



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued December 31, 2020

Suffolk County Registry of Probate and Family Court

For the period September 1, 2018 through October 31, 2019





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Honorable Brian J. Dunn, First Justice
Suffolk County Registry of Probate and Family Court
24 New Chardon Street
Boston, MA 02114

Dear First Justice Dunn:

I am pleased to provide this performance audit of the Suffolk County Registry of Probate and Family Court. This report details the audit objectives, scope, and methodology, and the results of our audit work, for the audit period, September 1, 2018 through October 31, 2019. My audit staff discussed the contents of this report with management of the court, whose comments are reflected in this report.

I would also like to express my appreciation to the Suffolk County Registry of Probate and Family Court for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular watermark.

Suzanne M. Bump
Auditor of the Commonwealth

cc: Honorable Paula M. Carey, Chief Justice of the Trial Court
Ms. Linda M. Mendonis, Deputy Court Administrator, Probate and Family Court Department
Mr. Domenic Dicenso, Assistant Deputy Court Administrator, Probate and Family Court Department

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LIST OF ABBREVIATIONS

BBO	Board of Bar Overseers
EOTSS	Executive Office of Technology Services and Security
JISD	Judicial Information Services Department
PFC	Probate and Family Court Department
SCRPF	Suffolk County Registry of Probate and Family Court
SJC	Supreme Judicial Court

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Suffolk County Registry of Probate and Family Court (SCRPFPC) for the period September 1, 2018 through October 31, 2019. In this performance audit, we assessed SCRPFPC's compliance with Sections 3(a)(1)(2), 3(b)(1), 4(d), and 8(c) of Supreme Judicial Court Rule 1.25, which includes general procedures that govern the electronic filing of court documents by Massachusetts trial and appellate courts, such as SCRPFPC.

Our audit revealed no significant instances of noncompliance by SCRPFPC that must be reported under generally accepted government auditing standards.

OVERVIEW OF AUDITED ENTITY

Section 1 of Chapter 211B of the Massachusetts General Laws established the Probate and Family Court Department (PFCD), which has jurisdiction over probate and family matters such as divorce, paternity, child support, custody, visitation, adoption, termination of parental rights, and abuse prevention. All probate matters fall under PFCD's purview, including wills, administrations, guardianships, conservatorships, and name changes. PFCD oversees 14 divisions, including the Suffolk County Registry of Probate and Family Court (SCRPFPC), each with a specific territorial jurisdiction, to preside over the probate and family matters brought before it. Each division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Register of Probate's Office, headed by a Register of Probate, an elected official; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the division, and the Register of Probate and Chief Probation Officer are responsible for the internal administration of their respective offices.

SCRPFPC, which was established by Chapter 217 of the General Laws, is located in Boston. According to SCRPFPC's website, its territorial jurisdiction includes "Boston, Brighton, Charlestown, Chelsea, Dorchester, East Boston, Hyde Park, Jamaica Plain, Revere, Roslindale, South Boston, and Winthrop."

eFileMA System

In its strategic plan dated June 2013, the Massachusetts Trial Court indicated that one of the technological enhancements it was piloting was an electronic, or e-file, system for court documents and related information. The Trial Court introduced an e-file pilot program for probate and family courts using a system called eFileMA on March 8, 2016. This system, created and administered by Tyler Technologies, was fully implemented for use by SCRPFPC on September 1, 2018, and enables filing to be performed through a secure method. According to the eFileMA website, the system "allows filers to **easily open court cases and e-file documents to participating courts** anytime and from anywhere—24 hours a day, seven days a week, 365 days a year." Subsequently, the Massachusetts Supreme Judicial Court (SJC) published SJC Rule 1.25 (effective September 1, 2018), which governs the e-filing process for all courts using eFileMA, including SCRPFPC.

To be eligible to use eFileMA and send and receive court documents electronically, individuals must complete an online registration form that is processed by Tyler Technologies. Eligible parties can include, among others, attorneys; individuals who are representing themselves in legal matters; and

individuals who are seeking, or have obtained, permission from a court to participate in a case (e.g., witnesses seeking protective orders or court investigators). Once registered, individuals can submit documents to the court for approval. Individuals can access court-approved documents via the eFileMA portal on the eFileMA website, using their unique passwords. Eligible parties can use eFileMA to electronically send and receive specific case information, court documents, and court notices and to pay any applicable filing fees.

Twice each day, an SCRPFPC supervisor reviews eFileMA for any new filings. In addition, SCRPFPC has a supervisor or case manager who is exclusively responsible for reviewing any information related to estate filings, filings for the probating of wills, or assignment of personal representatives.¹ During these reviews, the supervisor or case manager accepts submissions that have been correctly filed in accordance with the eFileMA instructions and rejects those for which filing instructions have not been followed. If an e-filed submission is rejected or canceled, any court fees paid are refunded electronically and a notification to refile is sent to the filer. Once a submission is accepted, Tyler Technologies electronically sends the e-filed information to MassCourts² and sends any collected court fees to SCRPFPC for processing.

1 A personal representative is someone who has been entrusted with an individual's estate or power of attorney because of the individual's age or state of health.

2. The Commonwealth's online instructions for using the Massachusetts Trial Court Electronic Case Access system, or MassCourts, state that it is a "central case management application used by all of the Trial Court departments and the Massachusetts Probation Service."

