FOLLOW-UP REPORT
Court Operations
Denver County Court
November 2020

Office of the Auditor
Audit Services Division
City and County of Denver

Timothy M. O'Brien, CPA
Denver Auditor

Audit Team

Emily Owens Gerber, MPA, Audit Supervisor
Anna Hansen, Lead Auditor
Megan O'Brien, MPP, Senior Auditor

Audit Management

Timothy M. O'Brien, CPA, Auditor
Valerie Walling, CPA, Deputy Auditor
Dawn Wiseman, CRMA, Audit Director

Audit Committee

Timothy M. O'Brien, CPA, Chairman
Rudolfo Payan, Vice Chairman
Jack Blumenthal
Leslie Mitchell
Florine Nath
Charles Scheibe
Ed Scholz

You can obtain copies of this report by contacting us:

Office of the Auditor
201 West Colfax Avenue, #705
Denver CO, 80202
(720) 913-5000 ♦ Fax (720) 913-5253

Or download and view an electronic copy by visiting our website at: www.denverauditor.org.

Cover photo courtesy of Denver County Court.

City and County of Denver

TIMOTHY M. O'BRIEN, CPA
AUDITOR

201 West Colfax Avenue, #705 • Denver, Colorado 80202
(720) 913-5000 • Fax (720) 913-5253 • www.denverauditor.org

November 5, 2020

AUDITOR'S LETTER

In keeping with generally accepted government auditing standards and Auditor's Office policy, as authorized by city ordinance, the Audit Services Division has a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

In our follow-up effort for the "Court Operations" audit report issued in December 2018, we determined Denver County Court fully or partially implemented most of the recommendations it agreed to in the original audit report. Despite the court's efforts, auditors determined the risks associated with the audit team's initial findings have not been fully mitigated. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

The Highlights page in this report provides background and summary information about the original audit and the completed follow-up effort. Following the Highlights page is a detailed implementation status update for each recommendation. We did not update the status of the five recommendations that the court disagreed with, as the court presumably would not have taken action to implement those; however, these recommendations are included in the status update section as a reference.

I would like to express our sincere appreciation to the personnel at the Denver County Court who assisted us throughout the audit and the follow-up process. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor's Office

Timothy M. O'Brien, CPA
Auditor

Court Operations
November 2020

Objective

The audit had two objectives: (1) to evaluate the extent to which Denver County Court's management and oversight functions support its core operations; and (2) to assess the extent to which Denver County Court's collection of fines, administration of penalties, and its use of funds align with internal control standards and applicable laws and regulations.

Background

Denver County Court's mission is to "administer justice fairly, efficiently, and effectively, while providing excellent customer service and a positive work environment." The Denver County Court is an independent agency of the City and County of Denver, serving as both a municipal and county court, as established by state law.

The court is responsible for the administration of justice over cases ranging from traffic offenses and civil lawsuits to city ordinance violations, misdemeanors, and other criminal cases. The city charter and city ordinance also establish the court's authority, with ordinance specifying the court's primary purpose as a "court of record."

REPORT HIGHLIGHTS

Highlights from Original Audit

Our audit of Denver County Court operations identified three areas needing improvement:

Weak Internal Controls Expose Denver County Court Operations to Unnecessary Risks

Audit work revealed that, because of a weak internal control environment consisting of a lack of management review and insufficient policies and procedures:

- Case file documentation was not consistently available;
- Management failed to detect more than 4,000 incorrectly closed case files; and
- Management was relying on erroneous information when developing and evaluating performance metrics to make organizational decisions.

Consequently, Denver County Court was at risk of not fulfilling its mission to administer justice in a fair, efficient, and effective manner.

Unsegregated Job Responsibilities and a Lack of Management Review Create a Potential for Misuse and Errors

Because court management had not separated incompatible job responsibilities, there was a risk of fraud, waste, and abuse.

Cashiers, responsible for the custody of cash and record keeping of fines and penalties, also had access to create and alter official court records.

Some Court Practices Do Not Align with National Standards and City Ordinance

Denver County Court used certain fees to fund core operations, such as the salary and benefits of IT personnel and collection investigators.

This was out of alignment with nationally recognized judicial principles, which state that, in the interests of promoting an atmosphere of fairness and objectivity, core operations should not be funded by fees and fines.

We also identified inconsistencies between some of the court's practices and those required by city ordinance.

