



**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

OFFICE OF INTERNAL AUDIT

Professional Audit and Advisory Service

FINAL REPORT

**Audit of the Juvenile Court Clerk Victims'
Compensation Trust Account Management**

Date Issued: March 31, 2009

Office Location and Phone Number

222 3rd Avenue North, Suite 401
Nashville, Tennessee 37201

615-862-6110

*The Office of Internal Audit is an independent audit agency reporting directly to the
Metropolitan Audit Committee*

EXECUTIVE SUMMARY

March 31, 2009

Results in Brief	Recommendations
<p>We performed an audit of the processes and controls in place pertaining to victims' compensation funds held in trust at the Davidson County Juvenile Court Clerk's office. Key audit objectives and conclusions are as follows:</p> <ul style="list-style-type: none"> • Does the Juvenile Court Clerk's office have proper controls in place to ensure that each trust account is accurately accounted for and properly safeguarded? Generally no. Our office determined that controls are primarily concentrated with one individual with minimal supervision. • Was there any inappropriate use of victims' compensation trust funds observed? No. Our office did not observe any improper disbursements or misuse of funds. • Is each individual trust account placed in an interest bearing account as required by TCA 29-13-302? Yes. However, the Juvenile Court Clerk was unable to obtain required banking information from guardians of two victims' accounts resulting in the funds placed in a non-interest bearing escrow account. Also, additional diligence is needed to ensure all victims' earnings are maximized. • Are the controls in place for the approval and disbursement of funds adequate, proper, and delivered to recipients in a timely manner? Generally, yes. However some disbursements were made using an account checkbook rather than a cashier's check. • Are clerk's fees deducted from each compensation award, and reported as revenue to the Metropolitan Government? No. Our office determined that clerk's fees are not consistently deducted from each compensation award and were not reported to Metro as revenue. 	<p>Key recommendations of this report are for the Juvenile Court Clerk to:</p> <ul style="list-style-type: none"> • Improve internal controls by establishing a management quality assurance program to ensure all funds are initially recorded in the Juvenile Court Clerk's and Metro's financial records. Additionally, the program should include supervisory review of routine transactions and account reconciliations. • Implement a written investment policy that will identify the type of bank account or investment instruments needed to consistently maximize interest earnings. • Consolidate victim's compensation trust account banks to a limited number of banks. Using a smaller number of banks can greatly decrease the time and effort spent in accounting for each individual account. • Ensure trust account reconciliations are performed and documented regularly. • Establish a formalized and documented process for the disbursement of funds from a minor's account. • Determine which account holders have exceeded the age of majority and make an effort to locate them. • Establish a clerk fee policy and consistently assess this fee for victims' compensation awards. • Record clerk fees in Metro's EBS financial reporting system and directly deposit these into Metro's General Fund bank account. <p>Management's response can be seen in Appendix A, page 14.</p>

Table of Contents

INTRODUCTION.....	1
BACKGROUND	1
PROCESS OVER TRUST ACCOUNT MANAGEMENT	2
OBJECTIVES AND CONCLUSIONS.....	3
A - Establish an Investment Policy Statement to Help Ensure Maximum Trust Account Earnings and Earnings Equity	5
B - Improve Juvenile Victims' Compensation Trust Account Record Keeping.....	6
C - Improve Internal Controls for Safeguarding Juvenile Victims' Compensation Trust Accounts	8
D - A Uniform Auditable Process for the Disbursement of Funds Does Not Exist	9
E - Efforts Are Not Being Made to Locate Account Holders Who Have Surpassed the Age of Majority	9
F - Ensure Juvenile Court Clerk's Clerk Fees are Consistently Assessed on Each Compensation Award	10
G - Ensure Juvenile Court Clerk's Fees and Account Balances are Recorded in Metro's Financial Records.....	11
GENERAL AUDIT INFORMATION.....	13
STATEMENT OF COMPLIANCE WITH GAGAS.....	13
SCOPE AND METHODOLOGY	13
CRITERIA	13
STAFF ACKNOWLEDGEMENT	13
APPENDIX A. MANAGEMENT RESPONSE.....	14

INTRODUCTION

BACKGROUND

The Juvenile Court Clerk is responsible for keeping all records of the Juvenile Court. The Clerk's Office maintains separate minutes, dockets and records for all matters pertaining to Juvenile Court proceedings. In addition, the office collects payments, fines and restitutions and maintains accounts of \$1.8 million for child victim criminal injury. The Juvenile Court Clerk is an elected official and maintains a separate budget from the Juvenile Court.

Payments to juveniles for criminal injuries are granted through the State of Tennessee's Criminal Injuries Compensation Fund. Sources of funding for the Criminal Injuries Compensation fund includes privilege taxes assessed in courts against criminal defendants and other offenders upon convictions, fees levied against parolees and probationers, the proceeds of bond forfeitures in felony cases, and a federal grant. Jurors may also elect to donate their jury service reimbursement to the Fund. Exhibit A includes a breakdown of the sources of funding received for fiscal years 2006-2008.

