
**INTERNAL AUDIT DIVISION
CLERK OF THE CIRCUIT COURT**

**AUDIT OF
COURT APPEARANCE BONDS**

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Clerk of the Circuit Court
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The Honorable Karleen F. De Blaker
Clerk of the Circuit Court

We have conducted an audit of court appearance bonds processed by the Circuit Criminal Records section of the Clerk of the Circuit Court's Office. Our audit objectives were to evaluate internal controls, determine the accuracy of information on the Bond Reconciliation system, verify documents were recorded as appropriate, and verify compliance with applicable laws, policies, and procedures.

We have concluded that balance information reported on the Accounts Receivable portion of the Bond Reconciliation System appears to be accurate; however, there are many invalid records on the bond system. There appear to be adequate internal controls over all areas except supersedeas bonds, which are not tracked or reconciled to the amount of cash held by the Clerk of the Circuit Court. The proper documents were being recorded; however, they were not being recorded against all parties as required by statute. Applicable laws, policies and procedures were complied with except for the distribution of some fees. Opportunities for improvement are presented in this report.

We appreciate the cooperation shown by the staff of the Circuit Criminal Records section of the Clerk of the Circuit Court's Office during the course of this review.

Respectfully Submitted,

Robert W. Melton, CPA, CIA, CFE
Chief Deputy Director
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EXECUTIVE SUMMARY

We have conducted an audit of court appearance bonds processed by the Circuit Criminal Records section of the Clerk of the Circuit Court's Office. The Sheriff's Office maintains cash and surety bonds for criminal and traffic cases until they are released or estreated. We did not audit the Sheriff's Office.

Our audit objectives were to evaluate internal controls, determine the accuracy of information on the Bond Reconciliation System, verify documents were recorded as appropriate, and verify compliance with applicable laws, policies, and procedures.

During 1999 and 2000, \$151,715 was erroneously deducted from bond estreatures and distributed to the state instead of being retained by Pinellas County. These fees have apparently been erroneously deducted since 1983, when the statute was changed because the previous statute was declared unconstitutional. We recommended the Chief Deputy Director seek recovery from the state for all previous years as far back as allowed by law. We also noted a \$3 fee was being deducted from each bond estreature for support of the Teen Court, which is not authorized by state law.

Bail bonds have been executed by sureties that have unpaid judgments entered against them, which is not allowed by state law. We found that three surety companies were allowed by law enforcement to execute more than \$24 million in bonds that would not have been allowed if state law were followed.

A \$2 fee was collected for Criminal Justice Education on all county and municipal ordinance violations regardless of whether the defendant appeared in court. This is in violation of Administrative Orders, which require a court appearance for the fee to be assessed. During the year ended September 30, 2000, a total of \$10,892 was erroneously collected.

During our audit, we noted that judgments and notices are not made to the proper parties. Judgments were being recorded against the surety company and the defendant, instead of the surety company and the bond agent as the law requires. Also, we noted that the notice of appearance and notice of estreature were being sent only to the agency, and not the agent.

Bond forfeitures are not being discharged in a timely manner. Of 30 bonds reviewed that were identified as pending, five should have been released because a court order had been received. Four were pending due to filing of an affidavit. For the three of the four that have now been released, it took from 108 to 332 days to receive authorization from the County Attorney's Office to release them. As of December 1, 2000, more than \$2.2 million in bonds were identified as pending.

The Bond System is not reconciled to the Sheriff's system. We identified an estimated 1,418 invalid, open bonds.

We identified 170 property bonds being held as open even though the criminal case has been closed. All but 12 of them were posted more than seven years ago, which should have been re-recorded to remain a lien on the property.

Of 37 civil cases reviewed, 30 had no order issued that addressed the bond, and 10 of the 30 had no activity on the bond or the underlying charge that led to the individual's posting of the bond.

In total, our report contains 15 recommendations for improvement. Management concurred with all of our recommendations and indicated that appropriate actions would be taken.

Scope and Methodology

We have conducted an audit of court appearance bonds processed by the Clerk of the Circuit Court. The objectives of our audit were to:

- 1) determine the accuracy of information reported on the Bond Reconciliation System;
- 2) evaluate internal controls over the bond process;
- 3) verify that documents are recorded as appropriate; and
- 4) verify compliance with applicable laws, policies and procedures.

