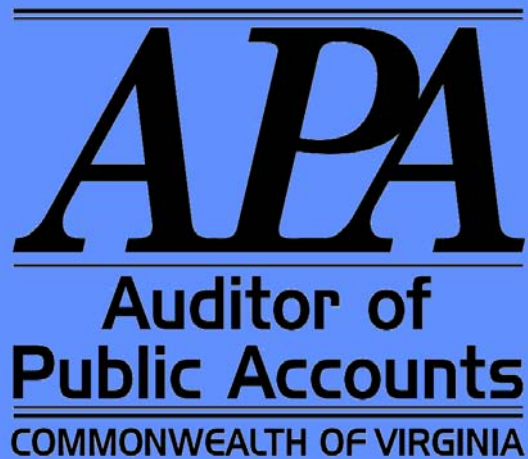


COMMONWEALTH COURT COLLECTIONS REVIEW

APRIL 2013



Review Summary

Over the past five years the Commonwealth of Virginia has failed to collect a significant portion of Circuit and District Court fines and costs as they relate to state and local criminal and traffic cases. On average the Commonwealth has assessed \$357 million and collected \$185 million, leaving an average of \$170 million uncollected each year.

To improve collections beyond current amounts, the General Assembly, the Supreme Court, Commonwealth's Attorneys, and other parties involved need to consider addressing significant public policy issues surrounding the collections process. In order to assist with addressing these changes, this report evaluates the Commonwealth's procedures against nationally recognized best practices for the collection of court fines and costs and recommends changes to the Commonwealth's current collection practices.

Our report includes recommendations aimed at improving the current collection process over court fines and costs. Our specific recommendations are grouped into best practice recommendation areas. These areas include a greater emphasis on payment expectations, improvement of follow-up procedures, implementation of collection goals, evaluating the cost of collections, and improving control of the collections inventory. In addition, we believe the General Assembly should consider performing a cost benefit analysis to determine if establishing a specialized collection unit would be an effective way to improve the collection process over courts' fines and costs.

– TABLE OF CONTENTS –

	<u>Pages</u>
OVERVIEW	1-2
CURRENT COLLECTION PROCESS	3-4
BEST PRACTICES IN COLLECTING FINES AND COSTS	5-6
BEST PRACTICE RECOMMENDATION AREAS	
Create Payment Expectations Through the Fine Collection Atmosphere	7
Establish Follow-Up Processes	8
Set Collection and Information Goals	8-9
Consider the Cost of Collections	9-10
Establish Accountability: Control the Collections Inventory	10-12
Consider Forming a Specialized Collection Unit	12-13
TRANSMITTAL LETTER	14
AGENCY RESPONSE	15
APPENDIX A – DATA SOURCES	16
APPENDIX B – SUMMARY OF RECOMMENDATIONS	17

Overview

Over the past five years the Commonwealth of Virginia has failed to collect a significant portion of Circuit and District court fines and costs for state and local criminal and traffic cases. As shown in Table 1 below, on average the Commonwealth has assessed \$357 million and collected \$185 million annually, leaving an average of \$170 million uncollected each year.

For the purposes of this report, we obtained the majority of our figures from the Office of the Executive Secretary of the Supreme Court's Financial Management System. These figures include assessments and collections processed during the fiscal year relating to account codes that are normally found in receivable accounts. The collections figures include all collections processed, including methods other than those performed within the District and Circuit court clerk's office. See Appendix A for more information.

TABLE 1: COURT FINES AND COSTS ASSESSMENTS, COLLECTIONS, AND UNCOLLECTED AMOUNTS FOR FISCAL YEARS 2008 TO 2012

Year	Assessments	Collections	Uncollected
2008	\$341,831,752	\$186,062,295	\$155,769,456
2009	345,667,316	178,785,682	166,881,634
2010	375,925,389	177,586,142	198,339,247
2011	367,392,374	196,511,273	170,881,101
2012	352,730,490	188,308,433	164,422,057

It is important to note that collections vary greatly between Circuit and District courts. As shown in Table 2 on the following page, Circuit courts assess fewer fines and costs in total, and also have a much lower collection rate. This lower collection rate can be attributed to higher fines due to the nature of Circuit court cases and also to incarcerated individuals and their resulting inability to pay. District courts assess mostly smaller fines as they relate to traffic violations, and also encourage collections through the suspension of the defendant's driver's license.