Exhibit A – Sources of Tennessee Criminal Injuries Compensation Fund

Source	Fiscal Year 2006		Fiscal Year 2007		Fiscal Year 2008	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>
Fines	\$4,351,199	39	\$4,718,062	39	\$7,038,358	44
Federal Funds	3,177,000	29	3,411,000	28	5,253,000	32
Probation Fees	2,107,481	19	2,183,494	18	2,852,637	18
Parole Fees	764,503	7	833,820	7	325,936	2
Bond Forfeitures	339,176	3	536,720	5	397,807	2
Other	365,429	3	333,891	3	272,009	2
Total	\$11,104,788	100	\$12,016,987	100	\$16,139,747	100

Source: Criminal Injuries Compensation Fund Independent Auditor's Report FY 2008

Payments made under the Criminal Injuries Compensation Fund are intended to defray the costs of medical services, loss of earnings, burial costs, and other pecuniary losses to either an innocent victim of a crime or to the dependents of a deceased victim. Applications are filed with the Tennessee Division of Claims Administration.

After a claim for compensation is filed with the Division of Claims Administration, a copy is forwarded to the appropriate United States Attorney or District Attorney (prosecutor) who provides information concerning the circumstances surrounding the crime. The Division reviews the claim and may ask the claimant to provide additional information. Upon receipt of a completed claim form and documentation, as well as receipt of the prosecutor's report, the Division determines whether the claim is compensable and, if so, issues payment as allowed by statute.

If a minor child is awarded compensation, the Division of Claims Administration may pay the minor's funds to a juvenile court to be deposited into an interest-bearing account until the child turns 18 years of age.

Actual payments are issued in the name of the victim and the Davidson County Juvenile Court Clerk. The funds are to be placed in an interest-bearing account in the child's name, and the Juvenile Court Clerk is listed as the custodian of the account. The money is released to the juvenile at age 18 or a motion to encroach can be filed by the guardian of the child for funds in emergency cases.

Balances for the victims' compensation funds held in trust are listed below in Exhibit B.

Exhibit B - Metropolitan Government of Nashville and Davidson County Funds Held In Trust

Fiscal Year	Beginning Balance	Additions	Deductions	Ending Balance
FY 2006	\$1,862,100	\$263,014	\$175,577	\$1,949,537
FY 2007	1,949,537	748,520	613,552	2,084,505
FY 2008	2,084,505	251,287	287,555	2,048,237

Source: Metro's Comprehensive Annual Financial Reports FY 2006, FY 2007, and FY 2008

PROCESS OVER TRUST ACCOUNT MANAGEMENT

The Juvenile Court Clerk's Office is responsible for all aspects of administering and managing the victims' compensation trust program. The processes over trust account management are outlined below:

- Compensation payments are sent from the state of Tennessee directly to the Juvenile Court Clerk's Office.
- The Juvenile Court Clerk's Office then determines how and where the funds will be deposited.
- A court order is prepared to establish the trust account. The name of the minor, the amount of the trust, and the financial institution used are listed on the court order.
- The court order is sent along with the compensation payment to the chosen financial institution for deposit. Once the account has been opened, the financial institution will send the opening account information back to the Juvenile Court Clerk's office for signature.
- Statements are sent from the financial institution to the Juvenile Court Clerk's Office, and trust accounts are reconciled in the Juvenile records to reflect interest payments and other activity. When the minor reaches the age of majority, they can request their funds.
- If a parent or guardian wishes to encroach on a trust account a motion to encroach must be filed at the Juvenile Court Clerk's Office. A hearing is then schedule with the Juvenile Court.

- If the motion to encroach is granted, a court order will be issued listing the amount of the encroachment and to whom the funds will be made payable.
- The Juvenile Court Clerk's Office will then fax a copy of the court order to the financial institution for the trust account and request funds. The funds are sent back to the Juvenile Court Clerk's Office via cashier's check.
- The Juvenile Court Clerk's Office will then mail out the cashier's check, or let the parent of guardian know their funds are available for pick up.

OBJECTIVES AND CONCLUSIONS

Does the Juvenile Court Clerk's Office have proper controls in place to ensure that each trust account is accurately accounted for and properly safeguarded?

Generally no. Our office determined that controls are primarily concentrated with one individual with minimal supervision. Management relies upon an annual financial audit as the primary review of accounting activity for victims' trust accounts. Routine supervisory review of trust accounting activity would provide an additional level of quality control. (See Observations C, page 7 and Observation G, page 11.)

Was there any inappropriate use of victims' compensation trust funds observed?

No. Our office did not observe any improper disbursements or misuse of funds. Our audit consisted of reviewing all 559 active and closed accounts, and verification of all 233 disbursements for the period July 1, 2006 through June 30, 2008. Documentation of balances and account activity was accomplished by reviewing bank statements in the Juvenile Court Clerk's Office files, and statements and account confirmations received directly from banks. Disbursements were verified by reviewing court orders signed by the Juvenile Court Judge.

