



# The Commonwealth of Massachusetts

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INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN ACTIVITIES OF THE  
OFFICE OF JURY COMMISSIONER  
JULY 1, 2005 TO OCTOBER 31, 2007

OFFICIAL AUDIT  
REPORT  
APRIL 17, 2008

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**INTRODUCTION**

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The Office of Jury Commissioner (OJC) is authorized by Chapter 234A of the Massachusetts General Laws to manage the selection and participation of prospective qualified jurors in servicing the needs of the trial court divisions of the Commonwealth. The Jury Commissioner is the Executive Head of the OJC and serves under the guidance and supervision of the Jury Management Advisory Committee (JMAC). The JMAC, consisting of six justices selected by the Chief Justice of the Supreme Judicial Court (SJC), is a standing committee of the Court and is charged with assisting its Chief Justice in supervising the OJC. With the approval of the SJC, the Jury Commissioner establishes rules and regulations concerning policies, procedures, and forms. The Jury Commissioner serves for a five-year term, and the current Commissioner was appointed in October 2003. In accordance with Chapter 234A, the Jury Commissioner may, with the approval of the SJC, hire staff and establish branch offices throughout the Commonwealth, as needed. Massachusetts is different in its statewide operation for jury management in that most juries throughout the country are locally administered (i.e., by local court, court circuit, county, or regional designation). Massachusetts has also adopted the one-day/one-trial system whereby a juror serves for either one day or until the completion of the trial.

The Jury Commissioner is the administrative head of the OJC and is responsible for preparing the OJC budget and accounting for its expenses. OJC operations are funded by appropriations under the local control of the OJC and central appropriations under the control of the Administrative Office of the Trial Court (AOTC). For fiscal years 2006 and 2007, the OJC had expenditures against local state maintenance appropriations of \$2,052,574 and \$2,374,069, respectively, to fund its administrative operations, including the five major OJC departments of operations, legal, administration, data processing, and network and infrastructure services. Other OJC expenses were paid by centrally controlled appropriations under the control of the AOTC, including space rental (\$543,001), information technology consultants (\$570,000), and jury compensation expenses (\$5,521,669), with amounts shown in parentheses as totals for fiscal years 2006 and 2007. Since Massachusetts went to the one-day/one-trial system several years ago, trial jurors are generally compensated only if their jury service extends beyond three days in length. According to OJC statistics, 96.5% of jurors serve their jury duty within three days.

The purpose of our audit was to review the OJC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including Master Juror List development, statistical data analysis, Delinquent Juror Prosecution Program activities, and selection and usage of consultants for implementation of the new jury management system for the period July 1, 2005 to October 31, 2007.

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Our audit found that the OJC should consider using additional source lists to create the annual Master Juror List to increase the number of potential jurors available to serve on jury duty. Current state law requires that jurors be chosen from the Massachusetts Annual Census, but a provision in the Fiscal Year 2008 Budget requires that a working group be formed to explore the possibility of developing an Administrative Records List, which would include other source lists from which to draw jurors. Given that Massachusetts has been adversely affected by a shortage of potential jurors, particularly in certain counties, obtaining more sources of potential jurors could help ensure that sufficient jurors are available.

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Our audit found that the OJC, the AOTC trial court departments, and local jury pool managers should continue to take steps to ensure that only the minimum number of jurors needed for a trial court session is brought to the court jury pool. State law provides that the JMAC, the OJC, and the local courts are responsible for ensuring that the jury system operates efficiently. We found that there are various ways in which juror utilization might be improved, including (a) reducing jury pool target numbers, (b) performing partial cancellation of jurors the day before they are scheduled to report if not all jurors are going to be needed, (c) monitoring and improving summons yield information, and (d) reactivating the JMAC's Juror Utilization Sub-Committee. We estimate that these changes could result in savings of potentially 15,000 juror days annually, which would reserve those jurors for future sessions, save employers at least \$2.2 million annually, and increase juror morale, since people would not be called for duty as often. Given the need to preserve eligible jurors, particularly in certain locations, it is important that the jurors be efficiently utilized.

**a. Reducing Juror Target Numbers** **10**


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Our audit found that the target number of jurors may be able to be reduced, resulting in fewer jurors being called to courthouses for jury duty, savings to employers for employees missing work for jury duty, and increased juror morale. We estimate that reducing the juror target numbers (the number of jurors that it is hoped will report for jury duty at a particular court location on a given day) from their calendar year 2005 amounts could reduce by over 15,000 the number of jurors needed annually at the district court level alone.

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Another way to efficiently utilize jurors is to take full advantage of the OJC's call-in procedure for canceling jurors. The OJC has established procedures to allow local jury pool managers to cancel either all jurors or partial jurors scheduled to report for duty. However, many of the jury pool managers we interviewed noted that they do not cancel partial jury pools because of the potential confusion that can result from doing so. As a result of partial jury pools not being cancelled, jurors are unnecessarily called to the court and therefore are not eligible to serve for three years from that date of service. However,

potential jurors who did not have to report to the courthouse would be eligible to serve in one year.