To meet these objectives, we reviewed the Clerk of the Circuit Court's compliance with applicable laws, rules, policies and procedures regarding court appearance bonds. Specific testing was performed regarding the issuance of required notifications as well as compliance with authorized fees. We tested the reliability of the Bond Reconciliation System for items included during the audit period of October 1, 1999, through August 31, 2000. This was accomplished through 1) testing of accounts receivable balances; 2) testing bonds over 36 months old that were showing as open to determine if they should still be open; and 3) testing the accuracy of civil court cases on the system. We evaluated internal controls by reviewing the processes for accepting, monitoring, and releasing property bonds and supersedeas bonds by Circuit Criminal Court Records. To determine if documents were recorded properly we performed tests on judgments entered and satisfactions of judgments prepared during the audit period. We performed such other procedures as considered necessary under the circumstances. Transactions and processes reviewed were not limited by the audit period.

Appearance bonds are normally received by the Sheriff. Our audit did not include examination of any of the Sheriff's controls, policies, procedures, or transactions.

Overall Conclusion

Balance information reported on the Accounts Receivable portion of the Bond Reconciliation System appears to be accurate; however, there are many invalid records on the bond system. There appear to be adequate internal controls over all areas except supersedeas bonds, which are not tracked or reconciled to the amount of cash held by the Clerk of the Circuit Court. The proper documents were being recorded; however, they were not being recorded against all parties as required by statute. Applicable laws, policies and procedures were complied with except for the distribution of some fees.

Our audit disclosed some opportunities for improvement. Those opportunities are presented in this report.

Background

Circuit Criminal Court Records is responsible for tracking bonds posted on all circuit and county criminal cases, traffic cases, and appeals. The Pinellas County Sheriff's Office maintains the cash and surety bonds for criminal and traffic cases until they are notified by Circuit Criminal Court Records to release the bond or that it has been estreated. If a defendant fails to appear for a hearing, the court will usually estreat the bond and have a warrant issued for their arrest. Upon notification of the court's order to estreat the bond, the Sheriff's office will send the original surety bond or the amount of the cash bond to the Clerk of the Circuit Court. The cash bonds are distributed in accordance with state statute and applicable county ordinances. Collection of the face amount of surety bonds, plus any applicable costs, is performed in accordance with state statute by Circuit Criminal Court Records.

Circuit Criminal Court Records maintains the original surety bonds posted on cases that are on appeal. If a cash bond is posted on an appeal, it is deposited with the Clerk of the Circuit Court until its release is ordered by the court.

Property bonds are also maintained by Circuit Criminal Court Records. The County Attorney reviews the affidavits and bonds prior to submission to the court. The court must issue an order authorizing the posting of a property bond. These bonds are then recorded in Official Records to serve as a lien on the real property. The court must order the release of a property bond.

Our audit disclosed certain policies, procedures, and practices that could be improved. Our audit was neither designed nor intended to be a detailed study of every relevant system, procedure or transaction. Accordingly, the opportunities for improvement presented in this report may not be all-inclusive of areas where improvement may be needed. Responses have been received from the Chief Deputy Director, Court and Operational Services Divisions, and are incorporated herein.

1. Receipts Were Distributed Erroneously And Without Statutory Authorization.

We noted the following concerns regarding fees deducted from payments received on bond estreatures:

- A. During 1999 and 2000, a total of \$151,715 was distributed by the Clerk's office to the State of Florida erroneously. A 5% fee is being deducted from each bond estreature. The fee is sent to the State of Florida for the Crimes Compensation Trust Fund. This deduction is being made based upon Section 938.04, Florida Statutes. However, the application of that statute to bail bonds was declared unconstitutional by the Florida Supreme Court on April 30, 1981, and the statute was changed effective June 24, 1983. Apparently, the Clerk's office has been erroneously distributing these monies to the State of Florida since that time. This represents funds that should have been retained in Pinellas County's Fine and Forfeiture Fund for the purpose of paying criminal expenses, fees and costs. At the end of the fiscal year, any surplus in the County's Fine and Forfeiture Fund is transferred to the County's General Fund. As a result of the erroneous distributions, the State of Florida owes these funds to Pinellas County.