Is each individual trust account placed in an interest bearing account as required by Tennessee Code 29-13-302?

Yes. However, the Juvenile Court Clerk was unable to obtain required banking information from guardians of two victims' accounts resulting in the funds placed in a non-interest bearing escrow account. Also, additional diligence is needed to ensure all victims' earnings are maximized. Out of 198 accounts sampled, the Office of Internal Audit estimates \$64,008 in potential investment opportunities were not realized for a three year period between July 2005 and July 2008. (See Observation A, page 4.)

Are the controls in place for the approval and disbursement of funds adequate, proper, and delivered to recipients in a timely manner?

Generally yes. Our audit consisted of substantive testing for all 233 disbursements (86 encroachments and 147 closing disbursements) for the period July 1, 2006 through June 30, 2008. Disbursements were verified by reviewing court orders signed by the Juvenile Court Judge. However, it was noted that some disbursements were issued using an account checkbook directly to the recipient, and one disbursement appeared to have been made from the Juvenile Court Clerk operations account after a transfer from the escrow account. (See Observation D, page 9.)

Are clerk's fees deducted from each compensation award, and reported as revenue to the Metropolitan Government?

No. During our test work it was noted clerk fees were not consistently assessed on each amount awarded during FY 2008. During FY 2008 there were approximately \$224,267 in awards and only \$970 received in clerk fees. Based on the one percent (1%) clerk fee election, \$2,243 in fees should have been received, resulting in \$1,273 of fees that were not assessed. During FY 2006, we did not observe any clerk fees being assessed. (See Observation F, page 10.)

OBSERVATIONS AND RECOMMENDATIONS

A - Establish an Investment Policy Statement to Help Ensure Maximum Trust Account Earnings and Earnings Equity

Additional diligence is needed to ensure all victims' compensation trust account earnings are maximized. We were informed that the Juvenile Court Clerk's Office does not have a written investment policy statement for these accounts. The lack of a written policy has resulted in inconsistent interest earnings and missed investment opportunities across victims' compensation trust accounts. Out of the 559 active and closed trust accounts reviewed, we observed accounts invested in higher interest yield certificates of deposit (CD) and others primarily invested in lower yield checking or savings accounts. For example, out of 198 accounts sampled, the OIA estimates \$64,008 in potential investment opportunities were not realized for the three year period between July 2005 and July 2008 (See Exhibit A below.)

Exhibit A – Audit Sample Quantification of Potential Investment Opportunity

Account July 2005 Balance	Number of Accounts in Audit Sample	3 Year Period July 2005 through July 2008		
		JCC Actual Return	Investment Strategy: \$1,500 Base Account, Balance in CDs	Potential Investment Opportunity
Greater than \$10,000	18	\$8,450	\$30,116	\$21,666
\$5,001 to \$10,000	27	3,228	18,815	15,587
\$1,500 to \$5,000	153	5,763	32,518	26,755
Total	198	\$17,441	\$81,449	\$64,008

Note: Investment strategy assumption includes \$1,500 invested in a saving account with 1% annual return and the balance in Tennessee 6-month standard CDs. Rates used: June 2005 (2.6%); December 2005 (3.4%); June 2006 (4.7%); December 2006 (4.7%); June 2007 (4.4%); and December 2007 (3%). Source for CD interest rates is from www.BankRate.com, "Graph rate trends over time," for the Tennessee region.

Three closed accounts incurred bank service fees that were not credited back to the account prior to the dissolution of the trust. Bank service fees increased from \$633 to \$2,480 between fiscal year 2006 and 2008. Normally, these service fees were refunded when requested by the Juvenile Court Clerk. Regular reviews of account activity, such as bank reconciliations, would enhance the timely detection of incorrect bank service fees and would help minimize the reoccurrence of these fees.

Criteria:

Prudent Practice for Investment Stewards, Defining a Global Fiduciary Standard of Excellence for Investment Stewards, written by Fiduciary360 and technical review by American Institute of Certified Public Accountants.

Risk:

Inequity in maximizing juvenile victims' compensation account principal may occur because a written investment policy has not been established to provide guidance for the type of accounts and investment instruments to be used for these funds.

Recommendation:

To ensure consistent practices are applied to juvenile victims' compensation trust accounts and improve the handling of these accounts, the Juvenile Court Clerk should:

1. Collect, analyze, and review investment options based on initial award amount and the potential need for liquidity.
2. Implement a written investment policy that will identify the type of bank account or investment instruments needed to consistently maximize interest earnings. The policy should identify investment strategies based on initial award amounts and the potential need for liquidity. For example the investment policy could be stratified as follows:

Initial Award Amount	Encroachment Likelihood	Example Investment Strategy
> \$4,999	Within 1 year	Bank trust account \$1,500 and balance in 6-month CDs
> \$4,999	Over 1 year away	Bank trust account \$1,500 and balance in 12-month CDs
< \$5,000	Within 1 year	Savings account \$1,500 and balance in 6-month CDs
< \$5,000	Over 1 year away	Savings account \$1,500 and balance in 12-month CDs

3. Consult with the victim's parent or guardian to obtain an appreciation of their potential encroachment horizon.
4. When service fees are charged, continue the practice of working with banks to have the fees refunded in a timely manner.

