



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

Making government work better

Official Audit Report – Issued March 1, 2016

Essex County Division of the Superior Court Department

For the period July 1, 2011 through June 30, 2013





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March 1, 2016

Thomas H. Driscoll Jr., Clerk of Courts
Martin L. Wallace, Chief Probation Officer
Essex County Division of the Superior Court Department
56 Federal Street
Salem, MA 01970

Dear Clerk of Courts Driscoll and Chief Probation Officer Wallace:

I am pleased to provide this performance audit of the Essex County Division of the Superior Court Department. This report details the audit objectives, scope, methodology, and conclusions for the audit period, July 1, 2011 through June 30, 2013. My audit staff discussed the contents of this report with management of the court, whose comments we considered in drafting this report.

I would also like to express my appreciation to the Essex County Division of the Superior Court Department for the cooperation and assistance provided to my staff during the audit.

Sincerely,

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

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CJAM	Chief Justice for Administration and Management
CJTC	Chief Justice of the Trial Court
Clerk's Office	Clerk of Courts' Office
ESC	Essex County Division of the Superior Court Department
OCM	Office of Court Management
OST	Office of the State Treasurer
SCD	Superior Court Department

EXECUTIVE SUMMARY

The Essex County Division of the Superior Court Department (ESC) presides over civil, criminal, and other matters falling within its territorial jurisdiction of Essex County. It is responsible for scheduling, holding, and recording proceedings in civil and criminal matters and for the care and custody of all the records, books, and papers that pertain to, or are filed or deposited in, the Clerk of Courts' Office.

This audit was undertaken to review certain aspects of ESC's operations related to safeguarding of evidence, inventory of property and equipment, and management of cash and unclaimed funds. We wanted to determine whether ESC had established adequate internal controls over these activities and complied with applicable laws, regulations, policies, procedures, and other authoritative guidance in the areas reviewed.

Based on our audit, we have concluded that ESC has established adequate controls and complied with applicable laws, regulations, policies, procedures, and other guidance in the areas reviewed. We did not identify any significant deficiencies in those areas.

OVERVIEW OF AUDITED ENTITY

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 created a centralized administrative office managed by a Chief Justice for Administration and Management (CJAM), who was also responsible for the overall management of the Trial Court. The CJAM charged the central office, known as the Administrative Office of the Trial Court, 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 case-management automation.

Legislative changes that took effect July 1, 2012 eliminated the CJAM position and created two new Trial Court leadership positions: the Chief Justice of the Trial Court (CJTC) and the Court Administrator. The CJTC is considered the judicial head of the Trial Court and is responsible for all matters of judicial policy. The Court Administrator is the administrative head of the Trial Court, operating from the Office of Court Management (OCM) and working with the CJTC, with the overall responsibility for budget preparation and oversight, labor relations, information technology, capital projects, and personnel policy (thereby performing the many administrative functions of the former CJAM position).

Chapter 211B of the Massachusetts General Laws established the Superior Court Department (SCD), which has original jurisdiction in civil actions valued at over \$25,000 or where equitable relief is sought. The SCD also has original jurisdiction in actions involving labor disputes where injunctive relief is sought, and it has exclusive authority to convene medical malpractice tribunals. According to its website, the SCD has exclusive original jurisdiction in first-degree murder cases, all felony matters, and other crimes, although it shares jurisdiction over crimes where other Trial Court departments have concurrent jurisdiction. The SCD also has appellate jurisdiction over certain administrative proceedings.

The SCD has established 14 divisions, each with a specific territorial jurisdiction, to preside over matters that are brought before the court. Each division's organizational structure consists of two main offices: the Clerk of Courts' Office (the Clerk's Office), headed by a Clerk of Courts who is an elected official, and the Probation Office, headed by a Chief Probation Officer. The Clerk of Courts and the Chief Probation Officer have responsibility for the internal administration of their respective offices.

The Essex County Division of the Superior Court Department (ESC) presides over civil and criminal matters falling within its territorial jurisdiction of Essex County. ESC is responsible for scheduling, holding, and recording proceedings in civil and criminal matters and for the care and custody of all the records, books, and papers that pertain to, or are filed or deposited in, the Clerk’s Office.

During the audit period, July 1, 2011 through June 30, 2013, ESC collected \$2,436,805 of civil fees, criminal monetary assessments, and bail forfeitures and transmitted them to the State Treasurer as either general or specific state revenue, as shown in the following table.

Revenue Type	Amount of State Revenue Collected and Transmitted
General Revenue	\$1,826,958
Probation and Administrative Supervision Fees	438,923
Victim/Witness Fund*	49,340
Surcharges*	57,395
Reimbursement for Indigent Counsel*	38,206
Drug Analysis Fund*	20,443
Head Injury*	3,490
Other	2,050
Total	<u>\$2,436,805</u>

* For definitions of these specific types of revenue, see the Appendix.

In addition to the funds collected and transferred to the Commonwealth, ESC was the custodian of 257 cash bails, totaling \$2,482,109, as of June 30, 2013.¹ ESC had custody of 32 civil escrow accounts, totaling \$878,294, as of June 30, 2013. (Civil escrow accounts are considered assets held in trust by the court pending case disposition.)