- B. A \$3 fee is being deducted from bond estreatures for support of the Teen Court. The source of funding for Teen Court is provided by Section 938.19(1), Florida Statutes, and Pinellas County Ordinance 99-83. The fee is assessed against every person who pleads guilty or nolo contendere to a state criminal statute, municipal or county ordinance, or pays a fine or civil penalty for a traffic violation. The statute and ordinance do not state that the fee should be taken from money received from a bond estreature. During the audit period, approximately \$3,600 was deducted from estreated bonds and distributed to the Board of County Commissioners for the Teen Court, and \$200 was deducted as fee income for the Clerk of the Circuit Court.

We Recommend the Chief Deputy Director:

- A. Cease deducting fees for the Crimes Compensation Trust Fund on bond estreatures. Additionally, the Chief Deputy Director should seek recovery from the state for the \$151,715 and payments made in prior years to the extent allowed by law. An agreement should be made with the State regarding the amount to be recovered and the methodology (either a refund or withholding from future distributions to the State).
- B. Cease assessing the fee for Teen Court on bond estreatures.

Chief Deputy Director's Response:

We concur. Funds have been diverted to state agencies inadvertently, and we are in the process of thoroughly researching this issue to correct this situation.

2. Bail Bonds Have Been Executed By Sureties In Violation Of State Law.

Bonds have been executed by surety companies that have unpaid judgments entered against them. After a judgment has been entered, a bail bond agent has 35 days and a surety company 50 days to satisfy the judgment. Prior to June 8, 1999, they had 60 and 75 days, respectively. The following surety companies had unpaid judgments as of the end of the audit period.

<u>Insurance Company</u>	<u>Oldest Judgment Date</u>	<u>Required Satisfaction Date</u>	<u>Subsequent Bonds Executed Number</u>	<u>Value</u>
Amwest Surety	4/19/1999	7/3/1999	4,140	\$15,839,207
Bankers Insurance	1/21/1999	4/6/1999	2,925	\$ 7,454,763
Continental	11/22/1999	1/11/2000	<u>223</u>	<u>\$ 931,296</u>
TOTAL			7,288	\$24,225,266

As identified in the table, bonds of more than \$24 million have been executed even though judgments were outstanding. There were six judgments against Amwest Surety at the end of the audit period. One still remained unsatisfied as of December 31, 2000. There are seven judgments against Bankers Life Insurance; all were still outstanding as of December 31, 2000. Continental Heritage had two judgments. One was paid on October 4, 2000, and the other was paid on October 5, 2000.

It is the responsibility of law enforcement to refuse acceptance of a bail bond from a surety company or agent with an outstanding judgment. Currently, the Clerk's office provides the Sheriff with two copies of the judgment, a copy of the Certificate of Non-Satisfaction, and a Writ of Execution once the statutory period

for making payment has lapsed. This provides the statutory notice that the surety company and bail bond agent should no longer execute bonds.

If the judgment is paid or vacated, the Sheriff's office is to be notified immediately. The Clerk's staff indicated that they send the Sheriff's office a copy of any Certificates of Satisfaction or Orders to Vacate; however, this is not shown on the case or bond docket, nor is it on the forms. There is no documented evidence that the Sheriff's office has been notified that the Judgment and Writ of Execution has been satisfied or rescinded. To ensure the Sheriff's office has all necessary information to fulfill its responsibilities regarding acceptance of bonds, the Clerk's office should provide periodic reports to the Sheriff identifying all Pinellas County unpaid judgments.

It should be noted that we researched judgments only in Pinellas County. It is possible, if not likely, that these sureties or other sureties have judgments in other Florida counties which should preclude their execution of bail bonds. We are not aware of any statewide tracking system to readily identify such.

We Recommend Circuit Criminal Court Records provide the Sheriff's office with a periodic report that lists all agents and surety companies with unpaid judgments. There also should be documentation that the Sheriff's office is provided notification when a judgment is satisfied or vacated. In addition, we recommend the Clerk of the Circuit Court notify the Florida Association of Court Clerks of the need for statewide tracking and coordination.