B - Improve Juvenile Victims' Compensation Trust Account Record Keeping

Out of the 559 active and closed juvenile victims' compensation trust accounts reviewed, we observed the following issues related to trust account record keeping.

- One account's certificate of deposit valued at \$16,166, as of June 30, 2008, was not reflected in the Juvenile Court Clerk's or Metro's accounting records.
- Bank statements requested for accounts closed in FY 2006 (54 accounts) and FY 2007 (49 accounts) were not available for review by the Office of Internal Audit.
- Juvenile victims' compensation trust account bank statements were not reconciled on a regular basis.
- Accounts were spread out between 15 different banks, an unmanageable number of banking relationships for the current staff.
- Sixty-three accounts were listed as dormant resulting in fewer bank statements and the possibility of the funds escheating to the State of Tennessee's Unclaimed Property Division.

- Two disbursements for Juvenile Court Clerk's clerk fees from victim's accounts, \$75 and \$99, both from February 2007, had not been deposited in the Juvenile Court Clerk's "escrow" account as of January 1, 2009.
- No formal agreements exist between the banks and the Juvenile Court Clerk's Office.
- Bank name changes were not consistently updated on the manual ledger.
- Two accounts were found to be in the former Juvenile Court Clerk's name.

Criteria:

- County Technical Assistance Service (CTAS Reference) 2005 Retention Schedule Page 201, Section 15-005 and Page 202, Section 15-011
- Metro Record Retention Policy (financial records)
- COSO Internal Control, Integrated Framework

Risk:

When trust account records are not accurately maintained and reconciled, errors such as those listed above can occur, increasing the risk for misappropriating assets. Further, not conducting regular reconciliations can result in unauthorized activity going undetected.

Recommendation:

All financial records should be readily available and accurately maintained in order to ensure fulfillment of fiduciary responsibility and proper accounting for the victims' compensation trust accounts. To ensure consistent practices are applied to juvenile victims' compensation trust accounts and improve the handling of these accounts, the Juvenile Court Clerk should:

1. Develop a quality assurance process to ensure all funds are initially recorded in the Juvenile Court Clerk's and Metro's financial records.
2. Consolidate victims' compensation trust account banks to a limited number of banks. Using a smaller number of banks can greatly decrease the time and effort spent in accounting for each individual account.
3. Utilize online banking which can aid employees in determining what actual account balances are at a given point in time.
4. Improve safeguarding checks and cash by depositing clerk fees within two business days.
5. Retain juvenile financial records a minimum of five years for bank statements and ten years for cash books and cash journals as recommended by the Tennessee County Technical Assistance Service 2005 Retention Schedule.
6. Research the feasibility of implementing computer software specifically designed for trust accounting.

C - Improve Internal Controls for Safeguarding Juvenile Victims' Compensation Trust Accounts

The Juvenile Court Clerk's internal controls for managing juvenile victims' compensation trust accounts should be improved. Several expected internal control measures were missing in regards to properly safeguarding trust accounts. The audit identified the following concerns related to internal control measures.

- A lack of segregated duties exists as there is only one person responsible for the victims' compensation trust area.
- Account reconciliations were not documented and there was little evidence that they were conducted in a timely manner.
- There was no documentation of management review of trust accounts activity conducted on a recurring basis.
- The manual ledger file is only accessible by one employee.
- Checkbooks were issued on most of the trust accounts and were not properly safeguarded.
- Blank checks were found in one juvenile victim's trust account hard file.
- There is no log book or record maintained when a disbursement is picked up at the Juvenile Court Clerk's Office.

Criteria:

COSO Internal Control, Integrated Framework

Risk:

A weak internal control environment is more susceptible to risk of accounting errors, assets misused, revenues not maximized, funds misappropriated or program objectives not being achieved.

Recommendation:

The Juvenile Court Clerk should:

1. Establish a management quality assurance program that includes supervisory review of routine transactions and account reconciliations.
2. Ensure trust account reconciliations are performed and documented regularly.
3. Ensure checkbooks are not issued on trust fund accounts, or secure checkbooks in a secure location.
4. Safeguard check disbursements to ensure that they are in a secure location with limited access.
5. Establish a logbook to document delivery of checks to account holders.

D - A Uniform Auditable Process for the Disbursement of Funds Does Not Exist

While each disbursement tested was fully supported by a signed court order, it was noted that some disbursements were issued via account checkbook directly to the recipient, and one disbursement was made from the Juvenile Court Clerk operations account after a transfer from the escrow account.

Based on interviews with Juvenile Court Clerk personnel, all disbursements are to be supported by a signed court order issued by the Juvenile Court Judge. A copy of the court order is then sent to the bank requesting a cashier's check in the amount designated on the court order. The cashier's check is then sent back to the Juvenile Court Clerks office for distribution.

