the Excel spreadsheet due to clerical errors or amounts not recorded from the <i>Application of Approval for Absence</i>	Vacation leave balance currently recorded on the Excel spreadsheet as of 1/07/2005	Corrected vacation leave balance as of 1/07/2005
Hershner, Chrystal: Administrative Assistant	(10.75) hours	387.49 hours	376.74 hours
Lovelace, Linda: Court Administrator	(14) hours	529.79 hours	515.79 hours
Parker, Debi: Magistrate	(16.5) hours	133.29 hours	116.79 hours
Sorey, Roger: Magistrate	(10) hours	64.38 hours	54.38 hours
Withrow, Larry: Bailiff Supervisor	(35) hours	285.26 hours	250.26 hours

Recommendations:

We recommend that the Court implement the following procedures:

1. Grant compensatory time in accordance with the Policy Manual.
2. The Administrative Judge should document the purpose and approval of any policies or procedures that are contrary to the Policy Manual.
3. Document the accrual of compensatory time and the use of compensatory time for all employees granted compensatory time.
4. Review all employee positions and document the criteria for classification as either exempt or non-exempt as defined by the Fair Labor Standards Act.
5. Control the use of signature stamps. Indicate approval of leave on the *Application of Approval for Absence* forms with a live signature.
6. Recalculate the Excel spreadsheets for all employees of the Court for mathematical errors, especially upon separation from the Court. Any errors that are noted should be verified by the County Auditor for accuracy.
7. The Court should establish a reliable and accurate time management system which maintains Court employee attendance in a more efficient and accurate manner.

This report is intended solely for the information and use of the addressees listed above and is not intended to be and should not be used by anyone else.



Betty Montgomery
 Auditor of State

June 18, 2005



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Betty Montgomery**

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**DOMESTIC RELATIONS DIVISION OF THE COURT OF COMMON PLEAS
BUTLER COUNTY**

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
JULY 5, 2005**