

# POST AUDIT DIVISION

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SEPTEMBER 17, 2017  
LEGISLATIVE AUDIT REPORT

## WV Regional Jail & Correctional Facility Authority- *Incorrect Billings in Wood County*

POST AUDIT STAFF CONTRIBUTORS

Denny Rhodes ..... Director  
Justin Robinson..... Audit Manager  
Diana Taylor..... Auditor

JOINT COMMITTEE ON  
GOVERNMENT & FINANCE

*Note: On Monday, February 6, 2017, the Legislative Manager/Legislative Auditor's wife, Ashley Summitt, began employment as the Governor's Deputy Chief Counsel. Most or all of the actions discussed and work performed in this report occurred after this date. However, the Governor's Deputy Chief Counsel was not involved in the subject matter of this report, nor did any communications regarding the audit, with the audit team, take place. Therefore, the Post Audit Division does not believe there are any threats to independence with regard to this report.*

OFFICE OF THE  
LEGISLATIVE AUDITOR  
Legislative Manager & Legislative Auditor,  
Aaron Allred

# WEST VIRGINIA LEGISLATIVE AUDITOR'S OFFICE

*Post Audit Division*

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**Denny Rhodes**  
Director

September 17, 2017

The Honorable Mitch Carmichael, President  
West Virginia State Senate  
Post Audits Sub-Committee, Co-Chair  
Room 229 M, Building 1  
State Capitol Complex  
Charleston, WV 25305

The Honorable Tim Armstead, Speaker  
West Virginia House of Delegates  
Post Audits Sub-Committee, Co-Chair  
Room 228 M, Building 1  
State Capitol Complex  
Charleston, WV 25305

Mr. President and Mr. Speaker:

The Post Audit Division was informed by the Division of Military Affairs and Public Safety (DMAPS) Cabinet Secretary of an issue concerning the per diem inmate billings between the West Virginia Regional Jail Authority (WVRJA) and Wood County, WV. Our office contacted the Wood County Commission to be informed of these issues and to determine if the Post Audit Division could play a role in determining the causes and potential corrective actions for the erroneous billings from WVRJA. Based on our discussion with representatives from Wood County, the WVRJA has billed Wood County for approximately \$150,000 in per diem inmate costs that should have been billed to the Division of Corrections (DOC).

The per diem inmate billings are for costs incurred for inmates housed in regional jails throughout the State, and those costs are primarily the responsibility of the county where the individual is initially arrested. The entity responsible for payment of these billings is dependent on the nature of the incarceration; however, the costs are either the responsibility of the county where the inmate is being jailed or the State through the DOC. Usually, when an inmate is housed at a regional jail facility the billings are the responsibility of the county; and, when an inmate is housed

in a DOC facility the billings are the responsibility of the State. However, for various reasons, including overcrowding at DOC facilities, some inmates that have been sentenced or ordered through a judge's ruling to be housed in a DOC facility remain housed at a regional jail. Regardless of this fact, through the judicial commitment order stating that the inmate is to be transferred to a DOC facility and be the responsibility of the DOC, the per diem inmate billings also become the responsibility of the DOC, even though the inmate remains at the regional jail facility. W.Va. Code 31-20-10a sets out the criteria and procedures for determining the per diem costs allocation between the WVRJA and DOC. The statute states in part:

***W.Va. Code §31-20-10a(2e)***

*The [DOC] is responsible for the costs incurred by the [Regional Jail] Authority for housing and maintaining inmates who have been sentenced to the custody of the [DOC] **beginning the calendar day following the day the commitment order was entered into the court record.** The circuit court of the county from which the commitment order has been entered shall immediately transmit by facsimile machine an advance copy of the certified commitment order to the [DOC] and to the regional jail in which the inmate is confined. **[Emphasis Added]***

These commitment orders contain the date that the order was signed by the judge and a stamp of the court dated when the order was entered into the court record. At times, these dates differ as the courts do not always process the orders into the court record on the same day the judge signs the order. After being entered into the court record, the commitment orders are sent from the circuit court clerk of the county to both the DOC and the regional jail where the inmate is confined. As the code section states, these orders are to be faxed to both entities immediately after entering them into the court record. Once received by the regional jail where the inmate is confined, that regional jail billing clerk processes these orders and makes any changes to the entity responsible for the per diem billings per the commitment order. Each regional jail facility has a billing clerk that enters the commitment orders into the WVRJA's CRM (Customer Relationship Management) system and updates the payment responsibility for per diem billings. At the first of the month, that information is then submitted to the WVRJA Central Office billing department in Charleston, WV for invoices to be created and sent to the individual counties for per diem inmate costs.

