

**STATE OF FLORIDA  
OFFICE OF THE AUDITOR GENERAL**



151566

**PERFORMANCE AUDIT**

**OF THE**

**COLLECTION OF FINES AND FEES**

**ASSESSED TO CONVICTED OFFENDERS BY THE**

**STATE COURTS SYSTEM OF FLORIDA**

**JANUARY 6, 1992**

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**U.S. Department of Justice  
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STATE OF FLORIDA  
OFFICE OF THE AUDITOR GENERAL



CHARLES L. LESTER, C.P.A.  
AUDITOR GENERAL

January 6, 1991

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NCJRS

DEC 7 1994

The President of the Senate, the Speaker of the  
House of Representatives, and the  
Legislative Auditing Committee

ACQUISITIONS

I have directed that a performance audit be made of the collection of fines and fees assessed to convicted offenders by the State Courts System of Florida. The results of the audit are presented to you in this report. This audit was made as a part of an ongoing program of performance auditing by the Office of the Auditor General as mandated by Section 11.45(3)(a), Florida Statutes.

Respectfully yours,

Charles L. Lester  
Auditor General

Audit supervised by:

G. Ellsworth Carroll

Audit made by:

Douglas Isabelle

PERFORMANCE AUDIT  
OF THE  
COLLECTION OF FINES AND FEES  
ASSESSED TO CONVICTED OFFENDERS BY THE  
STATE COURTS SYSTEM OF FLORIDA

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Section 1

Collection Rate for Assessed Fines and Fees

Finding 1.1

Of the dollar amounts of fines and fees assessed by county and traffic courts between July 1, 1988, and June 30, 1989, that were due by June 30, 1991, 74% (\$53,071 of \$71,310) and 79% (\$120,287 of \$151,891), respectively, had been collected as of June 30, 1990. However, less than 5% (\$9,803 of \$206,655) of the dollar amount of fines and fees assessed by circuit courts had been collected by this date. Overall, 43% (\$183,161 of \$429,856) of the dollar amount of assessed fines and fees had been collected as of June 30, 1990. As a result, revenues to county funds and state trust funds were reduced. . . . . 13

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**COLLECTION OF FINES AND FEES**

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**Purpose and Scope**

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This audit reviews the process of collecting fines and fees assessed to convicted offenders by the Florida State Courts System. This audit was conducted as a part of the Auditor General's 10-year schedule of performance audits, pursuant to Ch. 86-217, Laws of Florida. The primary focus of our audit was to examine whether fines and fees assessed by the courts are being collected. Specific audit objectives were to:

- Determine to what extent assessed fines and fees are being collected; and
- Determine what factors reduce the collection rate of assessed fines and fees.

The scope of our audit was limited to a review of fines and fees assessed to offenders by circuit, county, and traffic courts in nine counties during fiscal year 1988-89, and the collection status of these assessments through June 30, 1990. Our scope did not include the collection of other costs that may be assessed to offenders such as bonds, forfeitures, restitution, and service charges such as recording fees. The assessment of required fees is the subject of an Office of the Auditor General audit report No. 11757, issued November 13, 1991. The distribution of collections will be the subject of a future audit.

To determine the extent that assessed fines and fees are collected, we obtained data of court records from nine Clerks of the Circuit Court for fiscal years 1988-89 through 1989-90. We reviewed a sample of 1,647 case files that were assessed fines and fees in fiscal year 1988-89 to determine whether fines and fees were collected. The counties we sampled were: Baker, Charlotte, Citrus,

Dade, Duval, Gadsden, Lee, Orange, and Pinellas.<sup>1</sup> To determine the fiscal impact of not collecting fines and fees on county and state trust funds we focused on 1,524 cases in which full payment was due by June 30, 1990. For these cases, we calculated the amount of fines and fees assessed, and the amount collected through June 30, 1990. We also interviewed Clerks of the Circuit Court staff in 25 additional counties to obtain information about their counties collection practices.

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## Background

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Florida Statutes authorize judges in circuit, county, and traffic courts to assess various fines and fees to persons convicted of crimes. Fines are assessed as a penalty for violating the law, while fees recover a portion of the costs of prosecution and support certain local and state programs. The amount of fines and fees assessed varies from court to court and depends on the offense. Statutes provide that fines and fees are due at the time of assessment unless an alternate time period is prescribed by the court. The collection and enforcement of fines and fees involves the Clerks of the Circuit Court, county probation organizations, and the Florida Department of Corrections. If an offender's penalty consists of paying fines and fees, with no incarceration, the Clerk of the Circuit Court collects the assessment and initiates enforcement action if payment is not made by the court's prescribed due date.

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<sup>1</sup> We were unable to obtain traffic court information from Baker, Dade, and Orange counties.

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If an offender is sentenced to a term of probation, and payment is made a condition of probation, the organization designated by the county for such activities collects and initiates enforcement action if payment is not made. Such organizations may include county probation departments or private groups such as the Salvation Army. The Department of Corrections collects and initiates enforcement action in cases where persons are incarcerated in state prison, or when persons are sentenced to state probation and payment of fines and fees is a condition of probation.

Judges are the final authority in deciding the punishment of persons who default on fine and fee payments. If a judge determines that a person can pay, but has not attempted to make such payments, the offender may be sentenced to jail for contemptuous nonpayment. Other penalties available to the judge are the placement of a judgment lien on the person's real or personal property, suspending drivers' licenses and garnishing a person's wages. If the judge determines that the person is unable to make the necessary payments, the judge can order an alternate payment approach including extending probation to allow more time to make payment or converting the debt to community service.

According to the Supreme Court Reporting System, in fiscal year 1988-89, the courts rendered guilty verdicts in an estimated 737,795 criminal cases.<sup>1</sup> The number of cases subject to collections activity is unknown because summary information on the amount of fines and fees

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<sup>1</sup> This figure is composed of cases disposed of prior to trial (plea guilty nolo) and cases disposed of after trial; non-jury (plea and convicted) and jury (plea and convicted) and traffic court guilty cases and adjudication withheld by judge cases.

assessed and collected statewide is not available. Clerks of the Circuit Court are not required to gather and report this information.

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## Results in Brief

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While 75% of the 1,524 cases we reviewed with court-ordered due dates on or before June 30, 1990, had paid some or all of the assessment by June 30, 1990, these payments represented only 43% of the total dollar amount assessed (\$183,161 of \$429,856). The collection rates for cases in our sample were higher for cases assessed by county and traffic courts than for cases assessed by circuit courts. Of the total dollar amounts of fines and fees assessed by county and traffic courts in fiscal year 1988-89 and due on or before June 30, 1990, approximately 74% (\$53,071 of \$71,310) of the county court and 79% (\$120,287 of \$151,891) of the traffic court dollar amounts had been collected by June 30, 1990. However, of the dollar amount of fines and fees assessed by circuit courts, 5% (\$9,803 of \$206,655) had been collected by this date. Our review showed 43% of circuit court cases had sentences of incarceration and when these offenders are released, there is generally little follow-up to collect outstanding fines and fees.

Several factors affect the collection of assessed fines and fees including the types of sanctions imposed by judges, procedures used to collect outstanding fines and fees, and the actions taken for nonpayment. As a result of the low collection rate, county and state trust funds that rely on these monies are being reduced. Of the dollar amount assessed during fiscal year 1988-89 to cases in our sample that was due to county funds, 40% had been

EXECUTIVE SUMMARY

collected by June 30, 1990, while 65% of the amount due to state trust funds had been collected.

**Findings**

**43% of Dollar Amount  
of Fines and Fees  
Assessed Was Collected**

Our analysis found that of the dollar amount of fines and fees assessed during fiscal year 1988-89 to the 1,524 cases in our sample, \$429,856 was due on or before June 30, 1990. Of this amount, \$183,161 (43%) was collected, and \$246,695 was due but was unpaid as of June 30, 1990. As shown below, of the amount assessed in county court cases 74% (\$53,071 of \$71,310) was collected, and 79% (\$120,287 of \$151,891) of the fines and fees assessed in traffic court cases was collected, and 5% (\$9,803 of \$206,655) of the amount assessed in circuit court cases was collected.

**Percentage of Cases and Amounts Collected  
As of June 30, 1990, by Type of Court**

Courts	Percent of Assessed Cases Collected	Percent of Assessed Amounts Collected
Circuit	19%	5%
County	82%	74%
Traffic	86%	79%
All Courts	75%	43%

Source: Office of the Auditor General summary analysis of county-provided data.

**75% of Cases  
Paid Some or All  
Fine and Fee  
Assessments**

While the amount collected represented 43% of the amount assessed for all courts, there was also a variation in the percentage of cases collected by courts. As shown on page v, our analysis found that approximately 75% (1,140 of 1,524) of the cases in our sample, with court-ordered due dates on or before June 30, 1990, had paid some or all of the assessed fines and fees by June 30, 1990. The collection rate varied by type of court. For example, circuit court cases had a 19% collection rate (41 of 214) while county and traffic court cases had collection rates of over 80% (524 of 640 and 575 of 670, respectively).

**Factors That Affect  
the Collection of  
Fines and Fees**

Several groups of factors appear to affect the collection of assessed fines and fees. These include the types of sanctions imposed by judges, the procedures used to collect outstanding fines and fees, and the actions taken for nonpayment.

**Incarcerated Offenders  
Had Lower Payment  
Rates**

The first group of factors that affected payment rates was the sanctions imposed by judges. The type of sentences affected the payment rate. Our sample of cases showed that offenders released on their own recognizance were more likely to pay the assessment (83%) followed by offenders sentenced to probation without incarceration (58%). Offenders who were incarcerated had much lower payment rates. Less than 25% of the offenders who were sentenced to jail, or who were placed on probation after incarceration, paid all fines and fees. Only 2% of the cases sentenced to state prison paid all fines and fees.

Our analysis showed that for county and traffic court cases in our sample there was a relationship between the amount of fines and fees assessed an offender and whether the assessed fines and fees were collected.

For example, offenders that were assessed amounts under \$100 in county and traffic courts were more likely to pay all assessed fines and fees than if they were assessed higher amounts. The collection rates for assessments under \$100 were 85% and 92% for county and traffic courts, respectively. Collection rates for circuit court cases in our sample were low regardless of the amount assessed. For example, for cases assessed under \$100, the collection rate was 11%.

**No Statewide  
Guidelines on  
Method of Payment**

The second group of factors which can affect payment of fines and fees is the collection procedures used by Clerks and other entities. No statewide guidelines exist regarding the method by which offenders may pay fines and fees. Each Clerk or entity assisting in collecting fines and fees establishes the method by which offenders under their jurisdiction may pay fines and fees. All entities allowed payment by cash, cashiers checks, and money orders. Some entities accepted personal checks and installment payments, and one entity accepted credit cards. Because of the variations in payment methods used by Clerks and other entities, and the variation in types of sentences imposed and enforcement actions used, we were unable to determine if some payment practices resulted in a higher collection rate of fines and fees. Additionally, studies and our data indicate that collection rates are higher if efforts are made to obtain payment from offenders at or near the time that fines and fees are assessed.

**Collection Actions  
for Nonpayment Varies**

The third group of factors we identified which affected payment of fines and fees is the initiation of collection actions when offenders fail to pay fines and fees. For cases in our sample the initiation of actions resulted in collecting 43% of the assessed fines and fees. The type of action that may be initiated for nonpayment depends on the

offense for which an offender was convicted. For example, s. 322.245, F.S., provides that Clerks issue a notice to persons who fail to pay fines and fees for criminal traffic violations that unless payment is made within 30 days of the notice their drivers' licenses will be suspended. If persons fail to pay within 30 days, the Clerk notifies the Department of Highway Safety and Motor Vehicles to suspend their drivers' licenses. For other types of offenses the Clerk or probation staff is responsible for initiating action to bring the person before the sentencing judge. Our sample showed that 602 cases should have paid by June 30, 1990, and did not. In 406 of the 602 cases (67%) some type of collection action was initiated. Initiation of action varied by entity responsible for taking such actions. For example, county probation organizations initiated collection actions in 90% of the cases that did not make timely payments. Clerks initiated actions on 61% of their cases. In contrast, the Department of Corrections initiated collection actions in 39% of the cases under its jurisdiction that had not paid by the due date. Reasons cited by staff of the Department of Corrections, county probation organizations, and Clerks offices for not initiating action included; lack of a tracking system, persons were indigent and thus unable to pay, and an understanding between judges and the entity not to initiate action because it was not cost effective.