Chief Deputy Director's Response:

We concur. Some bonds have been posted by bondsmen no longer authorized to write bonds for surety companies with unpaid judgments. We have taken further steps to inform the Sheriff's Office of all unpaid judgments.

3. Costs Were Not Deducted In Accordance With Administrative Orders; However, Administrative Orders Apparently Did Not Comply with State Law.

Administrative Order 98-07, effective October 1, 1998, and Administrative Order 99-04, effective January 1, 2000, were issued to establish the fines and costs to be assessed on county and municipal ordinance violations. We noted the following concerns regarding the costs assessed and collected:

- A. The Administrative Orders allow a \$2 fee for Criminal Justice Education for Local Government. This fee is allowed by Section 938.15, Florida Statutes. The Administrative Orders have added a requirement that the fee be orally announced by the court and cannot be assessed if there is no court appearance. Two dollars is being charged on all payments paid on county and municipal ordinance violations regardless of whether the defendant

appeared in court. When there was no court appearance, the \$2 should not have been collected from the defendant. The distribution to Criminal Justice Education for Local Government is in violation of the Administrative Orders. During the fiscal year ended September 30, 2000, \$10,892 was collected.

- B. The Administrative Orders both state that costs assessed on county and municipal ordinance violations should include \$1 for the Child Welfare Training Trust Fund and \$1 for the Juvenile Justice Training Trust Fund. Costs for these trust funds are not being deducted. The statute authorizing these fees does not apply to county and municipal ordinance violations. Therefore, if the fees had been deducted, it would have been a violation of state statutes. Prior to this audit, the disparity between the statute and the Administrative Order apparently had not been brought to the court's attention.

As a result of our audit, Administrative Order 01-01 was issued on January 12, 2001. This order eliminates the \$1 fee for Child Welfare Training Trust Fund and the \$1 for Juvenile Justice Training Trust Fund. The \$2 fee for Criminal Justice Education for Local Government remains a discretionary cost conditional upon a court appearance and the fee being orally announced in court. Unless these conditions are met, the \$2 should not be collected from the defendant. This should be brought to the attention of law enforcement so they do not continue to include the \$2 in the fine amount written on the Complaint/Arrest Affidavit.

We Recommend the Chief Deputy Director:

- A. Work with the court to remove the additional requirements of a court appearance and oral announcement of the fee for Criminal Justice Education for Local Government by the court. If a change in the Administrative Order is not possible, the Clerk should ensure that law enforcement is aware that \$2 of the costs on county and municipal ordinance violations are at the discretion of the court and should not be included in the amount written on the Complaint/Arrest Affidavit.
- B. Immediately notify the court of any conflicts between Administrative Orders and state law.

Chief Deputy Director's Response:

We concur. Administrative Order 01-01 has been revised, and law enforcement has been notified of the dollar amount to be assessed.

- 4. **Judgments Are Not Entered And Notices Are Not Sent To The Proper Parties.**

Chapter 903, Florida Statutes, sets the procedures to be followed when bail is posted. When an appearance is required of the defendant, Section 903.26(1), Florida Statutes, requires that the Clerk of the Court give the surety at least 72 hours notice. If the defendant does not appear and the judge estreats the bond, Section 903.26(2), Florida Statutes, requires the Clerk of the Court to mail a notice to the surety agent and surety company within 5 days of the forfeiture. The surety then has 60 days (35 days if it was prior to June 8, 1999) to pay the forfeiture or have the forfeiture discharged. If they do not, the Clerk of the Circuit Court shall then enter a judgment against the surety in accordance with Section 903.27(1), Florida Statutes.

The Florida Department of Insurance stated that when the term "surety" is used in the statutes, it refers to the surety (insurance) company and the bail bond agent. If the statute applies only to the surety company or only to the bail bond agent, they are specifically identified. Chapter 648, Florida Statutes, defines an agent and an agency. An agent is an individual. An agency is "any business location at which a licensed and appointed bail bond agent engages in any activity or employs individuals to engage in any activity which by law may be performed only by a licensed and appointed bail bond agent."

