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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
MIDDLESEX DIVISION OF THE
JUVENILE COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO OCTOBER 31, 2006**

**OFFICIAL AUDIT
REPORT
AUGUST 7, 2007**

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The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. Chapter 211B of the Massachusetts General Laws authorized the Juvenile Court Department to establish 11 Divisions, each having a specific territorial jurisdiction, to preside over juvenile-related 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 Middlesex Division of the Juvenile Court Department (MJC) presides over juvenile-related matters falling within its territorial jurisdiction: the cities and towns of Middlesex County. During the period July 1, 2005 through October 31, 2006, MJC collected revenues totaling \$375,037, which it disbursed to the Commonwealth. In addition to processing monetary assessments on juvenile cases, MJC was the custodian of 251 cash bails amounting to \$71,259 as of October 31, 2006.

MJC operations are funded by appropriations under the control of the Division, the Administrative Office of the Trial Court (AOTC), or Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$1,842,461 for the period July 1, 2005 to October 31, 2006.

The purpose of our audit was to review MJC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including juvenile case activity, cash management, payroll time and attendance reporting, bail, and inventory for the period July 1, 2005 to October 31, 2006.

AUDIT RESULTS

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

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Our audit found that the internal control plan developed by the MJC Clerk-Magistrate's Office did not include a risk assessment or other components required by state law and Trial Court rules and regulations. The Probation Department had internal control procedures in place, but did not formalize these procedures in a written plan. As a result of the incomplete documentation of internal controls, the AOTC's efforts to ensure the integrity of court records and assets need to be improved.

2. CONTROL IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION

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Our audit disclosed that the Clerk-Magistrate's Office accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However,

our audit found that the MJC did not conduct reconciliations of its monthly Revenue Transmittal and Reporting Sheet to the Commonwealth's Massachusetts Management Accounting and Reporting System or to the amounts posted on the AOTC website. During our review, we found that revenues transmitted to AOTC exceeded those credited to the court's MMARS revenue account by \$10,533. Because the Clerk's Office did not reconcile revenue, it was unaware of the discrepancy.

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Improvements are needed in MJC's internal controls to comply with state law and Trial Court rules and regulations regarding the prompt transfer of abandoned property to the State Treasurer. Our audit disclosed that MJC did not review bail funds held by the Court in a timely manner and did not promptly transfer unclaimed bail amounts to the State Treasurer. As a result, the Commonwealth may not be receiving all funds to which it is entitled. Provisions of the General Laws and the AOTC Fiscal Systems Manual provide for the periodic review of bail amounts and the transfer of unclaimed bail funds to the State Treasurer as abandoned property.

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 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 Juvenile Court Department (JCD), which has general jurisdiction over delinquency, children in need of services (CHINS), care and protection petitions, adult contributing to the delinquency of a minor cases, adoption, guardianship, termination of parental rights proceedings, and youthful offender cases. The JCD established 11 Divisions, each having a specific territorial jurisdiction, to preside over the juvenile-related 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 Middlesex Division of the Juvenile Court Department (MJC) presides over juvenile-related matters falling within its territorial jurisdiction of the cities and towns of Middlesex County. During our audit period, July 1, 2005 to October 31, 2006, MJC collected revenues totaling \$375,037, which it disbursed to the Commonwealth as either general or specific state revenue. The following table shows the breakdown in revenues collected and transferred to the Commonwealth:

Revenue Category	Total	July 1, 2005 to June 30, 2006	July 1, 2006 to October 31, 2006
Fees	\$ 930	\$ 570	\$ 360
General Revenue	39,702	32,316	7,386
Miscellaneous	767	589	178
Head Injury Fees	1,300	1,210	90
Victim/Witness Fund	27,516	20,089	7,427
Alcohol Fees	1,450	1,110	340
Probation Supervision Fees	186,870	141,384	45,486
Reimbursement for Indigent Counsel	<u>116,502</u>	<u>86,458</u>	<u>30,044</u>
Total	<u>\$375,037</u>	<u>\$283,726</u>	<u>\$91,311</u>

In addition to processing monetary fee assessments on its juvenile cases, MJC was custodian of approximately 251 cash bails amounting to \$71,259 as of October 31, 2006. Bail is the security given to the Court by sureties to obtain release and to ensure appearance in court by the child, at a future date, on juvenile-related matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release.

MJC 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, 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 October 31, 2006 totaled \$1,842,461¹.

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 of MJC. The scope of our audit included MJC's controls over administrative and operational activities, including juvenile case

¹ This amount does not include certain centrally controlled expenditures, such as facility lease and related operational expenses, personnel costs attributable to judges, court officers, security officers, and probation office staff, and related administrative expenses of the probation office, since they are not identified by court division in the Commonwealth's accounting system.

activity, cash management, payroll time and attendance reporting, bail, and inventory for the period July 1, 2005 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 MJC's internal controls over juvenile case activity, cash management, payroll time and attendance reporting, bail, and inventory, and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding MJC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and JCD policies and procedures.