**Additional Collection  
Actions Somewhat  
Successful**

When these collection actions were initiated, these actions did not always result in obtaining payment. Of the 406 cases in our sample in which actions were taken, in 57% or 230 cases these actions did not result in payment. Of the 406 cases in which actions were taken total payment was made in 176 cases. Payment was made in 85 of these 176 cases after penalties were imposed. (See table on page ix.) Three of seven types of penalties imposed -- license suspension, levying additional fines, and extending

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probation -- resulted in payment in more that 40% of the cases when imposed.

Result of Action	Number of Cases	Percent of Cases	Percent of Total Cases
<b>Payment Made:</b>			
No Penalty Imposed	91	52%	
Penalty Imposed	85	48%	
<b>Total Payment Made</b>	<b>176</b>	<b>100%</b>	<b>43%</b>
<b>No Payment Made:</b>			
No Penalty Imposed	71	31%	
Penalty Imposed	159	69%	
<b>Total No Payment Made</b>	<b>230</b>	<b>100%</b>	<b>57%</b>
<b>Total Cases</b>	<b>406</b>		<b>100%</b>

Source: Office of the Auditor General summary analysis of county-furnished data.

## Program Options and Recommendations

While 75% of the cases in our sample that had due dates on or before June 30, 1990, paid some or all of the assessed amounts within one to two years of sentencing, these payments represented 43% of the dollar amount assessed. It is unreasonable to expect a 100% collection rate of fines and fees assessed against persons convicted of criminal offenses, as some offenders may not have the means to pay or earn money to pay the assessment. For example, persons sentenced to lengthy prison terms may not have the opportunity to earn money to pay their assessment. However, the relatively low collection rate

suggests that the state should explore options for increasing collections.

### **Recommendations to the Legislature**

To improve the fine and fee collection process, we recommend that the Legislature:

- Direct the Department of Corrections in consultation with the Supreme Court to assess the feasibility of creating incentives within the judicial and corrections systems, such as the Federal Bureau of Prisons' Inmate Financial Responsibility Program, that enables prisoners to satisfy their financial obligations before they are released from the jurisdiction of the Court. If the Department of Corrections and the Supreme Court determine that legislation would be necessary to implement such a program, they should make such recommendations to the Legislature;
- Amend s. 944.605, F.S., to require the Department of Corrections to notify the Clerk of the Circuit Court when an inmate who owes fines and fees is released from incarceration;
- Provide more specific criteria to determine when offenders should be considered indigent for collection purposes; and
- Direct the Department of Banking and Finance, pursuant to s. 218.33, F.S., to develop guidelines in consultation with the Supreme Court and Clerks of the Circuit Court for Clerks and other organizations to use in carrying out their fine and fee collection responsibilities.

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**Recommendations  
to the Supreme Court**

To assist in improving on the fine and fee collection process we recommend that the Supreme Court:

- Assess the feasibility of adding accounts receivable data for assessments to the statewide offender tracking system. The addition of accounts receivable data would assist organizations in determining whether assessments have been satisfied and to identify the need for additional collection actions;
- Study the use of additional sanctions that could be imposed when persons fail to pay fines and fees. If the Supreme Court determines that legislation would be necessary to implement additional sanctions, it should present its recommendations to the Legislature; and
- Provide guidance to judges to assist them in determining what actions to be taken against offenders who fail to pay.

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**Agency Responses**

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The Chief Justice of the Supreme Court, in his written response to our preliminary and tentative findings and recommendations, suggested that responsibility for the creation of incentives to enable prisoners to satisfy their financial obligations before they are released from the jurisdiction of the court would be more appropriately placed in the executive branch. He also suggested that the Florida Department of Law Enforcement would be the appropriate agency to determine the feasibility of adding accounts receivable data for assessments to the statewide Offender Based Tracking System. He further suggested

## EXECUTIVE SUMMARY

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that our recommendations related to additional sanctions to be imposed on persons who fail to pay assessed fines and fees be directed to the Legislature. The Chief Justice concurred with our remaining recommendations.

The Executive Director of the Florida Association of Court Clerks and Comptrollers was also provided a copy of our preliminary and tentative findings and recommendations for his review and response. He reviewed our findings with the nine Clerks who participated in the audit and coordinated their response. They found no disagreement with the methodology and general findings of the audit. Regarding our recommendation to require the Department of Corrections to notify the Clerk of the Circuit Court when an inmate who owes fines and fees is released from incarceration, they stated their belief that this function should be vested with the agency that supervises the probation and parole function. They also expressed concern about operational and financial impacts that would occur if accounts receivable data for assessments were to be added to the statewide Offender Based Tracking System.

## CHAPTER I

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### Introduction: Purpose and Scope, Methodology

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#### Purpose and Scope

This audit reviews the process for collecting fines and fees assessed to convicted offenders by the Florida State Courts System. The primary focus of our audit was to examine whether such fines and fees are collected. Specific audit objectives were to:

- Determine to what extent assessed fines and fees are being collected; and
- Determine what factors reduce the collection rate of assessed fines and fees.

The scope of our audit was limited to fines and fees assessed to criminals by circuit, county, and traffic courts during fiscal year 1988-89, and the collection status of these assessments through June 30, 1990. Our scope did not include the collection of other costs that may be assessed to offenders such as bonds, forfeitures, restitution, and service charges such as recording fees. Our scope also did not include a review of accounting procedures used by Clerks for these funds.<sup>1</sup> The assessment of required fees is the subject of Office of the Auditor General audit report No.11757, issued November 13, 1991. The distribution of collections will be the subject of a future audit.

This audit was conducted as a part of the Auditor General's 10-year schedule of performance audits, pursuant to Ch. 86-217, Laws of Florida.

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<sup>1</sup> As provided in s. 218.32, F.S., Clerks of Court must, within 90 days after the close of their fiscal year (October 1 through September 30), complete financial statements which shall be prepared in compliance with generally accepted government accounting principles. Each local government also must, by March 31, submit a Financial Report to the Department of Banking and Finance covering its operations during the preceding fiscal year. The information in the financial report is completed by either the chief financial officer or by a certified public accountant.

## Methodology

This audit was conducted in accordance with generally accepted government auditing standards and accordingly included appropriate performance auditing and evaluation methods. Our fieldwork was conducted from May 1990 through July 1991.

To gain a general understanding of the responsibilities of the various organizations involved in collecting and enforcing payment of assessed criminal fines and fees and collection procedures, we reviewed the Florida Constitution, Florida Statutes, Florida Administrative Code, Rules of Court, Uniform Accounting System for Local Government, Uniformed Traffic Citation Procedures Manual, and Department of Corrections Supervisor's Manual. We also interviewed staff in the Office of the State Courts Administrator, and staff of the Department of Banking and Finance.

To determine the extent that assessed fines and fees are collected, we obtained computerized data of criminal court records from nine Clerks of the Circuit Court for fiscal years 1988-89 through 1989-90, and made site visits to courts in these counties to gain in-depth information on their collection activities.<sup>2</sup> See Appendix A, page 40, for our site selection methodology. During these visits, we reviewed a sample of 1,647 case files that were assessed fines and fees in fiscal year 1988-89 to determine whether fines and fees were collected.<sup>3</sup> See Appendix B, page 43, for our case selection methodology. We also reviewed case files to identify actions taken for nonpayment. We additionally interviewed Clerks of the Circuit Court staff, judges, and county and state probation officials regarding collection and penalty procedures. Where feasible, we observed collection operations of the Clerks of the Circuit

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<sup>2</sup> Our scope was limited to nine counties because most counties were unable to provide computerized data on fiscal year 1988-89 court assessments and collections. From 19 counties that provided us with this data, we selected 9 counties for in-depth analysis — Baker, Charlotte, Citrus, Dade, Duval, Gadsden, Lee, Orange, and Pinellas.

<sup>3</sup> Our goal was to randomly select 225 cases sentenced during fiscal year 1988-89 from small and/or medium size counties: Baker, Charlotte, Citrus, and Gadsden; and 450 cases sentenced for the same fiscal year from large counties: Dade, Duval, Lee, Orange, and Pinellas. We stratified the cases by circuit, county, and traffic courts to represent the percentage of criminal cases sentenced by these courts. Traffic courts in Baker, Dade, and Orange were unable to provide information to support the number of traffic cases sentenced during fiscal year 1988-89. In addition, 1,000 cases we reviewed were not assessed fines and fees or did not contain complete assessment and collection information. Thus our final sample included 1,647 cases.

Court and probation organizations. Additionally, we interviewed Clerks of the Circuit Court staff in 25 additional counties to obtain information about their counties collection practices.

To determine the fiscal impact of not collecting fines and fees on county and state trust funds we focused on those cases in which full payment was due by June 30, 1990. For these cases, we calculated the amount of fines and fees assessed, and the amount collected, through June 30, 1990.

To identify alternative actions that could be taken to increase the collection of fines and fees, we interviewed officials involved in collecting fines and fees in 14 states and 2 local courts.<sup>4</sup> We also interviewed a U.S. Attorney Office official and Federal Bureau of Prisons official involved in collecting from offenders convicted of federal crimes.

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<sup>4</sup> These officials represented state and/or local courts in the following states: Rhode Island, New Hampshire, Virginia, Illinois, Texas, Georgia, Arizona, Minnesota, California, Maine, Ohio, Wisconsin, New Jersey, and Colorado.

## CHAPTER II

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### Background: Program Design and Organization

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#### Program Design

Florida Statutes authorize courts to assess a variety of fines and fees to persons convicted of felonies, misdemeanors, or traffic offenses.<sup>5</sup> Section 775.083(2), F.S., provides that if a person is unable to pay a fine, the court may defer payment to a date certain. The intent of fines is to financially penalize persons for committing crimes against the state, governmental entities, or citizens of the state. The intent of fees is to have convicted offenders pay a portion of the cost of prosecution, and provide support to various state and county programs. To achieve these purposes, effective mechanisms must be developed and maintained to collect assessed fines and fees. These include initiating actions to collect payment, and penalizing offenders who do not pay.

Several organizations collect fines and fees and initiate collection action if payment is not made. These include Clerks of the Circuit Court in each of Florida's 67 counties, county probation organizations, and the Department of Corrections. If a person's penalty consists of paying a fine and fee, with no incarceration, the Clerk collects the assessment and initiates action if payment is not made by the court's prescribed due date. If a person is sentenced to a term of county probation, and payment of fines and fees is made a condition of probation, the organization designated by the county for such activities collects and initiates action if payment is not made. Such organizations may include county probation departments or private groups such as the Salvation Army. The Department of Corrections collects and

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<sup>5</sup> Section 775.08, F.S., provides that a felony is any criminal offense that is punishable under state laws by death or imprisonment in a state penitentiary, including state correctional facilities. A misdemeanor is any criminal offense that is punishable under state laws by a term of imprisonment in a county correctional facility, except an extended term, not in excess of one year. A traffic violation can be either a felony or a misdemeanor, and includes all offenses outlined in Ch. 316, F.S., State Uniformed Traffic Control; Ch. 320, F.S., Motor Vehicle Licenses; and Ch. 322, F.S., Drivers' Licenses, punishable by a fine and/or period of incarceration.

initiates enforcement action in cases involving persons incarcerated in state prison, or cases involving persons sentenced to state probation and the payment of fines and fees is a condition of probation.

The type of enforcement action that may be initiated for nonpayment depends on the offense for which a person was convicted. For example, s. 322.245 F.S., provides that Clerks shall issue a notice to persons who fail to pay assessed fines and fees for criminal traffic violations. The notice states that unless payment is made within 30 days their drivers' licenses will be suspended. If persons fail to comply within the 30 days, the Clerk is to notify the Department of Highway Safety and Motor Vehicles to suspend their drivers' licenses. For other types of offenses, the Clerk or county and state probation staff are responsible for initiating action to bring the person before the sentencing judge. This is done by issuing a notice requiring the person to appear in court and give a reason why he/she should not be held in contempt of court for not complying with the judge's order to pay the fine or fee. At the court hearing, the judge may extend the payment period, modify the original sentence, or impose additional penalties for noncompliance.

Judges are the final authority in deciding the punishment of persons who default on fine and fee payments. If judges determine that persons are unable to make the necessary payments, they can order an alternate payment approach including extending probation to allow more time to make payment; or converting the debt to community service. If the court determines that persons can pay, but have not attempted to make such payment, the judge may sentence the offenders to jail for contemptuous nonpayment. Other penalties available to the judge are the placement of a judgment lien on the person's real or personal property, and garnishing a person's wages.