TABLE 2: COURT FINES AND COSTS ASSESSMENTS AND COLLECTIONS FOR FISCAL YEARS 2008 TO 2012 WITH COLLECTION RATES BY COURT TYPE

Court Type	Assessments	Collections	Collection Rate
Circuit	\$ 59,371,359	\$ 17,031,053	29%
District	<u>282,460,393</u>	<u>169,031,242</u>	60%
2008 Total	<u>\$341,831,752</u>	<u>\$186,062,295</u>	
Circuit	\$ 60,413,162	\$ 15,968,038	26%
District	<u>285,254,154</u>	<u>162,817,644</u>	57%
2009 Total	<u>\$345,667,316</u>	<u>\$178,785,682</u>	
Circuit	\$ 62,278,380	\$ 14,998,687	24%
District	<u>313,647,009</u>	<u>162,587,455</u>	52%
2010 Total	<u>\$375,925,389</u>	<u>\$177,586,142</u>	
Circuit	\$ 60,571,411	\$ 16,052,816	27%
District	<u>306,820,963</u>	<u>180,458,457</u>	59%
2011 Total	<u>\$367,392,374</u>	<u>\$196,511,273</u>	
Circuit	\$ 57,852,153	\$ 15,405,160	27%
District	<u>294,878,337</u>	<u>172,903,273</u>	59%
2012 Total	<u>\$352,730,490</u>	<u>\$188,308,433</u>	

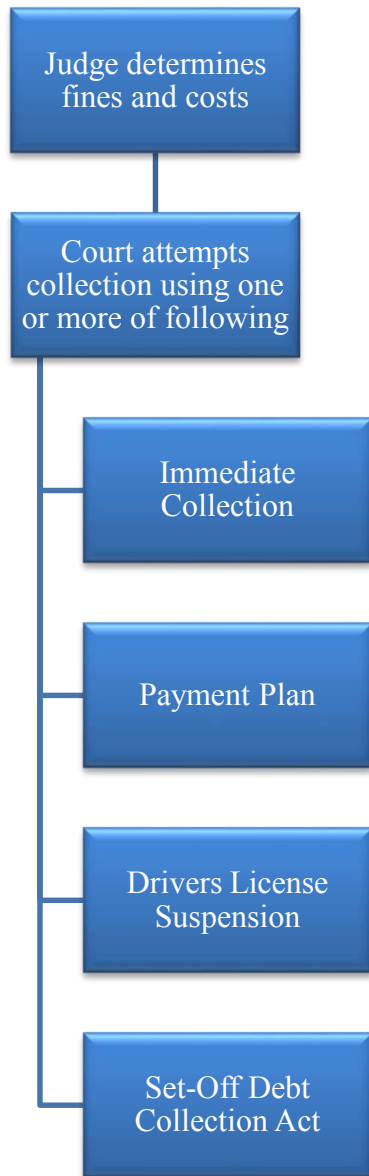
Although uncollected fines and costs appear high, it is important to note that some percentage of accounts will always be uncollectible. As an example, we estimate incarcerated individuals owe approximately 10 percent, or an average of \$16.8 million each year, relating to the cases for which they were incarcerated. We believe this figure is conservative because incarcerated individuals typically also owe fines and costs relating to charges for which they were not incarcerated. Table 3 below compares the past five years of uncollected amounts for fines and costs in total to uncollected fines and costs related to incarcerated individuals.

TABLE 3: UNCOLLECTED COURT FINES AND COSTS IN TOTAL, FOR INCARCERATED INDIVIDUALS AND NET REMAINING FOR FISCAL YEARS 2008 TO 2012

Year	Total	Incarcerated Individuals	Net Remaining
2008	\$155,769,456	\$11,420,189	\$144,349,267
2009	166,881,634	14,839,403	152,042,231
2010	198,339,247	18,186,103	180,153,144
2011	170,881,101	20,290,416	150,590,685
2012	164,422,057	19,014,859	145,407,198

Current Collection Process

The current courts collection process spreads the responsibility for collecting fines and costs over multiple entities.



The collection process begins on the date of the case disposition when the defendant receives their judgment from the judge. If found guilty, a defendant will have costs assessed regardless of the judgment and can also be assessed a fine. Judges may also allow defendants to satisfy fines by completing community service.

The defendant then proceeds to the clerk's office. The clerk of the court has responsibility for recording judgments of fines and costs, collecting these judgments, establishing a payment plan if necessary, and reporting delinquent accounts. The clerk requests initial payment from the defendant on the day of disposition. The defendant receives a notification of fines and costs as to the amount they owe as of this date.

At any point in the process the defendant can request time to pay and establish either a deferred payment date or an installment payment plan. These plans establish a due date in the Office of the Executive Secretary of the Supreme Court's (Supreme Court) Financial Management System and when that due date is not met the account continues to follow the normal course of a receivable.

If the defendant does not make payment on the date of disposition, and does not make subsequent payment, the Supreme Court Case Management System automatically generates the following notifications:

- ✓ Within two business days the defendant receives a notification to pay.
- ✓ Fifteen days after conviction the defendant's driver's license is suspended and a notice is sent to that effect.
- ✓ The defendant receives a notification when the court has a dishonored check or credit card charge.

