



**FULTON
COUNTY**

**FULTON COUNTY, GEORGIA
OFFICE OF THE COUNTY AUDITOR
Magistrate Court Audit
April 16, 2024**

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INTRODUCTION

The Office of the County Auditor performed an audit of the Magistrate Court as a special request from Commissioner Dana Barrett, District 3, and Commissioner Bob Ellis, District 2.

BACKGROUND

The Fulton County Magistrate Court is a non-trial court that serves the citizens of Fulton County “the County” through a variety of civil and criminal matters. The Magistrate Courts of Georgia were established in 1983. However, the current form of the County’s Magistrate Court was established through GA HB443 in May 2013 and is under the leadership of the Chief Magistrate Judge “Chief Magistrate” who is elected by the citizens of Fulton County. The Chief Magistrate appoints the Magistrate judges along with the approval from the County’s State Court and Superior Court judges. There are eight full-time judges and up to twenty-two part-time judges.

The Magistrate Court consists of the judicial, administrative, and clerical units. The administrative unit manages administrative and executive operations. The judicial unit consists of the magistrate judges that provide electronic warrant review and coverage for the various Fulton County courtrooms, Fulton County Jail, as well as the North and South Service Centers. The clerical unit consists of the Magistrate Court Clerk “The Clerk”, who is appointed by the Chief Magistrate. The Clerk’s office receives, files, docket, and distributes all legal documents and funds paid into the Court registry, and schedules hearings in adherence with the Court’s Order of Business. The Magistrate Court operates 24 hours a day, seven days a week.

The Office of the County Auditor was tasked with performing an audit of the Civil Division of Magistrate Court. There are no jury trials held in Magistrate Court and the jurisdictional limit is \$15,000. The Civil Division handles the following matters:

- ❖ Abandoned Motor Vehicle (AMV)
- ❖ Dispossessory (Landlord-tenant) actions
- ❖ Small Claims
- ❖ Garnishments, and
- ❖ Personal Property Foreclosure

Citizens file cases using the Georgia e-file System and the Clerk’s Office reviews the information for accuracy, and electronically files and scans documents into the Odyssey court filing system (Odyssey). The Clerk’s Office is also responsible for scheduling court hearings and sending out notices to the parties in these cases. The hearings are scheduled in accordance with the Order of Business, prepared by the Chief Magistrate. The Order of Business outlines the hearing schedule for the various locations, court days, time of hearing, courtroom number, maximum number of cases per session, and the effective date of the Order of Business. Additionally, it lists modifications to the schedule, court closings, notices, and any pertinent contact information.

The Order of Business can be modified by the Chief Magistrate during the year, as deemed necessary.

The Fulton County Magistrate Court is the highest volume Magistrate Court in the state of Georgia and the most populous county followed by Gwinnett and Cobb counties. In 2022, a total of 74,277 civil cases were filed in the Fulton County Magistrate Court, as noted in Table 1 below. During the pandemic, a judicial State of Emergency was put in effect on March 14, 2020, which limited court operations and provided relief from any deadlines, other time schedules, or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters. This was extended numerous times and was in effect until October 2021. Court systems were encouraged to expand their technological ability, and to the extent court proceedings were held, they were to limit the risk of exposure to the virus. However, courts never closed, they continued to perform essential functions.

In 2022, Project ORCA was implemented to reduce the case backlog in several Fulton County courts. One of the objectives of this multiyear case reduction plan was to reduce case backlogs caused by the COVID-19 pandemic and accelerate case resolution and performance with the use of federal resources. The project entailed hiring additional staff across the entire justice system to accomplish this objective.

Included below are the case metrics for the Magistrate Court civil cases from 2019 through 2023, which will be referenced later in this report:

Table 1

	Magistrate Court Case Metrics by Year (2019-2023)												
	Year 2019	Year 2020	Change 2019-2020	Percent Change	Year 2021	Change 2020-2021	Percent Change	Year 2022	Change 2021-2022	Percent Change	Year 2023	Change 2022-2023	Percent Change
Cases Filed													
Small Claims	16,602	14,207	(2,395)	-14.43%	16,303	2,096	14.75%	15,561	(742)	-4.55%	20,080	4,519	29.04%
Landlord-Tenant	45,403	22,951	(22,452)	-49.45%	31,801	8,850	38.56%	47,156	15,355	48.28%	43,525	(3,631)	-7.70%
Garnishments	6,091	4,353	(1,738)	-28.53%	5,732	1,379	31.68%	5,882	150	2.62%	5,835	(47)	-0.80%
Abandoned Motor Vehicle (AMV)	7,447	5,180	(2,267)	-30.44%	5,621	441	8.51%	5,678	57	1.01%	4,229	(1,449)	-25.52%
Total	75,543	46,691	(28,852)		59,457	12,766		74,277	14,820		73,669	(608)	
Cases Closed													
Small Claims	16,480	14,073	(2,407)	-14.61%	16,038	1,965	13.96%	15,131	(907)	-5.66%	10,939	(4,192)	-27.70%
Landlord-Tenant	45,390	22,950	(22,440)	-49.44%	31,744	8,794	38.32%	45,867	14,123	44.49%	32,663	(13,204)	-28.79%
Garnishments	6,090	4,341	(1,749)	-28.72%	4,088	(253)	-5.83%	3,015	(1,073)	-26.25%	1,559	(1,456)	-48.29%
Abandoned Motor Vehicle (AMV)	7,447	5,170	(2,277)	-30.58%	5,028	(142)	-2.75%	3,263	(1,765)	-35.10%	2,065	(1,198)	-36.71%
Total	75,407	46,534	(28,873)		56,898	10,364		67,276	10,378		47,226	(20,050)	
Percentage Closed	2019	2020			2021			2022			2023		
Small Claims	99.27%	99.06%			98.37%			97.24%			54.48%		
Landlord-Tenant	99.97%	100.00%			99.82%			97.27%			75.04%		
Garnishments	99.98%	99.72%			71.32%			51.26%			26.72%		
Abandoned Motor Vehicle (AMV)	100.00%	99.81%			89.45%			57.47%			48.83%		
Total Number of Cases Open													
Small Claims	122	134			265			430			9,141		
Landlord-Tenant	13	1			57			1,289			10,862		
Garnishments	1	12			1,644			2,867			4,276		
Abandoned Motor Vehicle (AMV)	-	10			593			2,415			2,164		
Total	136	157	-		2,559	-		7,001	-		26,443		

Source: Magistrate Court case metrics as of December 25, 2023

OBJECTIVE

The objectives of the audit were to assess the operations and processes surrounding the Magistrate Court's Civil Division and determine whether controls are operating effectively.

SCOPE

The scope of the audit was from January 1, 2022 – December 31, 2022.

METHODOLOGY

We conducted this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

To achieve our audit objectives, we performed the following audit procedures related to the Magistrate Court Civil Division:

- Conducted interviews with key staff to determine established processes and procedures;
- Performed walkthroughs to observe key processes and procedures related to daily operations;
- Reviewed Magistrate Court Standard Operating Procedures;
- Reviewed policies, laws, orders, and resolutions;
- Identified internal controls and operating effectiveness;
- Reviewed departmental organizational charts;
- Reviewed Case Metrics;
- Observed court hearings; and
- Obtained a listing of all civil cases filed in 2022, consisting of dispossessory, abandoned motor vehicle, small claims, garnishment, and personal property foreclosure cases.

In addition, we randomly selected a sample of cases from the year 2022 for review and verified the following:

- Timeliness of cases filed
- Required documentation was obtained to initiate a case
- Filings contained required information
- Timeliness of orders filed
- Disposition of case

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our findings and recommendations are detailed below.

FINDINGS AND RECOMMENDATIONS

Finding 1 – Lack of Written Departmental Standard Operating Procedures

Standard Operating Procedures (SOPs) are an essential tool for allowing employees to understand their responsibilities as well as allowing management to guide operations and eliminate uncertainty in how to best complete duties. Departmental SOPs must be current, complete, and effectively implemented within the department to achieve the desired impact. SOPs, at a minimum, should include the five elements reflected below:

- **Purpose:** The SOP should define the purpose of the work and clearly outline its objectives.
- **Procedures:** An SOP not only defines tasks but also provides guidelines for how to complete tasks. Procedures will include all the necessary steps an employee must take in an easily understood format.
- **Scope:** The scope defines the use and applicability of the SOP.
- **Responsibilities:** The SOP should outline who performs the tasks and who to contact if problems arise and for additional management approval. It also outlines the person in charge of its implementation, review, and updates.
- **Accountability measures:** SOPs are intended to improve accountability. Outlining the responsibilities of each person within an organization ensures accountability for assigned projects.

