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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
LAWRENCE DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2004 TO OCTOBER 31, 2006**

**OFFICIAL AUDIT
REPORT
JULY 13, 2007**

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 their respective offices.

The Lawrence Division of the District Court Department, (LDC) presides over civil and criminal matters falling within its territorial jurisdiction: the City of Lawrence and the towns of Andover, Methuen, and North Andover. During the period July 1, 2004 through October 31, 2006, LDC collected revenues totaling \$6,152,998, which it disbursed to the Commonwealth and those municipalities. In addition to processing civil entry fees and monetary assessments on criminal cases, LDC was the custodian of 702 cash bails totaling \$1,092,290 and six small claims bonds totaling \$600 as of October 31, 2006.

LDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings. Although LDC 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.

LDC 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 \$4,253,728 for the period July 1, 2004 through October 31, 2006.

The purpose of our audit was to review LDC'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 October 31, 2006.

AUDIT RESULTS

5

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

5

Our review found that the LDC 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. The LDC Probation Office drafted an internal control plan, but did not formally document its risk assessment.

2. IMPROVEMENTS NEEDED IN PROBATION OFFICE CASH RECONCILIATION AND RECORDING PROCESS**7**

Our audit found that although the Probation Office improved upon some of the previously identified cash reconciliation and recording issues that were ongoing for as many as ten years, additional improvements are still needed. Specifically, we found that the Probation Office monthly bank reconciliations were not prepared timely or accurately and cash journal postings did not always reflect the bank deposits or daily transaction activity entered in the Probation Receipt Account (PRA) system. As a result, the LDC Probation Office is not complying with AOTC requirements and there is limited assurance that the Probation Office records are accurate and assets are adequately protected.

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, 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'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 Lawrence Division of the District Court Department (LDC) presides over civil and criminal matters falling within its territorial jurisdiction: the City of Lawrence and the Towns of Andover, Methuen and North Andover. During our audit period, July 1, 2004 to October 31, 2006, LDC collected revenues totaling \$6,152,998, which it disbursed to the Commonwealth and to those municipalities. The majority (approximately 96.6%) of revenue collected by LDC was paid to the Commonwealth as either general or specific state revenue - totaling \$5,944,397- as follows:

Revenue Type	Amount
General Revenue	\$2,887,598
Probation and Administrative Supervision Fees	1,661,723
Legal Counsel Fees	644,958
Victim/Witness Fund	243,838
Surcharges	161,355
Alcohol Fees	112,898
Head Injury Program	74,899
Indigent Defense	62,931
Drug Analysis	39,557
Victims of Drunk Driving	25,805
Highway Fund	19,730
Environmental Fines	8,125
Counsel for Indigent Salary Enhancement Trust Fund	630
Miscellaneous	<u>350</u>
Total	<u>\$5,944,397</u>

Approximately \$2,544,361 of those funds consisted of suspended fines and costs that were collected by the Probation Office and submitted to the Clerk-Magistrate's Office for transmittal to the Commonwealth. During the same time period, the Probation Office collected approximately \$520,633 of restitution money and paid \$584,980 directly to the parties owed the funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, LDC was custodian of approximately 702 cash bails totaling \$1,092,290 as of October 31, 2006. Bail in cash (LDC 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, LDC was the custodian for six small claims bonds totaling \$600 as of October 31, 2006.

LDC 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. LDC 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.

LDC 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 of July 1, 2004 to October 31, 2006 totaled \$4,253,728¹.

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 LDC. The scope of our audit included LDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2004 to October 31, 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 LDC'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 LDC'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 LDC'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 LDC's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records,

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 officers, probation office staff, and related 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 LDC was based on those interviews and the review of documents.

Our recommendations are intended to assist LDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that LDC'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, LDC (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.

AUDIT RESULTS

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

Our review found LDC Clerk-Magistrate's Office did not develop an internal control plan or conduct periodic risk assessments as required by state law and AOTC rules and regulations. The LDC Probation Office drafted an office policy and procedures manual to take the place of an internal control plan, but did not formally document its risk assessment. As a result, LDC's efforts to ensure the integrity of court records and assets were not optimized.

