

**ATTESTATION REPORT
OF
MADISON COUNTY COURT**

JANUARY 1, 2023, THROUGH DECEMBER 31, 2023

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Issued on April 5, 2024

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MADISON COUNTY COURT

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MADISON COUNTY COURT

SUMMARY OF COMMENTS

During our examination of Madison County Court, we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with *Government Auditing Standards*: Comment #3 (“Bond Issues”) and Comment #4 (Improper, Untimely, or Unsupported Action Taken”), which are considered significant deficiencies, and Comment #1 (“Segregation of Duties”) and Comment #2 (“Overdue Balances”), which are considered to be material weaknesses.

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. ***Overdue Balances:*** The County Court did not review its overdue balances on an ongoing, timely basis to ensure collection and/or resolution of such balances.
3. ***Bond Issues:*** The County Court lacked procedures for ensuring that bond amounts held were applied properly to balances due, adjusted, or released to defendants/assignees.
4. ***Improper, Untimely, or Unsupported Action Taken:*** For 10 truncations tested, the County Court failed to take timely, correct, or supported action.

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. Where no response has been included, the County 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 they will be verified in the next examination.

MADISON 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 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. Specifically, 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 noted further that Madison County Court access had been given also to three other Clerk Magistrates who were not employees of the Madison County Court.

The following item was also noted:

- One claim tested, for \$51 of non-waiverable fees from August 2023, had not been paid by the County.

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 noted this issue 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.

County Court 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 specialist 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 risk 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.

The Administrative Office of Courts and Probation (AOC) understands that there is a risk related to the ability of someone other than the judge applying the judge's signature to an order within the DOCKET subsystem of JUSTICE, the court's case management system. This level of access is granted only to employees who work directly with the judges in and outside of the courtroom and only with the judge's approval and oversight. This electronic signature process is put into place to digitize and streamline the court process. The AOC has determined no further action will be taken at this time, based on an evaluation of the level of risk, current IT priorities and resources, and a review of compensating controls and practices.

The Clerk Magistrates in the Seventh Judicial District have been given authority to provide coverage in other courts by the three judges. Clerk Magistrates are county court employees but employed by the state. The AOC job descriptions for clerk magistrate includes expectations that may assist in other courts other than their primary court.

MADISON COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Overdue Balances

Good internal control and sound business practices require overdue balances of the County Court to be reviewed on an ongoing, timely basis to determine what action should be taken to collect and/or resolve those balances.

During testing of 12 overdue balances, 10, totaling \$3,620, did not have subsequent action taken by the County Court, such as the issuance of warrants and/or suspensions or declaration of certain overdue balances as uncollectible, to ensure collection and/or resolution of the balances.

The 10 overdue balances at issue are detailed below:

- One case had \$5 due from the plaintiff for a garnishment filed on April 2023; there has been no activity on the case since September 2023.
- One case had \$5 due from the plaintiff for a garnishment filed on April 2023; there has been no activity on the case since November 2023.
- One case had \$5 due from the plaintiff for a garnishment filed on April 2021; there has been no activity on the case since October 2021. Additionally, this case was brought to the County Court's attention during the last examination in August 2022, and no action has been taken.
- One case had a balance due of \$31 that should have been waived in August 2021 when the case was dismissed. Additionally, this case was brought to the County Court's attention during the last examination in August 2022, and no action has been taken.
- One case had a balance due of \$427. However, documentation in August 2022 from the Sheriff noted that the defendant had sat out time in jail for the amount of \$300 and had paid the remaining \$127. Nevertheless, the County Court did not waive the balance and did not receive the \$127 from the Sheriff until March 2024.
- One case had a balance due of \$3,000 for a personal recognizance bond that had been forfeited. There has been no activity on the case since June 2023.
- One case had a balance due of \$26 from the plaintiff for a filing made in April 2021. There has been no further action on the case.
- One case had a balance due of \$99 assessed in March 2023, and there has been no further action on the case.
- One case had a balance of \$2 for certified copies that were prepared in June 2021, and there has been no further action on the case.
- One case had a balance due of \$20 for certified mailing charges assessed in April 2022. The \$20 was initially received by the plaintiff in April 2022; however, it was paid back to the plaintiff in May 2022, leaving a balance due of \$20. There was no support to show that the \$20 should not be assessed or that it should have been refunded.

As of January 31, 2024, overdue balances, excluding restitution judgments, totaled \$83,862.