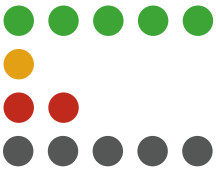
5	1	2	5
FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	DISAGREED; NO FOLLOW-UP

Nov. 5, 2020

Action Since Audit Report

Court Operations

13 recommendations proposed in December 2018



5 FULLY IMPLEMENTED	1 PARTIALLY IMPLEMENTED	2 NOT IMPLEMENTED	5 DISAGREED; NO FOLLOW-UP

While Denver County Court officials mitigated some of the risks described in the "Court Operations" audit report, they have yet to act upon or fully implement three other recommendations and they previously disagreed with five recommendations. This presents several lingering risks:

- Because court management is not regularly performing and documenting reviews of performance metrics, the court still does not know how complete and accurate its performance metrics are.
- By not creating and reviewing audit logs — which would report exceptions and unauthorized changes in the court's key software systems — the court remains exposed to fraud or errors, because it is not segregating duties among its staff.
- Because the court does not perform and document reviews of individual transactions and end-of-shift deposit drops, misuse or errors by cashiers could still occur without detection.

Finding 1 | Weak Internal Controls Expose Denver County Court Operations to Unnecessary Risks

Recommendation 1.1

Policies and Procedures for Case File Contents – Denver County Court should determine the necessary components for a complete and accurate case file record and create policies and procedures to formalize the requirements. In addition, Denver County Court should formalize the requirements and develop a schedule for management to regularly perform and document case file reviews.

FULLY IMPLEMENTED

AGENCY ACTION

Original target date for completion: April 30, 2019

Denver County Court created policies and procedures for quarterly case file reviews. According to the policies and procedures, division managers are responsible for initiating case file reviews on 50 random files, and the procedures describe how they should document the reviews. The policies and procedures also include requirements for determining the necessary components for a complete and accurate case file.

Therefore, this recommendation is fully implemented.

Recommendation 1.2

Management Review of Case File Contents – In accordance with the newly developed policies and procedures established in Recommendation 1.1, Denver County Court management should regularly perform and document a detailed review of case file records to ensure the completeness and accuracy of case file contents.

FULLY IMPLEMENTED

AGENCY ACTION

Original target date for completion: April 30, 2019

We asked Denver County Court officials to provide examples of detailed reviews of case file records. They provided emails showing evidence of reviews throughout 2020. For example, supervisors in various court divisions emailed staff with errors they found in case files and instructed staff to correct the errors. Therefore, we conclude this recommendation is fully implemented.

However, we suggest court officials retain documentation of these case file reviews in a more formal format in accordance with the policies and procedures they created in response to Recommendation 1.1. For example, evidence of the reviews for which each division manager samples 50 files every quarter could be documented in a summary review sheet and saved in a centralized location for easy access.

Recommendation 1.3

Supervisory Review of Closed Case Files – Denver County Court supervisors should regularly perform and document reviews of closed case files.

FULLY IMPLEMENTED

AGENCY ACTION

Original target date for completion: Jan. 1, 2019

Denver County Court staff created policies and procedures for reviewing closed cases with outstanding money owed. The procedures say the supervisor of each division should initiate the closed case review every month. The procedures include instructions for generating a report each month of closed cases where money is owed and steps for reviewing and correcting each closed case on the report.

Denver County Court personnel provided us with a communication sent to division managers to explain the process for running reports on a monthly basis that show the closed cases with outstanding fines and fees. The court also provided emails showing supervisors have been reviewing closed cases and asking staff to correct errors.

Additionally, the Denver County Court executive — a position previously called the "court administrator" — explained that they developed new closure codes in the court's system of record to help staff identify different types of closed cases. Specifically, the court executive said the reason cases are closed upon disposition is to mark the age of a case, which is a statewide performance benchmark. Court management said it is also common for a case to be closed but for one or more parties to still have outstanding obligations such as costs or fines. Therefore, to streamline the closing of cases, court officials said they have worked with their information technology and accounting divisions to develop new codes to reflect different types of closed cases.

Specifically, they identified two new codes. According to management, the new "closed-active" code means a case is closed for the purpose of judicial officer metrics, but it may still have a probation sentence or other court obligation that is owed, such as fines and costs. The other new code, named "closed only," indicates a case is closed and nothing remains outstanding. This will help supervisors differentiate closed cases with fines to satisfy the

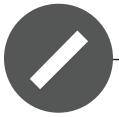
intent of the audit recommendation. The court provided evidence that the "closed-active" code has been implemented to allow supervisors to review closed cases with outstanding fines.