According to the Supreme Court Reporting System, in fiscal year 1988-89, the courts rendered guilty verdicts in an estimated 737,795 criminal cases.<sup>6</sup> The number of cases

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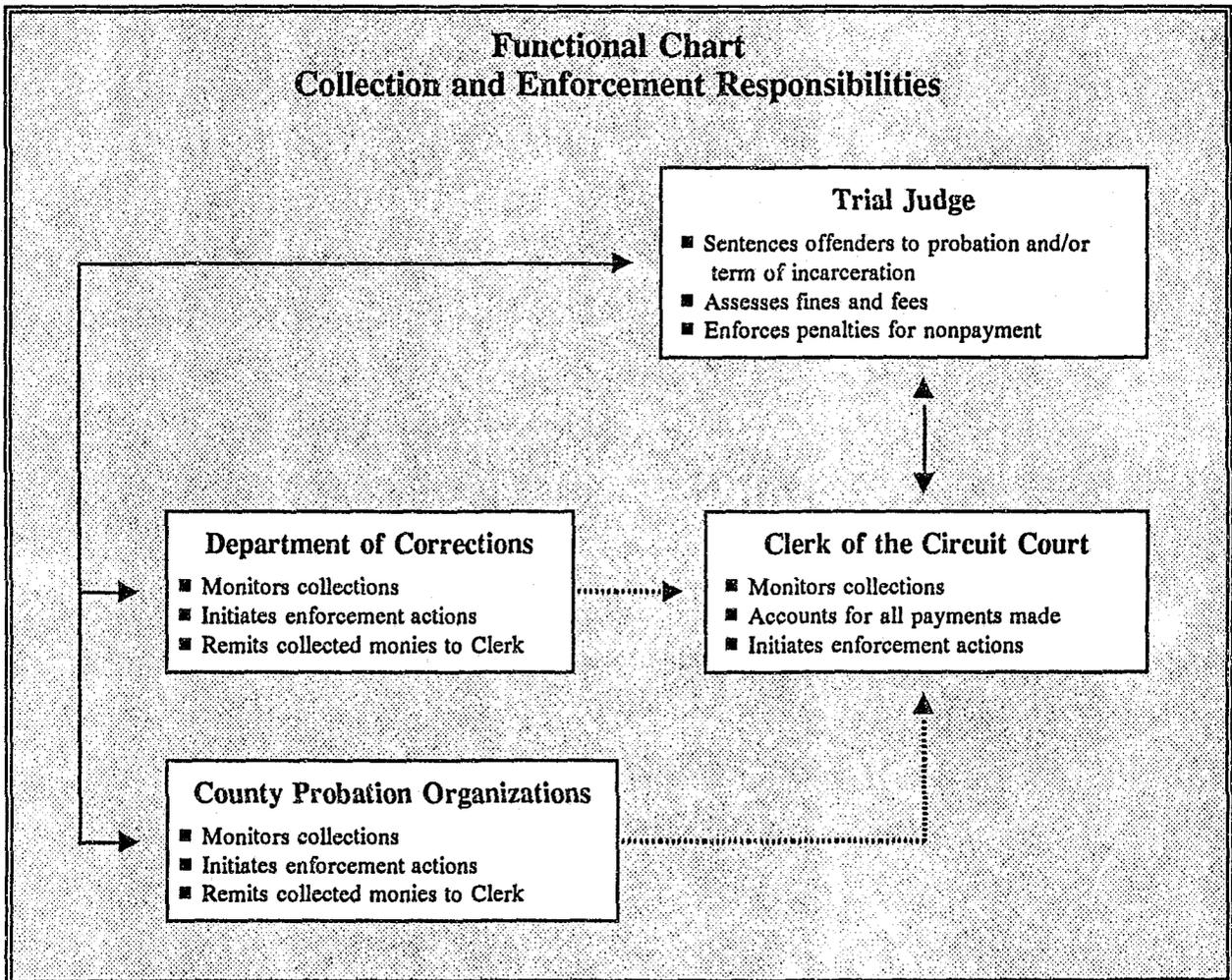
<sup>6</sup> This figure is composed of cases disposed of prior to trial (plea guilty nolo) and cases disposed of after trial; non-jury (plea and convicted) and jury (plea and convicted) and traffic court guilty cases and adjudication withheld by judge cases.

subject to collections activity is unknown because summary information on the amount of fines and fees assessed and collected statewide is not available. Clerks are not required to gather and report this information.

**Program Organization**

A number of entities are involved in collecting and enforcing court assessed criminal fines and fees. These entities include circuit and county courts, Clerks of the Circuit Court, organizations responsible for county probation activities, and the Department of Corrections (see Exhibit 1).

**Exhibit 1**



Source: Office of the Auditor General summary of Florida Statutes.

The state's trial courts are divided into 20 judicial circuits. The circuit courts have jurisdiction for felony cases and misdemeanors that arise out of the same circumstances, actions involving the title and boundaries of real property, cases of equity, civil action involving amounts over \$10,000, cases involving the legality of any tax assessment or toll, and cases that cannot be heard in county court. The county courts have jurisdiction in misdemeanor cases that cannot be heard by the circuit court, violations of local ordinances, traffic offenses and civil actions in which the amount in controversy is not more than \$10,000. While not a formal division of the State Courts System, county courts that hear cases involving traffic violations are commonly called traffic courts.

Each judicial circuit consists of counties in which circuit and county judges convene court. These judges are elected by registered voters within the territorial jurisdiction of their respective courts. As of July 1, 1991, there are 421 circuit judges and 241 county judges. Each judicial circuit is headed by a Chief Judge, who is responsible to the Chief Justice of the Supreme Court for the administrative supervision of the circuit and county courts within their jurisdiction. The Chief Judge is chosen by a majority of the Circuit Court and County Court Judges within the circuit for a two-year term.

In each of the 67 counties in the state, a Clerk of the Circuit Court is elected to serve a four-year term. Clerks of the Circuit Court are responsible for documenting court decisions, and maintaining all court records. The Clerks of the Circuit Court are also required by statute to collect and account for monies assessed by the courts and remit them to either the county in which the offense was committed or various state trust funds. For cases that Clerks of the Circuit Court have the responsibility to collect assessed fines and fees, they also have the responsibility to initiate action if the offender does not pay assessed fines and fees by the prescribed due date.

Section 948.01(9), F.S., provides that persons placed on probation must be placed under the custody of the Department of Corrections, the Salvation Army, or another public or private entity. Probation officers are responsible for monitoring payment of fines and fees for

those individuals sentenced to county probation, and initiating action if the offender does not pay assessed fines and fees by the prescribed due date.

The Florida Department of Corrections assists the Clerks of the Circuit Court in collecting fines and fees from persons sentenced to state prison or under the supervision of its Parole and Probation Services.<sup>7</sup> Parole and Probation Services has offices in each of the 20 judicial circuits. Each office typically monitors offenders sentenced by courts in the judicial circuit. Probation and Parole officers are responsible for monitoring fine and fee payment and initiating action if payment is not made by the prescribed due date.

### **Program Resources**

It was not practicable for us to determine the cost of collecting fines and fees by judges, Clerks of the Circuit Court, the Department of Corrections, and various county probation organizations. These entities are involved in other ancillary activities, do not identify collection expenses in their budgets, and are not required to report such data to the state.

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<sup>7</sup> Probation and Parole Services supervise criminals ordered by the courts to probation, and criminals released from prison to parole or other conditional release programs.

## **CHAPTER III**

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### **Findings and Recommendations**

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#### **Section 1**

#### **Collection Rate for Assessed Fines and Fees**

##### **Background**

Florida Statutes authorize the courts to assess various fines and fees to persons convicted of crimes. Fines are intended to punish offenders for crimes committed, while fees are intended to pay some of the cost of prosecution or for crime-related programs. Both fines and fees result in monetary sanctions against offenders. In order for these actions to be effective punishments and funding sources for programs, the monies assessed by courts have to be collected. Collection should occur promptly to ensure that offenders are punished for their offenses and are made to respect the state's ability to enforce the law. If no penalty is applied for failure to pay fines and fees, the impact and credibility of these sanctions is eroded. Additionally, when fines and fees are not collected, potential revenues are reduced, and counties and state programs that rely on these monies must seek alternative funding sources.

Several organizations are responsible for collecting fines and fees and initiating action if payment is not made. These include Clerks of the Circuit Court, county probation organizations, and the Department of Corrections. Monies collected by county probation organizations and the Department of Corrections are remitted to the Clerk, who accounts for the funds and remits the monies to county and state trust funds. For example, s. 142.01, F.S., requires each county to have a fine and forfeiture fund and monies collected from fine assessments are to be remitted to the fund unless otherwise specified in statute. In addition, s. 960.20, F.S., requires that fees collected on behalf of victims of crimes be remitted to the Crimes Compensation Trust Fund, which is managed by the Department of Legal Affairs.

To determine whether fines and fees are being collected, we reviewed the status of fines and fees assessed by courts in nine counties.<sup>8</sup> We reviewed a sample of 1,647 criminal case files from these counties which were assessed fines and fees during fiscal year 1988-89, and determined which cases had court-ordered due dates on or before June 30, 1990, and the amount collected on these cases as of June 30, 1990 (at least one year from the sentencing date). We found that:

- Of the dollar amounts of fines and fees assessed by county and traffic courts, 74% and 79%, respectively (\$53,071 of \$71,310 and \$120,287 of \$151,891), had been collected, while 5% (\$9,803 of \$206,655) of the fines and fees assessed by circuit courts had been collected. Overall, 43% (\$183,161 of \$429,856) of the dollar amount of assessed fines and fees had been collected as of June 30, 1990. As a result, revenues to county funds and state trust funds were reduced; and
- Several factors appear to affect the payment of assessed fines and fees. These include the types of sentences imposed by judges, the procedures used to collect outstanding fines and fees, and the actions taken for nonpayment. At present, varying payment options are used in nine counties, and the organizations responsible for collecting fines and fees do not always initiate actions to enforce payment of assessments not received by the specified due date.

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<sup>8</sup> Our scope was limited to nine counties because most counties were unable to provide computerized data on fiscal year 1988-89 court assessments and collections. Nineteen counties provided us with this data. From this group, we selected nine counties for in-depth analysis — Baker, Charlotte, Citrus, Dade, Duval, Gadsden, Lee, Orange, and Pinellas.

## Finding 1.1

**Of the dollar amounts of fines and fees assessed by county and traffic courts between July 1, 1988, and June 30, 1989, that were due by June 30, 1991, 74% (\$53,071 of \$71,310) and 79% (\$120,287 of \$151,891), respectively, had been collected as of June 30, 1990. However, less than 5% (\$9,803 of \$206,655) of the dollar amount of fines and fees assessed by circuit courts had been collected by this date. Overall, 43% (\$183,161 of \$429,856) of the dollar amount of assessed fines and fees had been collected as of June 30, 1990. As a result, revenues to county funds and state trust funds were reduced.**

No statewide data exists on the collection of assessed fines and fees, as Clerks of the Circuit Court and other entities involved in this process are not required to report such information. To assess the collection process, we examined the Clerks' records for 1,647 cases that were assessed fines and fees during fiscal year 1988-89. Of these 1,647 cases we selected 1,524 cases with due dates on or before June 30, 1990, for our analysis. For these 1,524 cases we determined the amount collected as of June 30, 1990, which was at least one year after the date of sentencing.<sup>9</sup> Information we examined in these cases included judgment/sentencing forms, which identified the amount of fines and fees assessed by the courts; deferred payment agreements and probation orders, which identified when the monies should be paid (if not paid at sentencing); and enforcement actions such as warrants and violations of probation reports. We found that:

- While 86% and 82%, respectively, of the traffic and county court cases we reviewed had paid some or all of the fines and fees assessed, 19% of the circuit court cases had done so. In addition, the percent of assessed amount collected varied by court in that 79% of the dollar amount assessed by traffic courts and 74% assessed by county court had been collected as of June 30, 1990, while 5% of the dollar amount assessed by circuit courts had been collected by this date; and
- The fiscal impact of the low rate of collections was greater on county than state trust funds. Overall, 40% of the dollar amount assessed that was due to county funds on or before June 30, 1990, had been collected by

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<sup>9</sup> We selected this time period for our analysis as staff of the State Courts Administrator stated that this would be of sufficient time to collect from most persons sentenced by county and traffic courts. These offenders generally are not under the jurisdiction of the court for more than one year. However, staff of the State Courts Administrator indicated that this time period would not be of sufficient time to collect assessed monies from all persons sentenced by circuit courts, as these offenders may receive sentences greater than one year duration.

that date, while 65% of the funds due to state trust funds had been collected. While we could not determine the net amount of unpaid fines and fees statewide, two counties we contacted reported a total of \$125 million in uncollected court assessments. This amount represents the combined uncollected assessments for an eight-year period for Dade County and one-year period for Pinellas County.

