

EXECUTIVE SUMMARY

Over the past four years, there has been continuing improvement in the collection of unpaid fines and costs. In 1998, collections by the courts and the delinquent account collection programs totaled \$221 million or 79% of assessments. Total accounts receivable for unpaid fines and costs continue to increase, but at a slower rate. While the courts' collections of fines and costs have remained steady or increased slightly for this period, the delinquent collection programs have increased from 7% of total collections in 1995 to 13% in 1998.

There has been little or no action taken on the 13 recommendations from our previous report, "Review of Virginia Courts Management of Unpaid Fines and Costs," dated December 15, 1997. These recommendations require action by the Executive Secretary of the Supreme Court, the judges, court clerks, or the Department of Corrections. We recommend that the agencies and officials review these recommendations and take appropriate corrective action. Some recommendations would require legislative action to implement. We have summarized our previous findings on pages 10-13 of this report.

We found a need for improvement in communication between the various court officials who are involved in monitoring compliance with payment agreements. The judge, clerk, and probation officer should communicate with one another as to the terms, conditions, and payment status for each payment plan. In addition, the courts should obtain accurate and complete information from the defendant when accepting payment plans. This information improves the chances of collection should the case become delinquent. Furthermore, the Department of Corrections needs to provide additional information to the courts on the release notifications of individuals leaving incarceration.

Our audits of the individual courts found adequate fines and costs policies and procedures and that court personnel followed these policies and procedures. When we found exceptions, we reported these findings to the court in their audit report.

The guidelines promulgated by the Office of the Attorney General and the Executive Secretary of the Supreme Court require that Commonwealth's Attorneys using private attorneys or private collection agencies for collection of unpaid fines and costs secure these services using a competitive procurement process. Several of the Commonwealth's Attorneys contracting for their collection program reported that they did not select the collection contractor on a competitive basis.

Last year, we recommended that all courts use the Department of Taxation's Court Debt Collection Program for collecting delinquent fines and costs and that Taxation contract with the collection agencies for the more difficult accounts. Another alternative is to allow Commonwealth's Attorneys or the Supreme Court to contract for collection of delinquent accounts on a regional basis. This could enable the private attorneys or collection agencies to realize "economies of scale" and lower the collection rate charged to the accounts.

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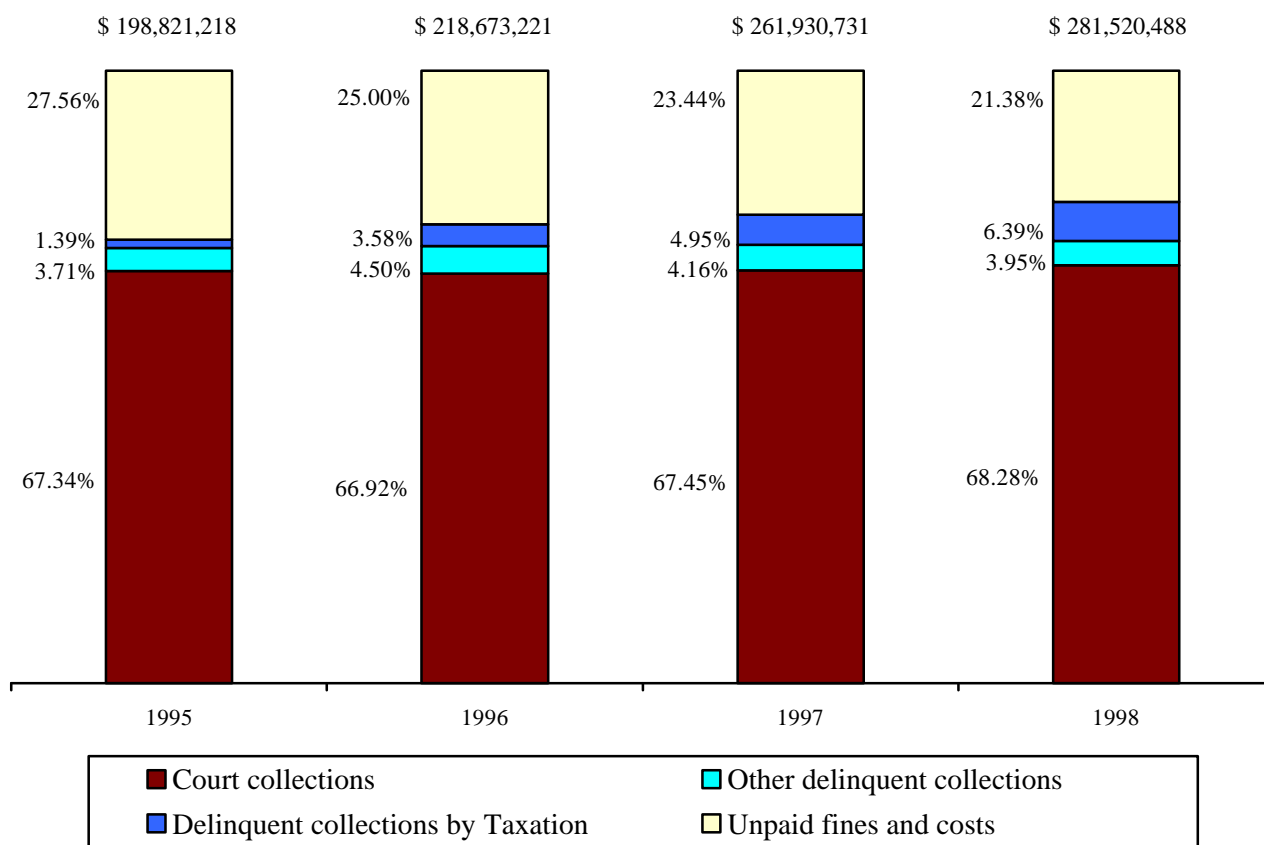
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REPORT SUMMARY

