

MARTHA INGLE



CLERK OF COURT, WALTON COUNTY, FLORIDA

Walton County
Clerk of the Court's Office
Cash Appearance Bonds Review

Martha Ingle
Clerk of the Courts

Internal Audit Department

Johnny Street
Internal Audit Manager

Report 08-02
April 2008

REPLY TO:

- 571 U.S. HIGHWAY 90 EAST ♦ P.O. BOX 1260 ♦ DEFUNIAK SPRINGS, FLORIDA 32435-1260
(850) 892-8115 ♦ FAX (850) 892-8130 ♦ SUNCOM 676-8118 ♦ FL TOLL FREE 1-800-342-0141
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(850) 267-3066 ♦ FAX (850) 267-1335

MARTHA INGLE



CLERK OF COURT, WALTON COUNTY, FLORIDA

October 14, 2008

The Honorable Martha Ingle
Walton County Clerk of the Courts

The Internal Audit Department has conducted a review of the Clerk of the Courts' Cash Appearance Bonds (Report 08-02). Cash bonds were reviewed for the period of October 1, 2006 to September 30, 2007 to determine if internal controls adequately ensure all cash bonds are properly recorded, deposited, and dispersed and that all required laws and regulations, procedures and policies were followed. The audit was conducted in accordance with generally accepted government auditing standards, and included such tests as considered necessary for the area under review.

The cooperation of the personnel of the Clerk's office during the completion of this audit was greatly appreciated.

Johnny Street
Internal Audit Manager

c: Linda Warren, Criminal Court Manager
Cindy Yates, Chief Deputy Clerk

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EXECUTIVE SUMMARY

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The Internal Audit Department conducted a review of the Clerk of Courts' (Clerk) responsibilities and controls for cash appearance bonds. The review included cash bonds that were received by the Clerk's Criminal Court Department for the period of October 2006 through December 2007. The objective of the audit was to determine if adequate controls were in place to ensure the cash bonds were recorded properly, accurately, and disposed of as ordered by the courts. Also to ensure the Clerk was in compliance with other applicable policies and procedures, laws, statutes, and regulations.

In the opinion of internal audit, controls over the receipt, deposit, and accountability of the cash bonds were adequate during the period reviewed; however, the controls over the disposal of the bond proceeds need to be improved. Based on the work performed, the department materially complied with the Clerk's cash bond procedures and other applicable laws and regulations.

Opportunities for improvement were noted during the audit and are summarized below:

- » Controls Over Cash Bond Dispositions should be Enhanced.
- » Forfeitures of Cash Bonds are not Always Completed as Required.

The Internal Audit Department commends the Clerk of Courts and the Clerk's Criminal Court Department (Department) on their dedicated service to the courts and the public in ensuring that cash bonds are accurately recorded and safeguarded.

INTRODUCTION



INTRODUCTION

Cash Appearance Bond Review

Background

The Clerk of the Courts (Clerk) receives and deposits cash appearance bonds pursuant to Florida Statute (F.S.) 903.16. The Clerk assumed this duty from the Walton County Sheriff's Office in January 2003. The Clerk is responsible for receiving and receipting cash bonds brought to the Criminal Court Division by local and state law enforcement officials. The Clerk deposits the funds into a separate bond account for safe keeping until the court disposes of the case and the bond.

Cash appearance bonds are assigned to defendants for pretrial release. The court allows bail in this form as a conditional release from confinement until the court case is concluded. The bond is a guarantee that the defendant will appear in court when instructed; otherwise, the bond will be forfeited to the court pursuant to F.S. 903.26. The bond is held by the Clerk until such time as the court decides the disposition of the case.

The court may order the bond be used to pay for restitution, court costs, fines, and fees or for the cost of court supervision. The court may also order the bond be refunded to the depositor or forfeited to the Clerk. If the defendant does not appear for trial when ordered the court may also require the bond to be estreated (forfeited). The bond proceeds are removed from the bond account and placed in the general revenue account. The court also has the option of requesting the estreatment be set aside and the bond reinstated. This would require the bond funds move from the general revenue and placed back into the bond account.

Scope, Objectives, and Methodology

The review of cash appearance bonds was conducted for the period of October 2006 through December 2007. The objective of the review was to determine if the internal controls over cash bonds provided the proper safeguards and accountability for the cash receipts and deposits. The adequacy and accuracy of documentation supporting the recording and monitoring of the bonds was also reviewed. Additionally, the review was completed to ensure that the Clerk's cash bond process was in compliance with all federal, state, and local laws, regulations, resolutions, and ordinances.