Our review centered on the activities and operations of MJC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed juvenile case activity, cash management activity, payroll time and attendance activities, bail, and inventory records 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 MJC'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 MJC was based on those interviews and the review of documents.

Our recommendations are intended to assist MJC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that MJC's systems covering juvenile case activity, cash management, payroll time and attendance reporting, bail, and inventory operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we have determined that, except for the issues noted in the Audit Results section of this report, MJC (1) maintained adequate internal controls over juvenile case activity, cash

management, payroll time and attendance reporting, bail, and inventory, and (2) complied with applicable laws, rules, and regulations, for the areas tested.

AUDIT RESULTS

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

Our review of internal controls at Middlesex Juvenile Court (MJC) found that although the Judge's Lobby prepared an internal control plan as required by state laws and Administrative Office of the Trial Court (AOTC) rules, the Clerk-Magistrate's Office and the Probation Department had not. Specifically, the Clerk-Magistrate's Office prepared an informal internal control plan that did not include a risk assessment or other components required by the Office of the State Comptroller and Trial Court rules and regulations. The Probation Department had no written internal control plan, but did have procedures in place to control areas under its supervision. As a result of the incomplete documentation of internal controls, the AOTC's efforts to ensure the integrity of court records and assets need to be improved.

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 guidance in the form of the Internal Control Guide for Managers and the Internal Control Guide for Departments which requires 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 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.

The Clerk-Magistrate stated that an attempt was made to comply with the AOTC's Internal Control Guidelines by conducting a risk assessment shortly after the MJC was established in 2003. Because he was unaware that the risk assessments should be performed annually, the internal control plan lacked updates to formally document potential risks associated with the Office's operations. Although the Clerk-Magistrate was aware of AOTC's requirement to develop an internal control plan on a division-wide level, he was unfamiliar with the OSC's definition of an internal control plan and the five required components.

Probation Office personnel believed that because the cash processing function had been consolidated in the Clerk's Office, preparation of an internal control plan was not necessary. However, a written internal control plan should be prepared that addresses areas such as records management, community service tracking, employee time-reporting, computer access, and safeguards over physical assets and other areas under the Probation Office's control.

Recommendation

The MJC Clerk-Magistrate's Office and Probation Office should formalize, in writing, their respective risk assessments and modify their internal control plans, as necessary, for any risks not yet addressed. Both offices should review AOTC's Internal Control Guidelines and the OSC's internal control plan requirements, conduct annual risk assessments, and formally

document internal control plans that address the risks and internal control requirements specific to each Office's operations.

Auditee's Response

The First Justice provided the following response:

*The audit recognized that the Clerk's Office had written "internal controls" but felt that they were insufficient in that they did not provide for **conducting periodic risk assessments**. Since the issuance of the auditors' draft report, we have revised and enhanced our controls which are now in writing and available for inspection at any time.*

In addition, the Trial Court is now offering training on the subject of "internal controls" and the Clerk Magistrate plans to attend the next session.

With respect to the Probation Department, the audit noted that while the Department had internal control procedures in place, these procedures were not formalized in any written plan. Since being informed of this deficiency, the Chief Probation Officer has taken steps to develop such a plan, which will be completed by September 1, 2007.

2. CONTROL IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION

Our audit found that the Clerk-Magistrate's Office had accounted for and transmitted revenues to the Commonwealth in accordance with established AOTC procedures. However, we found that court personnel did not reconcile its Revenue Transmittal and Reporting Sheet to the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS) or to amounts posted on the AOTC website. Based on our review for the sixteen months ended October 31, 2006, the court transmitted \$10,533 more to AOTC than what was recorded on MMARS. Our analysis showed that the \$10,533 consisted principally of probation fees collected in January 2006 in the amount of \$10,167 that were not reflected on MMARS for MJC's unit number. If fees are not properly credited to the court system, there is no assurance that the Commonwealth is receiving the proper amount of revenue. Because the Clerk's Office did not reconcile revenue on a monthly basis, it was unaware of this discrepancy.

AOTC has established certain internal controls incorporated in its Fiscal Systems Manual that require Clerk-Magistrate's Offices to reconcile revenue transmittals on a regular 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's Office bookkeepers have the task of revenue reconciliation for each division....

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

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

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

In fiscal year 2005, the Commonwealth upgraded its accounting system. With that upgrade, the MMARS 466C report was no longer available. To that end, AOTC provided the Division with an alternative reconciliation procedure that required the MJC to reconcile its completed Revenue Transmittal and Reporting Sheet (RTRS) totals to amounts posted on the Trial Court's intranet web page on a monthly basis.

In July 2006, the Trial Court issued Fiscal Year 2007 Memo #6, which addresses revenue reconciliation. All courts must reconcile its transmitted receipts to those posted on the AOTC web page on a monthly basis. This reconciliation should be completed and retained in the monthly closing packets.

The Clerk-Magistrate stated that he was unaware of the revenue reconciliation requirement. As a result of our audit, procedures have been established to ensure that the head bookkeeper reconciles monthly receipts in accordance with the Trial Court's Fiscal Year 2007 Memo #6.