Because court management created procedures to review closed cases, has created new codes for case closure reviews, and provided evidence of supervisory review of closed cases, we consider this recommendation fully implemented.

However, we suggest the court keep documentation of this review in a more formal format, such as a summary review sheet that demonstrates each division manager is reviewing closed cases for any outstanding money owed.

Recommendation 1.4

Management Audit of Closed Case Files – Denver County Court management should regularly audit a sample of closed case files for completeness and accuracy. Documentation of the sample case files and audit results should be retained.



DISAGREED

AGENCY ACTION

No action was taken to implement this recommendation, because the agency disagreed with the recommendation made in our original report.

When the original report was issued in December 2018, Denver County Court management responded as follows:

> *The random sample currently pulled by our IT Department includes closed cases as well. See response to Recommendation 1.2.*

In their response to Recommendation 1.2, Denver County Court officials wrote: "The Court's IT Department currently pulls a random number of cases on a quarterly basis for review. The review of these cases will be modified to include items in the expanded policy mentioned above."

For the original report, we wrote the following addendum rebutting Denver County Court's responses to Recommendation 1.4 and the other recommendations it disagreed with:

> The Auditor's Office feels it necessary to address Denver County Court's responses to the audit recommendations to which they have disagreed. As highlighted in the report, best practices state that it is management's responsibility to design and implement an adequate internal control environment to provide reasonable assurance that the

entity's objectives will be achieved. Recommendations have been offered as a way for management to mitigate risks identified by this audit — risks that could potentially threaten the achievement of the court's organizational goals.

As presented in the agency's response to the audit recommendations, Denver County Court did not concur with certain recommendations regarding management oversight of closed case files, configuration of system edit checks and automated reports, policies and procedures for performance metrics, and management review of cashiers' individual transactions and end-of-shift deposit drops.

Denver County Court management stated in their response that their current policies, procedures, and practices are sufficient to mitigate the deficiencies described in the audit report. However, it is inaccurate for them to state their current policies, procedures and practices are sufficient, as the court's current internal control environment was unable to detect and prevent the numerous findings and deficiencies reported in this audit.

Further, court management responded that certain IT-related controls and reporting capabilities are not a current priority. We recognize there are many competing interests for the court IT team's time and attention. At the same time, the audit identified significant areas of concern that require management's immediate attention and should not be disregarded. This is why we offered recommendations to assist the court in improving its safeguards, which will improve its operations as a whole. As these deficiencies will not go away on their own, the Auditor's Office reserves the right to revisit these areas of concern, as they pose significant risk to the court's operations.

Recommendation 1.5

Configure System Edit Checks – Denver County Court should configure system edit checks to prevent the incorrect closure of case files in accordance with the seven criteria outlined in the court's policy and procedures.

DISAGREED

AGENCY ACTION

No action was taken to implement this recommendation, because the agency disagreed with the recommendation made in our original report.

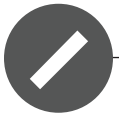
When the original report was issued in December 2018, Denver County Court management responded as follows:

> *Due to the large number of outstanding IT projects and limited staff, this project is not feasible currently.*

The original report included a general Auditor's Addendum rebutting Denver County Court's responses to the recommendations it disagreed with. Reference pages 3-4 under the agency action for Recommendation 1.4 for a copy of this addendum.

Recommendation 1.6

Performance Metrics Policies and Procedures – Denver County Court should determine critical performance metrics and formalize, in written policies and procedures, how to compile, calculate, and report them in accordance with best practices. This should include reasons for deviating from the best practice when Denver County Court's unique operations justify the deviation. In addition, Denver County Court should formalize requirements for management to regularly perform and document reviews of performance metrics.



DISAGREED

AGENCY ACTION

Original target date for completion: June 30, 2019

Although the court provided a target date for completion, the agency disagreed with the recommendation. Auditors do not follow up on recommendations agencies disagree with.

When the original report was issued in December 2018, Denver County Court management responded as follows:

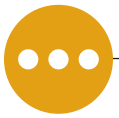
> *The setting of goals for performance metrics in the Strategic Measures spreadsheet is within the Court's discretion and disagrees with the requirement to document why we deviate from aspirational goals set by the National Center for State Courts. The audit report states that more than 100 of the Court's metrics do not have an established standard or goal, for example, number of bonds and warrants issued. The Strategic Measures spreadsheet tracks workload statistics as well as performance metrics. We cannot set standards or goals for bonds, warrants, number of cases filed, etc. as this would violate judicial canons, state law, and the Constitution.*
>
> *The Court does agree to conduct a review of performance metrics by June 30, 2019. Non-critical measures will*

be removed from the Strategic Measures spreadsheet. Documentation will be created for the remaining measures on how to compile and calculate. A review of the process will be conducted annually as part of the responsible staff's performance review.

