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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
CHELSEA DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2006 TO MARCH 31, 2008

OFFICIAL AUDIT
REPORT
FEBRUARY 27, 2009

TABLE OF CONTENTS/EXECUTIVE SUMMARY

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 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 the respective offices.

The Chelsea Division of the District Court Department (CDC) presides over civil and criminal matters falling within its territorial jurisdiction: the cities of Chelsea and Revere. During the period July 1, 2006 to March 31, 2008, CDC collected revenues totaling \$2,489,595, which it disbursed to the Commonwealth and to those municipalities within its jurisdiction. In addition to processing civil entry fees and monetary assessments on criminal cases, CDC was the custodian of approximately 484 cash bails totaling \$622,325 and three small claims deposits totaling \$300 as of March 31, 2008.

CDC is also responsible for conducting hearings on civil motor vehicle infractions (CMVI). Although CDC 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.

CDC 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 \$2,647,661 for the period July 1, 2006 to March 31, 2008.

The purpose of our audit was to review CDC'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 March 31, 2008.

AUDIT RESULTS

5

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

5

Our review of internal controls disclosed that the Chelsea District Court did not develop an internal control plan or conduct annual risk assessments as required by state law and AOTC rules and regulations. As a result, AOTC's efforts to ensure the integrity of the CDC's records and assets were not optimized.

2. IMPROVEMENTS NEEDED IN THE COURT'S COMPLIANCE WITH THE DISTRICT COURT TIME STANDARDS AND CASE MANAGEMENT ORDERS **7**

Our review disclosed that the CDC did not comply with the District Court Time Standards and Case Management Orders (Time Standards) for civil and criminal cases issued by the Trial Court of the Commonwealth.

A performance analyst from the district court's administrative office identified many civil cases that did not meet various time standards and could be dismissed.

Also, the CDC did not develop statistics on criminal cases; therefore, compliance with the time standards could not be determined for those cases.

3. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION **8**

Our audit found that the CDC 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 CDC and the Commonwealth cannot be assured that revenues were properly received and credited to the appropriate general or specific state revenue account.

4. NONCOMPLIANCE WITH AOTC'S FISCAL SYSTEMS MANUAL **9**

Our review of the court's financial records revealed that the Clerk-Magistrate's bookkeeper processed refunds (from CDC's central bank account) for overpayments, duplicate payments, or payments in error without obtaining the required "Request for Refund" form from the individual requesting the refund. It was also noted that the bookkeeper performed all of the steps in the refund process, including those assigned to the cashier. These practices do not comply with the procedures established by AOTC in its Fiscal Systems Manual.

5. IMPROVEMENTS NEEDED OVER RECEIVING AND ACCOUNTING FOR FUNDS IN THE PROBATION DEPARTMENT **10**

Our audit revealed that the Probation Department needed to improve controls over the receipt and accounting of cash collections by better segregating the cashiering and bookkeeping functions. Specifically, we observed cashiers performing bookkeeping functions such as setting up ledger cards with case information including amounts due, posting cash remittances to the ledger cards, and preparing daily deposits. As a result, cash collections were not properly safeguarded and controlled.

INTRODUCTION

Background

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven trial 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, and 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 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 Chelsea Division of the District Court Department (CDC) presides over civil and criminal matters falling within its territorial jurisdiction: the cities of Chelsea and Revere. During our audit period, July 1, 2006 to March 31, 2008, CDC collected revenues totaling \$2,489,595, which it disbursed to the Commonwealth and to those municipalities. The majority (approximately 97%) of revenue collected by CDC was paid to the Commonwealth as either general or specific state revenue totaling \$2,415,185, as follows:

Revenue Type	Amount
General Revenue	\$1,479,959
Probation Fees	425,297
Legal Counsel	243,829
Surcharges	99,599
Victim/Witness Fund	76,540
Alcohol Fees	40,508
Head Injury Program	26,251
Victims of Drunk Driving	10,481
Indigent Salary Enhancement Trust	6,200
Highway Fund	2,324
Drug Analysis	1,995
Miscellaneous	1,902
Environmental Fines	300
Total	<u>\$2,415,185</u>

