

MEMORANDUM

CITY OF GRAND RAPIDS

DATE: June 30, 2020

TO: Max Frantz, Comptroller
Ruth Lueders, Deputy City Comptroller

FROM: Erica Bills, Internal Auditor

SUBJECT: Analysis of 61st District Court Operational Fund - Revenues, Expenditures, and Budgeting

Objective: This report contains a detailed analysis of the 61st District Court's Operational Fund, with a focus on their revenues, expenditures, and budget.

Scope & Methodology: Obtained the most recent trial balance as of 6/24/20 for the District Court Operating Fund (7400) to identify primary revenues & expenditures within the fund. Met with Keith Heyboer, Senior Budget Analyst, to discuss budgeting processes as well as analysis already performed on budgetary needs/changes to the Court's FY21 budget. Also met with Gary Secor, Court Administrator, to discuss the factors affecting the revenues & expenditures. Reviewed reports (provided by Gary) discussing district court operations in addition to a State report evaluating the funding and operations of the courts. Lastly, performed research on District Court operations utilizing the Michigan State Court website.

Background: The 61st District Court serves the City of Grand Rapids and its over 200,000 residents by providing a variety of judicial services & support programs including civil litigation (up to \$25,000), criminal misdemeanors (punishments less than 1 year), and small claims (including landlord-tenant matters). The Court also provides drug testing services (only court in the County), sobriety court, a domestic assault response team, a community service/work program, and coordinates the victim impact panel. Though the court receives various federal and state grants to operate some of these programs, the Court relies primarily on filing fees and processing fees for its daily operations. Revenues received from federal and state grants are maintained in a District Court Grant Fund (7401).

Per the Judicature Act of 1961, the governing body of each district funding unit shall appropriate funds for the operation of the district court in that district. Currently, the District Court receives a subsidy from the City's general fund to cover any budgetary needs. These subsidies vary from year to year depending on the revenues & expenditures each year.

Background (continued):

With the FY21 budget plan, questions were raised regarding this subsidy and the Court's budgetary shortfalls in FY20. Based on these questions, a formal analysis and review of court finances was requested focusing on the factors contributing to the Court's revenues and expenditures. Included in this report are the findings from the analysis.

Findings:

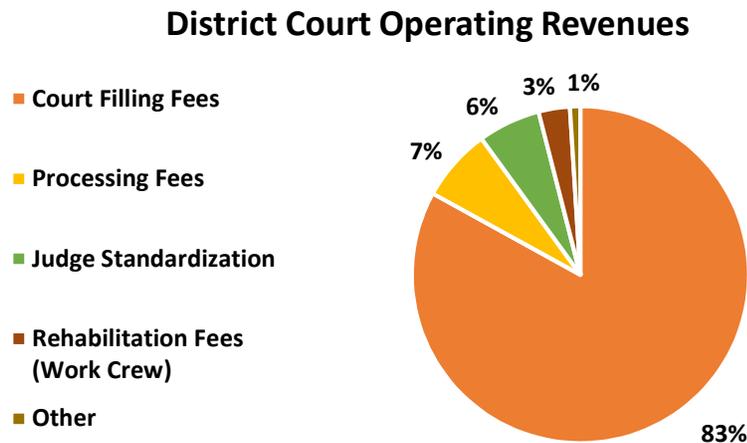
1. Revenues

Outside of interest on investments and the subsidies received from the City, the District Court has seven sources of revenue (ranked from highest source of revenue to lowest):

