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Court Services Audit

Background

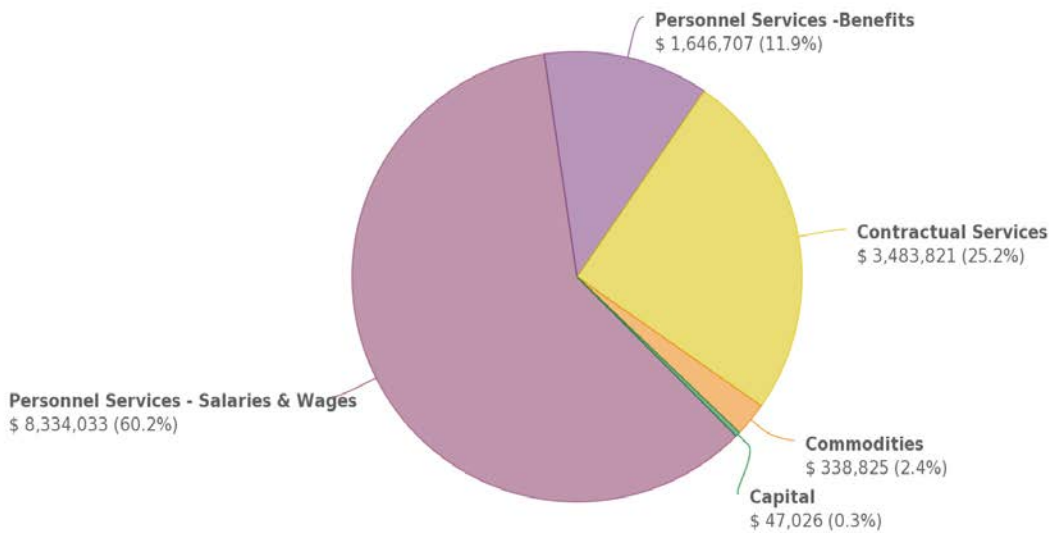
Court Services reports to the Chief Judge's office and is charged with either monitoring defendants per court order or providing services as court ordered. There are three main divisions within the department: Probation and Pretrial, Diagnostic Center (KCDC) and the Juvenile Detention Center (JJC). Probation serves both adults and juveniles with layers of contact from the time of arrest through convictions and the term of sentence. The KCDC provides psychological assessments and therapeutic services supporting the courts, Merit Commission and probation services. The JJC houses juvenile offenders pending court appearance or sentenced as a court disposition. The JJC is an 80 bed facility opened in 1997.

Court Services is funded through (based upon 2015 Budget) the general fund (47%), reimbursements (36%), court fees collected through the Circuit Clerk (12%) and Grants and other (5%). Reimbursements are largely represented by the Probation Salary Reimbursement and Youth Home Reimbursements. The Probation Salary Reimbursement covers state approved probation officer salaries (excluding benefits). Currently the state is reimbursing at a rate of approximately 67%, and further reductions may occur. Youth Home Reimbursements are from other surrounding counties utilizing the JJC. Annual Youth Home Reimbursements have been approximately \$1M over the past three years (2012-2014) and \$500k for the three years prior (2009-2011). Court Services has hired an external consultant to evaluate the Youth Home Reimbursement fees and associated costs (findings are not available at the time of the audit). Court fees collected by the Circuit Clerk represent fees such as electronic monitoring, GPS, conditional discharge, pretrial, community restitution, drug court, probation victim services, etc.

Below represents Court Services 2015 Amended Budget expenses by expense category.