Both the Clerk-Magistrate's Office and the Probation Office processed receipts and disbursements from July 1, 2006 to March 31, 2008, of which approximately \$811,427 consisted of suspended fines and 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 also collected approximately \$260,944 of restitution money and paid \$255,789 directly to the parties owed the restitution funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, CDC was custodian of approximately 484 cash bails amounting to \$622,325 as of March 31, 2008. Bail in the form of cash (CDC 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. In addition, CDC was the custodian for three small claims deposits totaling \$300 as of March 31, 2008.

CDC is also 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. CDC does not collect the associated monetary assessment when a violator is found responsible, but it is required to submit the results of the hearing to the Registry of Motor Vehicles, which follows up on collections.

CDC operations are funded by appropriations under the control of either the Division (local) or the 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 administration 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 March 31, 2008 totaled \$2,647,661¹.

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 financial and management controls over certain operations of CDC. The scope of our audit included CDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2006 to March 31, 2008.

Our audit was conducted in accordance with 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 CDC's internal controls over cash management, bail funds, and criminal- and civil-case activity and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding CDC'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 CDC'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

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, 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 Reporting System reports, AOTC statistical reports, and CDC'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 CDC was based on those interviews and the review of documents.

Our recommendations are intended to assist CDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that CDC's systems covering 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, CDC (1) maintained adequate internal controls over cash management, bail funds, and criminal- and civil-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.

On January 5, 2009, subsequent to our audit period ended March 31, 2008, a new Acting Presiding Justice was appointed to the Chelsea District Court. Because this individual was not present at the time of our audit, he conferred with the Clerk Magistrate and Chief Probation Officer to discuss the concerns raised in the draft report and any corrective actions taken. The Acting Presiding Justice's comments appear after each of our audit recommendations.

AUDIT RESULTS

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

Our review of internal controls at the Chelsea Division of the District Court Department (CDC) found that the court had not developed an internal control plan for the financial and operational elements of the Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. Further, the court did not conduct periodic risk assessments as required by state law and the Administrative Office of the Trial Court's (AOTC) rules and regulations. As a result, CDC'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 the 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 guidance in the form of the Internal Control Guide (the new guide replaces both the Internal Control Guide for Managers, Volume I, and the Internal Control Guide for Departments, Volume II). These guides 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 plan, 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 requirements 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 assessment; 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.

Court personnel stated that the CDC does not have an internal control plan, that they were unfamiliar with the OSC's definition of an internal control plan, and that they were not aware that the OSC's Internal Control Guide existed to assist departments in preparing Internal Control Plans (ICP) and assessing departmental risk. The CDC was, however, familiar with the AOTC's requirement for each court to develop an ICP at the Division level. We advised CDC about the guidance available on the OSC's website and suggested that the AOTC's staff might be helpful in developing an ICP.

Prior to the completion of our fieldwork, the Chief Probation Officer prepared a draft internal control plan for his office, but the plan had not yet been finalized and approved by authorized personnel. The Judge's Lobby was also in the process of drafting an internal control plan, but this plan also had not yet been reviewed and approved by the Presiding Justice.

Recommendation

The CDC should review AOTC's and OSC's Internal Control Guide, conduct a risk assessment, and develop and document a high-level internal control plan that addresses the risks and internal control requirements specific to its operations. Moreover, CDC 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 Clerk-Magistrate or his designee will meet with [the Acting Presiding Justice's assistant] to complete the Internal Controls report. Other sections of the report are finished.

2. IMPROVEMENTS NEEDED IN THE COURT'S COMPLIANCE WITH THE DISTRICT COURT TIME STANDARDS AND CASE MANAGEMENT ORDERS

Our review disclosed that the CDC did not comply with the District Court Time Standards and Case Management Orders (Time Standards) for civil and criminal cases issued by the Trial Court of the Commonwealth.