Chapter 647 of the Acts of 1989 also states that internal systems shall be developed in accordance with internal control guidelines established by the Office of the Comptroller (OSC). 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. In these guides, the OSC stressed the importance of internal controls and 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 of 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 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.

We noted that in March 31, 2006, the Probation Office did develop an office procedures manual (which also functioned as an internal control plan), but it did not formalize, in writing, its risk assessments.

Personnel in the LDC Clerk-Magistrate's Office stated that they thought AOTC's internal control guidelines, along with the various policies and procedures manuals, constituted the court's internal control plan. They were unfamiliar with the OSC's definition of an internal control plan and AOTC's requirement to develop such a plan on a Division level. We advised LDC about the guidance available on the OSC's website and suggested that AOTC's staff might be helpful in improving the plan LDC developed.

We have been informed that the Clerk-Magistrate's Office Manager will conduct a risk assessment, document controls specific to their office, and update any areas necessary and will assign an individual to function as an Internal Control Officer and perform the annual review.

Although the LDC Probation Office has an office policy and procedures manual, its staff was unaware that it is responsible for conducting annual risk assessments and updating that internal control plan.

Recommendation

The LDC Clerk-Magistrate's Office should review OSC's Internal Control Guidelines, 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. The LDC Probation Office should formalize, in writing, its risk assessment and modify its internal control plan, if necessary, for any risks not yet addressed. Both offices should ensure that the plan is in accordance with the State Comptroller's requirements.

Auditee's Response

In a written response, the Clerk-Magistrate stated that he will be attending a training session on internal controls and will develop an internal control plan for his office shortly thereafter.

The Chief Probation Officer indicated that he is conducting a formal risk assessment to complement the Office Policy and Procedures Manual and he will attend an internal control training session. The Chief Probation Officer further stated that the risk assessment will be documented and reviewed annually by the Probation Office manager.

2. IMPROVEMENTS NEEDED IN PROBATION OFFICE CASH RECONCILIATION AND RECORDING PROCESS

Our audit found that although the Probation Office improved upon some of the previously identified cash reconciliation and recording issues that were ongoing for as many as ten years, additional improvements are still needed. Specifically, we found that the Probation Office monthly bank reconciliations were not prepared timely or accurately and cash journal postings did not always reflect the bank deposits or daily transaction activity entered in the Probation Receipt Account (PRA) system. As a result, the LDC Probation Office is not complying with AOTC requirements and there is limited assurance that the Probation Office records are accurate and assets are adequately protected.

With respect to bank reconciliations, we selected the October 2006 bank reconciliation (the end of our audit period) for further review. This reconciliation was not prepared until January 7, 2007, and we noted the following:

- The cash journal balance was shown on the bank reconciliation form as \$111,867, while the cash journal reported a balance of \$94,495. The bookkeeper stated that she used the trial balance amount of \$111,867 on the reconciliation because she believed it was more accurate than the cash journal amount. Additionally, the reconciliation contained numerous adjusting items, which were not correct or were illogical, such as shortages and bank credits deducted from the bank statement balances and items listed as “in-transit” which were actually in the bank.
- The probation bookkeeper does not submit disbursement and adjustment information to the State Treasurer’s Central Bank in a timely manner, resulting in numerous manual adjustments to the outstanding check list prepared by the Central Bank. Due to the volume of checks written and to assist in the bank reconciliation process, the State Treasurer’s commercial bank prepares a list of outstanding checks by matching checks cleared with checks issued by the court. For example, the outstanding check list

provided by the commercial bank for October totaled \$105,218. However, the outstanding check amount prepared by the bookkeeper was \$218,345. The major difference was checks written by the court, but not yet reported to the commercial bank. In addition to additional checks written, the bookkeeper lists voids, stop payments, and other adjustments not reported to the bank totaling approximately \$10,000. Our review found that checks issued by the court were not reported to the bank in a timely manner and it often took months for the bank to be notified after checks were issued.