The General Assembly continues to examine methods for improving the collection of unpaid fines, costs, and restitution. There have been many changes, both statutory and regulatory, over the past decade that have affected the collection of fines and costs. Virginia's courts have shown improvement in the collection of fines and costs, both current and delinquent collections. The collection percentage of assessments has improved from 72.44% in 1995 to 78.62% in 1998. The courts are collecting a slightly higher percentage of current assessments than four years ago; 67.34% in 1995 compared to 68.28% in 1998. However, the main reason for the improved collection percentage is due to the increased collections from the collection programs for delinquent accounts. In 1995, delinquent collections represented 7.04% of total collections, compared to 1998 when delinquent collections were 13.15% of total collections.

Assessments and Collections For the Last Four Years



The General Assembly requested that the Auditor of Public Accounts continue to examine the results of Circuit and District Court collection efforts and methods for unpaid fines, fees, and costs, including those methods used by Commonwealth's Attorneys for delinquent accounts. We reviewed the policies and procedures for enforcing payment of fines and costs, compliance with the collection procedures, reporting delinquent accounts, and the handling of cases for incarcerated individuals. We also determined the status of our recommendations from our prior report.

To summarize our efforts, we have categorized the results of our work into the following four issues.

1. How are the courts doing in collecting unpaid fines and costs?

The courts have consistently collected approximately 67% of the current year's assessments. This year the percentage increased slightly to 68.28%. As outlined in the section, "Court Compliance with Collection Procedures," we found improvement in courts complying with the "Fines and Fees Policies and Procedures" issued by the Compensation Board and Supreme Court.

However, as we recommended in both this report and our prior report, we believe the courts should try to collect on the accounts to prevent them from becoming delinquent. We have basic recommendations that we believe will increase collection and reduce the chance of accounts becoming delinquent.

- (1) Increasing the judge's participation in stressing the importance of paying fines and costs.
- (2) Placing notices in the courthouses outlining collection policies and procedures.
- (3) Obtaining complete and accurate information from the defendants.
- (4) Requiring down payments.
- (5) Improving communication among the court officials on the terms, conditions, and status of payment plans.

To further enhance the collection program, the courts should set individual attainable and measurable goals to improve fines and costs collection. These goals should include a time standard for case disposition, average time for successful completion of fine payments, and average amounts collected. The courts should regularly measure program outcomes against their goals.

2. Should the courts actively pursue accounts when they become delinquent?

While some courts have established additional policies and procedures to more actively pursue collection, most courts state that they do not have time or staffing resources to contact defendants when they have missed their payment date. Due to crowded court dockets and the 41-day timeframe for sending accounts to delinquency, we found that most circuit and district courts do not take any action before reporting cases to the delinquent accounts collection program. Most courts state they do not have time to issue show causes for failure to pay fines and costs. The courts do send a payment reminder, however, if the defendant misses the payment date, most courts immediately send the account to the delinquent collection program.

Last year, we suggested the court contact the defendant after the due date but before the account goes to the delinquent collection program. As discussed above, we believe the courts should place their emphasis on preventing the account from going delinquent. Once an account becomes delinquent, we recommend the court immediately report it to the delinquent collection program.

3. Which delinquent collection program should be used?

As of June 30, 1998, Commonwealth's Attorneys had agreements with the Department of Taxation's Court Debt Collection (CDC) Program for 72% of the 326 courts using the Financial Management System. The CDC Program continues to have the highest effective collection rate, which is the net amount the court receives after the cost of collection. Taxation charges 15% whereas the other programs charge an average of 32% for collecting delinquent accounts. For fiscal year 1998, Taxation's effective collection rate was 26.36% for all courts compared to 20.49% for private attorneys and collection agencies.

Last year, we recommended the General Assembly consider requiring that all courts use the Department of Taxation's Court Debt Collection Program for collecting delinquent fines and costs. Taxation could contract with the collection agencies for the more difficult accounts, similar to their procedure for delinquent state income taxes. This recommendation would remove the Commonwealth's Attorneys' responsibility for monitoring the activity of delinquent accounts and contracting for collection services. Accounts receivable for those courts using the CDC program represent only 47% of total receivables recorded on FMS; therefore, implementation of this recommendation would double the current caseload handled by Taxation's CDC Program.

Another alternative is to allow Commonwealth's Attorneys or the Supreme Court to contract for collection of delinquent accounts on a regional basis. This could enable the private attorneys or collection agencies to realize "economies of scale" and lower the collection rate charged to the accounts. The selection of the contractor should be on a competitive basis in accordance with the provisions of the Virginia Public Procurement Act, and should take into account the expertise of each potential contractor together with the fee for which he is willing to perform the services. Currently, not all Commonwealth's Attorneys contract for their collection programs on a competitive basis.

4. Are there additional changes or improvements that agencies can implement to assist the courts in collecting fines and costs?

In our reports, we have made the several recommendations that require action from the following agencies that should help the courts improve their ability to monitor and collect unpaid fines and costs.

