

**SPECIAL REPORT**

**OFFICE OF ADMINISTRATIVE REVIEW  
FINANCE DEPARTMENT**

**2008**



# CITY OF PHILADELPHIA

OFFICE OF THE CONTROLLER  
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ALAN BUTKOVITZ  
City Controller

May 5, 2009

Rob Dubow, Finance Director  
Office of Director of Finance  
1401 John F. Kennedy Blvd  
Municipal Services Bldg., 13<sup>th</sup> Floor  
Philadelphia, PA 19102

The City Controller's Office has performed an evaluation of the revenue collection processes and related delinquent collection efforts of the Office of Administrative Review, Finance Department. This evaluation was conducted pursuant to Section 6-400 (c) and (d) of the Home Rule Charter. A synopsis of the results of our work is provided in the executive summary to the report.

We discussed our findings and recommendations with your staff at an exit conference and have included their written response to our comments as part of the report. We believe that our recommendations, if implemented by management, would improve the accountability and collection of receivables due the City. We will follow up on these recommendations and management's actions during subsequent audits.

We would like to express our thanks to you, the Executive Director of the Office of Administrative Review and her staff for the courtesy and cooperation displayed during the conduct of our work.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan Butkovitz".

Alan Butkovitz  
City Controller

Honorable Michael A. Nutter, Mayor  
Honorable Anna C. Verna, President, and Members of City Council



## OFFICE OF ADMINISTRATIVE REVIEW FINANCE DEPARTMENT

### EXECUTIVE SUMMARY

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#### **Why the Controller's Office Conducted the Review**

At a time when Philadelphia is facing a budget crisis, the Controller's Office continues to look for ways the City can generate and recover revenue to help ease the City's financial burden. In pursuit of additional revenue sources, the Controller's Office evaluated the revenue collection processes and related delinquent collection efforts of the Office of Administrative Review, Finance Department

#### **What the Controller's Office Found**

Our review of The Office of Administrative Review (OAR) revealed \$53,578,992 in receivables that are owed the City as a result of non-payment of violations of various city codes as well as an unspecified and unknown amount owed for required alarm registrations.

Some of the other significant observations are listed below:

- Until this review was started, none of the receivables had been included on any City accounting records.
- Total revenue collected by OAR during FY 2008 was \$5,846,304 with approximately nine times that amount still outstanding.
- Approximately \$33,834,418, or 63%, of the outstanding balance is over three years old and, according to OAR and their historical experience, may be uncollectible.
- Of approximately \$4.7 million billed for burglar alarm registrations, a little over \$2 million, or only 44%, was actually paid.
- At the time of this review, there was no process or procedure noted for reporting or collecting outstanding alarm registration receivables.
- There were multiple delays, including some built in administrative due process delays, in processing violation notices and eventually referring them to court for judgment.

- Due to bureaucratic issues, Airport issued violation notices are not processed by OAR resulting in loss of revenue and possible impairment in the Airport's ability to properly enforce violations.
- OAR reported that 111,345 violations were reported during FY 2008 with 53,546 unpaid for less than one year, but OAR may only refer 160 cases per week, less than 8,400 annually, to the court. Even though OAR bundles multiple violations of a single offender into one case to maximize the limited court access, the court limitation results in limiting the number of court cases to less than 16% of the total number of violations not paid each year, insuring a continual backlog.
- For those cases that are referred to court, there are minimal collection actions undertaken once a court judgment is received.
- If paid, OAR does not assess City Code required interest or additional penalties resulting in additional loss of revenue.
- Unpaid violators are not reported to other City agencies, allowing those who owe the City to continue to receive city services or payments, as well as issuance and renewal of licenses or permits.
- The lack of effective and efficient revenue collection capability will negatively impact any new fines, codes or revenue generating legislation.

### **What the Controller's Office Recommends**

The Controller's Office has developed a number of recommendations to address these findings. The recommendations can be found at the end of the main report.