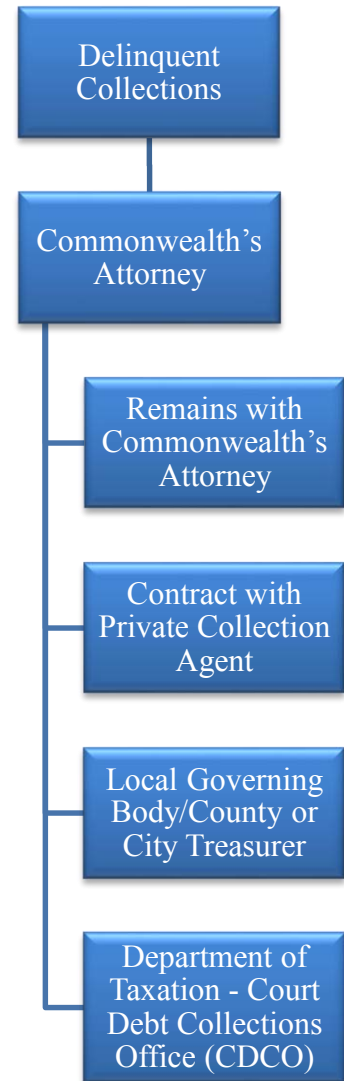
Unpaid fines and costs also go to the Virginia Department of Taxation (Tax) as part of the Set-Off Debt Collection process. If a defendant receives a tax refund and owes unpaid fines and costs, Tax's Set-Off Debt Collection Unit notifies the clerk that there is a refund match. The clerk has 10 days to notify the defendant of the set-off amount via certified letter. This notification is a

manual process. After the 10 day notification period, the defendant has 20 days to contest the set-off. Assuming that the set-off is not contested, Tax sends the funds to the court at the end of the next month. The clerk can also generate a standard notification of refund intercept.

If none of the collection attempts above are successful, the account is deemed delinquent after 15 days (30 days beginning in fiscal year 2013), and is sent to the local Commonwealth's Attorney for collection. The Code of Virginia designates the Commonwealth's Attorney to institute proceedings for the collection and satisfaction of delinquent fines and costs. Each Commonwealth's Attorney's office has four options to pursue collection.

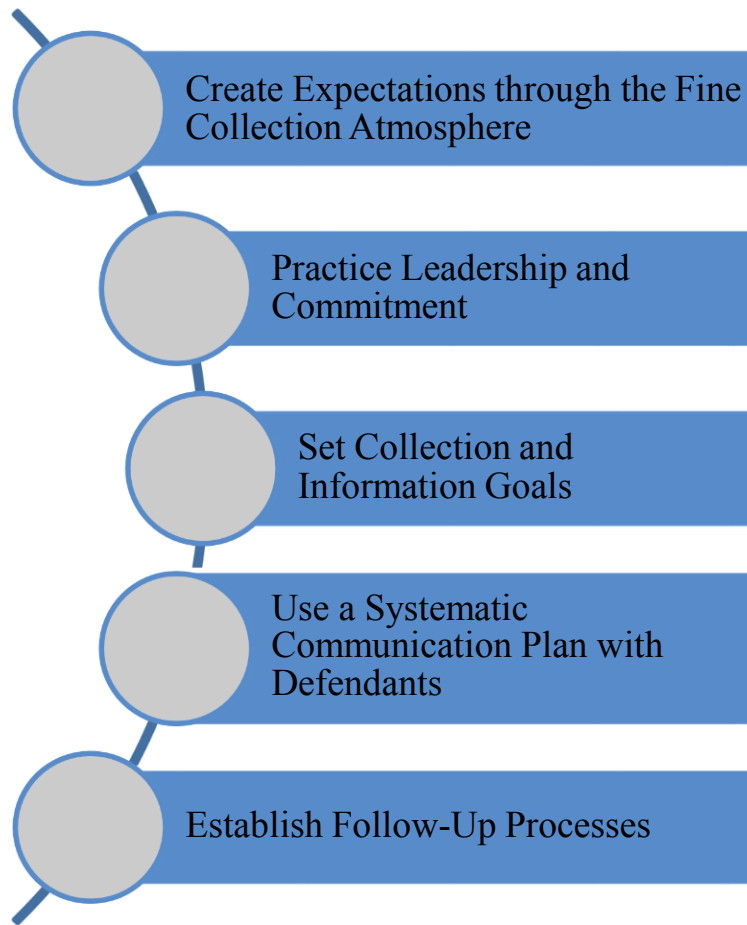
- ✓ Perform collections using in-house resources of their office.
- ✓ Contract with private attorneys or private collection agencies.
- ✓ Enter into an agreement with a local governing body/ treasurer.
- ✓ Utilize Tax's Court Debt Collection Office (CDCO).

To improve collections beyond current amounts, the General Assembly, the Supreme Court, Commonwealth's Attorneys, and other parties involved need to consider addressing the public policy issues surrounding the collections process. In order to assist with addressing these changes, this report evaluates the Commonwealth's procedures against nationally recognized best practices for the collection of court fines and costs and recommends changes to the Commonwealth's current collection practices.



