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FISCAL YEAR 2022 Civil and Criminal Evidence Room Audit

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EXECUTIVE SUMMARY

The St. Johns County Clerk of the Circuit Court and County Comptroller (COCC) Office of Inspector General (OIG) is responsible for performing audits of Board of County Commissioner (County) and COCC activities. OIG conducted an audit of the COCC operations and controls over evidence. This was a planned audit included in the OIG Fiscal 2022 Annual Audit Plan.

The purpose of the audit was to determine whether adequate internal controls exist over the evidence processes; evaluate if existing policies and procedures pertaining to property and evidence are being followed; and compare processes with accepted standards and best practices.

OIG conducted the audit in accordance with the International Standards for the Professional Practice of Internal Auditing and the Principles and Standards for Offices of Inspector General, and accordingly, included such tests of records and other auditing procedures, as necessary.

The audit disclosed that the Civil and Criminal evidence processes are generally effective and efficient and related internal controls mitigate risks over evidence handling and storage in a generally satisfactory manner. OIG recommends several areas for improvement for management to consider, which are addressed within the body of the report.

BACKGROUND

According to the Florida Rules of General Practice and Judicial Administration and pursuant to Florida Statutes, the COCC is required to maintain control over all evidence submitted in Criminal, Traffic, Civil, and Family court proceedings. This exclusive control carries the responsibility of maintaining chain of custody, storage, and ultimately the disposition or destruction of evidence. Evidence must be held in secured areas until released by the Court. The custodians for Civil and Criminal departments within the COCC office are responsible for receiving, recording, storing, and disposing of evidence.

Court records and exhibits are documented as evidence within the Benchmark case management system (BMCM). Evidence is introduced during court hearings and trials and provided to court deputy clerks for cataloguing in the BMCM. The Clerk assigns a unique identifier based on an established naming convention. Evidence recorded includes the exhibit type, exhibit identification, case event, presented by and for name, multiple related items, and description. Clerks deliver the evidence to the evidence custodians for additional processing and storage in designated evidence rooms.

Physical evidence is maintained in four locations within the St. Johns County Courthouse. The Civil department maintains evidence in one room. The Criminal department maintains evidence within three rooms: Main, Secondary, and Overnight. For safety and security reasons, Civil and Criminal evidence types are stored separately, and entrance to rooms is restricted to authorized

personnel only. Evidence is retained and retrieved primarily for use in hearings and/or trial activities. Evidence is disposed of based on retention periods dictated by Florida Statutes, court rules and local administrative orders. Civil evidence is disposed of only after the required retention period has been met and a 30-day notice of Intent to Destroy has been sent to the intended party. Criminal evidence is disposed of only after approval by the State Attorney's Office and the subsequent issuance of a court order by the Circuit Felony or Administrative Judge (Judge). Certain evidence, such as weapons and narcotics, must be disposed of by the St. Johns County Sheriff's Office (SJSO) Evidence Department. The COCC evidence custodian coordinates with the SJSO and provides a copy of the signed order by the Judge along with the list of items being destroyed. Any evidence with monetary value can be sold and funds deposited in the COCC general revenue fund.

As of January 21, 2022, BMCM reporting identified 12,342 evidence items: 6,127 are Civil and 6,215 are Criminal. In the current year, 953 evidence items were processed.

Prior to initiating the audit, the state of internal controls pertaining to the evidence process was discussed with COCC management. It was apparent that internal controls are in place, could be more robust, and are undergoing a review.

OBJECTIVE

The objective of the audit was to:

- Determine whether adequate internal controls exist over the evidence process and its disposition.
- Provide assurance that existing policies and procedures are being followed to maintain integrity of evidence and chain of custody.
- Ensure safekeeping, safety, and security of evidence.
- Ensure processes are comparable and within accepted standards and best practices.

SCOPE

The scope of the audit included a review of the COCC's processes and related internal controls pertaining to the custody, retention, and disposition or destruction of evidence. The period reviewed includes all inventory recorded in the Benchmark application through January 21, 2022. However, the review of transactions and processes was not limited by the audit period and scope.

METHODOLOGY

The audit methodology consisted of three phases: planning, fieldwork, and reporting. OIG developed audit procedures based on research, audit objective, scope, and information obtained in meetings. The fieldwork was completed after preliminary observations and findings were discussed, and evaluations and tests were conducted. Discussions were held with management to

discuss the audit observations and obtain responses to recommendations prior to the finalization of the Evidence Audit report.