Executive Secretary of the Supreme Court

- Develop guidelines to increase the judge's participation in stressing the importance and expectation of immediate payment of fines and costs.
- Revise court documents to provide additional space for employment information, address of nearest relative, and personal references.
- Investigate the feasibility of reporting all delinquent accounts to credit bureaus as an additional method of increasing collections. Possibly automate and interface the Judgment Lien Docket Book with the Financial Management System.
- Revise the Financial Management System to include features for monitoring the effectiveness of collection procedures. Implement an effective write-off policy that evaluates the collectibility of accounts.
- Work with the State Compensation Board and the courts in developing meaningful goals, procedures to monitor these goals, and any additional accounts receivable management reports. Goals should take into consideration the workload for an individual court, the type of cases heard, its location, and other factors influencing accounts receivables.

Department of Corrections

- Provide the social security number and new address of the defendant on all release notifications. The Department's Community Release Unit should add the necessary fields to extract these additional identifiers about the defendant when issuing the release notices.

- The Division of Community Corrections should provide guidelines for probation officers for monitoring collections, establishing payments plans, and accepting payments.

In addition to the statutory change to the delinquent collection program discussed above, the General Assembly may wish to consider requiring full payment of fines, costs, and restitution as a condition of release from probationary status. The General Assembly may also wish to have the Supreme Court and State Compensation Board, in conjunction with the Department of Corrections and local sheriffs, study the best alternatives for collecting unpaid fines and costs from incarcerated defendants.

Financial Highlights

As of June 30, 1998, accounts receivable for unpaid fines and costs recorded on the Supreme Court's Financial Management System totaled \$403,911,684. Collections have increased 53.7% since 1995, while assessments have increased 41.6% over the same period; therefore, accounts receivable have grown at a slower rate. Accounts receivable increased approximately \$60 million in the last year.

Exhibit 1 of this report (pages 15 and 16) shows the accounts receivable activity for the last four years. This exhibit shows the changes in accounts receivables, assessments, and source of collections for each year. Exhibit 2 (pages 17-20) highlights the collection activity for each type of delinquent collection program. This exhibit does not include those localities that changed their collection program during the year. We have summarized the information in both exhibits by district courts, circuit courts, and for all courts in total.

	1995	1996	1997	1998	% Increase 1995-98
Assessments	\$ 198,821,218	\$ 218,673,221	\$ 261,930,731	\$ 281,520,488	41.6%
Total collections	144,019,738	163,996,339	200,541,956	221,318,476	53.7%
% of collections to assessments	72.44%	75.00%	76.56%	78.62%	-
Court collections	133,883,357	146,341,224	176,682,619	192,214,094	43.6%
Delinquent collections	10,136,381	17,655,115	23,859,337	29,104,382	187.1%
% of delinquent to total collections	7.04%	10.77%	11.90%	13.15%	-
Ending Receivable Balance	\$ 210,318,203	\$ 265,669,708	\$ 343,728,688	\$ 403,911,684	92.0%

It is difficult to analyze the collectibility of the unpaid fines and costs due to constraints within the Supreme Court's Financial Management System. The original system design did not address tracking accounts receivable. Therefore, the system does not include certain analytical and reporting capabilities useful for managing accounts receivable and reviewing the effectiveness of changes in collection programs. Furthermore, the courts have not written-off any uncollectible accounts since 1995.

The Supreme Court continues to make system modifications and interfaces to assist the courts in managing unpaid fines and costs. Most courts use the FMS features that assist them in managing unpaid fines and costs, however, we have found courts that do not understand or fully utilize the capabilities and reports available to them.

ENFORCING PAYMENT OF FINES AND COSTS

The enforcement of a fine is as important to the integrity of the court as the enforcement of any other sentence or judgment. The courts should view fines and costs as a mechanism for rehabilitating offenders, teaching responsibility, or preventing further illegal activity. Courts with the best collection programs convey an expectation of full and quick payment of fines and costs. These courts use court notices and statements by the judges emphasizing payment on day of sentencing, and take immediate action in cases of overdue payment or nonappearance. The longer the delay between sentencing and payment, the less likely it is that the defendant will pay. As recommended in our previous report, the judge must communicate to the defendants the importance and expectation of immediate payment of fines and costs, and the enforcement actions that occur when defendants do not fulfill this responsibility.

During our review of the courts' collection procedures, we found that 49% of Circuit Court judges and 63% of District Court judges inform the defendant that fines and costs are due immediately or in accordance with a payment plan. For the remaining courts, the court clerks inform the defendant in the courtroom or at the payment window.

Defendants who are unable or unwilling to pay on the day of sentencing must set up a payment plan with the court. A deferred payment plan requires the defendant to pay the fines and costs by an agreed-upon date in the future. An installment payment plan requires the defendant to make payments at specified time intervals with a specified amount for each installment. Most courts require the defendant to sign a payment agreement before leaving the courthouse. However, some clerks mail the agreement to the defendant because they do not know all costs associated with the case, such as court-appointed attorney fees and court reporter costs.

The establishment of payment plans can vary from court to court. We found that the judge, probation officer, or court clerk may establish a payment plan. For individuals placed on probation, many circuit court judges have the probation officer establish the payment plan with the defendant. The probation officer may also adjust the payment plan based on the defendant's circumstances. In these cases, the court clerk may not know of the payment agreement or agreement changes; therefore, the court clerk's responsibility for monitoring payment compliance is unclear. Furthermore, when the probation officer coordinates and monitors the payment of fines and costs, the clerk can not forward the account to the contracted collection agent because he does not know whether the case is delinquent.

Conversely, in situations where the clerk establishes the payment plan, the probation officer may not know the status of the unpaid fines and costs. In December 1997, the Supreme Court did provide training to the Department of Corrections' Field Operations and Post Release Units. The training showed probation and parole officers how to inquire into the accounts receivable balances on the Financial Management System. This training along with access to the Financial Management System should enable the probation officer to monitor a probationer's payment status.