During our audit, we noted the notice of appearance and notice of estreature were being sent only to the agency, and not the agent. The notice of appearance and notice of estreature should be sent to the surety company and the bail bond agent.

Similarly, when a judgment is entered, it should be entered against the surety company and the agent. We noted that only the surety company is identified within the body of the judgment. Prior to October 24, 2000, the judgment was recorded in Official Records only against the surety company and the defendant; it was not recorded against the agent. As of October 24, 2000, Official Records began recording the judgment against "all parties listed at the top of the judgment." However, it still is not being recorded against the agent because the agency name is shown in the area labeled "Agent." The agent also is not being included in the body of the judgment. The Official Records index reflects the judgment is recorded against the defendant, even though the statute does not authorize recording it against the defendant.

All of these documents are created using information from the Criminal Justice Information System and Bond Reconciliation System. When the Sheriff's staff establishes the bond record, they enter information on the surety company, bail bond agency and the bail bond agent. All of this information is printed on the bond cards that the Sheriff's office prepares and sends to Circuit Criminal Court Records. When the data is electronically transferred, information on the agent is not being received. Therefore, any time the agent name should be used, the agency is being listed instead.

We Recommend the Chief Deputy Director work with MIS to have the agent information transferred from the Sheriff's computer system. Once the agent information is available, the programming should be corrected so that the agent name is incorporated into the documents as appropriate. In the meantime, the documents should be corrected so they are sent and entered against those parties as set out by state law.

Chief Deputy Director's Response:

We concur. Procedures are now in place so that judgments will be entered against the agent and surety company.

5. Cash Supersedeas Bonds Are Not Reconciled With Cash On Deposit.

Supersedeas Bonds are posted on cases on appeal. Cash and surety supersedeas bonds are deposited directly with the Clerk of the Circuit Court through Circuit Criminal Court Records. Cash bonds are forwarded to Customer Service for deposit. The Appeals/Expungment Section has file boxes where an index card is kept on all cases that are on appeal. The amount of the bond is noted on the index card; however, there is no indication of whether it is a cash or surety bond. No supersedeas bonds are entered into the Bond Reconciliation System. We noted the following concerns regarding this system for documenting supersedeas bonds:

- A. No efficient way exists to reconcile the cash supersedeas bonds posted to what is being held per Clerk's Accounting. The cards do not indicate if it is a cash or surety bond. Since they are not entered on the Bond Reconciliation System, there is no report that can be generated by the system to aid in reconciliation. Currently there is no reconciliation performed. Consequently, we reach no conclusion regarding the accuracy of these records or the adequacy of cash bonds on hand.
- B. There is no mechanism for tracking the status of supersedeas bonds. There were seven cash bonds identified that should have been released based on an order issued April 21, 1998. On July 31, 1991 the court ordered the estreatment of a \$7,000 cash bond on Case 90-02837CFANO. The bond had not been estreated as of October 19, 2000, over 9 years later.
- C. There is interest that was earned on supersedeas bonds that has not been paid out, even though the principal amount of the bond was refunded. Clerk's Accounting will not release any interest earned on the bond until a completed W-9 is received from the depositor. There were 12 cash bonds released from April 21, 1992, through November 8, 1999, that did not have

the interest released. The interest on these 12 bonds totals \$909.91. No follow-up work is performed on requests for W-9's.

Section 717.113, Florida Statutes, governs the handling of unclaimed funds. It states that all intangible property held for the owner by any court, government or governmental subdivision or agency that has remained unclaimed by the owner for more than one year after it became payable or distributable is presumed abandoned. The unclaimed interest should be treated as unclaimed and disbursed in accordance with state statute. Section 717.117, Florida Statutes, requires that the holder of property presumed abandoned send written notice to the apparent owner at their last known address informing them of the property prior to disbursement to the State of Florida.

We Recommend that Circuit Criminal Court Records :

- A. Establish a system for tracking supersedeas bonds that will allow for the reconciliation of their records to Clerk's Accounting. Bond records should be reconciled on a routine, periodic basis.
- B. Establish a mechanism for tracking all supersedeas bonds and allow for periodic review to ensure orders are not missed.
- C. Follow-up on requests for W-9's where possible, and ensure that any unclaimed funds are treated in accordance with state law.