### Collection Rate of Assessed Fines and Fees

The collection rate for fines and fees assessed by traffic and county courts is much higher than the collection rate for assessments made by circuit courts. As shown in Exhibit 2, \$429,856 in fines and fees were assessed to cases in our sample. Of this amount, approximately 43% (\$183,161) had been collected as of June 30, 1990. The remaining 57%, or \$246,695, was due but had not been paid as of June 30, 1990. About 75% of the offenders paid some or all their fines and fees.

### Exhibit 2

Court	Number of Cases		Percent of Cases Collected	Amount of Fines and Fees		Percent of Assessed Amount Collected
	Assessed	Collected		Assessed	Collected	
Circuit	214	41	19%	\$ 206,655	\$ 9,803	5%
County	640	524	82%	71,310	53,071	74%
Traffic <sup>1</sup>	670	575	86%	151,891	120,287	79%
<b>Total</b>	<u>1,524</u>	<u>1,140</u>	75%	<u>\$429,856</u>	<u>\$183,161</u>	43%

<sup>1</sup> Does not include traffic court data for Baker, Dade, and Orange counties.

Source: Office of the Auditor General summary analysis of county-provided data.

The percentage of cases that paid some or all fines and fees, and percentage of assessed funds collected, varied by the type of court. Traffic and county court cases had higher payment rates than circuit court cases. For example, 86% of the traffic court offenders had paid

some or all of their fines and fees, representing 79% of the total assessed funds. In contrast, 19% of the circuit court cases had paid some or all assessed fines and fees, recovering 5% of the total dollar amount assessed. See Appendix C, page 46, for collection rates for counties in our sample.

As shown in Exhibit 3, the various organizations responsible for collecting fines and fees had different rates of success in obtaining full payment by June 30, 1990. For example, Clerks were successful in collecting all of the amount due in 76% of the cases under their jurisdiction. While county probation organizations were successful in collecting all of the amount due in 71% of the cases by June 30, 1990. In contrast, only 30% of the cases under the jurisdiction of the Department of Corrections paid by June 30, 1990.

**Exhibit 3**

Organization Responsible for Collection	Number of Cases <sup>1</sup>		Percent of Cases Paid-in-Full by June 30, 1990
	Assessment Due On or Before June 30, 1990	Paid-in-Full by June 30, 1990	
	Clerks of the Circuit Court	1,000	
Department of Corrections	90	27	30 %
County Probation	434	307	71 %
<b>Total</b>	<b><u>1,524</u></b>	<b><u>1,090</u></b>	<b>72 %</b>

<sup>1</sup> Does not include traffic court cases for Baker, Dade, and Orange counties.

Source: Office of the Auditor General summary analysis of county-provided data.

**Fiscal Impact of Collection Rates**

When Clerks of the Circuit Court collect fines and fees assessed by courts, they remit these funds to either local county funds or to various state trust funds. It is important that

these fines and fees be collected as the remitted monies support various programs and expenses, which are typically crime related. For example, s. 142.01, F.S., requires each county to have a fine and forfeiture fund and monies collected from fine assessments are to be remitted to the fund unless otherwise specified in statute. These funds are used to defray the counties' cost of prosecuting crimes. In addition, monies collected from fee assessments are used to support state programs such as crime victim compensation, crime labs, and police training.

We analyzed the 1,524 cases in our sample that owed fines and fees by June 30, 1990, to determine the fiscal impact of uncollected fines and fees on state trust funds and county funds. As shown in Exhibit 4, the total fines and fees assessed in these cases due to state trust funds was \$48,456, and \$380,979 was due to county funds. About 65% of the amount due to state trust funds, or \$31,598, was collected; approximately 40% of the amount due to county funds, or \$151,530, was collected.

**Exhibit 4**

**Collection Rate of Sample Cases Assessed Fines and Fees  
Due to State and County Trust Funds  
On or Before June 30, 1990**

	Total Amount		Percentage Collected
	Assessed	Collected as of June 30, 1990	
State Funds	\$ 48,456	\$ 31,598	65%
County Funds	380,979	151,530	40%
<b>Total</b>	<b><u>\$429,435</u></b> <sup>1</sup>	<b><u>\$183,128</u></b> <sup>2</sup>	<b>43%</b>

<sup>1</sup> Does not include \$421 assessed on 12 cases for which the amounts due to state and county trust funds could not be identified.

<sup>2</sup> Does not include \$33 collected on 12 cases for which the amounts due to state and county trust funds could not be identified.

Source: Office of the Auditor General summary analysis of county-furnished data.

**Impact on Individual County Funds.** We further analyzed our data to assess the fiscal impact of the collection pattern on individual county funds which receive collected funds. We reviewed the impact on five county funds (see Exhibit 5). Our analysis of cases in our sample showed that the collection rate for the counties' fine and forfeiture trust funds, which support local prosecution cost, was approximately 32%. The Local Government Criminal Justice Trust Fund, which supports state attorneys, public defenders, and medical examiners, had a collection rate of 49%. The Clerk is authorized a handling fee for remitting certain monies to state trust funds and local funds.<sup>10</sup> Our analysis showed that 65% of these fees were collected. Courts are also authorized to assess fees for local police training, and to pay for other court costs (such monies are remitted to the counties' General Revenue Fund). Our analysis shows that the Local Law Enforcement Training Fund and the counties' General Revenue Fund had collection rates of 73% and 77% of the fees, respectively.

**Exhibit 5**

County Fund	Total Amount		Percent Collected
	Assessed	Collected	
Fine and Forfeiture	\$271,932	\$ 87,476	32%
Local Government Criminal Justice	68,842	33,821	49%
Clerk Fee	4,323	2,794	65%
Local Law Enforcement Training	2,290	1,670	73%
County General Revenue	33,592	25,769	77%
<b>Total</b>	<b><u>\$380,979</u></b>	<b><u>\$151,530</u></b>	<b>40%</b>

Source: Office of the Auditor General summary analysis of county-provided data.

<sup>10</sup> Section 960.20, F.S., requires an assessment of \$20 of which \$1 is retained by the Clerk; s. 939.017(1)(a), F.S., also authorizes the Clerk to keep \$1 of the \$15 assessment; and s. 27.3455, F.S., authorizes the Clerk to keep \$3 of the \$50 assessment for misdemeanor convictions, and \$5 of the \$200 assessment for felony convictions.

**State Trust Funds.** We further analyzed our data to determine how individual state trust funds were affected by the collection rate of assessed fines and fees. As shown in Exhibit 6, page 19, we analyzed the fiscal impact for eight of the state trust funds. The Crimes Compensation Trust Fund, which provides assistance to victims of crime had the lowest collection rate in that of the fines and fee amounts due, approximately 60% was collected. In addition, six trust funds -- Criminal Justice Training Trust Fund, Grant Matching Trust Fund and Florida Department of Law Enforcement Administrative Trust Fund and Operational Trust Fund, which fund law enforcement training, education, and crime labs, Emergency Medical Services Trust Fund, which supports local emergency medical services such as purchasing emergency rescue vehicles, Impaired Drivers and Speeders Trust Fund, which provides support for care of spinal cord and head injury victims -- had collection rates of approximately 75%. Finally, the Community Drug Abuse Services Grants and Donations Trust Fund, which supports local drug abuse treatment and education programs had an 81% collection rate of fines and fees assessed.

**Exhibit 6**

**Collection Rate of Sample Cases Assessed Fines and Fees  
Due to State Trust Funds  
On or Before June 30, 1990**

Trust Fund	Total Amount		Percent Collected
	Assessed	Collected	
Crimes Compensation	\$32,554	\$19,632	60%
Emergency Medical Services	3,350	2,615	78%
Impaired Drivers and Speeders	2,825	2,100	74%
FDLE Operational	5,636	4,175	74%
Community Drug Abuse Services Grants and Donations	504	406	81%
FDLE Administrative	856	621	72%
Grant Matching	286	207	72%
Criminal Justice Training	2,284	1,656	72%
Other State Funds <sup>1</sup>	161	186 <sup>2</sup>	116%
<b>Total</b>	<b><u>\$48,456</u></b>	<b><u>\$31,598</u></b>	<b>65%</b>

<sup>1</sup> Includes primarily assessments to the Juvenile Justice Trust Fund and the Child Welfare Trust Fund.

<sup>2</sup> The amount collected for one case was improperly allocated; \$25 was allocated to the General Revenue Fund instead of the Impaired Drivers and Speeders Trust Fund.

Source: Office of the Auditor General summary analysis of county-provided data.

**Total Unpaid Fines and Fees.** It was beyond the scope of our audit to determine the total amount of unpaid fines and fees statewide. Clerks and other organizations involved in the collection process are not required to report such information. However, Clerks from two counties we contacted -- Dade and Pinellas -- reported that they had records of over \$125 million in unpaid court assessments as of June 1990. <sup>11</sup> Thus, the current collection rate of fines and fees represents a substantial revenue loss to counties and the state.

**Summary.** Overall, about 75% of the cases in our sample with due dates on or before June 30, 1990, had paid some or all their assessed fines and fees by that date. However, the collection rate varied substantially by type of court, with only 19% of the circuit court cases

<sup>11</sup> This amount represents the combined uncollected assessments for an eight-year period for Dade County and one-year period for Pinellas County.

paying some or all of the assessed amount. However, when we consider the total dollar amount assessed for all courts, the collection rate is much lower. For example, all courts combined assessed a total of \$429,856 in fines and fees for cases in our sample and 43% (\$183,161) was collected as of June 30, 1990. The fiscal impact of the collection rate was greater on county funds than state trust funds. Overall, only 40% (\$151,530 of \$380,979) of the dollar amount assessed due to county funds had been collected by June 30, 1990, while 65% (\$31,598 of \$48,456) of the funds due to state trust funds had been collected.

Factors which appear to effect the collection of assessed fines and fees, and alternatives which could be used to increase collection rates, are discussed in the next section of this report.

#### **Finding 1.2**

**Several factors appear to affect the payment of assessed fines and fees. These include the types of sentences imposed by judges, the procedures used to collect outstanding fines and fees, and the actions taken for nonpayment. At present, varying payment options are used and the organizations responsible for collecting fines and fees do not always initiate action to enforce payment when payment is not made by the due date.**

Courts assess fines and fees as monetary penalties for persons convicted of crimes. Section 775.083(2), F.S., provides that if a person is unable to pay a fine the court may defer payment to a date certain. Several organizations are responsible for collecting fines and fees and initiating collection action if payment is not made at the time of assessment. These include Clerks of the Circuit Court, county probation organizations, and the Department of Corrections. For sentences consisting of fines and fees with no incarceration, the Clerk is responsible for collecting the assessment and initiating action if payment is not made by the date prescribed by the court. For sentences consisting of a term of county probation, the organization designated by the county for such probation activities is responsible for collecting and initiating action. These organizations may include county probation departments or private groups such as the Salvation Army. The Department of Corrections is responsible for collections and initiating

collection action for sentences consisting of incarceration in state prison or a term of state probation with payment of fines and fees as a condition of probation.

To identify factors which appear to affect the rate of collection of assessed fines and fees, we analyzed the court files of a sample of 1,647 cases assessed fines and fees in nine counties during fiscal year 1988-89. We also reviewed collection policies and procedures of Clerks, county probation organizations and the Department of Corrections, and the use of enforcement actions authorized by statute.

We identified several factors that appear to affect the collection of assessed fines and fees:

- The types of sanctions imposed against offenders affect payment rates, offenders who are imprisoned or who are assessed higher fines and fees are less likely to pay these amounts. However, as these penalties are designed to serve as deterrents to criminal conduct as well as to collect monies from offenders, the low payment rate may be inevitable;
- Collection procedures used by Clerks of the Circuit Court varied throughout the state, some Clerks allow more payment options than others. Additionally, studies and our data indicate that collection rates are higher if efforts are made to obtain payment from offenders at or near the time that fines and fees are assessed;
- Organizations responsible for collecting fines and fees frequently do not initiate enforcement action when persons fail to pay by the designated due dates. Actions to enforce collection were not taken in one-third of the cases in our sample which failed to pay. Reasons actions were not taken include lack of case tracking, and the lack of systematic criteria for determining whether offenders are indigent and thus cannot pay; and
- The enforcement actions that are authorized by statute and were initiated in the cases we examined were effective in collecting fines and fees in only half the cases in which these actions were taken. Courts did impose additional penalties for nonpayment in 244 of 406 cases.

