

**Collier County
Clerk of the Circuit Court
Internal Audit Department**

Management Advisory 2005 - 01

To: Dwight E. Brock, Clerk of the Circuit Court 
From: Ilonka E. Washburn, Lead Senior Internal Auditor
CC: Patrick Blaney, Director of Internal Audit 
Date: 12/16/04
Re: Article V - Collections

Article V - Collections

BACKGROUND

Article V of the Florida Constitution provides for the judicial branch of state government, including its structure, functions, responsibilities and governance. Significant changes were made to Article V in 1972, when Florida voters approved a major court restructuring to provide for a more unified and cohesive trial court system. The 1972 amendment designated funding responsibilities of the counties, the state, and court users. Over time, as the Office of Program Policy Analysis and Government Accountability (OPPAGA) reported, *"state and county governments disagreed on how much each should contribute; county governments believed that the state should assume a larger share of the cost that occurred."* According to the Florida Association of Counties, to this end, after *"20 years of unsuccessful pleading with the Legislature to assume more of the costs of its court system, Florida county leaders were compelled to pursue an amendment to the state constitution."* This amendment, referred to as Revision 7, was passed in 1998 and assigns specific cost responsibilities to the state.

The amendment gave the state four years to implement Revision 7, primarily due to the fact that no one had ever collected the data required under the revision. The data are necessary to create the funding formulas, i.e., to produce the units of dollars to fund the court system and the correlating amounts to be collected. A cost analysis was conducted to determine the intake required to effectively fund the system. Once the costs were determined it became obvious that the Clerks are faced with the tasks of increasing revenue. The historical formula to increase revenue is to increase output, decrease costs and/or increase efficiency. The limitations faced by the Clerks are that they are not in a position to increase production or marketing, or decrease costs, but are limited to the collection of fines and fees. As growth and collections are not in the hands of the Clerk, the only alternative to increasing revenue is to improve efficiency. The Clerk of the Circuit Court in Collier County has therefore asked his Internal Audit Department to review applicable departments to determine possibilities of increasing efficiency.

AUDIT OBJECTIVES & SCOPE

The specific objectives of this review were to evaluate procedures, applicable statutes and appropriate Article V revisions.

The scope of this advisory was limited to determine the compliance to presently revised Article V and appropriate statutes.

FINDINGS:

1. One time administrative fee vs. monthly payment fee

Florida Statute 28.24 states that clerks may impose either a per-month service charge or a one-time administrative processing service charge at the inception of the payment plan. Presently the collections department charges the one-time administrative processing charge of \$25.00 as per Statute 28.24(26)(c). However, past payment history indicates that defendants entering into a payment plan have no incentive to pay off their debt other than in the least amount possible without incurring the wrath of the system. By adding an additional \$5.00 each month, defendants would have the incentive to ensure payment not only occurs as set up in the payment plan but as promptly as possible.

RECOMMENDATION:

The monthly supplemental fee could be automatically added on the defendant's charges by integrating a continuous 30-day module into the system currently under development. The month/30 days would begin the day the defendant signs the collections contract, and the system would either tag each file at the completion of said 30 days with the clerk then manually adding \$5.00 to the defendant's charges, or ideally the new system would include a module automatically calculating the totals with additional fees incorporated. As tracking of payments will be more detailed for Article V purposes, the implementation of monthly processing fees could then be reassessed after a predetermined time period to determine cost-benefit feasibility.

Collections Director's Response:

The decision to implement the one time fee was a management decision following the enactment date for Article V legislation. Though there are numerous contracts, which exceed the five month period covered by the one-time fee without the implementation of an enhanced criminal computer system, the programming necessitated by this change would far exceed the benefits to be gained at this time. We will continue to evaluate our options regarding your suggestion in order to ensure optimization of revenue.

MIS Director's Response

The facility does not exist in the present system and if the user desires, can be added to the new system.