Joint Standing Order (JSO) No. 1-04 establishes case management procedures that facilitate the prompt and efficient disposition of civil cases, reduce the expense and delay of civil litigation in the District Court Department, and sets maximum time frames from case filing to disposition. The time frames range from two to 18 months, depending on the type and/ or complexity of the case (i.e., abuse restraining orders, small claims, tort and contract actions), and are effective for cases filed on or after January 1, 2008. Prior to January 1, 2008, the time range for disposition was two to 24 months.

Joint Standing Order No. 2-04 promulgates time standards to provide judges and clerk-magistrates with specific maximum time periods within which civil cases (1) should progress between court events and (2) should be disposed. The purpose of these time standards is to promote timely disposition of civil cases and to provide a basis for assessing the movement of civil cases from commencement to disposition.

A performance analyst from the district court's administrative office reviewed CDC's civil case statistics, identified cases that violated the time standards, and made recommendations to dispose of the cases. Using the pending civil case statistics as of July 2008, the performance analyst concluded that 51 cases could be dismissed immediately because the complaints were never served, and an additional 122 cases in which a provisional order of dismissal should be issued, with dismissal becoming effective in 30 days if action was not taken by the plaintiff. After working with the performance analyst, the court's compliance with civil time standards improved. However, as of September 25, 2008, there were still 80 cases which did not comply with the time frame intervals prescribed by JSO No. 2-04 and five cases that exceeded the 24-month time standard prescribed by JSO No. 1-04. An analysis of the 80 cases revealed that there were 55 cases in default, which were eligible for a provisional order of dismissal; 21 cases where case conferences were scheduled beyond dates established by the time standards; two

cases that could be dismissed for failure to serve a complaint; and two cases where case management conferences were overdue.

JSO No. 3-04 establishes time standards for criminal cases, while Standing Order No. 4-04 creates goals for criminal case management.

According to the assistant Clerk-Magistrate handling criminal cases, the CDC has not developed statistics to determine compliance with the criminal time standards because the court does not have the manpower to devote the time needed to analyze the 9,055 criminal cases filed during the 21-month period under audit. Therefore, the degree of compliance with the criminal time standards could not be determined.

Recommendation

The court should work with the Administrative Office of the District Court to improve compliance with the civil time standards. The court should seek the resources to develop the statistics necessary to determine compliance with the criminal time standards.

Auditee's Response

[The Acting Presiding Justice indicated he has] taken steps to make all cases – both civil and criminal – which are not within time standards the highest priority for resolution.

3. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION

Our audit found that the CDC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, our audit also noted that office personnel did not reconcile the revenues it transmitted to the Commonwealth since July 1, 2004, when the Commonwealth changed its accounting system. With the implementation of an upgraded automated accounting system, the CDC was no longer able to reconcile its revenue transmittals with the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS). As a result, the CDC 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. To that end, the AOTC provided the courts with an alternative reconciliation procedures to reconcile its Revenue Transmittal and Reporting Sheet (RTRS) amounts to the total amount posted on the Trial Court's intranet web page on a monthly basis.

Our review found that revenue credited to CDC's accounts per the MMARS system was \$5,953 less than the amount the court transmitted to the Commonwealth for the period July 1, 2006 to March 31, 2008. As a result, the CDC and the Commonwealth cannot be assured that all revenues were properly received and credited to the appropriate general or specific state revenue account.

The bookkeeper for the Clerk-Magistrate's Office stated that she was not aware of the revenue reconciliation requirement contained in the Fiscal Year 2007 Memo # 6. She also indicated that she was not familiar with the revenue reconciliation procedures.

Recommendation

CDC should comply with the AOTC Fiscal Year 2007 Memo #6 requiring the completion of monthly revenue reconciliations to ensure that revenues are transmitted and credited to the correct court and proper accounts in the Commonwealth's MMARS system.

Auditee's Response

The Clerk-Magistrate will ensure compliance with requirements for revenue reconciliation.