Wood County officials stated that billing errors have occurred due to the WVRJA not transferring the billings that are the responsibility of the DOC timely based on these commitment orders. This has resulted in the county being charged for per diem inmate costs that should have been the responsibility of the DOC. According to Wood County officials, the primary cause for these errors is that North Central Regional Jail (NCRJ) does not change the billing responsibility over to DOC based on the date the judge signed the commitment order, but instead based on the date they receive the fax containing the order. In most cases the difference is a few days, but there have been instances where the difference was weeks or even months after the date the judge signed the order. Wood County further stated that even after identifying these errors, the WVRJA denied

credit requests for identified incorrect billings, citing the date they received and processed the fax of the commitment order as the date the per diem inmate billing became the responsibility of the DOC, and not the calendar day following the date of the judge's signature. Wood County provided the Post Audit Division a list of over 40 denied credit requests detailing the date of the commitment order and the dates when the inmate was incorrectly billed to the county for which they are seeking credit. As previously stated, **at the time of our discussion with Wood County these credits due to the county from DOC totaled approximately \$150,000 dating back to 2014. The most egregious error identified by Wood County resulted in a credit of \$24,752 for 513 days of per diem costs for one inmate that should have been the responsibility of the DOC.** The credit memo for this instance is attached as an example with this letter report.

We were also provided information from WVRJA detailing causes for these errors that it has identified. The individual who managed these billings at the WVRJA Central Office resigned in June of 2017. Also, in early 2017, the billing clerk at NCRJ left their position and was replaced, and in subsequent months it was discovered that many of the errors discovered by Wood County were attributable to the prior billing clerk and a lack of training and understanding of the process. Based on a discussion with the new Central Office Records Manager for WVRJA, it was asserted that the errors that occurred were primarily isolated to Wood County and NCRJ. Further, it was stated that since their tenure, many of the issues have been corrected and the majority of the credits due to Wood County had been processed. Those that remain uncredited are due to a difference in the interpretation of W.Va. Code §31-20-10a, for which the WVRJA is currently seeking a legal opinion to determine the proper interpretation. Several errors identified by Wood County center around the W.Va. Code section stipulating the time when the per diem billing responsibility is to be transferred from the county to the DOC. In W.Va. Code 31-20-10a, it states that the responsibility for costs incurred for housing an inmate is to be transferred on the calendar day following the date the commitment order is **entered into the court record**. Wood County asserts that the billing responsibility should have been transferred the calendar day following the date of the judge's signature and not the date that it was entered into the court record, which at times does not match the judge's signature date. The date that it was entered into the court record is denoted by a stamp on the order and is the date that the WVRJA has used to determine when the billing responsibility is transferred. While it can be expected that the date a judge signs an order and the date it is processed into that court's record may at times result in a difference of a few days or longer depending on the workload of the courts, the question as to whether a county should be responsible for costs incurred due to not being able to process these orders into the court's record timely, even though the judge's commitment order was signed at an earlier date, still remains unanswered.

The WVRJA is continuing to identify and correct these errors as well as implement corrective actions that will prevent this from occurring in the future. The Post Audit Division will remain in contact with the DMAPS Cabinet Secretary concerning this issue and once these corrective actions are implemented, the Post Audit Division will verify the effectiveness of these

corrective actions to ensure that the issues concerning the erroneous billings have been resolved. Based on the assertion from the WVRJA that the majority of billing errors were isolated to Wood County and stemmed from processing errors at North Central Regional Jail that were not detected by the previous WVRJA Central Office Records Manager, we feel that allowing the agency to complete its review and work to correct these issues prior and reviewing the results of those corrective actions is the best current course of action. Once completed, we will speak with Wood County to determine the status of those identified billing errors and whether credits due from DOC were received and the issues are fully resolved. The Post Audit Division will update the Sub-Committee once the audit and review of these corrective actions are complete.