To accomplish the audit objectives key personnel in the Criminal Court Department and the Finance Specialist were interviewed in order to obtain a thorough understanding of the Clerk's responsibilities as to cash appearance



INTRODUCTION

Cash Appearance Bond Review

bonds. Additionally, samples of cash bonds were selected and traced from the receipt of the funds to the general ledger. The funds were also reviewed from the bond account through the disposal process. The disposal process included the refund, application to costs and fees, and forfeiture of the cash bond. The audit period was expanded to include current outstanding cash bonds. Outstanding cash bonds were bonds that had not been dispersed as of December 31, 2007. Additional audit procedures were performed that were considered necessary for the circumstances.

Overall Conclusion

Based on the results of the work performed, the Walton County Clerk of the Courts provided good internal control over the receipt and deposit of cash bonds and materially complied with applicable laws, rules, regulations, and policies and procedures. In the opinion of Internal Audit, the system of internal controls over cash appearance bonds was adequate; however, the controls failed in regard to the disposal of the bond proceeds. Opportunities for improvement are noted in this report.

**RECOMMEDATIONS FOR
IMPROVEMENT**

RECOMMENDATIONS
FOR IMPROVEMENT

Cash Appearance Bond Review

1. **Controls Over Cash Bond Dispositions should be Enhanced.**

After the court cancels the cash appearance bonds, they are dispersed by; refund to the depositor, applying the funds to court costs and fees, or by forfeiture for failure to appear. A case disposition form is used to record the court's orders for bond dispersal. They indicate how the cash bond funds should be dispersed. These forms are also used to instruct finance as to the proper allocation of cash bond funds. The following items were noted during the cash bond review;

- A) The internal controls for the dispersal of cash bonds did not ensure the timely disposition of the bonds. This resulted in uncollected court costs and fees. Further, refunds due to the depositors were delayed. In addition, a defendant's license to drive was suspended due to untimely disposition.

The Clerk, pursuant to Florida Statute (F.S.) 903.286, is required to deduct court costs, fees, and criminal penalties from cash bonds before returning any funds. In addition, F.S. 903.31 requires that the court cancel the bond within 10 days of the conditions of the bond being satisfied. An adjudication of guilt or innocence, an acquittal, or a withholding of an adjudication of guilt satisfies the conditions of the bond.

- B) The controls to ensure the cash bonds are disposed of as the court has ordered need improvement. The docketing and court clerks prepare case disposition forms which are subsequently used by the finance specialist to request the issuance of checks for the disposal of the cash bond funds. These clerks also enter the disposal information into the court case file and cash bond computer program. The Clerk's finance specialist authorizing the Finance Department to disburse the bond funds does not verify that the case disposition is proper or accurate.

The procedures in place would not prohibit a clerk from entering data into the system showing the bond was used to pay court costs; then inadvertently requesting a refund for the depositor. This could result in a loss of court revenue.

RECOMMENDATIONS
FOR IMPROVEMENT

Cash Appearance Bond Review

Disposition of cash bonds that are not completed timely could result in unrealized court revenue and in some cases result in unnecessary prosecution of the defendant. Good internal controls would ensure that cash bonds are dispersed properly and timely, eliminating adverse consequences of unpaid court cost or fees or a loss of revenue.

Internal Audit Recommends the enhancement of internal controls for the disposition of cash bonds. These controls should;

- A) Ensure the timely disposition of cash bonds and provide for periodic review of bonds that have not been dispersed.
- B) Ensure the cash bonds are disposed of as ordered by the court and as indicated in the court system and case files.

2. Forfeitures of Cash Bonds are not Always Completed as Required.

Cash bonds for defendants who do not appear for their scheduled court date are forfeited (estreated). Cash bonds that are estreated are deposited into the general revenue account of the Clerk. If the court orders the estreature to be set aside, the funds are removed from general revenue and re-deposited in the bond account. During the cash bond review, it was noted that nine bonds should have been estreated. Four of the nine bonds were not estreated as ordered by the court.

Also, five bonds should have been estreated when the defendants failed to appear for their court dates. Section (2)(b), of F.S. 903.26 requires automatic forfeiture of the cash bond if the defendant fails to appear at the time, date, and place of required appearance. The statute further states that the court shall not preclude entry of such forfeiture by the Clerk. Cash bonds are not estreated unless the court orders the forfeiture.

As in the first Recommendation for Improvement above, internal controls do not ensure the timely dispersion of cash bonds. Good internal controls should ensure that cash bonds are forfeited as ordered by the court and pursuant to Florida Statutes.

Internal Audit Recommends implementation of additional controls that will ensure the timely completion of court ordered cash bond forfeitures. In addition, cash bonds should automatically be forfeit when the defendant fails to appear for their scheduled court date.