Chief Deputy Director's Response:

We concur. We will request programming to track supersedeas bonds, which will replace the manual system.

6. Forfeitures Are Not Being Discharged In A Timely Manner.

At the beginning of every month, Circuit Criminal Court Records prints a report titled 'Bond A/R Motion Pending - Over 30 Days.' This report lists all bonds that had a Motion to Set Aside Estreasure, Motion to Discharge Forfeiture, or Affidavit of Surety filed more than 30 days prior. When one of these three documents is filed, the bond is marked as pending to prevent it from going to judgment. This report is sent to Court Services who then forwards it to the County Attorney. Circuit Criminal Court Records does not perform a consistent or complete review of the bonds listed on the report.

The motions require an order from the court to set aside or discharge the estreasure, or an order denying the motion. Where an Affidavit of Surety is filed,

the defendant has been turned into the Pinellas County Jail, and the bail bond agent pays the appropriate fees. Section 903.26(8), Florida Statutes, states that the Clerk of the Court will discharge the forfeiture of a bond once an affirmation is received that the defendant has been arrested and returned to the county and the required fee paid. Internal procedures have been established that require the authorization of the County Attorney be obtained prior to Circuit Criminal Court Records releasing the bond.

Of 30 items reviewed from the August 1, 2000, pending report, four were pending due to the filing of an affidavit. Three of the four were released prior to completion of field work on our audit. It took from 108 to 332 days to receive authorization from the County Attorney's office to release them. The fourth affidavit was filed on October 8, 1999. The court case was disposed of as of January 7, 2000. Authorization to discharge the forfeiture is still pending from the County Attorney's office. These cases should be specifically addressed by management since the Clerk has been given the statutory responsibility to discharge forfeitures where an affidavit is filed. On the report in its present format, bonds pending an affidavit are not separated from those pending a motion that requires an order from the court.

Among the 30 items reviewed, five should have been released because a court order had been received. The oldest order was received on December 13, 1999; the most current order to release was on August 4, 2000. One bond that still appeared as pending was ordered reinstated on July 7, 1998.

A periodic review of this report by Circuit Criminal Records could detect bonds erroneously classified as pending.

As of August 1, 2000, there were 397 bonds on this report that represented \$1,565,594 in estreated bonds that were pending. As of December 1, 2000, it had increased to \$2,292,059 in estreated bonds.

We Recommend the Chief Deputy Director request MIS segregate the motion pending report to show bonds pending as a result of a motion and those pending due to an affidavit. We also recommend that bond section staff perform a periodic review of all pending cases to verify that all cases listed should still be marked as pending.

Chief Deputy Director's Response:

We concur. We have modified the report so that it is clear which bonds require a court order and which do not. This will assist the County Attorney.

7. The Bond System Contains Invalid Records, And No Reconciliation Is Performed To The Sheriff's System.

We reviewed 56 non-civil bonds that were posted more than 3 years ago. All of them show as 'open' on the bond system; however, the cases have been disposed of and the bonds released. Seventeen are duplicate records resulting from an error in entering the bond or case number. The other 39 have no disposition code entered.

We performed an analysis of the first two digits of all cases showing as 'open' in the bond system. We identified case numbers that would indicate a case that began prior to 1980 or instances where the bond number was entered as the case number. The review of bonds showed that duplicate records resulted when those circumstances existed. Through this process, we identified an estimated 1,418 invalid, open bonds. This affects the accuracy and validity of system generated reports.

In addition, the inclusion of invalid records does not allow determination of the number of "open" bonds in the system and their total dollar amount. As a result, there is no efficient way to perform a reconciliation with the Sheriff's data to verify that the two systems agree. A reconciliation is necessary because the Sheriff's office maintains the surety bonds and cash while Circuit Criminal Court Records is responsible for keeping a record of the bond and providing notification when a bond has been authorized for release.

We Recommend all invalid cases be identified and appropriate corrective action taken. Once the invalid cases have been removed from the bond system, there should be periodic reconciliation of the data on the bond system to the Sheriff's system.

