



# The Commonwealth of Massachusetts

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**INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN ACTIVITIES OF THE  
CHARLESTOWN DIVISION OF THE  
BOSTON MUNICIPAL COURT DEPARTMENT  
OF THE MASSACHUSETTS TRIAL COURT  
JULY 1, 2006 TO JUNE 30, 2007**

**OFFICIAL AUDIT  
REPORT  
OCTOBER 29, 2008**

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## TABLE OF CONTENTS/EXECUTIVE SUMMARY

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### INTRODUCTION

1

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. Chapter 211B of the Massachusetts General Laws provides for the Boston Municipal Court Department to have eight divisions, each having specific territorial jurisdiction, to preside over civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and a Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Charlestown Division of the Boston Municipal Court Department (CD) presides over civil and criminal matters falling within its territorial jurisdiction of the community of Charlestown. During the period July 1, 2006 to June 30, 2007, CD collected revenues of \$289,186 which were disbursed to the Commonwealth and to Charlestown. In addition to processing civil entry fees and monetary assessments on criminal cases, CD was the custodian of 431 cash bails amounting to \$195,750 and 16 small claim deposits totaling \$1,600 as of June 30, 2007.

CD is also responsible for conducting civil motor vehicle infractions (CMVI) hearings. Although CD does not collect the associated monetary assessment when a motorist is found responsible for a CMVI, it is required to submit the results of the hearing to the Registry of Motor Vehicles, the agency that is responsible for the collections.

CD operations are funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC), or the Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$458,109 for the period July 1, 2006 to June 30, 2007.

The purpose of our audit was to review CD's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including cash management, bail funds, and criminal and civil case activity for the period July 1, 2006 to June 30, 2007.

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### AUDIT RESULTS

5

#### 1. IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

5

Our review of internal controls at the CD found that the court has made progress in developing an internal control plan, but additional work is needed to complete the plan. The CD prepared internal control documents that outline overall internal control procedures and concepts. However, the CD did not document its risk assessment, which

would be used to determine what internal control procedures are needed to minimize the identified risks. As a result, AOTC's efforts to ensure the integrity of court records and assets were not optimized.

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**2. IMPROVEMENTS NEEDED IN THE PROBATION OFFICE'S CASH RECONCILIATION AND CASH JOURNAL MAINTENANCE** **7**

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Our audit found that the Probation Office was preparing monthly Probation Receipt Accounting (PRA) reports as well as transmitting and reporting revenue collections to the appropriate parties. However, the Probation Office was not properly completing all aspects of closing the cash journal and monthly bank statement reconciliation as required by the AOTC's Fiscal Systems Manual and was unable to reconcile their bank statements. As a result, the AOTC and the court cannot be assured of the accuracy of its cash balances or the timely detection of errors or mistakes.

**3. IMPROVEMENTS NEEDED IN MONTHLY REVIEW OF PROBATION OFFICE'S DETAIL (LONG) TRIAL BALANCE** **10**

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The Probation Office's long trial balance contained 75 defaulted accounts with partial payments totaling \$9,196 that should be forwarded to the Clerk-Magistrate's Office and three revenue accounts totaling \$3,763 which should be remitted to the State Treasurer. In addition, the trial balance showed four accounts totaling \$3,763 representing unclaimed restitution which should be sent to the State Treasurer as abandoned property.

**4. IMPROVEMENTS NEEDED IN REVENUE PROCESSING AND RECONCILIATION** **12**

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Our audit found that CD accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, we found that office personnel had not attempted to reconcile revenue remitted to the Commonwealth since July 1, 2004 when the Commonwealth changed its accounting system. As a result, the CD and the Commonwealth cannot be assured that revenues were properly received and credited to the appropriate general or specific state revenue account.

**5. IMPROVEMENTS NEEDED IN PROCESSING OF UNCLAIMED, FORFEITED, AND DEFAULTED BAIL** **14**

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Our review of CD's administration of bail disclosed that the Court is not processing bail in accordance with the policies and procedures established by AOTC, and is not complying with Massachusetts General Laws regarding the prompt transfer of abandoned and forfeited bail amounts to the State Treasurer. Furthermore, three bail accounts were in default status for over three years, and should be ordered forfeited and transmitted to the State Treasurer.

