



**AUDITOR GENERAL**  
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**ASSESSMENT, COLLECTION, AND REMITTANCE OF  
COURT-RELATED FINES, FEES, AND OTHER CHARGES  
BY CLERKS OF THE CIRCUIT COURTS**  
Operational Audit

For the Period October 1, 2001, through September 30, 2002

**ASSESSMENT, COLLECTION, AND REMITTANCE OF  
COURT-RELATED FINES, FEES, AND OTHER CHARGES  
BY CLERKS OF THE CIRCUIT COURTS**

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**EXECUTIVE SUMMARY**

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This report provides a detailed description of the results of our audit of court-related fines, fees, service charges, and court costs (fines and fees) authorized by law to have been collected by the clerks of the circuit courts (clerks) for the 67 counties. Our audit disclosed the following:

**Finding No. 1:** During the 2001-2002 fiscal year, an estimated \$516 million of authorized fines and fees for circuit/county criminal and traffic court cases was not assessed, most of which was related to discretionary nonassessments by judges. Information generally was not available to explain why judges assessed less than the maximum authorized by law, and our test results indicated significant variances in the degree to which judges grant discretionary nonassessments. Also, clerks' records did not always provide explanations for waivers.

**Finding No. 2:** Inconsistencies exist in the manner in which statutes require indigency deferrals to be determined.

**Finding No. 3:** Control deficiencies existed regarding the collection of fines and fees.

**Finding No. 4:** During the 2001-2002 fiscal year, an estimated \$83 million of assessed fines and fees for circuit/county criminal and traffic court cases was not collected. Many clerks had not established written procedures for compelling payment of assessed amounts or recording the amount of fines and fees assessed but uncollected for each case. Clerks may not have always used effective methods, such as collection agencies and written notifications, for collecting unpaid accounts.

**Finding No. 5:** Many fines and fees collected on behalf of the State or other entities were not remitted in accordance with the time frame prescribed by Section 219.07, Florida Statutes.

**Finding No. 6:** Contrary to Section 219.075(1), Florida Statutes, many of the clerks tested did not invest fines and fees collected in interest-bearing accounts or investments prior to remittance to the State or other entities or, if such amounts were invested, did not remit investment earnings to such entities.

**Finding No. 7:** Simplification and consolidation of laws providing authority for fines and fees could provide greater assurance that fines and fees are assessed in accordance with law, resulting in more efficient use of county and State resources by helping to ensure the maximum realization of authorized fines and fees.

**Finding No. 8:** Section 318.14(10)(b), Florida Statutes, requiring fines and fees to be deposited in the Juvenile Justice Training Fund, should be amended to require remittance of such fines and fees to the Department of Revenue.

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## BACKGROUND

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Florida Statutes, as well as local laws, contain numerous provisions for the assessment and collection of court-related fines, fees, service charges, and court costs (fines and fees). The moneys derived from these fines and fees are collected by the clerks of the circuit courts (clerks) and either retained at the county level (to cover the costs of providing court-related services or to be used for other statutorily mandated purposes), remitted to municipalities, or remitted to the State for deposit in various State trust funds. According to Department of Financial Services' records, court-related collections for the period October 1, 2001, through September 30, 2002, totaled approximately \$500 million Statewide.

Revision 7 to Article V of the Florida Constitution requires the Legislature to modify the funding structure for the court system in Florida. Accordingly, the Legislature enacted Chapter 2000-237, Laws of Florida, codified, in part, as Chapter 29, Florida Statutes. This law, as amended by Chapter 2003-402, Laws of Florida, provides for funding of the court system-related functions of the counties primarily through filing fees for judicial proceedings and service charges and court costs collected by the clerks for performing those functions. Counties will still be required to fund certain costs, such as facilities and communications systems. To the extent that these sources are not adequate to fully fund court operations, the State will be required to provide funding. While court-related fines and fees may be increased to minimize the level of State funding required, an essential factor limiting the extent to which State funding will be required is the performance of the judges and clerks in assessing, collecting, and remitting the fines and fees authorized by law.

In its recently released report No. 04-07, the Office of Program Policy and Governmental Accountability (OPPAGA) identifies challenges faced by the clerks in assessing and collecting fines and fees, and reports on perspectives of judges and clerks on current and potential collection initiatives.

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## FINDINGS AND RECOMMENDATIONS

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### **Finding No. 1: Fines and Fees Authorized by Law but Not Assessed**

For purposes of our audit, we identified statutorily authorized court-related fines and fees as shown on Exhibit B (this list is not all inclusive; however, it does include the majority of fines and fees that relate to court operations). Many of the laws that authorize these fines and fees provide the courts with discretion as to the amount of the fine or fee to be assessed by providing minimum and maximum amounts. Because one of the objectives of our audit was to estimate the total amount of fines and fees authorized by law but not assessed for cases filed during the 2001-2002 fiscal year, for purposes of our audit we considered maximum amounts to be the amount authorized by law, and any amounts assessed below the maximum to be not assessed due to judicial discretion or waivers (see further discussion below). Of the 812 cases sampled, 117 (14 percent) cases involved fines and fees that were authorized by law but not assessed. Of the \$170,925 of fines and fees authorized by law to be assessed for the 812 cases tested, \$87,333 (51 percent) was not assessed. Most of this amount (99.7 percent) was for cases related to circuit/county criminal and traffic courts. Based on our test results, we estimate that the total amount of fines and fees that were authorized by law but not assessed for all cases related to circuit/county criminal and traffic courts during the 2001-2002 fiscal year totaled \$516 million (with a possible range of \$121 to \$912 million).

Discretionary Nonassessments. Of the \$87,333 of nonassessed amounts disclosed by our test, \$75,366 (involving 82 cases) was related to fines or fees for which the statutes provided judicial discretion as to the amount that could be assessed. According to OPPAGA's report No. 04-07, most judges advocate judicial discretion as it

allows the judges the ability to assess fines and fees that are appropriate for the offense based on the facts of the case.

Of the \$75,366 of discretionary nonassessments disclosed by our test, \$70,741 was related to circuit/county criminal court cases administered by 10 of the 20 clerks tested (Broward, Duval, Hernando, Hillsborough, Leon, Miami-Dade, Orange, Osceola, Pinellas, and Sarasota). The aggregate discretionary nonassessment rate (i.e., the amount of the discretionary nonassessment as a percentage of the amount authorized to be assessed) for the 10 clerks was 76 percent, while the individual discretionary nonassessment rates ranged from 28 to 94 percent, which may indicate a significant variance in the degree to which judges grant discretionary nonassessments. For most of the instances of discretionary nonassessments disclosed by our test, information was not available to explain why the judges assessed less than the maximum authorized by law. As such, it was not practical for us to determine the reasons for the significant variance in discretionary nonassessment rates disclosed by our test.

According to OPPAGA's report No. 04-07, some judges indicated that they lack sufficient time and resources to document reasons for specific amounts of discretionary nonassessments and cautioned that over-documenting decisions could create additional grounds for appeals and increased dockets. However, the lack of such documentation hinders the ability of State and local government officials to assess whether minimum and maximum fines and fees currently prescribed by law are being assessed in a reasonably consistent manner and generating a sufficient level of funding for the State Courts System. Given the concerns expressed by the judges, consideration should be given to developing guidelines to help ensure reasonably consistent discretionary assessments based on circumstances applicable to the case or to decreasing the range between minimum and maximum fines and fees.

Waivers of Fines and Fees. Of the \$87,333 of nonassessed amounts disclosed by our test, \$11,967 involving 66 cases was related to nonassessment of fines or fees for which the statutes did not provide judicial discretion as to the amount that could be assessed. Amounts not assessed in these instances represent waivers. For 47 of these cases, the courts' records provided explanations for the waivers, including 8 cases for which waivers were granted because the individual was determined to be indigent. However, for 19 cases, the courts' records did not provide an explanation as to the reason for the waivers. Some of these cases may have involved indigency waivers, but this could not be determined with certainty because of the lack of documentation as to the reason for the waivers. As discussed further under Finding No. 2, the Legislature, through the enactment of Chapter 2003-402, Laws of Florida, amended applicable Florida Statutes to provide for deferrals, rather than waivers, of fines and fees for individuals determined to be indigent.

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**Recommendation:** The Legislature should consider enacting legislation requiring the Office of the State Courts Administrator, or a designated committee, to develop guidelines to help ensure reasonably consistent discretionary assessments or adjusting statutorily established minimum and maximum fines and fees.

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**Auditee Response and Auditor Clarification:**

*The Chief Justice of the Supreme Court, in her response to this finding (see Exhibit C), stated, in part, that characterizing an assessment that falls lawfully within the statutory range, but is lower than the maximum allowable amount, as being a "discretionary nonassessment" is misleading. We characterized amounts of fines and fees assessed below the maximum as either due to judicial discretion or waivers for the purpose of providing the Legislature with an estimate of the amount of fines and fees being assessed below the maximum statutory amounts. It was not our intent, nor did we indicate in the finding, that judges should have imposed additional fines and fees for the sampled cases. The Chief Justice further indicated that judges must consider the facts and circumstances of each case in making*

*assessments, and should not always impose the statutorily allowed maximum without regard to case specific discretionary criteria. We concur with the Chief Justice and made no assertion to the contrary in our finding.*

*The Chief Justice also stated that she disagrees with the assertion in the finding that judges actively advocate increased discretion. We have not asserted that judges actively advocate increased discretion, but rather quoted a report issued by the Office of Program Policy and Government Accountability that judges advocate judicial discretion as it allows them to assess fines and fees appropriate to the offense. This is consistent with the Chief Justice's assertion that judges naturally want to make the punishment fit the crime and the individual defendant's circumstances.*

*The Chief Justice further stated that she disagreed with the conclusion that judges' failure to always produce documentation of reasons for a discretionary assessment indicate that their decisions lack consistency and that, in actuality, justices are required to apply a consistent analytical framework to discretionary cost assessments. We did not conclude that a lack of documentation indicates that the judges' decisions lack consistency, but rather that in the absence of documentation of the reasons for nonassessments, we could not come to a conclusion regarding consistency. Nor is it apparent how the Chief Justice was able to conclude that justices apply a consistent analytical framework to discretionary cost assessments.*

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## **Finding No. 2: Indigency Waivers/Deferrals**

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For cases filed during the 2001-2002 fiscal year, authority for the waiver of fines and fees due to indigency was provided in several sections of law, including Sections 57.081, 57.085, and 938.29, Florida Statutes. Section 57.081(1), Florida Statutes, for nonprisoners, authorized the waiver of court costs and fees arising from the participation in a judicial or administrative proceeding or any other litigation in civil cases, and required that such waivers be made on the basis of a signed affidavit providing details of the individual's financial condition or a signed statement from an attorney representing such individuals. Section 57.085, Florida Statutes, authorized the waiver of court costs and fees for prisoners in civil cases, and required that such waivers be made on the basis of a signed affidavit that included certain financial information demonstrating that the prisoner was indigent. Section 938.29(3), Florida Statutes, for defendant-recipients and parents in criminal cases, authorized the waiver of attorney's fees or costs if the court determined that payments of such fees and costs would impose a financial hardship.

Chapter 2003-402, Laws of Florida, created or amended several laws regarding the waiver or deferral of fines or fees for individuals determined to be indigent, as follows:

- Amended Section 27.52, Florida Statutes, effective July 1, 2004, so that individuals determined to be indigent are authorized deferrals of fees, charges, or court costs imposed under any section of law.
- Amended Section 57.081(1), Florida Statutes, effective July 1, 2004, so that nonprisoners determined to be indigent in accordance with Section 27.52, Florida Statutes, are authorized deferrals, rather than waivers, of court costs and fees in civil cases.
- Amended Section 57.085, Florida Statutes, effective July 1, 2004, so that prisoners determined to be indigent are authorized deferrals, rather than waivers, of court costs and fees in civil cases.
- Amended Section 914.11, Florida Statutes, effective July 1, 2004, to require that deferrals of court costs pursuant to that section be granted to defendants in criminal cases determined to be indigent in accordance with Section 27.52, Florida Statutes.
- Amended Section 938.29, Florida Statutes, effective July 1, 2004, so that defendant-recipients and parents in criminal cases may petition the court for deferrals, rather than waivers, of attorney's fees or costs.

