

Audit Report

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

July 2018



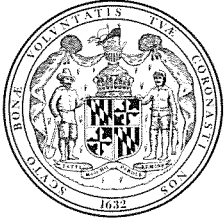
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
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Thomas J. Barnickel III, CPA
Legislative Auditor

July 24, 2018

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate C. William Frick, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Office of the Clerk of Circuit Court for Baltimore City, Maryland for the period beginning October 10, 2013 and ending September 25, 2017. 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 corrected certain longstanding deficiencies regarding the collection of delinquent criminal court fees, fines, and penalties which have been included in audit reports dating back to 2008. For example, as of November 2017, there were 30,150 outstanding accounts totaling \$7.6 million due prior to January 2008 that had not been forwarded to the Department of Budget and Management's Central Collection Unit in accordance with State regulations.

Our audit also disclosed that the Office did not adequately record, safeguard, and control land record tax and civil court fee collections. For example, unrecorded collections were placed in open baskets throughout the day and were accessible to all Office employees. Finally, the Office did not sufficiently control disbursements of juror stipends.

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,

A handwritten signature in black ink, appearing to read "T. J. Barnickel III". The signature is fluid and cursive, with a distinct loop at the end.

Thomas J. Barnickel III, CPA
Legislative Auditor

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

Background Information

Agency Responsibilities

The Office of the Clerk of Circuit Court for Baltimore City (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.

This audit report also includes the operations of the Office of the Trust Clerk to the Circuit Court for Baltimore City, which was previously audited and reported upon separately. The Office of the Trust Clerk oversees the administration of guardianships, estates, trusts, and receiverships under the jurisdiction of the Circuit Court for Baltimore City.

Financial Information

According to the State's accounting records, the Office's fiscal year 2017 revenues totaled \$28,760,903. These revenues were distributed in the following manner:

- \$2,014,908 was distributed to Baltimore City,
- \$493,607 was distributed to others, and
- \$26,252,388 (the remaining amount) represented revenues available to the State for purposes specified in various provisions of State law.

The Office's fiscal year 2017 operating expenses, which were paid primarily from a general fund appropriation, totaled \$21,137,617.

The Office also maintained custody of certain trust and special purpose funds that, according to its records, had balances totaling \$1,222,065 as of September 30, 2017.

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 of the Office of the Clerk of Circuit Court for Baltimore City dated May 27, 2014. We determined that the Office satisfactorily

addressed two of these findings. The remaining finding is repeated in this report. Our preceding audit report of the Office of the Trust Clerk to the Circuit Court for Baltimore City, dated January 6, 2014, did not contain any findings.

Findings and Recommendations

Criminal Court Fees

Finding 1

Collection efforts for criminal court fees, fines, and penalties, and the related recordkeeping, were not sufficient to ensure compliance with State regulations.

Analysis

Collection efforts for criminal court fees, fines, and penalties, and the related recordkeeping, were not sufficient to ensure compliance with State regulations. As allowed by State law, and pursuant to a memorandum of understanding with the Office of the Clerk of Circuit Court for Baltimore City, 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 is responsible 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.

- As of November 2017, the Office had not forwarded to CCU 30,150 outstanding accounts totaling approximately \$7.6 million that were due prior to January 2008. These accounts have been commented upon in our three preceding audit reports. Furthermore, the Office suspended sending any accounts to CCU in June 2017. We were advised by Office management that this was a temporary suspension in an effort to establish new procedures. However, as of December 1, 2017, the Office had not established the procedures and had not referred any of these accounts. According to Office records, there were 244 accounts totaling \$41,797, with billing dates between March and September 2017, that should have been referred to CCU as of December 1, 2017.
- 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 after a defendant's release, the BCSO did not record a due date on the accounts receivable system since the defendant's release date was unknown. According to a BCSO report, as of June 2017, accounts totaling \$3.2 million did not have a due date in the accounts receivable system. A similar condition was commented on in our two preceding audit reports.