## INTRODUCTION

### *Background*

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. The statute also created a central administrative office managed by a Chief Administrative Justice (CAJ), who is also responsible for the overall management of the Trial Court. The CAJ charged the central office, known as the Administrative Office of the Trial Court (AOTC), with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court, including a budget; central accounting and procurement systems; personnel policies, procedures, and standards for judges and staff; and the management of court facilities, security, libraries, and automation.

Chapter 211B of the Massachusetts General Laws authorized the Boston Municipal Court Department (BMC), which has civil jurisdiction over money-damage cases involving tort and contract actions; small claims; summary process; civil motor vehicle infractions (CMVI); mental health commitments; and domestic abuse actions. Its criminal jurisdiction includes most criminal offenses that do not require the imposition of a state prison sentence. The BMC consists of eight divisions, each having a specific territorial jurisdiction, to preside over the civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Charlestown Division of the Boston Municipal Court Department (CD) presides over civil and criminal matters falling within its territorial jurisdiction of the community of Charlestown. During our audit period, July 1, 2006 to June 30, 2007, CD collected revenues of \$289,186 which were disbursed to the Commonwealth and to Charlestown. The majority (approximately 99%) of revenue collected by CD was paid to the Commonwealth as either general or specific state revenue - totaling \$287,026 - as follows:

Revenue Type	Amount
General Revenue	\$136,909
Probation Fees	67,996
Legal Counsel Fees	45,637
Victim Witness Fund	12,830
Alcohol Fees	7,402
Indigent Defense Fees	4,610
Surcharges	4,325
Head Injury Program	3,568
Victims of Drunk Driving	1,729
Drug Analysis	1,685
Criminal Complaint Application Fee	285
Highway Fund	50
Total	<u>\$287,026</u>

Both the Clerk-Magistrate's Office and the Probation Office processed receipts and disbursements from July 1, 2006 through June 30, 2007, of which approximately \$176,737 consisted of suspended fines and court costs that were collected by the Probation Office and were submitted to the Clerk-Magistrate's Office for transmittal to the Commonwealth. During the same period, the Probation Office collected approximately \$21,765 of restitution money and paid \$18,713 directly to the victims.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, CD was custodian of approximately 431 bails amounting to \$195,750 as of June 30, 2007. Bail in cash (CD does not accept non-cash bail forms of bail) is the security given to the court by defendants or their sureties to obtain release and to ensure appearance in court, at a future date, on criminal matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release. In addition, CD was the custodian for 16 small claims appeal deposits totaling \$1,600 as of June 30, 2007.

The CD is responsible for conducting civil motor vehicle infraction (CMVI) hearings, which are requested by the alleged violator and heard by a Clerk-Magistrate or Judge who determines whether the driver is responsible for the CMVI offenses cited. CD does not collect the associated monetary assessment when a violator is found responsible, but is required to submit the results of the hearing to the Registry of Motor Vehicles, which follows up on collections.

CD operations were funded by appropriations under the control of either the Division (local), AOTC, or the Office of the Commissioner of Probation (central). Under local control was an appropriation for personnel-related expenses of the Clerk-Magistrate's Office and Judge's Lobby support staff, and certain administrative expenses (supplies, periodicals, law books, etc.) Other

administrative and personnel expenses of the Division were paid by centrally controlled appropriations. According to the Commonwealth's records, local and certain central appropriation expenditures associated with the operation of the Division for the period of July 1, 2006 to June 30, 2007 totaled \$458,109.<sup>1</sup>

***Audit Scope, Objectives, and Methodology***

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of the financial and management controls of the CD. The scope of our audit included CD's controls over operational activities, including cash management, bail funds, and criminal and civil-case activity, for the period July 1, 2006 to June 30, 2007.

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits and, accordingly, included audit procedures and tests that we considered necessary under the circumstances.

Our audit objectives were to (1) assess the adequacy of CD's internal controls over cash management, bail funds, and civil-and criminal-case activity and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding CD's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and BMC policies and procedures.

Our review centered on the activities and operations of CD's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed bail and related criminal-case activity. We also reviewed cash management activity and transactions involving criminal monetary assessments and civil case entry fees, to determine whether policies and procedures were being followed.