We noted the following inconsistencies in the manner in which the statutes currently require indigency deferrals to be determined:

- Section 27.52, Florida Statutes, as amended by Chapter 2004-265, Laws of Florida, prescribes procedures for determinations of indigency by the clerk for defendants in criminal cases for the purpose of appointing a public defender or conflict attorney. Such determinations are required to be made as a ministerial act by the clerk on the basis of a signed affidavit. However, Section 28.246, Florida Statutes, as amended by Chapter 2004-265, Laws of Florida, provides for a determination by the courts, with no reference to the clerk, of an individual's inability to make full payment when an individual seeks to defer payment of fines or fees under any provision of general law.
- As indicated above, deferrals authorized pursuant to Sections 57.081(1) and 914.11, Florida Statutes, must be based on indigency determinations in accordance with Section 27.52, Florida Statutes, which requires an affidavit that includes certain financial information. However, Sections 28.246 and 938.29(3), Florida Statutes, do not prescribe the manner in which indigency determinations are to be made for deferrals granted pursuant to these sections.

Although deferrals granted pursuant to Section 57.085, Florida Statutes, must be made pursuant to affidavits demonstrating indigency, the information required to be included in the affidavit is not consistent with the affidavit information prescribed by Section 27.52, Florida Statutes. For example, Section 27.52, Florida Statutes, is very specific in prescribing income information required to be included in the affidavit, whereas Section 57.085, Florida Statutes, states only that the affidavit must include "the nature and amount of" the income. Also, Section 57.085, Florida Statutes, requires that the affidavit include "the prisoner's dependents, including their names and ages; the prisoner's debts, including the name of each creditor and the amount owed to each creditor; and the prisoner's monthly expenses," whereas Section 27.52, Florida Statutes, does not require that the affidavit include this information.

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**Recommendation: The Legislature should consider enacting legislation to provide consistent statutory provisions relating to indigency determinations for court-related matters.**

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### **Finding No. 3: Collection Controls**

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The clerks are responsible for establishing adequate controls that provide reasonable assurance that collections are safeguarded against loss from unauthorized use or disposition. Our audit disclosed one or more of the following control deficiencies for the 20 clerks tested:

- Four clerks (Columbia, Jackson, Jefferson, and Levy) had not established written procedures addressing the receipt, deposit, and recording of payments received, and the processing of collections owed to the State and other entities. Written procedures, if properly designed and implemented, can assist in training new employees and provide additional assurances that clerks' activities are conducted in accordance with applicable laws, ordinances, and other guidelines.
- For 8 clerks (Charlotte, Collier, Duval, Jackson, Jefferson, Miami-Dade, Osceola, and Sarasota), responsibility for collections was not documented from the time of collection to subsequent deposit. For these clerks, collections received through the mail were not documented at the initial point of collection through the use of a mail log or other means. For 5 of these clerks (Charlotte, Duval, Jefferson, Osceola, and Sarasota), collections were transferred between clerk staff without the use of transfer documents to evidence the transfer of collections. Under these conditions, should a loss of collections occur, it may not be possible to fix responsibility for the loss to the appropriate individual.
- For 2 clerks (Jefferson and Osceola), checks received were not immediately restrictively endorsed. Failure to restrictively endorse checks upon initial receipt results in an increased risk of the loss of collections.

- For 2 clerks (Columbia and Jefferson), duties were not adequately separated so that no one employee had access to collections and the related accounting records. Failure to adequately separate duties increases the possibility that errors or irregularities could exist and not be promptly detected.

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**Recommendation: Clerks should establish written procedures addressing the receipt, deposit, and recording of payments received; and the processing of collections due to the State and other entities. Such written procedures should require the maintenance of documentation evidencing responsibility for collections from time of collection to deposit, immediate restrictive endorsements of checks, and adequate separation of duties to the extent possible given existing personnel.**

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**Finding No. 4: Fines and Fees Assessed but Not Collected**

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Many fines and fees assessed are paid in full at the time of assessment, particularly those related to civil cases. However, amounts assessed for cases related to circuit and county criminal courts, and for traffic courts, often are not immediately paid in full and can be difficult to collect. Factors that affect a clerk's ability to collect amounts assessed for criminal cases include the defendant's ability and willingness to pay; the effectiveness of collection methods; and the ability of the clerk to work with judges, law enforcement officials, and others to coordinate collection efforts.

Of the 812 cases tested, there were 110 (13.5 percent) cases involving fines and fees that were assessed but not collected. Of the \$83,593 of fines and fees assessed for the 812 cases tested, \$16,077 (19 percent) was unpaid as of the time of our review in June and July of 2003. Most of this amount (98.6 percent) was for cases related to circuit/county criminal and traffic courts. Based on our test results, we estimate that the total amount of fines and fees that were assessed but not collected for all clerks for cases related to circuit/county criminal and traffic courts during the 2001-2002 fiscal year totaled \$83 million (with a possible range of \$57 to \$110 million).

Controls should be implemented to ensure that appropriate collection efforts are made for all amounts assessed but unpaid to promote maximum realization of fines and fees. Our audit disclosed that for 8 of the 20 clerks tested (Charlotte, Collier, Columbia, Highlands, Jackson, Jefferson, Levy, and Putnam), written procedures had not been established addressing actions to be taken to compel payment of assessed amounts, including under what circumstances a case would be referred to a collection court or to a collection agency, require a structured payment plan, or require the use of other means to enforce payment such as suspension of a driver license.

The clerks used various methods to compel payment of fines and fees assessed, such as the use of structured payment plans; the use of collection courts; the use of collection agencies; and other methods, such as suspending the defendant's driver license or filing a lien on the defendant's property. The effectiveness of such methods can affect the rate of collection. Our audit disclosed that clerks may not have always used available and effective methods for collecting unpaid accounts, as follows:

- Collection Agencies. Collection agencies typically are not used for fees related to civil matters (e.g., domestic relations and probate fees) that normally are collected at the time service is rendered. In addition, there are some criminal cases that result in defendants being incarcerated for which the use of a collection agency may not be effective. However, collection agencies can be an effective means for traffic and certain criminal cases where the amount collected is primarily affected by the individual's willingness to pay amounts assessed. Of the 812 cases tested, 639 were related to circuit/county criminal and traffic cases. Of the 639 circuit/county criminal and traffic cases, the aggregate collection rate (i.e., the amount collected as a percentage of the amount assessed) for the 197 cases involving the use of collection agencies was 82 percent compared to a 72 percent collection rate for the 442 cases for which collection agencies were not used. Although the results of our test indicate that the use of collection agencies enhances the ability to collect unpaid fines and fees, only 7 of the 20 clerks tested (Broward,



Charlotte, Columbia, Jefferson, Osceola, Palm Beach, and Sarasota) used collection agencies during the audit period.

- **Collection Court.** As authorized by Section 938.30, Florida Statutes, several clerks use a collection court, whereby defendants that fail to pay amounts due in accordance with agreed-upon terms must appear before a judge to explain why. As shown on Exhibit A, 9 of the 20 clerks tested used collections courts during the 2001-2002 fiscal year, primarily for county misdemeanor or circuit court felony cases although some also used collection courts for traffic civil or criminal cases. Our test included 49 cases for which a collection court could potentially have been used; however, only 4 of these cases were actually referred to collection court (the remaining 45 cases were either collected when due, referred to a collection agency, or were not referred for other reasons). As such, we could not, based on our test results, make any conclusions as to the effectiveness of collection courts.
- **Written Notifications.** In its report No. 04-07, OPPAGA indicated that written notifications reminding defendants of fines and fees due or past due requires minimal expense and has been successful in improving collection rates for those clerks that use such notifications. However, only 3 of the 20 clerks tested (Collier, Hernando, and Miami-Dade) used written reminders.

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**Recommendation: Clerks should establish written procedures addressing actions to be taken to collect unpaid accounts. Clerks should also consider using collection agencies and written notifications as a means of enhancing collection of fines and fees.**

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#### **Finding No. 5: Collections Held by Clerks for Remittance to the State and Other Entities**

Section 219.07, Florida Statutes, provides that each officer (including clerks) shall distribute money which is required to be paid to other officers, agencies, funds, or persons entitled to receive the money not later than seven working days after the close of the week in which the officer received the moneys. As shown on Exhibit B, there are numerous laws that provide for the assessment and collection of fines or fees, a portion of which must be remitted to the State and other entities. Some of these laws require that such collections be remitted monthly to the State and other entities. However, there are many laws that do not specify a time frame. For amounts collected by the clerks for remittance to the State or other entities pursuant to such laws, the statutorily established time frame would be that established by Section 219.07, Florida Statutes.-

Pursuant to Section 213.13, Florida Statutes, Department of Revenue Rule 12-28, Florida Administrative Code, establishes procedures requiring clerks to electronically transmit amounts due to the State. Pursuant to Rule 12-28.008, clerks must electronically transmit amounts due to the State “on or before the due date required by applicable statute” or at least monthly if there is no statutorily-designated due date. For fines and fees required to be remitted to the State pursuant to laws that do not specify a remittance due date, the statutorily-designated due date would be that established by Section 219.07, Florida Statutes (i.e., by the seventh working day after the close of the week in which the moneys are received).

It appears that some confusion exists among the clerks as to the required due dates for remittances to the State as our audit disclosed that all but 3 of the 20 clerks tested (Brevard, Broward, and Miami-Dade) remitted collections to the State and other entities monthly during the 2001-2002 fiscal year. Consequently, many fines and fees that were collected on behalf of the State or other entities and subject to the 7-day time frame prescribed by Section 219.07, Florida Statutes, were not remitted in accordance with that 7-day time frame.

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**Recommendation: The Legislature should consider enacting legislation clarifying the time frame for remittance of all fines and fees to the State and other entities.**

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**Finding No. 6: Investment of Collections Held by the Clerks for Remittance to the State and Other Entities**

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Pursuant to Section 219.075(1), Florida Statutes, except when another procedure is prescribed by law or by ordinance as to particular funds, any county officer (including clerks) having, receiving, or collecting any money, either for his or her office or on behalf of and subject to subsequent distribution to another officer of State or local government, while such money is in excess of that required to meet current expenses or is pending distribution, must invest such money as provided in Section 218.415, Florida Statutes. The investment earnings must be reasonably apportioned and allocated and credited to the account of, and paid to, the clerk's office or distributee, together with the principal on which such earnings accrued.

Contrary to Section 219.075(1), Florida Statutes, 4 of the 20 clerks tested (Leon, Levy, Orange, and Putnam) did not invest fines and fees collected in interest-bearing accounts or other authorized investments prior to remittance to the State or other entities. In addition, only 3 of the 16 clerks (Hillsborough, Palm Beach, and Sarasota) that did invest such moneys remitted investment earnings to the State and other entitled entities as required by Section 219.075(1), Florida Statutes. It was not practical for us to determine the amount of investment earnings on such collections not remitted by clerks to the State or other entities during the 2001-2002 fiscal year; however, collectively, such earnings could be significant.

Although requested, none of the 20 sampled clerks provided us documentation evidencing that an investment procedure exempting the clerks from the requirements of Section 219.075(1), Florida Statutes, was prescribed by other law or ordinance. Some clerks indicated that based on the provisions of Section 28.33, Florida Statutes, they were permitted to retain any interest earned on fines and fees being held for remittance to the State or other entities. Section 28.33, Florida Statutes, provides that, except for moneys deposited "in the registry of the court," interest earned on county funds invested by the clerks shall be retained as income of the clerks. However, the provisions of Section 219.075(1), Florida Statutes, with regard to moneys collected on behalf of, and subject to subsequent distribution to, the State or other entities supplement the provisions of Section 28.33, Florida Statutes. As such, it appears that a clerk must comply with the requirements of both of these laws by remitting interest earned on fines and fees held for remittance to the State or other entities, while retaining as income of the clerk's office interest earned on fines and fees retained at the county level (i.e., county funds).

As there are costs to the clerks associated with efforts to invest and identify investment earnings allocable to the State or other entitled entities for which the clerks collect moneys, it would seem reasonable for the clerks to retain a percentage of investment earnings derived from moneys held for others. Currently, such a provision exists in Section 28.33, Florida Statutes, regarding moneys deposited in the registry of the court for which the clerks may retain 10 percent of interest earned thereon.