Recommendation

The Clerk-Magistrate's Office should comply with the Fiscal Year 2007 Memo #6 requiring the completion of a monthly revenue reconciliation report to ensure that revenues are properly transmitted to the Commonwealth and credited to the proper court's unit code.

Auditee's Response

The First Justice provided the following response:

Your audit of our court was conducted from July 1, 2005 to October 31, 2006. You may recall that our original Account Clerk went on maternity leave on December 23, 2004 and ultimately resigned on May 2, 2005. From December 2004 to December 2005, due to a hiring freeze, we were unable to fill this position and we had several "Acting Account Clerks." While this admittedly was not an ideal situation, we were having a great difficulty trying to persuade any member of our existing staff to assume this position. As a result, from December 2004 to December 2005, we had only "Acting Account Clerks."

On December 19, 2005, we hired a permanent Account Clerk who has been made aware of the process and the importance of monthly reconciliations and has now made it a part of his regular duties and responsibilities.

3. IMPROVEMENTS NEEDED IN PROCESSING ABANDONED PROPERTY

Our audit disclosed that MJC needs to improve its internal controls to comply with state law and Trial Court rules and regulations regarding the prompt transfer of abandoned property to the State Treasurer. Our audit disclosed that MJC did not conduct a review of bail funds held by the Court in a timely manner and did not promptly transfer unclaimed bail amounts to the State Treasurer. As a result, the Commonwealth may not be receiving all funds to which it is entitled. Provisions of the General Laws and the AOTC Fiscal Systems Manual provide for the periodic review of bail amounts and the transfer of unclaimed bail funds to the State Treasurer as abandoned property.

The Court's detailed bail trial balance reported that there were 251 cash bails totaling \$71,259 on hand as of October 31, 2006. We did not conduct a detailed analysis of the bail trial balance due to the time required to research the large number of cases associated with the bails on hand. However, we did determine which bails have been on hand for more than three years to estimate the potential population that may be eligible to be treated as abandoned property. Our analysis disclosed that MJC was holding approximately 103 bails totaling \$8,234 that had been received more than three years earlier, with the earliest having been received in March 2002, which qualifies these amounts as potentially abandoned bail accounts. We selected 15 of the old bails totaling \$1,140 for additional review and found that seven cases totaling \$425 had been available for release for over three years and should have been treated as abandoned property.

AOTC's Fiscal Systems Manual, Section 9.2, defines unclaimed bail as "bail whose return has not been requested by its defendant or surety within one year of the authorized release date."

Also, under Section 9.6 of the Fiscal Systems Manual, AOTC has established policies and procedures for the processing of unclaimed bail. That section states, in part:

If bail remains unclaimed one year after its release date, the Court division must attempt to contact the owner of the bail in writing by registered mail.

In accordance with Section 9.6 of the Fiscal Systems Manual, AOTC has established policies and procedures for the processing of abandoned bail. That section states, in part:

If the appropriate individual can not be found and the bail remains unclaimed for three (3) years after the release date, the bookkeeper transmits the bail to the Office of the State Treasurer as abandoned property in accordance with Massachusetts General Law (MGL) Chapter 200A, Section 6.

The Clerk-Magistrate explained that when MJC began operations in 2003, the Court received juvenile-related bails from district courts in Middlesex County. The recordkeeping for this transition required manpower in order to transfer manual dockets into MJC's JURIS electronic docket system. Also during this time, the bookkeeper position experienced three turnovers until November of 2006. The current bookkeeper has been trained and on the job since this time.

As a result of our audit, MJC conducted a detailed review of the status of the bail accounts. Information in the bail book was updated and, as of January 22, 2007, 239 letters were sent to those defendants or sureties whose bails were unclaimed for more than three years after case disposition. Thirty days later the bookkeeper disbursed funds in the amount of \$7,172 to the State Treasurer's Abandoned Property Unit. In addition to the abandoned bails, MJC's review found seven cases totaling \$2,450 where the bail had been ordered forfeited and transferred these as general revenue to the Commonwealth.

Recommendation

The Court should conduct periodic reviews of the bail trial balance and process them in accordance with the provisions of the Fiscal Systems Manual and the abandoned property laws.

Auditee's Response

The First Justice provided the following response:

The audit indicates that we had not been timely in processing abandoned property and that 251 bails needed to be addressed. Since we were having ongoing discussions with the auditors throughout the auditing process, we immediately addressed this issue.

As a result, since the audit began and continuing to date, we have processed bails as follows:

<i>Abandoned/forfeited</i>	<i>138 bails</i>
<i>Returned to sureties</i>	<i><u>44 bails</u></i>
	<i><u>182 bails</u></i>

Therefore, out of 251 identified bails, we have disposed of 182. This was accomplished from January 2007 to date.

Moreover, we are continuing to go through the bail book and attach disposition dates on bails that can be returned. I have been assured by the Clerk Magistrate that we will be much more timely and expeditious with this procedure.