To achieve our audit objectives, we conducted interviews with management and staff and reviewed prior audit reports, the Office of the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and CD's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records,

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<sup>1</sup> This amount does not include certain centrally controlled expenditures, such as facility lease and related operational expenses, as well as personnel costs attributable to judges, court officers, security officers, and probation staff, and related administrative expenses of the probation office, since they are not identified by court division in the Commonwealth's accounting system.

and other source documents. Our assessment of internal controls over financial and management activities at CD was based on those interviews and the review of documents.

Our recommendations are intended to assist CD in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that CD's systems covering cash management, bail funds and criminal-and civil-case activity operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we determined that, except for the issues noted in the Audit Results section of the report, CD (1) maintained adequate internal controls over cash management, bail funds, and civil-and criminal-case activity; (2) properly recorded, collected, deposited, and accounted for all receipts; and (3) complied with applicable laws, rules, and regulations, for the areas tested.

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## AUDIT RESULTS

### 1. IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

Our review of internal controls at the CD found that the court has made progress in developing an internal control plan, but additional work is needed to complete the plan. The CD prepared internal control documents that outline overall internal control procedures and concepts. However, the CD did not document its risk assessment, which would be used to determine what internal control procedures are needed to minimize the identified risks. As a result, AOTC's efforts to ensure the integrity of court records and assets were not optimized.

Chapter 647 of the Acts of 1989, an Act Relative to Improving the Internal Controls within State Agencies, states in part: "Internal control systems for the various state agencies and departments of the commonwealth shall be developed in accordance with internal control guidelines established by the Office of the Comptroller." Subsequent to the passage of Chapter 647, the OSC issued written guidance in the form of the Internal Control Guide for Managers and the Internal Control Guide for Departments, which require that each department's internal control plan be unique and contain five components: risk assessment, control environment, information and communication, control activities, and monitoring. A revised Commonwealth Internal Control Guide subsequently replaced these internal control guides by streamlining what was contained in the previous guides, and incorporating other internal control principles. The OSC again stressed the importance on internal controls and the need for departments to develop internal control plans, defined as follows:

*An internal control plan is a description of how a department expects to meet its various goals and objectives by using policies and procedures to minimize risk. The Commonwealth has defined the internal control plan to be a high-level summary supported by lower level policy and procedures.*

Accordingly, AOTC issued Internal Control Guidelines for the Trial Court, establishing the following requirement for department heads when developing an internal control plan, including the following important internal control concepts:

*[The internal control plan] must be documented in writing and readily available for inspection by both the Office of the State Auditor and the AOTC Fiscal Affairs department, Internal Audit Staff. The plan should be developed for the fiscal, administrative and programmatic operations of a department, division or office. It must explain the flow of documents or procedures within the plan and its procedures cannot*



*conflict with the Trial Court Internal Control Guidelines. All affected court personnel must be aware of the plan and/or be given copies of the section(s) pertaining to their area(s) of assignment or responsibility.*

*The key concepts that provide the necessary foundation for an effective Trial Court Control System must include: risk assessments; documentation of an internal control plan; segregation of duties; supervision of assigned work; transaction documentation; transaction authorization; controlled access to resources; and reporting unaccounted for variances, losses, shortages, or theft of funds or property.*

In addition to the Internal Control Guidelines, Fiscal Systems Manual, and Personnel Policies and Procedures Manual, AOTC has issued additional internal control guidance (administrative bulletins, directives, and memorandums) in an effort to promote effective internal controls in court divisions and offices.

The Probation Office's version of an internal control plan consisted of a one page summary of policies and procedures for activities occurring in its office, such as the receipt and accounting for cash and the monthly closing and reporting cycle, but no assessment of risks or discussion of monitoring or control activities. The Chief Probation Officer stated that she thought AOTC's internal control guidelines dated July 1, 1998, along with various policies and procedures manuals, constituted the Probation Office's internal control plan.

During the course of our fieldwork, the Clerk-Magistrate's Office prepared an internal control plan which attempted to incorporate the internal control components discussed in the guidelines issued by the AOTC and OSC. Our review of the Clerk-Magistrate's plan indicated that it mainly described responsibilities and procedures and computer access and disaster recovery plans. The plan, however, did not contain risk assessments for each functional area under the control of the Clerk-Magistrate's Office, nor did it contain the other internal control attributes in the Comptroller's Guide.