A consistent method for disbursements needs to be implemented in order to provide a proper chain of custody. Requesting disbursement through the financial institution represents an independent party, that verifies the approved court order and then issues a cashier's check to the Juvenile Court Clerk's Office.

Criteria:

COSO Internal Control, Integrated Framework

Risk:

Disbursements made through multiple checking accounts do not facilitate efficient management review of disbursement activity.

Recommendation:

The Juvenile Court Clerk should establish a formalized and documented process for the disbursement of funds from a minor's account. One methodology would be to send a letter to the bank with a copy of the court order requesting disbursement of funds. The bank would then issue a cashier's check in the amount listed on the court order but made payable to the *Juvenile Court Clerk, Trustee for the minor*. The bank would send the cashier's check to the Juvenile Court Clerk's office and Juvenile Court Clerk personnel would deposit the cashier's check into an "escrow" account. The Juvenile Court Clerk would then write a check off the escrow account in the amount and made payable directly to the payee as stated on the court order. This methodology would clearly demonstrate and fully document the transfer of funds from the financial institution, to the trustee, then finally to the payee as stated by court order. Additionally, management review would be easier by having only one account to monitor that reflects juvenile victims' trust account activity.

E - Efforts Are Not Being Made to Locate Account Holders Who Have Surpassed the Age of Majority

Victims' compensation trust accounts that are not claimed when the account holder reaches the age of majority should be resolved in a timely manner. While conducting fieldwork, it was noted that 23 accounts out of approximately 559 accounts or (4%) had surpassed the age of majority for a total of \$54,434 in funds. The account holders identified were between the

ages of 19 and 28 which could indicate that the account holder is not aware of the funds. According to interviews with Juvenile Court Clerk personnel, efforts are not currently being made to locate these account holders. Juvenile Court Clerk personnel should be aware of which account holders have reached the age of majority so their funds can be paid out in a timely manner and trust account liabilities will be reduced.

Criteria:

Tennessee Code Annotated (TCA) § 29-13-308 Termination of Trust, "Upon attaining eighteen (18) years of age, the minor may terminate the trust by submitting a written request therefore with the court clerk. The court clerk shall deliver to the minor all funds and interest income remaining in the trust within sixty (60) calendar days from the date of the request."

Risk:

Trust accounts should be dissolved in a timely manner. In some cases, if the account has no activity for a certain amount of time, the bank will flag the account as dormant and could possibly escheat the funds over to the State of Tennessee's Unclaimed Property Division.

Recommendation:

Currently the date of birth for each account holder is located in the hard file or accessible via the *JIMS* database. Adding a date of birth field for each account holder maintained in the manual ledger (Microsoft Excel spreadsheet) can assist Juvenile Court Clerk office personnel in quickly determining which account holders have exceeded the age of majority. This process could be conducted on an annual or semi-annual basis. If this is instituted, an attempt to contact them should be made and followed up on during the following year prior to the juvenile reaching the age of majority.

F - Ensure Juvenile Court Clerk's Clerk Fees are Consistently Assessed on Each Compensation Award

There does not appear to be a consistent basis for which accounts are assessed clerk fees. According to interviews with Juvenile Court Clerk personnel, the Juvenile Court Clerk has elected to take a one percent (1%) clerk fee on each victim's compensation award rather than the allowable five percent. The one percent fee is taken up front when the account is opened and is remitted to the Juvenile Court Clerk's office in the form of a cashier's check drawn off the bank where the account is opened. During our test work it was noted clerk fees were not consistently assessed on each amount awarded during FY 2008. During FY 2008 there were \$224,267 in awards and only \$970 received in clerk fees. Based on the one percent (1%) clerk fee election, \$2,243 in fees should have been received, resulting in \$1,273 of fees that were not assessed. During FY 2006, we did not observe any clerk fees being assessed.

Criteria:

TCA § 29-13-306 "The Juvenile Court Clerk shall be entitled to receive a flat fee not to exceed five percent of the total amount tendered into the court. The flat fee shall be deducted by the clerk from the compensation award."

Risk:

Inconsistencies in collecting clerk fees could result in complaints made by account holders as to why they were assessed a fee and others were not. Assessing the one percent clerk fee for the victims' compensation trust accounts results in Metro providing additional subsidy to administer these funds than would be necessary if the clerk fee was established at five percent, the maximum allowed by the Tennessee Code.

Recommendation:

The Juvenile Court Clerk should establish a clerk fee policy and consistently assess this fee for each victim's compensation award. Consideration should be given to establishing this fee at the five percent maximum allowed helping defray the overhead costs incurred in administering these accounts.

G - Ensure Juvenile Court Clerk's Fees and Account Balances are Recorded in Metro's Financial Records

Financial accounting for juvenile victims' compensation trust accounts could be improved. The following financial accounting concerns were observed:

Reporting of Clerk Fee Revenue

Juvenile Court Clerk's clerk fees deposited during FY 2007 and FY 2008, totaling \$7,270 and \$2,165 respectively, were not reported in Metro's financial records. Juvenile Court Clerk's records indicated a total of \$7,245 and \$970 was deposited in clerk fees for FY 2007 and FY 2008. Based on our compilation, using bank deposit detail reports, the amounts earned in the Juvenile Court Clerk's Office records were underreported by \$25 and \$1,195, respectively.