Best Practices in Collecting Fines and Costs

To evaluate the effectiveness of the Commonwealth's efforts in collecting fines and costs, we reviewed best practices in this area and compared them to procedures used in the Commonwealth. The recommendations included in this report are the result of this review.



The National Center for State Courts (Center) issued a report in 2009 entitled “Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions.” The Center reviewed forty courts in 22 states and compiled the results to establish best practices relating to collections problems and practices.

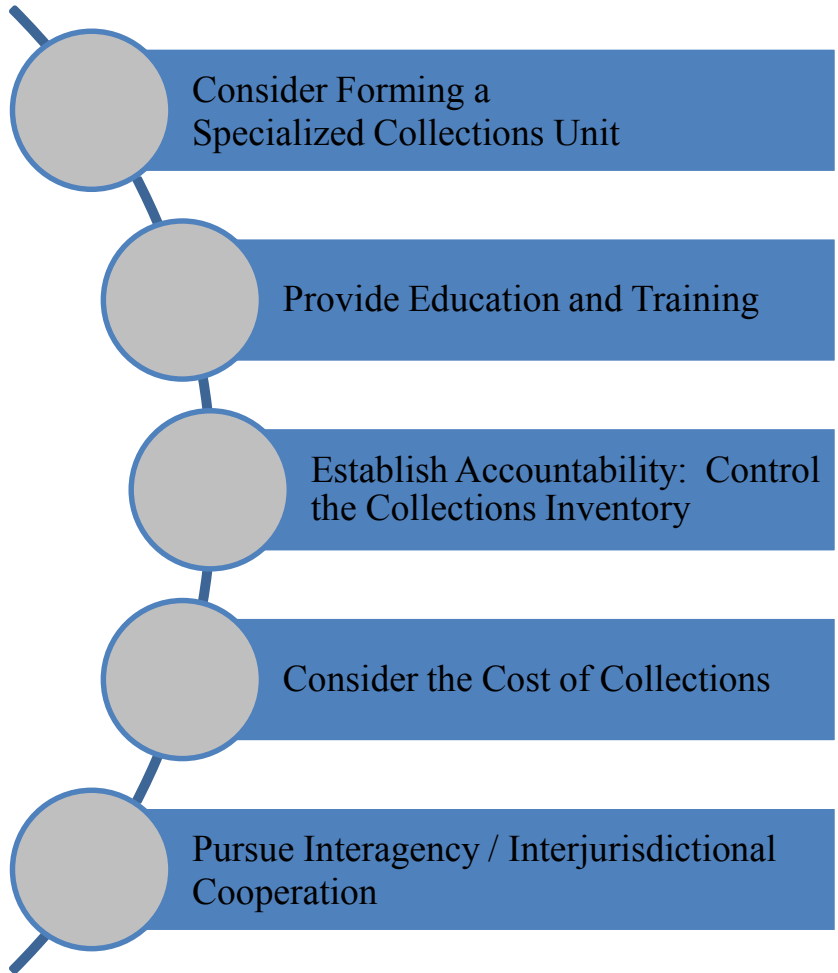
While best practices are discussed in the Center's report, no comparison of nationwide collection rates was performed. State and local judicial organizations vary in structure and face different socioeconomic and demographic conditions, making it problematic to perform this comparison. Regardless, the report indicates that states with the most successful court collection programs have a philosophy that emphasizes collections throughout the entire process.

applicable collection agent. Without a philosophy emphasizing collection and the need to pay throughout the entire process, collection of fines and costs is not an integral part of the defendant's obligation to the Commonwealth and the public as punishment for their offense. States that have been successful in improving their collection rates have also dedicated staff and resources to the process.

This emphasis includes aggressive actions in every step of the process, from judge to clerk to

There are obstacles in the current collections process that may affect the Commonwealth's ability to implement changes and improve collections rates. Statewide budget reductions have left clerk's offices understaffed and overworked with other responsibilities. Often clerks do not have enough time to devote to docket and case processing, much less collecting and managing cash responsibilities.

Commonwealth's Attorneys have also faced significant budget reductions and delinquent collections are not a priority with current caseloads. We do not expect clerk's offices or Commonwealth's Attorneys to receive significant additional funding in the near future, leaving them unable to improve their collection attempts without fundamental changes to the current process. Without these changes, the Commonwealth will continue to leave significant monies uncollected each year.



Best Practice Recommendation Areas

Our report includes recommendations aimed at improving the current collection process over court fines and costs. Our specific recommendations are grouped into best practice recommendation areas. These areas include a greater emphasis on payment expectations, improvement of follow-up procedures, implementation of collection goals, evaluating the cost of collections, and improving control of the collections inventory. In addition, we believe the General Assembly should consider performing a cost benefit analysis to determine if establishing a specialized collection unit would be an effective way to improve the collection process over courts' fines and costs.