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**Recommendation: Clerks should ensure that collections held for remittance to the State and other entities are invested, and the earnings thereon remitted, in accordance with Section 219.075(1), Florida Statutes, unless exempted by other law or ordinance. Also, the Legislature should consider enacting legislation that authorizes the clerks to retain a portion of investment earnings on such moneys to defray clerks' costs associated with administering such moneys.**

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**Auditee Response and Auditor Clarification:**

*The Clerk of the Circuit Court for Charlotte County, in her response to this finding (see Exhibit C), indicated that Charlotte County had never been notified that it was in violation of Florida law for failing to remit investment earnings to the State, and concluded that the Department of Revenue does not*

*interpret applicable Florida Statutes as requiring that fines and fees held for remittance to the State be invested and related investment earnings remitted to the State. We are unaware of any law or Department of Revenue Rule that requires the Department to ensure that all clerks remit such investment earnings to the State. Nor are we aware of any determination by the Department that clerks are not subject to the requirements of Section 219.075(1), Florida Statutes, regarding the investment of fines and fees held for remittance to the State and remittance of related investment earnings.*

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**Finding No. 7: Structure and Diversity of Laws Authorizing Fines and Fees**

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As shown on Exhibit B, there are numerous sections of the Florida Statutes that provide for a multitude of fines, fees, service charges, and court costs that clerks are required to collect, and for which clerks must establish in the courts' records accounts or notations to capture information relative to the assessment, collection, and remittance of such moneys. As also indicated in OPPAGA's report No. 04-07, the decentralization and diversity of these provisions makes it difficult for judges and clerks to stay current with such provisions. There is no unified Statewide system for compiling changes to laws each year, although all of the clerks we tested are attempting to maintain consolidated lists of mandatory and discretionary fines and fees. OPPAGA's report further states that judges and clerks expressed concern at judges' overreliance on clerks' offices for correct current fine and fee information. Simplification and consolidation of laws establishing fines and fees could provide greater assurance that fines and fees are assessed in accordance with law, which should result in more efficient use of county and State resources by helping to ensure the maximum realization of authorized fines and fees.

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**Recommendation: The Legislature should consider enacting legislation to simplify and centralize laws authorizing fines and fees.**

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**Finding No. 8: State Trust Funds**

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The various statutory provisions that establish mandatory and discretionary fines and fees also require portions of such amounts to be remitted for deposit into numerous State trust funds. In response to our recommendation in report No. 01-062, the Legislature enacted Chapter 2001-122, Laws of Florida, which amended numerous sections of the Florida Statutes to require remittance of fines and fees to the Department of Revenue for subsequent distribution to appropriate State trust funds. Subsequently, Chapter 2003-402, Laws of Florida, effective July 1, 2004, amended Section 28.245, Florida Statutes, to state that, notwithstanding any other provision of law, all moneys collected by the clerks for subsequent distribution must be transmitted electronically to the Department of Revenue for appropriate distribution. However, Section 318.14(10)(b), Florida Statutes, which provides for fees collected by clerks to be remitted for deposit into the Juvenile Justice Training Fund, requires that such remittances be made to the Department of Juvenile Justice rather than the Department of Revenue, although we determined that clerks, in practice, are remitting the fees to the Department of Revenue.

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**Recommendation: The Legislature should consider enacting legislation to require clerks to remit amounts collected pursuant to Section 318.14(10)(b), Florida Statutes, to the Department of Revenue for subsequent distribution to the Juvenile Justice Training Fund.**

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**OBJECTIVES AND SCOPE**

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The scope of this audit included court-related fines and fees authorized by law to have been collected by the clerks of the circuit courts in the 67 counties during the period October 1, 2001, through September 30, 2002 (i.e., the 2001-2002 fiscal year). Our objectives were to: (1) determine the extent to which management controls promoted and encouraged the achievement of management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic and efficient administration of the functions of assessing, collecting, and remitting court-related fines and fees; the reliability of financial records and reports; and the safeguarding of assets; (2) evaluate management's performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other guidelines; (3) provide an estimate of the total amount of fines and fees that were authorized but not assessed, and assessed but not collected, for cases filed during the 2001-2002 fiscal year; (4) provide estimates of assessment and collection rates for court-related fines and fees for cases filed during the 2001-2002 fiscal year; and (5) make recommendations to improve the efficiency and effectiveness of the State Courts System.

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**METHODOLOGY**

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The methodology used to develop the findings in this report included the examination of pertinent records of the clerks of the circuit courts in connection with the application of procedures required by applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

To accomplish our audit objectives, it was not feasible to examine the operations of each of the 67 clerks. We, therefore, selected 20 clerks' operations for examination. The 20 clerks selected, which were chosen based on factors such as county population size and methodologies used to collect fines and fees, are shown on Exhibit A. We then randomly selected a total of 812 cases administered by the 20 clerks.

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**AUTHORITY**

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Pursuant to the provisions of Section 11.45(2)(k), Florida Statutes, I have directed that this report be prepared to present the results of our audit of court-related fines, fees, and other charges authorized by law to have been collected by the clerks of the circuit courts for the 67 clerks during the period October 1, 2001, through September 30, 2002.



William O. Monroe, CPA  
Auditor General

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**AUDITEE RESPONSES**

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The twenty Clerks of the Circuit Court selected for examination and the Chief Justice of the Supreme Court provided written responses to our preliminary and tentative findings. The responses are included in this report as Exhibit C.

To promote accountability in government and improvement in government operations, the Auditor General makes audits of State agencies and local governments. This audit was made in accordance with applicable *Government Auditing Standards* issued by the Comptroller General of the United States. This audit was coordinated by Hardee Ratliff, CPA, and supervised by Ted J. Sauerbeck, CPA. Please address inquiries regarding this report to James M. Dwyer, CPA, Audit Manager, via E-mail at [jimdwyer@aud.state.fl.us](mailto:jimdwyer@aud.state.fl.us) or by telephone at (850) 487-9031.

This report, as well as other audit reports prepared by the Auditor General, can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone at (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

**EXHIBIT – A**  
**CLERKS SELECTED FOR AUDIT BY COLLECTION METHOD**

Sampled Clerks by Collection Method

Used Collection Agencies, but Not Collection Courts

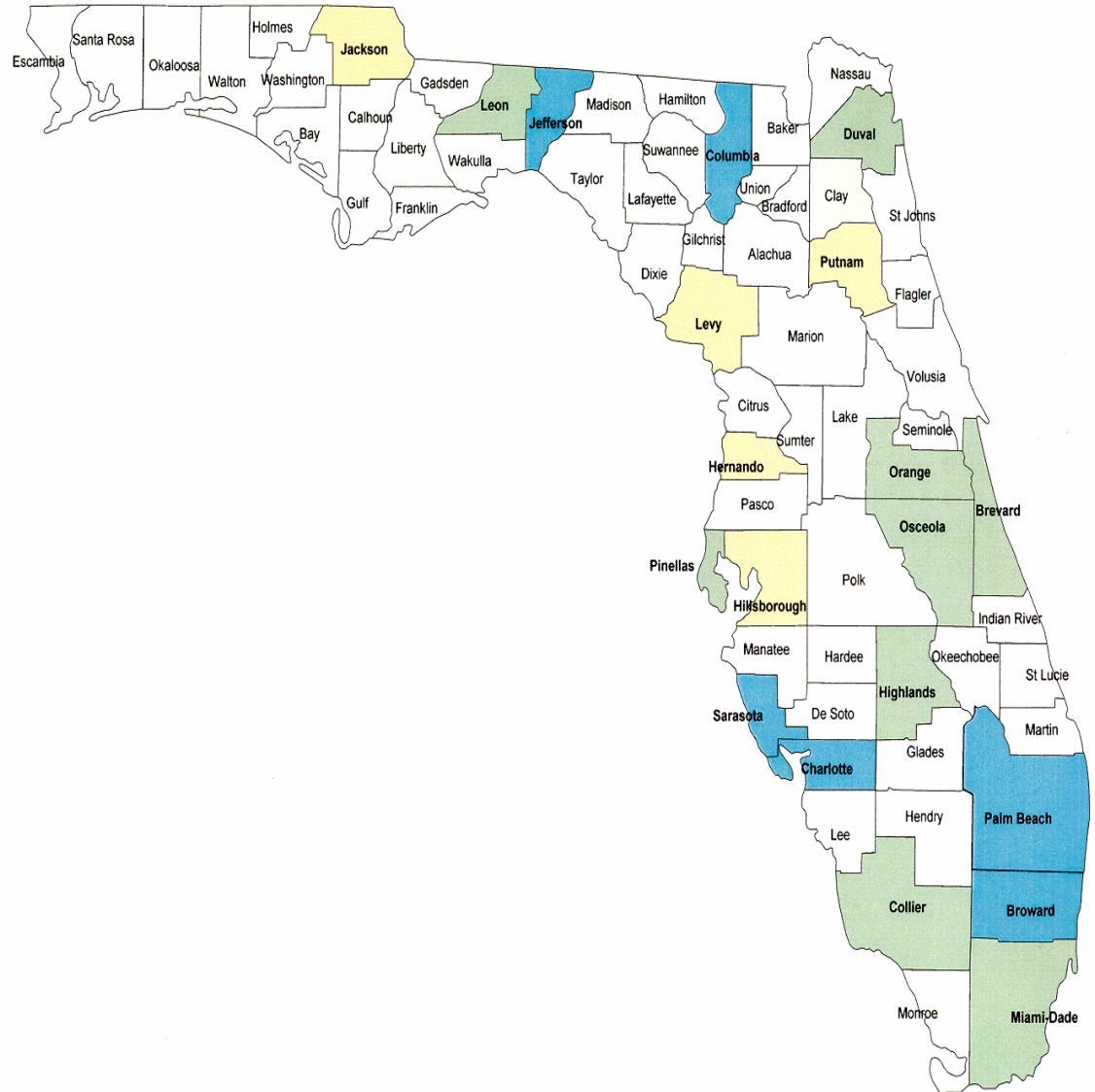
Broward  
Charlotte  
Columbia  
Jefferson  
Palm Beach  
Sarasota

Used Collection Courts

Brevard  
Collier  
Duval  
Highlands  
Leon  
Miami-Dade  
Orange  
Osceola  
Pinellas

Did Not Use Collection Agencies or Collection Courts

Hernando  
Hillsborough  
Jackson  
Levy  
Putnam



**EXHIBIT – B**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statute Reference	Description	Prescribed Remittance Frequency (1)
27.52	Public Defender application fee	Monthly
28.101(1)	Petition for dissolution of marriage	Monthly
28.101(2) & 382.023	Final judgment of dissolution of marriage	Monthly
28.24	Various service charges	Not Applicable
28.2401(1)	Probate: various service charges	Not Applicable
28.2401(3)	Probate: petitions for summary, family, formal, or ancillary administration, guardianship, curatorship, and conservatorship	Not Specified (2)
28.241	Circuit civil service charges, additional service charges, and notices of appeal	Not Specified (2)
34.041	Service charges for county civil claims; garnishment, attachment, replevin, or distress; removal of tenant; and fees for action filed to fund court costs	Not Specified (2)
34.191	Fines and forfeitures from county court	Not Applicable
44.108	Service charges for mediation/arbitration and petition for modification of final judgment of dissolution	Not Specified (2)
45.031	Service charge - court-ordered sale of real or personal property	Not Applicable
61.14(6)	Fees relating to delinquent child support payments	Not Applicable
61.181	Fee for processing alimony/child support payments	Not Applicable
194.192	Penalty for underpayment of property tax for lawsuits involving the assessment or collection of any tax	Not Applicable
316.061 & 316.660	Fine for crash involving damage to vehicles or property	Monthly
316.192 & 316.660	Fines and additional costs for reckless driving	Monthly
316.193	Penalties for driving under the influence	Not Applicable
316.1937	Fine for circumventing a court-ordered ignition interlock device	Not Applicable
316.1967	Civil penalty and court costs for parking violations	Not Applicable
316.3025	Civil penalties for specified violations of the Code of Federal Regulations or s. 316.302(5)	Not Applicable
316.6135	Fines for leaving children unattended or unsupervised in a motor vehicle	Not Applicable
318.14	Civil penalties for traffic appearance and unlawful speed in school or construction zone or involving death and traffic court costs	Monthly
318.15	Processing fee for failure to attend driver school and service fee for reinstatement of driver's license	Not Specified (2)
318.18	Civil penalties - infraction of pedestrian regulations, infraction of bicycle regulations, moving and nonmoving traffic violations, various speeding infractions, toll violations, load on vehicle violations; various dismissal fees; failure to pay fees; various additional court costs	Monthly
322.03(6)	Dismissal fee for proof of valid driver's license	Not Applicable
322.245	Delinquency fees for failure to comply with court directives related to specified charges	Not Applicable
327.35	Fines for boating under influence and administrative costs	Not Specified (2)
327.35215	Civil penalty for refusal to submit to blood, breath, or urine test pursuant to s. 327.352	Not Specified (2)
327.73	Civil penalties, dismissal fees, and courts costs for specified noncriminal infractions relating to vessel laws	Not Specified (2)
370.021	Fines and penalties for convictions relating to conservation of marine resources, use of illegal nets, and unlicensed sale of illegally harvested products	Not Specified (2)
372.7015	Fine for illegally killing, taking, possessing, or selling game or fur-bearing animals	Not Specified (2)
372.711	Civil penalty and court costs for noncriminal infraction involving license and permit requirements of s. 372.57 & 372.83	Not Applicable
372.72	Disposition of fines, penalties & forfeitures for specified violations	Not Specified (2)
386.212	Civil penalty for underage smoking near school property	Not Applicable
409.259	Filing fee - support proceeding where parent does not receive temporary cash assistance	Not Applicable
556.107	Civil penalties for specified noncriminal infractions relating to excavation or demolition activities and identification of underground facilities	Not Applicable
569.005	Fines and civil penalties for operating without a retail tobacco products dealer permit	Not Applicable
569.11	Civil penalties for unlawful possession of tobacco products or age or military service misrepresentation for the purpose of obtaining tobacco products	Not Specified (2)