2. Implement credit card payments

Presently the collections system is set up to accept cash, money order, or check payments. This precipitates cash in hand. However, today's society is a debt society. Management should explore the financial feasibility of accepting credit cards as many smaller debts could then be collected immediately. Should defendants be unable to initially pay the entire amount owed they could nevertheless use the credit card system for an initial down payment. It would also aid in the monthly collection of payments as defendants could take advantage of paying by credit card. The handling costs associated with the use of credit cards could be offset by researching the market for no-cost systems, or by allowing the defendants to pay the incurred credit card charges in addition to the \$5.00 monthly fee applicable if under multiple months contract.

RECOMMENDATION:

Set up a system allowing credit card collections either through an add on cost to compensate for additional credit card collection cost, or by implementing a system as explained below that incurs no additional cost to the Clerk of Courts. If payment by credit card is not for the entire amount the additional monthly fee of \$5.00 (as discussed in Finding 1) determined through statute should be added as well.

The Collier County Tax collector implemented a credit card system that incurred an initial cost to them without any recurring costs. The credit card system contracted is called Point and Pay and has several options. The all-inclusive package is a system that includes a "Central" system, providing the ability to accept over the counter, person-to-person credit card payment; an interactive voice response (IVR), and "Internet" use. IVR can be used through any telephone including payphones. It allows the credit card holder to dial a telephone number, reach a prerecording and follow directions inputting necessary credit card information and payment address to allow for payment to be made. It also allows the cardholder to pay through the Internet by accessing the tax collectors website and finding an "Online Payments" access on their homepage. The Point and Pay system has an initial cost to the contracted party but is then compensated by charging the user – credit card holder a convenience fee of 2.95% with a minimum of \$2.00 charged directly to the credit card at time of processing. The Point and Pay system can be downloaded to the individual system through the Internet and can be added to the Clerk's website through an access created on the homepage or the individual department sites. Once the Online Payments access is clicked the public is made aware of the additional fees charged by Point and Pay and once forwarded to the Point and Pay website fees are pointed out again.

Collections Director's Response:

We agree. The implementation of the Point and Pay system is the highest priority. We are moving as expeditiously as possible to have this done. A contract is being examined as we write for providing the suggested capabilities.

MIS Director's Response

We are in contract negotiations with Point and Pay. We expect to go live within a couple of months.

3. Implement system intercept to allow electronic transfer of arrest records

Presently the collections department receives 24-hour lists from the Sheriff's office. These lists are in essence records of people arrested within the last 24 hours. The Collections department receives and reviews those lists daily, in addition to prison transfer lists. The 24 hour and prison transfer lists are reviewed for defendants that are under contract with the Collections department. The collections staff will not only review these lists for defendants under contract but also ensure that they are in fact the same defendant. Often name recognition is not sufficient and a more detailed analysis of Social Security number or other identifying factors has to be established and confirmed. This task takes hours and seems redundant given the possibilities of today's electronic transfers.

RECOMMENDATION:

As the Clerk is undergoing systems changes it would be more productive to install a module into the new system that would allow the Sheriff's office to electronically transfer either individual booking sheets or said arrest lists directly to the Collections department. Those lists could then be intercepted by the system and programmed to identify the defendants under contract in the system, tag said defendants and alert the collections department. The Collections department would then receive only an updated systems alert for actual defendants incarcerated rather than spend time with the identification of all arrested defendants.

Collections Director's Response:

We agree. The duplicate entering of date is inefficient and prone to error. In addition it delays a number of tasks that are best accomplished as soon as can be done. Our experience indicates that the best payment ratios are achieved when the defendant first enters the court process. Records show the greater the delay in collections effort, the poorer the collection rate. This capability will be implemented as a part of an integrated criminal information system.

MIS Director's Response

We have a grant from FDLE to supply the data identified. We will follow the user's direction as to how to the data is be used in the new system.

