



**DALLAS COUNTY
COUNTY AUDITOR**

TO: Honorable John Warren, County Clerk
Honorable Gary Fitzsimmons, District Clerk

FROM: Virginia A. Porter *Virginia A. Porter*
County Auditor

SUBJECT: Bail Bond Receivables

ISSUE DATE: September 13, 2011
RELEASE DATE: December 19, 2011

SCOPE

As part of ongoing reviews of County Departments and compliance with statutory regulations, we have performed a review of financial records and electronic bond forfeiture activity within the Criminal Receipt Inquiry (CRIN) system, the discontinued mainframe Bond (BN10) application, the Adult Information System (AIS) bond tab details, and the mainframe Adult Information Bond (AIBN) records, for the County Clerk and District Clerk bond forfeiture assessments.

BACKGROUND

Bond forfeiture fees assessed by both offices have historically varied by officeholder. District Attorney (DA) Civil Section and Attorney General (opinions) have provided guidance.

LEGAL

Statutes governing bail bonds and forfeitures include Code of Criminal Procedure, Chapters 17 and 22, and Occupations Code Chapter 1704. Official opinion issued by the Court of Appeals for the First District of Texas on November 7, 2008 indicated that 'civil filing fees' should be collected in bail bond forfeiture cases referencing a 1993 Court of Criminal Appeals *Dees v. State* opinion which rejected the argument that civil court costs do not apply because bail bond forfeitures are criminal matters.

REVIEW PROCEDURES

Limited review processes were applied to data from the departments in order to evaluate receivable reporting accuracy within the CR system, but did not include a review of original hard copy bond records, case jackets, and/or other court documentation. A random sampling of total activity was selected for certain procedures. Review steps included, but were not limited to, the following:

- Obtained various electronic files of AIS bond extracts, CRIN receivable report R12058, and AIBN/BN10 data for select bonds from IT Services
- Matched bond data from separate files to compile master files of bond activity
- Reviewed sample bond activity on AIS, CRIN, BN10, and/or AIBN

FINDINGS

Receivables

1. Approximately, \$23.6 million in calculated bond forfeiture receivables for 21,448 bonds on R12058 as per data extracted from unpaid assessments on CRIN as of July 11, 2011. CRIN bond forfeiture receivables aged greater than ten years for 15,941 bonds total over \$17.5 million of the \$23.6 million receivable balance or 74.35%.
2. Approximately, \$12.2 million in bond forfeiture fine amounts on BN10 (use of BN10 discontinued after conversion to AIS in 2005) for 30,216 bond records **without** corresponding assessments on CRIN or notations of payment on BN10. While data conversion to the mainframe Central Criminal Receipt System in November 1989 may have resulted in some purged payment records, bonds issued after 1989 totaling over \$3.1 million are part of the \$12.2 million BN10 total without CRIN payment records. BN10 bond amounts aged greater than ten years account for 99.9% of the \$12.2 million.