**EXHIBIT – B (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statute Reference	Description	Prescribed Remittance Frequency (1)
741.01(2)	Marriage license fees	Not Specified (2)
741.01(3) & (4)	Marriage license fees	Monthly
741.02	Marriage license fees	Not Specified (2)
741.30	Assessments and fines for enforcing compliance with a domestic violence injunction	Monthly
744.3135	Fee for handling and processing professional guardian files	Not Applicable
744.365	Audit fee - guardianships	Not Applicable
744.3678	Audit fees - guardianship return	Not Applicable
744.638	Service charge - filing of guardianship petition	Not Applicable
766.104	Filing fee - medical negligence	Not Applicable
775.083	Fines for designated crimes and noncriminal violations	Not Applicable
775.0835	Fines for felonies or misdemeanors resulting in the injury or death of another person	Not Specified (2)
784.046	Assessments for enforcing compliance with protective injunction	Monthly
790.06	Penalty - concealed weapons	Not Applicable
806.13	Fine for placement of graffiti	Not Applicable
828.27	Civil penalty and surcharge relating to animal control or cruelty and fines for noise from domesticated animals	Not Applicable
832.075	Fine for requiring credit card information for check or draft acceptance	Not Applicable
893.20	Fine for persons engaging in continuing criminal enterprise	Not Applicable
903.105	Bail costs - upon release from obligations	Not Applicable
938.01	Additional court cost - conviction or adjudication withheld (incl. bond estreatures/forfeited bail bonds)	Not Specified (2)
938.03	Additional court cost - conviction or adjudication delinquent for felony, misdemeanor, delinquent act, criminal traffic offense (or adjudication withheld)	Not Specified (2)
938.04	Additional cost surcharge - criminal traffic offenses	Not Specified (2)
938.05	Additional cost - plead of guilty or nolo	Not Applicable
938.06	Additional cost - any criminal offense	Monthly
938.07	Court cost - driving or boating under the influence	Not Specified (2)
938.08	Surcharge on assault, battery, stalking, and domestic violence violations	Not Specified (2)
938.13	Additional cost - misdemeanor drug or alcohol convictions	Not Specified (2)
938.15	Additional cost for local criminal justice education	Not Specified (2)
938.17	Additional cost for specified criminal cases	Not Specified (2)
938.19	Court costs for operation and administration of teen courts	Monthly
938.21	Additional court cost - criminal violations of specific sections related to alcohol and other drug abuse	Not Applicable
938.23(2)	Additional assessment - criminal violations of specific sections related to alcohol and other drug abuse	Not Specified (2)
938.25	Additional assessment - violations of s. 893.13	Not Specified (2)
938.27	Recovery of costs of prosecution and investigation	Not Specified (2)
938.29	Conflict or public defender fees and costs	Not Applicable
938.30(10)	Enforcing compliance of court-imposed financial obligations	Not Applicable
939.18	Additional court costs for court facilities	Not Applicable
985.215(6)	Fees for care in secure, nonsecure, or home detention juvenile cases	Monthly
985.231	Fees for care for children adjudicated for delinquent acts	Monthly

- (1) Several of the statutes included on Exhibit B authorized clerks to collect amounts that were not required to be remitted to another entity. Remittance frequencies are provided on Exhibit B only for those statutes that required amounts collected by clerks to be remitted to another entity.
- (2) Statute did not specify the remittance frequency; however, pursuant to Section 219.07, Florida Statutes, amounts collected were required to be remitted within seven working days after the close of the week in which the moneys were collected.



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**EXHIBIT – C**  
**RESPONSES FROM AUDITEES**

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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## Supreme Court of Florida

500 South Duval Street  
Tallahassee, Florida 32399-1925

BARBARA J. PARIENTE  
CHIEF JUSTICE  
CHARLES T. WELLS  
HARRY LEE ANSTEAD  
R. FRED LEWIS  
PEGGY A. QUINCE  
RAOUL G. CANTERO, III  
KENNETH B. BELL  
JUSTICES

August 3, 2004

THOMAS D. HALL  
CLERK OF COURT

WILSON E. BARNES  
MARSHAL

William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Re: Assessment, Collection, and Remittance of Court-Related Fines, Fees,  
and Other Charges by Clerks of the Circuit Courts

Dear Mr. Monroe:

Thank you for transmitting to me the preliminary review findings of your audit of the assessment, collection, and remittance of court-related fines, fees, and other charges by the clerks of the circuit court. Please consider this to be the written statement of explanation required to be submitted pursuant to Section 11.45(4)(d), Florida Statutes.

Finding Number 1: Fines and Fees Authorized by Law but not Assessed

The objective of Finding Number 1 appears to be to describe the court-related fines, fees, service charges, and court costs allowed by law and then to compare that total authorized amount to the amount actually imposed by court orders. I respectfully disagree with Finding Number 1 in three respects outlined below.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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William O. Monroe, CPA  
August 3, 2004  
Page Two

First, any report attempting to measure court-ordered assessments “authorized by law but not assessed” will inaccurately reflect the total amount of monies that may be lawfully assessed. This is in part because the legislature has long distinguished between two kinds of costs - those that are mandatory and those that are discretionary. This legislative distinction reflects a policy decision to allow judges to make assessments that are discretionary within a pre-established range. Characterizing an assessment that falls lawfully within the statutory range, but is lower than the maximum allowable amount, as being a “discretionary non-assessment” is therefore misleading. Such an analysis will also result in an incorrect estimate of potential funds realistically available since the circumstances of a particular case may make imposition of a maximum fine unlawful. Judges must consider the facts and circumstances of each case before assessing any costs that fall into one of the discretionary categories. Judges who always impose the statutorily allowed maximum, without regard to case specific discretionary criteria, commit an abuse of their express legislatively authorized judicial discretion. See e.g., Sections 938.21 and 938.23, Florida Statutes (regarding “additional assessments” in controlled substance and disorderly intoxication cases, and providing that in such cases the court may only impose the cost if it finds the defendant has the ability to pay the underlying fine and the discretionary cost and payment of the additional authorized amount will not prevent the defendant “from being rehabilitated or from making restitution....”).

The legislature itself understood the need to reevaluate the cost assessment methodology and took corrective action during the 2004 session. Previously, in HB 113A, the 2003 legislative enactment that provide the framework for the structure of the post Revision 7 State Courts System, the legislature had required the clerks of court to report any discretionary assessment less than the statutory maximum as a waiver of the unassessed amount. This year, the legislature changed that requirement, based on its recognition that the maximum possible fine could not and should not be imposed in every case.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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William O. Monroe, CPA  
August 3, 2004  
Page Three

Second, I disagree with the assertion contained in Finding Number 1 that judges actively advocate for increased discretion. While judges naturally want to make the punishment fit the crime and an individual defendant's circumstances, they know that decision does not reside with them where the legislature has clearly expressed an intent to make a certain cost mandatory. Even when cost assessment is discretionary, judges are required to apply consistent standards and operate within statutorily mandated ranges set within the policy judgment of the legislature. Even in instances where cost imposition is discretionary, judges are guided by due process and equal protection principles, including notice, the right to be heard, and the right to have a court determine the defendant's ability to pay each assessment. However, when the legislature makes a policy decision not to allow discretion, as it has done many times in the statutes imposing mandatory costs, judges follow plain dictates of the law and unambiguous legislative intent.

Third, I disagree with the conclusion that judges' failure to always produce written documentation of reasons for a discretionary assessment indicates that their decisions lack consistency. In actuality, judges are required to apply a consistent analytical framework to discretionary cost assessments. When they fail to do so, they are subject to appellate review and reversal. Absence of a written record of each assessment in a particular case is not necessarily evidence of judicial failure to apply standard criteria. A number of due process requirements, imposed by case law, ensure consistent judicial analysis of costs. Trial judges, for example, must orally pronounce all discretionary costs at sentencing in a manner sufficient for the defendant to know the legal basis for the cost imposed, and must provide a defendant an opportunity to object to a specific imposition. Reyes v. State, 655 So. 2d 111 (Fla. 2d DCA 1995). Trial judges also must determine defendants' ability to pay discretionary costs. Huesca v. State, 841 So.2d 585 (Fla. 2d DCA 2003); Moultrie v. State, 819 So. 2d 269 (2d DCA 2002).

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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William O. Monroe, CPA  
August 3, 2004  
Page Four

With these safeguards in place, and with a strong judicial education program, including the mandatory Florida Judicial College course work and materials in this topical area, Florida's trial judges are able to follow an established analytical framework when imposing both mandatory and discretionary costs. See Ciklin, C., *Imposition of Mandatory and Discretionary Costs*, Florida Judicial College Phase II, Volume II (2004). Finally, if judges were required to write detailed opinions or summarize all discretionary factors in every case concerning imposition of costs, such a practice could protract criminal adjudication and delay litigants' access to courts.

Findings Number 2 through 6, and 8

These findings do not apply to the State Courts System.

Finding Number 7: Structure and Diversity of Laws Authorizing Fines and Fees

I strongly support legislative consolidation of laws establishing fines and fees, as recommended in Finding Number 7. The State Courts System has commented positively on such a project in the past.

Yours very truly,



Barbara J. Pariente

BJP/sb

**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**



SCOTT ELLIS, Clerk

June 30, 2004

Clerk Of The Circuit And County Court Brevard County, Florida

400 SOUTH STREET, P. O. BOX 999, TITUSVILLE, FL 32781-0239

Honorable William O. Monroe, Auditor General  
State of Florida  
P. O. Box 1735  
Tallahassee, Florida 32301-1735

Re: Response to Auditor's Comments in audit of Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges by Clerks of the Circuit Courts

Dear Sir:

In accordance with Section 11.45, Florida Statutes, and Chapter 10.550, Rules of the Auditor General, this is to provide my written statement of explanation or rebuttal concerning the auditor's comments, including corrective action planned.

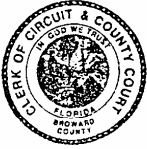
Auditor's Comment: Most comments relate to courts and clerks of court generally and, in some instances, specific clerks of court.

Response: We intend to comply with the general recommendations applicable to clerks of court generally. No findings are noted that are specific to the Brevard Clerk of Courts.

Very truly yours,

Scott Ellis  
Clerk of the Circuit Court

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



**HOWARD C. FORMAN**  
CLERK OF CIRCUIT AND COUNTY COURT  
17TH JUDICIAL CIRCUIT

201 SOUTHEAST 6TH STREET / RM 136  
BROWARD COUNTY COURTHOUSE  
FORT LAUDERDALE, FLORIDA 33301  
TELEPHONE: (954) 831-5504

July 22, 2004

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

In response to your findings as related to the Broward County Clerk of Court during your audit of the Assessment, Collection, and Remittance of Court-Related Fines, Fees and Other Charges by Clerks of the Circuit Courts, I am providing you with the following explanations and corrective corrections:

Finding No.1: Fines and Fees Authorized by Law but Not Assessed

We are aware most judges advocate judicial discretion when assessing fines and fees. While the judiciary exercises exclusive control over this process, we will advise the judiciary of this finding for their consideration. We will recommend that OSCA educate the judiciary as to the concerns related to discretionary non-assessments and make them aware that the FACC has published on their website, available to all judges, a listing of all court-related filing fees, service charges, costs, and fines.