## Sanctions Imposed by Court

The first group of factors we identified which affect collection rates is the types of sanctions imposed by courts. Florida Statutes authorize courts to impose a variety of penalties on offenders. These include incarceration, probation, financial sanction, or a combination of these penalties. Offenders may also be released on their own recognizance and be required to perform community service or other actions in addition to paying assessed fines and fees.

**Type of Sentence.** We analyzed the relationship between payment of fines and fees and the types of sentences imposed by courts. We focused on five types of sentences: state prison; county jail; state/county probation; a combination of prison/jail and probation; and unsupervised release on the offender's own recognizance.

As shown in Exhibit 7, page 23, offenders released on their own recognizance were more likely to pay assessed fines and fees (83% had fully paid), followed by persons sentenced to probation without incarceration (58% fully paid). Offenders who were incarcerated had much lower payment rates. Less than a quarter of the offenders who were sentenced to jail, or who were placed on probation after incarceration paid all fines and fees. Only 2% of the cases sentenced to state prison paid all fines and fees. It should be noted that 44 of the 89 offenders sentenced to prison in fiscal year 1988-89 who did not pay their assessments by the due dates were still in prison or under Department of Corrections supervision as of June 30, 1990. These offenders have little opportunity to earn money to pay fines and fees, and the money they earn is often required to be used for other purposes, such as making restitution to crime victims.

The effect of sentences upon collection rates varied by type of court. As shown in Exhibit 7, 85% and 88%, respectively, of the offenders released on their own recognizance by county and traffic courts paid all fines and fees, while only 15% of offenders paid-in-full when released by circuit courts. Sentencing offenders to probation after incarceration appeared to increase collection rates for county and traffic courts, but not for circuit courts. For example,

the collection rate for offenders sentenced to jail by county courts increased from 60% to 71% when probation was added to the sentence, and from 50% to 58% for traffic court cases. However, only 2% of the offenders incarcerated by circuit courts had paid assessed fines and fees, regardless of whether probation was added to their sentence.

### Exhibit 7

#### Number of Cases Paid-in-Full by Type of Sentence

Court	Type of Sentence					Total
	State Prison Only	County Jail Only	Probation Only	Prison/Jail and Probation	Unsupervised Release	
<b>Circuit Court Cases</b>	64	29	139	66	39	337
Cases Paid-in-Full	1	0	26	1	6	34
<i>Percent Paid-in-Full</i>	2%	0%	19%	2%	15%	10%
<b>County Court Cases</b>	N/A	10	187	7	436	640
Cases Paid-in-Full	N/A	6	119	5	369	499
<i>Percent Paid-in-Full</i>	N/A	60%	64%	71%	85%	78%
<b>Traffic Court Cases <sup>1</sup></b>	N/A	6	214	26	424	670
Cases Paid-in-Full	N/A	3	168	15	372	558
<i>Percent Paid-in-Full</i>	N/A	50%	79%	58%	88%	83%
<b>Total Cases</b>	<u>64</u>	<u>45</u>	<u>540</u>	<u>99</u>	<u>899</u>	<u>1,647</u>
Cases Paid-in-Full	<u>1</u>	<u>9</u>	<u>313</u>	<u>21</u>	<u>747</u>	<u>1,091</u>
<i>Percent Paid-in-Full</i>	2%	20%	58%	21%	83%	66%

<sup>1</sup> Does not include traffic court cases for Baker, Dade, and Orange counties.

Source: Office of the Auditor General analysis of county-provided data.

**Amount Assessed.** We also analyzed the relationship between the amount of fines and fees assessed by court and the collection rate. As shown in Exhibit 8, page 24, offenders assessed under \$100 by county and traffic courts paid all their assessment in a greater number

of cases (85% and 92%, respectively), than offenders assessed higher amounts. For circuit court cases the collection rate for all amounts was low, the highest collection rate was for assessment amounts of \$100 through \$199 (25%). Because of the nature of the crimes heard in circuit court, many of these offenders (43%) were sentenced to jail or state prison, and were incarcerated during our audit period.

### Exhibit 8

Court	Amount Assessed			
	Under \$100	\$100 through \$199	\$200 through \$299	Over \$300
<b>Circuit Cases Assessed</b>	28	12	243	54
Cases Paid-in-Full	3	3	21	7
<i>Percent Paid-in-Full</i>	11%	25%	9%	13%
<hr/>				
<b>County Cases Assessed</b>	357	196	65	22
Cases Paid-in-Full	302	138	44	15
<i>Percent Paid-in-Full</i>	85%	70%	68%	68%
<hr/>				
<b>Traffic Cases Assessed</b>	290	163	59	158
Cases Paid-in-Full	266	125	46	121
<i>Percent Paid-in-Full</i>	92%	78%	76%	77%
<hr/>				
<b>Total Cases Assessed</b>	<u>675</u>	<u>371</u>	<u>367</u>	<u>234</u>
Cases Paid-in-Full	<u>571</u>	<u>266</u>	<u>111</u>	<u>143</u>
<i>Percent Paid-in-Full</i>	85%	72%	30%	61%

Source: Office of the Auditor General summary analysis of county-provided data.

It should be noted that the sentences imposed by judges against offenders convicted of criminal offenses serve purposes other than collecting revenue for counties and the

state. These sanctions punish offenders for their illegal acts, and serve as a deterrent to similar crimes. Some fines and fees that are assessed will likely never be collected. For example, fines and fees imposed upon offenders who are sentenced to life imprisonment will probably remain unpaid. Similarly, many large fines may be uncollectible. For example, s. 893.135, F.S., provides that offenders convicted of drug trafficking offenses involving more than 28 grams of morphine or opium products be fined \$500,000; as these offenders are also required to serve a minimum of 25 years imprisonment, the fines may never be collected. As such, a 100% collection rate for assessed fines and fees is unrealistic.

### **Collection Procedures**

The second group of factors we identified which affect payment of fines and fees is the procedures used by Clerks and other entities to collect fines and fees. There are currently no statewide guidelines regarding the method by which offenders may pay fines and fees. Section 775.083(2), F.S., provides that if a person is unable to pay a fine the court may defer payment to a date certain, but the statutes do not provide guidelines for how such extensions should be granted. As such, Clerks, probation officers, and judges in the counties we examined have established varying procedures for collecting assessed fines and fees.

**Payment Options.** The options that offenders are given for paying assessed fines and fees can affect the collection of these funds. To identify payment options used by Clerks and others in the collection process, we interviewed Clerks and county probation staff in nine counties and nine district office staff of the Parole and Probation Service of the Department of Corrections. We found that these organizations allow varying payment options, with some offices providing alternative methods for offenders to pay fines and fees.

As shown in Exhibit 9, page 26, the nine Clerks' offices we contacted allow different payment options. All of the Clerks accepted payments in the form of cash, money orders, and cashiers checks. However, three of the nine offices also accepted personal checks, and one accepted credit cards for traffic and misdemeanor offenses. Five of the Clerks allowed

offenders to make installment payments on fines and fees. The other four Clerks allowed such payments but only under certain conditions. For example, two Clerks allowed installments depending on the type of case -- felony or misdemeanor. Another Clerk accepted partial payments based on the amount of the payments. And one Clerk accepted partial payments based on the assessment. Clerk staff in counties with limited payment options cited concerns regarding bad checks, the lack of credit by most offenders, and increased workload required for tracking installment payments.

### Exhibit 9

#### Payment Options Allowed by Clerks

County	Partial Payment	Payment Type Accepted				
		Money Orders	Cash	Personal Checks	Cashiers Checks	Credit Cards
Baker <sup>1</sup>	S	Y	Y	N	Y	N
Charlotte	Y <sup>2</sup>	Y	Y	N	Y	N
Citrus	Y	Y	Y	N	Y	N
Dade <sup>1</sup>	Y	Y	Y	N	Y	N
Duval	Y <sup>3</sup>	Y	Y	N	Y	N
Gadsden	Y	Y	Y	Y	Y	N
Lee	Y	Y	Y	Y	Y	S
Orange <sup>1</sup>	Y	Y	Y	N	Y	N
Pinellas	S	Y	Y	Y	Y	N

N = None of the courts.

Y = All of the courts.

S = Some of the courts.

<sup>1</sup> Traffic court not audited.

<sup>2</sup> Minimum amount of \$75 accepted for traffic and county court, \$250 for circuit court.

<sup>3</sup> Accepted partial payments only if defendant owes \$500 or more.

Source: Office of the Auditor General summary analysis of county-furnished data.

State and county probation officers are more consistent in the payment options given to offenders. Each of the state and county probation offices accepted cashiers checks, and would accept personal checks from offenders that they considered to be good risks.

The probation offices also accepted cash, although they discouraged this payment option due to administrative concerns. Each of the offices accepted partial payments to pay off all court-ordered financial obligations, such as victim restitution, cost of supervision, and fines and fees. None of the probation offices accepted credit cards.

Due to the relatively small number of cases we examined from some of these organizations, and the other factors, such as type of sentence imposed and use of enforcement action, which also affect collection rates, we were unable to determine whether a relationship exists between the payment options allowed by Clerks and probation offices and the collection rate of fines and fees.

**Obtaining Early Payment.** Another factor which can affect payment rates is obtaining early payment from offenders. Studies by groups such as the National Institute of Justice and the Virginia Department of Planning and Budgeting have shown that persons are more likely to pay assessed fines and fees if these persons pay at least part of the amount soon after sentencing.<sup>12</sup>

Court records show that, in general, as the time period from sentencing increases, offenders are less likely to pay. For example, as shown in Exhibit 10, page 28, of the offenders who eventually paid all their fines and fees, over a quarter (28%), did so on the day of sentencing, and an additional quarter (27%) did so within a month. Only 11% paid within the second month, and 9% paid during the third month after sentencing. Circuit Court cases did not follow this pattern, as over two-thirds of these cases did not pay for over 120 days. However, this is probably due to the length of sentence (imprisonment and/or probation) imposed on such cases. This indicates that a more concerted effort to obtain partial or full payment on the day of or soon after sentencing could result in higher collection rates.

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<sup>12</sup> U.S. Department of Justice, National Institute of Justice. Innovations in Collecting and Enforcing Fines, NIJ Reports, No. 215, July and August 1989; Virginia Department of Planning and Budget. Unpaid Fines, Court Costs, and Restitution in District and Circuit Courts of the Commonwealth, December 1987; U.S. Department of Justice, National Institute of Justice. Fines in Sentencing. A Study of the Use of the Fine as a Criminal Sanction, November 1984.

**Exhibit 10**

**Percentage of Cases Making Full Payment  
As of June 30, 1990**

Court	Number of Cases Fully Paid	Full Payment					
		Day of Sentencing	1-30 Days	31-60 Days	61-90 Days	91-120 Days	Over 120 Days
Circuit	34	23%	3%	0%	3%	3%	68%
County <sup>1</sup>	496	32%	31%	10%	9%	3%	15%
Traffic	558	24%	25%	12%	10%	6%	23%
<b>Total</b>	<u>1,088</u>	<u>28%</u>	<u>27%</u>	<u>11%</u>	<u>9%</u>	<u>4%</u>	<u>21%</u>

<sup>1</sup> Excludes 3 cases which paid but whose court records did not provide payment date.

Source: Office of the Auditor General summary analysis of county-furnished data.

**Initiation of Collection Actions**

The third category of factors we identified which affect payment rates is the use of collection actions when offenders fail to pay fines and fees. The type of collection action that may be initiated for nonpayment depends on the crime for which the offender was convicted. For example, s. 322.245 F.S., provides that Clerks shall issue a notice to an offender who fails to pay assessed fines and fees for a criminal traffic violation that unless payment is made within 30 days of the notice his/her drivers' license will be suspended. If the offender fails to pay within the 30 days, the Clerk is to notify the Department of Highway Safety and Motor Vehicles to suspend his/her drivers' license. For other types of crimes, the Clerk or probation staff is responsible for initiating action to bring the offender before the sentencing judge. This is done by issuing a notice to appear in court and give a reason why he/she should not be held in contempt of court for not complying with the judge's order to pay the fine or fee. At the court hearing, the judge may extend the payment period, modify the original sentence, or impose additional penalties for noncompliance. If such actions are not initiated when offenders fail to follow court orders to pay fines and fees, the impact and credibility of these monetary penalties will be eroded.