According to records maintained by the Office, as of June 30, 2017, the outstanding accounts receivable balance for criminal fees totaled approximately \$12.5 million. The Office's approved deviation from CCU regulations provides that the Office will send a collection notice 30 days after the account is due, and if payment is not received within 15 days, it will refer the account to CCU for collection assistance.

Recommendation 1

We recommend that the Office

- a. forward all delinquent accounts, including the aforementioned \$7.6 million and \$41,797 to CCU (repeat); and**
- b. in conjunction with BCSO, pursue collection efforts and properly account for deferred court fees (repeat).**

Land Record Tax and Civil Court Fees

Finding 2

The Office lacked adequate controls to account for and safeguard land record tax and civil court fee receipts.

Analysis

The Office lacked adequate controls over land record tax and civil court fee receipts. As a result, receipts could be misappropriated without detection. During fiscal year 2017, land record and civil court fees totaled \$22.7 million and \$2.7 million, respectively. Our review of the procedures and controls over the mail and walk-in collections of these fees disclosed the following conditions:

- Collections received by mail were not recorded and/or restrictively endorsed immediately upon receipt. Specifically, civil court fees received by mail were processed by at least two employees before being recorded and restrictively endorsed, sometimes two days later. In addition, land record receipts received by mail were processed by at least two employees before being recorded.
- Collections were not adequately safeguarded. Specifically, unrecorded land record and civil court receipts received by mail were placed in open baskets throughout the business day, which were accessible to all Office employees. In addition, seven employees had access to land record fees that were placed in a safe overnight. Furthermore, unrecorded civil court fees were placed in a locked box overnight, the key to which was maintained in a nearby unsecure cabinet.

- Verifications to ensure all collections were subsequently deposited were performed by an individual who had access to the related collections.

The Comptroller of Maryland's *Accounting Procedures Manual* requires agencies to immediately record and restrictively endorse collections, safeguard cash receipts, and perform deposit verifications by an employee who is independent of the cash receipts process.

Recommendation 2

We recommend that the Office

- a. record and restrictively endorse all checks immediately upon receipt,**
- b. safeguard all collections prior to deposit by maintaining them in a secure location and restricting access to the safe and locked box, and**
- c. ensure that deposit verifications are performed by an employee who does not have access to collections.**

We advised the Office how to accomplish the necessary separation of duties utilizing existing personnel.

Jury Fund

Finding 3

The Office did not sufficiently ensure the propriety of juror stipends.

Analysis

The Office did not sufficiently ensure the propriety of stipends disbursed to Petit and Grand Jury jurors. As a result, jury fund disbursements could be misappropriated without detection. According to Office records, Petit and Grand Jury juror disbursements totaled approximately \$1.3 million and \$75,000 during fiscal year 2017, respectively.

- The employee responsible for verifying the propriety of first day juror fund disbursements for Petit jurors could also process the related disbursements. Jurors in attendance each day receive a cash payment for their daily jury service. The Office's automated system did not have the capability to segregate critical duties (including recording jurors as attended and processing the related payment). Therefore, the Office established a procedure for an employee to verify that these two functions had been performed by two different employees. However, the employee performing this verification also had this system access and, therefore, could record an absent juror as present, process the related payment, and misappropriate the funds without detection.

Similarly, controls over payments to returning jurors were inadequate because the same employee who paid the jurors also recorded the attendance, and there was no compensating independent review of the transactions.

- The Office did not independently verify the propriety of payments to Grand Jury jurors. Grand Jury juror payments are processed by the Baltimore City Finance Office on a bi-weekly basis. Our review disclosed that the employee who entered jury attendance into the Office's system could also modify the jurors' addresses and was responsible for notifying the Baltimore City Finance Office to process the payments. There was no independent review and approval of these payments. As a result, the employee could record an absent juror as present, modify the juror's address, notify the Baltimore City Finance Office to process the payment, and misappropriate the funds without detection.