The Clerk's Office was unable to provide written operational procedures at the time of our walk-through, although they were able to provide flowcharts for the various civil matters and a reference manual for one of the five civil matters. Except for the reference manual, the flowcharts did not detail the processes that would assist the department with carrying out specific duties and time frames for completion. The Clerk's Office provides pamphlets to the public, consisting of procedures for initiating the various civil cases and steps the general public can take to navigate the process, yet there were no standard written procedures within the department upon our initial request. Subsequent to our request and during our follow-up with the department, we were provided with "draft" standard operating procedures for civil matters. The department informed us that the procedures provided were currently in progress, not final. Written departmental procedures would ensure uniformity and efficiency throughout each process.

The lack of departmental SOPs hinders performance and productivity, it also increases errors and decreases the effectiveness of internal controls. Written procedures aid in training new employees, provide a clear description of job duties, and increases accountability.

Recommendation

We recommend the Clerk's Office finalize the standard departmental SOPs that reflect the current processes of the department and communicate the importance of adhering to and maintaining up-to-date procedures that reflect the day-to-day operations. It is equally important to ensure procedures are communicated to employees to ensure consistency throughout the department.

Finding 2 – Lack of Communication

Open communication provides a consistent flow of information necessary for uninterrupted service, clear expectations, and increased productivity. During our audit, we received confirmation from both the Clerk's Office and Magistrate Court personnel that a lack of open communication exists between the two agencies. Prior to the previous Clerk's withdrawal of services, there was a direct line of communication between judges, court clerks, and judicial assistants. Communication has reduced, oftentimes through email correspondence, which does not always allow issues and questions to be resolved expeditiously. During our review, we were not provided with an explanation as to why communication has diminished between the two agencies, however, the Chief Magistrate and the current Clerk have not resolved this communication barrier. The absence of open communication decreases work relationships and trust, fosters inefficiency, and negatively impacts work culture.

Recommendation

We recommend both, the Magistrate Court and the Clerk's Office outline and develop an efficient and direct means of communication and implement a policy for open and productive dialogue amongst staff. Additionally, to adopt a culture of open communication that promotes positive relationships, boosts employee morale, and increases workplace efficiency.

Finding 3 – Late Filing of Orders

Orders should be completed and filed in Odyssey within forty-eight (48) hours of the judge's ruling. During our review of case files, we noted instances where orders were not filed in the system within the above time frame. Per discussion with Magistrate Court's judges and staff, as well as the Clerk's Office, court support for judges was removed in January 2022 by the previous Clerk. This included the removal of deputy clerks from inside the courtroom, deputy clerks no longer accepting orders, or e-filing orders. We were informed by the Magistrate Court that new processes were adopted due to the removal of these services. Roles and responsibilities increased; judges were forced to refer back to their calendars to locate orders, and the responsibilities of the judicial assistants increased. The decision was made to utilize ORCA staff

and two part-time judges to e-file orders. We observed magistrate staff checking orders to ensure they had been e-filed in Odyssey; it was determined orders were outstanding that had not yet been e-filed. Delays in filing orders result in inquiries from litigants and attorneys, which are prevalent in the queues, and writ of possessions (associated with the eviction process) cannot be filed without an order. Responding to these inquiries requires time and results in duplication of effort. Failure to timely file orders affects the timeline for litigants to respond, hinders the eviction process, and adds to the existing case backlog.

As of July 24, 2023, the Clerk's Office resumed court support and e-filing of orders, although modifications were made to how the orders are received.

Recommendation

We recommend the Magistrate Court continue the process of analyzing cases initiated in 2022 and 2023 to ensure all orders have been properly e-filed. We also recommend the responsibilities of the Clerk be explicitly documented to provide a clear description of responsibilities.

Finding 4 – Court Orders Not Accepted in Court

Prior to January 2022, one of the court support functions performed by the Clerk's Office was for the deputy clerk to receive the judge's orders during the court hearing and process case results and other pertinent information in Odyssey. During our audit, we observed court hearings and noted that the orders were not provided to the deputy clerk during the hearings. As noted in the previous finding, this service was no longer being provided by the Clerk's Office as of January 2022.

We also observed the current process implemented in July 2023 by the Clerk's Office when court support resumed. This process consists of the judicial assistant scanning the order to create a paper trail, then placing hard copies of the orders in a basket located in the Magistrate Court's administrative office for pickup by the Clerk's Office three (3) times a day. The orders are taken to the Clerk's office for scanning into the e-file system and then distributed electronically for processing in Odyssey. Both the Magistrate Court and the Clerk's Office, express concerns with missing, misplaced, and duplicate orders. Time-consuming efforts are spent on resolving missing and duplicate orders, all of which have a negative impact on the timely processing of information. Notwithstanding, the judge's ruling is not considered final until the order is filed in Odyssey, therefore, it is imperative they are filed timely to provide continuity of the judicial process.