4. NONCOMPLIANCE WITH AOTC'S FISCAL SYSTEMS MANUAL

Our review of the court's financial records revealed that the Clerk-Magistrate's Office issued refunds (from its central bank account) for overpayments, duplicate payments, or payments in error without processing a "Request for Refund" form. The bookkeeper for the Clerk-Magistrate made refund payments to individuals when she identified payments received as overpayments, duplicate payments, or payments received in error. The bookkeeper also stated that she made refunds when asked to by the Clerk-Magistrate or one of the Assistant Clerk-Magistrates. The refunds were not documented other than a notation of the criminal docket in the case folder with a check stub attached to the file.

Specific procedures for making refunds for overpayments are established in the AOTC Fiscal Systems Manual, Section 8.5, as follows:

*Cashier (1) reviews refund request and documentation (receipt, cancelled check) from the individual claiming an overpayment; (2) completes **cashier and payee's** sections of the **Request for Refund** form; (3) verifies requestor's signature and identity and forwards form and documentation to bookkeeper.*

*Bookkeeper reviews (1) **Request for Refund form** and supporting documentation; (2) ensures original payment check has cleared; (3) obtains signature of court's authorized signatory; (4) completes and signs refund form, prepares check for authorized signatory, and (5) mails or hand delivers check to individual requesting payment.*

The failure of the Clerk-Magistrate's Office to follow the procedures established by the AOTC could cause funds to be improperly disbursed by the court.

Recommendation

The Clerk-Magistrate should review the procedures established by the AOTC in its Fiscal Systems Manual Section 8.5. Once these procedures have been reviewed, they should be implemented in the court's process of making refunds of overpayments, duplicate payments, or payments in error.

Auditee's Response

The Clerk-Magistrate will ensure that no refunds are made without required documentation.

5. IMPROVEMENTS NEEDED OVER RECEIVING AND ACCOUNTING FOR FUNDS IN THE PROBATION DEPARTMENT

Our audit revealed that the Probation Department needed to improve controls over the receipt and accounting of cash collections by better segregating the cashiering and bookkeeping functions. Specifically, we observed cashiers performing bookkeeping functions such as setting up ledger cards with case information including amounts due, posting cash remittances to the ledger cards, and preparing daily deposits. During the audit period, July 1, 2006 to March 31, 2008, the Probation Office received \$811,427 of suspended fines and court costs, \$465,805 in probation and alcohol fees, and \$260,944 in restitution costs. As a result, these cash collections were not properly safeguarded and controlled.

The practice of allowing cashiers to post to ledger cards and prepare deposits is contrary to AOTC procedures in Section 11.3 of the Fiscal Systems Manual, which states, in part:

All entries made to the account ledger cards (receipts and disbursements) are the sole responsibility of the bookkeeper. Only the bookkeeper (or back-up) can update the ledger cards by recording receipts, disbursements and balance information. The bookkeeper must maintain control over all ledger cards as well as all other accounting documentation in order to properly reconcile the Probation Department accounts at month-end.

At the end of each business day, after completing the daily closing procedures, cashiers must turn over all receipts to the bookkeeper(s) for verification, reconciliation, entry in Cash Journal and inclusion in the local bank deposit and/or storage in a secure location.

The bookkeeper is responsible for the preparation of the daily deposit...

To ensure proper control over the Court's collection of funds, strict segregation of duties in the collection process must be maintained. This policy requires that a Court's cashier and bookkeeper be two different employees.

According to the Probation Office, cashiers were performing bookkeeping functions because the volume of work exceeded the bookkeeper's capacity. The Probation Office personnel were not aware of the requirement for the segregation of duties between the cashier and bookkeeping functions until we brought it to their attention.

Recommendation

To the extent possible, the Probation Office should implement Section 11.3 of the AOTC Fiscal Systems Manual requiring the segregation of duties between the cashier and bookkeeper.

Auditee's Response

The Chief Probation Officer has taken steps to separate the cashier and bookkeeping functions.