**OFFICE OF ADMINISTRATIVE REVIEW, FINANCE DEPARTMENT - RECEIVABLES –**  
**DELINQUENT ACCOUNTS REVIEW**

**OVERVIEW:**

At a time when Philadelphia is facing a budget crisis, the Controller's Office continues to look for ways the City can generate and recover revenue to help ease the City's financial burden. In pursuit of additional revenue sources, the Controller's Office evaluated the revenue collection processes and related delinquent collection efforts of the Office of Administrative Review, Finance Department.

In addition to their other duties and responsibilities, the Office of Administrative Review (OAR) provides citizens of Philadelphia with an appeal process and adjudication by review of administrative cases; administration of the adjudication process and financial management of disputed cases involving code violation notices issued by a number of city departments for violations of various city codes. Included in these are sanitation infractions and other assorted code violations, referred to as "SWEEP" violations, and false burglar/theft/robbery alarms violations. In addition, the billing, accounting and collection process involves alarm registrations.

OAR reported that they collected a total of \$5,846,304 during FY 2008 for all SWEEP and false alarm violations as well as required alarm registration fees.

As part of the review, the Controller's Office requested and the OAR provided a copy of the list of aged receivables owed the City, revenue generated as a result of violation notices, revenue associated with alarm registrations, and a name listing of those who were most delinquent (top 100). In examining the OAR provided information, the Controller's Office found a total of \$53,578,992 that is owed to the City – of which 63% or \$33,834,418 is over three years old. The amount of receivables over three years old is particularly troublesome as OAR indicated that, according to their historical experience, these receivables may not be collectable. Also, prior to this review being started, none of these receivables had been included on any City accounting records.

A review of burglar alarm registration billing information indicated that during FY 2008, of \$4,698,804 billed, only \$2,056,160, or only 44%, was actually paid. Also, OAR could provide no information as to any receivables due for previous years and there was no process or procedure noted for reporting or collecting these receivables.

In addition, the Controller's Office reviewed the timelines for processing violation notices and the results of violation notice hearings conducted by OAR. Of particular note was the delay, estimated by OAR personnel as two to three months, in initially reviewing the notice and providing it to the contractor to enter it into the data base system and start the violator notification process. According to OAR personnel, this delay is the result of a lack of manpower to accomplish the task. Also, due to bureaucratic issues, Airport issued violation notices are not being processed by OAR resulting in loss of revenue and possible impairment in the Airport's ability to properly enforce violations.

The Controller's Office also reviewed the procedures in place for collecting fines due, particularly in light of the amount and age of the reported receivables. According to information provided by OAR, the collection process is hampered by limitations on the number of cases OAR may file with the Municipal Courts each week. OAR reported that 111,345 violations were reported during FY 2008 with 53,546 unpaid for less than one year, but OAR may only refer 160 cases per week, less than 8,400 annually, to the court. Even though OAR bundles multiple violations for a single offender into one case to maximize the limited court access, the court imposed limitations results in limiting the number of court cases to less than 16% of the total number of violations not paid each year, insuring a continual backlog. This lack of court access can impact OAR's ability to collect these receivable. To illustrate, a comparison of all receivables (SWEEPS and excessive alarm violations) for a six month period (from June 30 to December 31, 2008) indicated that the number of pending unpaid violations increased by 5,845 with an increase of \$2,642,703 in receivables during this short time span.

Of particular note, there are virtually no collection or court actions undertaken in the event a partial payment is credited on a particular violation nor are there effective collection actions once a court judgment is received. These fines and fees due the City, both the partial payments and the ones with court judgments, are allowed to remain until the individual, for whatever reason, decides to voluntarily pay the amount due. Also, if and when they are paid, no interest or additional penalties, as required by City Codes, are added to the amount due. In addition, the balances due are not reported to any other city agency, allowing individuals and companies who owe the city revenue, to continue to receive city services or payments, as well as issuance and renewal of licenses and permits, in violation of City Codes or, in the case of city employees, to receive their full salaries and benefits.

Finally, this lack of effective or efficient revenue collection capability, if not corrected or improved, should be a significant factor if additional revenue measures are being considered. If less than half of billed burglar alarm registrations are being paid and less than 10% of issued trash violations are subject to court actions, and even then not actively collected, then any new revenue sources that use the same process will also be ineffective and will most likely not generate the revenue anticipated.