**Use of Collection Action.** As shown in Exhibit 11, collection actions were initiated for 67% (406 of 602) of the cases in our sample that had not paid the assessed fines and fees by the due date. However, the initiation of action varied by the entity responsible for collecting the assessed fines and fees. For example, Clerks initiated actions in 61% (215 of 351) of the nonpaying cases under their jurisdiction. In contrast, the Department of Corrections initiated collection action in 39% (26 of 67) of the cases under its jurisdiction that had not been collected by the due date. County probation organizations initiated collection actions in 90% (165 of 184) of the cases that did not make timely payment.

**Exhibit 11**

Responsible Entity	Number of Cases		Percent of Cases Collection Action Initiated
	Assessment Not Collected by Due Date	Collection Action Initiated	
Clerk	351	215	61%
Department of Corrections	67	26	39%
County Probation	184	165	90%
Total	<u>602</u>	<u>406</u>	<u>67%</u>

Source: Office of the Auditor General summary analysis of county-furnished data.

The 196 cases in which collection actions were not initiated owed \$194,961, or approximately 37% of the total fines and fees assessed to all cases in our sample. Of these 196 offenders: 61 were assessed only monetary penalties; 43 were still in state prison, county jail, or under probation; and 92 had been released from incarceration or probation.

**Reasons for Lack of Collection Action.** Court files did not document why actions to enforce collection were not initiated on these 196 cases. We asked staff of the Department of Corrections, county probation organizations, and Clerks offices why such actions

were not taken when persons fail to pay assessed fines and fees. These staff cited several reasons for not initiating action.

First, there is presently no centralized process to track payments by offenders who receive various types of sentences. Clerks of the Circuit Court are responsible for obtaining payments from offenders who are assessed fines and fees as their only sanction (no imprisonment or probation ordered). If offenders are sentenced to prison, the Department of Corrections assists in collecting fines and fees. However, Department of Corrections staff indicated that the Department is not always notified that inmates owe fines and fees. These staff indicated that, if the Department is notified that inmates owe assessments, the Department will remit monies to Clerks if the inmates earn funds while in prison through the work release program. However, these staff stated that approximately 4% of inmates earn funds through work release programs, and that monies earned by such offenders generally go toward paying other debts such as medical costs, federal insurance, and victim restitution, before fines and fees are paid. Additionally, although s. 944.605, F.S., requires the Department of Corrections to notify the sentencing judge, the state attorney, the arresting law enforcement agency, and the sheriff of the county in which the inmate plans to reside of the inmate's release date, there is currently no requirement that the Department of Corrections notify Clerks when inmates who owe fines and fees are released from incarceration. Thus, there is typically no follow-up on offenders who are sentenced to prison to collect such funds while they are incarcerated or after their release, unless payment is made a condition of probation or parole following the incarceration portion of the sentence.

The Supreme Court is working with the Department of Corrections and the Department of Law Enforcement to develop a case reporting system which, when operational, could improve case follow-up and collection efforts.<sup>13</sup> This system is intended to track individual cases from the time of arrest through final disposition, and thus could be used to provide centralized information about outstanding fines and fees. Clerks are not currently required to provide information on fines and fees imposed as a part of sentences. Staff of the

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<sup>13</sup> The information being established is the Offender-Based Transaction System, OBTS., as required by s. 943.052, F.S.

Office of the State Courts Administrator indicated that this data is not required under the current system because some Clerks do not have the computer capability to report such information. Development of an improved system should help responsible organizations better track payment of fines and fees and thus increase collection rates.

The second reason staff gave for lack of collection action was that some organizations do not initiate actions against offenders whom they consider to be indigent and thus unable to pay fines and fees. Under Florida case law, collection and enforcement can only occur after a judicial finding of a defendant's ability to pay. However, there are currently no statewide procedures or criteria for determining whether offenders are indigent and thus unable to pay. The State Courts Administrator, responding for the Supreme Court, asserted that developing such criteria is a function for the Legislature rather than the judicial branch.

Third, some organizations do not initiate collection action because they believe that such actions would not be cost effective. The Director of Probation of the Department of Corrections and staff from two Clerks offices and 17 probation offices reported that an understanding exists with some judges not to initiate action for failure to pay fines and fees because the cost of bringing offenders back to court before the sentencing judges would exceed anticipated collections. We could not determine the cost-effectiveness of collection action in the cases in our sample as information on the cost of such actions was unavailable. However, we believe that some form of action should be initiated for all offenders who fail to pay fines and fees. Failure to pay such assessments violates the provisions of court sentences, and is thus an offense to be adjudicated by the court.

### **Effectiveness of Collection Actions in Attaining Collection**

The final category of factors we identified which affect payment of fines and fees is the effectiveness of collection actions in attaining payment when these actions are initiated. To determine the impact of these actions, we reviewed court records of the 406 cases in which such penalties were initiated. As shown in Exhibit 12, payment was achieved in 43% of the

cases; in about half of these cases, offenders responded to the notices to appear by paying their fines and fees and no further action was necessary. In the remaining cases, the offenders did not pay until after the court imposed a penalty for nonpayment.

### Exhibit 12

Result of Action	Number of Cases	Percent of Cases	Percent of Total Cases
<b>Payment Made:</b>			
No Penalty Imposed	91	52%	
Penalty Imposed	85	48%	
<b>Total Payment Made</b>	<b>176</b>	<b>100%</b>	<b>43%</b>
<b>No Payment Made:</b>			
No Penalty Imposed	71	31%	
Penalty Imposed	159	69%	
<b>Total No Payment Made</b>	<b>230</b>	<b>100%</b>	<b>57%</b>
<b>Total Cases</b>	<b><u>406</u></b>		<b><u>100%</u></b>

Source: Office of the Auditor General summary analysis of county-furnished data.

The collection actions were not successful in obtaining payment in the remaining 57% of the cases. The courts imposed additional penalties on most of these offenders (159 of 230). These penalties included jail, drivers' license suspension, additional fines, liens/civil judgments, probation extension, and community service. However, no additional penalties were levied on 71 cases. Court records showed that in most of these cases (40 of the 71), the warrants to appear in court were not served on the offender. Court staff reported that serving these warrants, typically done by the sheriff, is generally assigned a low priority. However, when such warrants are not served, offenders are not brought before the judge to account for not complying with the court's orders. In 14 additional cases, a violation of probation action was still pending as of June 30, 1990. In five cases, judges dismissed the unpaid fines and fees, while they extended probation or payment dates in five cases. The outcome of the collection actions was not documented in the remaining seven cases.

We also analyzed the 244 cases (85 cases that paid after a penalty was imposed and 159 cases that made no payment) in our sample in which a penalty was imposed for nonpayment to determine which form of penalty was the most effective in collecting unpaid fines and fees. As shown in Exhibit 13, additional fines resulted in collection in 62% of the cases. Suspending drivers' licenses, and extending probation were successful in obtaining payment in about half of the cases when imposed. The remaining actions were generally not successful in obtaining payment. It should be noted that some of these penalties were imposed on only a few cases in our sample. Thus, these results are not necessarily indicative of the effectiveness of some penalties statewide.

**Exhibit 13**

Penalty	Number of Cases		Percentage of Cases Paid After Penalty
	Penalty Imposed	Payment Was Made	
Jail	56	8	14%
License Suspension	113	55	49%
Lien/Civil Judgment	18	0	0%
Add Charges	8	5	62%
Community Service	8	1	12%
Extend Probation	13	6	46%
Multiple Penalties	28	10	36%
<b>Total</b>	<b><u>244</u></b>	<b><u>85</u></b>	<b><u>35%</u></b>

Source: Office of the Auditor General summary analysis of county-furnished data.

## Summary

Overall, four categories of factors affect the collection rate of assessed fines and fees. First, the type of sentence imposed affects collection rates, as offenders sentenced to prison and/or probation, and those assessed higher fines and fees, tend to have lower payment rates. Second, the payment procedures allowed by collecting organizations can affect payment rates. Allowing offenders more payment options, and obtaining at least partial payment soon after the date of sentencing, may increase collection rates. Third, organizations responsible for collecting fines and fees do not always initiate collection actions when offenders fail to pay fines and fees. No actions were initiated in a third of the cases in our sample which failed to pay by the due date; none of these cases subsequently paid. Finally, many of the actions that are currently authorized by statute do not appear to be effective in collecting fines and fees when these additional penalties are imposed. Only three of the seven penalties applied in the cases we examined -- suspending drivers' licenses, levying additional fines, and extending probation -- resulted in collection in more than 40% of the cases when imposed.

The final section of this report, Program Options and Recommendations, presents alternatives and recommendations for addressing these factors and increasing the collection of assessed fines and fees.

## Section 2

### Program Options and Recommendations

While 75% of the cases we reviewed with due dates on or before June 30, 1990, paid some or all assessed fines and fees within one to two years of sentencing, these payments represented 43% of the dollar amount assessed. It is unreasonable to expect a 100% collection rate of fines and fees assessed against offenders convicted of criminal offenses, as some offenders may be indigent. Also, offenders sentenced to lengthy imprisonments may not have the opportunity to earn money to pay their fines and fees. However, the relatively low collection rate suggests that the state should explore options for increasing collections from convicted offenders.

To identify potential improvements to Florida's administrative procedures for collecting assessed fines and fees, we reviewed published studies, and interviewed staff responsible for collecting assessed fines and fees in 14 states, and the U.S. Attorney's Office.<sup>14</sup> These potential improvements involve enhancements to sanction practices, payment management, use of enforcement actions; and penalties imposed when persons fail to pay.

### Sanctions

The success of fines and fees as a deterrent to future criminal activity, and as a punishment for crimes, depends on the state's ability to collect the assessment. If offenders are able to avoid payment, they do not satisfy a portion of their debt to society for their offense. Consequently, we believe that, whenever possible, the judicial system should attempt to collect fines and fees.

A problem we identified in collecting fines and fees is the low collection rate (2%) for offenders who are incarcerated. These offenders usually have few opportunities during their

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<sup>14</sup> The U.S. Attorney's Office is responsible for collecting fines in federal criminal cases.

period of incarceration to earn money to pay assessed fine and fees, and the funds they earn must also be used to satisfy other obligations, such as restitution to crime victims. Our review showed that 43% of circuit court cases had sentences of incarceration. Additionally, when these offenders are released, there is generally little follow-up to collect outstanding fines and fees. To help resolve these problems, we recommend that the Legislature direct the Department of Corrections in consultation with the Supreme Court to assess the feasibility of creating incentives within the judicial and corrections systems, such as the Federal Bureau of Prisons' Inmate Financial Responsibility Program, that enables prisoners to satisfy their financial obligations before they are released from the jurisdiction of the Court. The intent of the federal program is to encourage each inmate to meet his or her financial obligations. When an inmate has a financial obligation, the inmate develops a financial plan and is monitored on meeting the obligation prior to release. If an inmate refuses to participate in the program numerous penalties are applied including: informing the Parole Commission which has the authority to deny parole for failure to comply, not receiving any furloughs, or the inmate will be quartered in the lowest housing status. According to a Federal Bureau of Prisons official, approximately 87% of inmates with financial obligations participate in the program. If it is determined that a state Inmate Financial Responsibility Program is feasible, the Department of Corrections and the Supreme Court should recommend legislation to implement the Program.

Additionally, there is currently no requirement that the Department of Corrections notify Clerks when inmates who owe fines and fees are released from prison. We recommend that the Legislature amend s. 944.605, F.S., to require the Department of Corrections to notify the Clerk of the Circuit Court when an inmate who owes fines and fees is released from incarceration.

Also, the courts have ruled that payment of fines and fees cannot be enforced against offenders who are indigent. Staff from agencies we contacted who are responsible for collecting fines and fees cited indigence as a reason that enforcement action is not initiated against some offenders who fail to pay. However, there are currently no statewide procedures or criteria for determining whether convicted offenders have the ability to pay fines and fees.

Accordingly, we recommend the Legislature provide more specific criteria to determine when offenders should be considered indigent for collection purposes. We also recommend that the Supreme Court use these criteria to provide guidance to judges to assist them in determining what actions are to be taken against offenders who fail to pay.

### **Payment Management**

We further recommend that the Supreme Court assess the feasibility of adding accounts receivable data for assessments to the statewide offender tracking system. This would provide a method that organizations could use to check the satisfaction of these debts and to identify the need for enforcement actions. This would also allow for information to be considered in future judicial action involving the offender, including by judges if the offender commits additional offenses, and by parole officials when considering whether an offender should be released from prison or in establishing the terms for the offender's release. Payment of fines and fees could also be made a condition of parole, early release, or probation when cost-effective to do so. A statewide tracking system would also allow Clerks to monitor payment of fines or fees when offenders are released from prison and probation. An accounts receivable system that incorporates these aspects was noted by several state officials we contacted as a key element in assuring that court ordered payments are made.