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An important part of getting the correct amount of jurors to report on a specific day is summons yield (the number of jurors who served at their designated time divided by the number of jurors summonsed). While conducting our site visits to jury pools, we noticed that the jury pool locations tend to have more jurors report than the target number of jurors desired. This is due to differences in summons yield where more people report for jury duty than is anticipated. The OJC is conducting a major overhaul of its computerized juror management software. This change should result in more accurate and timely information to monitor juror utilization statistics and should allow summons yield information to be better tracked and adjusted to yield a more accurate count of actual jurors reporting to the target number preferred.

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The JMAC, which is a standing committee of the SJC in accordance with state law, has established a Juror Utilization Sub-Committee (JUSC) to survey and report on ways to improve juror utilization. In March 2006, further meetings of the JUSC were postponed until after implementation of the new jury management software was completed. While audit fieldwork was in progress in the spring and early summer of 2007, the JUSC had not resumed meeting. We recommend that meetings of the JUSC be reinstated.

**3. PROCUREMENT MANAGEMENT AND MONITORING OF THE NEW JURY SYSTEM SOFTWARE CONTRACTOR NEEDS IMPROVEMENT** **18**

Our audit found that the OJC needs to improve its performance monitoring of the contractor it used as a project manager to implement its new jury system software. Specifically, the contractor billed for hours worked, but the OJC had insufficient documentation to support how those billings tied into any specific phase of the project or what tasks the contractor was working on. Monitoring contractor performance becomes especially important since, in this case, the contract increased from an original amount of \$150,000 in 2004 to a total of \$1.4 million as of June 2007. In its response, the OJC stated that the combination of vendor invoices, project plans, and the use of dedicated resources (i.e., specific consultants working only on specific aspects of the project) provide sufficient documentation for the billings in question. Nevertheless, without adequate documentation to support what the contractor was working on and being paid for, the OJC cannot accurately monitor or support payments on the project.

**4. IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS** **22**

Our review found that the OJC needs to conduct annual risk assessments and update its internal control plan as required by state law and AOTC rules and regulations. The lack of an updated internal control plan diminishes the OJC's efforts to ensure the integrity of its records and assets. OJC personnel indicated that they are reviewing and updating controls in certain areas of OJC operations.

## INTRODUCTION

### *Background*

The right to a trial by jury is considered important enough to be provided for in the United States Constitution. The Sixth Amendment to the Constitution provides that: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed . . . .” Additionally, the Seventh Amendment provides: “In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved . . . .” Although taking part in our nation’s democratic process by serving on a jury could be considered either a right or privilege, many citizens view it as an inconvenience that they would rather have someone else perform.

In three counties (Suffolk, Franklin, and Berkshire) 80% or more of potential jurors are being drawn and placed on the Master Jury List each year. The shortage of potential jurors is particularly acute in Suffolk County, where almost all eligible jurors are placed on the Master Juror List each year. To ensure that sufficient jurors are available for this important constitutional right, the Office of Jury Commissioner of the Commonwealth of Massachusetts (OJC) has very important responsibilities to ensure that sufficient jurors are available, the entire population of potentially eligible jurors is chosen, and those jurors are efficiently utilized.

The OJC is authorized by Chapter 234A of the Massachusetts General Laws to manage the selection and participation of prospective qualified jurors in servicing the needs of the trial court divisions of the Commonwealth. The Jury Commissioner is the Executive Head of the OJC and serves under the guidance and supervision of the Jury Management Advisory Committee (JMAC). The JMAC, consisting of six justices selected by the Chief Justice of the Supreme Judicial Court (SJC), is a standing committee of the Court and is charged with assisting its Chief Justice in supervising the OJC. With the approval of the SJC, the Jury Commissioner establishes rules and regulations concerning policies, procedures, and forms. The Jury Commissioner serves for a five-year term, and the current Commissioner was appointed in October 2003. In accordance with Chapter 234A, the Jury Commissioner may, with the approval of the SJC, hire staff and establish branch offices throughout the Commonwealth, as needed. Massachusetts is different in its statewide operation for jury management in that most juries throughout the country are locally administered (i.e., by local

court, court circuit, county, or regional designation). Massachusetts has also adopted the one day/one trial system whereby a juror serves for either one day or until the completion of the trial.

The OJC is responsible for furnishing each of the 64 jury trial courts and 14 grand jury sites with a sufficient number of prospective jurors. Additionally, the OJC provides potential juror source lists to the Clerk of the U.S. District Court for use in the three Massachusetts Federal Judicial Districts.