CONCLUSION

Productivity and efficiency could be increased for the Collections department if the planned court system is implemented as soon as feasible. Implementing Statute 29.008 (1)(f)2 would aid in the achievement of all before mentioned recommendations:

All computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services including any county-funded support staff located in the offices of the circuit court, county courts, state attorneys, and public defenders, training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state attorneys, and the offices of the clerks of the circuit and county courts and the capability to connect those entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by July 1, 2006, and, at a minimum, permit the exchange of financial, performance accountability, case management, case disposition, and other data across multiple state and county information systems involving multiple users at both the state level and within each judicial circuit and be able to electronically exchange judicial case background data, sentencing scoresheets, and video evidence information stored in integrated case management systems over secure networks. Once the integrated system becomes operational, counties may reject requests to purchase communication services included in this subparagraph not in compliance with standards, protocols, or processes adopted by the board established pursuant to s. 29.0086.

The Collections department staff is consistently rechecking previously input data for correctness as well as resetting contract expiration dates. Once an extraordinary payment is entered into the system the contract expiration date is extended and the Collections staff has to manually reenter the correct date. The Enforcement (ENF) system was created previously for the Collections department but was never completed efficiently. It still requires a lot of manual input and does not update continuously. Considering the fact that implementation of a new system is planned it is not cost – effective to spend additional resources on correcting the present ENF system but rather ensuring the new system is incorporated timely.

One recurring motto was the fact that defendants on Probation could not be entered into a payment plan, and Probation did not ensure all costs assigned to defendants were in fact paid prior to the release of probation. Florida Statute 938.27(3) states, *“If a defendant is placed on probation or community control, payment of any costs under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to pay these costs.”* It would benefit the funding of the court system if Probation officers were more attentive to their responsibility and ensure probationary release is not achieved prior to payment of all costs rendered against individual defendants.

Collections Director's Response:

Though it was not noted as a formal finding, the comments regarding the collection rate for persons put on probation, were revealing. This continues to be one of the most difficult factors to overcome for the collections department. It may ultimately be necessary to address this concern through the legislative process.

**Director's Response
to
Enforcement/ Collections Audit Findings**

December 13, 2004

Ms. Ilonka Washburn
Clerk of Courts Internal Audit Staff
Naples, Florida

Dear Ms Washburn:

Pursuant to your recent audit findings of the Enforcement/Collections Department of the Collier County Clerk of Courts, I am providing this response.

Finding No. 1 - One time administrative fee vs monthly payment fee

Response: The decision to implement the one time fee was a management decision following the enactment date for Article V legislation. Though there are numerous contracts which exceed the five month period covered by the one-time fee without the implementation of an enhanced criminal computer system, the programming necessitated by this change would far exceed the benefits to be gained at this time. We will continue to evaluate our options regarding your suggestion in order to ensure optimization of revenue.

Finding No. 2 – Implementation of credit card Finding No payments

Response: We agree. The implementation of the Point and Pay system is the highest priority. We are moving as expeditiously as possible to have this done. A contract is being examined as we write for providing the suggested capabilities.

Finding No. 3 – Implement system intercept to allow electronic transfer of arrest records

Response: We agree. The duplicate entering of date is inefficient and prone to error. In addition it delays a number of tasks that are best accomplished as soon as can be done. Our experience indicates that the best payment ratios are achieved when the defendant first enters the court process. Records show the greater the delay in collections effort, the poorer the collection rate. This capability will be implemented as a part of an integrated criminal information system.

Comments included in conclusion

Response: Though it was not noted as a formal finding, the comments regarding the collection rate for persons put on probation, were revealing. This continues to be one of the most difficult factors to overcome for the collections department. It may ultimately be necessary to address this concern through the legislative process.

Thank you for an excellent and efficient audit, if you have questions or wish to explore these responses in more depth, please contact me.

Respectfully.

J. Walter Cross
Executive Assistant to the Clerk

-----Original Message-----

From: Lynn Mason

Sent: Thursday, December 16, 2004 10:31 AM

To: Lynn Mason; Ilonka E. Washburn

Cc: Robert Gazdowicz

Subject: MIS Responses to draft Management Advisory

MIS Responses to draft Management Advisory 2005-01 -- Ilonka Washburn 11/01/04

1. One time administrative fee vs. monthly payment

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