Recommendation 98-1

There needs to be clear and continuous communication between the judge, clerk, and probation officer as to the terms, conditions, and payment status for each payment plan. Further, the parties must know their responsibilities for monitoring payments and agree on reporting the delinquent cases to the Commonwealth's Attorney for collection.

For defendants on probation, the probation officer can assist the court in determining reasonable payment plans and monitoring compliance. Probation officers should report changes in the defendant's address or employment, and work with the court when they find valid reasons for changes to the agreed-upon payment plan. Otherwise, when the defendant misses payment dates, the court will report the case as delinquent and interest begins to accrue on the account.

If the judge chooses to have the probation officer establish payment plans with probationers, then the officer must provide the payment terms and any changes to the clerk. The clerk should enter the payment plan into the Financial Management System and also monitor compliance. As discussed above, when the defendant misses payments, the case becomes delinquent and interest begins to accrue.

COURT'S COMPLIANCE WITH COLLECTION PROCEDURES

During our audits of the circuit and district courts, we determined that most courts comply with the “Fines and Fees Policies and Procedures” issued by the Compensation Board and Supreme Court for the collection of fines, costs, and restitution. We did find some exceptions to these procedures that we outline below by the type of court.

Court Procedures

The judge directs the defendant to the clerk’s office for payment of fines and costs. In district courts, the defendant may pay with cash, check, or credit card. In circuit courts, the clerk has the option to accept payments by credit card. When the defendant cannot pay, the court establishes a deferred or installment payment plan. The court requires the debtor to sign an agreement stipulating his obligation and the consequences of failing to comply with the agreement. Courts know most costs at the time of sentencing. For any additional costs, such as court-appointed attorney fees and court reporter costs, the clerk adds these costs later and communicates them to the debtor. Circuit courts docket judgments for unpaid fines and costs in the Judgment Lien Docket Book.

The court mails a reminder to the defendant that payment is due within ten days. Failure to pay will result in the previously agreed consequences (i.e. suspension of driver’s license and/or vehicle registration, interest assessed on unpaid amounts, referring account to collection). The court notifies the Department of Motor Vehicles to suspend the defendant’s driver’s license, registration certificate, and license plates.

The court sends a monthly report of unpaid fines and costs directly to the Commonwealth’s Attorney, collection agency, or Department of Taxation. The Financial Management System annually accumulates and reports delinquent accounts to Taxation’s Debt Set-Off Program.

While some courts have established additional policies and procedures to more actively pursue collection, most courts state that they do not have time or staffing resources to contact defendants when they miss a payment. The courts do send a payment reminder, but if the defendant misses a payment, most courts send the account to the delinquent accounts’ collection program without further collection efforts.

Circuit Court Audit Findings

We noted the following exceptions to the courts’ collection procedures that affect their ability to collect unpaid fines and costs.

- Several courts did not monitor defendant payment agreements.
- A few courts did not establish the accounts receivable on the Financial Management System promptly.
- All courts did not consistently docket unpaid amounts in the Judgment Lien Docket Book.
- Some courts did not report unpaid fines and costs to the Department of Motor Vehicles (DMV) for driver license suspension. Also, courts did not monitor the DMV Exceptions Report.
- Courts did not always establish the correct due date of the accounts receivable on the Financial Management System.

- Court-appointed attorneys did not submit time sheets at the conclusion of the hearing; therefore, the courts could not finalize all court costs.

District Court Audit Findings

The Statewide Audit Report on District Courts which summarizes the results of individual audits of the general district, juvenile and domestic relations, and combined district courts reported a few issues impacting the collection of unpaid fines and costs. They were:

- Not completing the “Promise to Pay Agreement” when fines and costs were not paid in full at the time of conviction.
- Not monitoring partial payment accounts.
- Not reporting unpaid accounts to the Department of Motor Vehicles.
- Not assessing fines and costs on cases appealed to the Circuit Court or certified to the Grand Jury.

The court clerks report that crowded court dockets and having only 41-days before declaring an account delinquent limits their ability to work accounts. Therefore, most circuit and district courts do not act on any accounts before reporting the case to the delinquent accounts collection program. Most court clerks state that they do not have time to issue show causes for failure to pay fines and costs. Courts mail a “Final Notice to Pay” ten days before the payment plan due date, informing the defendant that nonpayment will result in the suspension of driving privileges, possible incarceration, and referral of the account for further enforcement action. When the defendant misses the payment on a deferred or installment payment plan, the account is listed on the “Missed Payment Report.” For courts using certain programs within the Financial Management System, the account is reported as delinquent to the Commonwealth’s Attorney. Other courts must manually change a status code on the account to have the account reported to the Commonwealth’s Attorney.

Recommendation 98-2

The individual courts noted in the audit findings should enforce the “Fines and Fees Policies and Procedures” to improve the collection of unpaid fines and costs. It is important that the courts properly monitor the status of each case and use the available mechanisms to enforce collection.

REPORTING DELINQUENT ACCOUNTS

Section 19.2-349 requires that court clerks submit a monthly report to the Commonwealth's Attorney of all fines, costs, and restitution that are delinquent more than thirty days. The Commonwealth's Attorney should cause proper proceedings for the collection of these unpaid accounts. If the Commonwealth's Attorney does not undertake collection, he can contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, or (iii) use the services of the Department of Taxation. The following charts shows most courts use the Department of Taxation's Court Debt Collection Program.