## **DISCUSSION:**

### **AGED RECEIVABLES**

#### **SWEEP Violations**

Violation notices in this category are for trash violations, certain public violations, and other violations. Departments who issue these type violations include Police, Streets, Health, L&I, Airport (see comment below), SEPTA Police and police at the University of Pennsylvania. During FY 2008, there were 81,079 violation notices issued. During the same time period, \$2,573,981 in revenue was collected for SWEEP violations. However, as of December 31, 2008, OAR records indicated there was \$34,144,995 due on 352,654 unpaid violations. It should be noted that this data base includes violations that may date back as far as 1991. The chart below indicates the receivables due on SWEEP violations as of December 1, 2008.

AGE	VIOLATIONS	UNPAID
Less than 1 Year	39,865	\$5,907,485
1 to 2 Years	32,346	\$5,785,761
2 to 3 Years	28,398	\$4,514,812
More than 3 Years	166,193	\$17,936,935
Unknown (Errors)*	14,675	\$112,035
<b>TOTAL</b>	<b>281,477</b>	<b>\$34,257,028</b>

\* Age unknown due to invalid issue date

According to information provided by OAR, violation notices issued by personnel at the Airport are not included in their data base or collection efforts. OAR stated this is due to the Airport "not fulfilling requirements" and incompatibility with the way the Airport reports their information to OAR. However, information provided by the Airport indicated they routinely and systematically forward issued violation notices to OAR, coordinates booklet and numbering systems with OAR and have requested but not received any feedback from OAR on statistics concerning the Airport issued violation notices. Apparently this problem has been ongoing for some time and there are indications of personality clashes that have hampered resolution of this issue. The Airport indicated they issued 767 violation notices during 2008 and that a majority of their violations involved personnel employed in some capacity at the Airport. Information provided by OAR indicated that no violation notices issued at the Airport were included in the count of violation notices they provided for notices issued during FY 2008. In addition, Airport issued violations and violators are only entered into the OAR system if they pay their violation. OAR indicated that there was no effort ongoing to resolve this problem and could provide no estimate as to when this problem would be resolved or even addressed. As a result, the violation notices issued by Airport personnel are not being entered, accounted for or followed up on by OAR. As these violators, persons employed somewhere on the Airport, are generally easy to find, this lapse in accountability is not only resulting in loss of revenue, but the effective enforcement of rule infractions at the Airport may also be significantly hampered.

### **Excessive Alarm Violations**

Violation in this category are for those residents or businesses that have false alarm activations that are responded to by Police that are in excess of a number established by city ordinance. Prior to January 1, 2009, the allowed number of false alarms was three and any number of alarms in a license year over that number resulted in a violation notice being issued to the alarm owner. As of January 1, 2009, the allowed number of alarms has been reduced to two. These violation notices are issued based on alarm activation response information provided by the Police.

During FY 2008, there were a total of 82,546 false alarm activations reported to OAR, of which 30,266 were in excess of the allowable false alarms. During the same time period, \$1,216,163 in revenue was collected for false alarm violations. However, as of December 31, 2008, OAR records indicated there was \$19,321,961 due on 71,177 unpaid violations. It should be noted that this data base includes violations that may date back as far as 1995. The chart below indicates the receivables due on false alarm violations as of December 1, 2008.

AGE	VIOLETIONS	UNPAID
Less than 1 Year	9,432	\$1,251,680
1 to 2 Years	3,534	\$788,310
2 to 3 Years	3,982	\$1,383,929
More than 3 Years	52,855	\$15,897,483
Unknown (Errors)*	1,374	\$559
<b>TOTAL</b>	<b>71,177</b>	<b>\$19,321,961</b>

\* Age unknown due to invalid issue date

## Alarm Registrations

Receivable in this category are for those who have failed to pay the required annual alarm registration fee. Previously the annual registration fee was \$35 which was raised to \$50 as of January 1, 2009.

