



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

Making government work better

Official Audit Report – Issued December 22, 2017

Office of Bail Administration and Certain Activities of Bail Magistrates

For the period January 1, 2015 through June 30, 2016





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Making government work better

December 22, 2017

Ms. Catherine M. Coughlin, State Bail Administrator
Executive Office of the Trial Court
One Pemberton Square
Boston, MA 02108

Dear Ms. Coughlin:

I am pleased to provide this performance audit of the Office of Bail Administration and certain activities of bail magistrates. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2015 through June 30, 2016. My audit staff discussed the contents of this report with you, and your comments are reflected in this report.

I would also like to express my appreciation to you 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

cc: The Honorable Paula M. Carey, Chief Justice of the Trial Court
Jonathan S. Williams, Court Administrator

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LIST OF ABBREVIATIONS

ACL	Audit Control Language
EOTC	Executive Office of the Trial Court
OBA	Office of Bail Administration
OSA	Office of the State Auditor

EXECUTIVE SUMMARY

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 the Office of Bail Administration (OBA) and certain activities of bail magistrates for the period January 1, 2015 through June 30, 2016. The purpose of our audit was to determine bail magistrates' and the State Bail Administrator's compliance with certain sections of the Rules Governing Persons Authorized to Admit to Bail out of Court for timely delivery, reporting, and review of after-hours bail.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 8	Bail magistrates did not always deliver after-hours bail to the appropriate courts in a timely manner.
Recommendations Page 9	<ol style="list-style-type: none">1. The State Bail Administrator, in conjunction with the Executive Office of the Trial Court (EOTC), should consider creating a system to document the exact date and time that after-hours bail is delivered to the appropriate courts.2. The State Bail Administrator, in conjunction with EOTC, should consider the types of disciplinary action, including sanctions, that can be taken when bail magistrates do not comply with the established rules and should inform them of the importance of complying with these rules and that failure to do so may result in disciplinary action.3. The State Bail Administrator should continue to emphasize to bail magistrates the importance of proper time management and provide some tips that may help them with the timely delivery of after-hours bail to the appropriate court.
Finding 2 Page 11	Bail magistrates did not always submit monthly reports and bank statements in a timely manner.
Recommendations Page 13	<ol style="list-style-type: none">1. The State Bail Administrator, in conjunction with EOTC, should consider creating a system to track when bail magistrates and OBA receive bank statements and changing the rule that requires bail magistrates to forward monthly bank statements to OBA to include a due date that can be shown on the required documentation.2. The State Bail Administrator, in conjunction with EOTC, should consider the types of disciplinary action, including sanctions, that can be taken when bail magistrates do not comply with the established rules and should inform them of the importance of complying with these rules and that failure to do so may result in disciplinary action.3. The State Bail Administrator should inform bail magistrates of the importance of proper time management and consider sending automatic email reminders at set times during the month to encourage the timely submission of monthly reports and bank statements.4. The State Bail Administrator, in conjunction with EOTC, should explore with EOTC's Information Technology Department potential ways for bail magistrates to submit monthly reports and bank statements via email instead of regular mail.

OVERVIEW OF AUDITED ENTITY

The Office of Bail Administration (OBA) was established in 1972 under the Office of the Chief Justice of the Superior Court. The State Bail Administrator, the only employee of OBA, reports to the Executive Office of the Trial Court (EOTC) and is appointed by the Chief Justice of the Trial Court and the Court Administrator. She is responsible for coordinating and developing education and training, as well as overseeing bail personnel statewide. She is also responsible for acting as a liaison between OBA and various court departments, state agencies, and police departments regarding bail issues. Additionally, according to EOTC, the State Bail Administrator is responsible for creating rules and forms, working on bail-related legislation, and issuing reports to the Chief Justice of the Trial Court; the Court Administrator; the Chief Justices of the Superior, District, and Boston Municipal Courts; and the Superior Court Bail Committee. OBA is located in the John Adams Courthouse in Pemberton Square in Boston.