Additionally, we recommend that the Legislature direct the Department of Banking and Finance, pursuant to s. 218.33, F.S., to develop guidelines in consultation with the Supreme Court and the Clerks of the Circuit Court for Clerks and other organizations to use in carrying out their fine and fee collection responsibilities. These guidelines should address payment options such as the acceptance of credit cards, partial payment of fines and fees, and the establishment of payment schedules for offenders (including those sentenced to prison and probation). Payment schedules should be designed to obtain payment as soon as possible after the sentencing date. Our analysis shows that default is almost a certainty if payment is not made within the first 60 days. A bill authorizing Clerks to accept credit cards as payment was considered but was not passed by the 1991 Legislature. If the Department of Banking and

Finance, the Supreme Court, and the Clerks of the Circuit Court determine that legislation would be necessary to provide offenders with payment options, they should make such recommendations to the Legislature.

### **Enforcement Actions**

We further recommend that the Supreme Court study the use of additional sanctions that could be imposed when persons fail to pay assessed fines and fees. The state bestows certain privileges to citizens which could be used as a means of enforcing collections, including drivers, fishing, and occupational licenses, as well as vehicle registration certificates. At present, statutes authorize suspending drivers' licenses only for unpaid traffic court fines and fees, and allows the Department of Highway Safety and Motor Vehicles to withhold registration of vehicles if the owner's drivers license has been suspended for failure to pay traffic fines and fees. The Supreme Court should study expanding such actions to non-traffic cases as well as to other types of state-issued licenses. Additionally, the Supreme Court should study the system previously used in one state of requiring offenders to surrender their drivers' license if fines and fees are not paid at the time of sentencing. Under this system, the offenders are granted temporary licenses that are good only for the specified payment periods. This allows the offender to continue to work in order to earn the funds, but the license is automatically suspended if the offender fails to make full payment. If the Supreme Court determines that legislation would be necessary to implement additional sanctions, it should present its recommendations to the Legislature.

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## Appendices

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## Appendix A

### Methodology Used to Select Sample of Local Court Systems for Site Visits

#### Scope and Methodology

Our primary objective in our site visits was to collect information on the collection of criminal fines and fees from a sample of local court systems. We based our selection of local courts on two factors: geographic distribution of counties representing the northern, central and southern sections of the State; and whether the local courts could provide us with computer data on the number of persons assessed fines and fees, the amount assessed in fiscal year 1988-89, and the amount collected. In making our site selection we gave consideration to discussions with staff of Legislative committees and the State Courts Administrator, and the numbers of criminal disposed cases as reported by the local courts to the Supreme Court's Summary Reporting System and the Department of Highway Safety and Motor Vehicles' Annual Uniform Citation Statistic Report. At each site, we interviewed Clerks staff, circuit and county trial judges (as practicable), probation office staff, and reviewed local court policies and procedures. While our audit findings may represent generally the collection process throughout the state, the results do not express statewide conclusions.

We assigned each county to one of three categories, according to the number of disposed guilty criminal cases during fiscal year 1988-89. Counties that disposed of between 1 through 1,000 criminal cases were grouped in one category (small), counties that disposed of 1,001 through 10,000 criminal cases were grouped together (medium), and counties that disposed of over 10,000 criminal cases were grouped together (large). (See Table A-1, page 41.)

Table A-1

**Criminal Cases  
(Number of Guilty Disposed)  
Fiscal Year 1988-89**

<u>Number of Guilty Cases Disposed</u>	<u>Number of Counties</u>
1 - 1,000	16
1,001 - 10,000	36
Over 10,000	15

Source: Office of the Auditor General Summary Analysis of Supreme Court Summary Reporting System information, and Department of Highway Safety and Motor Vehicles annual uniform citation statistics report.

The Supreme Court's data showed that the 15 large counties disposed of approximately 78% of the criminal cases, while the medium size counties disposed of approximately 21%, and the small size counties disposed of 1% of the cases. The nine counties are located in 8 of the State's 20 judicial circuits.

Based on these factors, we selected the nine counties for site visits: Baker, Gadsden, Citrus, Charlotte, Dade, Duval, Lee, Orange, and Pinellas counties. (See Table A-2, page 42.)

Table A-2

**Guilty Cases by Court in Sample Counties**

Category	County	Circuit	County	Traffic	Total
1 - 1,000 Cases	Baker	82	361	357	800
1,001 - 10,000 Cases	Gadsden	1,251	969	523	2,743
	Citrus	354	1,342	1,574	3,270
	Charlotte	305	910	2,428	3,643
Over 10,000 Cases	Duval	9,744	16,123	19,705	45,572
	Orange	6,867	10,023	22,008	38,898
	Pinellas	6,699	20,043	25,663	52,405
	Dade	24,804	32,440	47,052	104,296
	Lee	1,974	12,850	6,689	21,513

Source: Supreme Court Summary Reporting Systems and Department of Highway Safety and Motor Vehicles Annual Uniform Citation Statistical Report.

## Appendix B

### Methodology for Case Selection

To obtain information about the collection of criminal fines and fees, we reviewed the case file histories of a random sample of 1,647 guilty cases assessed between July 1, 1988, and June 30, 1989. Given this sample size, the results are subject to a 5% sampling error at the .95 confidence level, meaning that there is a 95% probability that the characteristics of the total population of criminal cases in our selected counties sentenced during this time period would vary no more than  $\pm 5\%$  from the characteristics of our sample. The methodology used to select our sample, and the characteristics of these criminals are discussed below.

#### Sample Selection and Data Collection

**Sample Frame.** To select our sample of criminal cases, we obtained from the Clerks of the Circuit Court a listing of all cases sentenced guilty during the period July 1, 1988, through June 30, 1989. We selected this time period in order to cover a complete fiscal year and to allow sufficient time for assessments to be collected by the courts during the subsequent fiscal year.

The listings of cases were generally derived from computerized record systems maintained by the Clerks of Circuit Court. The records provided unique case numbers assigned to each case sentenced by the courts during the fiscal year. Two counties, Baker and Citrus, did not have all cases included in their computerized record system. Accordingly, we used manual records to obtain listings of cases sentenced in these counties.

**Sample Selection.** Clerks could not provide us with a complete listing of cases found guilty during fiscal year 1988-89 as reported to the Florida Supreme Court and the Department of Highway Safety and Motor Vehicles. Clerks provided us with listings of case files available for the audited period. We then selected a random sample of 2,637 cases from the combined

listings of cases sentenced upon conviction of a crime. To draw our sample, we used the random number generator in a commercial software package. We numbered the cases on the combined listings, and using the random numbers, identified cases until we had selected the requisite number. If a Clerk was unable to provide the case file for a specified case, we selected a replacement case using the above method. We selected a representative number of cases for each type court within a county (circuit, county, and traffic), based on the number of guilty cases disposed during fiscal year 1988-89. We used a sample of 2,637 cases to determine the number of cases assessed. Fines and fees were assessed in 1,647 of these cases. Our collection analysis is based on these 1,647 cases assessed. See Table B-1 for the number of cases selected from each county.

**Table B-1**

<b>Sample of Cases Assessed From Guilty Cases Sentenced July 1, 1988, to June 30, 1989</b>			
<b>County</b>	<b>Number of Guilty Cases (Population) <sup>1</sup></b>	<b>Number of Guilty Case Files Reviewed</b>	<b>Number of Cases Assessed (Sample)</b>
Baker	391	112	60
Charlotte	3,860	221	175
Citrus	3,114	225	181
Dade	53,651	260	118
Duval	49,618	450	159
Gadsden	2,623	225	187
Lee	18,805	450	330
Orange	14,306	244	156
Pinellas	61,813	450	281
<b>Totals</b>	<b><u>208,181</u></b>	<b><u>2,637</u></b>	<b><u>1,647</u></b>

<sup>1</sup> Did not include traffic data for Baker, Dade, and Orange counties.

Source: Office of the Auditor General summary analysis of guilty cases.

**Sample Validation.** To validate our sample of guilty cases, we compared information from computerized case file histories to original source documentation. We made this comparison for the dollar amount of fines and fees assessed and collected. In general, this validation found that the collections reflected in the computerized case file histories were reasonably accurate within the precision and confidence level specified. Accordingly, it can be concluded that the combined collection data in our sample is generally representative of the data in the combined listings.

We also did not receive criminal traffic case data from Baker, Dade, and Orange counties. We analyzed the impact of not including these cases by weighing the estimated total disposed guilty cases for traffic courts compared to circuit and county court guilty cases. We concluded that not including these cases in our sample did not materially affect our conclusions.

**File Review.** To evaluate the information about the collection of criminal fines and fees, we reviewed the case file histories of the 1,647 cases in our sample. We obtained these case file histories by requesting the Clerks of the Circuit Court to provide computerized printouts for our sample. The computerized systems of three counties (Baker, Orange, and Pinellas) did not always retrieve sentencing dates or indicate that a sentencing action had occurred. Also, in Citrus County, a small portion of the cases did not have this information. Accordingly, we obtained information for these cases from the court file records. During our review of computerized case histories we reviewed predominantly docket line entries. For case files of felony and misdemeanor cases we reviewed sentence and judgment forms, probation orders, and payment receipts. For traffic cases we also reviewed traffic citations. To gain additional information and clarify case information, we interviewed knowledgeable staff of the Clerks of the Circuit Court.

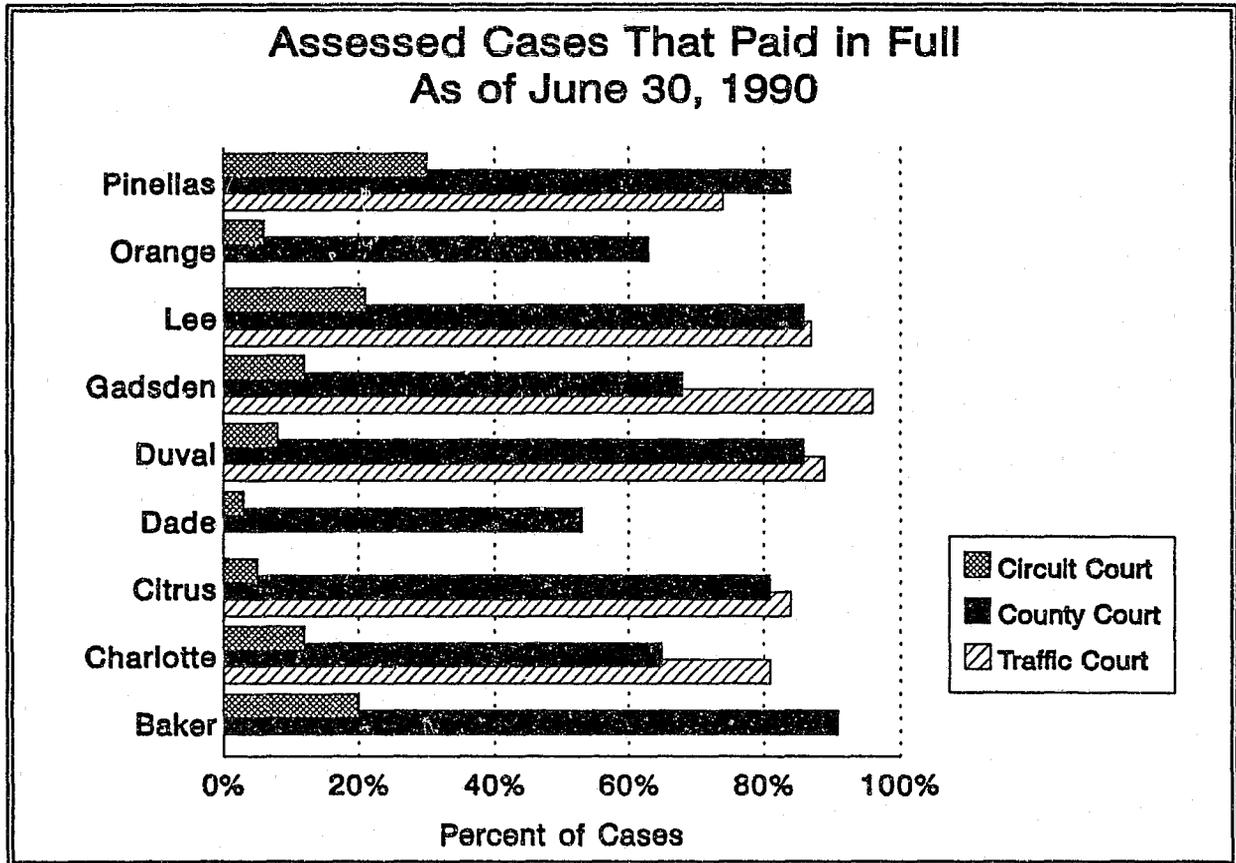
From this review we identified such information as whether an assessment was collected, the charge(s) of which the offender was convicted, the verdict, and the sentence, such as jail, and/or probation.

