

Audit Report

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

October 2022



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

Joint Audit and Evaluation Committee

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

October 17, 2022

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Mark S. Chang, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation 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 September 26, 2017 and ending October 15, 2021. 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 March 2021, 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. Also our audit disclosed that the Office did not have adequate controls over land recordation, licensing, and civil court fee collections.

Our audit also included a review to determine the status of the three findings contained in our preceding audit report. We determined that the Office satisfactorily addressed two of these findings, with the remaining finding repeated in this report, as noted above.

The Judiciary's response to this audit, on behalf of the Office, is included as an appendix to this report. We reviewed the response to our findings and related

recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by the Office. We also wish to acknowledge the Judiciary's and the Office's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a prominent loop at the end of the last name.

Gregory A. Hook, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Office is organized into several divisions, including the Trust Clerk, and 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 to the applicable entities.

Financial Information

According to the State's accounting records, the Office's fiscal year 2021 revenues totaled \$27,424,560. These revenues were distributed in the following manner:

- \$1,764,936 was distributed to Baltimore City,
- \$237,859 was distributed to others, and
- \$25,421,765 (the remaining amount) represented revenues available to the State for purposes specified in various provisions of State law.

The Office's fiscal year 2021 operating expenses, which were paid primarily from a general fund appropriation, totaled \$23,517,805.

The Office also maintained custody of certain trust and special purpose funds that, according to its records, had balances totaling \$2,440,504 at the 2021 fiscal year end.

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 July 24, 2018. As disclosed in Figure 1 on the following page, we determined that the Office satisfactorily addressed two of these findings. The remaining finding is repeated in this report.

**Figure 1
Status of Preceding Findings**

Preceding Finding	Finding Description	Implementation Status
Finding 1	The Office’s collection efforts, and related recordkeeping were not sufficient to ensure compliance with State regulations.	Repeated (Current Finding 1)
Finding 2	The Office lacked adequate controls to account for and safeguard land record tax and civil court collections.	Not repeated
Finding 3	The Office did not sufficiently ensure the propriety of juror stipends.	Not repeated

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 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 (Office), 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. According to records maintained by the BCSO, as of June 30,

2021, the outstanding accounts receivable balance for criminal court fees totaled approximately \$12.7 million.

- The Office did not refer certain accounts to CCU as required. In March 2021, the Administrative Judge for the Circuit Court signed two Administrative Orders stating that accounts with balances prior to January 2008 were uncollectible. According to records maintained by BCSO, as of March 2021, these orders related to 30,150 accounts totaling \$7.6 million. Our review as of March 2022, disclosed that the Office had not referred 22,750 of these accounts totaling \$6.2 million to CCU.

State regulations require accounts deemed uncollectible by an agency to be referred to CCU for additional collection efforts, such as tax refund intercepts. We were advised by Office management that it is in the process of reviewing the accounts. A similar condition regarding uncollectible accounts has been commented upon in our four preceding audit reports dating back to August 2008.

- The Office did not pursue collection of approximately 10,400 accounts totaling \$3.2 million in receivables whose due date was deferred by a judge. For example, if a judge specified that court fees were due after a defendant's release, a due date was not always recorded on the accounts receivable system since the defendant's actual release date was unknown. The Office did not periodically monitor these deferred accounts in order to identify and record any due dates.

A similar condition has been commented upon in our three preceding audit reports dating back to June 2011. According to Office management, it had taken certain actions to pursue the collection of the 10,400 accounts, but we found those actions to be inadequate. Specifically, in response to our most recent report, the Office investigated 5,700 accounts totaling \$2.2 million and either determined the defendant's release date or determined the account was uncollectible, and updated the related accounts receivable records accordingly. However, as of January 2022, the Office had only sent dunning notices for approximately 50 of these accounts. Further, we were advised by Office management that, as of January 2022, the Office had identified release dates for an additional 4,700 accounts; however, the related accounts receivable records did not have due dates posted. According to Office records, as of June 2021, the 4,700 accounts totaling \$1 million did not have a due date in the accounts receivable system.

Recommendation 1

We recommend that the Office

- a. forward all delinquent accounts, including those determined to be uncollectible and noted above, to CCU (repeat); and**
- b. periodically monitor, pursue collection efforts, and account for deferred court fees (repeat).**

Land Recordation, Licensing, and Civil Court Fees

Finding 2

The Office lacked adequate controls over land recordation, licensing, and civil court fee collections.

Analysis

The Office lacked adequate controls over land recordation, licensing, and civil court fee collections. As a result, receipts could be misappropriated without detection. During fiscal year 2021, the land recordation, licensing, and civil court fees totaled \$22.5 million, \$2.1 million, and \$3.2 million, respectively. Our review of the procedures and controls over the mail and walk-in collections of those fees disclosed the following conditions:

- Collections received by mail for land recordation, licensing, and civil court fees were not properly controlled. Specifically, checks received for land recordation and licensing were not restrictively endorsed immediately upon receipt. In addition, the Office did not consistently document the transfer of the three types of collections between employees for further processing and deposit, to establish accountability over the funds.
- The Office did not perform proper deposit verifications for land recordation, licensing, and civil court fees. While an independent deposit verification was performed, the employee performing the verification did not use the initial record for all collections. Rather, the employee used summary reports from the Office's automated systems, which were generated after the initial receipt occurred. As a result, there was a lack of assurance that these fees were subsequently deposited.