CREATE PAYMENT EXPECTATIONS THROUGH THE FINE COLLECTION ATMOSPHERE

Courts with the best collection programs convey an expectation from the beginning that defendants will pay fines in full and as quickly as possible. When a court does not take an active role in enforcing the payment of fines and costs it becomes common knowledge to the local community that payment is unimportant. With reduced resources, the Commonwealth's current collection procedures do not clearly treat the payment of fines and costs as an important part of the defendant's punishment.

Setting the tone at the start ensures that all involved participants, and especially the defendants, are aware of the essentials of the collections program. With an ever expanding gap between assessments and collections, court leadership should be emphasizing the importance of fine collection initiatives and demonstrating this commitment from the start of the process. Judges should communicate their expectation of payment from the bench by indicating that the defendant must make payment arrangements within 24 hours of judgment. Judges can also emphasize that failure to pay could be a violation of probation.

Clerks serve as the initial and most effective means of collection; however, their training and operational priorities do not emphasize this responsibility as part of their daily routines. Clerks also do not stress to defendants that paying fines and costs is a fundamental part of the judgment they receive. Clerk's offices are currently understaffed and often face long lines of defendants attempting to settle their accounts. They have responsibilities for many other functions, such as scheduling court dockets or the recording of deeds, which take their time away from the collection process.

If fines and costs are to serve as a form of punishment, the courts must devote time and effort to emphasize their collection at the time of adjudication. Judges and clerks need to stress the need for immediate payment at every opportunity and emphasize the expectation that the defendant must make payment. Clerks can also display signs in court or in hallways and communicate clearly their intent to follow-up on payment.

Recommendation #1: To improve the collection process, judges and court staff must consistently emphasize and encourage immediate payment on the disposition date.

Recommendation #2: To help establish an atmosphere to encourage collections, the Commonwealth should identify incentives to the court clerks and staff for collecting fines and costs promptly.

ESTABLISH FOLLOW-UP PROCESSES

The collection of fines and costs should be emphasized at the time of adjudication; however, if defendants choose not to or cannot pay in full, courts will need to decide on follow-up processes. Individuals involved with these follow-up processes should have defined responsibilities and ensure that these responsibilities are consistently performed. These responsibilities should contribute directly to the emphasis and collection of fines and costs. These include such things such as financial evaluations of defendants and additional follow up by the clerk's offices.

While it is clear that the Code of Virginia and Supreme Court Manuals permit a financial evaluation, our analysis showed that approximately 42 percent of all cases paid were not paid on time and did not have a payment plan established. It should be noted that District courts collected almost 60 percent of their paid cases immediately upon disposition. As the courts have the ability to evaluate a defendant's ability to pay fines and costs and encourage payment through payment plans, they should use financial evaluations as a way to improve collections across all courts.

Recommendation #3: A financial evaluation should be a mandatory process throughout the court system and a payment plan established if fines and costs are not paid upon disposition.

While the Commonwealth does have many follow-up procedures in place, additional follow-up processes could be implemented at little to no cost to the Commonwealth. The Commonwealth does have a process to automatically issue several notifications but best practices have shown that there are many other methods which can increase effectiveness. Currently, courts do not send out past due notices, other than a notification to pay and a driver's license suspension notice as mentioned earlier, and are not required to send updates for any change in account status. As an example, if the court assesses additional costs after the disposition date, such as attorney fees, it is the clerk's choice whether to inform the defendant of these additional costs. Phone calls, contempt citations, bench warrants, or notifications to credit agencies are additional methods the court could implement to improve collections.

Recommendation #4: Courts should utilize additional follow-up processes, including but not limited to, notices of additional costs, past due notices, phone calls, bench warrants, and notifications to credit agencies.

SET COLLECTION AND INFORMATION GOALS

To maintain an emphasis on collections at all times, court leadership should set attainable and measurable goals to improve fines and costs collections. Service level agreements or performance evaluations of collection agency contracts should also be implemented to ensure collections meet reasonable criteria and that the most effective collection methods are being used.

Currently, there are no collection goals or performance measures established for clerks or Commonwealth's Attorneys. The Commonwealth should consider setting collection goals in order to measure the effectiveness of fines and costs collection procedures. These goals could include an

establishment of the average time to successfully collect payment, average amounts collected by court, or a collection percentage goal. Monitoring procedures should allow the court the ability to measure program outcomes against their set goals.

Recommendation #5: The Supreme Court should establish and emphasize collections goals including monitoring mechanisms to allow courts to review their current status and to set goals.

Guidelines for Commonwealth's Attorneys' collection of delinquent accounts do not include performance evaluations or service level agreements. The Code of Virginia permits the contracting out of these accounts to private collection agents and the Supreme Court and the Compensation Board created a framework for these contracts in 1999. Neither statute nor policy requires Commonwealth's Attorneys to include any type of service level agreements in the contracts. The guidelines also do not specifically include any information about performance evaluations as a condition of the contracts. Without a performance evaluation relating to these contracts, the potential exists for underperforming collection agents. This process allows the renewal of underperforming agents. Any contracts with an outside collection agent should include a service level agreement and/or performance evaluation process to ensure the agents clearly understand their responsibility and the Commonwealth's Attorneys have criteria to evaluate performance.