- I. **Court Filing Fees** – These include all fines & fees associated with general claims, civil infractions, and misdemeanors. Based on the type of claim, infraction or violation, certain State, County, and City fees are assessed as well as any additional fees (court appointed attorneys, sobriety court, etc.) that may be assessed. See *District Court Fees Assessment Table* link in additional resources. For common traffic infractions, the 61st District Court has some of the highest fines assessed compared to the other district courts in Kent County. The court collects on average around 90% of its fines & fees imposed, which is slightly higher than the State average of 87%.
- II. **Processing Fees** – These primarily consist of drug testing fees collected at the District Court's lab as well as reimbursements paid by the State and the County for drug testing services. The drug lab operates on certain days and hours of the week and only accepts cash payments; testing varies in price from \$3 (PBT) to \$25 for more extensive testing. Additional fees range from \$5-\$10 for any additional screening requirements. Accounts for 3% of total revenues.
- III. **Judges Standardization** – State's portion of funding towards the judge's salaries. This payment is received on a quarterly basis and is based on the State budget. Accounts for 3% of total revenues.
- IV. **Rehabilitation Fees** – Revenue generated from the Court's work crew program. The Court allows certain fines & fees to be waived in lieu of providing work on various projects and for various departments within the City. This work can include raking leaves, shoveling sidewalks, picking up trash at project sites, abatement clean-up, etc. The department will then reimburse the District Court for the work performed. The amount of revenue generated is determined by departmental needs, type of projects, and weather (not a lot of snow this past fiscal year). Defendants are credited \$10 per hour worked.
- V. **Drunk Driving Case Flow Assistance** – The District Court tracks and reports to the State the number of cases involving drunk driving on a weekly basis. As defendants pay the fines/fees to reinstate their license, the money is pooled into a fund by the State. After each calendar year, the State will calculate each district's portion of these funds and distribute accordingly. The money is distributed once a year and must be kept in its own revenue line.
- VI. **General Service Fees** – Miscellaneous fees collected either in house or by the State and reimbursed to the Court. In FY20, the amounts received were related to quarterly distributions from the State's jury compensation fund for mileage.
- VII. **Drug Case Information Management Account** – This revenue line is similar to the Drunk Driving Case Flow Assistance line but is for drug cases.

1. Revenues – continued

Breakout of revenue compared to total revenues. Total revenues do not include transfers or gain/losses on investments:



Enforcement: Once a defendant is sentenced and fines & fees have been assessed, they can pay immediately or be set up on a payment plan. Should they fail to pay, a Show Cause is then issued to appear before a judge. The judges are responsible for evaluating each defendant's ability to pay any fines/fees assessed based on the Michigan State Court Administrative Office (SCAO) guidance implemented in 2015 and may give the defendant the opportunity to enter the Work Crew Program to receive credit towards their balance or refer them to the compliance division to set up wage garnishments or more workable payment plans. The Court does utilize a collection agency for cannabis, traffic, and parking cases and are currently looking at expanding the types of cases referred to them. Those on probation have two (2) years to complete their payments. Per the 2019 report, the Court's collection program is compliant with SCAO requirements.

2. Expenditures

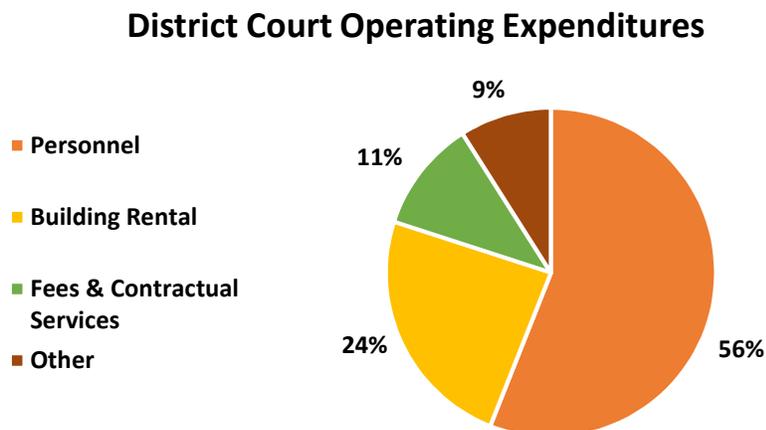
Though the Court has multiple expense lines, they can be categorized into the following (percentages are based on total expenditures through 6/24/20) ranked from highest to lowest:

- I. **Personnel** – Includes full-time employees, temporary employees, and employee parking. Accounts for about 56% of total expenditures in FY20.
- II. **Building Rental** – The District Court leases space from Kent County for operations. Per the lease agreement (dated October 22, 1998), the City is responsible for a portion of the bonds used to fund the building of the courthouse in addition to regular maintenance and security operations within the courthouse. Rental amount is based on the percentage of the courthouse in which the Court occupies as well as overhead fees and any capital improvement projects agreed upon between the County and City. Currently, the District Court occupies 31.35% of the building (this occupancy percentage has remained the same since 2006); as of June 30, 2020, there are still six (6) years left to pay off the bonds used to construct the courthouse, with final payment expected to be December 31, 2026. Rent accounts for about 24% of total expenditures in FY20.

