

**ATTESTATION REPORT
OF
PHELPS COUNTY COURT**

JANUARY 1, 2021, THROUGH DECEMBER 31, 2022

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Issued on June 27, 2023

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PHELPS COUNTY COURT

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PHELPS COUNTY COURT

SUMMARY OF COMMENTS

During our examination of the Phelps County Court, we noted certain deficiencies and other operational matters that are presented here. The following comment is required to be reported in accordance with *Government Auditing Standards*: Comment #1, "Segregation of Duties," which is considered to be a material weakness.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Segregation of Duties:*** One individual was capable of handling all phases of a transaction from beginning to end.
2. ***Unsupported Action Taken:*** The County Court did not take appropriate action to apply balances held to fines and costs or to issue refunds in accordance with Court orders and State statute.

More detailed information on the above items is provided hereinafter. 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 County Court.

Draft copies of this report were furnished to the County Court to provide management with 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. 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 they will be verified in the next examination.

PHELPS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

1. Segregation of Duties

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

We noted that the office of the County Court lacked a sufficient segregation of duties, as one person was capable of handling all aspects of processing transactions from beginning to end. Additionally, staff could create and issue orders affixed with the Judge's signature in the JUSTICE (Judicial User System to Improve Court Efficiency) application without formal documentation to support that the Judge approved the order. That same staff had access to court receipts and were able to record non-monetary transactions (e.g., waiving fines) in JUSTICE. We further noted that Phelps County Court access had also been given to one other Clerk Magistrate who was not an employee of the Phelps County Court.

The following errors were noted:

- The County Court did not adequately review claims showing a balance remaining to be collected from the County in the accounting system. Specifically, we noted three claims, totaling \$58, with dates ranging from November 29, 2016, to April 8, 2019, that still showed a balance remaining to be collected as of audit fieldwork in April 2023.

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 may not be possible without additional cost. Further, personnel are under the direction of both the Nebraska State Court Administrator and the Presiding Judge.

We have included this comment in previous examinations.

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. We also recommend the Supreme Court implement procedures to ensure that each Judge's approval of orders is formally documented. We further recommend the County Court establish procedures to review the Court Claim List and ensure the amounts noted as owed are resolved in a timely manner.

County Court's Response: The Administrative Office of the Courts and Probation (AOC) accepts that there is a risk from one person having the authority to initiate and complete financial transactions. To reduce the risk of improper transactions, court financial specialists review court records and provide assistance to county courts if there are discrepancies. However, the Judicial Branch does not have the financial and human resources to mitigate all risks related to segregation of duties sufficient to meet current audit guidelines. As a result, in order to fulfill all statutory obligations, the AOC has determined that all clerk magistrates will have the authority to operate all financial functions of a court.

2. Unsupported Action Taken

During the attestation, we noted the following:

- For one criminal case tested, a 10% bond was held, totaling \$225, requiring the defendant to appear on February 24, 2020. The defendant failed to appear, and the case was dismissed two days later. Upon dismissal, the County Court incorrectly adjusted 10% bond fees, totaling \$25, to be refunded to the defendant. Additionally, the County Court did not attempt to refund the bond to the defendant prior to adjusting the total bond to be sent to Unclaimed Property.

PHELPS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Concluded)

2. Unsupported Action Taken (Concluded)

- For one criminal case tested, a 10% bond was held, totaling \$270, which was applied to fines of \$237 in May 2020; however, no court order or assignment was on file to support the application of this bond to fines.
- For one probate case tested, an order to proceed in forma pauperis was filed on August 7, 2019, ordering all costs on the case to be paid by the County. Filing fees of \$44 on the case were claimed to the County in March 2020 and subsequently paid by the petitioner in April 2021. The County Court issued a refund to the County for the overpayment instead of refunding the petitioner in accordance with the order.
- For one criminal case tested, a 10% bond was held, totaling \$225, which was ordered applied to fines totaling \$275 on November 28, 2022. The order in this case stated also that the defendant was to receive a credit of \$150 on the case in one year's time upon the presentation of a valid driver's license. Due to this credit, the County Court applied \$175 of the bond to the fines and refunded \$50 to the defendant despite the order to apply the full balance.

Neb. Rev. Stat. § 29-901(3)(c)(i) (Cum. Supp. 2022) states, in relevant part, the following:

The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten percent of the amount of the bond, ninety percent of such deposit to be returned to the defendant upon the performance of the appearance or appearances and ten percent to be retained by the clerk as appearance bond costs, except that when no charge is subsequently filed against the defendant or if the charge or charges which are filed are dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant.

Good internal control and sound business practices require procedures to ensure that the County Court acts in accordance with both State statute and any applicable Court orders.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also misuse of funds.

We recommend the implementation of procedures to ensure action taken by the County Court is in accordance with both State statute and applicable Court orders.