Kane County – Expenses
Fiscal Yr 2015 Amended Budget

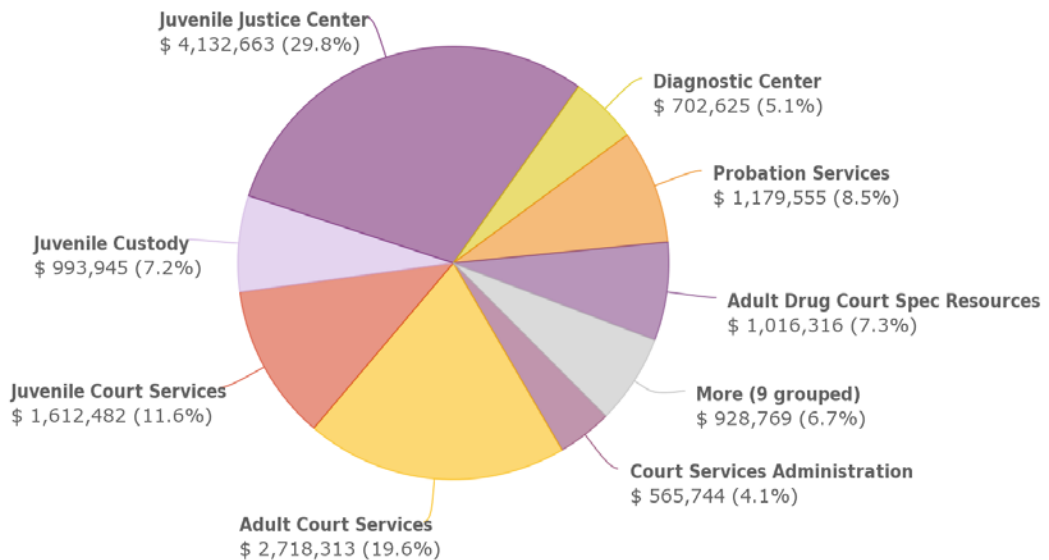
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Below represents the same Court Services 2015 Amended Budget expenses broken out by department.

Kane County – Court Services
Fiscal Yr 2015 Amended Budget

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Below is the net income/(expense) by fund for five fiscal year actuals as well as 2015 Amended Budget.

Funds	FY10	FY11	FY12	FY13	FY14	FY15 Amended Budget
General Fund	(5,640,442)	(5,259,513)	(5,194,443)	(4,823,196)	(6,758,541)	(6,147,557)
Probation Services	(222,905)	226,462	(252,671)	(237,802)	(41,463)	-
Substance Abuse Screening	61,670	69,867	53,601	34,715	41,766	-
Drug Court Special Resources	113,687	11,033	134,264	108,814	54,295	-
Juvenile Drug Court	16,527	(10,287)	36,535	39,124	(73,053)	-
Probation Victim Services	2,688	3,634	6,824	(8,644)	(3,586)	-
Specialized Probation	(50)	-	-	-	-	-
Drug Court	(6,278)	-	-	-	-	-
Victim Impact Panel	-	-	-	-	-	-
Net income/(expense)	(5,675,103)	(4,958,804)	(5,215,890)	(4,886,989)	(6,780,582)	(6,147,557)
					*	**

* Increase in net expense of \$1,894k between FY 13 and FY 14 mostly due to a decrease in Probation Salary Reimbursement of \$933k (due to YE audit reclass of \$1,019k in revenue from 2014 to 2013) and an increase in Salaries & Wages of \$637k or 9%.

** Decrease in net expense between FY 14 and 2015 Amended Budget is mostly due to an increase in Probation Salary Reimbursement of \$1,070 and an increase in Salary & Wages of \$602k or 8%.

Summary of Procedures Performed

1. Document policies, procedures and controls.
2. Perform fluctuation analysis of YTD April 2015 vs 2015 Amended Budget (prorated).
3. Review reconciliations and select transactions in off balance sheet accounts.
4. Pull 2014 spend by vendor and review individual vendors with greater than \$10k in annual spend with management (represents 91% of total spend). Review for quotes, RFP's, contracts, Board approval, etc. Randomly select invoices from above vendors to test for proper approval, g/l coding and supporting documentation.
5. Discuss revenue sources with management and, for a sample, test supporting documentation and ensure receipt.

Recommendations & Management Response

Recommendation 1 – Court Services has seven off balance sheet bank accounts. Below is an excerpt from the 2014 Communication to Those Charged with Governance and Management prepared by the external auditors in conjunction with the annual audit:

...the maintenance of accounts outside the County’s internal control procedures ensures that the accounts and related activity do not go through the County’s centralized review and approval procedures. Specifically, bank reconciliations are not reviewed on a monthly basis and disbursements do not run through the County’s multi-office review and approval processes.

By operating outside the auspices of the County’s primary system of internal controls, there is a risk that the County’s financial statements would exclude transactional activity and existing bank account balances without the knowledge of management or the County Board. Additionally, errors or fraud could occur in these accounts without being discovered that would have otherwise been identified within the primary control procedures.

We recommend that all bank accounts opened in the name of the County or department/office of the County be maintained and operated through the County’s general ledger software. Transactions related to these accounts should also be recorded in the general ledger on a timely basis. If it is not feasible for transactional activity to be processed through the County’s primary control procedures, each department and office maintaining “off-book” accounts should document and implement internal control procedures to ensure that bank reconciliations are prepared on a monthly basis and reviewed by someone other than the preparer and disbursements from the accounts be reviewed and approved before the transaction takes place.