During FY 2008, OAR billed a total of \$4,698,804 for alarm registration fees and collected a total of \$2,056,160. The total billed and collected includes new registrations as well as renewals and may include fees from prior years. OAR bills alarms registrants annually and continues to bill unless three calendars years pass without any account activity. Account activity includes any payment of the account or any false alarms at the registered premises. Even though the account may no longer be billed, the account remains active and all prior amounts will be brought forward and re-billed whenever there is any account activity. It should be noted that the total amounts owed were not retrievable by OAR and are not booked anywhere as a receivable.

## Code Violation Notice Process

Code violation notices are generated by both relevant city employees enforcing the various ordinances or as a result of excessive false alarms reported by police. Once a violation is issued, it is sent to OAR for quality control and then onto the contractor for processing. However, according to OAR, the initial quality control and review process may take from two to three months due to manpower constraints and other work priorities.

After the violation notice is sent to the contractor, the information is entered into their data base, a notification letter to the violator is generated which includes a copy of the violation, charges, possible penalties, appeal rights and process. In addition, OAR administers the appeal process and provides various follow up letters if the fine is not paid as well as a warning and notification that the violation will be referred to Municipal Court.

## Code Violation Adjudication

OAR conducts administrative review hearings for both SWEEPS and excessive false alarm violations. OAR provided some data concerning these hearings during FY 2008. With the data available and provided by OAR, the following information was extrapolated as best as possible.

During FY 2008, 10,665 of the total SWEEPS violations were scheduled for a review hearing. When compared to the violation notices issued during FY 2008, approximately 13% of violations



result in a hearing request. During FY 2008, hearings into SWEEPS violations resulted in 6.9% being found fully liable for the violation (required to pay all fines and penalties), 14.9% being held liable but with some reduction in the penalties (no reduction in set fines allowed), 72% were dismissed (9.5% of the total issued) and the remainder failing to appear for the requested hearing. No information was available as to the reasons for those violations that were dismissed because this data reportedly is not recorded by OAR. Finally, approximately 40% of those found liable for the violation failed to pay the fines and, if assessed, the penalties.

During FY 2008, 1,328 of the total excessive false alarm violations were scheduled for a review hearing. When compared to the violation notices issued during FY 2008, approximately 4.4% of violations result in a hearing request. During FY 2008, hearings into excessive false alarms violations resulted in 8.2% being found fully liable for the violation (required to pay all fines and penalties), 29.4% being held liable but with some reduction in the penalties (no reduction in set fines allowed), 14.5% being dismissed (less than 1% of total issued) and the remainder failing to appear for the requested hearing. No information was available as to the reasons for those violations that were dismissed because this data is reportedly not recorded by OAR. Finally, approximately 22% of those found liable for the violation failed to pay the fines and, if assessed, the penalties.

### **Court Referrals**

OAR refers delinquent and unpaid violation notices to the Municipal Courts weekly. However, according to OAR, they are limited by the courts to referring only 160 cases per week. As a result of this limitation, OAR has developed internal criteria to select referrals that maximize their ability to obtain judgments. The actual criteria used is not in written policy or procedures and is fluid and subject to change based on OAR judgments on the best way to use the limited court case availability. For example, their criteria may include the number of violations outstanding as they can be bundled into one court case and the amount owed on the violations. Also, OAR recently increased the percentage of the referred SWEEPS violations of the total 160 cases they are allowed to refer to court in order to alleviate some of the SWEEPS backlog. OAR informed us that according to their current undocumented criteria, there are a total of 1,137 SWEEPS violations totaling \$265,625 and 731 excessive false alarms violations totaling \$192,725 awaiting referral to the court.

With the current court restrictions on referrals, it would take almost three months to just clear the limited number of cases meeting OAR's restrictive criteria yet during this same time period approximately 27,800 new violations would be issued. In fact, a comparison of all receivables (SWEEPS and excessive alarm violations) for a six month period (from June 30 to December 31, 2008) indicated that the amount of receivables increased by \$2,642,703 during this short time span.