### ***Recommendation***

The CD should improve their internal control plans by identifying the risks associated with each transaction cycle or area requiring controls and then document the information system, controls and monitoring activities associated with that cycle or event. The CD Clerk-Magistrate's Office should modify its internal control plan to better describe its accounting and information systems, and to more closely identify the control and monitoring activities associated with these systems

and identified risks. Moreover, CD should conduct annual risk assessments and update its internal control plans based on the results of these risk assessments as necessary.

### ***Auditee's Response***

*The Judge's Lobby, Clerk Magistrate's Office and Probation Office have improved their internal control plan and incorporated risk assessment in accordance with the Administrative Office of the Trial Court (AOTC) control standards.*

*More specifically, the Clerk-Magistrate's Office has promulgated a new improved internal control plan, risk assessment and business continuity plan and has filed it with the AOTC audit department. The plan complies with the established internal control standards that were established by the AOTC's audit department. Additionally, during the time the audit team was at the Charlestown Division, the Assistant Clerk attended two training sessions at the AOTC's auditors' offices directly pertaining to the creation and maintenance of internal control plans.*

*Risk assessments will be reviewed annually and updated as appropriate.*

## **2. IMPROVEMENTS NEEDED IN THE PROBATION OFFICE'S CASH RECONCILIATION AND CASH JOURNAL MAINTENANCE**

Our audit found that the Probation Office was preparing monthly Probation Receipt Accounting (PRA) reports and transmitting and reporting revenue collections to the appropriate parties. However, the Probation Office was not properly completing all aspects of closing the cash journal and monthly bank statement reconciliation, as required by the AOTC's Fiscal Systems Manual and was unable to reconcile their bank statements. As a result, the AOTC and the court cannot be assured of the accuracy of its cash balances or the timely detection of errors or mistakes. Primarily, the noncompliance aspects came to our attention during our review of the monthly closing, reporting and reconciliation function. As part of this function, the Probation Office performs the following tasks:

- a. Closing the cash journal, which involves totaling the entries for receipts and disbursements, computing the ending cash balances and carrying them over to the next month.
- b. Reconciling the ending cash journal balances to the balances on the PRA Short and Long (Detail) Trial Balance Reports and the Check Register; these balances represent the total cash receipts for various revenues held by the court.
- c. Performing the central bank reconciliation on AOTC's standard bank reconciliation form, and reconciling the ending bank balance to the cash journal, check register and both trial balances.

We reviewed the monthly closing and reporting functions for June 2007 to verify compliance with AOTC requirements prescribed in the Fiscal Systems Manual. We found that the cash journal had not been closed or balances brought forward since February 2007. We also reviewed the corresponding bank reconciliation and found:

- a. The reconciliation was made to the PRA Short Trial Balance and did not consider the cash journal balance as part of the reconciliation procedure, as required by the AOTC.
- b. The outstanding check list of \$47,471 used during the reconciliation process was incorrect. Two uncashed checks totaling \$3,221 had been added back to the cashbook balance, but were not removed from the outstanding check list. Another check for \$2,750 had been voided, but was also still being carried as an outstanding check. Lastly, two checks totaling \$400 were removed from the outstanding check list for reconciliation purposes, but were neither added back to the cash balance nor purged from the bank's automated outstanding check list.
- c. The bank reconciliation form included check adjustments totaling \$12,629 to the cash balance. According to the Probation Office accountant, the majority of the adjustments represent bank purged (uncashed) checks that had not been canceled or added back to the cash journal. Since the reconciliation listed check numbers only, without the corresponding amounts, we researched the dollar values associated with these check numbers and came to a total of \$9,499 rather than the \$12,629 shown on the reconciliation. While researching these checks, we found that eight checks totaling \$5,910 were payable to Commonwealth in 2004 and 2005, but were never cashed and remained as adjustments to the cash balance on the monthly bank reconciliation.
- d. Although the year-end totals are in agreement, small differences existed between fiscal year end totals of receipts and disbursements for individual revenue categories in the Short Trial Balance versus the amounts computed by the auditor from the cash journal.
- e. There were numerous small miscellaneous adjustments totaling \$30.77 to the local bank balance that have been carried monthly on the bank reconciliation since 2004.