Recommend that Court Services consolidate all possible off balance sheet bank accounts into New World Systems with corresponding existing controls. Those accounts with sensitive data may be retained as off balance sheet, but if an account is retained as off balance sheet, procedures and controls must be documented and implemented, including, but not limited to, process for documenting recipient, handling stale dated checks and reissuance.

Prior to moving the accounts into New World Systems, the accounts should be reviewed for funds qualifying as unclaimed property, and the unclaimed property balances should be remitted to the State per State statute 765 ILCS 1025, Uniform Disposition of Unclaimed Property Act. Pertinent points from the statute include:

- Amounts are considered abandoned if unclaimed for seven years.
- Amounts should be turned over to the State Treasurer annually and in a timely manner. Failure to comply has penalties and fines, but a written request may be submitted to the State Treasurer.
- Section 705 ILCS 1025/11/5 – In the event of failure to retain records or records are deemed to be insufficient, the State may estimate.

Management Response – Court Services is in the process of transferring off balance sheet accounts to the Treasurer’s Office, and we have already submitted a resolution, 14-146, to the county board to that effect. These

funds only need to be deposited into the Treasurer FAB account. The accounts with sensitive data (i.e. juvenile restitution on diversion cases) will continue to be managed by Court Services as the County has been unable to give watertight assurances that the information will remain strictly confidential as needed under the Juvenile Court act.

Regarding unclaimed funds, upon the direction of the Chief Judge, a staff attorney will be assigned to manually review all existing paper documentation on recipients failing to cash previously issued checks for court ordered restitution and give recommendations on them per statutory requirements.

All of Court Services off balance sheet accounts currently have processes in place implementing internal control procedures surrounding the bank reconciliations. Bank reconciliations are prepared monthly by the Finance Manager and reviewed by Court Services Executive Director. Any disbursements from these accounts, has the proper documentation supporting the disbursement and is approved and signed by one of three Court Services Directors.

Recommendation 2 – In the interest of transparency and best practices, recommend that Court Services present the Board with contracts equal to or greater than \$30k. Kane County Financial Policy states that “No one person shall have the authority to enter into a contract or commit County resources exceeding \$30k.”

Through testing, noted the following areas to improve visibility and compliance:

- For residential placement spend, contracts are not in place and resolutions have not been brought forward to the Board for approval. Residential placement spend has averaged \$1.1M over the past three years with the spend spread across seven larger service providers. The spend, on average, is split between the General Fund and the Probation Services Fund at a 70/30 split, respectively. While the annual spend is fairly consistent, the service providers and the required services vary from year to year and case to case. Court Services does continually evaluate service providers and prepares a “Placement Recommendation Worksheet” matching services provided with needed services. In the interest of transparency and best practice, recommend that Court Services formalize the process for periodic evaluation and selection of services providers and present select vendors and estimated annual spend to the Judicial Committee and Board for approval to enter into umbrella contracts with the vendors. Individual placement agreements would be performed by Court Services as needed under the umbrella contracts already in place.
- Resolutions authorize particular individuals to enter into contracts. Recommend that if the resolution specifically authorizes the Chairman to enter into the contract, then the contract should be signed by the Chairman. This finding is based upon the Transitional Alternative Reentry Initiative (TARI) contract, FY14 spend of \$223k, which was only signed by a Court Services Director.
- Resolutions authorize an amount “not to exceed”. This finding is based upon resolution 14-106 which authorized the Chairman to execute contracts with Renz Addiction Center and Breaking Free, Inc. for a term of one year with a total cost not to exceed \$70 per year in total and \$35k per agency. The FY 14

spend was \$46k and \$94k for Renz and Breaking Free, respectively. Recommend that the resolution provide historical spend, anticipated spend or a spending range within the existing budget in lieu of “not to exceed” terms as long as the spend stays within budget. Additionally, the Auditor’s Office is charged with maintaining copies of contracts. No contract is on file for Renz Addiction Center.

Management Response – The Chief Judge retains authority over the spending of probation fees, the county board has no authority to grant the Chairman, or any other person, signing authority on them, including for contracts over \$30,000 annually.