Before OBA was established, the three justices of the Superior Court Bail Committee were responsible for appointing people to collect bail, developing and implementing related policy, and handling complaints under Section 57 of Chapter 276 of the Massachusetts General Laws, which states, "All persons authorized to take bail under this section shall be governed by the rules established by the supreme judicial or superior court." The Superior Court Bail Committee established rules for bail personnel to follow: the Rules Governing Persons Authorized to Admit to Bail out of Court (see Appendix). These rules apply to bail collected out of court (i.e., outside the court's business hours), also called after-hours bail.

According to Rule 1(a) of the Rules Governing Persons Authorized to Admit to Bail out of Court, bail magistrates (people who are authorized to admit to bail out of court) include clerk magistrates and assistant clerk magistrates who have registered with OBA, bail commissioners who are appointed by the Superior Court Bail Committee, and people who are appointed by the Governor as justices of the peace or masters of chancery. According to the State Bail Administrator, no justices of the peace or masters of

chancery collected after-hours bail during our audit period. The after-hours bail collected by a bail magistrate is delivered to his/her home court¹ or another court.

When someone is arrested for committing a crime after a court has closed (for example, minors in possession of alcohol at a concert or people driving under the influence of alcohol), the police department calls the bail magistrate who is on duty to determine whether the offender is eligible to be released on after-hours bail rather than spending the night or possibly the weekend in jail. The purpose of bail is not punitive; it is to ensure that the offender will make his/her next court appearance.

Because after-hours bail applies to arrests that occur after the court is closed, bail magistrates, not judges, set after-hours bail. In establishing bail amounts, bail magistrates consider factors such as what type of crime (violent or nonviolent) the offender is accused of committing and the potential penalty or sentence for that crime; whether the offender is a flight risk; and whether this is a first-time offense or the offender has a criminal history. Based on the factors considered, the dollar amount that bail magistrates set for after-hours bail varies; it has no maximum, but the minimum can be as low as \$0 for offenders released on personal recognizance (which means that the court will release an offender from jail on the offender's promise to appear in court on his/her next scheduled court date). For each case in which after-hours bail is collected, the bail magistrate receives a \$40 fee from the offender.

Bail magistrates' responsibilities also include explaining the terms of release to the offender and the person paying the bail, filling out and signing a Recognizance Form (a promise to appear for the next court date), having the offender and the person paying the bail sign the Recognizance Form, collecting the after-hours bail amount and \$40 fee, delivering the after-hours bail to the appropriate court, and submitting monthly reports and bank statements to OBA.

During our 18-month audit period (January 1, 2015 through June 30, 2016), there were approximately 212 bail magistrates (163 clerk magistrates / assistant clerks and 49 bail commissioners) authorized to

1. The Rules Governing Persons Authorized to Admit to Bail out of Court define "home court" as follows: "With respect to bail commissioners, it refers to the district court or county listed in their commissions of appointment. With respect to Superior Court clerk-magistrates and assistant clerks, it refers to the superior courthouse in the county where their designated office is located. With respect to District or Boston Municipal Courts clerk-magistrates and assistant clerks, it refers to the district or division, respectively, listed in their commissions or the district or division to which they are regularly assigned."

collect bail out of court within their jurisdictions,² which covered the Commonwealth's 351 cities and towns. These bail magistrates collected and reported to OBA a total of \$45,399,188 of after-hours bail related to 37,679 cases.

Total After-Hours Bail Collected and Reported to the State Bail Administrator during the Audit Period

Year	Month	Number of Cases	Amount of Bail
2015	January	1,949	\$ 2,012,504
2015	February	1,662	1,781,987
2015	March	2,203	2,716,944
2015	April	2,306	2,884,611
2015	May	2,174	2,426,013
2015	June	2,151	2,333,151
2015	July	2,293	2,803,366
2015	August	2,224	3,110,616
2015	September	2,556	2,243,925
2015	October	2,216	2,472,093
2015	November	1,918	1,901,814
2015	December	1,951	2,032,178
2016	January	2,007	2,933,919
2016	February	1,897	2,597,740
2016	March	2,067	2,635,508
2016	April	2,141	2,554,318
2016	May	1,850	3,153,262
2016	June	2,114	2,805,239
Total		<u>37,679</u>	<u>\$45,399,188</u>

2. The Rules Governing Persons Authorized to Admit to Bail out of Court define "jurisdiction" as follows: "The territory within which a bail magistrate may set or take bail or release on personal recognizance."