Recommendation #6: To improve the evaluation of private collection firms, a mandatory performance evaluation and/or service level agreements should be included in the contract.

CONSIDER THE COST OF COLLECTIONS

Courts should consider cost versus return when choosing their collection method. Special consideration should be taken to choose the most efficient and least expensive method of collection. The Commonwealth does not specify which method the Commonwealth's Attorneys should use in fulfilling their responsibility to collect delinquent accounts and there is no evaluation of the effectiveness of the methods, nor comparison to ensure that the Commonwealth has chosen the most effective collection method.

The Code of Virginia originally assigned the responsibility for delinquent collections to the Commonwealth's Attorneys offices with the option to contract with private attorneys or agencies if necessary. Over time the Court Debt Collection Office (CDCO) at Tax was established and the Code of Virginia was changed to allow this as an option for Commonwealth's Attorneys, as well as the ability to enter into an agreement with a local governing body. All four of these options continue to exist in the Code of Virginia and Table 4 below provides information about the collection rates of these four options as well as their collection fees.

TABLE 4: DELINQUENT COLLECTION METHODS IN USE DURING FISCAL YEAR 2012

Collection Method	Number of Localities	Collection Rate	Collection Fee
In-House	12	19.5%	33.9%
Private attorney or collection agent	19	31.5%	25.54%
Court Debt Collection Office (CDCO) – Tax	97	65.5%	17.0%
Local agreement	3	28.8%	32.3%

Source: Number of Localities and Collection fees obtained from “FY12 Fines & Fees Report” published by the Compensation Board

Based on this data, the CDCO had the highest rate of collections for fiscal year 2012, as well as the lowest collection fee. In addition, collection fees charged and retained by the CDCO are revenue for the Commonwealth, as opposed to revenue for a private collection agency. The localities with local agreements retain all collection fees as local revenue and the in-house collection program splits the surplus of the collection fee minus actual collection expenses between the locality and the Commonwealth.

Despite the CDCO’s collection rate being the highest and its collection fee being the lowest, many Commonwealth’s Attorneys still contract with outside collection agents because the Code of Virginia permits them to use this option. Consequently, the Commonwealth or local government revenues go to private collection agents as collection fees, and often these private collection agents are not performing as well as the CDCO with regard to gross collections.

Recommendation #7: To improve the collection of delinquent accounts, the Commonwealth should require all courts to contract with Tax’s Court Debt Collection Office for delinquent accounts.

ESTABLISH ACCOUNTABILITY: CONTROL THE COLLECTIONS INVENTORY

To ensure collection attempts are efficient and effective, an accurate inventory of collections must be kept and evaluated regularly for potential uncollectible accounts. The Commonwealth does not have a system in place to adequately track, control, and evaluate individual accounts for collectability. The court system currently uses the Supreme Court’s Financial Management System which was designed as an accounting system, not a collections system. As a result, it does not adequately manage receivables or lend itself to adequate monitoring procedures. To improve the tracking of receivables, the Supreme Court should require clerks to establish a receivable for cases with community service, require payment plans on all cases relating to incarcerated individuals, and establish procedures for the classification and discharge of uncollectible accounts.

Community service programs are used in the Commonwealth as a method for satisfying court fines and costs. Current court procedures state “An individual account may be established for a defendant who is going to perform community service only if the court will receive notification of completion of the community service. If the court does not receive notification of completion of community service as a policy, an individual account should not be established.” Since community

service programs do not consistently provide notification to the court when a defendant fulfills his service, the potential exists that a receivable will never exist in the courts' Financial Management System, and a defendant will also never fulfill his/her community service requirement. Furthermore, if the community service program is not required to provide notification of completion to the court, the court has no way of knowing that the defendant fulfilled his service and satisfied his debt.

Recommendation #8: Courts should require that all community service programs provide notification to the court system once community service is complete. Court procedures should also require the establishment of a receivable within the courts' Financial Management System until the defendant meets all requirements for discharge. This will ensure that either community service requirements are completed or appropriate fines and costs are paid.

Repeat offenders and incarcerated defendants often carry a large amount of fines and costs from prior offenses, and are unable to earn sufficient income to satisfy fines, much less pay interest accruing while incarcerated. As a result, as shown in Table 5 below, collection rates for incarcerated individuals remain low.