As described in the management response to the audit on probation fees, Court services has not bid for juvenile residential placement nor sought to have contracts established before a delinquent minor is ordered into residential placement as those decisions are made as the result of a court ordered psychological evaluation. The decision to order a child into residential placement is made by a Judge. Court Services is court ordered to place minor into specific placements, and we cannot delay placement in order to receive RFP responses. Placement of minors is a time sensitive matter. It is Court Services’ belief that this is a topic which has previously been covered by and recognized by the County due to the county’s own standing financial policies addressing this issue. On page 12 of 21 of Resolution # 14 – 104, the Kane County Financial Policies specifically states in part,

“...Certain recurring bills, greater than \$30,000, *shall be approved for payment by the Auditor’s Office, without approval by the County Board. Some examples include, but are not limited to: i) room and board payments for juvenile offenders; ii) the consolidated county phone bill; iii) large purchases of auto fuel; and iv) certain utility bills.*” (emphasis added)

Court Services agrees that a mistake was made on the contract for the Transitional Alternative Reentry Initiative contract. We are seeking to remedy that mistake.

Court Services also agrees that the Renz and Breaking Free contracts have exceeded \$30,000 annually each, which would necessitate a contract, although we did issue an RFP. We are currently in negotiation with those agencies on new contracts that will limit their spending on an annual basis for services.

Recommendation 3 - In the interest of transparency and purchasing best practices, recommend that Court Services follow Kane County’s Purchasing Policy for quotes and RFP’s. Purchasing Policy states the following:

- Procurement of materials, services, supplies, equipment, etc. that are less than \$5k may be awarded by Department Heads.
- Procurement of materials, services, supplies, equipment, etc. that are at least \$5k and less than \$30k may be awarded by Departments Heads where there has been a competitive price quotation process and at least three quotations obtained.

- Procurement of materials, services, supplies, equipment, etc. that equal or exceed \$30k shall be awarded after a competitive selection process that includes a Request for Proposal.

However, it is understood that Court Services utilizes certain professional services based upon court order and/or professional qualifications. In these instances, quotes would not be obtained, but it would be in the best interest of the County to have formal agreements with these vendors. Utilizing the County's Purchasing Department will insure proper documentation is in place, such as certificate of insurance, prevailing wage rate, contractor disclosure, etc.

Through testing, noted the following areas that could benefit from competitive quotes or an RFP:

- Court Services FY 14 spend with Bob Barker was \$24k. Total County spend for FY 14 with Bob Barker was \$62k (remainder is under the Sheriff's Office). Specifically, recommend that the County perform a joint RFP for products supplied through Bob Barker (i.e., toiletries, towels, shoes, inmate clothing, etc).
- Court Services FY 14 spend with Firestone Tire & Service Center for general vehicle repair and maintenance was \$13k. Excluding KDOT and the Sheriff's Office, the County spends approximately \$53k annually in general vehicle repair and maintenance. Specifically recommend that the County issue an RFP for general vehicle repair and maintenance.

Management Response – Court Services is a willing partner to work with the County on composing an RFP for products currently purchased through Bob Barker and fleet vehicle repair and maintenance.

In an effort to be as transparent as possible, Court Services does generally follow procedures as outlined above. However, it needs to be noted that the above policies apply to Department Heads who are under the Executive Branch. It is our position that Court Services is under the control of the Chief Judge's office, which *is* an elected office, and so Court Services must abide by the rules of the presiding Chief Judge, which may be different than the county's strict limits on purchasing for "Department Heads" as described below, this was laid out in part in a memo from the Court Administrator to the Deputy Auditor, dated July 14, 2015.

Per the Kane County Code, in Chapter 2, Article II Section 2 – 48 (A) (3), the County definition of "Department Head" is clearly laid out. Because it is currently being amended to include additional specific department titles in the definition of who qualifies as a "Department Head" under county guidelines, the quotation below has editing marks contained within it. The below is taken directly from the proposed amendment as presented to the County Board on the Executive Committee agenda on August 5, 2015. It is noteworthy that nowhere within the definition of the term "Department Head" does it refer to Court Services. We continue to hold that Court Services was never intended to be restricted to county policies that were designed to apply specifically to "Department Heads" under the Executive Branch, or this would have been noted at some point in the past, and it was not.

