

Internal Audit Report

**POLICE DEPARTMENT OVERTIME
FOLLOW-UP AUDIT
APRIL 2021**

Office of the County Auditor





OFFICE OF THE COUNTY AUDITOR

Craig Glendenning, CPA
County Auditor

April 26, 2021

The Honorable Members of the County Council
The Honorable Calvin Ball, County Executive

We have conducted a follow-up review of the actions taken by the Police Department (the Department) to address the findings in our July 2017 audit report on overtime and other nonregular payments. Our follow-up review focused on the finding and recommendation related to reimbursement of costs associated with providing resources for special events and concerts. In response to our report, the Administration concurred with our finding and stated that it planned to propose and implement a permit and fee structure.

The Administration submitted, and the Council approved, legislation to implement application and permit fees for special events and concerts. The fees are set by Resolution annually.

We performed certain procedures to evaluate the actions taken by the Department. Our review, which was conducted during the period from February 2020 to February 2021, disclosed that the Administration acted to implement procedures to assess and collect fees. However, subsequent actions and policies resulted in the County collecting reimbursements for only 5.2 percent of the \$1.67 million in services provided in Calendar Year 2019.

Based on our findings, we made several recommendations to improve the assessment and collection of costs incurred by the Department. In its response to our draft report, the Administration disagreed with most of our recommendations and stated that the Administration had complied with the County Code and annual fee Resolutions. As a result, our report includes Auditor Comments to address the Administration's comments.

We wish to acknowledge the cooperation of the Police Department and appreciate the processes and procedures it has implemented to review, approve, and track resources used for special events and concerts.

A handwritten signature in blue ink, appearing to read "ca", followed by a long horizontal stroke.

Craig Glendenning, CPA
County Auditor

BACKGROUND

In July 2017, the Office of the County Auditor issued a report on Police Department (the Department) overtime and other non-regular payments. The report included five findings and recommendations. With regards to our specific finding on reimbursement of costs associated with providing resources for special events (such as concerts and races), the County Administration concurred with our finding and stated that it planned to propose and implement a permit and fee structure.

In February 2018, the Administration submitted legislation to enact a special event application and permit fee. The Council approved the bill and it became effective May 12, 2018. The Council also adopted resolutions establishing the application and permit fees effective January 1, 2019. The **application** fee was set to reimburse the County for the costs associated with the review and approval process for providing a permit. The **permit** fee was established to reimburse the County for the resources it provides to the applying entity, which includes police overtime. Since 2018, the County Executive has submitted a resolution annually which specifies the application and permit fees for special events and concerts. The Council must adopt all fee resolutions as part of its approval of the Executive's proposed budget.

The Department developed and implemented an internal policy to ensure a uniform procedure for the planning and execution of special events. For Calendar Year 2019, the Department approved applications for 216 special events. The actual cost of services provided by the Department for these events totaled \$1.67 million. The Department billed and collected fees totaling \$87,000 (or 5.2 percent of the total cost) from event sponsors applicable to these events. For Fiscal Years 2019 to 2021, special events fee revenue is shown below:

Police Department – Special Events Revenues	
Fiscal Years 2019 to 2021	
Fiscal Year	Revenue
2019	\$ 65,599
2020	52,298
2021 (as of January 20, 2021)	15,333

Source: SAP

Also of note, in its report for FY 2019, the Spending Affordability and Advisory Committee (SAAC) expressed growing concern regarding the County's need to recover costs incurred by the Police Department and the Department of Fire and Rescue Services for overtime associated with special events. It recommended that the County collect an event fee or direct charge to provide relief for the General Fund.

REVIEW, SCOPE, AND METHODOLOGY

In February 2020, the Office of the County Auditor requested that the Administration provide the current status in implementing the findings and recommendations contained in the July 2017 report. The County Auditor decided to conduct a follow-up review of the actions taken by the Administration to address the finding and recommendation for reimbursement of police overtime costs associated with special events. Our review focused on two objectives:

- 1) Determining whether the Department implemented appropriate procedures and controls over the special event application and permit fee process; and
- 2) Ensuring the Department reviewed and approved special events in accordance with its policy and assessed application and permit fees in accordance with the County Code and related resolutions.

We reviewed the procedures and controls with the appropriate staff at the Police Department and the Department of Finance. We obtained a listing of all special events and related fees for Calendar Year 2019 and performed tests of selected events, including approvals, billings, and collections.

