

Audit Report

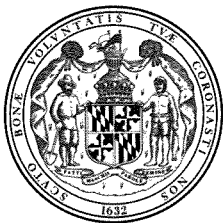
**Office of the Clerk of Circuit Court
Baltimore City, Maryland**

May 2014



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

May 27, 2014

Thomas J. Barnickel III, CPA
Legislative Auditor

Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Office of the Clerk of Circuit Court for Baltimore City, Maryland for the period beginning September 13, 2010 and ending October 9, 2013. The Office performs various functions for the public, including maintaining various legal records, recording certain real estate documents, collecting related fees and taxes, and issuing certain licenses.

Our audit disclosed that the Office had not established sufficient procedures over the collection of delinquent criminal court fees. For example, as of December 23, 2013, outstanding accounts totaling \$7.8 million, due prior to January 2009, had not been subject to any documented collection efforts in accordance with State regulations. In addition, the Office did not have adequate procedures and controls over civil court fee collections and disbursements to jurors.

The Judiciary's response to this audit, on behalf of the Office, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by the Office during the course of this audit.

Respectfully submitted,

Thomas J. Barnickel III, CPA
Legislative Auditor

Table of Contents

Background Information	5
Agency Responsibilities	5
Financial Information	5
Status of Findings From Preceding Audit Report	5
Findings and Recommendations	7
Criminal Court Fees	
* Finding 1 – Collection Efforts, and Related Recordkeeping, Were Not Sufficient to Ensure Compliance With State Regulations	7
Civil Court Fees	
* Finding 2 – The Office Had Not Established Adequate Accountability and Control Over Civil Court Fee Collections	8
Jury Fund	
* Finding 3 – The Office Did Not Ensure the Propriety of Disbursements to Jurors	9
Audit Scope, Objectives, and Methodology	11
Agency Response	Appendix

* Denotes item repeated in full or part from preceding audit report

Background Information

Agency Responsibilities

The Office performs a variety of functions for the public such as filing, docketing, and maintaining various legal records; recording documents involving title to real estate; collecting the related fees, commissions, and taxes; and issuing certain licenses. In performing these functions, the Office collects funds on behalf of the State, Baltimore City and others, and subsequently distributes the funds collected to the applicable entities.

Financial Information

According to the State's accounting records, the Office's fiscal year 2013 revenues totaled \$19,282,844. These revenues were distributed in the following manner:

- \$2,035,641 was distributed to Baltimore City,
- \$537,814 was distributed to others, and
- \$16,709,389 (the remaining amount) represented revenues available to the State for purposes specified in various provisions of State law.

The Office's fiscal year 2013 operating expenses, which were paid primarily from a general fund appropriation, totaled \$18,749,304.

The Office also maintained custody of certain trust and special purpose funds that, according to its records, had balances totaling \$3,940,618 as of September 30, 2013.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the six findings contained in our preceding audit report dated June 3, 2011. We determined that the Office satisfactorily addressed three of these findings. The remaining three findings are repeated in this report.

Findings and Recommendations

Criminal Court Fees

Background

State law provides for the assessment of court fees of up to \$205 on individuals found guilty of a crime unless a waiver is granted by the judge. The courts may also assess fines and penalties on individuals based on the nature of the crime. As allowed by State law and pursuant to a memorandum of understanding, the Baltimore City Sheriff's Office (BCSO) maintains criminal court fee detailed accounts receivable records, prepares the related dunning notices, and processes any collections and distributes them to the appropriate State and local entities as required by law. The Office of the Clerk of Circuit Court for Baltimore City retained responsibility for issuing the initial billings, maintaining the accounts receivable control account, mailing the aforementioned dunning notices, and forwarding delinquent accounts to the Department of Budget and Management's Central Collection Unit (CCU) based on information received from the BCSO.

According to the records maintained by the Office and BCSO, criminal fee collections during fiscal year 2013 totaled approximately \$87,400 and, as of June 30, 2013, the outstanding accounts receivable balance totaled approximately \$12.1 million.

Finding 1

Collection efforts for certain accounts, and related recordkeeping, were not sufficient to ensure compliance with State regulations.

Analysis

Collection efforts for certain accounts, and related recordkeeping, were not sufficient to ensure compliance with State regulations.

- The Office did not issue dunning notices or forward certain accounts to CCU as required. As of December 23, 2013, there were 31,169 accounts totaling approximately \$7.8 million, due prior to January 2009, that were not subject to collection efforts (such as dunning notices and CCU referrals). A similar condition has been commented upon in our two preceding audit reports. Furthermore, our test of certain accounts due between December 2012 and July 2013 disclosed that not all accounts had been forwarded to CCU as required or had been forwarded late.
- The Office did not pursue collection of any receivables for which a judge ordered that the due date be deferred. For example, if a judge specified that court fees were due within 30 days of a defendant's release, BCSO did not record a due date

on the accounts receivable system since the defendant's release date was unknown. In April 2013, BCSO created a report that identified 10,390 open accounts totaling \$3.2 million with no due date recorded in the accounts receivable system. As of December 5, 2013, the Office had not updated the accounts receivable records, and no collections efforts had been performed for any listed accounts. A similar condition was commented upon in our preceding audit report.