2. Expenditures - continued

- III. **Fees & Contractual Services** – Fees are primarily related to the remittance of portions of fines/fees collected to the State or County. Other fees include jail housing & processing fees, jury pay, income tax garnishments, and collection agency fees. Contractual services are primarily contracts for legal firms, support services (Bethany Christian), vital record storage, and other miscellaneous contracts that provide support to Court operations. Fees & contractual services make up about 11% of the total expenditures in FY20.
- IV. **Internal Service Charges** – Includes software maintenance, IT services, and A-87 costs. Accounts for a little over 6% of total expenditures in FY20.
- V. **Miscellaneous** – Includes supplies, utilities, and memberships. Make up the remaining 3% of total expenditures in FY20.

Breakout of expenditures compared to total expenditures:



Based on this information, it is clear about 80% of the Court's expenditures are primarily related to personnel and building rental.

3. Budget Trends

In FY20, the District Court budgeted about 55% of their ~\$14 million-dollar budget towards employees and parking, 23% to building rental, 16% to fees & contractual services, 6% to internal services charges, and 3% to other expenditures.

From a budget standpoint, since FY08, the adopted amounts budgeted for revenues & expenditures have remained consistent. Transfers from capital reserve are typically budgeted around \$1.4 million, transfers from the General Operating Fund have fluctuated a bit ranging from the lowest in FY10 of \$3.3 million to the highest in FY20 at \$6.2 million. Expenditures have been budgeted as low as \$12.5 million in FY11 to the highest in FY20 at \$14 million. FTEs budgeted have been steadily decreasing from FY10 when there were 83 FTEs to FY20 where there were 78.5 FTEs budgeted. This includes all full-time employees who provide ancillary services (drug court, sobriety court, bench warrant, DART, and alternative sentencing services) These amounts do not include any amendments or include the contingency.

3. Budget Trends – continued

Supplemental transfers from contingency for the past five years are as follows: FY16 - \$1,450,000, FY17 - None, FY18 - \$499,549, and FY 19 - \$500,000. In FY20, \$907,000 was approved. (Prior to the COVID-19 crisis, the estimate was \$400,000.)

Budget planning for FY21 included personnel reductions of just over \$600,000 plus an additional \$121,500 in savings due to the Work Share Program with the State. These personnel reductions include two (2) deputy court clerks, a filing clerk, a domestic violence victim counselor, a probation officer, and a customer service representative as well as a seasonal clerk. Lastly, it includes leaving two (2) full-time vacant positions frozen for six (6) months in FY21 as well as leaving a temporary position frozen for the entire fiscal year. The remaining reductions in the budget were related to supplies, contractual services, and professional development. Originally, the Court’s proposed budget was less than the adopted FY20 budget. The additional reductions noted above resulted in an adopted budget of \$13,132,713 in FY21, \$905,134 less than in FY20, which was \$14,037,847.

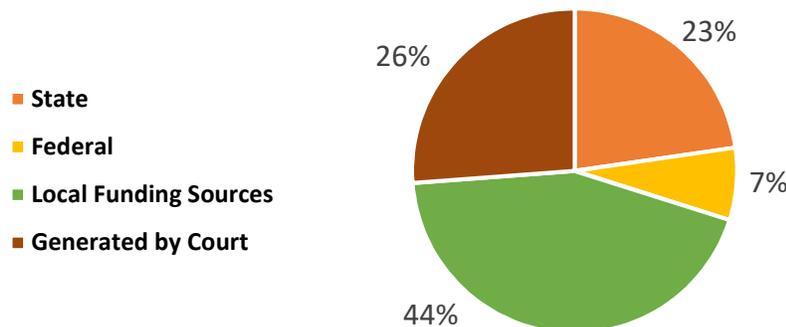
Gary Secor, Court Administrator, is also looking into the space currently used by the District Court to see if there is an opportunity to reduce the amount of space being leased from the County, thus reducing monthly rent.

4. Court Information

In recent years, it has been noted that the number of cases the court handles has decreased, and this is due to a variety of reasons; however, the court must maintain certain service levels in accordance with the State Court Administrative Office and their guidelines.

In the fall of 2019, the State released a Trial Court Funding Commission Report analyzing and reviewing the operations and funding of the state’s trial courts. Per their overview, Michigan’s Trial Courts funding consists of (on average):

Michigan Trial Court Funding



Trial courts are severely limited in the fines/fees they can assess. In the *People v. Cunningham* case in 2014, the higher courts declared that trial courts could not impose court costs to fund their operations. The report identifies that the court’s operations have struggled to deliver justice with diminishing resources and are furthered threatened by recent court decisions to remove further funding streams.