AOTC's Fiscal Systems Manual provides specific policies and procedures for the Probation Office to follow for the monthly closing, reporting and reconciliation function. Section 12.7 of the manual states:

*As part of the Standard Accounting System of the Trial Court, all Court divisions are required to reconcile their accounts on a monthly basis. This reconciliation process consists of comparing the month-end Cash Journal balance, ...to the month-end check Register balance, ...to the month-end central Bank Reconciliation, ...and to the month-end Trial Balance of all monies being held by the Court, to ensure that all four totals are equal. If, upon completion, the four totals do not equal, the bookkeeper must attempt to resolve discrepancies.*

*The adjusted bank balances must be compared to the manually recorded month-end "daily bank balance" total in the P.R.A. Short Trial balance and the receipts side of the Cash Journal's final "Balance Forward" line in the far-right "TOTAL" column. If these figures do not agree, the addition of all adjustments, error reversals, balance forwards and interest (if applicable) to the receipts side of the Cash Journal must be verified. If the figures still do not agree, all reconciliation work must be reviewed for errors.*

We discussed the monthly closing, reporting and bank reconciliation problems with the Probation Office accountant and we were told that the problems were due primarily to the following three reasons: 1) the Probation Office did not follow certain procedures when issuing checks to the State Treasurer's Unpaid Check Fund, resulting in returned checks, which were not promptly reissued and/or added back to the cash journal or the trial balances, 2) a system change at the Central Bank involving the method of purging uncashed (outstanding) checks that resulted in confusion and the Probation Office falling behind in the making of adjustments, and 3) insufficient time available to review and to bring all the accounting records up to date including the long trial balance.

We also discussed these problems with the Chief Probation Officer, who stated that she has devoted significant efforts to clearing up the problems and has requested help from AOTC on numerous occasions. She further stated that she would continue her efforts to address the problems in the future.

### ***Recommendation***

In order to correct the cash management and reconciliation process, the CD Probation Office should:

- Contact the Audit Section of AOTC's Fiscal Affairs Department immediately for assistance in resolving the discrepancies and adjustments disclosed by the reconciliation process, so that the monthly closing, reporting and reconciliation function can properly be carried out in accordance with AOTC requirements.
- Notify the Office of the State Treasurer relative to the outstanding checks payable to the Unpaid Check Fund.
- Follow the step-by-step instructions for the Monthly Closing, Reporting and Reconciliation function, Section Number 12.7 of AOTC's Fiscal Systems Manual.

### ***Auditee's Response***

*Upon the State Auditor's exit interview, on February 12, 2008, the Probation Office contacted the auditors from AOTC Fiscal Affairs Department for assistance. At the initial*

*meeting the Chief Probation Officer and the Assistant Chief Probation Officer met with AOTC auditors. On October 3, 2008, the CD Account Clerk informed me that he met with an AOTC auditor in the last week of September 2008. The AOTC Auditor will be assisting the Account Clerk to obtain full compliance with AOTC requirements.*

*On October 3, 2008, the Account Clerk informed me that there is currently \$8-10,000 in unclaimed restitution that is over 1 year old and needs to be transferred to the State Treasurer. The AOTC Auditor is assisting the Account Clerk to get the backlog reviewed and the monies appropriately transferred to the State Treasurer with a goal of completion in 3-4 months. The AOTC auditors have assured the Chief Probation Officer that they will remain assisting until all of the backlog is completed and they will notify her if there is a problem.*

*On October 3, 2008, the Account Clerk informed me that he is following AOTC's Fiscal Systems Manual, Section 12.7 to the extent possible given the backlog in unclaimed restitution that needs to be transferred to the State Treasurer. When the backlog is cleared in 3-4 months, the Account Clerk said that CD will be in full compliance.*

### **3. IMPROVEMENTS NEEDED IN MONTHLY REVIEW OF PROBATION OFFICE'S DETAIL (LONG) TRIAL BALANCE**

Our review of the Probation Office's detail Long Trial Balance (LTB) as of January 2008 disclosed 75 accounts totaling \$9,196 that had been in default over 90 days and should be forwarded to the Clerk-Magistrate's Office for further processing. The trial balance also showed three accounts totaling \$1,675 for Probation and Alcohol Fees which were, without explanation, not remitted to the State Treasurer. In addition, we noted four restitution accounts totaling \$3,763 which should be sent to the State Treasurer as abandoned property.