County Court's Response:

- *The Defendant did not appear and State, off the record, indicated that they were going to dismiss this case. There was no appearance made by the defendant, therefore we returned the entire bond according with **CC CR: Bond Refunds** "...if the charges are filed and dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant unless assigned in writing." There was no request for a warrant therefore the defendant's appearance had not occurred.*
- *We will try to do better on the assignment of bond when this happens. The one person handling the counter on court days has many things to do on the court day but we will attempt to do a better job.*
- *This was a difficult situation because the guardians were getting divorced and the father was very unhappy that they were declared "indigent". He wanted to pay the fees back to the county.*
- *The last unsupported action was the bond application. The Court gave the defendant credit towards the fine of \$150.00 if a valid license was provided by June 28, 2023. The Court had the defendant sign a time pay for \$150.00 hoping that she would return with a valid license and the case could just be closed. I will stress that importance in following the journal entry with my staff.*



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PHELPS COUNTY COURT

INDEPENDENT ACCOUNTANT'S REPORT

Phelps County Court
Holdrege, Nebraska 68949

We have examined the accompanying Schedules of Changes in Assets and Liabilities Arising from Cash Transactions of the Phelps County Court as of and for the calendar years ending December 31, 2021, and December 31, 2022. The County Court's management is responsible for the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion on the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions are based on the accounting system and procedures set forth in Note 1, in all material respects. An examination involves performing procedures to obtain evidence about the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

In our opinion, the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions for the calendar years ending December 31, 2021, and December 31, 2022, are based on the accounting system and procedures prescribed by the Nebraska Supreme Court, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; noncompliance with provisions of laws, regulations, contracts, or grant agreements that have a material effect on the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions; fraud that is material, either quantitatively or qualitatively, to the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions; and any other instances that warrant the attention of those charged with governance. We are also required to obtain and report the views of management concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedules of Changes in Assets and Liabilities

Arising from Cash Transactions or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed a certain finding that is required to be reported under *Government Auditing Standards*, and that finding, along with the views of management, is described in the Comments Section of the report.

The purpose of this report is to express an opinion on the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions, as described in paragraph one above. Accordingly, this report is not suitable for any other purpose. This report is a matter of public record, and its distribution is not limited.



Mike Foley
Auditor of Public Accounts
Lincoln, Nebraska

June 22, 2023

PHELPS COUNTY COURT
HOLDREGE, NEBRASKA
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
CUSTODIAL FUNDS

For the Calendar Year Ended December 31, 2022

	Balance January 1, 2022	Additions	Deductions	Balance December 31, 2022
ASSETS				
Cash and Deposits	\$ 34,545	\$ 311,098	\$ 323,383	\$ 22,260
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 1,740	\$ 22,892	\$ 22,962	\$ 1,670
Law Enforcement Fees	181	2,375	2,378	178
State Judges Retirement Fund	1,320	17,250	17,173	1,397
Court Administrative Fees	1,635	16,074	15,955	1,754
Legal Services Fees	893	10,571	10,626	838
Due to County Treasurer:				
Regular Fines	6,939	66,666	66,599	7,006
Overload Fines	150	-	150	-
Regular Fees	32	2,433	2,290	175
Petty Cash Fund	200	-	-	200
Municipality Fines	75	445	420	100
Due to Municipalities:				
Regular Fees	100	991	941	150
Trust Fund Payable	21,280	171,401	183,889	8,792
Total Liabilities	\$ 34,545	\$ 311,098	\$ 323,383	\$ 22,260

The accompanying notes are an integral part of the Schedule.

PHELPS COUNTY COURT
HOLDREGE, NEBRASKA
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
CUSTODIAL FUNDS

For the Calendar Year Ended December 31, 2021

	Balance January 1, 2021	Additions	Deductions	Balance December 31, 2021
ASSETS				
Cash and Deposits	\$ 39,437	\$ 261,679	\$ 266,571	\$ 34,545
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 3,157	\$ 29,572	\$ 30,989	\$ 1,740
Law Enforcement Fees	215	2,603	2,637	181
State Judges Retirement Fund	1,407	16,443	16,530	1,320
Court Administrative Fees	1,302	18,409	18,076	1,635
Legal Services Fees	1,038	11,544	11,689	893
Due to County Treasurer:				
Regular Fines	6,759	72,430	72,250	6,939
Overload Fines	-	250	100	150
Regular Fees	4	6,322	6,294	32
Petty Cash Fund	200	-	-	200
Municipality Fines	-	1,045	970	75
Due to Municipalities:				
Regular Fees	-	895	795	100
Trust Fund Payable	25,355	102,166	106,241	21,280
Total Liabilities	\$ 39,437	\$ 261,679	\$ 266,571	\$ 34,545

The accompanying notes are an integral part of the schedule.

PHELPS COUNTY COURT
NOTES TO FINANCIAL SCHEDULES

For the Calendar Years Ending December 31, 2021, and December 31, 2022

1. Criteria

A. Reporting Entity

The Phelps 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 Schedules of Changes in Assets and Liabilities Arising from Cash Transactions of the County Court reflect only the Custodial Funds activity of the County Court, including the receipts and their subsequent disbursement to the appropriate entities for which they were collected. The Schedules do not reflect the personal services expenses of the County Court, which are paid by the Nebraska Supreme Court, or the operating expenses, which are paid by Phelps County.

B. Basis of Accounting

The accounting records of the County Court Custodial Funds are maintained, and the Schedules of Changes in Assets and Liabilities Arising from Cash Transactions have been prepared, based on the accounting system and procedures prescribed by the Nebraska Supreme Court. Under this system 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 or collected. Likewise, disbursements are shown as deductions to assets and as a decrease in the related liability when a check is written.

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. § 25-2713 (Reissue 2016). Funds are generally consolidated in an interest-bearing checking account; however, the County 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. § 77-2326.04 (Reissue 2018) to be secured either by a surety bond or as provided in the Public Funds Deposit Security Act.