Partial Analysis of \$23.6 Million CRIN Receivable Balance

3. Various data conversion errors from BN10 to AIS in 2005 including 3,835 bonds with unpaid assessments totaling \$6,690,580.99 on CRIN with a status incorrectly reflected as 'Final Judgment – Remittitur' on AIS when remittitur was not part of the status on BN10. Partial analysis of data revealed an estimated 90% of accounts and 73% of the receivable dollars should reflect a status of Abstract of Judgment, Execution Issued/Returned, or execution returned Nulla Bona rather than the status reflected on AIS. Two defunct bonding companies and out-of-county bonds account for \$4.4 million of the \$6.7 million in unpaid assessments reflected on CRIN.
4. 2242 bonds with assessments totaling \$4,105,454.91 (over \$3.9 million of the total is a bond fine assessment) on CRIN with a status of Final Judgment Against State on AIS or 'JGAS' on AIBN. Approximately, 97% of the assessments are pre-AIS. 2158 of the 2242 were not converted to AIS due to 'JGAS' status. Sample review of bonds on BN10 revealed 'Judgment Against State' without an entry of Final Judgment. Reason for assessments recorded to CRIN could not be determined.
5. 654 bonds with assessments totaling \$983,696.97 (approximately \$928,000 of the total is a bond fine assessment) on CRIN including 636 with a status of 'PAID' or 'PD' on AIBN. 618 of the 654 bonds were not converted to AIS due to 'Paid' recorded on BN10. Sample review of bonds revealed assessment errors on CRIN, partial payments only with balances due, forfeited cash bonds returned to the surety, or fees paid for motions for new trial, bills of review, and/or superseadas appeal bond fees.
6. 999 bonds with assessments totaling \$1,592,441.76 (approximately \$1.5 million of the total is a bond fine assessment) on CRIN with a status of 'Discharged' on AIS or 'DSG' on AIBN. 167 of the 999 bonds were not converted to AIS. Sample review of bonds revealed 'Judgment Against State' without an entry of Final Judgment, forfeited cash bonds not correctly applied to assessments or the correct bond number, order to set aside, bill of review granted, motion for new trial granted, etc.
7. 2561 bonds with assessments totaling \$885,606.29 (approximately \$845,000 of the total is a bond fine assessment) on CRIN with limited information on BN10 or no corresponding information on BN10, AIBN, or AIS to validate the accuracy of the receivable.

8. 9284 bonds with assessments totaling \$7,269,609.94 on CRIN with a status of 'Abstract of Judgment' (AB), 'Execution' (E), or 'Nulla Bona' (NB) on AIS, AIBN, and/or BN10. Approximately, \$6.4 million of the \$7.3 million is for Pre-Trial Release or Personal Recognizance bonds.
9. Separate file provided by IT Services on July 18, 2011 included 2672 bonds with NISI amounts totaling \$7,721,206 (\$2.4 million of the total is for Personal Recognizance bonds). Sample review revealed: most with NISI as the only action; others with last status of Scire Facias Returned, Paid, Set Aside, FJAS tax costs, etc. including one dating to 1966; two contained date errors; and three were missing the NISI date. Approximately, \$6.4 million (1909 bonds) of the \$7.7 million total was over 180 days for misdemeanor cases or 270 days for felony cases from the date of NISI. Approximately, \$4.7 million (74.63%) of the \$6.4 million and 646 (33.84%) of the 1909 bonds were aged greater than 5 years from the date of NISI.

NISI Without Final Judgment

10. A review of existing AIS bond reports revealed: an ad hoc or standard report of non-discharged 'bonds written' by surety is not available within AIS. AIS bail bond reports comparable to previously existing Mainframe bail bond reports available prior to conversion were not replicated in AIS. A listing of non-discharged 'bonds written' with NISI or Final Judgment by surety is **not** available within AIS while bondsman or attorneys that request to receive a weekly listing of non-discharged bonds for their specific account receive an email version from IT Services. Account numbers '000' {Cash} and '249' {Pre-Trial Release} are not part of the Bond Company Maintenance summary information and a listing by surety name for account number '342' {Out-of-County} is not available.

Status: IT Services has provided data extracts to the Clerks based on individual specific requests, but standard reports are still lacking within AIS. In November 2011, IT Services provided a link to a newly created bond database for the Clerks to extract information based on user defined parameters.

Miscellaneous

11. Incomplete system functionality within the bond forfeiture tab. Inquiry access is incomplete preventing view of all bond receipt details on AIS entered by the Sheriff including bond company and attorney maintenance screens.
12. Anomalies in data analysis were caused by: multiple bonds issued for the same case without a change in the bond extension (for example sequencing did not increase from 01 to 02 on the next bond); duplicate issuance of receipt numbers; data conversion errors from BN10 to AIS; AIS bond detail tab for bonding company name or bonding attorney name and/or account number not in agreement with AIS bond receipt history tab for bond company name or attorney name and/or account number; or bond status date on last bond forfeiture action the same as other bond forfeiture status dates.

Status: IT Services updated programming processes to prevent future occurrences of duplicate bond suffix numbers. IT Services created a one-time systemic fix to the bond extension on AIS only. Any affected bonds with an existing assessment on CRIN were not fixed on the mainframe side which will result in unmatched receivable items going forward.