TABLE 5: COURT FINES AND COSTS ASSESSMENTS, COLLECTIONS, AND COLLECTION PERCENTAGE FOR INCARCERATED INDIVIDUALS FOR FISCAL YEARS 2008 TO 2012

Fiscal Year	Incarcerated Individual Assessments	Incarcerated Individual Collections	Collection Percentage
2008	\$12,923,164	\$1,502,974	12%
2009	16,120,053	1,280,650	8%
2010	19,511,914	1,325,811	7%
2011	21,687,006	1,396,590	6%
2012	20,435,799	1,420,940	7%

Incarcerated defendants are exempt from interest as it relates to the criminal or traffic charge when incarcerated; however, other charges continue to accrue interest. As an example, a person is incarcerated for driving under the influence and is exempt from interest as it relates to this charge; however, at the same time the individual was cited for speeding, no driver's license, and no state inspection. The fines and costs for these additional offenses continue to accrue interest and follow the same collection cycle because they were not the charge for which the individual was incarcerated. Furthermore, the court manual states there is no statutory requirement for a payment plan on incarcerated cases, and it is the option of the court to give time to pay. If there are courts that do not grant time to pay agreements to incarcerated individuals, the courts are unrealistically assuming payment will occur and initiating collection attempts that will prove ineffective.

Recommendation #9: Courts should require incarcerated individuals to establish payment plans. These accounts should also be segregated from other receivables to allow the focus to be placed on accounts with a higher likelihood of collection.

The courts do not have a discharge or write-off procedure for individual accounts that are uncollectible. These accounts can include debt discharged by order of a bankruptcy court, deceased individuals, and debt that is uncollectible by operation of law. Currently, accounts go inactive after three years of no activity; however, they remain in the system and can be reactivated if payment is received. Collection activity continues for District Court cases for 10 years and Circuit Court cases for 20 years. For accounts relating to deceased individuals or those discharged by bankruptcy, they are left in the system to follow the collection processes of a receivable, even though collection is highly unlikely. If accounts were better classified as to collectability, then emphasis could be placed on accounts that have a higher likelihood of collection.

Recommendation #10: The Supreme Court should develop discharge or write-off procedures to ensure that uncollectible accounts do not remain in the collections inventory. They should also consider a classification system to place emphasis on collectible accounts.

CONSIDER FORMING A SPECIALIZED COLLECTION UNIT

Multiple entities are involved in the collections process. With judges not emphasizing collections, clerks' offices being understaffed and focused on other responsibilities, and the Commonwealth's Attorneys offices using varied methods of collection, there is no one individual or group responsible for overseeing and ensuring collection. Without any clear responsible party, it is difficult for the Commonwealth to establish a collection atmosphere that creates payment expectations; therefore, encouraging prompt payment of fines and costs.

One best practice is the establishment of a specialized collection unit devoted solely to court collections. A specialized unit helps ensure that staff have adequate time to devote to collections and have the expertise to manage the collections appropriately. Ideally, this collection unit would work with the individual clerks' offices and handle all aspects of the collections process. The Commonwealth could either contract with a vendor to provide the service or hire personnel specifically for the unit. The staff of the unit would work directly with judges, clerks, and Commonwealth's Attorneys to emphasize collections throughout the entire process; however, the unit would have ultimate responsibility for collections and report to the Supreme Court or the Virginia Tax Commissioner.

The unit would collect money on the day of disposition, establish payments plans when necessary, manage follow-up processes, and handle delinquent accounts. Either the Supreme Court or the Tax Commissioner would establish performance measures for the collections unit and monitor the unit regularly. While this would require dedicated resources at the individual court level, the unit could use existing resources such as the Department of Motor Vehicles interface and the Department of Taxation's Court Debt Collection Office. The table below lists specific components that a specialized collection unit should have.

Component	Importance
Written Procedures	Ensures consistency and provide for changes in personnel.
Dedicated Staff	Ensures that collection is a priority.
Immediate Payment Expectation	Reduces collection costs and sends a message of compliance.
Defendant Contact Information	Assists with follow-up and evaluation of ability to pay.
Defendant Interviews	Eliminates confusion regarding the process.
Establish Payment Terms	Expedites payment.
Follow-Up Procedures	Includes phone, mail, warrants, and use of law enforcement.
Alternative Compliance Options	Allows satisfaction of fines by community service or other programs.
Utilize statutorily permitted collection remedies	Continue to utilize the Set-Off Debt Collection Unit with Tax.
Reporting	Allows analysis and monitoring of efforts, as well as the possibility for recommended improvements.

We acknowledge that the formation of a specialized unit to oversee the entire court collections process would require resources above and beyond that which would be needed to implement our other recommendations. However, we do believe that this unit has the potential to be beneficial due to the current lack of emphasis on collections and disjointed processes. To further evaluate this concept, we recommend that the General Assembly first consider implementing recommendation #7, which would require the usage of Tax’s Court Debt Collection Office for all delinquent accounts. If this recommendation is implemented, a re-evaluation of collection rates should be performed to determine the effectiveness of this change. If significant improvement has not been achieved, the Commonwealth should then proceed with a cost-benefit analysis to see if a separate specialized collection unit would be effective in improving collections.