The audit plan and procedures were primarily based on a review of the following information:

- Entry meeting and initial discussion with CCOC management and evidence custodians.
- Understanding of the design of internal controls in place, established by the documented policies and procedures.
- Review of International Association for Property and Evidence, Inc. (IAPE) standards and best practices published by the Florida Court Clerks & Comptrollers (FCCC).
- Design of testing plan.

OIG generated a report from BMCM, listing all cases catalogued with evidence as of January 21, 2022. The report was filtered by case and exhibit id number. OIG reviewed the data and noted that each case can have more than one evidence item assigned to the exhibit and case. The sampling methodology applied was based on each case having a minimum of one sample item in the exhibit. Total population for Civil and Criminal was 748 and 938, respectively. A sample size of 69 individual evidence items was determined to be appropriate and a systemic randomizer was used to generate the samples for testing. The physical inventory process was comprised of two components: system-to-shelf and shelf-to-system. OIG tested system-to-shelf with selections made from the BMCM report. OIG tested shelf-to-system by handpicking selections from the Civil and Criminal evidence rooms. See the table below for sample size per evidence type and testing component.

	System to Shelf	Shelf to System	Total
Civil Evidence	15	15	30
Criminal Evidence	20	19	39
Total	35	34	69

The following attributes were verified during inventory through the sampling testing:

- System-to-shelf
 - Evidence is located in evidence room.
 - Evidence is cataloged in BMCM.
 - Evidence has a completed exhibit list.
 - Individual evidence item has evidence label.
 - Notice of Intent to Dispose or Destroy was sent to the intended party after retention period was met.
 - Required documentation and approval for evidence disposal was obtained and within proper time period.
 - Evidence was destroyed timely.
- Shelf-to-system
 - Evidence was included on report generated from BMCM.
 - Evidence is cataloged in BMCM.

- Evidence has a completed exhibit list.
- Individual evidence item has evidence label.

During the review of the report, OIG identified 91 cases with physical evidence requiring coordination with the SJSO for the release of evidence and four cases referencing currency as an evidence item in the case. OIG haphazardly selected five physical evidence cases and two currency cases to verify evidence was disposed of properly and contained the appropriate documentation.

As part of the fieldwork procedures and to obtain an understanding of the processes used to receive, record, release, and store evidence, OIG interviewed custodians and staff. Documents related to evidence and chain of custody were reviewed, including applicable policy and procedures and authoritative guidance. Evidence room security and orderliness in the room was observed. As a result, OIG requested and reviewed user security roles and associated permissions over exhibit records in the BMCM application and physical access to the evidence rooms. The BMCM evidence listing report was reviewed for completeness and accuracy. The keycard user access and activity reports were reviewed for authorized access and entry into the rooms.

The audit was completed on September 8, 2022. A report was provided to COCC management and includes a summary of observations and recommendations, as well as management's responses to OIG recommendations.

OVERALL CONCLUSION

Based on the results and findings of the audit methodology employed, the OIG concluded that internal controls are adequate and determined they could be strengthened in some areas to help ensure compliance with COCC policies and procedures, IAPE, and Florida Court Clerks & Comptrollers (FCCC) best practices. OIG's audit observations and recommendations are included in the section below.

OBSERVATIONS & RECOMMENDATIONS

1. Policies and procedures require review.

OIG interviewed the evidence room custodians and reviewed the applicable policies and procedures documents. The custodians indicated that periodic inventories are not performed and documented but may have been performed sporadically. The most recent full inventory of evidence in the custody of the Criminal department was conducted and completed in 2016.

FCCC best practices indicate that full inventories should be conducted "based on the county's inventory/audit schedule." OIG inquired and management confirmed they do not have written policies and procedures for conducting physical inventories of Civil and Criminal evidence. Without written policies and procedures, no standardized process exists to ensure that physical

inventories of Civil and Criminal evidence are performed timely and properly conducted, documented, reviewed, and maintained.

Recommendation:

- Best practice suggests physical inventory be performed annually or based on the County's inventory schedule.
- Inventories and audits should be performed by someone other than the clerks who regularly handle the evidence.
- Update policies and procedures to specify intervals for conducting physical inventories, identify who should conduct and review the inventories, and define how the inventories should be maintained.
- Policies and procedures should be reviewed, approved, and tracked with a signature and revision date.