RECOMMENDATIONS

1. **Test unpaid forfeitures for follow-up action and validity.** Procedures should include continuing the practice of placing bonding companies/bondsman/attorneys with unpaid forfeitures on the cut-off list provided to the Sheriff Bail Bond section, issuing writs of execution, and filing abstracts of judgment (now valid for twenty years). Consider referring delinquent receivables exceeding 180 days to the DA – Civil Section for possible litigation and/or third party collection.

Response: The Clerks have created task forces within their specific offices to research as time allows unpaid forfeitures for follow-up action and validity. Initial priority will be given to bonds created on or after January 1, 2007.

2. **Prioritize research of BN10 forfeitures without assessments.** Prioritize forfeitures for those bonding companies/bondsman/attorneys that are still active. If forfeitures are proven valid, accurate, and unpaid, assessments should be created through CRAM by the bond forfeiture clerks with collection actions pursued.
3. **Develop a test environment and re-populate erroneous conversion statuses from BN10 to AIS.** Document and communicate to IT Services bond reporting requirements within AIS including reports containing detailed listings of non-discharged bonds written with statuses of NISI and final judgment for out-county-bondsman account number 342 by bondsman name. Clerks in conjunction with the Sheriff and DA should develop a process to monitor financial viability of insurance companies and ensure Dallas County is listed as creditor when insurance companies file or are forced into bankruptcy.
4. **Review forfeiture assessments on CRIN (for validity and accuracy) and corresponding bond documentation with a forfeiture status on AIS or AIBN of 'JGAS', Final Judgment Against State, Final Judgment Against State (No Cost), Bill of Review (BORG) Judgment Against the State (No Cost), etc.** Invalid assessments should be removed / cleared through CRAM and incorrect assessment amounts should be revised by supervisory personnel. Reinforce training of court clerks and bond forfeiture staff responsible for recording assessments to **not** record assessments through CRAM when judgments have been made against the State without costs due. If subsequent judicial actions (after an entry of final forfeiture judgment had been ordered by the court) result in the bond forfeiture fine amount set aside or reduced, the bond forfeiture clerks should correspondingly adjust the existing bond forfeiture fine amount through CRAM. Court costs, re-arrest fees, and interest accrued on the bond amount from the date of forfeiture should be collected on special BOR's granted in accordance with Code of Criminal Procedure, § 22.17.

Response: The Clerks have created task forces within their specific offices to research as time allows unpaid forfeitures for follow-up action and validity. Initial priority will be given to bonds created on or after January 1, 2007.

5. **Review forfeiture assessments on CRIN (for validity and accuracy) and corresponding bond documentation with a forfeiture status on AIBN of 'PAID' or 'PD'.** Invalid

assessments should be removed / cleared through CRAM and incorrect assessment amounts should be revised by supervisory personnel. Bonds with partial payments only that failed to convert from BN10 to AIS should be identified. Clerks should request IT Services assistance to populate bond activity in AIS that failed to convert from BN10 (for valid unpaid bond forfeiture receivables) to AIS after successful completion in a test environment.

Response: The Clerks have created task forces within their specific offices to research as time allows unpaid forfeitures for follow-up action and validity. Initial priority will be given to bonds created on or after January 1, 2007.

6. **Review forfeiture assessments on CRIN (for validity and accuracy) and corresponding bond documentation with a forfeiture status of 'Discharged' on AIS or 'DSG' on AIBN.** Invalid assessments should be removed / cleared through CRAM and incorrect assessment amounts should be revised by supervisory personnel. Forfeited cash bonds should be accurately and timely applied to assessments. Clerks should request IT Services assistance to populate bond activity in AIS that failed to convert from BN10 (for valid unpaid bond forfeiture receivables) to AIS after successful completion in a test environment.

Response: The Clerks have created task forces within their specific offices to research as time allows unpaid forfeitures for follow-up action and validity. Initial priority will be given to bonds created on or after January 1, 2007.