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 the Office of Bail Administration (OBA) and certain activities of bail magistrates for the period January 1, 2015 through June 30, 2016.

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; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Do bail magistrates comply with Rule 42 of the Rules Governing Persons Authorized to Admit to Bail out of Court for timely delivery of after-hours bail to their home courts?	No; see Finding <u>1</u>
2. Do bail magistrates comply with Rule 42 for timely deposit and delivery of after-hours bail to the other courts?	No; see Finding <u>1</u>
3. Do bail magistrates comply with Rule 44 of the Rules Governing Persons Authorized to Admit to Bail out of Court for the submission of monthly reports to OBA?	No; see Finding <u>2</u>
4. Do bail magistrates submit all monthly bank statements to OBA on time, as required by Rule 40 of the Rules Governing Persons Authorized to Admit to Bail out of Court?	No; see Finding <u>2</u>
5. Does the State Bail Administrator review monthly reports to ensure that they are received and that they comply with the content requirements in Rule 44?	Yes

We gained an understanding of the internal controls we deemed significant to our audit objectives through interviews and observations, and we evaluated the design of those controls.

To achieve our objectives, we performed the following procedures:

- We obtained from the State Bail Administrator the Microsoft Excel spreadsheets that are used to track after-hours bail activity, and we verified their completeness and accuracy by tracing a random sample of after-hours bail to and from the hardcopy source documents (monthly

packets containing bail cover sheets, bank statements, and Recognizance Forms) in the bail magistrate files that are maintained by the State Bail Administrator. We also checked for hidden rows and columns, duplicates, and formula errors. Based on the analysis conducted, we determined that the data obtained were sufficiently reliable for the purposes of this audit.

- OBA could not show us documentation of timestamps showing when courts received after-hours bail during the audit period. In testing the time parameters set forth in Rule 42 for delivery of after-hours bail, we reviewed only whether bail was delivered by the next court day (for home courts) or the third business day after the day the release was authorized (for other courts). From a population of 37,679 cases, we selected a statistically random sample of 120 cases³ from the audit period, using an expected error rate of 0%, a tolerable error rate of 5%, and a confidence level of 95%, to test the timely delivery of after-hours bail to home courts and timely deposit and delivery of after-hours bail to other courts as required by Rule 42. From inquiries with the State Bail Administrator, we estimated that the population was a 50/50 split between home courts and other courts. For this audit, we designed our sample so that we would be 95% confident that the actual error rate in the population of 37,679 cases was no greater than 5%. We reviewed the hardcopy monthly packets containing bail cover sheets, bank statements, and Recognizance Forms that are maintained in the bail magistrate files. We documented the amounts of after-hours bail (for the after-hours bail we tested for our audit, the range was \$50 to \$10,000, with an average of \$925) and the dates the bail was received by bail magistrates according to the Recognizance Forms. To test timely delivery, we compared these amounts and dates to the amounts and dates of receipt recorded in MassCourts (the Trial Court's electronic docketing and case management system). To test timely deposit, we compared the after-hours bail receipt information on the Recognizance Forms to the deposit information on the related bank statements.
- We analyzed the full list of 3,658 monthly reports of after-hours bail activity for our 18-month audit period, using Audit Control Language (ACL) data analytics software to test whether bail magistrates submitted monthly reports to OBA as required by Rule 44. We calculated the difference between the date each monthly report was documented as received by the State Bail Administrator and the date it was due according to Rule 44. We also filtered the data for blank "report received" dates indicating that no monthly report was received.
- OBA could not provide evidence that bank statements were mailed within seven days of receipt by bail magistrates in accordance with Rule 40. Therefore, our testing was limited to reviewing whether bank statements were received monthly by OBA. We analyzed the full list of 3,658 monthly reports of after-hours bail activity for our 18-month audit period, which included "bank statement received" dates, using ACL data analytics software to test whether bail magistrates submitted all monthly bank statements to OBA on time as required by Rule 40. We assumed that banks mailed monthly statements within 5 days of their cutoff dates, and we assumed an end-of-month cutoff. Additionally, it is reasonable to consider 10 days enough time for bail magistrates to receive their bank statements and mail them to OBA. Therefore, for our testing, we believed that it was reasonable to assume bank statements were due by the 15th day of the