Uncleared "Escrow" Account Balance

The Juvenile Court Clerk's fees are deposited in an account at First Tennessee Bank, which is referred to by Juvenile Court Clerk's staff as an "escrow" account. As of December 1, 2008, the cumulative balance in the escrow account totaled \$78,049. Based on our review, at least \$9,435 of the current balance in the "escrow" account consists of clerk fees. With the exception of one victim's compensation award, in the amount of \$4,670, the Juvenile Court Clerk's Administrator was not able to identify the source of the remaining \$63,944 balance. This amount could potentially be a cash asset or liability for Metro.

We did not find any activity on the account other than routine deposits of clerk fees and one online banking transfer of \$3,000 to the Juvenile Court Clerk's operating account. The \$3,000 transfer was made to facilitate the disposition of one account that was retained in the "escrow" account because the victim's social security number was not available to establish a bank account.

"Escrow" Account Cash Balance Not Reported in FY 2007 Financial Report

While reviewing the bank statements for the escrow accounts for fiscal years 2007 and 2008, it was noted that the Juvenile Court Clerk's office switched banks (Regions Bank to First Tennessee Bank) with the Regions Bank account being closed out for \$70,856, on June 22, 2007. However, the funds were not deposited at First Tennessee Bank until August 9, 2007, a period of

six weeks. Because the closing of the account occurred prior to fiscal year end, the amount of the cashier's checks \$70,856 was not reflected in Metro's FY 2007 Comprehensive Annual Financial Report under Juvenile Court Clerk "cash and cash equivalents assets." Through inquiry with Metro's external auditor we determined this "escrow" account was included in Metro's FY 2008 and FY 2006 Comprehensive Annual Financial Report.

Understated Victims' Trust Fund Balances

Metro's Comprehensive Annual Financial Report fund balances for victims' compensation funds held in trust were understated by \$18,541, \$21,122, and \$19,094 for 2006, 2007, and 2008, respectively. The Juvenile Court Clerk victims' compensation funds manual ledger (Microsoft Excel spreadsheet) was missing one certificate of deposit. Furthermore, interest accrual entries for year end financial reporting were not recorded in the manual ledger for dormant accounts and certificate of deposits maturing with maturity dates that do not coincide with Metro's June 30 fiscal year end.

Criteria:

Generally accepted accounting principles direct that governmental funds recognize revenues when they become measurable and available to finance expenditures of the fiscal period. Additionally, these principles require financial assets and liabilities be properly reported.

Risk:

Failing to capture and record all transactions can result in unreliable financial reports resulting in management decisions being made with inaccurate information.

Recommendation:

The Juvenile Court Clerk should:

1. Record clerk fees in Metro's EBS financial reporting system and directly deposit these into Metro's General Fund bank account.
2. Research the source of inflows for the "escrow" account and coordinate with Metro's Finance Department to determine if additional accounting entries are required in Metro's EBS financial reporting system or if the account balance should be recouped into the General Fund.
3. Ensure certificate of deposits and interest accruals are recorded for Metro's fiscal year end financial reporting.

GENERAL AUDIT INFORMATION

STATEMENT OF COMPLIANCE WITH GAGAS

We conducted this performance audit from November 2008 to January 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives. Our audit included tests of management controls that we considered necessary under the circumstances.

SCOPE AND METHODOLOGY

The audit period focused primarily on the period July 1, 2006 through June 30, 2008 financial balances, transactions, and performance on the processes in place during the time of the audit.

The methodology employed throughout this audit was one of objectively reviewing various forms of documentation, including written policies and procedures, financial information and various forms of data, reports and information maintained by the Juvenile Court Clerk administrative office. Management, administrative and operational personnel, as well as personnel from other Metro departments and other stakeholders were interviewed, and various aspects of the Juvenile Court Clerk's office were directly observed.

CRITERIA

In conducting this audit, the existing processes and controls in place pertaining to victims' compensation funds held in trust at the Davidson County Juvenile Court Clerk's office were evaluated for compliance with:

- Tennessee Code Annotated § 29-13-308 and 29-13-306
- County Technical Assistance Service (CTAS Reference) 2005 Retention Schedule Page 201, Section 15-005 and Page 202, Section 15-011
- COSO Internal Control, Integrated Framework
- Prudent Practice for Investment Stewards, Defining a Global Fiduciary Standard of Excellence for Investment Stewards, written by Fiduciary360 and technical review by American Institute of Certified Public Accountants

STAFF ACKNOWLEDGEMENT

Carlos Holt, CIA, CFE, CGAP - Audit Manager
Jane Terry, CFE - In Charge Auditor
Sharhonda Terrell, MPA - Staff Auditor

