



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2007-1141-30

INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
LOWELL DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO FEBRUARY 28, 2007

OFFICIAL AUDIT
REPORT
NOVEMBER 8, 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 Lowell Division of the District Court Department (LDC) presides over civil and criminal matters falling within its territorial jurisdiction: the City of Lowell, and the towns of Billerica, Bedford, Chelmsford, Dracut, Tewksbury and Tyngsboro. During the period July 1, 2005 to February 28, 2007, LDC collected revenues of \$3,963,594, which it disbursed to the Commonwealth and those municipalities within its jurisdiction. In addition to processing civil entry fees and monetary assessments on criminal cases, LDC was custodian of approximately 340 cash bails totaling \$320,257, 57 small claims deposits totaling \$5,700, and four escrow accounts totaling \$37,955 as of February 28, 2007.

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 \$3,831,385 for the period July 1, 2005 through February 28, 2007.

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, 2005 to February 28, 2007.

AUDIT RESULTS

5

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

5

Our review of internal controls disclosed that the LDC Clerk Magistrate's Office and the Probation Office did not develop internal control plans 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 Court's records and assets were not optimized.

2. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION**6**

Our audit found that the LDC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, our audit also found that the LDC did not reconcile its monthly Revenue Transmittal and Reporting Sheet (RTRS) to either the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS) or to the amounts posted on AOTC's website, as required by the Trial Court. As a result, we found that the amount recorded as MMARS revenues exceeded the amount recorded as RTRS revenues by \$246,486 for the audit period July 1, 2005 to February 28, 2007. Therefore, the LDC and Commonwealth could not be assured that all revenues were properly received and credited to the appropriate general or specific state revenue account. AOTC posts summary revenue data for all courts on its intranet website so that courts can prepare reconciliations; however, LDC personnel were not aware of the availability of this data.

3. IMPROVEMENTS NEEDED OVER WARRANT FEE REVENUE DISTRIBUTION**8**

Our review disclosed that improvements were needed in the LDC's procedures for warrant fee revenue distribution. During the period July 1, 2005 to February 28, 2007, we found that the Probation Office collected \$19,836 in default warrant fees and default warrant assessment fees and distributed the total amount collected to the municipalities within its jurisdiction. However, we estimate that as much as \$18,050 of this amount should have been transmitted to the Commonwealth's General Fund.

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 Lowell Division of the District Court Department (LDC) presides over civil and criminal matters falling within its territorial jurisdiction that covers the City of Lowell and the towns of Billerica, Bedford, Chelmsford, Dracut, Tewksbury and Tyngsboro. During our audit period July 1, 2005 to February 28, 2007, LDC collected revenues totaling \$3,963,594, which it disbursed to the Commonwealth and the above municipalities. The majority (approximately 96.3%) of revenue

collected by LDC was paid to the Commonwealth as either general or specific state revenue-totaling \$3,818,647 - as follows:

Revenue Type	Total Amount
General Revenue	\$2,161,979
Probation Fees	655,016
Legal Counsel Fee	474,215
Surcharges	170,330
Victim/Witness Fund	119,879
Indigent Defense	92,793
Alcohol Fees	56,475
Head Injury Program	44,823
Victims of Drunk Driving	22,544
Highway Fund	13,768
Environmental Fine	2,900
Drug Analysis	2,455
Counsel for Individual Salary Enhancement Trust Fund	1,095
Miscellaneous	375
Total	<u>\$3,818,647</u>

Both the Clerk Magistrate's Office and the Probation Office processed receipts and disbursements from July 1, 2005 to February 28, 2007, during which time approximately \$1,610,721 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. The Probation Office collected approximately \$363,699 of restitution money that it paid directly to the parties owed the funds.

In addition to processing civil-case entry fees and monetary assessments on criminal cases, LDC was custodian of approximately 340 cash bails amounting to \$320,257 as of February 28, 2007. 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 custodian for 57 small claims deposits totaling \$5,700 and four escrow accounts totaling \$37,955 as of February 28, 2007.

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 July 1, 2005 to February 28, 2007 were \$3,831,385¹.

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 operational activities, including cash management, bail funds, and criminal-and civil-case activity for the period July 1, 2005 to February 28, 2007.

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

Our audit objectives were to (1) assess the adequacy of 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

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 and related administrative expenses, since they are not identified by court division in the Commonwealth's accounting system.

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, 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, 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.

At the conclusion of the audit, a copy of this report was provided to officials of the Lowell District Court. The First Justice of the Court indicated in his written response that he had discussed the audit findings and recommendations with the Court's Clerk Magistrate, Acting Chief Probation Officer, and Head Administrative Assistant. The First Justice further stated that they are in full agreement with the report and have begun implementing the recommendations.

AUDIT RESULTS

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

Our review of internal controls at the Lowell District Court (LDC) found that the court did not develop an internal control plan for the Clerk-Magistrate's Office and Probation Office or conduct annual risk assessments as required by state law and AOTC's rules and regulations. As a result, AOTC's efforts to ensure the integrity of the Court's records and assets were not optimized.