3. In accordance with auditor judgment, of the 120 cases sampled, we excluded 3 from our testing because of inaccessible records and illegibility.

following month (e.g., January's bank statement is due by February 15). We calculated the difference between the date each bank statement was documented as received by OBA and its due date. We also filtered the spreadsheet data for blank "bank statement received" dates indicating that no bank statements were received.

- To determine whether the State Bail Administrator reviewed monthly detailed reports to ensure compliance with Rule 44, we analyzed the data in the Microsoft Excel spreadsheets that the State Bail Administrator used to track the after-hours bail activity of the bail magistrates during the 18-month audit period, to verify that the spreadsheets were maintained and up to date (i.e., that activity was documented in each of the 18 months of the audit period and hardcopy source documents were on file to support this). There were 116 monthly reports related to the sample of 120 cases mentioned above, and for these reports, we verified that the total number of releases (cash bail releases, releases on personal recognizance, and releases for money owed to the court) and the total dollar amount of cash bail, bail fees, and other collected funds that were recorded on the hardcopy source documents (the cover sheet and Recognizance Forms) agreed with the amounts in the spreadsheets. We applied a nonstatistical approach; therefore, the results of our test cannot be projected to the entire population and apply only to the items selected.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. Bail magistrates did not always deliver after-hours bail to the appropriate courts in a timely manner.

We tested 117 cases (54 home court cases and 63 other court cases), totaling \$110,325, and found problems with the delivery of after-hours bail for 52 of them. By not ensuring that bail is delivered to courts in a timely manner, bail magistrates are putting it at greater risk of theft or misuse. In addition, bail may not be available to be returned in a timely manner to those who paid it, or to be transferred to other courts if a judge so orders.

Of the 54 cases, totaling \$56,315, in which after-hours bail was due at the home court, there were 19, totaling \$13,400, in which it was not delivered within the required timeframe. For these 19 cases, it took between 2 and 24 business days for the bail to be delivered to the home court. Based on our testing, we are 95% confident that the true percentage of cases in which bail was not delivered to the home court on time is between 22.7% and 49.4%.

Of the 63 cases, totaling \$54,010, in which after-hours bail was due at courts other than the home court, there were 33, totaling \$24,110, in which it was not delivered to the other court within the required timeframe. For these 33 cases, it took between 4 and 83 business days for the bail to be delivered to the other court. Based on our testing, we are 95% confident that the true percentage of cases in which bail was not delivered to the other court on time is between 39.4% and 65.1%.

Authoritative Guidance

Rule 42 of the Rules Governing Persons Authorized to Admit to Bail out of Court requires after-hours bail to be delivered to the Clerk-Magistrate's Office of the bail magistrate's home court no later than 8:30 a.m. on the next court day, or to courts other than the home court by 4:30 p.m. on the third business day after the day the offender's release was authorized.

Reasons for Issue

When we brought this matter to the State Bail Administrator's attention during our audit, she said that she could not explain why bail magistrates did not always deliver after-hours bail in a timely manner, as she gives them training about this and reminders of the required timeframes. She explained that there is no formal way to verify that bail magistrates have delivered after-hours bail by the required times. She

added that it is the court's responsibility to document the bail information, including when it was received, in MassCourts, the official record of the court system. She stated that she believes that in some cases, bail magistrates actually deliver the bails on time, but that the court does not always document them as received in MassCourts on the day they are delivered. Our analysis, which used the information in MassCourts, indicated that the bails in question were not delivered in a timely manner.