2. Evidence rooms have limited storage space.

During the inventory process, OIG observed a lack of organization and storage space in both Civil and Criminal evidence rooms.

The Civil evidence room had limited shelf space resulting in boxes with evidence being stored on the floor. Some boxes contained evidence needing additional review prior to shredding. Due to the quantity of boxes on the floor, accessibility to the evidence on the shelves was restricted.

The Main Criminal evidence room also had limited shelving space. The evidence stored in this room is of varying sizes and types. As a result, not all like evidence items are stored in the same room and overflow into the Secondary room. In many instances, an overflow item's location was not documented on the exhibit list for the case.

Recommendation:

- Add shelving to the Civil evidence room to accommodate the boxes currently on the floor. Future growth may warrant a secondary storage location.
- To avoid potential misplacement of evidence, OIG recommends the location of multiple evidence items in multiple locations for a single case be documented on the exhibit list by the Criminal custodian.

3. Building and alarm security have inconsistencies.

OIG identified inconsistencies in room security within and between Civil and Criminal evidence rooms.

Civil evidence room is secured via lock and key, and physical keys are limited to three employees: Civil Director, supervisor, and custodian. A key log is not maintained; however, a live stream and recording camera is located inside the evidence room.

All three Criminal evidence rooms are secured via lock and key. A live stream and recording camera is located outside of the evidence room areas. Physical keys are maintained by the Criminal Director, supervisor, and custodian. The Main and Secondary rooms also have keycard access. We obtained user access and keycard activity reports from Building Facilities. User access report was reviewed, and access was limited to Civil Director, Criminal Director, and custodian. The keycard access activity report was reviewed, and OIG confirmed only authorized users attempted and gained access to the rooms.

The Main and Overnight rooms have an alarm system. OIG requested and obtained from the Criminal Director a report listing users with an alarm code. We reviewed the report and access was limited to the Criminal Director, supervisor, and custodian. All Criminal court clerks have an alarm code to the Overnight room. OIG requested and obtained an alarm access activity report from Building Facilities. We reviewed the alarm access activity report, which revealed one instance of access granted to an unauthorized user. Management did not have an explanation; however, further access was immediately restricted by COCC system administrators.

Recommendation:

- Implement keycard entry in the Civil evidence room and Criminal Overnight room to restrict access and track entry into the rooms.
- Install camera surveillance inside each of the Criminal evidence rooms.
- Restrict access to users within the department. The Civil Director's keycard access to Criminal evidence rooms should be removed.
- Install an alarm system in Criminal's Secondary evidence room.
- Implement a formalized access request process to ensure appropriate access granted is authorized.

4. Eligible evidence is not being disposed of in a timely manner.

For Civil evidence, policies and procedures do not indicate when the evidence is to be destroyed after the expiration of the 30-day notice period. We noted that when a retention period was met, the evidence custodian documents and sends Notice of Intent to Dispose of or Destroy Exhibits/Evidence to the parties and/or their attorneys of record. If no response is received after the 30-day period, the evidence qualifies for destruction. During our system-to-shelf testing procedures over Civil evidence, we noted 17 instances where evidence was destroyed between 10 days to 188 days past the period of expiration.

For Criminal evidence, policy and procedures do not indicate the number of days required after the signed court order for the evidence custodian to destroy evidence. We noted when destruction criteria are met, Criminal evidence is disposed of only after approval by the State Attorney's Office

and the subsequent issuance of a court order by the Judge. During our system-to-shelf testing procedures over Criminal evidence, we noted five instances where evidence was destroyed between 10 days to 75 days after the signed court order.

OIG made inquiries regarding procedures for periodic reviews of evidence eligible for destruction through BMCM reporting. Civil policies and procedures require setting a compliance identifying the timing of destruction and the ability to generate a report. However, it does not specify how often periodic reviews occur. Although, the Criminal policies and procedures recommend a quarterly review, management confirmed no review is performed.

International Association for Property and Evidence, Inc., (IAPE) standards require ongoing efforts to purge evidence that is eligible for disposal. Evidence is disposed of based on retention periods dictated by Florida Statutes §28.213 and §925.11 (4)(a)(b) and court rule Fla. R. Jud. Admin 2.430(f)(2).

