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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
BROOKLINE DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2004 TO SEPTEMBER 30, 2006**

**OFFICIAL AUDIT
REPORT
APRIL 18, 2007**

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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 authorized the District Court Department to establish 62 Divisions, each having a 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 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 Brookline Division of the District Court Department (BDC) presides over civil and criminal matters within the city of Brookline. During the audit period July 1, 2004 through September 30, 2006, BDC collected revenues totaling \$824,035 which it disbursed to the Commonwealth and the City of Brookline. In addition to processing civil entry fees and monetary assessments on criminal cases, BDC was custodian of approximately 143 cash bails amounting to \$101,895 as of September 30, 2006, and civil escrows and undisbursed restitution totaling \$55,311.

BDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings. Although BDC does not collect the associated monetary assessment when the 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.

BDC operations are funded by appropriations under the control of either the Division (local) or the Administrative Office of the Trial Court (AOTC) or Office of the Commissioner of Probation (central). According to the Commonwealth's records, expenditures associated with the operation of the Division were approximately \$1,429,321 for the period July 1, 2004 to September 30, 2006.

The purpose of our audit was to review BDC'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, 2004 to September 30, 2006.

AUDIT RESULTS

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IMPROVEMENTS NEEDED IN INTERNAL CONTROLS OVER FINANCIAL AND ADMINISTRATIVE OPERATIONS

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Our review found that the Brookline District Court (BDC) Clerk-Magistrate's Office did not develop an internal control plan or conduct a risk assessment as required by state law and trial court rules and regulations. We also found that the Clerk's Office did not

reconcile revenue as specified in the Administrative Office of the Trial Court (AOTC) Fiscal Systems Manual.

a. Improvements Needed With Developing an Internal Control Plan and Conducting Risk Assessments

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Our review found that the BDC did not develop an internal control plan or formally conduct a risk assessment and update their internal control plan as required by state laws and Trial Court rules and regulations. The lack of an internal control plan and periodic risk assessment diminishes the AOTC's efforts to ensure the integrity of court records and assets.

b. Improvements Needed Over the Revenue Reconciliation Process

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Our audit found that the BDC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, BDC personnel could not comply with the control procedures established by the Trial Court to reconcile its revenue transmittals to the Commonwealth's Massachusetts Management Accounting and Reporting System or to the amounts posted on AOTC's website. As a result, the BDC and the Commonwealth could not be assured that revenues were properly receipted and credited to the appropriate general or specific state revenue account.

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, the 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 District Court Department (DCD), which has civil jurisdiction over money-damage cases involving tort and contract actions; small claims; summary process; civil motor vehicle infractions (CMVI); mental health, alcoholism, drug abuse commitments; and juvenile matters in Districts without a Juvenile Court. Its criminal jurisdiction extends over all misdemeanors and certain felonies. The DCD established 62 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 Brookline Division of the District Court Department (BDC) presides over civil and criminal matters falling within the city of Brookline. During our audit period July 1, 2004 to September 30, 2006, BDC collected revenues totaling \$824,035, which it disbursed to the Commonwealth and the City of Brookline. The majority (approximately 98%) of revenue collected by BDC was paid to the Commonwealth as either general or specific state revenue—totaling \$807,862—as follows:

| Type | <u>Amount</u> | <u>Percentage</u> |
|---|------------------|-------------------|
| General Revenue | \$460,935 | 57.00 |
| Probation and Administrative Supervision Fees | 171,500 | 21.23 |
| Victim/Witness Fund | 26,902 | 3.33 |
| Alcohol Fees | 23,649 | 2.93 |
| Civil Surcharges | 30,263 | 3.75 |
| Legal Counsel Fees | 10,040 | 1.23 |
| Indigent Defense | 51,582 | 6.38 |
| Head Injury Program | 25,930 | 3.21 |
| Highway Fund | 510 | .22 |
| Victims of Drunk Driving | 5,696 | .70 |
| Counsel for Indigent Salary Enhancement Trust | 530 | .01 |
| Miscellaneous | <u>325</u> | <u>.01</u> |
| Total | <u>\$807,862</u> | <u>100.00</u> |

In addition to the above fines and costs, the court also collected and paid \$350,619 directly to third parties, primarily for restitution cases and court ordered civil escrow payments.

In addition to processing civil-case entry fees and monetary assessments on criminal cases, BDC was custodian of approximately 143 cash bails amounting to \$101,895 as of September 30, 2006. Bail in cash (BDC does not accept non-cash 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.

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

BDC operations are funded by appropriations under the control of either the Division (local) or the AOTC or Commissioner of Probation Office (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 July 1, 2004 to September 30, 2006 were \$1,429,321¹

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 over certain operations of BDC. The scope of our audit included BDC's controls over operational activities, including cash management, bail funds, and criminal-and civil-case activity for the period July 1, 2004 to September 30, 2006.