The Fiscal Systems Manual, Section 12.5 indicates that the Probation Office bookkeeper should review open accounts at the end of each month, and for accounts in default for 90 days or more, disburse the funds to the Clerk-Magistrate's Office. The following table shows the categories that should be forwarded to the Clerk's Office.

Receipt Type	Number of Accounts	Amount
Court Costs	6	\$1,159
Surfines	22	4,447
Counsel Fees	30	2,446
Counsel Fee Contribution	6	674
Victim Witness Fees	10	370
Other	<u>1</u>	<u>100</u>
	<u>75</u>	<u>\$9,196</u>

We asked the accountant why he was not reviewing the LTB monthly for old and defaulted accounts, and he told us that he has been unable to put sufficient time aside to review the LTB

due to the constant interruptions at the desk. However, prior to the end of our field work he informed us that he was setting time aside now and has already made payments to the Clerk-Magistrate.

As a result of the Probation Office not following the requirements of the Fiscal Systems Manual by systematically reviewing the LTB and remitting partial payments on accounts in default to the Clerk-Magistrate, defendants' accounts are not kept up to date and the State Treasurer does not have use of the funds.

Further examination of the LTB also disclosed that the court was holding \$3,763 in unclaimed restitution which was over five years old and presumed abandoned property. The balance of \$3,763 consisted of four separate accounts, all with original payment dates of between 1992 and 2000, with one account totaling \$3,080. The court ordered restitution was originally paid by defendants for disbursement to their victims. According to the Probation Office accountant, these restitutions were disbursed to the intended victims, however, they were returned in each case because the addressees (victims) were not at the addresses of record. The accountant added that further attempts were made to track down the victims, but all were unsuccessful and the monies therefore remained in the custody of the court.

In accordance with Massachusetts General Laws, Chapter 276, Section 93, unclaimed money collected by probation officers should be paid to the State Treasurer, as follows:

*...money collected by a probation officer under order of the court by which he is appointed, if unclaimed after one year from the time of its collection, shall, upon further order of the court, be paid to the treasurer provided, that any part of the said money may be paid to persons establishing before the comptroller a lawful claim thereto within five years of its payment to said treasurer, unless sooner paid over by order of the said commissioners.*

When asked why the Probation Office was not complying with the requirements of Section 93 and remitting unclaimed restitution to the State Treasurer, the accountant informed us that he has not had time to systematically review all accounts on the LTB with outstanding balances. However, he stated that he would immediately determine the procedures required to properly remit the restitution to the State Treasurer's Office.

**Recommendation**

The CD should adhere to the requirements stipulated in Section 12.5 of the Fiscal Systems Manual and examine the detail Long Trial Balance at the end of each month to determine the categories and amounts of money remaining in open accounts and process them accordingly. Additionally, the Probation Office should transmit the unclaimed restitution to the Office of State Treasurer as required by Chapter 276, Section 93, of the General Laws.

**Auditee's Response**

The CD's First Justice responded, in part:

*On October 3, 2008, the Account Clerk informed me that he is currently examining the Long Trial Balance every two weeks and determining the categories and amounts of money in open accounts and processing them accordingly, with the exception of the unclaimed restitution. Court costs, fines, victim witness fees, legal counsel fees, and default removal fees are automatically transferred to the Clerk-Magistrate's Office once fully paid. The probation supervision fees are transferred to the State Treasurer on a monthly basis. When a case goes into default, whatever monies are collected up to that point are transferred at that time to the Clerk-Magistrate's Office.*

*An AOTC Auditor is assisting our Account Clerk with the unclaimed restitution backlog beginning the week of October 6, 2008. It is the goal to clear that backlog in 3-4 months.*

**4. IMPROVEMENTS NEEDED IN REVENUE PROCESSING AND RECONCILIATION**

Our audit found that CD accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, we found that office personnel had not attempted to reconcile revenue remitted to the Commonwealth since July 1, 2004 when the Commonwealth changed its accounting system. With the Commonwealth's implementation of an upgraded automated accounting system, the CD was no longer able to reconcile its revenue transmittals with the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS). As a result, the CD and the Commonwealth cannot be assured that revenues were properly received and credited to the appropriate general or specific state revenue account.