ESC operations are funded by state appropriations managed by OCM. According to the Commonwealth’s records, expenditures associated with the operation of ESC were \$3,462,810 for the period July 1, 2011 through June 30, 2013. This amount does not include certain expenditures, such as facility leases and related operational expenses; personnel costs attributable to court officers, security officers, and any

1. 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.

probation staff; and related administrative expenses of the Probation Office, because those expenses are not identified by court division in the Commonwealth's accounting system.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Essex County Division of the Superior Court Department (ESC) for the period July 1, 2011 through June 30, 2013.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Was cash that ESC received properly reported to the Trial Court and transmitted to the Office of the State Treasurer (OST)?	Yes
2. Did ESC have adequate controls in place to safeguard evidence?	Yes
3. Did ESC properly disburse bail funds?	Yes
4. Did ESC have adequate controls in place to safeguard Commonwealth furniture and equipment?	Yes
5. Did ESC remit unclaimed funds to OST in accordance with Chapter 200A of the General Laws?	Yes

To achieve our objectives, we gained an understanding of the internal controls we deemed significant to our audit objectives and evaluated the design and effectiveness of those controls. In addition, we performed the following procedures:

- We interviewed ESC managers and other staff members and reviewed relevant documents, statutes, and regulations as well as ESC's policies, procedures, and accounting records.
- We reviewed our prior audit report (No. 2007-1111-30) as well as internal audits conducted by the Trial Court to determine whether any weaknesses in internal controls had been identified that pertained to our current audit objectives.

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- We obtained and analyzed case data from selected court-case docket records and traced and compared them to Forecourt, ESC's case-management system, for consistency and completeness. We interviewed agency officials who were knowledgeable about Forecourt data-input activities. Because the court-case docket record is the source document used to update Forecourt and the principal document that identifies all court activity for a civil or criminal case (including the assessment and collection of various fees and fines, civil judgments, and criminal-case adjudication), we did not rely on Forecourt for the purposes of our audit. We believe that the information we obtained from court-case docket records was sufficient for the purposes of our analysis and findings. In most instances, we did not rely on computer-processed data for our audit objectives. We relied on hardcopy source documents, interviews, and other non-computer-processed data as supporting documentation on which we based our conclusions.
 - We obtained and analyzed information regarding probationers from the probationers' hardcopy files and traced and compared them to Forecourt for consistency and completeness. Because the probationer's file is the source document that identifies all the probationer's activity (including documentation of assessment, waiving, and collection of monthly probation supervision fees and monitoring of monthly probation supervision fees and/or performance of community service), we did not rely on computer-processed data. We believe that the information we obtained from the probationers' files was sufficient for the purposes of our analysis and conclusions.
 - We obtained and reviewed ESC's most recent furniture and equipment inventory list and spoke to ESC inventory liaisons to determine whether ESC inventory records and procedures followed Trial Court guidelines.
 - We reviewed all monthly revenue transmittals made during the audit period to confirm that cash received was properly reported to the Trial Court and transmitted to OST as required.
 - We selected transactions primarily by using random, nonstatistical sampling, in order to eliminate bias by giving all items in the population an equal chance of being chosen, for our examination of the safeguarding of evidence, the remittance of unclaimed funds, and the disbursement of bail funds. Therefore, we did not project the results of our samples to the population. More specifically,
 - For the safeguarding of evidence, we randomly selected 16 of 57 exhibits held by the court during our audit period to determine whether adequate controls were in place.
 - For the remittance of unclaimed funds, we randomly selected 60 of 289 bail and civil escrow funds on hand to determine whether accounts could be classified as unclaimed property and be eligible for remittance to OST as of June 30, 2013.
 - For the disbursement of bail funds, we randomly selected 14 of the 74 bail funds disbursed during the audit period to determine whether the court was properly disbursing bail.

Any financial data we obtained from the Massachusetts Management Accounting and Reporting System about ESC's activities during our audit period were not used in our audit testing; the data were used solely for the purpose of presenting background information in our report. Consequently, we did not assess the reliability of these data.

APPENDIX

Types of Revenue Collected and Transmitted by the Essex County Division of the Superior Court Department

Victim/Witness Fund

According to Section 8 of Chapter 258B of the Massachusetts General Laws, this assessment, generally between \$45 and \$90, is collected when a defendant is found responsible for any criminal charge.

Surcharges

According to Section 4C of Chapter 262 of the General Laws, the surcharge is an additional \$15 assessment collected on every complaint, petition, or other civil action begun in the Superior Court in which an initial filing fee is payable and a separate docket number is issued.

Reimbursement for Indigent Counsel

According to Sections 2 and 2A of Chapter 211D of the General Laws, this is the \$150 (or greater) assessment collected when the court appoints legal counsel to represent a defendant who is determined to be indigent.

Drug Analysis Fund

According to Section 6B of Chapter 280 of the General Laws, this assessment, between \$35 and \$500, is collected when a defendant is found responsible for certain drug charges.

Head Injury

This is a \$250 mandatory assessment upon a conviction, a continuation without a finding, probation, admission to sufficient facts, or a guilty plea for operating a motor vehicle under the influence, operating negligently, or operating a boat under the influence. A portion of the \$250 mandatory assessment is deposited by the Office of the State Treasurer in the Head Injury Treatment Services Trust Fund, and the remaining amount is credited to the Commonwealth's General Fund.