Delinquent Collection Method	As of June 30			
	1998	1997	1996	1995
Courts Using Taxation	235	229	187	141
Courts Using Collection Agencies	68	72	106	111
Courts Using Commonwealth's Attorney	17	11	5	1
Courts Without Collections Program	6	11	20	57
Total Financial Management Courts	326	323	318	310

Source: FMS BR022 Report

These collection programs receive delinquent accounts after the account is 41 days old or in a delinquent status. The collection program is responsible for making reasonable and diligent efforts by lawful means to collect all unpaid fines, costs, forfeitures or penalties and interest thereon in cases referred by the Commonwealth's Attorney. Private collection agents remit collections to the court, after deducting their fee out of the proceeds of the amounts collected. The compensation percentage rate for private collection agents ranges from 25% to 35%, or an average of 32%. Under the Department of Taxation's Court Debt Collection (CDC) Program, defendants pay the court directly and then the court remits 15% of the delinquent collections to the CDC Program.

Competitive Negotiation for Collection Agents

Section 19.2-349 of the Code of Virginia further requires that when selecting a collection program the Commonwealth's Attorney use such terms and conditions as established by guidelines promulgated by the Office of the Attorney General and the Executive Secretary of the Supreme Court. These guidelines suggest that the Commonwealth's Attorney should take into account the expertise of each potential contractor together with the fee for which he is willing to perform services. The guidelines require selection of the contractor using a competitive basis.

Currently, eighteen Commonwealth's Attorneys representing 55 courts contract with private attorneys or private collection agencies. We contacted each Commonwealth Attorney to determine if they had contracted with private attorneys or private collection agencies on a competitive basis. Eight of the 18 responded that they had competitively negotiated for their collection program. Five had not competitively negotiated for these services. Two Commonwealth Attorneys did not respond to our inquiry.

Recommendation 98-3

All Commonwealth's Attorneys contracting with private attorneys or collection agencies should select the contractor on a competitive basis in accordance with the provisions of the Virginia Public Procurement Act. The Commonwealth's Attorney should take into account the expertise of each potential contractor together with the fee for which he is willing to perform the services.

Currently, the Commonwealth's Attorney for each locality decides which delinquent collection method to use for the courts. In our previous report, we recommended having all courts use the Department of Taxation's Court Debt Collection Program for collecting delinquent fines and costs. Taxation could contract with collection agencies for the more difficult accounts, similar to their procedure for delinquent state income taxes.

Another alternative would allow Commonwealth's Attorneys or the Supreme Court to contact for collection of delinquent accounts on a regional basis. This approach could enable the private attorneys or collection agencies to realize "economies of scale" and lower the collection rate charged to the accounts. The Supreme Court, in accordance with the General Assembly's direction, has established procedures for all courts to accept payment of delinquent fines and costs whose collection has been contracted to private collection agents. These procedures may also allow for more collection agents to compete for these services.

Agreements with the Department of Taxation

As of June 30, 1998, Commonwealth's Attorneys had agreements with the Department of Taxation's Court Debt Collection Program for approximately 72% of the 326 courts using the Financial Management System. The CDC Program receives weekly downloads of data from the Supreme Court into its system. At June 30, 1998, the CDC Program held approximately \$134 million in unpaid accounts. Approximately \$21 million, or 16%, of these accounts do not have a social security number associated with the account, and may not have a valid address. The program uses the social security number for tracing the individual to available databases and then contacts the individual to pursue collection. Without the social security number, Taxation classifies the account as uncollectible unless it receives additional information on the account.

Recommendation 98-4

The courts should get complete information from the defendant, including social security number, employment information, address of nearest relative, and personal references. The courts should verify the accuracy of the information before accepting a payment plan. Courts must understand the importance of obtaining complete information. Defendants who claim the need for installment payments may decide to make full payment when confronted with the need for verifying income, employment, and reference information.

HANDLING CASES OF INCARCERATED INDIVIDUALS

The court may establish a payment plan for incarcerated individuals at the time of sentencing or upon release. Some courts put the responsibility of arranging the payment plan with the probation/parole officer upon the defendant's release. Due to time constraints and the need to transport the defendant to a correctional facility, most courts do not set up payment plans at the time of sentencing. Ninety-five percent of the courts set the due date for incarcerated individuals as the trial date unless otherwise ordered by the judge.

The court must receive notification of the defendant's release from incarceration. This notification is necessary so the court can contact the defendant about the fines and costs due on his case. The Department of Corrections sends release notifications to the Courts for defendants from confinement specifying their status as to parole or post release probation. This form is faxed to the Judge, Court, Commonwealth's Attorney, and Sheriff/Police Department of the jurisdiction where the offense occurred and where the defendant plans to reside. The only identifying information on this release form is the defendant's name, date of birth, inmate number, and the offense for which the defendant was sentenced for. The release does not carry the social security number or race of the defendant, or the new home address of the defendant. Without this information, the court and collection agent have a difficult task of trying to collect fines and costs from the defendant. The court must match the defendant based on the information provided by the Department of Corrections to data the court has in its system. The social security number is a key identifier that the court relies on for proper identification. Any additional identifiers that the Department of Corrections can provide would be helpful to the court.

In addition, the Department of Taxation Court Debt Collection Program relies heavily on the social security number of the defendant in order to track the defendant through the various available databases. For any collection program, the more specific information available on the defendant, including the social security number, the better opportunity to collect the unpaid fines and cost.

Recommendation 98-5

The Department of Corrections needs to include the social security number, race, and new address of the defendant on all release notifications. The Department of Corrections' Community Release Unit personnel indicated that this information is available, but is not included in the database used to produce the release notices. The Community Release Unit should add the necessary fields to extract the social security number, race information, and any other specific identifiers about the defendant when issuing the release notices.