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the eFileMA system at the Suffolk County Registry of Probate and Family Court (SCRPF) for the period September 1, 2018 through October 31, 2019.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is our audit objective, indicating the question we intended our audit to answer and the conclusion we reached regarding the objective.

Objective	Conclusion
1. Does SCRPF process documents in compliance with Sections 3(a)(1)(2), 3(b)(1), 4(d), and 8(c) of Supreme Judicial Court (SJC) Rule 1.25?	Yes

In addition to concluding on our audit objective, we identified an issue we believe warrants SCRPF's attention, which we have disclosed in the "Other Matters" section of this report.

To achieve our objective, we gained an understanding of the internal controls we deemed significant to our audit objective by reviewing applicable laws and regulations and conducting interviews with employees at SCRPF, the Trial Court Judicial Information Services Department (JISD), the Trial Court Fiscal Affairs Department, the Trial Court Internal Audit Department, and the Trial Court E-Courts Program Office.

We performed the following procedures to obtain sufficient, appropriate audit evidence to address the audit objective.

To determine whether attorneys were in good standing, we selected a judgmental nonstatistical sample of 35 attorneys from a population of 124 attorneys who had e-filed cases during our audit period and performed testing to verify that they had active Board of Bar Overseers (BBO) numbers on file with BBO and were licensed to practice law in Massachusetts during the audit period. JISD receives a weekly list

from BBO of all attorneys in good standing, and each Friday, JISD forwards the list to Tyler Technologies to ensure that Tyler Technologies has an updated, accurate list. We accessed the BBO website to review the attorneys' statuses during the audit period to complete this test.

To determine whether court fees were properly processed through eFileMA, we reviewed eFileMA system reports and MassCourts reports (including Final Receipt Listing Reports, which display the daily amounts collected for e-filed documents, and End of Day Postset Receipts Listing Reports, which indicate that deposits for e-file transactions are complete). Finally, we reviewed the Bank Balance Listing Reports (which record eFileMA deposits), provided by SCRPFPC's bank. Together, these reports allow SCRPFPC's bookkeeper to reconcile eFileMA funds received from Tyler Technologies.

During the audit period, 1,070 documents were e-filed. SJC accepted 582 of these and rejected 451. On 20 occasions, the filer canceled the e-filing, and on 17 occasions, the e-file submission failed. The 582 accepted e-filed documents made up 131 cases with unique docket numbers. Individuals representing themselves e-filed 7 cases, and attorneys e-filed the other 124.

Court fees were assessed in 56 of the 124 cases e-filed by attorneys. We selected a judgmental nonstatistical sample of 20 cases, which included a total of \$6,485 in court fees, from the population of 56 and performed a transaction test. We tested the following:

- approval of eFileMA submissions by an SCRPFPC supervisor
- reconciliation of Final Receipt Listing Reports to End of Day Postset Receipts Listing Reports by the SCRPFPC bookkeeper
- reconciliation of eFileMA payment amounts as recorded in Final Receipt Listing Reports to Bank Balance Listing Reports by the SCRPFPC bookkeeper.

Data Reliability Assessment

To determine the reliability of the information submitted to SCRPFPC via eFileMA during the audit period, we reviewed certain general information controls and access controls over MassCourts and eFileMA, as well as security training and personnel screening for SCRPFPC, and supervised the extraction of the eFileMA information for this period from the system by the Probate and Family Court Department Administration Office's performance analyst. We traced filer names, attorney names, titles of filed documents, case numbers, dates when documents were submitted to eFileMA, dates when documents were accepted, and fees charged by SCRPFPC to file cases to Trial Court Fiscal Affairs Department data

generated from MassCourts. We also tested the extracted eFileMA data to ensure that there were no missing data fields or duplicate or extraneous data. We determined that the eFileMA case documents and data were sufficiently reliable for the purposes of our audit work.

OTHER MATTERS

Suffolk County Registry of Probate and Family Court staff members do not receive cybersecurity awareness training.

In performing our audit testing, we found that the Suffolk County Registry of Probate and Family Court (SCRPFPC) did not conduct, or require any of its staff members to obtain, cybersecurity awareness training. This type of training is required, upon hire and at least annually thereafter, for all employees of Commonwealth executive department agencies under Sections 6.2.3 and 6.2.4 of the Executive Office of Technology Services and Security's (EOTSS's) Information Security Risk Management Standard IS.010. Although SCRPFPC is not required to comply with EOTSS standards, this type of training is an accepted industry best practice for all organizations.

For example, Section AT-2 of Revision 4 of the National Institute of Standards and Technology³ Special Publication 800-53 establishes the following best practices:

The organization provides basic security awareness training to information system users (including managers, senior executives, and contractors):

- a. As part of initial training for new users;*
- b. When required by information system changes; and*
- c. [Organization-defined frequency] thereafter.*

In the Office of the State Auditor's opinion, because SCRPFPC does not require its employees, particularly those who have access to the Trial Court's systems, to complete cybersecurity awareness training, there is an increased risk of cybersecurity attacks and financial and/or reputation losses.

We brought this matter to the attention of SCRPFPC officials, who told us that on March 3, 2020, SCRPFPC conducted a cybersecurity awareness training for its staff. While we believe that action was prudent, we also believe SCRPFPC should consider adopting a policy that requires all of its staff members to receive cybersecurity awareness training upon hire and annually thereafter, which would bring it into line with the requirements for executive department agencies.

3. According to its website, the National Institute of Standards and Technology "is responsible for developing information security standards and guidelines, including minimum requirements for federal information systems."