



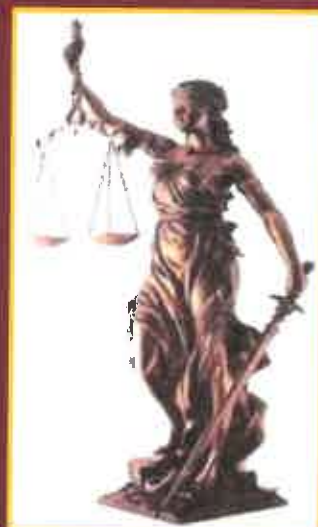
## **DIVISION OF INSPECTOR GENERAL**

**KEN BURKE, CPA**

**CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

**PINELLAS COUNTY, FLORIDA**

# **INVESTIGATIVE FOLLOW-UP REPORT OF CLERK CIVIL COURT CHILD SUPPORT SECTION FEES**



**Hector Collazo Jr.**  
**Inspector General/Chief Audit Executive**

**Investigation Team**  
**Ken Green, CIGA – Inspector General Manager**  
**Deborah Weiss, CIGA, CIGI – Inspector General Auditor II**

**OCTOBER 2, 2014**  
**REPORT NO. 2014-32**



## Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER  
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

### Division of Inspector General

510 Bay Avenue  
Clearwater, FL 33756  
Telephone: (727) 464-8371  
Fax: (727) 464-8386  
Fraud Hotline: (727) 45FRAUD (453-7283)  
Clerk's website: [www.mypinellasclerk.org](http://www.mypinellasclerk.org)

October 2, 2014

The Honorable Ken Burke  
Clerk of the Circuit Court and Comptroller

We have conducted an Investigative Follow-Up of the Clerk Civil Court Child Support Section Fees. The objectives of our follow-up were to determine the implementation status of our previous recommendations.

We have determined that the three recommendations contained in the investigative report have been implemented. The status of the recommendations is presented in this investigative follow-up.

We appreciate the cooperation shown by the Civil Court Records management during the course of this follow-up.

Respectfully Submitted,

Hector Collazo Jr.  
Inspector General/Chief Audit Executive



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# INTRODUCTION

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## ***Scope and Methodology***

We conducted an investigative follow-up of the Clerk Civil Court Child Support Section Fees. The purpose of our follow-up is to determine the status of previous recommendations for improvement.

The purpose of the original investigation was to determine if the following allegation was substantiated:

- The Clerk of the Court is not adequately collecting overdue Clerk's fees due from processing child support and alimony payments.

To determine the current status of our previous recommendations, we surveyed and/or interviewed management to determine the actual action taken to implement recommendations for improvement.

Our investigative follow-up was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation and, accordingly, included such tests of records and other auditing procedures, as we considered necessary in the circumstances.

## ***Overall Conclusion***

We have determined that the three recommendations contained in the investigative report were implemented.

# Status

OFI NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS				
		Implemented	Acceptable Alternative	Partially Implemented	Not Implemented	No Longer Applicable
1	<b>More Than \$2.4 Million Of Clerk Fees Are Uncollected For Processing Child Support And Alimony Payments.</b>					
	A. Commence efforts to collect all outstanding fees.	✓				
	B. Develop and implement documented policies and procedures for:  1. The timely collection of current Clerk's fees due.	✓				
	2. The collection of overdue Clerk's fees.	✓				

## ***Background***

The Civil Court Records Department has four main sections:

- New case intake
- Process and legal section
- Support - family new case intake, summons family report
- Night shift staff

The support section in the Civil Court Records Department specifically maintains account records for support and alimony that the court orders be paid through the State Disbursement Unit (SDU). The support section is the Central Governmental Depository for Pinellas County that maintains payment records for payments made to the SDU in Tallahassee, which includes setting up the support accounts after a court order initiates a support or alimony obligation.

The Clerk of the Circuit Court and Comptroller (Clerk) is entitled by Florida law to collect a fee for maintaining and processing support and alimony cases.

Beginning on July 1, 2009, any monies collected by the Clerk that are court related functions are remitted to the Florida Department of Revenue for transfer to the Clerk's Court Child Support Enforcement Collection System Trust Fund. Prior to July 1, 2009, the Clerk retained the Clerk's fee as revenue.

The Department of Revenue contracts with the Florida Association of Court Clerks and Comptrollers (FACC) and each depository to perform duties with respect to the operation and maintenance of a State Disbursement Unit.

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# STATUS OF RECOMMENDATIONS

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This section reports our investigative follow-up on actions taken by management on the Recommendations for Improvement in our original investigative report of the Clerk Civil Court Child Support Section Fees. The recommendations contained herein are those of the investigative report, followed by the current status of the recommendations.

## ***1. More Than \$2.4 Million Of Clerk Fees Are Uncollected For Processing Child Support And Alimony Payments.***

As of November 2011, \$2,404,098 of Pinellas County Clerk of the Circuit Court and Comptroller (Clerk) fees related to processing child support and alimony payments remained uncollected. This total of uncollected fees represents 16,798 *open/ongoing* support and alimony cases for an average of \$143.12 of uncollected fees per open case. The highest delinquent Clerk's fee due for a single case was \$2,634.26 and \$.01 (one cent) was the lowest delinquent amount due. The reports displaying the number of open cases and Clerk's fee balances due were requested and sent to the Inspector General by the Florida Association of Clerks and Courts (FACC) in November of 2011.