Recommendation

We recommend reinstating the former process of providing court orders directly to the deputy clerk during the hearing, with both parties acknowledging delivery and receipt of each order by signing a tracking sheet or similar document. Furthermore, we recommend designating staff to

address missing orders to allow judges to work on matters that cannot be delegated elsewhere, if at all possible. Lastly, we recommend implementing a quality review process to ensure cases on past calendars are filed within the prescribed time frame.

Finding 5 – Significant Reduction in Max Cases

The Order of Business outlines the hearing schedule for various Magistrate Court locations, including court days, time of hearing, courtroom number, and maximum number of cases scheduled per hearing session. The Clerk’s Office also utilizes this document to schedule hearings for various civil cases. We compared the 2019 and 2022 Order of Business, along with amendments, and noted a reduction in the maximum number of cases scheduled for landlord-tenant by fifty-percent (50%) or more. In 2022, the Order of Business was amended five (5) times by the Chief Magistrate, which modified different aspects of the schedule and may have impacted the maximum number of cases scheduled. Additionally, the total cases filed in 2020 and 2021 were significantly fewer than the cases filed in 2019, as shown in **Table 2**.

Table 2

Case Filings and Closures by Year				
<i>Civil Cases</i>	2019	2020	2021	2022
Total Cases Filed	75,543	46,691	59,457	74,277
Total Cases Closed	75,407	46,534	56,898	67,276
Total Open Cases	136	157	2,559	7,001

Source: Magistrate Court Civil Case Metrics as of December 25, 2023, **Table 1**

In 2019, prior to the pandemic, only 136 cases remained open of the 75,543 cases filed. By the year 2022, civil case filings were near pre-pandemic levels, with landlord-tenant case filings surpassing pre-pandemic levels. These factors combined with the reduction in maximum cases scheduled significantly contributed to the case backlog, given the total number of open cases for 2022 and 2023 were 7,001 and 26,443, respectively.

Per discussion with the Chief Magistrate, the Order of Business was modified based on the needs of the court, to allow ample time for cases to be heard, allow time for mediation, social distancing, and the execution of e-filing orders by one (1) ORCA staff and two (2) part-time judges; a function normally performed by the Clerk’s Office. However, reducing the maximum number of cases scheduled with the presence of a backlog, coupled with an increase in case filings inherently increases the difficulty of managing the case backlog, reduces the speed of the judicial process, and diminishes citizen trust.

Recommendation

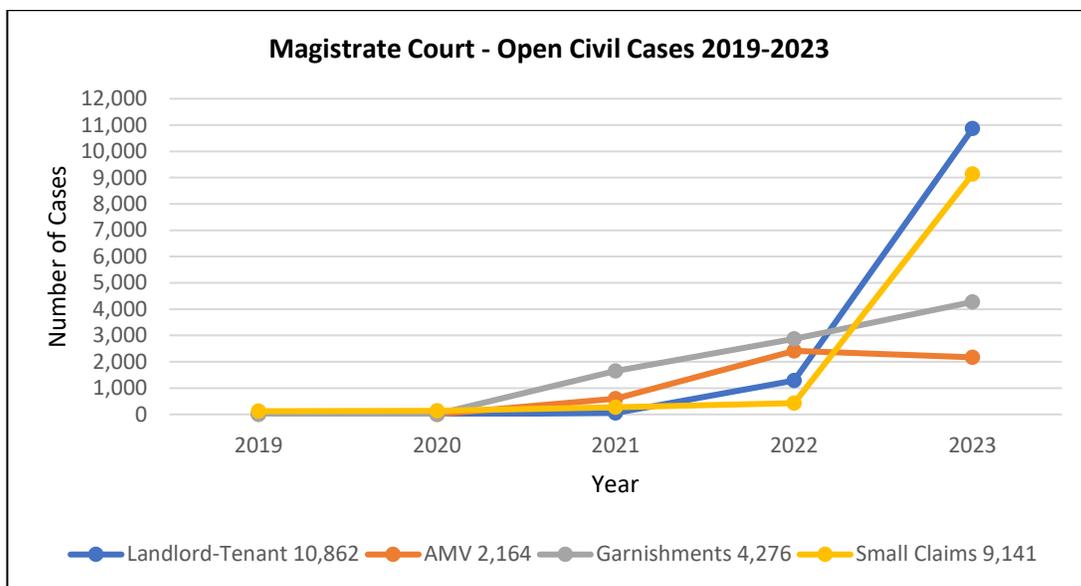
We recommend increasing the maximum number of cases scheduled to a level that would assist in reducing or eliminating the backlog. We also recommend prioritizing current support and judicial staff to efficiently close outstanding cases, perhaps creating a backlog reduction team. Lastly, further the existing mediation outreach efforts to reach more litigants regarding the importance of mediation and the potential effect it could have on their case.