Note: We did not include costs incurred by the Department of Fire and Rescue Services in the scope of the follow-up review. It estimates that its costs are less than \$150,000 annually and that it makes extensive use of volunteers in staffing special events.

FINDINGS AND RECOMMENDATIONS

Based on our follow-up review, we determined the following with respect to the two objectives:

1. The Police Department developed and implemented detailed procedures for the processing, review, and approval of special events. All requests are sent through the Department's chain of command and are approved by the Chief of Police. The Police Department's Special Event Coordinator works in conjunction with the Department of Finance to bill and collect application and permit fees associated with special events. For the items we tested, the Department properly reviewed and approved special event applications in accordance with its policies.
2. For the items we tested, the Police Department assessed application and permit fees in accordance with the County Code and related resolutions. However, we determined that changes made to the County Code in 2018 allowed for the following waivers of application and/or permit fees:
 - The County is permitted to waive fees when in the best interest of the County.
 - Application fees may be required, but the permit fee may be waived or may not be assessed. This applies to concerts at Merriweather Post Pavilion (Merriweather),

events sponsored by nonprofit entities that do not meet the minimum threshold for permit fees (\$1,500), and miscellaneous events where the County opted to waive the applicable permit fee.

- County-sponsored events, including school-related events, are exempt from all fees and certain multi-day events may not incur application fees for each day of an event.

Based on our testing and discussions with Department and Administration staff, the County took various actions that reduced or eliminated reimbursements for special event services (detailed below).

Finding

Although the County implemented a special events fee requirement, subsequent County actions either waived or did not assess the collection of \$1.59 million (or 94.8 percent) of those fees in Calendar Year 2019.

As noted above, for Calendar Year 2019 special events, the Department incurred costs totaling \$1.67 million but only recovered \$87,000 from event sponsors to offset those costs. The County waived or did not assess fees for the reimbursement of costs associated with special events as allowed under the County Code and related resolutions.

Administration's Response to the Overall Finding:

Non-concur. The stated \$1.59 million waived in the finding is misleading. The amount for Merriweather Post Pavilion should not be included in the waived or not assessed total, which would reduce the waived or not assessed amount by approximately \$1.11 million. Concert permit fees are not included in the fee schedule, therefore should not be categorized with the other events discussed in this finding. Merriweather is taxed through the Admission and Amusement tax. Additionally, per the code, the Administration "May exempt an applicant from paying a permit or application fee, or both the permit and application fee, if the County determines that a waiver is in the best interest of the County."

Auditor's Response

After discussion with the Administration, we revised the Finding to indicate that fees were either waived or **not assessed** (emphasis added). After receiving our revised finding, the Administration chose to provide the same response. We agree that Merriweather is not assessed a permit fee based on the annual special event fee resolution. In our opinion, however, not including the fee in the resolution is in itself a waiver of the fee. As noted in the Background above, the County Code defines special events and concerts and provides for the assessment of application and permit fees. The fees are set annually by resolution.

In our opinion, the fact that Merriweather pays the admissions and amusement tax is not relevant to this finding, a position also taken by a previous SAAC (as we note later in this report). Many other County businesses also pay this tax but receive no similar benefit. We concur that the County Code provides that the County may waive fees if in the best interest of the County. However, we were not provided with documentation explaining the rationale for waiving application and permit fees for Merriweather.

In testing special events and discussing policy and practices with Department and County personnel, we found the following:

Merriweather Post Pavilion

Merriweather is the largest user of Department services. In Calendar Year 2019, Merriweather received services totaling \$1.11 million and paid application fees totaling \$8,600. The County does not assess Merriweather permit fees.

The County Code defines concerts as a gathering of people to view a live performance. A special event is defined as an athletic event, block party, parade, or public assembly. The County Code states that the Department shall charge a fee for applications for permits issued by the Department except under specific circumstances. The County Code further states that the Department may assess a permit fee as adopted by resolution of the Council. Under the annual resolution adopted by the Council, special event and concert sponsors shall pay an application fee of \$50 and \$200, respectively. The resolution sets a permit fee for special events but does not mention concerts. As a result, the Department does not assess permit fees from Merriweather for concerts.

According to the Administration, Merriweather is subject to and pays admissions and amusements taxes to the State, which subsequently remits the taxes collected to the County. The SAAC Fiscal Year 2019 Report states that the SAAC does not believe that it is the intent of the admissions and amusement tax to offset overtime costs associated with special events. We noted that no other entity paying the tax received the benefit of similar police services.

