

Audit Report

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

June 2011



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

June 3, 2011

Karl S. Aro
Executive Director

Bruce A. Myers, CPA
Legislative Auditor

Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Senator James C. Rosapepe, 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 January 1, 2008 and ending September 12, 2010. 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 adequate procedures and controls over criminal court case dispositions and related fees. For example, the Office did not adequately ensure that the dispositions of criminal cases were properly recorded in the State's automated court system and were properly reported to the appropriate correctional facility. In addition, the Office did not have a memorandum of understanding governing the collection and record keeping functions for criminal court fees, which had been delegated to the Baltimore City Sheriff's Office, and numerous deficiencies in the procedures and controls were noted. For example, as of June 30, 2010, 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. Furthermore, waivers of criminal court fees were not always adequately documented.

Finally, the Office did not have adequate procedures and controls over land record and civil court collections, cash disbursements to jurors, and the issuance of business licenses.

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,

Bruce A. Myers, CPA
Legislative Auditor

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

Background Information

Agency Responsibilities

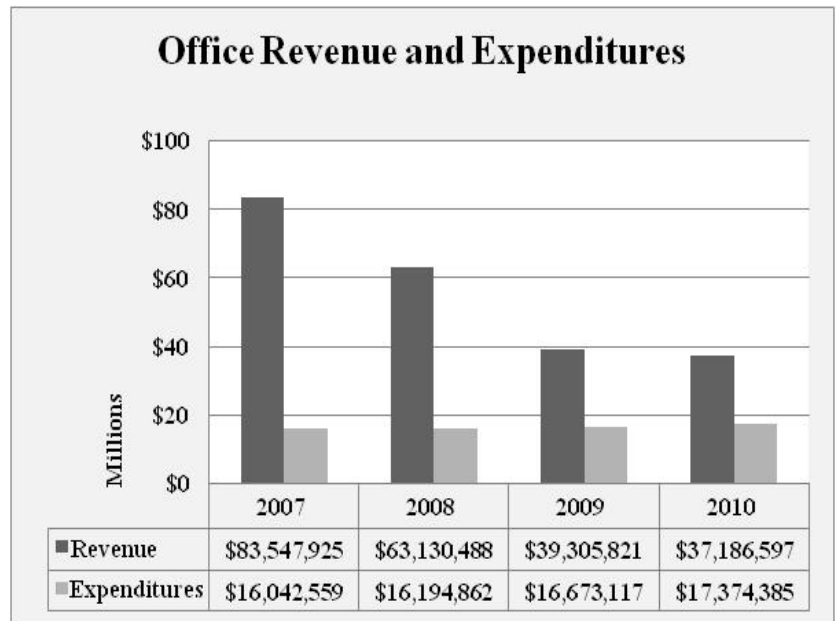
The Office performs a variety of functions for the public such as filing, docketing, and maintaining various legal records; recording documents involving title to real estate; collecting the related fees, commissions, and taxes; and issuing certain licenses. In performing these functions, the Office 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 2010 revenues and expenditures (paid primarily from a general fund appropriation) totaled \$37,186,597 and \$17,374,385, respectively. As noted in the chart below, revenues decreased significantly during the audit period. The decline was primarily due to a decrease in land transfer revenues.

Fiscal year 2010 revenues were distributed in the following manner:

- \$22,633,006 was distributed to Baltimore City,
- \$562,770 was distributed to others (such as Bar Library), and
- \$13,990,821 (remaining balance) represented revenues available to the State for purposes specified in various provisions of State law.



The Office also maintained custody of certain trust and special purpose funds that, according to its records, had balances totaling \$4,070,723 as of June 30, 2010.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the three findings contained in our preceding audit report dated August 12, 2008. We determined that the Office had not satisfactorily addressed these findings; therefore, these findings are repeated in this report.

Findings and Recommendations

Criminal Court Case Dispositions

Finding 1

The Office lacked adequate procedures to ensure that the dispositions of criminal cases were properly recorded.

Analysis

The Office lacked adequate procedures to ensure that the dispositions of criminal cases, including verdicts and court fees, were properly recorded. 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. Our review disclosed the following conditions:

- The docket sheet, case file, and commitment letters (when applicable) prepared by the courtroom clerk were not independently reviewed to ensure the case dispositions, including sentencing information and any fees, were proper. Although Office supervisors compared the information on the case file, docket sheet, and commitment letter for consistency, the review did not include any verification of the accuracy of the disposition information entered by the courtroom clerk, such as by comparing it to related courtroom transcripts. In this regard, we noted that such reviews are conducted in at least one other Office of the Clerk of Circuit Court in the State.