## Appendix C

### Assessed Cases That Paid in Full and Dollar Value Assessed That Was Collected As of June 30, 1990

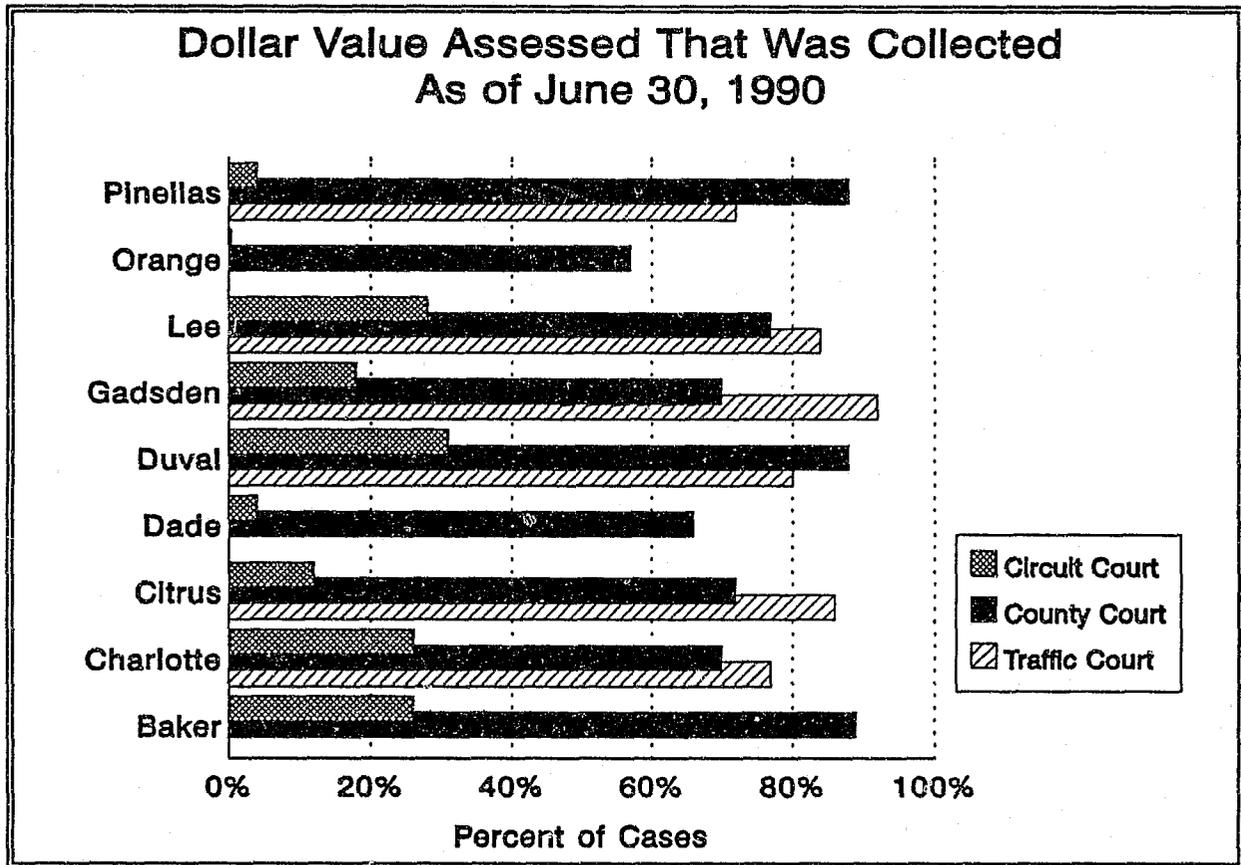
We calculated the percentage of cases that had paid all their fines and fees as of June 30, 1990, and the dollar value of assessment collected by type of court in each of the nine counties audited. As shown in Table C-1 the percentage of cases with full payment, and percentage of assessed funds collected, varied by type of court between the counties. Traffic court cases that paid all their assessments ranged from 96% in Gadsden County to 74% in Pinellas County. County court cases that paid all their assessments ranged from 91% in Baker County to 53% in Dade County. And Circuit court cases that paid all their assessments ranged from 30% in Pinellas County to 3% in Dade County.

Table C-1



As shown in Table C-2 the dollar value collected also varied by courts between the counties audited. Traffic court cases that paid fines and fees ranged from 92% of the dollar value assessed in Gadsden County to 72% in Pinellas County. County court cases that paid fines and fees ranged from 89% of the dollar value assessed in Baker County to 57% in Orange County. And circuit court cases that paid fines and fees ranged from 31% of the dollar value assessed in Duval County to less than 1% in Orange County.

Table C-2

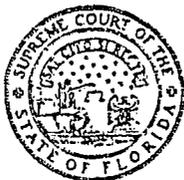


## **Appendix D**

### **Responses From the Supreme Court of Florida and the Florida Association of Court Clerks and Comptrollers**

In accordance with the provisions of s. 11.45(7)(d), F.S., a list of preliminary and tentative audit findings was submitted to the Chief Justice of the Supreme Court of Florida for his review and response. A list of preliminary and tentative audit findings was also submitted to the Executive Director of the Florida Association of Court Clerks and Comptrollers for distribution to and coordination of any responses from the nine County Clerks referred to in this audit.

The written responses of both the Chief Justice and the Executive Director are reprinted herein beginning on page 49.



SUPREME COURT OF FLORIDA  
TALLAHASSEE  
32399-1925

LEANDER J. SHAW, JR.  
CHIEF JUSTICE  
BEN F. OVERTON  
PARKER LEE McDONALD  
ROSEMARY BARKETT  
STEPHEN H. GRIMES  
GERALD KOGAN  
MAJOR B. HARDING  
JUSTICES

SID J. WHITE  
CLERK  
WILSON E. BARNES  
MARSHAL

December 20, 1991

Mr. Charles L. Lester, C.P.A.  
Office of the Auditor General  
Claude Pepper Building, Room G74  
Tallahassee, Florida 32301

Dear Mr. Lester:

Following is a response to the preliminary and tentative findings of the audit on the collection of criminal fees performed by the Auditor General's staff.

Recommendation 1: We recommend that the Legislature direct the Department of Corrections in consultation with the Supreme Court to assess the feasibility of creating incentives within the judicial and corrections systems, such as the Federal Bureau of Prison Inmate Financial Responsibility Program, that enable prisoners to satisfy their financial obligations before they are released from the jurisdiction of the court.

Once a defendant is sentenced to state prison the courts may exercise jurisdiction only under limited circumstances. If a sentence of community supervision is imposed to follow the service of the incarcerative portion of the sentence, then the sentencing court would have jurisdiction to enforce, modify, terminate or revoke the community supervision. The recommendation appears to envision a greater role for the judicial branch in the service of a sentence than is permissible. The trial courts, absent a justiciable issue, are without authority to become involved in the manner and conditions of the service of the sentence once imposed. Such a function is the responsibility of the executive branch. Since fines and fees are assessed at the time of disposition, any attempt to create a program or incentive to occur after the disposition would involve the potential for the courts to occupy a role that is in conflict with the responsibilities of an impartial judiciary and would not be an appropriate function for the judicial branch.

Recommendation 2: We recommend that the Legislature amend s. 944.605, Florida Statutes, to require the Department of Corrections to notify the clerk of the circuit court when an inmate who owes fines and fees is released from incarceration.

The State Courts System concurs in this recommendation.

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**Recommendation 3:** We recommend the Legislature provide more specific criteria to determine when offenders should be considered indigent for collection purposes. We also recommend that the Supreme Court use these criteria to provide guidance to judges to assist them in determining what actions can be taken against offenders who fail to pay.

The State Courts System concurs in the recommendation that the Legislature provide more specific criteria to determine indigency for purposes of collection of fines and fees. Once more specific criteria are established, the State Courts System, through the process of continuing judicial education, will provide assistance and guidance to the trial courts in applying the legislatively established criteria.

**Recommendation 4:** We recommend that the Supreme Court assess the feasibility of adding accounts receivable data for assessments to the statewide offender tracking system.

The offender-based transaction system was statutorily created and was placed in the Florida Department of Law Enforcement. The Office of the State Courts Administrator functions only to assist in the receipt and distribution of information provided for the offender-based transaction system and is not empowered to make additions or changes in the types or amount of data provided through the system. The Supreme Court would suggest that any feasibility of adding accounts receivable data be determined by the Florida Department of Law Enforcement in conjunction with those agencies that would report data, specifically the clerks of circuit and county court.

**Recommendation 5:** We recommend that the Legislature direct the Department of Banking and Finance, pursuant to s. 218.33, Florida Statutes, to develop guidelines in consultation with the Supreme Court and the clerks of the circuit court for clerks and other organizations to use in carrying out their fine and fee collection responsibility.

The State Courts System concurs with this recommendation.

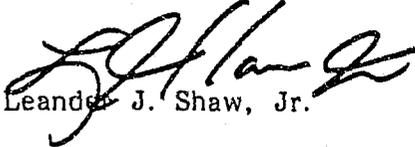
**Recommendation 6:** We recommend that the Supreme Court study the use of additional sanctions that could be imposed when persons fail to pay the assessed fines and fees. The Supreme Court should study expanding the application of actions, such as suspension of license and vehicle registration, to nontraffic cases as well as to other types of state-issued licenses. Additionally, the Supreme Court should study the system previously used in one state of requiring offenders to surrender their drivers license if fines and fees are not paid at the time of sentencing.

While the State Courts System agrees with the intent of the recommendation, the establishment of sanctions that can be imposed upon convicted offenders is a matter of substantive law. Accordingly, the judicial branch is without authority

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to expand sanctions. This recommendation should be directed to the Florida  
Legislature.

Very truly yours,



Leander J. Shaw, Jr.

LJSjr:MUB/dd

FLORIDA ASSOCIATION OF  
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December 23, 1991

Mr. Charles L. Lester  
Auditor General  
State of Florida  
P. O. Box 1735  
Tallahassee, Florida 32302-1735

Dear Mr. Lester:

On behalf of FACC, I wish to express our appreciation for this opportunity to comment on your office's preliminary audit findings on the collection of fines and fees in the state court system. We have reviewed the findings with the nine Clerks that participated in the audit and find no disagreement with the methodology and general findings of the study. However, we submit the following observations and comments relative to several recommendations contained therein. These are:

1. The report recommends that s. 944.605, F.S., be amended to require the Department of Corrections to notify the Clerks of Court when inmates owing fines and fees are released from prison. If amended, what will the statute require the Clerk's Office to do? It is our position that the Clerk's role is that of keeper of the records and not that of a collection agent. We believe the payment of fines and fees should be made a condition of probation or parole. The responsibility for monitoring and enforcement of such payments should be vested with the agency that supervises the probation and parole function.

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Daun Crews  
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Frances E. Thigpin  
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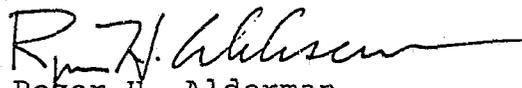
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2. There is no question that adding accounts receivable data for assessments to the statewide Offender Based Tracking System (OBTS) would be effective in monitoring collections on a statewide basis by a designated agency such as the Department of Corrections, but in so doing the State must be cognizant to the level of operational and financial impact that will result relative to the Clerks' Offices and must be prepared to address those impacts. Consideration must be given to the overall cost effectiveness of adding to OBTS. The evaluation and planning of such a program effort must include the active and equal participation and input of all elements of OBTS, including the Clerks of Court, who in this case would have primary responsibility for system data maintenance.

3. Finally, we agree with the statement "that, whenever possible, the judicial system should attempt to collect fines and fees" (p. 35). However, as noted above, the enforcement of collections is best accomplished by those entities that can affect the behavior of offenders.

Again, I would like to thank you for this opportunity and to stress the desire and willingness of the state's Clerks of Court, the historical and constitutional administrative officers of the court, to work for the betterment of our judicial system and its effective administration.

Sincerely,

  
Roger H. Alderman  
Executive Director

RHA/bn