The court clerks also indicate that they did not consistently receive notification of an individual's release from a correctional facility. As discussed above, the Department of Corrections has procedures and documentation to support its release notifications. We did not investigate local or regional jails release procedures or notices. We will follow-up with these officials during the next audit.

FOLLOW UP TO PRIOR YEAR RECOMMENDATIONS

Our prior report, "Review of Virginia Courts Management of Unpaid Fines and Costs," dated December 15, 1997, contained 13 recommendations. There has been little or no action taken on any of these recommendations. These recommendations require action by the Executive Secretary of the Supreme Court, the judges, court clerks, or the Department of Corrections. The Supreme Court has taken action to Recommendation 11 by providing training to the court personnel and other responsible parties. Three of our previous recommendations would require legislative action. Recommendation 5 may need further study to effectively implement. The current 41-day period does not allow sufficient time for the courts to take additional action with the defendant. Further, the cost of implementing this recommendation could exceed the benefit when considering the collection agent also performs similar procedures.

No Action Taken

- Recommendation 97-1: The Supreme Court should consider developing guidelines to increase the Judge's participation in stressing the importance and expectation of immediately paying fines and costs. Judges need to explain possible enforcement actions that occur when defendants do not fulfill this responsibility.
- Recommendation 97-2: Courts should place notices in the courthouses outlining the courts' philosophy, payment procedures, and collection policies. Prominently displaying these notices will increase the community's understanding of the courts' policies and procedures.
- Recommendation 97-3: The Supreme Court should revise court documents (DC210 and CC1379) to provide additional space for employment information, address of nearest relative, and personal references. The courts should verify the accuracy of the information before accepting a payment plan. Courts must understand the importance of obtaining complete information. Determination of indigent status at this time may aid in categorizing the collectibility of the receivable. Additionally, defendants who claim the need for installment payments may decide to make full payment when confronted with the need for verifying income, employment, and reference information.
- Recommendation 97-4: Except for indigent cases, the Judge should inform defendants that down payments are a sign of "good faith" that warrant payment extensions. Failure to make a down payment at the time of sentencing should negate the ability to receive deferred or installment plans.
- Recommendation 97-6: The Supreme Court should investigate the feasibility of reporting all delinquent accounts to credit bureaus as an additional method of increasing collections. In addition, circuit courts must do a better job of docketing all judgments. Some clerks suggested the possibility of automating and interfacing the Judgment Lien Docket Book with the Financial Management System.
- Recommendation 97-7: Judges, court clerks, and probation officials in each locality should formulate action plans suitable for their court. They should document and consistently use these plans. In addition, the courts and probation officers should monitor the defendant's compliance with the payment plan.

The Department of Corrections' Division of Community Corrections could provide guidelines for probation officers for monitoring collections, establishing payments plans, and accepting payments.

Recommendation 97-10: The Supreme Court should revise the Financial Management System to include features for monitoring the effectiveness of collection procedures. The Supreme Court also should implement an effective write off policy that evaluates the collectibility of accounts. These changes would require the Courts to determine the collectibility of account receivable.

Recommendation 97-12: First, courts should set individual attainable and measurable goals to improve fines and costs collection. The goals should include a time standard for case disposition, average time for successful completion of fine payments, and average amounts collected. Second, the courts should regularly measure program outcomes against goals. The courts should be able to use the FMS reports to monitor their performance.

To implement this recommendation, the Supreme Court and the State Compensation Board should work with the courts in developing meaningful goals, procedures to monitor these goals, and may additional accounts receivable management reports. Goals should take into consideration the workload for an individual court, the type of cases heard, its location and other factors influencing accounts receivables.

Action Taken

Recommendation 97-11: The Supreme Court should create or update training materials to assist Courts in understanding, implementing, and monitoring accounts receivable. In addition, the courts must fully use the features provided in the Financial Management System.

Corrective Action: The Supreme Court of Virginia's Management Information Systems Department has trained over 800 clerks and deputy clerks since September 1997. This MIS Department has had refresher courses for the Financial Management System and the Case Management System. The MIS department has provided training for the Auditor of Public Accounts, the Department of Corrections, and the Department of Taxation's Court Debt Collection Program.

Recommendation Requiring Further Study

Recommendation 97-5: The courts should contact the defendant after the due date but before the account goes to the Commonwealth's Attorney for delinquent collection. Court personnel could make this contact by issuing show causes, sending a letter signed by the judge, or by telephone. The courts should inform the defendants what sanctions have occurred and what will occur should the account remain unpaid.

Additional Study: Courts report cases to the Commonwealth Attorney 41 days after the trial date or once the defendant is delinquent on the account. Due to the timing constraints, there may not be enough time for the court to contact the defendant before reporting to the Commonwealth Attorney. The Supreme Court should work with the courts to determine if additional actions taken by the court would provide better benefits than reporting the case to the collection agent.

Recommendations Requiring Legislative Action

Recommendation 97-8: The General Assembly may wish to consider requiring full payment of fines, costs, and restitution as a condition of release from probationary status.

Additional Information: The ten general conditions of probation do not include payment of fines, costs, and restitution, instead payment is a special condition. Probation officers do not normally bring probationers to court solely for non-payment of fines and costs. If the probationer comes to court for violation of other conditions, the court will sometimes address the unpaid fines and costs.

Recommendation 97-9: The General Assembly may wish to consider requiring all courts to use the Department of Taxation's Court Debt Collection Program for collecting delinquent fines and costs. Taxation could contract with the collection agencies for the more difficult accounts, similar to their procedure for delinquent state income taxes. Commonwealth's Attorneys would not have to monitor the activity of delinquent accounts nor contract for collection services.