At the conclusion of a criminal case, the courtroom clerk records the disposition of the case (including sentencing information and fees) on the case file and on a docket sheet and prepares a commitment letter which is sent to the appropriate correctional facility as a record of the sentencing information. In addition, the information on the docket sheet is subsequently used to update the Judicial Information System (JIS). Since the information on the commitment letters and JIS is critical for public safety, an independent review is appropriate to ensure that all the dispositions are entered accurately. This would also ensure that fees are properly recorded. According to the Office's records, there were 17,929 criminal cases closed during fiscal year 2010.

- The Office did not adequately document judicial waivers of court fees (that is, court costs, fees, and penalties) from criminal cases with a guilty verdict. Based on the Office's fiscal year 2010 records, which we determined to be reliable for our purposes, we estimated that court fees of between \$1.1 million and \$1.3 million for approximately 7,500 criminal case appearances with a guilty verdict were not assessed. Although many of these fees might have been waived, the extent to which these cases were not assessed fees because

waivers were granted could not be substantiated due to the lack of documentation.

Our test of 25 of the cases for which no court fees were assessed disclosed that 3 lacked any documentation, such as on the docket sheets, that the fees were waived by the judge and, for the remaining cases, the only documentation of the waiver was a “W” entered on the docket sheet by the court clerk. In this regard, while the invoice form used by the courtroom clerk to bill for the court fees was also designed to document judicial waivers, the form was only being used when at least some court fees were assessed.

To some extent, implementing the necessary controls requires participation in the process by the Judiciary, which is outside the Office’s authority. Therefore, the Office will likely have to work with the Judiciary to establish the recommended controls.

Recommendation 1

We recommend that the Office

- a. ensure court dispositions are verified by supervisory personnel, at least on a test basis, to independent source documents, such as court transcripts; and**
- b. in conjunction with the Judiciary, ensure judicial waivers of court fees are documented.**

Criminal Court Fees

As previously mentioned, 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 longstanding court order, 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 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 the BCSO, criminal fee collections during fiscal year 2010 totaled \$178,950 and, as of June 30, 2010, the outstanding accounts receivable balance, according to BCSO aging reports, totaled approximately \$8.2 million (excluding receivables for which a judge ordered that the due date be deferred, as commented upon in Finding 3).

Finding 2

The Office lacked a formal agreement governing certain criminal court fee responsibilities delegated to the BCSO.

Analysis

The Office had not formalized the criminal court fee collection and distribution responsibilities delegated to the BCSO. Specifically, there was no memorandum of understanding (MOU) describing the specific responsibilities of each agency and providing for oversight of the delegated responsibilities. This is significant because, as noted in the subsequent finding, we identified numerous deficiencies with the procedures and controls over the criminal court fees at the Office and BCSO.

The Office's responsibility for collecting the fees is established in State law, which provides that "the Comptroller of the State shall require clerks of the court to collect all fees required to be collected by law." The law further provides that "a Sheriff shall collect the fees of a clerk, register, attorney, or other officer when requested to do so." Accordingly, the Office should exercise appropriate oversight to ensure collection and distribution responsibilities established in State law are being effectively administered in Baltimore City.

Recommendation 2

We recommend that the Office develop a memorandum of understanding with the BCSO that defines each party's responsibilities for the collection and distribution of the criminal court fees, and which contains provisions establishing appropriate oversight by the Office.

Finding 3

The Office and BCSO's procedures did not provide sufficient control over criminal court fee accounts receivable and related collections.

Analysis

Procedures and controls over criminal court fee accounts receivable and related collections were insufficient. Specifically, our review disclosed the following conditions:

- Two BCSO employees each had unilateral control over the accounts receivable records and the related collections. Specifically, these employees were responsible for recording amounts due on the BCSO accounts receivable system, collecting and depositing the related payments, posting the payments to the system, reporting payments and delinquent accounts to the Office, and determining the allocation and distribution of funds received. As a result, there was a lack of assurance that all receivables were properly recorded and that the related collections were processed correctly, deposited, and distributed.
- The control account maintained by the Office was not periodically reconciled to the corresponding detail records maintained by the BCSO. As of June 30, 2010, the accounts receivable balance according to the detail records totaled \$8,154,946 while the balance of the control account totaled \$1,677,262. Office management advised us that the difference related to older accounts that were never posted to the control account but lacked any documentation to support this assertion. Under these conditions, errors or other discrepancies could occur without timely detection. A similar condition was noted in our preceding audit report.
- The Office did not issue dunning notices and/or forward accounts to CCU as required. For example, as of June 30, 2010 accounts totaling \$7.8 million, due prior to January 2009, were not subject to any collection efforts (such as dunning notices and CCU referrals). A similar condition was noted in our preceding audit report.
- The Office did not pursue for collection 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, the BCSO did not record a due date on the accounts receivable system since the applicant's release date was unknown. While these accounts were recorded in the accounts receivable system, because due dates were not entered, the accounts did not appear on the aforementioned aging reports (that is, were not included in the \$8.2 million receivables balance) and thus were not subject to collection efforts. Furthermore, the Office did not track these cases to ensure that due dates were entered once the applicants were released and, accordingly, the Office was unable to readily determine the value of these deferred receivables.
- The Office did not have any procedures to ensure that the BCSO distributed collections in accordance with State law. Rather, the Office relied on the BCSO to allocate the funds based on its records without any independent verification.

Recommendation 3

We recommend the Office establish adequate procedures and controls over criminal court fee accounts receivables and related collections. Specifically, we recommend that the Office

- a. ensure that duties over accounts receivable record keeping and collections are properly segregated;**
- b. periodically reconcile the control account balance to the related detail records, and investigate any differences, including the aforementioned differences (repeat);**
- c. pursue collections via dunning notices, including the aforementioned \$7.8 million and receivables for deferred court fees, and forward delinquent accounts to CCU (repeat);**
- d. maintain accounts receivable records which properly account for deferred court fees; and**
- e. ensure the BCSO distributes collections in accordance with State law.**

Land Record and Civil Court Fees

Finding 4

The Office did not adequately control and safeguard land record and civil court fee collections.

Analysis

The Office lacked adequate procedures and controls over land record and civil court fee collections, which totaled \$32.9 million and \$1.4 million during fiscal year 2010, respectively. Specifically, our review disclosed the following conditions:

- The Office did not periodically review employee access capabilities to perform critical functions on its automated cash register systems. Our review of access capabilities during our audit period disclosed three individuals with system access capabilities who were no longer employed at the Office and two individuals who could process civil court fee receipts and void the related transactions. A similar condition was noted in our preceding audit report.
- Although we were advised by Office management that independent verifications of recorded collections to deposit were performed, such verifications were not documented. Specifically, our test of 11 deposits made during fiscal years 2010 and 2011 (5 for land record fees, and 6 for civil court fees) totaling approximately \$1.8 million, disclosed that none had any documentation of the deposit verification. We subsequently verified that these collections were, in fact, deposited by the Office.

- There was no accountability over pre-numbered receipt forms issued by the accounting office to other units. Collections were received in various units (such as land records) and forwarded to the accounting office for deposit. An accounting clerk issued a pre-numbered receipt to the units to document the transfer of the funds. However, the Office did not account for the pre-numbered receipts and did not use them in the deposit verification process. Rather, records of the units' collections that were handled by the clerk who issued the prenumbered receipt forms were used in the verification process. As a result, a unit could submit receipts to the accounting office for deposit and the funds could be misappropriated without detection.

Recommendation 4

We recommend that the Office

- a. periodically review employee access capabilities for the automated cash register systems and ensure duties are properly separated (repeat);**
- b. take immediate action to address the specific access deficiencies noted above and restrict user access to employees who require such access to perform their assigned job duties (repeat);**
- c. document the verifications of collections to deposit; and**
- d. include prenumbered receipt forms issued by the accounting office in the deposit verification process and account for them as to issued, voided, or on hand.**

Jury Fund

Finding 5

The Office did not reconcile cash disbursements to jurors with independent attendance records to ensure the propriety of the disbursements.

Analysis

The Office did not reconcile cash disbursements to jurors with independent attendance records to ensure that the disbursements were proper. Specifically, the employee from the accounting office who reviewed the daily jury fund disbursements did not verify them to independent attendance records, such as to the check-in clerk's copy of the attendance log. Rather, the employee compared them to the attendance records prepared by the individuals who processed the related juror payments. Accordingly, cash could be misappropriated without detection. According to agency records, juror disbursements totaled approximately \$1.1 million during fiscal year 2010.

Similar conditions regarding the failure to ensure the propriety of Jury Fund disbursements have been commented upon in our three preceding audit reports dating back to April 2002.

Recommendation 5

We recommend that the Office's accounting office use juror attendance records prepared and maintained by the check-in clerk who does not have access to fund cash to verify the propriety of all cash disbursements (repeat).