Recommendations

1. The State Bail Administrator, in conjunction with the Executive Office of the Trial Court (EOTC), should consider creating a system to document the exact date and time that after-hours bail is delivered to the appropriate courts.
2. The State Bail Administrator, in conjunction with EOTC, should consider the types of disciplinary action, including sanctions, that can be taken when bail magistrates do not comply with the established rules and should inform them of the importance of complying with these rules and that failure to do so may result in disciplinary action.
3. The State Bail Administrator should continue to emphasize to bail magistrates the importance of proper time management and provide some tips that may help them with the timely delivery of after-hours bail to the appropriate court.

Auditee's Response

The OBA does not agree with [this finding]. . . . The [State Bail Administrator] believes that the only information MassCourts provides is the date that the funds are applied to the case. The date of MassCourts entry is not necessarily the date that the funds were delivered to, mailed to, or received by the court.

The Recognizance Form completed at the time of release does contain the date and time that the funds were received by the bail magistrate or bail commissioner. The bank statements reports filed with the OBA will show the date that bail funds were deposited into the account and the dates of any checks processed through the bail account. The copies of the canceled checks included in the bank statements show the dates the checks were written to the court. What is not verifiable either by the statement, canceled checks or MassCourts is the date the check is received by the court vs. the date processed by the court.

The draft bail rules have increased the time for delivery of funds from three to five days. This change was made because the current three day period for out of court bails to be received by courts is not reasonable. For example, a \$5,000 cash bail taken at 3 a.m. on a Wednesday morning would be deposited during bank hours on Wednesday either before or after court hours. Wednesday would be the first business day. Once the cash is deposited the check can be written and mailed. That would be Thursday, the second business day. It is quite possible that the check might not be delivered by the USPS in one day, the third business day, thereby violating the three day rule.

Draft Rule 30 bestows upon the Bail Committee the authority to impose discipline on Bail Magistrates and Bail Commissioners. Discipline can include suspension from the bail rotation or permanent removal from taking bail outside of court hours. Draft Rule 31 provides that "[u]pon receipt or discovery of credible information of serious misconduct or malfeasance, the State Bail Administrator may suspend a Bail Magistrate or Bail Commissioner from performing after hours bails for a period of up to ten days pending further review by the Trial Court Bail Committee. If substantiated, such suspension may be extended or made permanent following a hearing and the decision of the Trial Court Bail Committee in accordance with Rule 30."

Every month the OBA audits fifteen monthly reports to ascertain the timeliness of bail deposits (five Bail Commissioners, ten Bail Magistrates.) Any recurring abnormalities would be reported to the Bail Committee immediately and investigated.

There is open and active communication between the various courts receiving bail, the OBA, the Fiscal Department and the Bail Committee. If bail money were not received in a timely manner, the OBA would be notified and the matter would be investigated. If there were malfeasance the OBA would immediately report the matter to the disciplinary members of the Trial Court Bail Committee, suspend the bail magistrate or bail commissioner immediately during a period of investigation and schedule a hearing after which sanctions [will be imposed] in accordance with Draft Bail Rules 30 and 31.

The OBA, working with the Trial Court Fiscal Auditors, will continue to explore ways to correctly designate the date that bail monies are received by the court. She will continue to stress to bail magistrates the importance of complying with the time requirements for delivery of bail funds and that failure to do so may result in disciplinary action.

Auditor's Reply

The Office of the State Auditor (OSA) was aware that Recognizance Forms indicate a date and time when the funds were received by a bail magistrate. As stated in our report, during our audit, we tested the dates bail was received according to the Recognizance Forms and compared the amounts and dates to those in MassCourts. However, Rule 42 focuses on the date and time these funds are delivered to the court, and even considering the other records that OBA details in its response, documentation does not exist to verify the dates and times that after-hours bail were delivered to the appropriate courts. According to the Fiscal Systems Manual—MassCourts issued by the Office of Court Management's Fiscal Affairs Department,

All Trial Court divisions, including satellite locations, must use MassCourts to receipt all funds collected. . . .

All Bails must be receipted on the (same business day) they are delivered to the Court of jurisdiction . . . by the Bookkeeper or Clerk-Magistrate designee.

Therefore, OSA relied on the dates in MassCourts, which is the official record of the court, for auditing purposes.