Chapter 647 of the Acts of 1989, an Act Relative to Improving the Internal Controls within State Agencies, states, in part: "Internal control systems for the various state agencies and departments of the Commonwealth shall be developed in accordance with internal control guidelines established by the Office of the Comptroller." Subsequent to the passage of Chapter 647, the 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. 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 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:

[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.

Court personnel stated they thought AOTC's internal control guidelines dated July 1, 1998, along with various policies and procedures manual's, constituted the court's internal control plan.

The Head Administrative Assistant stated she was unfamiliar with the Office of Comptroller's (OSC) definition of an internal control plan and AOTC's requirements 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 staff might be helpful in developing an internal control plan.

Recommendation

The LDC should review AOTC's Internal Control Guidelines and the OSC's internal control plan requirements, conduct annual risk assessments, and formally document an internal control plan that addresses the risks and internal control requirements specific to its operations.

2. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION

Our audit found that the LDC 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's Massachusetts Management and Reporting System (MMARS), as required by AOTC. Specifically, we reviewed MMARS revenue activity for the 20-month period July 1, 2005 to February 28, 2007 and determined that the amount recorded as MMARS revenues for the period was \$246,486 greater than the amount reported transmitted by LDC. Additionally, our review disclosed that July 2005 probation fees of \$25,641 were not reflected on the LDC's MMARS account until October 2006. Since LDC did not reconcile transmitted revenues to MMARS, they were unaware of these discrepancies. As a result, the LDC and the Commonwealth cannot be assured that all

revenues were properly received and credited to the appropriate general or specific state revenue account.

AOTC has established certain internal controls, incorporated in its Fiscal Systems Manual, that require Clerk Magistrate's Offices to reconcile revenue transmittals on a monthly basis. Section 8.6 of the Manual states, in part:

Since the [Clerk Magistrate] Office receives the MMARS 466C reports (per next step 2), the [Clerk Magistrate] 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 [Probation] 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.

In fiscal year 2005, the Commonwealth upgraded its accounting systems. With that upgrade, the MMARS 466C report was no longer available. To that end, the AOTC provided the Division 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.

In August 2006, the Trial Court issued Fiscal Year 2007 Memo #6, which addresses revenue reconciliation. The memo provides specific procedures for courts to verify revenue transactions and fulfills the revenue reconciliation requirement in lieu of the former "466C" report. This reconciliation should be completed and retained in the monthly closing packets.

The Clerk-Magistrate's Office and the Probation Office bookkeepers stated that they were unaware of the revenue reconciliation requirement contained in the Fiscal Year 2007 Memo # 6. They also indicated that they would become familiar with the revenue reconciliation procedures and implement those procedures.

Recommendation

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

3. IMPROVEMENTS NEEDED OVER WARRANT FEE REVENUE DISTRIBUTION

Our review disclosed that improvements were needed in the LDC's procedures for warrant fee revenue distribution. During the period July 1, 2005 to February 28, 2007, we found that the Probation Office collected \$19,836 in default warrant fees and default warrant assessment fees and distributed the total amount collected to the municipalities within its jurisdiction. However, we estimate that as much as \$18,050 of this amount should have been transmitted to the Commonwealth's General Fund.

Chapter 276, Sections 30 and 31, of the Massachusetts General Laws provides for two types of mandatory assessments regarding default warrants. One type of fee is a \$50 Default Warrant Fee, which is imposed if a default warrant is recalled or if a default warrant is issued for a defendant's failure to pay. This fee is to be paid to the Commonwealth's General Fund, and may be waived if the judge issues a finding of good cause. The other type of fee is a \$75 Default Warrant Arrest Fee, to be collected from a defendant who is arrested on either default warrant or a probation violation warrant. This fee is to be paid to the municipality where the defendant was arrested. The fee can be waived for indigence, in which case one day of community service must be performed by the defendant in lieu of the fee.

We discussed this condition with Probation Office personnel and determined that both types of warrant fees were being received and paid by the Probation Office, because the automated PRA system was incorrectly coded to record the disbursement of these funds to the municipalities, rather than to the Clerk Magistrate's Office, for final processing.

In order to estimate how much may have been incorrectly paid to the municipalities, we selected the three month period November 2006 through January 2007 for further review. During that period, the Probation Office paid \$3,050 in default warrant and default warrant arrest fees to the municipalities within its jurisdiction. A further analysis of the recorded amounts determined that \$2,775, or 91%, should have been paid to the Commonwealth's General Fund. Since LDC

disbursed \$19,836 of warrant fees to the municipalities during the audit period, we estimate that \$18,050 should have been paid to the Commonwealth instead of the municipalities.

Recommendation

LDC should review its procedures for processing Default Warrant and Default Warrant Arrest Fees to comply with the provisions of the Massachusetts General Laws. LDC should also consider the benefit of changing its procedures so that future Default Warrant and Default Warrant Arrest Fee collections are transmitted to the Clerk-Magistrate's Office for final processing. Lastly, LDC should contact AOTC to determine if adjustments should be made for past fees that were incorrectly transmitted to the municipalities.