APPENDIX A. MANAGEMENT RESPONSE

- Management's Responses Starts on Next Page -

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



VIC LINEWEAVER
JUVENILE COURT CLERK

JUVENILE JUSTICE CENTER
100 WOODLAND STREET
NASHVILLE, TENNESSEE 37213
(615) 862-7980

March 27, 2009

Mr. Mark Swann
Metropolitan Auditor
Office of Internal Audit
222 3rd Avenue North, Suite 401
Nashville, TN 37201

Re: Audit of Victim's Compensation Trust Account

Dear Mr. Swann,

This letter is to acknowledge receipt of the report entitled "Audit of the Juvenile Court Clerk Victims' Compensation Trust Account Management." Our department has reviewed the observations and recommendations from the report and has made several changes in line with the audit to improve how we manage these accounts. I am most proud of the observation by the audit team that they found no inappropriate disbursements or misuse of funds. This is especially important in today's climate of public distrust of government and elected officials.

Since my election in 2002, more than five audits of the Clerk's office have been conducted; however, this is the first one to analyze the Victims' Compensation account in such detail. Constructive critiques such as those provided by periodic audits are always helpful in our endeavor to serve the public.

We appreciate the courtesy and professionalism shown by you and your staff during this process. We have implemented several items pertinent to our operations and will add others as soon as possible. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Vic Lineweaver", written over a circular stamp or seal.

Vic Lineweaver, Juvenile Court Clerk

printed on recycled paper

**Audit of the Juvenile Court Clerk Victim's Compensation Trust Account Management
Management Response to Audit Recommendations - March 31, 2009**

Audit Recommendation	Response to Recommendation / Action Plan	Assigned Responsibility	Estimated Completion
<p>A.1 Collect, analyze, and review investment options based on initial award amount and the potential need for liquidity.</p> <p>A.2 Implement a written investment policy statement that will identify the type of bank account or investment instruments needed. The investment policy should identify investment strategies based on initial award amounts and the potential need for liquidity.</p> <p>A.5 Consult with the victim's parent or guardian to obtain an appreciation of their potential encroachment horizon.</p> <p>A.4 When service fees are charged, continue the practice of working with banks to have the fees refunded in a timely manner.</p>	<p>Partially Agree. We concur with the recommendation with modifications. We will follow the investment strategies listed in the findings for all accounts over \$5,000. It is important to note that approximately 85% of the trust accounts established with the court are equal to or below \$3000 and are placed in money market accounts that yield a higher rate than a passbook savings.</p>	<p>Bookkeeping</p>	<p>Immediately on new accounts and 120 days on old accounts.</p>
<p>B.1 Develop a quality assurance process to ensure all funds are initially recorded in the Juvenile Court Clerk's and Metro's financial records.</p> <p>B.2 Consolidate victim's compensation trust account banks to a limited number of banks. Using a smaller number of banks can greatly decrease the time and effort spent in accounting for each individual account. Utilize online banking which can aid employees in determining what actual account balances are at a given point in time.</p> <p>B.3 Improve safeguarding checks and cash by depositing clerk fees within two business days.</p> <p>B.4 Retain juvenile financial records a minimum of five years for bank statements and ten years for cash books and cash journals as recommended by the</p>	<p>Agree. We concur with the recommendations. We are in the process of establishing banking relationships to get the maximum rate on deposits and consolidating the accounts to a maximum of five banks.</p>	<p>Management/Bookkeeping</p>	<p>120 days.</p>

**Audit of the Juvenile Court Clerk Victims' Compensation Trust Account Management
Management Response to Audit Recommendations - March 31, 2009**

Audit Recommendation	Response to Recommendation / Action Plan	Assigned Responsibility	Estimated Completion
<p>Tennessee County Technical Assistance Service 2005 Retention Schedule.</p> <p>B.5 Research the feasibility of implementing computer software specifically designed for trust accounting.</p>			
<p>C.1 Establish a management quality assurance program that includes supervisory review of routine transactions and account reconciliations.</p> <p>C.2 Ensure trust account reconciliations are performed and documented regularly.</p> <p>C.3 Ensure checkbooks are not issued on trust fund accounts, or secure checkbooks in a secure location.</p> <p>C.4 Safeguard check disbursements to ensure that they are in a secure location with limited access.</p> <p>C.5 Establish a logbook to document delivery of checks to account holders.</p>	<p>Agree. We concur with the recommendations. The accounts are now in an excel spreadsheet that can be accessed on a shared drive which makes access easier for more than one employee to review. Two employees in the bookkeeping department, along with the designated administrator will have access to the drive to post the necessary entries and for management to review as necessary. All bank statements are entered and reconciled within 48 hours of receipt in the office to ensure that current balances are maintained.</p> <p>All checkbooks to the trust accounts will be destroyed and banks will be notified not to issue any checks on these accounts. A logbook has been established for each individual to sign to verify receipt of checks.</p>	Management/Bookkeeping	90 days.
<p>D.1 The Juvenile Court Clerk should establish a formalized and documented process for the disbursement of funds from a minor's account. One methodology would be to send a letter to the bank with a copy of the court order requesting disbursement of funds. The bank would then issue a cashier's check in the amount listed on the court order but made payable to the <i>Juvenile Court Clerk, Trustee for the minor</i>. The bank would send the cashier's check to the Juvenile Court Clerk's office and Juvenile Court Clerk personnel would deposit the cashier's check into an "escrow" account. The Juvenile Court Clerk would then write a check off the</p>	<p>Partially Agree. We concur with the recommendations with modifications. As stated in the audit, all disbursements are fully supported by a signed court order. It is important to note that funds are not always directed to the party, parent or legal guardian. For example, if the child needs a new computer, the order may state the check should be issued to a specific vendor.</p> <p>Some disbursements were made out of checkbooks directly to recipients per the court order in cases where checkbooks were available and the money was needed expeditiously. A copy of all checks</p>	Management/Bookkeeping	Already in place.