CCU regulations generally require that three written demands for payment be made on accounts at 30-day intervals and, if no payments are received, the accounts be considered delinquent and immediately referred to CCU for collection assistance.

Recommendation 1

We recommend that the Office

- a. pursue collections via dunning notices, including the aforementioned \$7.8 million and receivables for deferred court fees, and forward delinquent accounts to CCU (repeat); and**
- b. maintain accounts receivable records which properly account for deferred court fees (repeat).**

Civil Court Fees

Finding 2

Adequate accountability and control had not been established over civil court fee collections.

Analysis

The Office lacked adequate accountability and control over civil court fee collections, which totaled \$1.2 million during fiscal year 2013.

- The Office did not review employee access capabilities to perform critical functions on its automated cash register system. We were advised by Office management that a report identifying the system functions that each user could perform had not been generated during our audit period. Upon our request, Office personnel generated a report that indicated that over 800 individuals (including individuals employed by other State agencies) had been granted access to this system, as of November 4, 2013. Our test of 30 employees who were assigned critical capabilities disclosed that 7 employees could perform incompatible functions. Specifically, these employees could both process civil court fee receipts and void the related transactions. In addition, 2 of these employees could process accounts receivable transactions including non-cash credits. A similar condition has been commented upon in our two preceding audit reports.

- Civil court fees received by mail were not restrictively endorsed immediately upon receipt. Rather, collections were processed by at least two employees before being restrictively endorsed. As a result, receipts could be misappropriated without detection.

Recommendation 2

We recommend that the Office

- periodically review employee access capabilities for the automated cash register system and ensure duties are properly separated (repeat),**
- take immediate action to address the specific access deficiencies noted above and restrict the assignment of critical system functions to employees who require such capabilities to perform their job duties (repeat), and**
- restrictively endorse checks immediately upon receipt.**

Jury Fund

Finding 3

The Office's procedures did not sufficiently ensure the propriety of disbursements to jurors.

Analysis

The Office did not sufficiently ensure the propriety of disbursements to jurors. As a result, jury fund disbursements could be misappropriated without detection. According to Office records, juror disbursements totaled approximately \$835,000 during fiscal year 2013.

- The supervisor who reviewed the daily cash disbursements for Petit Jury jurors, which totaled \$760,000 during fiscal year 2013, did not verify the disbursements to independent attendance records, such as to the check-in clerk's manual attendance log. Instead, the supervisor used an attendance report generated by the jury management system. This report may not be a sufficiently reliable source. Specifically, our review of access privileges to the system disclosed that all 18 employees, with system access, had the capability to both record attendance and issue related juror payments. We were advised by Office management that all 18 employees needed these capabilities, due to the limited number of personnel. Similar conditions regarding the failure to ensure the propriety of jury fund disbursements have been commented upon in our four preceding audit reports dating back to April 2002.
- The Office did not adequately segregate duties related to disbursements to Grand Jury jurors, which totaled \$75,000 during fiscal year 2013. Specifically, one employee was responsible for collecting attendance data, entering the related

payee (juror) information in the jury management system, and submitting information to the Baltimore City Finance Office for payment without independent review and approval.

Recommendation 3

We recommend that the Office

- a. use juror attendance records maintained by the check-in clerk to verify the propriety of Petit Jury disbursements (repeat); and**
- b. separate responsibilities for collecting Grand Jury attendance data and for processing and submitting information for payment, and ensure related disbursements are verified by an independent employee.**

Audit Scope, Objectives, and Methodology

We have audited the Office of the Clerk of Circuit Court for Baltimore City, Maryland for the period beginning September 13, 2010 and ending October 9, 2013. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Office's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included cash receipts (including taxes and fees collected for real estate transactions), accounts receivable, and bank accounts. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Office's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

Our audit included certain support services (such as cash deposits and payment of operating expenses) provided by the Office to the Office of the Trust Clerk for Baltimore City. However, our audit did not include certain support services provided to the Office by the Administrative Office of Courts. These support services (such as payroll, invoice processing, and maintenance of budgetary accounting records) are included within the scope of our audits of the Judiciary.

The Office's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to

future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Office's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations.

The Judiciary's response, on behalf of the Office, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Judiciary regarding the results of our review of its response.