Recommendation 3

We recommend that the Office establish procedures to ensure that an independent employee verifies the propriety of all juror payments.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Office of the Clerk of Circuit Court for Baltimore City, Maryland for the period beginning October 10, 2013 and ending September 25, 2017. 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 significance and risk. The areas addressed by the audit included cash receipts (including taxes and fees collected for real estate transactions) and bank accounts. We also determined the status of the findings contained in our preceding audit report, as well as on the preceding audit report on the Office of the Trust Clerk to the Circuit Court for Baltimore City.

Our audit did not include a review of certain support services provided to the Office by the Administrative Office of the Courts. These support services (such as payroll and invoice processing, and maintenance of budgetary accounting records) are included within the scope of our audits of the Judiciary.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of the Office's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected. We also performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

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 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 significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the Office that that did not warrant inclusion in this report.

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

CIRCUIT COURT FOR BALTIMORE CITY

Clerk's Office

Room 412 Courthouse East

111 N. Calvert Street

Baltimore, Maryland 21202



Marilyn Bentley
Clerk

(410) 333-3733

July 12, 2018

Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, MD 21201

Dear Mr. Barnickel:

We have received the Legislative Auditor's Draft Report pertaining to the audit of the Office of the Clerk of the Circuit Court for Baltimore City, Maryland for the period beginning October 10, 2013 and ending September 25, 2017. The following are our responses to the audit findings and recommendations in the report:

Finding 1: Criminal Court Fees

We concur with the finding and recommendation.

- a. The Circuit Court Clerk's Office developed a statement of Procedures for Processing Delinquent Criminal Fines and Costs for the Baltimore City Circuit Court to follow. This statement was approved by the Administrative Judge for Baltimore City. The Clerk's Office has analyzed the excessively aged criminal accounts receivable and is currently ready to forward to CCU, including the aforementioned \$7.6 million and \$41,797 accounts. If a bill is not eligible to be forwarded to CCU, it will be deemed uncollectible. Transmittals to CCU for October 2017 through January 2018, in the amount of \$12,793.50, have been sent.
- b. We have produced a database for the delinquent accounts and pursued collection through dunning notices. The database will be used, in conjunction with the BCSO, to properly account for deferred court fees and to forward delinquent accounts to CCU. The deferred court fees were being addressed until the court lost access to the Criminal Justice Information Services system in February 2016. Access has not been restored. Since the actual release date is not known when an individual is incarcerated, going forward, the office will calculate a due date based upon the maximum sentence expiration date. We will work to have CJIS access restored.

Finding 2: Land Record Tax and Civil Court Fees

We concur with the finding and recommendation.

- a. We will immediately upon receipt record and restrictively endorse all checks.

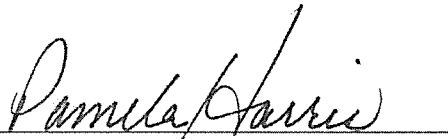
- b. The Clerk's Office has taken corrective action to safeguard all collections prior to deposit by maintaining collections in a secure location and restricting access to the safe and lock box. Locking file units will be purchased to secure collections prior to recording with restricted access to the keys to these units.
- c. The Clerk's Office has modified procedures to ensure that deposit verifications are performed by an employee who does not have access to collections.

Finding 3: Jury

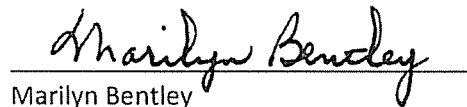
We concur with the finding and recommendation. An employee from another unit is assigned to verify the propriety of all juror payments.

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

Sincerely,



Pamela Q. Harris
State Court Administrator



Marilyn Bentley
Clerk of the Circuit Court, Baltimore City

Cc: Hon. Mary Ellen Barbera, Chief Judge
Hon. W. Michel Pierson, Administrative Judge
Faye D. Gaskin, Deputy State Court Administrator
Stephane J. Latour, Managing Legal Counsel/Internal Affairs
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