Finding No.2: Fines and Fees Assessed but Not Collected – Specifically Written Notifications

As indicated in your report, Broward County uses a collection agency to collect unpaid fines and fees. We are currently establishing procedures addressing actions to be taken to collect unpaid accounts which includes sending written notifications reminding defendants of fines and fees past due.

Finding No. 3: Investment of Collections Held by the Clerks for Remittance to the State and Other Entities

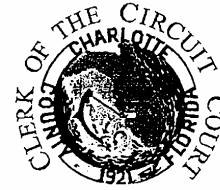
We are in the process of reevaluating our system to identify fines and fees collected in interest-bearing accounts required to be distributed to the state and other entities. We will temporarily move these funds to non-interest bearing accounts until a method is developed which will enable us to reasonably apportion, allocate and credit investment earnings to these entities.

Sincerely,

Howard C. Forman  
Clerk of Circuit & County Court  
17<sup>th</sup> Judicial Circuit of Broward County

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**

**BARBARA T. SCOTT  
CLERK OF THE CIRCUIT COURT**



CIRCUIT COURT • COUNTY COURT • COUNTY RECORDER • CLERK BOARD OF COUNTY COMMISSIONERS

July 7, 2004

Mr. William O. Monroe, C.P.A.  
Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

As Charlotte County Clerk of the Circuit Court, I offer the following responses to the preliminary and tentative findings of your audit of Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges by Clerks of the Circuit Courts.

*Finding #1. Fines and Fees Authorized by Law but Not Assessed*

*Auditor General Recommendation: The Legislature should consider enacting legislation requiring the Office of the State Courts Administrator, or a designated committee, to develop guidelines to help ensure reasonably consistent discretionary assessments or adjusting statutorily established minimum and maximum fines and fees.*

*Clerk's Office Response: Duly noted.*



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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Page 2

**Finding #2.** Indigency Waivers/Deferrals

*Auditor General Recommendation:* The Legislature should consider enacting legislation to provide consistent statutory provisions relating to indigency determinations for court-related matters.

*Clerk's Office Response:* Duly noted. In Charlotte County, by contract, Court Administration is responsible for indigency determination.

Page 2

**Finding #3.** Collection Controls

*Auditor General Recommendation:* Clerks should establish written procedures addressing the receipt, deposit, and recording of payments received; and the processing of collections due to the State and other entities. Such written procedures should require the maintenance of documentation evidencing responsibility for collections from time of collection to deposit, immediate restrictive endorsements of checks, and adequate separation of duties to extent possible given existing personnel.

*Clerk's Office Response:* In Charlotte County, formal, written cash handling procedures, incorporating many of the above recommendations, were implemented several years ago. We will review these procedures and make modifications where applicable. Our written policies and procedures will be updated to include responsibility for receipts from the time of collection to subsequent deposit, with the exception of creating a paper trail when mail is opened in the mailroom. Due to biological threats, we established a policy whereby mailroom employees protected by gloves would open all mail. This makes it impractical to document the opening of mail and the cost would be greater than the risk of loss.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Page 3

**Finding #4. Fines and Fees Assessed but Not Collected**

*Auditor General Recommendation:* Clerks should establish written procedures addressing actions to be taken to collect unpaid accounts. Clerks should also consider using collection agencies and written notifications as a means of enhancing collection of fines and fees.

*Clerk's Office Response:* As of July 1, 2004, written procedures are in effect which address actions to be taken to collect unpaid fines and fees and the timing of those actions. Charlotte County has used and will continue to use a collection agency to assist in the collection process.

**Finding #5. Collections Held by Clerks for Remittance to the State and Other Entities**

*Auditor General Recommendation:* The Legislature should consider enacting legislation clarifying the time frame for remittance of all fines and fees to the State and other entities.

*Clerk's Office Response:* Duly noted. Charlotte County is following, without exception, directives of the Department of Revenue. Until such time as an alternative procedure is directed by the proper authoritative body, current distribution procedures will be followed. If and when, alternative distribution time lines are received from the proper authorities, required changes, if any, will be immediately implemented. To date, no such recognition of a possible statute violation has been forthcoming from the Department of Revenue or any other authority.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Page 4

**Finding #6.** *Investment of Collections Held by the Clerks for Remittance to the State and Other Entities*

**Auditor General Recommendation:** *Clerks should ensure that collections held for remittance to the State and other entities are invested, and the earnings thereon remitted, in accordance with Section 219.075(1), Florida Statutes, unless exempted by other law or ordinance. Also, the legislature should consider enacting legislation that authorizes the clerks to retain a portion of investment earnings on such moneys to defray clerks' costs associated with administering such moneys.*

**Clerk's Office Response:** *In Charlotte County, the Clerk's office utilizes a Fines and Forfeiture Fund to Ahold@ Criminal Court related funds pending distribution. These funds are held in a non-interest bearing account. Civil Court related funds, while maintaining a separate accounting, are commingled with operating funds and are held in an interest bearing (overnight sweep) account. The apportionment and allocation of interest earnings to the multitude of distributees would become onerous particularly when viewed in relation to the de minimus amount of earnings that would be generated. The implementation of such a program, from an operational standpoint would be in a deficit position. It is our opinion that statutes when taken as a whole do not intend to implement any program, which creates such a deficit position.*

*To further support this conclusion is the apparent position taken by the Department of Revenue. Although interest has been remitted on Documentary Stamps Tax and Intangible Tax, no interest on any other remittance to the Department of Revenue has been made. Although the Auditor General has indicated that three other counties do remit interest on funds pending distribution, Charlotte County has never been notified that they were in violation of a particular statute, nor has Department of Revenue requested such a remittance. As such, our conclusion is that the Department of Revenue acting in its official capacity as the statewide collection agency for such funds does not interpret applicable sections of Florida Statutes as requiring the investment of these types of funds nor the remittance of earnings on these funds.*

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Page 5

*Finding #7. Structure and Diversity of Laws Authorizing Fines and Fees*

*Auditor General Recommendation: The legislature should consider enacting legislation to simplify and centralize laws authorizing fines and fees.*

*Clerk's Office Response: Duly noted.*

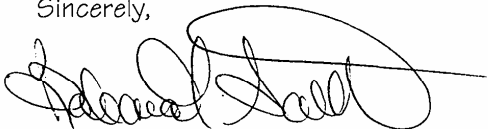
*Finding #8. State Trust Funds*

*Auditor General Recommendation: The Legislature should consider enacting legislation to require clerks to remit amounts collected pursuant to Section 318.14(10)(b), Florida Statutes, to the Department of Revenue for subsequent distribution to the Juvenile Justice Training Fund.*

*Clerk's Office Response: Duly noted. Until such time as directives are received from the proper authorities changing current practice, Charlotte County will continue with the current distribution procedures. Upon receipt of such directives, any changes, if required, will be immediately implemented. Similar to the above responses, no notification has been received from any authoritative body to change existing distribution procedures, whether this be the Department of Justice, the Department of Revenue, or both.*

*I trust you find this response to the audit findings adequate and complete.*

Sincerely,



BARBARA T. SCOTT  
CLERK OF THE CIRCUIT COURT

cc: Robert Jones, Auditor General's Office

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**

**County of Collier  
CLERK OF THE CIRCUIT COURT**

**Dwight E. Brock**  
Clerk of Courts

COLLIER COUNTY COURTHOUSE  
3301 TAMIAMI TRAIL EAST  
P.O. BOX 413044  
NAPLES, FLORIDA 34101-3044

Clerk of Courts  
Accountant  
Auditor  
Custodian of County Funds

July 21, 2004

William O. Monroe  
Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

Pursuant to your request this is Collier County’s response to Preliminary and Tentative Findings by your office of **Assessment, Collection, and Remittance of Court-related Fines, Fees, and Other Charges by Clerks of the Circuit Courts.**

**Finding No. 1: Fines and Fees authorized by Law but not assessed**

Response: We agree.

**Finding No. 2: Indigent Waivers/Deferrals**

Response: Clarity regarding this process must be established by the legislature.

**Finding No. 3: Collection Controls**

Response: We agree. Having adequate internal controls to minimize the risk of loss is of critical importance to the Clerk’s office in Collier County. A determination of risk exposure has to be made. Once the level of risk is determined, controls commensurate with the level of risk at the most reasonable cost will be implemented.

While the process identified in your report may be the best internal control it is not the only control. We have reviewed our process previously and determined the check and balance created by the defendant and his/her response to subsequent actions of the program (i.e. court appearance) would be sufficient control, we will however further review our process in light of your finding.

Written procedures are currently in draft form and formalization of them will be implemented.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**Finding No. 4: Fines and Fees Assessed but not Collected**

Response: Collier County does not utilize a Collection Agency because we have tried that process with other collections without much success. We do our own collections and are proud of our achievements. While there is not a "one size fits all" solution to fine collection it is imperative that we find a way to collect the funds, and all options must be considered.

We will continue to explore all options to make the collection process more efficient.

**Finding No. 5: Collections held by Clerks for Remittance to the State and Other Entities**

Response: We agree.

**Finding No. 6: Investment of Collections held by Clerks for Remittance to the State And Other Entities**

Response: We agree. The establishment of business practices for this process system wide will allow for it to be done. Careful examination of the cost/benefit should be made. In light of the fact that all Clerk monies are now state monies the legislature needs to make a determination of the practicality of the statute as it now exists.

**Finding No. 7: Structure and Diversity of Laws Authorizing Fines and Fees**

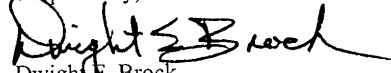
Response: We agree. It is a major task to locate and capture information relative to assessments and remittance of moneys. A consolidated statute would greatly benefit to the operation of the Clerk's office.

**Finding No. 8: State Trust Funds**

Response: We agree. The implementation of Chapter Law 2004-265 will accomplish most of this. The same timing should be used for the Juvenile Justice Training Fund.

If you have any questions, or wish to discuss further, please feel free to contact me.

Respectfully,

  
Dwight E. Brock,  
Clerk of the Circuit Court

DEB/sb

EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES

**P. DeWitt Cason**

Clerk of Circuit Court - Columbia County, Florida



July 21, 2004

William O. Monroe, CPA  
Auditor General  
111 West Madison Street  
Tallahassee, FL 32399

Dear Mr. Monroe:

The following is our response to the findings and recommendations that may be included in a report to be prepared on your audit of the: Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges by Clerks of Circuit Court.

- Finding No. 1:** We concur with this finding and recommendation.
- Finding No. 2:** We concur with this finding and recommendation.
- Finding No. 3:** We concur with the finding regarding written procedures and we will establish such written documentation. Also mentioned in this finding is the lack of separation of duties. We concur with the fact that certain duties are not adequately separated. However, with an organization our size, proper separation of duties is not always feasible.
- Finding No. 4:** We concur with this finding and we will establish written procedures addressing actions to be taken to collect unpaid accounts.
- Finding No. 5:** We concur with this finding and recommendation.
- Finding No. 6:** We concur with this finding and we have corrected this finding to ensure that interest earnings due to the state are remitted in accordance with Section 219.075(1), Florida Statutes.
- Finding No. 7:** We concur with this finding and recommendation.
- Finding No. 8:** We concur with this finding and recommendation.

Sincerely,

P. DeWitt Cason  
Columbia County Clerk of Court

P.O. Box 2069 • Lake City, Florida 32056 • 145 North Hernando Street, 32055  
386-758-1041 or 386-758-1342

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



**Clerk of the Circuit & County Courts**  
DUVAL COUNTY  
JACKSONVILLE, FLORIDA 32202

**JIM FULLER**  
CLERK OF THE CIRCUIT COURT

TELEPHONE: 904-630-2028  
FACSIMILE: 904-630-2950

July 23, 2004

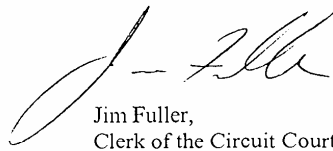
Mr. William O. Monroe  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

Our response to the preliminary and tentative audit findings and recommendations of the Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges By Clerks of the Circuit Court audit is enclosed.

If further assistance is needed, please feel free to contact me.

Sincerely,



Jim Fuller,  
Clerk of the Circuit Court



**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



**RESPONSE TO AUDITOR GENERAL’S REPORT  
ASSESSMENT, COLLECTION, AND REMITTANCE OF COURT-RELATED  
FINES, FEES, AND OTHER CHARGES BY CLERKS OF THE CIRCUIT COURTS**

FINDING No. 1: *Fines and Fees Authorized by Law but Not Assessed*

No response required.

FINDING No. 2: *Indigency Waivers/Deferrals*

No response required.