Without a regular review of overdue case balances, there is an increased risk that such balances may either not have proper follow-up action taken or have been previously resolved and should no longer be reflected as overdue.

MADISON COUNTY COURT
COMMENTS AND RECOMMENDATIONS
(Continued)

2. Overdue Balances (Concluded)

We have noted this issue in previous examinations.

We recommend the County Court implement an ongoing, timely review of its Overdue Case Account reports to ensure the timely collection and/or resolution of overdue balances.

3. Bond Issues

Good internal controls and sound business practices require procedures to ensure that bond amounts held by the County Court are applied properly to balances due, adjusted, or released to defendants/assignees, as necessary.

Neb. Rev. Stat. § 29-2206(3) (Cum. Supp. 2022) states the following:

As an alternative to a lump-sum payment or as an alternative or in conjunction with installment payments, the court or magistrate may deduct costs from a bond posted by the offender to the extent that such bond is not otherwise encumbered by a valid lien, levy, execution, or assignment to counsel of record or the person who posted the bond. As an alternative to a lump-sum payment or as an alternative or in conjunction with installment payments, the court or magistrate may, with the consent of the offender, deduct fines from a bond posted by the offender to the extent that such bond is not otherwise encumbered by a valid lien, levy, execution, or assignment to counsel of record or the person who posted the bond.

For four cases tested, it was noted that the County Court applied the bond balance held to fines without consent of the defendant, as required by § 29-2206(3).

The table below details the disposition of the four bond balances at issue:

Case	Bond Balance Held	Date Applied	Amount Applied to Fines
1	\$900	3/15/2021	\$500
2	\$450	1/11/2024	\$250
3	\$450	2/5/2021	\$200
4	\$270	5/19/2022	\$120

Additionally, the following errors related to bond balances held by the County Court were noted during testing:

- In one case, the defendant had originally paid \$50,000 to cover a 10% bond of a \$500,000 bond in January 2023. Of the \$50,000 received, \$5,000 of this amount was used to cover the 10% bond fees while the remaining \$45,000 was held by the County Court, so that it could be returned upon the defendant's appearance in court. Then, in January 2024, the bond was reduced to a 10% \$100,000 bond. This would require the County Court to record \$1,000 for the 10% bond fees and to hold only \$9,000 to be returned to the defendant, meaning that \$40,000 should have been refunded.

Per a bond assignment on file, the defendant agreed to send \$35,000 to the victim, which would result in the remaining \$5,000 being refunded to the defendant. At the same time, moreover, the case was bound over to District Court, and the balance held for the bond of \$9,000 was to be paid to the District Court.

However, the County Court incorrectly kept the original \$5,000 for bond fees instead of the correct amount of \$1,000 and also paid \$10,000 to the District Court instead of the correct amount of \$9,000. Therefore, the defendant should have been refunded \$5,000 but was not.

MADISON COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

3. Bond Issues (Concluded)

- One \$450 bond held was released to the defendant in February 2024, even though the case showed that the defendant still had a balance due of \$420 at that time, and there was no order from the judge releasing the bond.
- In one case, there remains a \$7 balance due from the defendant after the County Court released a bond of \$5,346 in December 2023. This occurred because the County Court released the bond before a commitment on the defendant, issued before the bond was released, was returned to the County Court.

Without procedures to ensure that bond amounts held by the County Court are applied properly to balances due, adjusted, or released, there is an increased risk of not only theft, loss, or misuse of funds but also noncompliance with State statute.

We recommend the County Court implement procedures to ensure the following:

- 1) bond amounts held are not applied to fines without consent of the defendant/assignee;
- 2) bonds are not released to the defendant/assignee until ordered;
- 3) all costs in the case are assessed prior to the bond being released; and
- 4) the correct amount is refunded to the defendant when a bond is reduced.

4. Improper, Untimely, or Unsupported Action Taken

We tested 10 transactions that were either not addressed in a timely manner, not handled in accordance with the provisions of the Supreme Court Procedures Manual, or lacked support for their final disposition, as follows:

- For one case tested, the County Court assessed \$500 in restitution; however, there was no documentation to support that restitution had been ordered by the judge. Additionally, the \$17 in non-waiverable fees, originally paid by the City, was not assessed on the case to be reimbursed by the defendant.
- For one case tested, the County Court incorrectly assessed the defendant \$500 in State fines when the order from the judge stated that the defendant was to pay \$700.
- For one case tested, the County Court made a duplicate payment of \$286 in October 2023, having failed to issue a stop payment on the first check that was voided in the JUSTICE but was still mailed. Additionally, the County Court has been unable to recover the \$286 duplicate payment from the payee.
- For one case tested, the County Court did not make a refund payment in a timely manner. The County Court received \$25 more than necessary to satisfy the judgment against the defendant in November 2023 but did not return this to the defendant until February 2024.
- For one case tested, the County Court received \$70 more than necessary to satisfy the judgment against the defendant in August 2021, but no attempt has been made to return the overpayment to the defendant.
- For one case tested, the defendant's case was bound over to District Court. However, \$9 of County Court costs were not assessed to the defendant on the District Court case; therefore, \$1 was paid by the County and not reimbursed, and \$8 was waived without support.
- For one case tested, the County Court waived \$3 in copy fees in January 2024 without support to do so.

MADISON COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Concluded)

4. Improper, Untimely, or Unsupported Action Taken (Concluded)

- For one case tested, \$420 of probation costs should have been waived in August 2023 when probation was revoked.
- For one case tested, \$270 of probation costs should have been waived in February 2023 when probation was revoked.
- For one case tested, the County Court certified that the defendant had not paid \$53 in court costs, and those costs should be assessed on the District Court case when it was bound over in June 2023. However, the defendant had paid \$49 of this amount in October 2022, so only \$4 should have been assessed on the District Court case.

Good internal controls and sound accounting practices require procedures to ensure that proper action on cases is completed in a timely manner and in accordance with the provisions of the Supreme Court Procedures Manual. Those procedures also require documentation to be on file for any costs assessed or waived.

Without such procedures, there is an increased risk for the loss or misuse of funds.

We recommend the County Court implement procedures to ensure: 1) all actions taken comply with the provisions of the Supreme Court Procedures Manual; 2) all actions are taken in a timely manner; and 3) documentation is on file to support any costs assessed or waived on a case.



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MADISON COUNTY COURT

INDEPENDENT ACCOUNTANT'S REPORT

Madison County Court
Madison, Nebraska 68748

We have examined the accompanying Schedule of Changes in Assets and Liabilities Arising from Cash Transactions of the Madison County Court as of and for the calendar year ending December 31, 2023. The County Court's management is responsible for the Schedule 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 Schedule 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 perform the examination to obtain reasonable assurance about whether the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions is 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 Schedule 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 Schedule 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 Schedule of Changes in Assets and Liabilities Arising from Cash Transactions for the calendar year ending December 31, 2023, is 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 Schedule of Changes in Assets and Liabilities Arising from Cash Transactions; fraud that is material, either quantitatively or qualitatively, to the Schedule 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 Schedule of Changes in Assets and Liabilities Arising from Cash Transactions is presented in accordance with the criteria described above and not for the purpose

of expressing an opinion on the internal control over the Schedule 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 certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

The purpose of this report is to express an opinion on the Schedule 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.

April 4, 2024



Mike Foley
Auditor of Public Accounts
Lincoln, Nebraska

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

For the Calendar Year Ended December 31, 2023

	Balance January 1, 2023	Additions	Deductions	Balance December 31, 2023
ASSETS				
Cash and Deposits	\$ 178,070	\$ 1,180,512	\$ 1,164,255	\$ 194,327
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 9,547	\$ 110,687	\$ 112,159	\$ 8,075
Law Enforcement Fees	834	10,776	10,700	910
State Judges Retirement Fund	4,785	67,258	65,129	6,914
Court Administrative Fees	5,409	77,824	76,267	6,966
Legal Services Fees	3,006	40,164	39,433	3,737
Due to County Treasurer:				
Regular Fines	21,763	288,865	287,437	23,191
Overload Fines	75	5,100	4,200	975
Regular Fees	1,519	39,802	41,280	41
Petty Cash Fund	500	-	-	500
Municipality Fines	4,100	55,435	55,240	4,295
Due to Municipalities:				
Regular Fees	331	1,588	1,534	385
Trust Fund Payable	126,201	483,013	470,876	138,338
Total Liabilities	\$ 178,070	\$ 1,180,512	\$ 1,164,255	\$ 194,327

The accompanying notes are an integral part of the Schedule.

MADISON COUNTY COURT
NOTES TO FINANCIAL SCHEDULES
For the Calendar Year Ending December 31, 2023

1. Criteria

A. Reporting Entity

The Madison 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 Schedule 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 Schedule does 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 Madison County.

B. Basis of Accounting

The accounting records of the County Court Custodial Funds are maintained, and the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions has 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.