Business Licensing

Finding 6

Procedures and controls over business licensing were not comprehensive.

Analysis

Procedures and controls over business licensing were not comprehensive. During license year 2010, the Office issued 841 business licenses and renewed 4,019 licenses between March 22, 2010 and October 8, 2010. During fiscal year 2010, the Office collected \$1.6 million in business licensing fees, the vast majority of which was distributed to Baltimore City. Our review of the procedures and controls over the issuance of these licenses disclosed the following conditions:

- The Office did not document that entities applying for business licenses and license renewals had registered and filed the necessary paperwork with the State Department of Assessments and Taxation (SDAT). Applicants for a business license must be registered with SDAT. State law provides that applicants must obtain annual certification by SDAT of the value of the goods, fixtures, and stock in trade in each county where the business is located for the last calendar year for which the license is sought. We were advised that, for new applications, the Office verified that the applicant had registered with SDAT¹ but did not document the verification. To satisfy the annual certification requirement for renewal applications, we were advised that the clerks reviewed the inventory values of personal property return information in the Judiciary's licensing database. These inventory property values were interfaced from SDAT electronic records by the Judiciary, via the Comptroller; however, the inventory property values in the licensing database did not indicate the related year and there was no verification that the information in the licensing system was current. The property values are significant because the license fee for one of the licenses (trader's license) ranges from \$20 to \$2,125 per year based on the applicant's inventory property values. The Office issued and renewed 404 and 1,768 trader's licenses, respectively, between March 22, 2010 and October 8, 2010.

¹ Since a personal property return is not due until the conclusion of the year, there is no record of the value of personal property at SDAT for new applicants.

- License applications and renewals processed were not subject to independent verification. This is significant because the applications were generally processed unilaterally by individual clerks without any supervision and review. These verifications should be performed to ensure the propriety of the license issuances and that the proper licensing fees were charged. Furthermore, these clerks had the ability to modify critical information on the licensing database without any independent review and approval. For example, clerks could modify the inventory values in the licensing database.

Recommendation 6

We recommend that the Office

- a. establish procedures to document that new applicants have registered with SDAT;**
- b. work with the Judiciary to ensure renewal licenses are issued only to entities that have met the SDAT annual certification requirement; and**
- c. independently review and approve business licenses, at least on a test basis.**

Audit Scope, Objectives, and Methodology

We have audited the Office of the Clerk of Circuit Court for Baltimore City, Maryland, for the period beginning January 1, 2008 and ending September 12, 2010. 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.

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 court activities, cash receipts, accounts receivable, the jury fund, and business licenses. 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. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

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, processing of invoices, 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 findings relating to 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 audit also disclosed significant instances 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



ROBERT M. BELL
CHIEF JUDGE

COURT OF APPEALS OF MARYLAND
ROBERT C. MURPHY COURTS OF APPEAL BUILDING
361 ROWE BOULEVARD
ANNAPOLIS, MARYLAND 21401-1699

June 1, 2011

Mr. Bruce A. Myers, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Myers:

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 January 1, 2008 through September 12, 2010. The following are our responses to the audit findings and recommendations in the report:

Finding 1: Criminal Court Case Dispositions

We concur with the finding and recommendation.

- a. Supervisory personnel now verify court dispositions to independent source documents on a test basis each month.
- b. We are currently working with the Judiciary to devise an acceptable method of documenting judicial waivers of court fees. This new method and corresponding courtroom clerk procedures will be implemented August 31, 2011.

Finding 2: Criminal Court Fees

We concur with the finding and recommendation. The office will develop a memorandum of understanding (MOU) with the Baltimore City Sheriff's Office (BCSO). The MOU will define each party's responsibilities for the collection and distribution of criminal court fees. This MOU will also include provisions that establish appropriate oversight by the Clerk's office. The MOU will be in place by September 30, 2011.

Finding 3: Criminal Court Fees

We concur with the finding and recommendation.