With the Commonwealth's change in accounting system, the former revenue reconciliation report (the 466C report) was no longer available as of July 1, 2004. Effective August 16, 2006, AOTC issued Fiscal Year 2007 Memo #6, which addressed new procedures for revenue transmittal, reporting and reconciliation. The new procedure allowed courts to verify revenue

transactions and addressed the revenue reconciliation requirements. The Clerk's Office indicated that in the future it would reconcile revenue in accordance with Memo #6.

We reconciled revenue collected by the court for fiscal year 2007 with MMARS and found that over \$29,000 of fiscal year 2007 probation cash receipts were not processed until fiscal year 2008 by the Clerk-Magistrate's Office, even though they were forwarded timely by the Probation Office to the Clerk-Magistrate's Office. Except for certain fees that the Probation Office sends to the State Treasurer directly, the AOTC's fiscal system requires that a court's Clerk-Magistrate process and account for all other revenues received by the court such as court costs and various fees collected by the Probation Office.

The Probation Office collects payments for court costs and fees, deposits the monies into a local bank, then weekly the summarizes the collections and issues a check payable to the Clerk-Magistrate. The Clerk-Magistrate's Office, when it receives and deposits this check, validates the corresponding court case dockets for the payments and posts the receipts to the Cash Journal. At the end of each month, the Clerk-Magistrate disburses all of its cash receipts, including these probation receipts, to the State Treasurer. Also, the revenues are included on its month-end Revenue Transmittal Reporting Sheet (RTRS), which is filed with AOTC for posting to the Commonwealth books.

Our review found that for the months of May and June 2007, seven transmittals and accompanying checks for probation receipts totaling \$29,057 were not validated, posted or deposited by the Clerk-Magistrate's Office until July and August of 2007 (fiscal year 2008). Furthermore, because the revenues were not included on the fiscal year end 2007 RTRS, revenue was understated on the Commonwealth records and financial reports for fiscal year 2007.

According to Section 2, Chapter 29 of the General Laws, revenues collected in a particular fiscal year must be accounted for in that year:

*...All such revenue shall be deposited in and credited to the General Fund or other state funds during the fiscal year in which it is received. In the event that a question arises as to the correct year to credit the receipt of revenues, the comptroller shall make a determination as to the correct fiscal year and the determination of the comptroller shall be conclusive.*



The Clerk-Magistrate stated that the delay was caused because his office has only one cashier, and that in addition to his other duties, the Clerk functions as the bookkeeper. With the constant need to attend to the counter, there is difficulty setting sufficient time aside to process these transmittals and checks from the Probation Office, which involves the validation and posting of many categories of receipts. However, the Clerk-Magistrate stated that in the future, he would devote extra effort to processing and depositing cash receipts promptly so that all revenues are accounted for in the correct fiscal year.

***Recommendation***

The CD should continue to reconcile its monthly revenue in accordance with the updated AOTC procedures to ensure that revenue disbursed to the Commonwealth has been properly applied to the correct court and fund.

The Clerk-Magistrate should process and deposit all cash receipts, including those received from the Probation Office, within the timeframes specified by AOTC and state law.

***Auditee's Response***

*The office has adopted the recommendation of the auditor and is now utilizing the new Electronic Revenue and Reporting Sheet for Revenue Reconciliation pursuant to Fiscal Year 2007 – Memo #6.*

*This year, the Clerk Magistrate's Office completed all fiscal year processing of probation checks prior to the end of the 2008 fiscal year and will continue to do so in the future.*

**5. IMPROVEMENTS NEEDED IN PROCESSING OF UNCLAIMED, FORFEITED, AND DEFAULTED BAIL**

Our review of CD's administration of bail disclosed that the Court was not processing bail in accordance with the policies and procedures established by AOTC, and was not complying with the Massachusetts General Laws regarding the prompt transfer of abandoned and forfeited bail amounts to the State Treasurer. Furthermore, three bail accounts were in default status for over three years and should have been ordered forfeited and transmitted to the State Treasurer. As of June 30, 2007, CD's detailed trial balance reported 431 cash bails on hand totaling \$195,750. The following table summarizes the bail on hand:

Year(s)	Number of Accounts	Amount
1984-1990	19	\$ 2,740
1991-1999	68	17,260
2000-2004	194	113,640
2005	53	21,535
2006	46	18,650
2007	<u>51</u>	<u>21,925</u>
Totals	<u>431</u>	<u>\$195,750</u>

Based on our review of the trial balance, we estimated that potentially 235 bails totaling \$114,465, representing both abandoned and forfeited bail, should be remitted to the State Treasurer.