We recommend that the County Executive:

- 1. Introduce the annual resolution setting the application and permit fees to include permit fees for concerts for the FY 2022 and subsequent budgets.***
- 2. Require the Downtown Columbia Arts and Culture Commission (the owner of Merriweather) to pay for the services it receives from the County.***

Administration's Response:

- 1. The Office of the County Executive does not believe an amendment to the current structure is necessary.***

2. *Merriweather is a major economic driver for the County and is taxed through the Admission and Amusement Tax.*

Auditor's Response

The Auditor does not opine on the economic benefits Merriweather brings to the County but fails to see how this correlates with providing a highly trained police force at no cost to Merriweather's owner (a nonprofit) and operator (a for-profit company). As noted above, many County businesses pay the admission and amusement tax and receive no additional services.

Howard County Fair

For Calendar Year 2019, the County waived application and permit fees totaling \$97,900 for services provided for the Fair. We noted that the County Code and Department policy do not specify any criteria for waiving these fees. While the County provided Department services free of charge, the Howard County Fair Association billed the County for booth space for the Department (\$550) and volunteer passes for County employees (\$1,150) applicable to the 2019 Fair.

We recommend that the Department recover event costs associated with the Howard County Fair as permitted for nonprofit organizations.

We also recommend that the Administration develop criteria for the waiver of application and/or permit fees.

Administration's Response:

A policy decision was made to waive the costs associated with the Howard County Fair, as permitted per the County Code.

The Administration sees value in developing criteria for the waiver of application and/or permit fees. We will evaluate the process and determine if change is warranted.

Auditor's Response

The Auditor concurs that the County has the authority under the County Code to waive application and permit fees. However, there should be clear, consistent rationale for doing so as noted in the recommendation above and agreed to by the Administration. Such rationale could include resources required, financial benefit to the County, and other criteria deemed appropriate.

Nonprofits

The County Code specifies that the resolution establishing permit fees may provide a reduced permit fee for nonprofit organizations. It defines nonprofit organizations as a corporation, foundation, or other legal entity, no part of net earnings of which inures to the benefit of any private shareholder or individual holding any interest in the entity. For Calendar Year 2019, the resolution adopted by the Council states that nonprofits are exempt from the first \$1,500 of permit fees and are responsible to pay 50 percent of permit fees exceeding that amount. In Calendar Year 2019, the actual costs incurred for nonprofit-sponsored special events totaled \$413,300 and the related fees paid by these nonprofits totaled \$53,000.

We recommend that the Administration modify the fee structure for assessing costs of special events sponsored by nonprofit organizations in order to recover more of the costs of services rendered.

Administration's Response:

The Administration will review the fee structure and nonprofit waivers from the audit period. After examination, we will determine if the fee structure needs to be modified.

Auditor's Response

The Auditor believes that entities using County resources for non-County events should reimburse the County to the extent practical. Given that nonprofits reimbursed the County for less than 13 percent of the costs incurred for events held in Calendar Year 2019, there appears to be flexibility for increasing reimbursements.

Finding

The County used general funds to pay for Department overtime for County-sponsored special events funded by other sources.

The Department of Recreation and Parks (DRP) sponsors certain events such as Wine in the Woods and Fourth of July activities. Police Department special events expenditures for DRP-sponsored events in Calendar Year 2019 totaled \$161,200. Costs for these events should be paid from the DRP Parks and Recreation Fund (a special revenue fund consisting primarily of user fees for DRP programs, activities, and camps) and not general funds.

The County Code specifically exempts activities sponsored by County agencies from payment of application or permit fees. As a result, those costs are borne by the General Fund. If the sponsoring agency is also general funded, this makes sense as assessing a fee would have no impact on overall County General Fund expenditures. However, this is not always the case. It is the County Auditor's position that the General Fund should not subsidize costs of activities funded by other sources.

We recommend that the Department, in coordination with the County Administration and the Office of the County Executive, amend the current County Code to allow for the collection of fees when County events are paid from sources other than the General Fund.

Administration's Response:

The Administration will discuss and review the allowance for the collection of fees when County events are paid from sources other than the General Fund.

Auditor's Response

The Auditor feels strongly that the General Fund should not incur costs applicable to events paid for using other funds and encourages the Administration to revise its practices for these types of events.