The original report included a general Auditor's Addendum rebutting Denver County Court's responses to the recommendations it disagreed with. Reference pages 3-4 under the agency action for Recommendation 1.4 for a copy of this addendum.

Recommendation 1.7

Management Review of Performance Metrics – Court management should regularly perform and document reviews of performance metrics for completeness and accuracy.



PARTIALLY IMPLEMENTED

AGENCY ACTION

Original target date for completion: Sept. 30, 2019

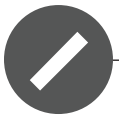
Denver County Court revised some performance metrics since the original audit. However, auditors had to perform an analysis to determine whether the metrics were revised, because the documentation court officials provided did not clearly show what metrics had been removed as a result of their review.

The court assigned a data analyst, who is responsible for generating quarterly statistics, to report on these metrics. However, the court executive had not yet met with the data analyst at the time of our follow-up work. Although the court executive said they intend to meet with the data analyst and the management team to review the performance metrics, they said they have not yet had this meeting because of their other priorities, such as responding to the COVID-19 pandemic.

While court officials took some action to start reviewing and revising the performance metrics for completeness and accuracy, they have not yet regularly undertaken and fully documented this review. Therefore, this recommendation is only partially implemented.

Recommendation 1.8

Configure Meaningful Information System Reports – With input from division managers, Denver County Court should configure information systems to record, track, and report performance metrics needed by individual divisions.



DISAGREED

AGENCY ACTION

No action was taken to implement this recommendation, because the agency disagreed with the recommendation made in our original report.

When the original report was issued in December 2018, Denver County Court management responded as follows:

> *Due to the large number of outstanding IT projects and limited staff, this project is not feasible currently.*

The original report included a general Auditor's Addendum rebutting Denver County Court's responses to the recommendations it disagreed with. Reference pages 3-4 under the agency action for Recommendation 1.4 for a copy of this addendum.

Finding 2 | Unsegregated Job Responsibilities and a Lack of Management Review Create a Potential for Misuse and Errors

Recommendation 2.1

Create and Review Audit Logs – Denver County Court should create audit logs for all key systems to report exceptions and unauthorized changes due to a lack of segregation of duties. Management should then establish a process to regularly review those audit logs and exception reports to detect and correct unauthorized actions.

NOT IMPLEMENTED

AGENCY ACTION

Original target date for completion: Dec. 31, 2019

This recommendation is not implemented, because court management has not created and reviewed audit logs.

The creation and subsequent review of the audit logs would allow the court to identify exceptions and unauthorized changes in all its key systems — mitigating the risk of fraud or errors because of the court's lack of segregation of duties.

However, this has not been a priority of court management due to the court's COVID-19 pandemic response as well as other information technology priorities, such as developing the ability to hold virtual trials. Court officials said they still plan to create and review audit logs.

Recommendation 2.2

Establish and Document Management Review – Denver County Court should perform and document review of individual transactions and end-of-shift deposit drops. This should include a manager or supervisor signature evidencing review and approval of end-of-shift deposits.

NOT IMPLEMENTED

AGENCY ACTION

Original target date for completion: Denver County Court management said at the time of the original audit in December 2018 that this was already "current practice."

Despite claiming in December 2018 that management reviews were already "current practice," Denver County Court officials have not yet taken action to implement this recommendation.

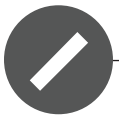
At the time of our follow-up work, they did not provide any evidence that performing and documenting reviews of individual transactions and end-of-shift deposit drops was the court's practice.

The court provided void and adjustment reports, but these were no different than the reports provided in the original audit and are not evidence of documentation for supervisory reviews of individual transactions and end-of-shift deposit drops.

The court executive told us during our follow-up review that the court intends to put controls in place to ensure end-of-shift supervisors review and document this activity in the future.

Recommendation 2.3

Policies and Procedures of Management Review – Denver County Court should design and implement policies and procedures requiring management to regularly perform and document detailed review of individual transactions and daily deposits.



DISAGREED

AGENCY ACTION

No action was taken to implement this recommendation, because the agency disagreed with the recommendation made in our original report.