FINDING No 3: *Collection Controls*

Current procedure for the Clerk of the Court of Duval County is to deliver mail received to the department where it is then opened and processed on the day received. Since mail is immediately processed, a control function of recording all payments received that are then processed via the cashiering function is deemed inappropriate and expensive. The procedure for transferring collections between staff for verification and deposit will be amended to report custody and control upon transfer between staff/departments.

FINDING No. 4: *Fines and Fees Assessed but Not Collected*

The Clerk of the Circuit Court of Duval County is currently using a collection agency to collect unpaid accounts. This Office initiated the use of a collection agency beginning December, 2002, for civil traffic citations and has found the method to be extremely successful. Current plans are to extend this collection method to the criminal areas.

FINDING No. 5: *Collections Held by Clerks for Remittance to the State and Other Entities*

No response required.

FINDING No. 6: *Investment of Collections Held by the Clerks for Remittance to the State and Other Entities*

The Clerk of the Circuit Court of Duval County currently invests funds collected. This Office has been operating under F.S.28.33 with the opinion that interest earned was income of the office. Upon the findings of this audit report and as directed by F.S.219.075, this Office will comply with the provision directing interest earnings be allocated to the various fines and fees held for remittance to the State.

FINDING No. 7: *Structure and Diversity of Laws Authorizing Fines and Fees*

No response required.

FINDING No. 8: *State Trust Funds*

No response required.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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## **Hernando County Clerk's Office Audit Response**

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TO: William O. Monroe, CPA

FROM: Jana Murphy, Director of Court Services

DATE: July 6, 2004

SUBJECT: Assessment, Collection and Remittance of Court-Relation Fees Audit

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**Finding #1 - Fines and Fees Authorized by Law but Not Assessed:**

Clerk's Response: This is not a Clerk issue and no response on our part is considered necessary.

**Finding #2 - Indigency Waivers/Deferrals:**

Clerk's Response: The Clerk concurs.

**Finding #3 - Collection Controls:**

Clerk's Response: Does not appear to apply to the Hernando County Clerk's Office.

**Finding #4 - Fines and Fees Assessed but not collected:**

Clerk's Response: Does not appear to apply to the Hernando County Clerk's Office. Shortly after the audit period we began utilizing a collection agency as a means of enhancing collection of fines and fees.

**Finding #5 - Collections Held by Clerks for Remittance to the State and Other Entities:**

Clerk's Response: The Clerk concurs that the Legislature should consider enacting legislation clarifying the time frame for remittance of all fines and fees. We will await consideration by the Legislature of the recommended clarifying legislation as to the time frames for remittance of all fines and fees to the State and other entities before making changes to our current method of remitting payment monthly.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**Finding #6 - Investment of Collections Held by the Clerks for Remittance to the State and Other Entities:**

Clerk's Response: The Clerk concurs that the Legislature should consider enacting legislation that authorizes the clerks to retain a portion of investment earnings. Collections held for remittance to the State and other entities are currently invested but not remitted. We will make accommodations to ensure that the State receives an apportionment of interest earnings in the future.

**Finding #7 - Structure and Diversity of Laws Authorizing Fines and Fees:**

Clerk's Response: The Clerk strongly concurs.

**Finding #8 - State Trust Funds:**

Clerk's Response: The Clerk concurs.

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



**L.E. "LUKE" BROOKER**  
CLERK OF THE COURTS HIGHLANDS COUNTY, FLORIDA

CLERK OF CIRCUIT COURT  
CLERK OF COUNTY COURT  
COUNTY AUDITOR  
COUNTY RECORDER  
CLERK TO THE BOARD OF COUNTY COMMISSIONERS

590 SOUTH COMMERCE AVENUE  
SEBRING, FLORIDA 33870-3867  
PHONE (863) 402-6564  
SUNCOM 742-6564  
FAX (863) 402-6768

August 2, 2004

Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Fla. 32399-1450

Re: Response to Assessment, Collection, and Remittance of Court-Related Fines,  
Fees, and Other Charges by Clerks of the Circuit Courts

- Finding No. 1 No Finding for Highlands County
- Finding No. 2 No Finding for Highlands County
- Finding No. 3 No Finding for Highlands County
- Finding No. 4 At this time Highlands County is using a Court Order Payment Court for the collection of court ordered payments. The enforcement is through the Salvation Army and has been contracted with through the Highlands County Board of County Commission. We are also planning on contracting with an outside collection agency to handle the collection of back traffic payments. At this time if you fail to pay a traffic payment your license is suspended through a D-6 form prepared by the Clerk of Court Office.
- Finding No. 5 Article V and the Clerk's Conference has set up time standards and procedures for remittance of fines and fees to the State and Other Entities. Highlands County will disburse as required.

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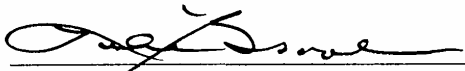
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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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- Finding No. 6      Highlands County invested fines and fees in interest-bearing accounts as required by Section 219.075(1) and will remit as required.
- Finding No. 7      No Finding for Highlands County
- Finding No. 8      No Finding for Highlands County

  
\_\_\_\_\_  
L. E. "Luke" Brooker  
Clerk of Court  
Highlands County

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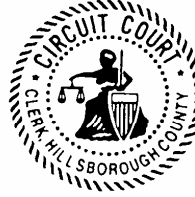
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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Richard Ake  
Clerk of the Circuit Court  
Hillsborough County, Florida



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P.O. Box 1110  
Tampa, Florida 33601  
Telephone (813) 276-8100

July 2, 2004

The Honorable William O. Monroe  
Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

RE: Preliminary and tentative review findings and recommendations regarding the audit of the Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges By Clerks of the Circuit Courts

Dear Mr. Monroe:

The following is the response of my office to the above referenced preliminary and tentative review findings and recommendations, as required by Section 11.45 (4) (d), Florida Statutes:

**Finding No. 1: Fines and Fees Authorized by Law but Not Assessed**

This finding is not applicable to this office. Fines and fees are assessed by the Courts, not by the Clerk.

**Finding No. 2: Indigency Waivers/Deferrals**

We agree that the process of determining indigency could be made easier if there was more consistency among the various statutory provisions relating to indigency determination. Consolidation of statutory authority could also prove to be helpful.

**Finding No.3: Collection Controls**

Hillsborough County was not one of the counties specifically mentioned in the report as being deficient in this area. However, we will review our procedures regarding collection controls to determine where they might be improved.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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The Honorable William O. Monroe  
July 2, 2004  
Page 2

**Finding No. 4:      Fines and Fees Assessed but Not Collected**

We are presently weighing various options regarding how we might improve the collection of fines and fees in Hillsborough County, and we will continue to do so. We plan to place more emphasis on those areas we believe we can be successful in, such as traffic and misdemeanor criminal cases, and less emphasis on felony cases, where more often than not the defendant faces a significant incarceration period.

**Finding No. 5:      Collections Held by Clerks for Remittance to the State and Other Entities**

Hillsborough County electronically transmits collections to the state in accordance with the process and schedule agreed to by the Department of Revenue. We will abide by any changes that might be made to that schedule, or any changes that the Legislature might enact.

**Finding No. 6:      Investment of Collections Held by the Clerks for Remittance to the State and Other Entities**

Hillsborough County currently invests idle funds to the greatest extent possible. We will review our interest distribution practices to determine what changes, if any, need to be made.

**Finding No. 7:      Structure and Diversity of Laws Authorizing Fines and Fees**

We agree with your recommendation. This is an area in need of simplification.

**Finding No. 8:      State Trust Funds**

We agree with your recommendation.

Sincerely,  


Richard Ake  
Clerk of Circuit Court

EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES



DALE RABON GUTHRIE  
Clerk of Circuit and County Courts  
*Jackson County*

P. O. Drawer 510  
Marianna, FL 32447

(850) 482-9552  
Fax: 482-7849  
SunCom: 789-9552

July 02, 2004

Mr. William O. Monroe, CPA  
Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

This letter is our official response to your preliminary and tentative review findings and recommendations on the audit.

Findings #3: This has been corrected.

Findings #4: This has been corrected.

I thank you for your in-depth study of our procedures and will continue to strive to produce good auditable records.

If we can be of other assistance to you, please call us.

Sincerely,

DALE RABON GUTHRIE  
CLERK OF COURTS

DRG:lg



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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**CLERK’S POLICY**

1. Property Clerk picks up mail from Post Office and delivers it in a bag, unopened, to the Mail Clerk.

The Mail Clerk sorts the mail (95% unopened) and disburses to appropriate department head. Only approximately 5% is unidentifiable by sight and has to be opened. Those envelopes are opened and then hand-delivered to department head. Of the 5% that is opened, less than 1% is a collection. Normally, they are information requests. Regardless, once opened, the Mail Clerk distributes them to the appropriate department.

Each department head opens their mail and pulls file if payment is enclosed. Payment is then receipted and placed in department head’s cash drawer until the afternoon closeout. The department head runs register print-out, balances to the print-out, delivers reports and money to Deposit Clerk. Department head verifies and signs off on the amount of cash, checks, EFT’s, and credit card amounts collected. Deposit Maker verifies the amount while department head is present and signs off on the verification presented by the department head. This written verification is attached to the deposit reports.

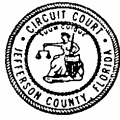
2. It is the Clerk’s policy that all traffic citations that have not been paid within a year are then turned over to the local Credit Bureau for collection at the end of each calendar year.

Other fines (Criminal Traffic, Misdemeanor, Felony) are either paid in full, or worked off in a Community Services Program, or set aside to time served in jail.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Room 10  
Monticello, Florida  
32344

*Carl D. Boatwright*

*Clerk Of The Circuit Court  
Jefferson County, Florida*



Ph: (850) 342-0218  
Fax: (850) 342-0222  
E-mail: clerkcdb@hotmail.com

July 30, 2004

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

In response to your letter of June 23, regarding preliminary and tentative review findings of your audit of Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges By Clerks of the Circuit Courts, I offer the following:

1. Finding No. 1: Fines and Fees Authorized by Law but Not Assessed.  
Assessment is not within the authority of the Clerk of the Circuit Court.
2. Finding No. 2: Indigency Waivers/Deferrals.  
Correction of inconsistencies of law is not within the authority of the Clerk of the Circuit Court.
3. Finding No. 3: Collection Controls.  
Written procedures will be developed addressing the receipt, deposit and recording of payments received and the processing of collections due to the State and other entities, to include responsibility for collections from time of collection to deposit, immediate restrictive endorsements of checks, and separation of duties to the extent possible given existing personnel.
4. Finding No. 4: Fines and Fees Assessed but Not Collected.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Mr. William O. Monroe, CPA  
Page 2

Written procedures will be developed addressing actions to be taken to collect unpaid accounts. Your audit erred in not including Jefferson County in those who use collection court. We do use collection court. This was specifically mentioned to the auditor.

5. Finding No. 5: Collections Held by Clerks for Remittance to the State and Other Entities.

We will review the remittance schedule provided as Exhibit B of the Preliminary and Tentative Findings to insure compliance with the law in remittance of funds.

6. Finding No. 6: Investment of Collections Held by the Clerks for Remittance to the State and Other Entities.

Collections held for remittance to the State and other entities are invested. Our understanding was that the clerk could retain any interest earned. We will begin to apportion interest earned and distribute to state agencies.

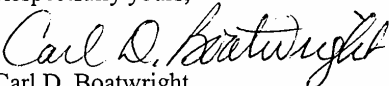
7. Finding No. 7: Structure and Diversity of Laws Authorizing Fines and Fees.

It is the intent of our office to collect all possible fines and fees. We agree with your finding that simplification and consolidation of laws would greatly enhance this effort.

8. Finding No 8: State Trust Funds.

We agree with your assessment. A change of law to direct payment through the Department of Revenue would simplify the current system

Respectfully yours,



Carl D. Boatwright  
Clerk of the Circuit Court

CDB/cdb

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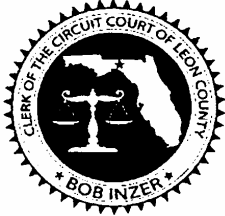
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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**Bob Inzer**

CLERK OF THE CIRCUIT AND COUNTY COURTS  
LEON COUNTY \* TALLAHASSEE, FLORIDA

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*Home of Florida's Capital*

ADMINISTRATION (850) 577-4001  
POST OFFICE BOX 726  
TALLAHASSEE, FLORIDA 32302

July 20, 2004

Mr. William O. Monroe, CPA  
Auditor General  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

**SUBJECT: Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges by Clerks of the Circuit Courts**

I am in receipt of your preliminary draft of your audit referenced above and, as provided by Florida Statutes 11.45(4)(d), submitting my explanation and comments. Generally, I will be only responding to those findings and recommendations that specifically relate to our office or to clerks in general.