- During the month of January 2007, the Probation bookkeeper revised the October 2006 bank reconciliation six times to address the questionable reconciling items and cashbook issues previously discussed. For example, on the final revision, the cashbook balance was adjusted to agree with the trial balance. The reconciliation still carried a shortage of \$3,930, which was carried as a reduction from the bank balance, but it should be carried as a reduction of the book balance. The \$3,930 consists of the following items:

Date	Amount	Explanation
July, 1993	\$ 20	Deposit Shortage
February, 1994	20	Deposit Shortage
March, 1996	20	Deposit Shortage
August 21, 1996	2,465	Deposit Money Missing
August 28, 1996	<u>1,405</u>	Deposit Money Missing
	<u>\$3,930</u>	

The probationers had originally submitted the proper payment amounts for these \$3,930 worth of items and were, therefore, given credit in the PRA system and the cashbook. The \$3,930 should be carried as a deduction from the book balances on the reconciliation rather than as a bank deduction. Therefore, the reconciled book balance shown on the reconciliation is still incorrect, and the reconciliation is still out of balance by at least \$3,930.

With respect to cash recording issues, we reviewed the various books and records involved and noted the following:

- Daily receipts per the cash journal are not correlated with deposits, so it is difficult to verify outstanding items or explain variances in the cash receipt process. We were told that the daily postings to the cash journal were made from the Probation Receipt Accounting System (PRA) which was cut-off several times a day. The postings to the cash journal could be for some of the day's "PRA sheets", for all of the day's PRA sheets, or for the PRA sheets of different days. Similarly, the deposits may consist of one or several PRA sheets.

AOTC has established certain internal controls, incorporated in its Fiscal Systems Manual (FSM) that provide for the proper collecting and accounting of funds by the Probation Office. The FSM identifies five key functions within the overall process: (1) receipt of funds; (2) accounting for funds; (3) disbursement of funds; (4) PRA report printing and cash journal updating; and (5) monthly closing, reporting and reconciliation. Section 12.7 of the manual states, in part:

Summary entries to the receipts and disbursements sides of the Cash Journal must be made in **sequential**, chronological order according to the actual business day on which the receipts were validated....

The original Detail (Long) Trial Balance, Short Trial Balance and Bank Account Reconciliation Form and the Revenue Transmittal Sheets, must be prepared each month....

Bank statements are not always received on a timely basis, but the importance of a proper reconciliation cannot be overstated....

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 the four totals are equal. If, upon completion, the four totals do not equal, the bookkeeper must attempt to resolve any 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 bank reconciliation and cash recording problems with the Probation Office bookkeeper and the Chief Probation Officer. They indicated that they have devoted significant efforts to clean up past problems and will continue to address these in the future. They also indicated that the large volume of transactions at LDC causes operational problems. Additionally, Probation Office personnel told us that postings are difficult to match to the cash journal because the PRA system would sometimes be unavailable during the day, and they also could have significant money collected after they close their books at 2:00 p.m. In either event, they would deposit any money on hand, as they didn't think it prudent to have a large amount of cash on hand overnight.

Recommendation

In order to improve the cash reconciliation process, the LDC should:

- Correlate PRA cash records and cashbook postings with deposits.
- Submit disbursement information (check-runs) to the State Treasurer's Central Bank on a timely basis so that an accurate timely list of outstanding checks can be developed.
- Ensure that cashbook totals agree with the trial balance cash amount.

- Prepare monthly bank reconciliations on a timely basis.

Auditee's Response

In response to our audit report, the Chief Probation Officer stated in part:

Following the completion of a bank check purge in December 2006 and again in March 2007 the monthly bank reconciliation is up-to-date and accurate. The cash journal postings are current and equal the daily Short Trial Balance figures.

In order to improve the cash reconciliation process the Lawrence District Court Probation Department has put in place the following practices:

- *Deposit slips are attached to the daily PRA Activity sheets.*
- *All adjustments, issues, and voids are faxed to the State Treasurer's Central Bank to ensure timely adjustments to the outstanding checklist.*
- *The Cash Journal and the Short Trial Balance amounts are checked daily.*
- *The monthly bank reconciliation is processed immediately following receipt of the bank statements.*