Recommendation #11: After consideration is given to recommendation #7 and a re-evaluation of collection rates is performed, the Commonwealth should consider performing a cost-benefit analysis of establishing a specialized collection unit with ultimate responsibility for the collection of court fines and costs. This should include the ability to oversee the entire collection process as it relates to court fines and costs.



Commonwealth of Virginia

Auditor of Public Accounts

Martha S. Mavredes, CPA
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

April 18, 2013

The Honorable Robert F. McDonnell
Governor of Virginia

The Honorable John M. O'Bannon, III
Chairman, Joint Legislative Audit
and Review Commission

We have completed our review of the Commonwealth's current court fines and costs collection process as compared to best practices and are pleased to submit our report entitled **Commonwealth Court Collections Review**. Our report includes recommendations aimed at improving the current collection process over court fines and costs.

Exit Conference and Report Distribution

We discussed this report with the Executive Secretary of the Supreme Court of Virginia, the Compensation Board, and the Department of Taxation. The Department of Taxation's response is included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

AVG/alh



COMMONWEALTH of VIRGINIA

Department of Taxation

April 16, 2013

Ms. Martha S. Mavredes
Auditor of Public Accounts
James Monroe Building
101 N. 14th Street
Richmond, Virginia 23219

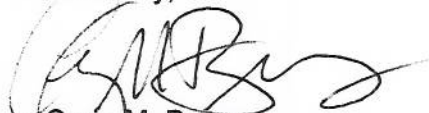
Dear Ms. Mavredes:

The Department of Taxation (TAX) values the opportunity to comment on a draft of the Study of Court Accounts Receivable report. I appreciate the report's acknowledgement that TAX's Court Debt Collections Office has the highest rate of collections when compared to other collection methods, as well as the lowest collections fee.

The report has no specific recommendations requiring direct action by TAX, but instead makes two (#7 and #11) recommendations that may require TAX action when additional legislation is enacted. As always, TAX will diligently implement the referenced legislation if it is enacted.

Again, thank you for the opportunity to review and comment. Please let me know if you have any questions.

Sincerely,



Craig M. Burns
Tax Commissioner

c: The Honorable Richard D. Brown

Appendix A – Data Sources

The assessments for each court are based on all fines and costs assessed in the Supreme Court of Virginia's Case Management System. The collections are based on all receipts reported in the Supreme Court of Virginia's Financial Management System which had a corresponding assessment in the Case Management System. These do not include collections on cases such as civil cases which are not assessed in the Case Management System but paid up front to file the case. Collection figures also exclude all interest as these amounts are not assessed in the Case Management System. This analysis includes only those cases which are reported to both systems for comparison purposes.

It is also important to note that a fiscal year's collections are not directly related to that fiscal year's assessments. The Supreme Court of Virginia's Financial Management System is not designed to be a collections system and; therefore, collections may include both current and prior year assessments. The numbers in this report also do not include Fairfax County Circuit Court figures since they do not report to the Supreme Court of Virginia's systems.

Appendix B – Summary of Recommendations

Recommendation #1: To improve the collection process, judges and court staff must consistently emphasize and encourage immediate payment on the disposition date.

Recommendation #2: To help establish an atmosphere to encourage collections, the Commonwealth should identify incentives to the court clerks and staff for collecting fines and costs promptly.

Recommendation #3: A financial evaluation should be a mandatory process throughout the court system and a payment plan established if fines and costs are not paid upon disposition.

Recommendation #4: Courts should utilize additional follow-up processes, including but not limited to, notices of additional costs, past due notices, phone calls, bench warrants, and notifications to credit agencies.

Recommendation #5: The Supreme Court should establish and emphasize collections goals including monitoring mechanisms to allow courts to review their current status and to set goals.

Recommendation #6: To improve the evaluation of private collection firms, a mandatory performance evaluation and/or service level agreements should be included in the contract.

Recommendation #7: To improve the collection of delinquent accounts, the Commonwealth should require all courts to contract with Tax's Court Debt Collection Office for delinquent accounts.

Recommendation #8: Courts should require that all community service programs provide notification to the court system once community service is complete. The Court should also always establish a receivable within the courts' Financial Management System until the defendant meets all requirements for discharge. This will ensure that either community service requirements are completed or appropriate fines and costs are paid.

Recommendation #9: Courts should require incarcerated individuals to establish payment plans. These accounts should also be segregated from other receivables to allow the focus to be placed on accounts with a higher likelihood of collection.

Recommendation #10: The Supreme Court should develop discharge or write-off procedures to ensure that uncollectible accounts do not remain in the collections inventory. They should also consider a classification system to place emphasis on collectible accounts.

Recommendation #11: After consideration is given to recommendation #7 and a re-evaluation of collection rates is performed, the Commonwealth should consider performing a cost-benefit analysis of establishing a specialized collection unit with ultimate responsibility for the collection of court fines and costs. This should include the ability to oversee the entire collection process as it relates to court fines and costs.