Recommendation:

- Update policies and procedures and enforce quarterly review of BMCM reporting to ensure timely processing of evidence eligible for destruction.
- To minimize the volume of physical evidence retained in the rooms, establish procedures determining the length of time to retain evidence for destruction after the criteria is met.
- Based on the nature of the evidence, Civil and Criminal evidence should be destroyed within five and 10 days of meeting the destruction criteria, respectively.

5. Documentation of Criminal evidence destruction date inconsistencies.

During our Civil system-to-shelf testing, items identified as destroyed were traced to BMCM and supported by an evidence disposition sheet with a signature from someone other than the evidence custodian. During our Criminal system-to-shelf testing, we noted inconsistencies in the documentation of the items identified as destroyed. They were traced to BMCM, and some were noted as destroyed with a stamp on the exhibit attached to the order to dispose and others with a system docket note. Three of 11 sample selections identified as destroyed were documented on the Exhibit List via a stamp or signature. Seven of 11 sample selections identified as destroyed were documented via a docket note in BMCM by the evidence custodian. There was one selection where the destruction date was not documented via a BMCM note or stamp/signature on the Exhibit List.

Recommendation:

- Develop and implement written policies and procedures to identify how to document Criminal evidence destruction date in BMCM. To ensure segregation of duties, policies, and procedures in BMCM are to designate an employee other than the evidence custodian to document destruction date.

6. BMCM user types did not appropriately restrict access to evidence exhibits.

The COCC Information Technology department provided OIG a report listing all users assigned access to the evidence in BMCM. The review of user's access assigned to the BMCM exhibits (i.e., evidence records) indicated their assigned user types did not appropriately restrict access based on job responsibilities. During OIG's review, it was noted that two users were granted access to view, add, modify, and delete evidence exhibits. The two users were not the designated users in the Information Technology department. We noted six instances where users had view-only access to evidence. Based on their job responsibilities, access to view BMCM evidence is not warranted.

Recommendation:

- Collaborate with COCC Information Technology to determine the proper BMCM exhibit access rights to assign the identified users and modify the applicable user role and user type composition and assignment accordingly.
- Create a separate permission for the deletion of exhibits and limit access to evidence custodians and direct supervisors.

7. Maintenance of evidence data in the BMCM system is inconsistent.

During OIG's fieldwork procedures, we identified multiple instances in which evidence data captured in BMCM was incomplete. The report noted 117 cases were reopened and reclosed without a close date. We identified one instance where evidence was not taken into custody by the Civil department, but evidence data was entered into the BMCM. OIG also identified evidence items that had been destroyed but were present on the report. The report also listed 14 guardianship cases with evidence. OIG reviewed and found the evidence was characteristic of confidential documents that are retained in BMCM. A separate report for current evidence will serve as the basis for the physical inventory.

As an additional fieldwork procedure, we selected five cases identified as physical evidence requiring the coordinated release of evidence to the SJSO. Of the five physical evidence cases tested, two are drugs and three are weapons. OIG verified evidence was not physically located in the rooms. In the BMCM, we noted that a signed "Evidence Received by SJSO for Destruction" form was completed and documented for four selections, indicating the SJSO Evidence Department took custody of the evidence to destroy. The fifth selection did not have a completed "Evidence Received by SJSO for Destruction" form.

OIG also haphazardly selected two cases identified as physical evidence with monetary value that, when sold, the revenue is placed in the COCC's general revenue fund. Our selected evidence type was currency. OIG reviewed the BMCM, noting the retention period was met and the currency was not entered in the COCC's general revenue fund. Although not recorded, OIG verified the currency was physically in the Criminal department's Main evidence room. OIG also reviewed the BMCM evidence report for saleable evidence and found that none meet the criteria.

Recommendation:

- Populate the original closed date for all 117 cases identified as reopened and reclosed.
- Create a new report to identify current evidence inventory.
- Ensure physical evidence, such as weapons and narcotics required to be disposed of by the SJSO Evidence Department, have a signed and dated “Evidence Received by SJSO for Destruction” form within BMCM.
- Continuously check and update retention period within BMCM to ensure accurate information is included at the time of the custodian creating the list of cases eligible for destruction.
- Establish procedures identifying evidence documents as opposed to records retained according to Florida Statutes Guardianship records retention guidelines.

We appreciate the cooperation and professionalism of the COCC Criminal and Civil department management, custodians, and staff during this audit.

FINAL