We conducted our audit using the criteria that were in effect during our audit period. We do not dispute that the timeframes established by Rule 42 could sometimes have been unreasonable, and we acknowledge that the changes in Rule 42 will allow a more reasonable timeframe. However, OBA still needs to take measures to monitor compliance with these new requirements; therefore, we again urge the State Bail Administrator, in conjunction with EOTC, to consider creating a system to document the exact date and time that after-hours bail is delivered to the appropriate courts.

The monthly audits conducted by OBA focus on the dates on the Recognizance Forms and the dates deposits were made to the bail accounts according to bank statements. These OBA audits do not examine the dates or times that after-hours bail is delivered to, or received by, the appropriate courts, which were the subject of our audit.

Although there may be active communication among OBA, the EOTC Fiscal Department, the Bail Committee, and the various courts receiving bail, the time standards established by Rule 42 are a control intended to ensure that after-hours bail is delivered promptly to the appropriate courts. Currently, the State Bail Administrator relies on the courts to notify her when bails are not delivered, and there is no control in place and no documented evidence to ensure compliance with the date and time standards in the existing and updated Rules Governing Persons Authorized to Admit to Bail out of Court. Therefore, it is important that OBA establish controls and/or a system to document that bail magistrates adhere to these timeframes and, if they are not, take appropriate measures to resolve the matter.

Based on its response, OBA is taking measures to address our concerns on this matter.

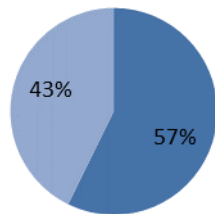
2. Bail magistrates did not always submit monthly reports and bank statements in a timely manner.

During our 18-month audit period, there should have been a total of 3,658 monthly reports submitted, detailing the total number of releases (i.e., cash bail releases, releases of offenders on personal recognizance, and releases for money owed to a court) that were authorized during the prior calendar month and were required to be sent by the 212 bail magistrates to OBA. However, in 1,969 instances

(54% of the total), the monthly reports were submitted between 1 and 522 days late. Additionally, in 126 instances (3% of the total), no report was sent in at all.

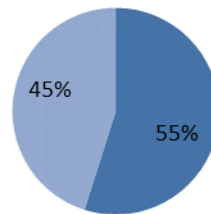
In addition, during the 18-month audit period, there were a total of 3,658 bank statements to be submitted by the 212 bail magistrates to OBA. However, in 1,676 instances (46% of the total), the bank statements were submitted between 1 and 519 days late. Additionally, in 332 instances (9% of the total), statements were not sent in at all.

Monthly Reports
Sent in on Time



■ No ■ Yes

Bank Statements
Sent in on Time



■ No ■ Yes

The State Bail Administrator is monitoring and educating bail magistrates regarding the rules; however, during the audit period, bail magistrates were compliant only approximately 44% of the time for both bank statements and monthly reports.

Without the required documentation, the State Bail Administrator cannot be certain that after-hours bail is being properly accounted for (collected, recorded, delivered, and reported), and there is a higher-than-acceptable risk that after-hours bail may be misappropriated, lost, or stolen.

Authoritative Guidance

According to Rule 44 of the Rules Governing Persons Authorized to Admit to Bail out of Court, bail magistrates are required to submit monthly reports to the State Bail Administrator by the second Monday of the month:

A bail magistrate shall submit a report on forms approved by the Superior Court, to the Office of Bail Administration by the second Monday of the month accounting for the total number of

releases, i.e. cash bail releases, releases on personal recognizance, and releases for money owed to a court, that were authorized during the prior calendar month. . . .

All bail magistrates on active status shall submit a report each month even if no releases have been authorized during that reporting period.

Furthermore, according to Rule 40 of the Rules Governing Persons Authorized to Admit to Bail out of Court,

The bail magistrate shall forward to the Office of Bail Administration copies of monthly statements from the dedicated bail account within seven days of receipt.

Reasons for Issue

The State Bail Administrator stated that she does not know why the bail magistrates do not always submit monthly reports and bank statements on time. She explained that for bank statements, there is no system in place to track the dates that bail magistrates receive their bank statements. She explained that she provides training and reminders of the required standards, but it may be that the bail magistrates simply forget or do not make the filing of these reports a high priority and/or that they lack time management skills. Once the reports and bank statements are sent via regular mail, it takes additional time for them to be delivered, which makes them even later.