In 1998 and earlier years, if the child support and/or alimony payments made by the party did not include the required Clerk's fee, the Clerk was allowed to retain the fee at that time and disburse the balance of the payment to the intended recipient. Although the parties in some of the cases are currently not paying the Clerk's fees, more than 50% of the \$2.4 million total amounts due in Clerk's fees represent open cases that date back to 1998 and earlier. It could not be determined from the FACC report data how much of the total amount of Clerk's fees that were delinquent pertained to payments made in 1998 and prior years.

The support section's policies and procedures state that cases with \$10 or less due in Clerk's fees with no other payments due can be closed. For those cases that have more than \$50 due in delinquent Clerk's fees, the Clerk, by Florida Statute 61.181(3)(a), can file judgments by operation of law. This process is not currently used by the Clerk to collect delinquent Clerk's fees. Delinquent Clerk's fees are typically added to judgments when support and/or alimony payments are delinquent.

The information depicted in the table below states the total number of cases and the total amount of uncollected Clerk's fees using the following criteria:

- Cases dated in 1998 and in prior years when the Clerk potentially had the opportunity to collect those fees.
- Cases that have more than \$50 due in Clerk's fees whereby Florida Statute 61.181(3)(a) allows the Clerk to file judgments by operation of law process.
- Cases that have \$10 or less due in Clerk's fees that remain open due to other delinquent payments outstanding.

**Status of Recommendations**  
**Investigative Follow-Up of Clerk Civil Court Child Support Section Fees**

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<b>Case Criteria As Of November 2011</b>	<b>No. of Cases*</b>	<b>Total Amount of Clerk's Fees Due</b>
Total Open Cases with Clerk's Fees Due	16,798	\$2,404,098
Open Cases originated in 1998 or prior	10,975	\$1,250,626
Open Cases with more than \$50 due	8,959	\$2,263,754
Open Cases with \$10 or less due	3,004	\$13,947

\*Some of the cases presented in the table pertain to more than one of the criteria listed.

Management has not developed documented policies and procedures related to collecting the outstanding fees from processing child support and/or alimony payments. Management in the Civil Department support section stated that their primary collection efforts currently consist of contacting those respondents who have *recent* unpaid Clerk's fees. There appears to be no consistency in how often the parties are notified by the Clerk about the outstanding fees. The report generated by the support section that is used to contact the parties includes only those cases with less than \$250 owed in Clerk's fees.

Uncollected Clerk's fees for processing child support and/or alimony payments represent funds that could negatively impact the Clerk of the Court Child Support Enforcement Collection System Trust Fund. This trust fund is used to develop, implement, and operate the statewide Clerk of Court Child Support Enforcement Collection system.

Fees legally due the Clerk should be collected in a timely manner. Pursuant to Chapter 61, Dissolution of Marriage; Support; Time Sharing; Florida Statute 61.181(2)(b)1, Depository for alimony transactions, support, maintenance, and support payments; fees, the Office of the Clerk of the Court is entitled to collect "4% of the support payments which the party is obligated to pay, except that no fee shall be more than \$5.25."

**We Recommended Clerk's management:**

- A. Commence efforts to collect all outstanding fees.
- B. Develop and implement documented policies and procedures for:
  - 1. The timely collection of current Clerk's fees due.
  - 2. The collection of overdue Clerk's fees.

**Status:**

- A. **Implemented.** Management has developed and implemented written policies and procedures to commence efforts to collect all outstanding fees (see below).



**B. Implemented.** Management has developed and implemented written policies and procedures for the timely collection of current Clerk's fees due and the collection of overdue Clerk's fees, as follows:

*"A. Introduction letters will be sent on all private case (non-ivd) to inform respondent and/or employer that clerk's fees are required to be paid pursuant to statute 61.14. (highlight section of letter re:fee).*

*B. Pursuant to administrative order 2007-084 pa/pi-cir support records to be adjusted to match payroll frequency.*

- 1. When reviewing cases or updating orders check payment record concerning clerk's fees.*
- 2. If payment amount being received from employer does not match the payment frequency, change payment amount and frequency to match.*
- 3. Complete a work-up before change and after change is made to ensure record has been updated correctly.*
- 4. If fees not included with payments send form letter (highlight section of letter re:fees).*

*C. When processing everyday work check to see if cfd fees are accumulating on all private (non-ivd) cases. This includes when updating records with new orders, receipting funds, verification of records etc.*

- 1. Check payment history and check cfd terms*
- 2. If payment is being received without a clerk's fee send letter (highlight section of letter re:fees).*
- 3. Research employer information with state disbursement unit.*
- 4. Copy of letter sent to be evented and filed in court file.*
- 5. Send no more than two (2) notices*

*D. Delinquency notices/judgments*

- 1. When preparing notice of delinquency on child support accounts (see procedures for delinquency/judgments) include the cfd fees due.*
- 2. When preparing judgment payoffs include clerk fees due in the total amount due to clear the judgment by operation of law."*



# DIVISION OF INSPECTOR GENERAL

KEN BURKE, CPA  
CLERK OF THE CIRCUIT COURT  
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**Write:**

Fraud Hotline

Public Integrity Unit

Division of Inspector General

510 Bay Avenue

Clearwater, FL 33756