Chief Deputy Director's Response:

We concur. We are taking action to clear up these records.

8. Property Bonds Are Considered Open Even When They Are No Longer A Lien On Property.

When an individual wishes to use real estate to guarantee the defendant's appearance in court, the court approves the posting of a property bond. At the completion of the court case, it is the responsibility of the individual to request the property bond be released. The packet they receive from the County Attorney's office contains an order to release the bond, but the instructions do not tell them when to submit it. In the past, a letter was sent to the individual reminding them that an order to release the bond was needed. Circuit Criminal Court Records stopped sending out this reminder several years ago.

Currently, Circuit Criminal Court Records has approximately 170 property bonds that have not been ordered released even though the criminal case has been closed. All but 12 of them were posted more than 7 years ago.

Section 903.26(4)(b), Florida Statutes, states that a recorded bond and affidavits shall be a lien on the real property for 2 years. The County Attorney's office stated that an order would still be needed even if the two years has been exceeded because it continues to show in Official Records as a lien on the property. Section 55.10(1), Florida Statutes, states that a judgment, order or decree becomes a lien on real estate when a certified copy is recorded in Official Records and it shall be a lien for a period of 7 years. To remain a lien beyond 7 years it must be re-recorded. None of the property bonds that are more than 7 years old were re-recorded.

We Recommend the Chief Deputy Director consult with the County Attorney about obtaining an order from the court to release these older property bonds. Management should consider re-instituting the policy of sending a reminder letter to citizens who may not be aware they need to obtain an order to release the property bond.

Chief Deputy Director's Response:

We concur. We did stop sending reminder letters, as we were advised that each defendant or depositor has a responsibility to know their rights prior to posting a bond. It has been recommended that the Clerk take no action in these instances.

9. There Is No Documented Activity On Some Bonds Posted As A Result Of An Order To Show Cause On Civil Court Cases.

We reviewed 37 civil cases that had bonds posted on them. Thirty of these cases had no order issued that addressed the bond. Ten of the 30 cases had no activity on the bond or the underlying charge that led to the individual's arrest and posting of the bond. Section 903.31, Florida Statutes, was changed effective June 8, 1999, to provide an expiration on bonds of 36 months. This section, in conjunction with a defendant's right to a speedy hearing, requires that charges be addressed by the court. There is no mechanism to follow up on bonds posted on civil cases. As a result, hearings are not being held expediently and bonds are not being released in a timely manner.

We Recommend a report be issued periodically identifying all civil cases that have had a bond posted and send the report to appropriate personnel to ensure action is taken on the case.

Chief Deputy Director's Response:

We concur a report will serve as a reminder, and this report has been completed.

10. Interest Is Not Charged On Judgments.

Section 55.03, Florida Statutes, allows the charging of interest if stated in the judgment. Currently, judgments issued against sureties do not include a provision for interest. The interest rate is set annually by the Comptroller of the State of Florida. During 1999 and 2000, the interest rate was 10%. Effective January 1, 2001, it increased to 11% per annum. Interest charged on judgments against sureties would provide additional revenue for Pinellas County.

We Recommend the Chief Deputy Director consider charging interest on judgments against sureties as allowed by state law.

Chief Deputy Director's Response:

We concur. Judgment forms have been revised to include the interest to be paid.

11. The Notice Of Surety Bond Estreature Was Not Always Sent Within Five Days.

When more than one bond has been posted on a case, a Notice of Surety Bond Estreature is not automatically generated. Staff performs a manual review to identify these items. Out of 84 forfeitures reviewed, three notices were not sent within the statutory time frame. One was sent 21 days later and the other two were sent 47 days later.

Section 903.26(2)(a), Florida Statutes, requires that the Clerk of the Court mail a notice to the surety agent and surety company in writing within 5 days of a forfeiture. Not issuing the notice within statutory time limits, provides the sureties with a reason for having the estreature set aside.

We Recommend the Chief Deputy Director consult with MIS about creating an error report that would list instances where an estreature code was docketed and no notice was generated.

Chief Deputy Director's Response:

We concur. We will work with the I.T. Department to produce an alert list to identify cases where notice has not been generated in multi-bond cases.