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 BDC'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 BDC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures.

Our review centered on the activities and operations of BDC'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 State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and BDC's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records, and other source documents. Our assessment of internal controls over financial and management activities at BDC was based on those interviews and review of documents.

¹ 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 officers since they are not identified by court divisions in the Commonwealth's accounting system.

Our recommendations are intended to assist BDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that BDC'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 this report, BDC (1) maintained adequate internal controls over cash management, bail funds, 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.

AUDIT RESULTS

IMPROVEMENTS NEEDED IN INTERNAL CONTROLS OVER FINANCIAL AND ADMINISTRATIVE OPERATIONS

Our review found that the Brookline District Court (BDC) Clerk-Magistrate's Office did not develop an internal control plan or conduct a risk assessment as required by state law and AOTC rules and regulations. We also found that the Clerk's Office did not reconcile revenue as specified in the AOTC Fiscal Systems Manual.

a. Improvements Needed With Developing an Internal Control Plan and Conducting Risk Assessments

Our review found that the BDC did not develop an internal control plan or conduct periodic risk assessments as required by state law and the AOTC's rules and regulations. As a result, BDC's efforts to ensure the integrity of assets and records 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 Office of the State Comptroller (OSC) issued written guidelines 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. In these guides, the OSC stressed the importance of internal controls and the need for departments to develop an internal control plan, defined as follows:

[A] high-level summarization, on a department-wide basis, of the department's risks (as the result of a risk assessment) and the controls used by the department to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures. We would expect this summary to be from ten to fifty pages depending on the size and complexity of the department...

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

[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 issuing 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.

BDC personnel stated that the internal control plan had been delayed due to the temporary reassignment of the Clerk-Magistrate to another court.

Recommendation

The BDC should develop an internal control plan that addresses the risks and internal control requirements specific to its operations. The BDC should conduct an annual risk assessment and update its internal control plan based on the results of the risk assessment, as necessary.

Auditee's Response

The First Justice provided the following response:

Kindly be advised we have undertaken to implement an internal control plan and periodic risk assessment protocol.

b. Improvements Needed Over the Revenue Reconciliation Process

Our audit determined that the BDC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, we noted that the court personnel could not comply with control procedures established by the Trial Court to reconcile its revenue transmittals to the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS). As a result, the BDC and the Commonwealth could not be assured that revenues were properly receipted and credited to the appropriate general or specific state revenue account.

The AOTC established certain internal controls and procedures, incorporated in its Fiscal Systems Manual and Administrative memos. Section 8.6 of the manual states, in part:

Since the [Clerk-Magistrate's] Office receives the MMARS 466C reports (per next step 2), the [Clerk-Magistrate's] Office bookkeepers have the task of revenue reconciliation for each division...

Receive Massachusetts Management Accounting and Reporting System (MMARS) 466C Report—Cash Received by State vs. Cash Reported by Department.

Compare all Revenue Transmittal Sheets (RTS's) remitted by the [Clerk-Magistrate's] Office for that monthly period to the MMARS 466C Report for the same period.

If there is a difference between the MMARS 466C Report and the Revenue Transmittal Sheets, contact the Audit Section of the Fiscal Affairs Department of the Administrative Office of the Trial Court.

According to the Clerk-Magistrate's Office staff, revenue reconciliations have not been done since July 1, 2004, when the Commonwealth upgraded its automated accounting system. Following that upgrade, the report that BDC used for fiscal year 2004 and prior years to complete revenue reconciliations was no longer available. At that time, AOTC prepared summary revenue reconciliations by comparing information on the Commonwealth's system to an AOTC internally prepared summary of monthly court revenues. This information was made available to courts on a monthly basis on the Trial Court's intranet web page. However, the AOTC reconciliation does not compare the detail amounts to each court's accounting records. We found no evidence that Clerk personnel performed reconciliations of its transmitted revenues to this data.

According to AOTC officials, the Trial Court, in conjunction with the OSC, is working on developing a method to get revenue information available to the local courts for reconciliation purposes.

Recommendation

AOTC should continue to work with the OSC so that local courts can obtain the information previously contained in the 466C reports, so that they can reconcile the revenue they have submitted with the State Comptroller's accounting records. Once the revenue information is available at the local Court level, AOTC should update the procedures contained in the Fiscal Systems Manual to reflect such changes. In the interim, the BDC should use the information from the AOTC internally prepared revenue summary as a source for reconciling local court revenues to local court records.

Auditee's Response

The First Justice provided the following response:

We recently completed improving our procedures for accounting and transmittal of revenue as specified in the AOTC Fiscal Systems Manual and I am advised we are currently meeting those standards.