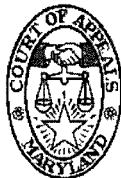
APPENDIX

STATE OF MARYLAND JUDICIARY DEPARTMENT OF INTERNAL AUDIT

ROBERT C. MURPHY COURTS OF APPEAL BUILDING
ANNAPOLIS, MARYLAND 21401

CHIEF JUDGE
MARY ELLEN BARBERA

DIRECTOR OF INTERNAL AUDIT
SSALI S. LUWEMBA



PLEASE REPLY TO:

580 TAYLOR AVENUE, A2
ANNAPOLIS, MARYLAND 21401
(410) 260-3673
FAX (410) 841-9849

May 19, 2014

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Barnickel:

We have received the Legislative Auditor's Draft Audit Report pertaining to the audit of the Office of the Clerk of the Circuit Court for Baltimore City, Maryland, for the period beginning September 13, 2010 and ending October 9, 2013. The following are our responses to the findings and recommendations:

Finding 1: Criminal Court Fees

We agree with the finding and recommendation.

- a. We will continue to pursue collections via dunning notices and forward delinquent accounts to the Central Collections Unit (CCU). Sometimes there are not sufficient resources to allow the Clerk's Office Accounting Department to review the cases that are to be sent to CCU, timely. Cases are not sent to CCU when there are pending motions or when the money is payable through parole and probation. Identifying these cases requires staff research. We are exploring options for the elimination of bills issued/due prior to January 2009. It has come to our attention that the Baltimore City Sheriff's Office sent out collections notices for these aged accounts. However, the language in the notices did not state that delinquent accounts may be sent to CCU for collection if not paid.
- b. We will research the cases for which a judge has ordered that the due date be deferred, identify due dates for defendants that have been released from incarceration, update the accounts receivable records, and initiate collection efforts.

Finding 2: Civil Court Fees

We agree with the finding and recommendation.

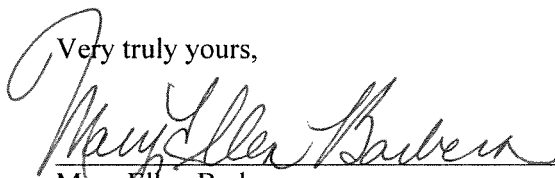
- a. When this issue was raised previously, it became the IT Specialist's function to review the UCS users report quarterly to ascertain if there were clerks with conflicting permissions. The IT Specialist performed this task until December 2012, when the incumbent left the Clerk's Office. No one was given the responsibility of reviewing this report quarterly, after the IT Specialist left. An IT Specialist was hired in April 2014, and the responsibility has been delegated to this employee. Additionally, as a checks/balance, the Human Resources Manager will relay to the IT Specialist weekly, the names of employees who separate from or are reassigned in the Clerk's Office so that their computer permissions can be revoked or modified.
- b. We will immediately address the access deficiencies and restrict the assignment of critical system functions to employees.
- c. In the Civil Division, checks were not endorsed immediately because of the volume of checks that were returned due to errors. In order to address this issue, the mail clerk will endorse all checks and the endorsement will be stricken on those checks that are to be returned to senders due to errors.

Finding 3: Jury Funds

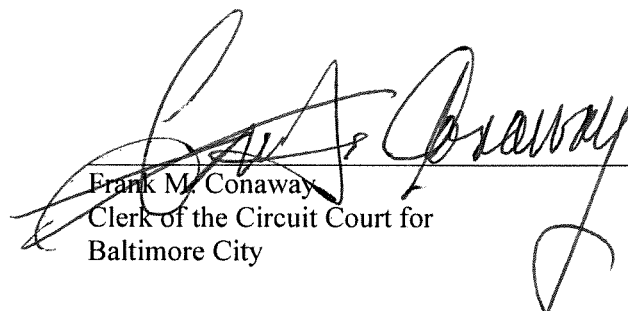
We agree with the finding and recommendation.

- a. Jury staff has been cross-trained to perform several jury related tasks which include paying jurors and registering juror attendance. This was necessary in order to maximize the efficient use of human resources. No employee is assigned to pay and register attendance to the same group of jurors on any given day. The Jury Plus system does not enable its users to discretely control access according to daily assignments. If Jury Plus cannot be modified so that access privileges can be adjusted daily, it is not economically practical to restrict one group of employees to pay jurors and another group to register attendance.
- b. Based on the recommendations made by our internal auditors in May of 2013, changes were made to the manner in which Grand Jury attendance and payroll were handled. Specifically, the Jury Office began using Jury Plus to process the Grand Jury payroll instead of using an Excel spreadsheet. These changes were found to be satisfactory in the May 2013 audit. During the current Legislative audit, it was recommended that a third person be engaged in the process. This recommendation was adopted immediately. Now one person records attendance, a second person signs an audit of payroll and a third person submits the final report for payroll.

Very truly yours,



Mary Ellen Barbera



Frank M. Conaway
Clerk of the Circuit Court for
Baltimore City

cc: Hon. W. Michel Pierson, Administrative Judge for Baltimore City
Pamela Q. Harris, State Court Administrator
Faye D. Matthews, Deputy State Court Administrator
Ssali S. Luwemba, Director of Internal Audit

AUDIT TEAM

Heather A. Warriner, CPA
Audit Manager

W. Thomas Sides
Senior Auditor

Nathan H. Suffin, CPA
Staff Auditor