When the original report was issued in December 2018, Denver County Court management responded as follows:

> *As mentioned in Recommendation 2.3, the practice of reviewing the daily deposits is performed by the Accounting Department daily. There are accompanying policies and procedures for completing the daily deposit on the court's intranet; CourtConnect.*
>
> *Typically, a detailed review of individual transactions is only performed when a cashier is out-of-balance, warranting further research. This task is rather involved and therefore only performed as needed.*

The original report included a general Auditor's Addendum rebutting Denver County Court's responses to the recommendations it disagreed with. Reference pages 3-4 under the agency action for Recommendation 1.4 for a copy of this addendum.

Finding 3 | Some Court Practices Do Not Align with National Standards and City Ordinance

Recommendation 3.1

Alternative Funding Strategies – Denver County Court should develop alternative funding strategies for its two special revenue funds to incorporate a range of different funding scenarios based on:

a. Potential legislative changes put forth by the state;

b. Whether the assessment of fines and fees remains appropriate considering recent guidance published by the National Task Force on Fines, Penalties, and Bail Practices; and

c. Alternative uses for the special revenue fund proceeds.

FULLY IMPLEMENTED

AGENCY ACTION

Original target date for completion: 2019-2020 budget cycle

Court officials said they have five positions funded by special revenue funds, and they acknowledged that funding the positions this way was not consistent with best practices set by the National Task Force on Fines, Penalties, and Bail Practices.[1] These practices say courts should not be funded from court-ordered fines, fees, or surcharges. However, Denver County Court has yet to adopt this principle because the court's fees pay for the salaries and benefits of some employee positions.

Denver County Court's alternative funding strategy is to move positions from the special revenue funds to the General Fund. The court considered that alternative uses for the funds could include using the money for information technology hardware, software, network security, or audio equipment. Therefore, during the 2020 budget cycle, the court submitted a budget request to move the five positions funded through its special revenue funds to being funded under the General Fund.

Court officials said their full request was denied, but they were approved to move one of the five positions from the special revenue funds to the General Fund for 2020. For 2021, the court proposes another position be moved from the special revenue funds to the General Fund. The mayor and the city's Budget and Management Office approved this proposal in September 2020. The City Council approves the final budget in late November.

[1] "In Support of the Principles of the National Task Force on Fines, Fees, and Bail Practices," Conference of Chief Justices and Conference of State Court Administrators, accessed Oct. 23, 2018, https://www.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/01312018-Support-Principles-National-Task-Force-Fines-Fees-Bail.ashx.

Because court officials did what was within their control to implement the recommendation by requesting to move positions from special revenue funds to the General Fund and by considering the appropriateness of fines and fees as well as alternative uses for special revenue fund proceeds, we consider this recommendation fully implemented.

Recommendation 3.2

Update City Ordinance – Denver County Court should ask City Council to update relevant City ordinances to reflect current-day court practices.

FULLY IMPLEMENTED

AGENCY ACTION

Original target date for completion: Jan. 1, 2019

In December 2018, City Council members passed a bill to change city ordinance to reflect current-day court practices, as we recommended in the original audit report.[2]

Figure 1 describes the updates based on the original audit findings. Because the ordinance was updated, this recommendation is fully implemented.

FIGURE 1. City Ordinance Updates

Original ordinance requirements and audit finding	Changes made to ordinance*	Recommendation met
Required a $5,000 bond for the chief clerk and chief deputy of the court as a term of employment. This is not consistent with modern day practices.	The bond fee section is repealed.	✓
Required the clerk of the county court to provide the mayor with a monthly financial report. This was not being done.	The monthly financial report is available to the mayor upon request.	✓
Required the clerk of the county court to send a copy of the statement of conditions of probation to the police department. This was not being done.	The bill eliminates sending police a copy of probation conditions.	✓

**In Bill 18-1308*

Source: Auditor's Office analysis of City Council Bill 18-1308.

[2] City and County of Denver, Council Bill No. 18-1308.

Office of the Auditor

The **Auditor** of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies and contractors for the purpose of ensuring the proper and efficient use of City resources. He also provides other audit services and information to City Council, the Mayor, and the public to improve all aspects of Denver's government.

The **Audit Committee** is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the City's finances and operations, including the reliability of the City's financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

201 West Colfax Avenue, #705

Denver CO, 80202

(720) 913-5000 ♦ Fax (720) 913-5253

www.denverauditor.org

Our Mission

We deliver independent, transparent, and professional oversight in order to safeguard and improve the public's investment in the City of Denver. Our work is performed on behalf of everyone who cares about the City, including its residents, workers, and decision-makers.