7. **Research (for validity and accuracy) the 2561 bond receivable assessments on CRIN with limited or no information on BN10, AIS, and/or AIBN.** Invalid assessments should be removed / cleared through CRAM by supervisory personnel.
8. **Consider referring delinquent receivables exceeding 180 days to the District Attorney – Civil Section for possible litigation and/or third party collection.**

Response: The District Attorney's office has presented a proposal to create a special unit to handle bail bond cases and pursue unpaid forfeitures.

9. **Set bond forfeiture hearings after judgment NISI in accordance with statutes and Rules of Civil Procedure.** Defendants and sureties exonerated from liability of the forfeiture upon the incarceration of the defendant within 180 days misdemeanor and 270 days felony after the defendant's failure to appear in court are still liable for the payment of court costs, any reasonable re-arrest fees, and interest accrued on the bond amount from the date of judgment NISI to the date of the defendant's incarceration in accordance with Code of Criminal Procedure, § 22.13(a) (5) and (b).
10. **Document and reinforce ongoing training requirements to comply with applicable laws and regulations for necessary system and control edits to produce accurate and reliable information.** Document and communicate to IT Services bond reporting requirements within AIS including reports containing detailed listings of non-discharged bonds written with statuses of NISI and final judgment.

11. **Expand functionality of bond tab details to allow the clerks to record all relevant forfeiture activity.** Forfeiture activity should be listed in date order processes occur and include the use of system edits to prevent inaccurate date entries. Clerks should be granted inquiry access rights to review all related bond information maintained by the Sheriff and visa versa.
12. **Create system edits within AIS to prevent duplicate issuance of the same bond number with automated sequencing of the bond extensions.** System edits should exist within AIS to prevent duplicate issuance of the same bond receipt number. Bond receipt history tabs and bond forfeiture detail tabs should contain the same bond company/attorney names and/or account numbers.

Response: Resolved.

13. **Enter the bond fine forfeiture amount recorded by the magistrate or Judge to AIS and CRAM.**
14. **Complete all pending bond forfeiture actions (including refund of cash bonds) prior to court ordered expunction of records.**

Response: Agreed.

15. **Record comment notations on CRIN and AIS when refunds are issued through the request for payment process.** Record cash bond disbursements on AIS cash bond tab (County Clerk in conjunction with IT Services developed an automated process in 2010 and refined in 2011).

Status: Systemic process developed by IT Services for the County Clerk to automatically record the disbursement information created through Oracle Accounts Payable was not fully tested and resulted in incomplete and inaccurate available balances on AIS and duplicate payments. Additional testing and research to address these issues are ongoing.

16. **Review (for accuracy and validity) and correct existing assessments on non-final actions or no-amount-due cases.** Bonds with negative court costs balances, negative bond fine balances, or negative special fund balances should be reviewed and corrected as necessary by supervisory personnel. IT Services assistance may be required to adjust previous assessment amounts carried over from the 1989 Central Criminal Receipt System conversion.
17. **Provide appellate court decisions to the bond forfeiture section for follow-up action based on the opinion rendered.**

Response: Agreed.

SUMMARY

This report is intended for the information and use of the Clerks' Offices. While we have performed a limited review of bond financial records, this review will not necessarily disclose all matters of a material weakness. It is the responsibility of the departments to establish and maintain effective internal control over compliance with the requirements of laws and regulations applicable.

Accurate / timely recording of bond forfeiture transactions impact operational liabilities and financial risks. Identified risk factors include the amount and volume of transactions processed, the lack of a standard AIS bond reports, and the lack of an interface (which requires duplicate work effort) between AIS and the mainframe assessment system for bond forfeiture activity. Technology enhancements providing management information and outstanding work flows should continue. Ongoing management oversight and coordination of all responsible departments relevant to bond data details should be periodically affirmed. The Clerks' and Sheriff should coordinate development of additional AIS bond reports and update of bond forfeiture procedures. The Clerks' and judiciary should evaluate effect of set asides and subsequent incarceration on outstanding receivables.

Our review was conducted on a test basis and was not designed to identify all deficiencies in internal control. Adherence to and follow-through with the recommendations should strengthen internal controls and compliance with Dallas County's policies and procedures.

Cc: Commissioners Court
Honorable Judge Martin Lowy, LADJ