- a. Criminal accounts receivable recordkeeping and collection duties will be adequately segregated. This segregation of duties issue will also be addressed in the forthcoming MOU with the BCSO.
- b. The Clerk's office criminal receivables control account will be regularly reconciled to the detail records maintained by the BCSO. Future reconciling differences will be investigated and resolved timely. Furthermore, the existing difference that is comprised of older accounts

- (prior to January 2009) is being analyzed. The Clerk's office is currently implementing corrective actions to resolve the older accounts reconciling difference.
- c. We will continue to pursue delinquent accounts for collection through dunning notices and referrals to CCU. However, some accounts in the \$7.8 million balance are excessively aged, as they originated over a decade ago or more. We will contact CCU and request guidance on how to address these aged accounts and deferred court fees that are currently on the BCSO detail records, but have not been pursued for collection.
 - d. The Clerk's office is developing procedures to maintain criminal receivable records that account for deferred court fees. Reports are received from the BCSO that account for receivables due upon the defendants' release from a correction facility.
 - e. The Clerk's office is developing procedures to independently verify that the BCSO distributes collections in accordance with State Law. This distribution issue will also be addressed in the forthcoming MOU with the BCSO.

Finding 4: Land Record and Civil Court Fees

We concur with the finding and recommendation.

- a. The Clerk's office has strengthened existing procedures and now reviews periodically employee access capabilities for the automated cash register systems to ensure that employee duties are appropriately segregated.
- b. The Clerk's office has taken necessary corrective action to address the user account deficiencies noted. User access is now restricted on the automated cash register systems to only those employees who require system access to perform their assigned job duties.
- c. The verification of collections to deposits is now documented by appropriate management personnel.
- d. The Clerk's office accounting department includes pre-numbered receipt forms in the deposit verification process. The forms are noted as issued, voided, or on hand.

Finding 5: Jury Fund

The accounting office uses juror attendance records prepared and maintained by the jury office check-in clerk, to reconcile cash disbursements to jurors. This clerk does not have access to jury fund cash.

Finding 6: Business Licensing

We concur with the finding and recommendation.

- a. The Clerk's office has established procedures to verify and document the verification to ensure that new trader's license applicants have registered with the State Department of Assessments and Taxation (SDAT).
- b. The Clerk's office will work with Judiciary management to ensure that renewal licenses are issued only to entities that have met the SDAT annual certification requirement.
- c. The Clerk's office now performs an independent supervisory verification of the review and approval of business license applications and renewals on a test basis.

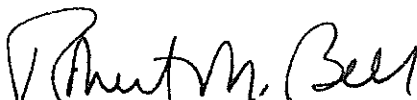
Mr. Bruce A. Myers
June 1, 2011
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Clarification of Transmittal Letter

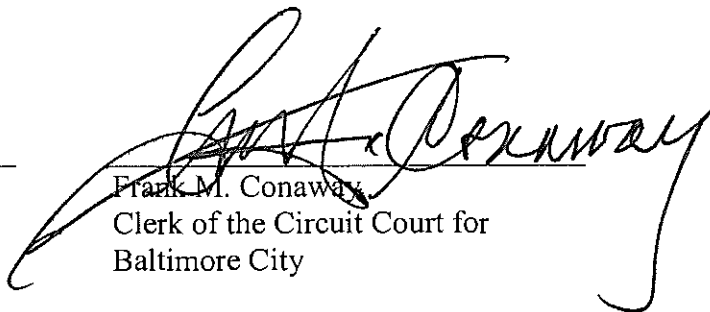
Your transmittal letter to the subject audit contained some statements which need clarification regarding collection of criminal cost fees. Specifically, it states that “for example, as of June 30, 2010, outstanding accounts totaling \$7.8 million, due prior to January 2009, had not been subject to **any collection efforts.**” There have been attempts by the Baltimore City Sheriff’s office and the Division of Parole and Probation to collect court fines and costs on behalf of the court. It should also be noted that the \$7.8 million figure is an accumulation of uncollected fines and costs over five decades.*

Historically, it was the practice of the Baltimore City Sheriff’s office to issue warrants for persons who had outstanding debts with the court, and warrants were issued for these debts well into the 2000’s. The practice ceased when the court began using the Central Collection Unit (CCU) to collect these debts as it was one of the CCU’s criteria for collection of a debt that there not be a warrant outstanding on the debt to collect it. Also, prior to our establishing a relationship with the CCU, when a parolee was found to have a debt with the court, the Division of Parole and Probation considered that person to be in violation of probation.

We believe we have responded in full to all the findings and recommendations in the audit report.



Robert M. Bell



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

- cc: Hon. Marcella A. Holland, Administrative Judge
Frank Broccolina, State Court Administrator
Faye Matthews, Deputy State Court Administrator
Ssali S. Luwemba, Director of Internal Audit

***Auditor’s Comment:** The transmittal letter has been modified to clarify that no documentation of collection efforts, in accordance with State regulations, were presented during the audit.

AUDIT TEAM

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