AOTC's Fiscal Systems Manual, Section 9.2 and Section 9.6 describe procedures for processing old bails and defines unclaimed bail as bail whose return has not been requested by its defendant or surety within one year of the authorized release date. Bail is classified as abandoned property if it remains unclaimed after three years, despite attempts to contact the defendant or surety. The court can then transmit the bail to the State Treasurer in accordance with Chapter 200, Section 6 of the General Laws.

Forfeited bail is described in Section 9.2 of the Fiscal Systems Manual as "bail which a judge declares a defendant or surety has lost or surrendered to the Commonwealth in open Court, usually as a result of the defendant defaulting for failing to appear." Section 9.6 indicates that forfeited bail must be sent to the State Treasurer as General Fund Revenue by the tenth day of the following month of forfeiture.

With respect to defendants that do not appear in accordance with the terms of their release on bail, courts are authorized to forfeit bail under Chapter 276, Section 80, of the General Laws, which states:

*At any time after default of the defendant, the court may order forfeited the money, bonds or bank books deposited at the time of the recognizance and the court or clerk of the court with whom the deposit was made shall thereupon pay to the state treasurer any money so deposited.*

We selected a sample of 46 bail case files and tested for compliance with AOTC policies and procedures and found that:

- 11 bails were over 3 years old and presumed abandoned, but did not have letters in the case files that should have been sent after one year advising either the defendant or surety to collect the bail due.
- 13 bails were ordered forfeited, but the balances had not been sent to the State Treasurer as general fund revenue.
- 3 cases were in default for more than three years, but the court did not issue the forfeiture orders which would allow the balances to be sent to the State Treasurer.

Since the CD did not follow the requirements of AOTC's Fiscal Systems Manual for the proper administration of unclaimed and forfeited bail, including notification in writing to the owners of unclaimed bail that their bail was eligible for release, the court improperly held property that was rightfully due to others or to the State Treasurer.

We asked the Clerk-Magistrate why the office has not been processing unclaimed and forfeited bail and why the trial balance has not been maintained in a current status. He explained that the backlog of bails has existed for a long time, even prior to his becoming Clerk-Magistrate. Furthermore, he added that the office is short-handed, with only one cashier who also functions as the bookkeeper, and that he has to attend to the day-to-day activities of the court, resulting in little time left to devote to the extensive bail inventory. After advising him of the problems in bail, the Clerk-Magistrate advised us that he would begin to process the old bails and send all large forfeited and abandoned bails to the State Treasurer. He also stated he would send letters to owners of unclaimed bail.

As of December 31, 2007, towards the end of our audit fieldwork, the Clerk-Magistrate had sent \$79,865 of bail forfeitures and \$3,085 of abandoned bail to the State Treasurer. Additionally, our test of bail funds found that the Clerk-Magistrate had also begun to write notification letters to the owners of unclaimed bail. The bail trial balance as of December 31, 2007 had been reduced to \$115,400.

### ***Recommendation***

The Clerk-Magistrate should continue to pursue the processing of unclaimed and forfeited bail in accordance with the provisions of the Fiscal Systems Manual and the abandoned property laws. Thereafter, the Clerk-Magistrate should conduct systematic reviews of the bail on hand and maintain the trial balance in a current status.

***Auditee's Response***

*The Clerk's Office has continued its efforts to submit forfeited bails to the Commonwealth and has continued to send abandoned funds to the Office of the State Treasurer. As of January 2008, the office has sent an additional \$10,505.00 in forfeited bails to the Commonwealth and has sent an additional \$2,480.00 in abandoned monies to the Office of the State Treasurer. These efforts to address bail forfeiture and abandoned bail monies are continuing.*