**Audit of the Juvenile Court Clerk Victims' Compensation Trust Account Management
Management Response to Audit Recommendations - March 31, 2009**

Audit Recommendation	Response to Recommendation / Action Plan	Assigned Responsibility	Estimated Completion
<p>escrow account in the amount and made payable directly to the payee as stated on the court order. This methodology would clearly demonstrate and fully document the transfer of funds from the financial institution, to the trustee, then finally to the payee as stated by court order. Additionally, management review would be easier by having only one account to monitor that reflects juvenile victims' trust account activity.</p>	<p>issued is made and are maintained in the trust file along with the court order.</p> <p>With all checkbooks now destroyed and checks issued by the bank as ordered by the court, the process will insure a uniform process for disbursement of funds.</p>		
<p>E.1 Currently the date of birth for each account holder is located in the hard file or accessible via the <i>JIMS</i> database. Adding a date of birth field for each account holder maintained in the manual ledger (Microsoft Excel spreadsheet) can assist Juvenile Court Clerk office personnel in quickly determining which account holders have exceeded the age of majority. This process could be conducted on an annual or semi-annual basis. If this is instituted, an attempt to contact them should be made and followed up on during the following year prior to the juvenile reaching the age of majority.</p>	<p>Agree. We concur with the recommendations. All account holders currently over the age of majority have been noted. The last known addresses were located in the individual trust file or in the <i>JIMS</i> database used by the court. A certified letter has been mailed to the last known address. We have been able to locate 8 of the respondents via certified mail thus far. Some of the account holders were in the custody of the Department of Children's Services and have no idea that the accounts exist. DCS has been contacted and have been given a list of these individuals and will provide us with the last known addresses for verification. Two account holders have been adopted and there is no current information in the system. Upon notification the proper paperwork will be mailed or issued to ensure that the accounts are dissolved through the proper channels. Funds held on account holders that cannot be located will be forwarded to the State of Tennessee Division of Unclaimed Property.</p>	<p>Bookkeeping</p>	<p>60 days.</p>
<p>F.1 The Juvenile Court Clerk should establish a clerk fee policy and consistently assess this fee for each victim's compensation award. Consideration should be given to establishing this fee at the five percent maximum allowed helping defray the overhead costs incurred in administering these accounts.</p>	<p>Partially Agree. As stated in the audit, the Juvenile Court Clerk elected to take a 1% flat fee on each award. The TCA says that the Clerk is entitled to a fee not to exceed 5%. Since this is taking money away from the child, we elected to take a lower amount. This does not affect the amount of money in the budget provided by Metro to operate</p>	<p>Management</p>	<p>Already in place.</p>

**Audit of the Juvenile Court Clerk Victims' Compensation Trust Account Management
Management Response to Audit Recommendations - March 31, 2009**

Audit Recommendation	Response to Recommendation / Action Plan	Assigned Responsibility	Estimated Completion
	<p>the office or maintain the accounts.</p> <p>A form letter is sent to the bank along with the check, petition and order to set up each account. In the letter, it states that the 1% should be deducted from each account and returned to the clerk along with the necessary paperwork setting up the account. Currently, the banks are in compliance with the letter and are forwarding the clerk's fees to our office.</p>		
<p>G.1 Record clerk fees in Metro's EBS financial reporting system and directly deposit these into Metro's General Fund bank account.</p> <p>G.2 Research the source of inflows for the "escrow" account and coordinate with Metro's Finance Department to determine if additional accounting entries are required in Metro's EBS financial reporting system or if the account balance should be recouped into the General Fund.</p> <p>G.3 Ensure certificate of deposits and interest accruals are recorded for Metro's financial reporting fiscal year end.</p>	<p>Agree. We concur with the recommendations. The revenue collected for clerk's fees are in the process of being recorded in Metro's financial records. Measures are now in place to obtain the balance on accounts currently being held in certificate of deposits or in accounts where statements are sent at the end of the fiscal year.</p> <p>We are in the process of reviewing the escrow account and will coordinate with the Finance Department for any necessary accounting entries into EBS or the General Fund.</p>	<p>Bookkeeping</p>	<p>120 days.</p>