### **Collections**

According to OAR, collection activities after court judgment are minimal, consisting primarily of further correspondence, due to their lack of legal authority. When a judgment is obtained and entered on the records, they wait for the violator to pay the judgment. This usually happens when the property involved is put up for sale or if the person whom the judgment is against applies for a loan or needs a clean judgment record.

Listed below are the amounts still due for cases where a court judgment was obtained, cases that have been referred to court but are either awaiting judgment or had unsuccessful service of notice (Non-Judgment) and those cases that are still open and have not been referred to court.

	DUE	%
<b>SWEEPS</b>		
Judgment Obtained	\$12,998,843	38%
Non-Judgment	\$5,975,086	17%
Open Violations	\$15,550,423	45%
<b>EXCESSIVE FALSE ALARMS</b>		
Judgment Obtained	\$13,291,146	69%
Non-Judgment	\$3,837,847	20%
Open Violations	\$2,129,649	11%

### **Additional Comments**

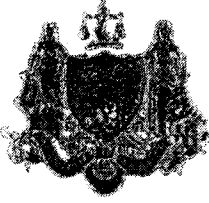
OAR reported that they do not add interest or additional penalties to amounts owed the city, in direct violation of Philadelphia City Codes, § 9-102 (6). Interest and penalties on the outstanding judgments alone would be in excess of \$4,500,000 per year. OAR also has no mechanism in place nor do they report outstanding violators to other city agencies, such as L&I, to insure that the requirements of Philadelphia City Code § 9-102 (9), that prohibits issuance or renewal of any license or permit, are met.

The entire data base, system used to track violations, issuance of notices, referral to court and receiving money is in the hands of a contractor who receives a fixed monthly fee and a contingency fee of 11.93% of revenue collected. In addition, the software used is proprietary software of the vendor and they have complete control over all the data and the data base. It is not known if this data can be reasonably or economically extracted were a new vendor or new software selected.

### **CONTROLLER'S RECOMMENDATIONS:**

- OAR should ensure all receivables are reported and entered into the City accounting system
- OAR should collect on the receivables. For past due receivables, it should seek the assistance of the City's Law Department for further action on collecting money that is owed.
- OAR should improve the process of monitoring, accounting for and collecting unpaid and overdue alarm registrations. This is one area where collection actions should be especially fruitful as these are known entities with known addresses.
- OAR should implement the fine mechanism for those unregistered alarms, as allowed by recent changes to the City Codes.
- OAR should implement all the interest and penalties as identified in the City Codes.

- OAR should work with the Municipal Court to increase the number of referrals to clear the backlog of pending cases.
- OAR should develop a process to notify L&I of those entities who have outstanding balances due to ensure they are not allowed to be issued or renew any permits or licenses until the balance is paid or a payment schedule is approved.
- OAR should review all receivables and refer those that contain invalid information and are clearly uncollectible to the City's Accounts Receivable Review Panel for their consideration.



# CITY OF PHILADELPHIA

April 27, 2009

OFFICE OF ADMINISTRATIVE REVIEW

PAULA WEISS, *Esq.*

*Executive Director*

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The Honorable Alan Butkovitz  
City Controller  
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Re: Special Report on the Office of Administrative Review

Dear Mr. Butkovitz:

Thank you for the opportunity to discuss the contents of your draft report at the exit conference held on April 20, 2009. The following are the Finance Department's responses to the report.

The OAR Code Unit processes in excess of 80,000 Code Violation Notices, 90,000 total false alarm activations with 32,000 billable false alarm activations, and more than 74,000 annual alarm registration billings each year. These Code Violations and Burglar Alarm violations require significant processing and research to identify and notify the responsible parties. Code Unit personnel research and complete Code Violation Notices and alarm activations, represent the City in Municipal Court, provide customer service and support the hearing processes.

Multiple notices, administrative review and finally, for all but alarm activations occurring after January 1, 2009, Municipal Court action is engaged to attempt to both change behaviors leading to these violations and collect fees, fines and penalties. These activities are ongoing to maximize compliance and collections, using the resources available. Excess alarm activations occurring after January 1, 2009, will become final debts due and owing to the city after the administrative review process, as a result of recent changes to the alarm ordinance. These violators will be sent out for credit bureau reporting.