Additional Information: Commonwealth Attorneys have agreements with the Department of Taxation's Court Debt Collection Program for approximately 72% of the 326 courts using the Financial Management System. However, the accounts receivable for these courts represent only 47% of total receivables. Implementation of this recommendation would double the current caseload handled by Taxation's CDC Program.

The CDC Program continues to have the highest effective collection rate, which is the net amount the court receives after the cost of collection. Taxation charges 15% whereas the other programs charge an average of 32% for collecting delinquent accounts. For fiscal year 1998, Taxation's effective collection rate was 26.36% for all courts compared to 20.49% for private attorneys and collection agencies.

As discussed earlier, another alternative is to allow Commonwealth's Attorneys or the Supreme Court to contract for collection of delinquent accounts on a regional basis. This could enable the private attorneys or collection agencies to realize "economies of scale" and lower the collection rate charged to the accounts; thereby, improving their effective collection rate.

Recommendation 97-13: The General Assembly may want to consider having the Supreme Court and State Compensation Board, in conjunction with the Department of Corrections and local sheriffs, study the best alternatives for collecting unpaid fines and costs from incarcerated defendants.

Additional Information: Currently, Section 19.2-354(B) does require that individuals sentenced to a state or local correctional facility, as a condition of participating in any work release, home incarceration, or nonconsecutive days program, make payments in accordance with their deferred or installment payment agreement while participating in such program.

ACCOUNTS RECEIVABLE ACTIVITY
For the Years Ended June 30, 1995, 1996, 1997, and 1998

ALL COURTS	1995	1996	1997	1998
Beginning balance	\$ 215,573,104	\$ 210,318,203	\$ 265,669,708	\$ 343,728,688
Add: Assessments	198,821,218	218,673,221	261,930,731	281,520,488
Less:				
Collections	144,019,738	163,996,339	200,541,956	221,318,476
Write-offs	60,056,381	-	-	-
Adjustments	-	674,623	16,670,205	(19,016)
Ending balance	<u>\$ 210,318,203</u>	<u>\$ 265,669,708</u>	<u>\$ 343,728,688</u>	<u>\$ 403,911,684</u>
 % of collections to assessments	 72%	 75%	 77%	 79%
 Source of collections:				
Court	\$ 133,883,357	\$ 146,341,224	\$ 176,682,619	\$ 192,214,094
Taxation's Court Debt Collection	2,760,619	7,818,953	12,966,262	17,989,934
Collection agency	7,375,762	9,836,162	10,893,075	11,114,448
Total as above	<u>\$ 144,019,738</u>	<u>\$ 163,996,339</u>	<u>\$ 200,541,956</u>	<u>\$ 221,318,476</u>
 % of court collections to total collections	 92.96%	 89.23%	 88.10%	 86.85%
% of CDC collections to total collections	1.92%	4.77%	6.47%	8.13%
% of collection agency collections to total	5.12%	6.00%	5.43%	5.02%

CIRCUIT COURTS				
Beginning balance	\$ 108,191,228	\$ 116,592,619	\$ 146,635,334	\$ 177,707,185
Add: Assessments	71,462,499	76,494,903	88,824,502	94,196,837
Less:				
Collections	42,037,721	47,129,033	57,005,876	65,788,091
Write-offs	21,023,387	-	-	-
Adjustments		676,845	(746,775)	(19,016)
Ending balance	<u>\$ 116,592,619</u>	<u>\$ 146,635,334</u>	<u>\$ 177,707,185</u>	<u>\$ 206,096,915</u>
 % of collections to assessments	 59%	 62%	 64%	 70%
 Source of collections:				
Court	\$ 39,840,761	\$ 43,312,986	\$ 51,619,113	\$ 58,862,831
Taxation's Court Debt Collection	680,844	2,072,685	3,237,838	4,392,587
Collection agency	1,516,116	1,743,362	2,148,925	2,532,673
Total as above	<u>\$ 42,037,721</u>	<u>\$ 47,129,033</u>	<u>\$ 57,005,876</u>	<u>\$ 65,788,091</u>
 % of court collections to total collections	 94.77%	 91.90%	 90.55%	 89.47%
% of CDC collections to total collections	1.62%	4.40%	5.68%	6.68%
% of collection agency collections to total	3.61%	3.70%	3.77%	3.85%

DISTRICT COURTS	1995	1996	1997
Beginning balance	\$ 107,381,876	\$ 93,725,584	\$ 119,034,374
Add: Assessments	127,358,719	142,178,318	173,106,229
Less:			
Collections	101,982,017	116,867,306	143,536,080
Write-offs	39,032,994	-	-
Adjustments		(2,222)	17,416,980
Ending balance	<u>\$ 93,725,584</u>	<u>\$ 119,034,374</u>	<u>\$ 166,021,503</u>
% of collections to assessments	80%	82%	83%
Source of collections:			
Court	\$ 94,042,596	\$ 103,028,238	\$ 125,063,506
Taxation's Court Debt Collection	2,079,775	5,746,268	9,728,424
Collection agency	5,859,646	8,092,800	8,744,150
Total as above	<u>\$ 101,982,017</u>	<u>\$ 116,867,306</u>	<u>\$ 143,536,080</u>
% of court collections to total collections	92.21%	88.16%	87.13%
% of CDC collections to total collections	2.04%	4.92%	6.78%
% of collection agency collections to total	5.75%	6.92%	6.09%