1. Fines and Fees Authorized by Law but Not Assessed
  - a. *AG Recommendation:* "The Legislature should consider enacting legislation requiring the Office of the State Courts Administrator, or a designated committee, to develop guidelines to help ensure reasonably consistent discretionary assessments or adjusting statutorily established minimum and maximum fines and fees."
  - b. *Clerk Response:* No response
2. Indigency Waivers/Deferrals
  - a. *AG Recommendation:* "The Legislature should consider enacting legislation to provide consistent statutory provisions relating to indigency determinations for court-related matters."
  - b. *Clerk Response:* Clarifying the statutes would assist the clerks in performing this duty.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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Mr. William O. Monroe, CPA  
Auditor General  
July 20, 2004  
Page 2

3. Collection Controls

- a. *AG Recommendation:* "Clerks should establish written procedures addressing the receipt, deposit, and recording of payments received; and the processing collections due to the State and other entities. Such written procedures should require the maintenance of documentation evidencing responsibility for collections from time of collection to deposit, immediate restrictive endorsements of checks, and adequate separation of duties to the extent possible given existing personnel."
- b. *Clerk Response:* We currently have written procedures; however, they may not be in sufficient detail to ensure the integrity of the system. We will review our procedures to ensure they are adequately documented and will have our internal auditors review our internal controls to ensure integrity of the collection system.

4. Fines and Fees Assessed but Not Collected

- a. *AG Recommendation:* "Clerks should establish written procedures addressing actions to be taken to collect unpaid accounts. Clerks should also consider using collection agencies and written notifications as a means of enhancing collection of fines and fees."
- b. *Clerk Response:*
  - i. Leon County has had for several years an aggressive collection program. Individuals assessed court fees and fines are, at the time of sentencing, put on a payment plan and required to appear in court if they become delinquent. Our collection program for criminal court has a collection rate of approximately 85%. We are in the process of changing our collection program to include contacting delinquent participants before taking them back to court. We will document the new procedures as they are implemented.
  - ii. Several years ago we retained a collection agency to assist in the collection of civil traffic infractions and we are evaluating the benefits of expanding the scope of their collection activities.

5. Collections Held by Clerks for Remittance to the State and Other Entities

- a. *AG Recommendation:* "The Legislature should consider enacting legislation clarifying the time frame for remittance of all fines and fees to the State and other entities."
- b. *Clerk Response:* Clarifying the required remittance of state revenues would assist us. Standardization of the remittance schedules would also result in a higher level of compliance.

6. Investment of Collections Held by the Clerks for Remittance to the State and Other Entities

- a. *AG Recommendation:* "Clerks should ensure that collections held for remittance to the State and other entities are invested, and the earnings thereon remitted, in accordance with Section 219.075(1), Florida Statutes, unless exempted by other law or ordinance. Also, the Legislature should consider enacting legislation that authorizes the clerks to retain a portion

**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

Mr. William O. Monroe, CPA  
Auditor General  
July 20, 2004  
Page 3

of investment earnings on such moneys to defray clerks' costs associated with administering such moneys."

- b. *Clerk Response:* Clerks remit state revenues on a regular basis and, therefore, retain these funds for a very limited time frame. Requiring the investment of these funds and remittance of investment income for each separate revenue stream would be a very cumbersome and labor intensive process. Given the amount of money involved, the low interest rate environment, the cost associated with managing, accounting, remitting and auditing this process, the cost of such a requirement would exceed the dollars earned. I strongly encourage the Legislature to eliminate this requirement.


7. Structure and Diversity of Laws Authorizing Fines and Fees

- a. *AG Recommendation:* "The Legislature should consider enacting legislation to simplify and centralize laws authorizing fines and fees.
- b. *Clerk Response:* I believe all clerks diligently try to comply with Florida Statutes in assessing, collecting and remitting fines and fees. However, the complexity of current legislation has resulted in a variety of interpretations. Significant clerk resources are spent in researching, programming, accounting, communicating with customers, and remitting fines and fees. Simplification and centralizing laws related to fees and fines would result higher compliance and the elimination of unnecessary administrative costs.

8. State Trust Funds

- a. *AG Recommendation:* The Legislature should consider enacting legislation to require clerks to remit amounts collected pursuant to Section 318.14(10)(b), Florida Statutes, to the Department of Revenue for subsequent distribution to the Juvenile Justice Training Fund.
- b. *Clerk Response:* Enacting the recommended legislation would assist the clerks in performing this duty.

Sincerely,

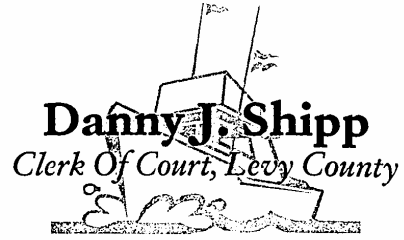
  
Bob Inzer, Clerk  
Leon County Circuit and County Courts

BI/cam

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



P.O. Drawer 610 • 355 South Court Street  
Bronson, Florida 32621-0610 • Phone: (352) 486-5266



July 27, 2004

Honorable William O. Monroe  
State of Florida  
Office of the Auditor General  
Tallahassee, FL 32201

Dear Mr. Monroe,

In accordance with Florida Statutes, 11.45(4)(d), I respectfully submit the following responses to the preliminary and tentative review findings and recommendations for the Levy County Clerk of Court for fiscal year 2001-2002 on the Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges:

1. Finding No.3-----Written procedures addressing receipting, depositing and recording of payments received are being prepared.
2. Finding No. 4----Collection procedures and efforts will be addressed and in place in a timely manner.
3. Finding No. 6----Funds are deposited in a checking account that earns interest, however these funds are a combination of all fees & fines collected for the State, County, Municipalities and Clerk. Being a small county, we do not have the resources to separate these funds at the time of collection and deposit.

If I can be of further assistance please call me at 352-486-5266.

Sincerely

Danny J. Shipp,  
Clerk of Circuit Court3

DJS/am

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**HARVEY RUVIN**  
**MIAMI-DADE CLERK**  
**COURTS • COMMISSION • RECORDER • FINANCE**

Telephone: (305) 349-7333  
Fax: (305) 349-7403  
E-Mail: [clerk@miami-dadeclerk.com](mailto:clerk@miami-dadeclerk.com)  
Web Site: <http://www.miami-dadeclerk.com>

DADE COUNTY COURTHOUSE  
ROOM 242  
73 West Flagler Street  
Miami, FL 33130

July 21, 2004

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

In response to the preliminary and tentative review findings and recommendations made by your office, dated June 23, 2004, please see our attached response.

Please don't hesitate to call if you have any questions or comments.

Sincerely,

Harvey Ruvin  
Miami Dade County Clerk

Attachment

c: Martha Alcazar, Comptroller  
Barbara Fernandez, Senior Deputy  
Margaret Enciso, Deputy Comptroller



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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**Preliminary and Tentative Response**

**Audit of Assessment, Collection and Remittance of  
Court-Related Fines, Fees and Other Charges**

**Miami-Dade Clerk of the Circuit and County Courts  
July 21, 2004**

**Response to Finding No. 1: Fines and Fees Authorized by Law but Not Assessed**

The Legislature enacted legislation through HB 113-A and SB 2962 providing for guidelines for consistent discretionary assessments and establishing maximum fines and fees.

**Response to Finding No. 2: Indigence Waivers/Deferrals**

The Legislature enacted legislation through SB 2962 providing consistent statutory guidelines for indigence determinations for court-related matters.

**Response to Finding No. 3: Collection Controls**

Miami-Dade County Clerk of Courts (Clerk) properly defines responsibility and documents guidelines for the collections process from the time of collection to the subsequent deposits. The primary document titled "Cashiering Internal Control Procedures" is, at minimum, revised annually and distributed to management and cashiering personnel.

Internal controls are established utilizing a cost/benefit analysis. Collections received through the mail in the Accounting Section are entered in a mail log by one individual and subsequently controlled through separation of duties and restrictive endorsements until the funds are deposited. The maintenance of a mail log is deemed cost beneficial in this instance since the check volume is low and the amounts are high. However, certain locations such as the Criminal Division receive a higher mail check volume for small amounts. In this case, a cost/benefit analysis calls for compensating controls over the maintenance of a mail log. The checks are processed through the cashiering system, are restrictively endorsed and reconciled daily with the deposit activity. The cashiering system automatically updates the Criminal Division subsidiary and the daily activity is reconciled by the Criminal Division. The Accounting Section reconciles all of the subsidiary accounts and the bank accounts on a monthly basis. Lastly, written notifications for outstanding fines and fees are mailed to the defendants who call the Clerk if there are discrepancies with their payment records.

**Response to Finding No. 4: Fines and Fees Assessed but Not Collected**

The Clerk mails written notifications to defendants requesting payment of outstanding fines and fees. Up through June 30, 2004, defendants who failed to pay their outstanding

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**Miami-Dade Clerk of the Circuit and County Courts**  
**July 21, 2004**

**Page 2**

balances were scheduled to attend collection court. Those unable to immediately pay their balances were entered into a payment plan.

At the time of the audit, the Clerk was negotiating contracts with collection agencies for the collection of outstanding criminal fines and fees. Since then the Clerk has successfully entered into contractual agreements for these collections.

**Response to Finding No. 5: Collections Held by Clerks for Remittance to the State and Other Entities**

This finding does not apply to the Clerk.

**Response to Finding No. 6: Investment of Collections Held by the Clerks for Remittance to the State and Other Entities**

The Clerk's Office is currently reviewing its investment policy to maximize investment earnings and reduce administrative costs. We recommend that legislation be enacted authorizing all clerks to retain a portion of investment earnings to defray related administrative costs.

**Response to Finding No. 7: Structure and Diversity of Laws Authorizing Fines and Fees**

The finding does not apply to the Clerk.

**Response to Finding No. 8: State Trust Funds**

The finding does not apply to the Clerk.

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



**LYDIA GARDNER**  
CLERK OF THE CIRCUIT AND COUNTY COURTS  
ORANGE COUNTY

July 23, 2004

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe,

Thank you for the opportunity to review the preliminary and tentative findings and recommendations that may be included in your audit of the:

Assessment, Collection, and Remittance of Court-Related  
Fines, Fees, and Other Charges By Clerks of the Circuit Courts

As expected, your audit shows the collaboration between the Orange County Clerk of Courts and other judiciary partners in Orange County to collect all fines and fees that have been assessed in accordance with state law. In my opinion, this audit illustrates many positive gains that have been incorporated with our operation.

Pursuant to Section 11.45 (4)(d), Florida Statutes, attached is a written explanation concerning all of the findings, including actual and proposed corrections actions.

Sincerely,



Lydia Gardner

**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

<b>Finding No.</b>	<b>Finding</b>	<b>Comment and Action Plan</b>
1.	Fines and Fees Authorized by Law but Not Assessed	The responsibility to properly assess fines and fees remains with the Judiciary. Judges primarily have judicial discretion to determine the amount of fines and fees to be assessed. The Orange County Clerks Office is reviewing ways to properly document when Judges grant waiver of fines and fees associated with indigent customers.
2.	Indigence Waivers/Deferrals	Effective July 1, 2004, Clerk's are responsible for determining indigence. To comply with this new responsibility, procedures are being developed to ensure adequate documentation is in place when granting waivers of fine and fees associated with indigent customers.
3.	Collection Controls	The Orange County Clerk of Courts is currently in compliance with this finding.
4.	Fines and Fees Assessed but Not Collected	Effective July 1, 2004, Clerks are responsible for the collection of all fine and fees. Currently, the Orange County Clerk of Courts has a functioning collection program that incorporates the use of judiciary partners. To further expand on collection efforts, we will evaluate the need for a collection agency in accordance with state law. The current collection program in Orange includes a collection court and provides written notifications to all defendants that are sentenced to the program, which was not noted in the audit findings.
5.	Collections Held by Clerks for Remittance to the State and Other Entities.	Effective July 1, 2004, SB 2962 has clarified that the 20 <sup>th</sup> of each month is the time frame for remittance of all fines and fees to the State and other entities. This is a more realistic approach to disbursing necessary funds. The Orange County Clerk of Courts is in compliance with this time frame.
6.	Investment of Collections Held by the Clerks for Remittance to the State and Other Entities	We are currently evaluating this finding to incorporate within our operation. However, the cost of investing funds should not be absorbed within the Clerks operation. This cost should be passed on to the entity that is receiving the funds.
7.	Structure and Diversity of Laws Authorizing Fines and Fees	The Orange County Clerk of Courts is currently in compliance with this finding.
8.	State Trust Funds	The Orange County Clerk of Courts is currently in compliance with this finding.