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Finding 6 – Reduction in Case Closure Rate

Fulton County Magistrate Court is the highest volume Magistrate Court in the state of Georgia and has been successful in extinguishing previous case backlogs. During our audit, we discussed the effects of the pandemic on the case closure rate and noted a significant increase in 2021 of 2,559 open civil cases. Project ORCA began in 2022, although by the end of 2022, the case backlog totaled 7,001 open civil cases, with landlord-tenant, AMV, and garnishments with the highest number of outstanding cases. As of December 25, 2023, total open civil cases were 26,443, with landlord-tenant having the highest open cases at 10,862. The progression of open cases from 2019 to 2023 is listed below.

Table 3



Source: Magistrate Court Civil Case Metrics as of December 25, 2023, **Table 1**

As noted in the previous finding, there was a reduction in the maximum number of cases scheduled in 2022, and this concept carried forward throughout 2023. Per review of the Order of Business for the last quarter of 2023, increased efforts were made to hear more cases; however, the maximum number of cases scheduled has not returned to pre-pandemic levels, when the case closure rate was at its greatest. As cases remain open, there is a delay, if not a loss of revenue and a delay in due process.

Recommendation

We recommend the Magistrate Court explore solutions to successfully increase the case closure rate and reduce the case backlog to a manageable level. We also recommend working diligently to increase the maximum number of cases heard, scrub case files to ensure the proper disposition

of cases in the system and collaborate with other jurisdictions and experts to resolve the present issue.

Finding 7 – Outstanding AMV Cases

Abandoned motor vehicle (AMV) cases originate with the designated tow company or entity, in possession of the abandoned motor vehicle, (plaintiff) filing a Lien Affidavit for Foreclosure with the Clerk’s Office, after a proper demand for payment of outstanding fees has been made to the vehicle owner, along with other required steps. After the initial filing, a case number is created, although a motion must be filed for the case to go before a judge for a ruling. If no timely petition has been made with a court of competent jurisdiction within ten (10) days of filing, the lien is deemed valid and foreclosure and sale of vehicle by public auction is authorized. If a petition is filed by the vehicle owner, a hearing is scheduled to determine whether a valid debt exists. During our review of AMV cases filed during 2022, it was determined that the cases remain open, and no activity has occurred in Odyssey on these cases as of November 2023. All cases reviewed, except one, were initial filings by the plaintiff with no other action documented in Odyssey. A motion was filed for one case, however there was no other action taken. During our discussion with the Clerk's office, it was stated that a motion was not filed by the plaintiffs after the initial filing, which would result in no further action being taken by the Clerk's office. Furthermore, due to the manual process of AMV cases, judges may be unaware of cases that require orders which would also result in no further action being taken. Failure to ensure proper steps are taken to move cases along results in stagnation, loss of revenue, and unfavorable case metrics. Additionally, manual processes can contribute to a delay in cases.

Recommendation

We recommend the Clerk’s office and the Magistrate Court review AMV filings to ensure the proper disposition of cases filed. Additionally, implement a review process to track AMV case filings to ensure cases have the proper movement and are closed in a timely manner.

Concern 1 – Manual Processes for Abandoned Motor Vehicle Cases

A periodic review of business processes should be performed to assist with identifying inefficiencies, optimize productivity, and streamline processes. All civil cases are initiated through filing the necessary documents via eFileGA, except for abandoned motor vehicle cases (AMV). These cases are filed manually in the Clerk’s Office. The tow company or claimant submits the initial filing of paperwork through the service window, which is then manually entered into Odyssey by a court associate to initiate the case. The associate enters information such as vehicle make, model, color, VIN, name, and address of parties. The new case number is entered on an excel spreadsheet and the paperwork filed in a cabinet. Every Friday, the spreadsheet undergoes

manager review and is emailed to the Chief Magistrate on Monday. The cases are then ruled on by a judge and the order is filed in the system. During our audit, we were informed of orders having incorrect VIN numbers, case lists not being received to issue orders, duplication of orders, and outstanding cases. We were also informed that the judges are unaware of any backlog until the manual list is received. The reliance on manual processes is cumbersome, reduces operational efficiency, and is more likely for human error.