1998 DELINQUENT COLLECTIONS

TOTAL - ALL COURTS							
Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	214	\$ 54,031,585	\$ 16,759,020	\$ 2,513,853	\$ 14,245,167	31.02%	26.36%
Collection Agencies	60	30,484,397	9,184,913	2,939,172	6,245,741	30.13%	20.49%
Commonwealth Attorneys	14	3,268,079	1,144,296	366,175	778,121	35.01%	23.81%
Totals	288	\$ 87,784,061	\$ 27,088,229	\$ 5,819,200	\$ 21,269,029	30.86%	24.23%

CIRCUIT COURTS							
Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	82	\$ 21,071,671	\$ 4,032,679	\$ 604,902	\$ 3,427,777	19.14%	16.27%
Collection Agencies	20	13,107,998	1,850,856	592,274	1,258,582	14.12%	9.60%
Commonwealth Attorneys	6	1,805,576	580,676	185,816	394,860	32.16%	21.87%
Totals	108	\$ 35,985,245	\$ 6,464,211	\$ 1,382,992	\$ 5,081,219	17.96%	14.12%

DISTRICT COURTS							
Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	132	\$ 32,959,914	\$ 12,726,341	\$ 1,908,951	\$ 10,817,390	38.61%	32.82%
Collection Agencies	40	17,376,399	7,334,057	2,346,898	4,987,159	42.21%	28.70%
Commonwealth Attorneys	8	1,462,503	563,619	180,358	383,261	38.54%	26.21%
Totals	180	\$ 51,798,816	\$ 20,624,017	\$ 4,436,208	\$ 16,187,810	39.82%	31.25%

1997 DELINQUENT COLLECTIONS

TOTAL - ALL COURTS							
Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	199	\$ 28,741,501	\$ 10,596,568	\$ 1,589,485	\$ 9,007,083	36.87%	31.34%
Collection Agencies	77	31,532,196	9,108,838	2,914,828	6,194,010	28.89%	19.64%
Commonwealth Attorneys	10	3,357,360	1,165,219	372,870	792,349	34.71%	23.60%
Totals	286	\$ 63,631,057	\$ 20,870,625	\$ 4,877,183	\$ 15,993,442	32.80%	25.13%

CIRCUIT COURTS							
Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	74	\$ 12,951,084	\$ 2,681,452	\$ 402,218	\$ 2,279,234	20.70%	17.60%
Collection Agencies	27	11,867,729	1,633,816	522,821	1,110,995	13.77%	9.36%
Commonwealth Attorneys	4	1,406,118	444,056	142,098	301,958	31.58%	21.47%
Totals	105	\$ 26,224,931	\$ 4,759,324	\$ 1,067,137	\$ 3,692,187	18.15%	14.08%

DISTRICT COURTS							
Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	125	\$ 15,790,417	\$ 7,915,116	\$ 1,187,267	\$ 6,727,849	50.13%	42.61%
Collection Agencies	50	19,664,467	7,475,022	2,392,007	5,083,015	38.01%	25.85%
Commonwealth Attorneys	6	1,951,242	721,163	230,772	490,391	36.96%	25.13%
Totals	181	\$ 37,406,126	\$ 16,111,301	\$ 3,810,046	\$ 12,301,255	43.07%	32.89%

1996 DELINQUENT COLLECTIONS

TOTAL - ALL COURTS

Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	182	\$ 22,567,270	\$ 7,747,255	\$ 1,162,088	\$ 6,585,167	34.33%	29.18%
Collection Agencies	98	30,586,773	7,940,151	2,540,848	5,399,303	25.96%	17.65%
Commonwealth Attorneys	12	3,671,098	1,368,821	438,023	930,798	37.29%	25.35%
Totals	292	\$ 56,825,141	\$ 17,056,227	\$ 4,140,959	\$ 12,915,268	30.02%	22.73%

CIRCUIT COURTS

Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	73	\$ 8,226,599	\$ 2,018,778	\$ 302,817	\$ 1,715,961	24.54%	20.86%
Collection Agencies	32	9,994,048	1,295,279	414,489	880,790	12.96%	8.81%
Commonwealth Attorneys	5	1,489,078	484,159	154,931	329,228	32.51%	22.11%
Totals	110	\$ 19,709,725	\$ 3,798,216	\$ 872,237	\$ 2,925,979	19.27%	14.85%

DISTRICT COURTS

Method	Number of Courts	Amount Submitted for Delinquent Collections	Estimated Gross Collections	Estimated Cost of Collections	Net Amount Collected	Total Collection Rate	Effective Collection Rate
Taxation (Court Debt Collection)	109	\$ 14,340,671	\$ 5,728,477	\$ 859,271	\$ 4,869,206	39.95%	33.95%
Collection Agencies	66	20,592,725	6,644,872	2,126,359	4,518,513	32.27%	21.94%
Commonwealth Attorneys	7	2,182,020	884,662	283,092	601,570	40.54%	27.57%
Totals	182	\$ 37,115,416	\$ 13,258,011	\$ 3,268,722	\$ 9,989,289	35.72%	26.91%

1998

\$ 166,021,503
187,323,651

155,530,385

-

-

\$ 197,814,769

83%

\$ 133,351,263
13,597,347
8,581,775

\$ 155,530,385

85.74%

8.74%

5.52%

DELINQUENT COLLECTIONS

NOTE 1: The above analysis does not include the courts that changed collection methods during the year.

NOTE 2: The effective rate for Taxation uses the 15% commission rate charged by the program.

NOTE 3: The effective rate for Collection Agencies and Commonwealth Attorneys uses a 32% commission rate, which is the average rate that these programs charge.