"Department Heads:

The term "Department Head" refers to the Executive Director of the Finance Department; the

Executive Director of the Human Resources Management Department; the Director the Division of Transportation; ~~the Executive Director of Facilities, Development and Environmental Resources~~; the Director of Development & Community Services; the Director of Environmental & Water Resources; the Executive Director of Building Management; the Executive Director of the Health Department; the Director of Office of Community Reinvestment; the Director of Office of Emergency Management; the Chief Information Officer of the Information Technology Department; the Supervisor of Assessments; and the Kane County Emergency Communications Director of Communications.” <http://countyofkane.org/Lists/Events/Attachments/3752/AG%20PKT%20-%2015-08%20Exec.pdf>

Additionally, because Court Services does not fall under the definition of “Department Head” and because we report directly to an elected official, it is the Chief Judge’s Office’s assertion that we would fall under the following definition as described from the Kane County Procurement Ordinance, on page 11 of 26 of Ordinance # 09 – 335, it states in part,

“3.5.3 Specific Delegation- Elected Officials

Elected Officials having “purchasing authority” pursuant to an internal control statute are encouraged to use the support services of the County’s Director of Purchasing wherever possible. In all cases where the County’s Purchasing Department is not a part of the purchasing transaction, and as a part of the County’s duty to provide timely financial information, the duty to follow the provisions of Section 3.3 of this ordinance and all other provisions regarding the requisition of goods and services is hereby delegated to each and every such Elected Official....”

Court Services does try to be transparent in our actions, and does seek to follow the purchasing ordinance wherever possible, utilizing county resources including the Purchasing Department, however, there are many times when the needs of the court are such that services may be needed from a sole provider or from a professional expert and bidding for these professional services at the lowest performance and cost is not prudent, such as for a licensed psychologist to complete a court ordered evaluation. We have always tried to issue RFP’s, through the Purchasing Department, for services that are anticipated to cost over \$30,000 as well as bring resolutions to the Board authorizing the Chairman to allow us to enter into contracts based off the issuance of RFPs. However, there have been times when contractual services have exceeded \$30,000 in cases where we did not expect them to. We are working on an internal financial policy to lower the threshold to \$20,000 for contracts needing an RFP within Court Services to try to get ahead of unanticipated contractual expenses. We will clarify the department’s position under an elected official with respect to county policy and the needs of the Judiciary. Copies will be forthcoming to the Auditor’s office once the policy has been finalized.

As stated above, we are in agreement with the county’s desire for bids and RFPs on commodities, supplies and other nonprofessional services and look forward to cooperating with all purchasing efforts in that regard.

Recommendation 4 – Recommend utilizing intergovernmental agreements (IGA's) for significant reimbursements and expenses. For example, Court Services spent \$27k and \$40k in FY 2014 with the City of Elgin and City of Aurora, respectively, for security. No intergovernmental agreements for these services exist at this time.

Management Response – Court Services has reached out to the other agencies in order to put an IGA's in place.

Recommendation 5 – Recommend requiring regularly used vendors to include a distinct invoice number on each invoice. Many vendors providing services are manually creating invoices to the County without distinct invoice numbers. The invoice number should be distinct per that service or product and allow the customer as well as the vendor to track payment, easily resolve any questions, and avoid duplicate payment. When Court Services receives an invoice without a number, the accounts payable clerk simply converts the date to an invoice. While this is a common practice, the date of June 1, 2015 may be entered as 6/1/15 or 060115, etc. resulting in the possibility of duplicate entry and payment.

Management Response – Agreed, we will communicate this request to the vendor.


Recommendation 6 – In review of pcard supporting detail, noted that the pcard individual receipts were not approved by the cardholder. Recommend that the cardholder sign/initial each receipt indicating that the charges are valid County expenses.

Management Response – Agreed, all Directors will be reminded that they MUST sign off on receipt documentation and vouchers.

Recommendation 7 – Recommend that Court Services formalize and document a process for ensuring revenue receipt (e.g., accounts receivable review). Revenue receipt review would ensure receipt of billings for Youth Home Reimbursements, state meal reimbursement at the JJC, etc.

Management Response – Court Services will formalize and document processes for ensuring revenue receipt.

The Auditor's Office would like to thank Court Services, especially the Executive Director and Finance Manager, for their time and cooperation during the audit. Additional thanks to the Purchasing Department and Circuit Clerk for their continuous support through pulling RFP's and providing supporting documentation for the fees collected by the Circuit Clerk.

A handwritten signature in cursive script, appearing to read "Terry Hunt".

Terry Hunt – Kane County Auditor

A handwritten signature in cursive script, appearing to read "Andrea Rich".

Andrea Rich – Deputy Auditor