Recommendation

We recommend Magistrate Court explore all avenues to transition AMV cases from manual to electronic processing to reduce the risk of errors and increase efficiency. Additionally, we recommend a quality review of non-active cases to determine case status and update case records.

Concern 2 – Lack of Courtrooms and Mediation Rooms

The Magistrate Court operates nine (9) courtrooms for all magistrate cases. For landlord-tenant cases, the defendant is given the option to mediate their case prior to having it heard before a judge. This allows the landlord and tenant an opportunity to negotiate payment and consent to a payment arrangement or other resolution. If all parties have a desire to mediate, they are given that option, however, there are only eight (8) mediation rooms amongst all the courtrooms. As a result, the parties wait for a room to mediate, or they discuss personal information in hallways and walkways outside of the courtroom. This results in fewer cases being heard, delayed hearings, and a decrease in citizen confidence in the judicial process.

Recommendation

We recommend the Magistrate Court explore solutions with other courts that will allow for the utilization of courtrooms while not in use. Additionally, look at available offices or spaces in proximity to courtrooms in the Justice Center with reasonable privacy that can be used for mediation.

Concern 3 – Weddings Conducted by Magistrate Court

Wedding ceremonies are offered once a week by the Fulton County Probate Court. As a result of the COVID-19 pandemic, the ceremonies ceased due to health and safety concerns. As Probate Court resumed their wedding services, Magistrate Court began conducting weddings ceremonies one day a week, often officiated by a part-time judge. We were informed that the room used for weddings was previously a storage room, hence, this being a good use of the allotted space.

However, failure to utilize part-time judges for hearings decreases the judicial footprint and hinders the reduction of the case backlog.

Recommendation

We recommend pausing wedding services to utilize part-time judges to assist with decreasing the backlog.

Concern 4 – Technical Issues with Court Filing System

Software is designed to increase operational efficiency through streamlined processes, accuracy, and quick access to data. The various cases, filings, answers, and actions of the Magistrate Court are organized in queues within Odyssey. During our review, we were informed of some of the issues experienced with the Odyssey court filing system. After updates are performed on the system, it has been known to change the functionality of queues, which hinders performance. One judge works the presiding queues, which maintain all the items related to specific case types. These items are then forwarded to the respective queue (small claims, dispossessory, garnishments). Before an update, the judge was able to batch items for transfer to a particular queue. For instance, items related to garnishments would be batched and sent to garnishment, once the software updated, that function was no longer available without opening each item for transfer. Other issues related to the names of queues changing, and deceased judges being added to the list of available judges. Addressing these issues is time-consuming, hinders efficiency, and causes unnecessary frustration.

Recommendation

We recommend contacting the software vendor to discuss the issues experienced with updates to the system and work on solutions to enhance the software and make it as efficient as possible.

CONCLUSION

Based on the audit performed, we identified seven (7) findings and four (4) concerns noted below that require the attention of management:

- Lack of Written Departmental Standard Operating Procedures
- Lack of Communication
- Late Filing of Orders
- Court Orders Not Accepted In Court
- Significant Reduction In Max Cases
- Reduction in Case Closure Rate

- Outstanding AMV Cases

Additionally, we noted the following concerns:

- Manual Processes for Abandoned Motor Vehicle Cases
- Lack of Courtrooms and Mediation Rooms
- Weddings Conducted by Magistrate Court
- Court Filing System Updates

We encourage the Magistrate Court to strengthen and improve processes and continue serving the citizens of Fulton County by working with County agencies and judicial partners to enhance operations and continuity of the judicial process. Additionally, management should ensure that appropriate corrective actions are taken to improve court operations.

Please provide a written response to this audit within ten (10) business days. Be sure to address the written response to Anthony Nicks, County Auditor. The written response should be submitted to Shauna Herbert, Audit Manager, in the Office of the County Auditor at shauna.herbert@fultoncountyga.gov. We would like to thank management and staff for their timely cooperation and assistance during this audit. The distribution of this report is reserved for the executive management of Fulton County and the Board of Commissioners.