Recommendations

1. The State Bail Administrator, in conjunction with EOTC, should consider creating a system to track when bail magistrates and OBA receive bank statements and changing the rule that requires bail magistrates to forward monthly bank statements to OBA to include a due date that can be shown on the required documentation.
2. The State Bail Administrator, in conjunction with EOTC, should consider the types of disciplinary action, including sanctions, that can be taken when bail magistrates do not comply with the established rules and should inform them of the importance of complying with these rules and that failure to do so may result in disciplinary action.
3. The State Bail Administrator should inform bail magistrates of the importance of proper time management and consider sending automatic email reminders at set times during the month to encourage the timely submission of monthly reports and bank statements.
4. The State Bail Administrator, in conjunction with EOTC, should explore with EOTC's Information Technology Department potential ways for bail magistrates to submit monthly reports and bank statements via email instead of regular mail.

Auditee's Response

The OBA agrees that monthly reports and monthly bank statements are not always timely filed by bail magistrates and bail commissioners. The OBA wants to assure the OSA that since January of 2015 great strides have been made in the timely submission of monthly reports and bank statements.

As cited by the OSA report, the OBA maintains an Excel spreadsheet that tracks each bail magistrate and bail commissioner's monthly report and bank statements filed, the amount of cash bails received by month and year to date, whether 8300 forms [this is a type of form required for cash bails over \$10,000 for certain criminal offenses] have been filed, the number of cash bail and personal recognizance releases, the monthly fees received and year to date fees. There are currently 215 active bail magistrates and bail commissioners.

For each bank statement received the OBA reviews the deposits made and the checks processed through each account. If the filers neglect to include copies of checks, the OBA sends the filer an email reminder to request the missing information.

The SBA audits the spreadsheets quarterly. Any bail magistrate or bail commissioner with missing information is notified via email that filings are delinquent and requesting immediate compliance. If the filer fails to comply the OBA would notify the Trial Court Bail Committee . . . and sanctions would be sought.

The OBA will continue to educate and inform bail magistrates of the importance of timely filings. The OBA is researching a computer program that would scan the monthly reports received and enter the information received into the Excel spreadsheets. This time saving program would enable the OBA to focus more on timely filings than data entry.

APPENDIX

Excerpts from Rules Governing Persons Authorized to Admit to Bail out of Court

Rule 40

The bail magistrate shall forward to the Office of Bail Administration copies of monthly statements from the dedicated bail account within seven days of receipt.

Rule 42

The bail magistrate shall deliver all recognizances, certificates (affidavits) of sureties, other necessary documents, and all money, bank books, bonds and other security deposited with the bail magistrate to the clerk-magistrates' offices of the appropriate courts within the time frames established by this rule.

If the defendant is required to appear at the bail magistrate's home court, the bail magistrate shall deliver the recognizance, bail funds, and all other related items to the court no later than 8:30 a.m. on the next court day.

If the defendant is required to appear at a court outside the bail magistrate's home court, the bail magistrate shall deliver the recognizance, bail funds, and all other related items to the court by 4:30 p.m. on the third business day after the day on which the release was authorized. In addition, the bail magistrate must send by facsimile transmission or other electronic means a copy of the recognizance form to the appropriate court within 24 hours of the release. This responsibility may be satisfied where the jail or police authorities fax the recognizance, but the ultimate responsibility remains with the bail magistrate.

Rule 44

A bail magistrate shall submit a report on forms approved by the Superior Court, to the Office of Bail Administration by the second Monday of the month accounting for the total number of releases, i.e. cash bail releases, releases on personal recognizance, and releases for money owed to a court, that were authorized during the prior calendar month. Such report shall also include the totals of cash bail, bail fees, and other funds collected. The Superior Court may at any time amend such forms to require that additional information be reported. . . .

All bail magistrates on active status shall submit a report each month even if no releases have been authorized during that reporting period.