Sincerely,



Denny Rhodes

DEBIT/CREDIT  
MEMO

To:  ✓  
WOOD COUNTY COMMISSION  
1 COURT SQUARE  
PARKERSBURG, WV 26101

West Virginia  
Regional Jail & Correctional Facility Authority

From:  
WV REGIONAL JAIL AUTH. -- NCRJ  
PO BOX 50285  
1900 KANAWHA BLVD., EAST  
CHARLESTON, WV 25305

DEBIT

CREDIT

**MEMO**

DATE: 06/02/17

Month /Year	Invoice Number
May 15 - Oct 16	

Date(s)	Inmate Name	No. of Days	Total Amount
May 27 - Dec 31, 2015	[REDACTED]	✓ 219	\$10,566.75 ✓
Jan 1 - Oct 20, 2016	[REDACTED]	✓ 294	\$14,185.50 ✓
			\$0.00
			\$0.00
			\$0.00
			\$0.00
	<b>Justification for Change:</b>	✓ 513	<b>\$24,752.25 ✓</b>
	Wood Co charged in error; order received 5/26/15 but the jurisdiction		
	was never changed; credit Wood Co, debit Corrections		

Signature: \_\_\_\_\_





State of West Virginia  
**OFFICE OF THE SECRETARY**  
**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

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**JIM JUSTICE**  
**GOVERNOR**

**JEFF S. SANDY CFE, CAMS**  
**CABINET SECRETARY**

**THOMAS L. KIRK**  
**DEPUTY SECRETARY**

**Date:** Thursday, September 14, 2017

**To:** Denny Rhodes, Director, West Virginia Legislative Auditors Office

**From:** Jeff S. Sandy, CFE, CAMS, Cabinet Secretary

A handwritten signature in blue ink that reads "Jeff S. Sandy".

**Re:** West Virginia Regional Jail County Billing Practices

I have reviewed your audit report and concur with its analysis of the issue brought to my attention by the Wood County Commission.

I am concerned with the following statements in your audit report:

**Item One**

*“Wood County further stated that even after identifying these errors, the WVRJA denied credit requests for identified incorrect billings, citing the date they received and processed the fax of the commitment order as the date the per diem inmate billing became the responsibility of the DOC, and not the calendar day following the date of the judge’s signature. Wood County provided the Post Audit Division a list of over 40 denied credit requests detailing the date of the commitment order and the dates when the inmate was incorrectly billed to the county for which they are seeking credit.”*

**Response**

As you can imagine this is unacceptable. It should not matter if the error was caused by Division of Corrections or the Regional Jail Authority, they are both agencies of the State of West Virginia. It is anticipated that the consolidation of the administrative functions of the Division of Corrections, Regional Jail Authority, and Division of Juvenile Services will blend the financial functions of these agencies and improve their quality.

## Item Two

*“Wood County asserts that the billing responsibility should have been transferred the calendar day following the date of the judge’s signature and not the date that it was entered into the court record, which at times does not match the judge’s signature date. The date that it was entered into the court record is denoted by a stamp on the order and that is the date that the WVRJA has used to determine the date when the billing responsibility is transferred. While it can be expected that the date a judge signs an order and the date it is processed into that court’s record may at times result in a difference of a few days or longer depending on the workload of the courts, the question as to whether a county should be responsible for costs incurred due to not being able to process these orders into the court’s record timely, even though the judge’s commitment order was signed at an earlier date, still remains unanswered.”*

## Response

The West Virginia Code states the following:

*§31-20-10a. Criteria and procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority and allocating cost.*

*(e) The division of corrections is responsible for the costs incurred by the authority for housing and maintaining inmates who have been sentenced to the custody of the division of corrections beginning the calendar day following the day the commitment order was entered into the court record. The circuit clerk of the county from which the commitment order has been entered shall immediately transmit by facsimile machine an advance copy of the certified commitment order to the division of corrections and to the regional jail in which the inmate is confined.*

I will assign Deputy Secretary and General Counsel Thom Kirk to meet with the West Virginia Supreme Court of Appeals Administrative Director Gary L. Johnson to discuss the issue of delayed “Commitment Orders” and determine if relief can be sought for the counties.

## Conclusion

The Department of Military Affairs and Public Safety supports your audit report and the fact that the report brings transparency to government inefficiencies and weaknesses to the citizens of West Virginia, no matter how disconcerting those facts disclose.

I personally will attend the September 17<sup>th</sup>, 2017 “Post Audits Subcommittee” and address any additional questions and concerns.