The Comptroller of Maryland's *Accounting Procedures Manual* requires agencies to establish adequate controls over collections. For example, agencies should immediately restrictively endorse collections and perform deposit verifications using initial source documents.

Recommendation 2

We recommend that the Office

- a. restrictively endorse all checks immediately upon receipt,**
- b. document the transfer of collections to establish accountability over the collections, and**
- c. ensure the initial record of collections is used in the independent deposit verification process.**

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 September 26, 2017 and ending October 15, 2021. 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), certain payroll activities, and bank accounts. We also determined the status of the findings contained in our preceding audit report.

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 human resources and payroll activities, invoice processing, and maintenance of budgetary accounting records) are included within the scope of our audits of the Judiciary.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of September 26, 2017 to October 15, 2021, but may include transactions

before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of the Office's operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us 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. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to the Office, were considered by us during the course of this audit.

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 report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the Office that did not warrant inclusion in this report.

The response from the Judiciary, 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

October 7, 2022

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
The Warehouse at Camden Yards
351 West Camden Street, Suite 400
Baltimore, Maryland 21201

Dear Mr. Hook:

We have received the draft audit report pertaining to the Baltimore City Circuit Court Clerk's Office for the period September 26, 2017 and ending October 15, 2021. The attached document contains our responses to the findings and recommendations in the audit report.

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

Sincerely,

Handwritten signature of Pamela Q. Harris in blue ink, written over a horizontal line.

Pamela Q. Harris
State Court Administrator

Handwritten signature of Marilyn Bentley in black ink, written over a horizontal line.

Marilyn Bentley
Clerk of the Circuit Court for
Baltimore City

Cc: Hon. Matthew J. Fader, Chief Judge
Hon. Audrey J.S. Carrion, Administrative Judge, Baltimore City Circuit Court
Nancy Faulkner, Deputy State Court Administrator
Stephane J. Latour, Managing Legal Counsel, Internal Affairs
Solomon Ayele, Director, Internal Audit

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

Agency Response Form

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.

We recommend that the Office

- a. forward all delinquent accounts, including those determined to be uncollectible and noted above, to CCU (repeat); and
- b. periodically monitor, pursue collection efforts, and account for deferred court fees (repeat).

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	Included in the two Administrative Orders were accounts with balances prior to January 2008 which include account balances that have been paid, were referred to P & P by the court, court abated, court waived, expunged, account balance less than \$30, and other status that would render the account not suitable for referral to CCU. There are no social security numbers for these cases. The Clerk's Office cannot update the data maintained by the City for the Sheriff's Office.		
Recommendation 1a	Agree	Estimated Completion Date:	Pending CCU decision
Please provide details of corrective action or explain disagreement.	The Office of the Clerk of the Circuit Court for Baltimore met with Managers from CCU in September 2022. At that meeting the Clerk's Office requested abatement of the excessively aged cases, that is, from 1961 through 2007 criminal costs and fines. A response is pending.		
Recommendation 1b	Agree	Estimated Completion Date:	Implementation of MDEC
Please provide details of corrective action or explain disagreement.	The Clerk's Office monitors the accounts receivable files and is working to assume the accounts receivable function for criminal costs and fines from the Baltimore City Sheriff's Office in preparation for MDEC. There is work in progress to correct the data and to incorporate the corrected data in electronic court records and an accounts receivable system. Periodically cases are sent to CCU.		

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

Agency Response Form

Land Recordation, Licensing, and Civil Court Fees

Finding 2
The Office lacked adequate controls over land recordation, licensing, and civil court fee collections.

We recommend that the Office

- a. restrictively endorse all checks immediately upon receipt,
- b. document the transfer of collections to establish accountability over the collections, and
- c. ensure the initial record of collections is used in the independent deposit verification process.

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	During the Covid 19 pandemic, the City of Baltimore Offices closed. Documents cannot be processed without clearance from the City Finance Office. Documents were not processed timely. When Baltimore City Offices resumed operations there was a significant backlog. Bulk transfers of land records documents are hand delivered late in the day usually once a week. Checks are endorsed when the mail is opened and sorted in date order received. Frequently there are three to eight bins of mail. Unopened mail that is/was received is secured in a safe until such time the division can process it. When mail is opened, it is endorsed and sorted. Additionally, due to Covid 19 and many restrictions such as building closings and reduced staff, mail from the USPS was delayed, courthouse drop boxes were created (which required a 48 hour hold before recipient delivery per Covid 19 protocols) and Baltimore City government also had significant delayed processing.		
Recommendation 2a	Agree	Estimated Completion Date:	Effective immediately
Please provide details of corrective action or explain disagreement.	All checks for the Clerk’s Office will be restrictively endorsed immediately upon receipt.		
Recommendation 2b	Agree	Estimated Completion Date:	Effective immediately

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

Agency Response Form

Please provide details of corrective action or explain disagreement.	The transfer of document collections will be documented.		
Recommendation 2c	Agree	Estimated Completion Date:	Effective immediately
Please provide details of corrective action or explain disagreement.	The initial record of mail collections will be used in the independent deposit verification process.		

AUDIT TEAM

Heather A. Warriner, CPA
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