While the Code Unit bills and collects fee and fines, it is not a collection agency. The unit does not have the authority, resources, training or capacity to operate as a collection agency would operate.

Response to: "What the Controller's Office Found":

1. *Finding: Until this review was started, none of the receivables had been included on any City accounting records.*

Response: Some reporting of receivables had occurred in past years. Receivables are now being provided monthly to the Department of Revenue and we are following up with Revenue staff and the accounting bureau to ensure that they are reflected on City accounting records.

2. *Finding: Total revenue collected by OAR during FY 2008 was \$5,846,304 with approximately nine times that amount still outstanding.*
3. *Finding: Approximately \$33,834,418, or 63%, of the outstanding balance is over three years old and, according to OAR and their historical experience, may be uncollectible.*

Response: The OAR will be recommending that the City's Accounts Receivable Review Panel write off uncollectible aged receivables. Based on historic collection data, the aged receivables over 3 years old are largely uncollectible and account for the bulk of the uncollected receivables. The amount listed as outstanding includes receivables over 15 years old.

4. *Finding: Of approximately \$4.7 million billed for burglar alarm registrations, a little over \$2 million, or only 44%, was actually paid.*

Response: There has always been a regular billing process for these annual alarm registration fees, and unpaid registration fees are always part of any broader collection or review process for specific owing entities or individuals. Alarm users frequently fail to notify the City when they terminate service or move from the property.

5. *Finding: At the time of this review, there was no process or procedure noted for reporting or collecting outstanding alarm registration receivables.*

Response: The OAR is preparing an annual report of alarm registration receivables and will provide this data to the Department of Revenue by June 1, 2009.

6. *Finding: There were multiple delays, including some built in administrative due process delays, in processing violation notices and eventually referring them to court for judgment.*

Response: Increased issuance and decreased personnel levels created a ticket processing backlog. Staffing in these units is being increased, which should help address the backlog. In addition, OAR personnel continue to work with the issuing agencies to improve the information written on the Code Violation Notices and the planned introduction by some issuing departments of hand held electronic devices will help facilitate violation processing.

Municipal Court action is taken by the OAR only after a series of notifications and an administrative review process are provided to a code violation recipient. Buffers are built into the noticing timeline as a customer service device.

It has always been city policy to offer administrative due process for resolution of these violations before taking any court action. The Philadelphia Code now requires administrative review for false alarm activations occurring after January 1, 2009.

Delays in court referrals are caused primarily by the Municipal Court limitation on the number of cases that will be accepted for filing each week.

7. *Finding: Due to bureaucratic issues, Airport issued violation notices are not processed by OAR resulting in loss of revenue and possible impairment in the Airport's ability to properly enforce violations.*

Response: There have been problems with tickets not being filled out with sufficient identifying information to allow data entry and billing of the violators. OAR is working with airport officials to address this situation.

8. *Finding: OAR reported that 111,345 violations were reported during FY 2008 with 53,546 unpaid for less than one year, but OAR may only refer 160 cases per week, less than 8,400 annually, to the court. Even though OAR bundles multiple violations of a single offender into one case to maximize the limited court access, the court limitation results in limiting the number of court cases to less than 16% of the total number of violations not paid each year, insuring a continual backlog.*

Response: While it is correct that only 160 cases per week may be referred to Municipal Court, the 16% statistic that you cite does not account for the practice of attaching more than one CVN to a "case" filed in Municipal Court. OAR works diligently to identify those cases that have the most tickets associated with them in order to get the maximum benefit from any Municipal Court action. In FY08, the number of CVNs for which there was a Municipal Court filing was 19,855 and for Alarm violations it was 7,008, for a total of 26,863 violations filed with the Court. Even with the limitation imposed upon OAR, this represents 50% Of all unpaid tickets being filed with the Court.

It should be noted that the Alarm process has been changed for false activations that occur after January 1, 2009. The Administrative Review process will create a