4. Court Information - continued

As part of their analysis, the Commission reviewed other state's court operations and how they are funded and based on all of the information gathered made recommendations to the State that would not only assist in providing consistent judicial operations within the courts, but could potentially take some of the financial burden away from the local funding units and place it on the responsibility of the State, thus making it more equitable.

For further details on the recommendations, see the report below.

Trial Court Funding Report:

https://www.michigan.gov/documents/treasury/TCFC_Final_Report_9-6-2019_667167_7.pdf

Conclusion

Based on the analysis and review of Court operations and finances, the Court has very little control over what revenues are generated from operations and limited control over expenditures as they must abide by State guidelines and the SCAO requirements.

The Court has the proper level of controls and processes in place to ensure fines & fees are collected in a timely manner and follow SCAO requirements. Their revenues rely on multiple factors including the economy, projects/weather for the work crews, caseloads, etc. With the recent economic unrest related to COVID, it is expected that revenues from fees collected will continue to struggle, but the Court will still have its operating expenditures.

As noted earlier, the Court's primary expenditures consist of personnel and rent as well as fees. Many of these fees are fixed as the court must transmit a certain percentage of the fines & fees collected from defendants to both the State and the County. Rent will fluctuate slightly depending on the courthouse's overhead costs but is still a fixed cost. Rent does have the potential to be reduced should the Court reduce the amount of space they currently occupy within the courthouse. In budgeting expenditures for FY21, the Court reduced their staffing and some of their other miscellaneous expenditures by over \$700,000. Any additional cuts could cause a reduction in support services for the Court (i.e. Bethany Christian Services, legal services, etc.), as well as support for various in-court programs. With the reduction in staff for FY21, the Court will be unable to provide support for some of their other programs, like the eviction prevention program. In addition, they must ensure they are maintaining the high level of operations required by the State.

Per the State, it is the responsibility of the local government to provide funding to the trial court and assist in any revenue shortfalls that may arise. It is clear this is not ideal, and the State recognizes this as an issue across all trial courts. With the recent Commission report, there is the opportunity for the State to make changes in the future that would not only improve judicial operations but ensure funding equity across all courts.

Next Steps

Comptroller's office will continue working with the Court and Budget Office to evaluate SCAO's minimum service level requirements while ensuring internal controls remain sufficient and do not create further risk.

For additional comparative facts and resources, see Appendix (below).

If you have any questions or comments, please feel free to reach out to Erica Bills, Internal Auditor. Phone: 456-3126

Appendix

Comparative & Informational Facts:

- In 2016, the State Court Administrative Office reported 1.4 million traffic tickets were issued in 2016. The amount of traffic tickets issued has decreased by 45% in the last 10 years.
 - Police departments attribute this to a reduction in staff as well as a change in focus of policing efforts.
- Prior to 2014, courts could assess court costs/fees to defendants as a means of funding court operations. This is no longer allowed per the ruling from the Supreme Court Case *People v. Cunningham*.
- Full-time Employee Comparisons:

	Service Area	Population of Service Area (2019)	Full-Time Employees (2019)
8th District Court	Kalamazoo County	265,000	85 FTE
54th District Court	City of Lansing & East Lansing	168,000	75 FTE
61st District Court	City of Grand Rapids	200,000	79.5 FTE*

*The current FY21 District Court operating budget currently has 74 FTE (73 FTE after anticipated layoffs in September). This includes 12-14 FTEs who provide ancillary services that the 8th & 54th District Courts do not provide.

- Funding Compared to State Average (from Trial Court Commission Report):

Average Funding provided to courts from local funding units in Michigan 2019 (per commission report)	Funding from General Operating Fund to 61st District Court 2019	Funding from General Operating Fund to 61st District Court 2020	Funding from General Operating Fund to 61st District Court Projected FY21
44%	45%	55%**	42%

**Prior to COVID, was around 47%. Originally budgeted at 44%

Resources & Links:

Michigan Trial Court Administration Guide (copy & paste link)

<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/carg/carg.pdf>

District Court Fee Assessment Table (with distribution)

<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/dfee.pdf>