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**

**MEMORANDUM**

July 20, 2004



William O. Monroe, Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Re: Osceola County - Clerk of Courts Audit Response

Dear Mr. Monroe,

Pursuant to Section 11.45 (4)(d), Florida Statutes, listed below are my responses and explanations to the list of findings and recommendations in connection with your audit of the Assessments, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges by Clerk of Circuit Courts for the period of 10/01/01 through 09/30/02.

In response to finding nos. 1, 2, 5, 6, 7 and 8, this office agrees with each of your finding and recommendation that the Legislature should consider enacting legislation to provide consistent provisions relating to all said matters.

In response to finding no. 3, this office has written procedures addressing the receipt, deposit and recording of all payments received in person but it does not include maintenance of documentation on payments received in the mail. The current mail room procedures provide adequate separation of duties to prevent fraud to the extent possible given our existing personnel. This office will continue to review its current written procedures to make sure controls are established to provide all collections with maximum safeguard against fraud from unauthorized use or disposition.

In response to finding no.4, it is our standard practice to use a collection agency to collect all delinquent traffic fines, costs and fees and collection court to collect all delinquent criminal county and circuit courts fines, costs and fees.

If you have any questions or concerns, please feel free to contact me at 407-343-3468.

Sincerely,

Larry Whaley  
Osceola County, Clerk of Circuit Courts

**Larry Whaley**  
*Clerk of Circuit Court*

*Civil Division  
(407) 343-3479*

*Criminal Division  
(407) 343-3543*

*Domestic Division  
(407) 343-3492*

*Finance Division  
(407) 343-3460*

*Marriage & Passports  
(407) 343-3530*

*Probate Division  
(407) 343-3503*

*Recording Division  
(407) 343-3517*

*2 Courthouse Square  
Kissimmee, FL 34741  
(407) 343-3500  
Fax (407) 343-3469*

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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**Dorothy H. Wilken**  
Clerk

OFFICE OF THE  
**CLERK OF THE CIRCUIT COURT**  
FIFTEENTH JUDICIAL CIRCUIT • PALM BEACH COUNTY

July 1, 2004

William O. Monroe, CPA  
Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

In accordance with Florida Statute 11.45 (4)(d), herein is provided our response to your audit of the Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges By Clerks of the Circuit Courts relative to the Office of the Clerk of the Circuit Court, 15<sup>th</sup> Judicial Circuit.

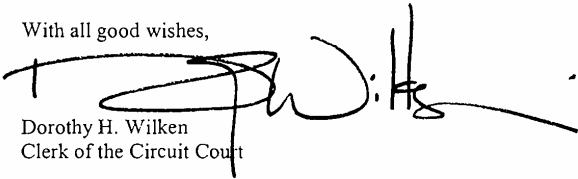
In the 15<sup>th</sup> Judicial Circuit Clerk's Office we are committed to continuous improvement and, therefore, welcome any recommendations your office can provide at any time. However, we noted five of your eight recommendations (Findings # 1,2,5,7 and 8) related to matters that must be clarified by the Florida Legislature and, thus, no corrective action is required. Notwithstanding our inability to take the recommended action without first having clarification of the Florida Statutes by the Legislature, we agree with your assessment and recommendation that they do so.

Further, this Clerk's Office is *not* cited in "Finding #3 – Collection Controls" and therefore assumes we have adequate controls designed to protect the public funds entrusted to this office. Again, no corrective action appears to be requested or required.

This Clerk's Office is cited in "Finding #4 – Fines and Fees Assessed But Not Collected" as being one of the seven Clerks offices which utilize a collection agency. Beginning July 1, 2004, we are augmenting this collection activity with a collection program which will be responsible for executing plans with defendants for payment of court fines and costs. This program will include diligent notification of any delinquent accounts.

Our Clerk's Office is cited in "Finding #6 – Investment of Collections Held by the Clerks for Remittance to the State and Other Entities" as being one of three offices which invest collected money held for future distribution and also distribute a pro rata share of the investment earnings to the State and other entities which receive the collections. It appears that no corrective action is necessary.

With all good wishes,

  
Dorothy H. Wilken  
Clerk of the Circuit Court

DHW/TMCL/bj

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



**KARLEEN F. De BLAKER**  
CLERK OF THE CIRCUIT COURT — PINELLAS COUNTY, FLORIDA

Clerk of the County Court  
Recorder of Deeds  
Clerk and Accountant of the Board of County Commissioners  
Custodian of County Funds  
County Auditor  
Clerk of the Water and Navigation Control Authority

315 Court Street  
Clearwater, FL 33756-5165  
Telephone: (727) 464-3341

July 23, 2004

Auditor General  
State of Florida  
674 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Attention: William O. Monroe, CPA

RE: Preliminary Audit Findings and Recommendations Regarding  
Assessment, Collection, and Remittance of Court Related Fines, Fees,  
and Other Changes By Clerks of the Circuit Courts

Dear Mr. Monroe,

In response to the above referenced Audit, I offer the following general responses to findings:

Non-Assessments

Fine and Fee Waivers:

Judicial waivers of Fines and Fees are now being captured in a quarterly report of Assessments and Collections required by the terms of Senate Bill 2962. Locally for this use we have provided detailed information to our judges regarding the current mandatory and discretionary fees and fines.

Waiver of Fines and

Fees for Individuals

Determined to be

Indigent:

Pursuant to the terms of Senate Bill 2962, we are now as of July 1, 2004 determining indigence for purposes of appointment of Public Defender and entering into payment plans for payment of fines and fees.

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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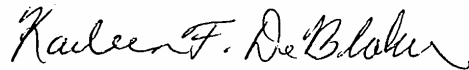
Clerks should establish adequate controls to provide assurance that collections are safeguarded:

Collection procedures are being enhanced pursuant to new Article V changes. We will ensure internal collection efforts are under taken within 90 days from default of a financial obligation and subsequent to the 90<sup>th</sup> day, we are in the process of employing a collection agency or agencies to pursue further collection efforts as per the terms of Senate Bill 2962.

The above appear to be those issues which contained findings most pertinent to Pinellas County. Since there are a number of findings that did not include my office I have not commented on those.

Should you have any questions regarding this response please contact my office at 727-464-3341.

Sincerely,

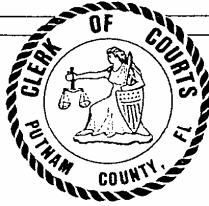


KARLEEN F. De BLAKER  
Clerk of the Circuit Court

KFD/MI/pm



**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



Office of  
Clerk of Court  
**Tim Smith**

July 15, 2004

The Honorable William O. Monroe  
Florida Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

**SUBJECT: RESPONSE TO PRELIMINARY AND TENTATIVE FINDINGS  
FOR THE AUDIT OF THE ASSESSMENT, COLLECTION, AND  
REMITTANCE OF COURT-RELATED FINES, FEES, AND OTHER  
CHARGES BY CLERKS OF THE CIRCUIT COURTS**

Dear Mr. Monroe:

The following statement is submitted in response to the findings and recommendations in conjunction with your office's audit of Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges by Clerks of the Circuit Courts. The response is keyed to the numbering of the Preliminary and Tentative Schedule of Findings:

Finding No. 1:

We concur with this finding and recommendation. Additionally, this office will attempt to better document the reason for any waiver if such reason is made available by the Court.

Finding No. 2:

We concur with this finding and recommendation that the Legislature should consider enacting legislation to provide consistent statutory provisions relating to indigency determinations for court related matters.

Finding No. 3:

This Office was not cited in this finding. We do, however, agree with the recommendation presented.

Putnam County • P.O. Box 758 • Palatka, FL 32178-0758

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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## Finding No. 4:

We concur with this finding. This Office recently executed an agreement with a collections agency to pursue delinquent collections. Additionally, written procedures will be drafted addressing the process of collections.

## Finding No. 5:

We concur with this finding. This office currently remits funds to the Department of Revenue on a monthly basis. We support the recommendation that the Legislature clarify the time frame for remittance of all fine and fees to the State and other entities.

## Finding No. 6:

We partially concur with this finding. This office, contrary to the finding, invests all funds on a daily basis in an interest bearing "sweep account." It is true, however, that we do not submit the interest earned on invested fines and fees collected. It has been decided that the cost of properly allocating the interest to the various recipients would exceed the interest earned.

## Finding # 7:

We concur with the recommendation in this finding and feel the Legislature should enact legislation to simplify and centralize laws authorizing fines and fees.

## Finding # 8:

We concur with the recommendation in this finding. The Legislature should enact legislation to require Clerks to remit amounts collected pursuant to Section 318.14(10)(b), Florida Statutes, to the Department of Revenue for subsequent distribution to the Juvenile Justice Training Fund.

Sincerely,



Tim Smith,  
Clerk of Courts

JTS:jhj

**EXHIBIT – C (CONTINUED)  
RESPONSES FROM AUDITEES**



***KAREN E. RUSHING***  
***Clerk of the Circuit Court and Comptroller***  
***Sarasota County***

*2000 Main Street • P.O. Box 3079 • Sarasota, Florida 34230-3079 • (941) 861-7400*

July 20, 2004

William O. Monroe  
Auditor General, State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

We received the list of preliminary and tentative review findings and recommendations from your audit of the Assessment, Collection, and Remittance of Court-Related Fines, Fees, and Other Charges By Clerks of the Circuit Courts. As requested, I am submitting the following written statement of explanation concerning the findings and any actual or proposed corrective actions to be taken by my office.

**Finding No. 1: Fines and Fees Authorized by Law but Not Assessed**

- The Clerk’s office does not have any control over the assessment of discretionary fines and fees by the judicial system. We do agree with the recommendation that guidelines need to be developed to help ensure reasonably consistent discretionary assessments.

**Finding No. 2: Indigency Waivers/Deferrals**

- This finding did not mention a specific clerks office, however, we do agree with the recommendation that the legislature should provide consistent statutory provisions relating to indigency determinations.

**Finding No. 3: Collection Controls**

- Although we understand the importance of establishing adequate controls, the benefit of such controls must be greater than the cost of providing the control. Checks are received directly by our office through the mail and are opened in a centralized mailroom in accordance with procedures established after the September 11 crisis. Once envelopes are opened, the paperwork is transferred to our traffic unit to be receipted. Additional staffing would be required to independently log the checks received. We have minimized our risk of not performing this task by implementing a lock box system for our traffic payments. The number of checks that come directly to our office is minimal as envelopes are provided with the

*Clerk of Circuit and County Court • Clerk of Board of County Commissioners • County Comptroller, Auditor and Recorder*

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**EXHIBIT – C (CONTINUED)**  
**RESPONSES FROM AUDITEES**

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citations and checks are to be remitted directly to the lockbox where they are immediately processed and deposited into our account.

Finding No. 4: Fines and Fees Assessed but Not Collected

- This finding was not directed to Sarasota. We do utilize a formal partial payment plan and a collection agency to collect fines and fees.

Finding No. 5: Collections Held by Clerks for Remittance to the State and Other Entities

- The remittance of funds to state agencies is completed by entering amounts into the Department of Revenue (DOR) Centralized Remittance Site which creates an automatic ACH to transfer funds from our bank account to the DOR. The Florida Association of Court Clerks issued an Advisory Bulletin dated August 12, 2003 that states the following "Please note, that while other legislation may provide a variation on the due date for certain remittances, the DOR Rule 12-24, F.A.C., does not require your office to remit monies through the website until the 25<sup>th</sup> of the month following collection". We do agree with the recommendation that the legislature should clarify the time frames in the various statutes.

Finding No. 6: Investment of Collections Held by the Clerks for Remittance to the State and Other Entities

- This finding was not directed to Sarasota.

Finding No. 7: Structure and Diversity of Laws Authorizing Fines and Fees

- We agree with the recommendation that the legislature should consider enacting legislation to simplify and centralize laws authorizing fines and fees.

Finding No. 8: State Trust Funds

- Section 318.14(10)(b), F.S. is listed on the DHSMV page of the DOR Centralized Remittance Site, and therefore, funds collected were included on this page and remitted to DOR.

Sincerely,



Karen E. Rushing, Clerk of the Circuit Court