The Jury Commissioner is the administrative head of the OJC and is responsible for preparing the OJC budget and accounting for its expenses. OJC operations are funded by appropriations under the local control of the OJC and central appropriations under the control of the Administrative Office of the Trial Court (AOTC). For fiscal years 2006 and 2007, the OJC had expenditures against local state maintenance appropriations of \$2,052,574 and \$2,374,069, respectively, to fund its administrative operations, including the five major OJC departments of operations, legal, administration, data processing, and network and infrastructure services. Other OJC expenses were paid by centrally controlled appropriations<sup>1</sup> under the control of the AOTC, including space rental (\$543,001), information technology consultants (\$570,000), and jury compensation expenses (\$5,521,669), with amounts shown in parentheses as totals for fiscal years 2006 and 2007. Since Massachusetts went to the “one day/one trial” system several years ago, trial jurors are generally only compensated if their jury service extends beyond three days in length. According to OJC statistics, 96.5% of jurors serve their jury duty within three days.

To obtain jurors for the court system, the OJC summonsed 1,004,842 potential jurors for calendar year 2006. Of that amount, 338,931 jurors served in 2006 and 98,744 postponed their service until 2007. There were also 264,388 jurors disqualified from service for a variety of reasons, listed below.

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<sup>1</sup> Expenditure amounts arrived at by performing a query on the Office of the State Comptroller’s accounting system. This list of centrally controlled expenditures may not be all-inclusive, as certain expenditures are not readily identified as pertaining to the OJC in the Commonwealth’s accounting system.

<u>Description of Top Five Reasons for Disqualification</u>	<u>Percentage of Disqualifications</u>
Age 70 or older and chose not to serve	19
Permanently moved from district	16
Not a U.S. citizen	16
Non-English speaking	13
Prior juror service within three years	12

The remaining summonsed jurors fell into such categories as summons returned as undeliverable (114,941), no response from summons (70,204), summons cancelled (190,409), and absent jurors (15,621). Also, of the 338,931 jurors who served in 2006, a total of 88,396 were summoned in the previous year but postponed service at that time.

The OJC is nearing completion of a project to upgrade its automated juror management system. The old NX View system has been upgraded to a new system -- Jury+ Next Generation (NextGen), a software tool that allows the OJC to manage the juror process from summoning to juror payment. The software program tracks the result of each summons as well as jury pool activity input obtained directly from courthouse jury pool managers. NextGen provides the platform for the OJC's jury management process, including summoning, tracking juror response to summonses, jury pool activity, juror payroll, delinquent juror prosecution, and reports for statistical analysis. The new system makes use of bar-code technology to promptly process and monitor jurors while they serve jury duty. Many standardized forms are now available, and on-line transmission of data between the OJC and jury pool sites provides timely, accurate information.

### ***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 the OJC. The scope of our audit included the OJC's controls over administrative and operational activities, including the Master Juror

List development, statistical data analysis, and the Delinquent Juror Prosecution Program for the period July 1, 2005 to October 31, 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 the OJC's internal controls over the Master Juror List development, statistical data analysis, the Delinquent Juror Prosecution Program, and selection and usage of consultants for implementation of the new jury management system, and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding the OJC's compliance with applicable state laws, rules, and regulations; other state guidelines; and applicable AOTC policies and procedures.

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, OJC statistical reports, and the OJC's organizational structure. We also conducted site visits at selected jury pool locations throughout the Commonwealth to observe compliance with OJC procedures, as well as conditions at the jury pool sites, and we met with officials from the District Court Department. 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 the OJC was based on those interviews, site visits, and document reviews.

Our recommendations are intended to assist the OJC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that the OJC's systems 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, the OJC (1) maintained adequate internal controls over the Master Juror List development, statistical data analysis, the Delinquent Juror Prosecution Program, and selection and usage of consultants for implementation of the new jury management system, and (2) complied with applicable laws, rules, and regulations for the areas tested.



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## AUDIT RESULTS

### 1. ENHANCEMENTS NEEDED TO INCREASE NUMBER OF JURORS BY USING MULTIPLE SOURCE LISTS

To help ensure that sufficient jurors are available, two important factors need to be considered. The first is a sufficient number of potential jurors at the start of the selection process through the source list. The second factor is utilizing those jurors in the most efficient manner, which we will call juror utilization. In summary, we believe that additional potential jurors could be obtained by using additional source list information in addition to the data that the Office of Jury Commissioner (OJC) is currently using. Also, improving juror utilization efficiency could result in a reduced need for jurors, particularly at the district court level, which would either relieve those individuals from having to serve jury duty or free them up to serve where they are needed more.

Our audit found that the OJC should consider using additional source lists to create the annual Master Juror List to increase the number of potential jurors available to serve on jury duty. Massachusetts is unique in that it develops its Master Jury List using a source list, called the Numbered Resident List, developed by the cities and towns as part of the annual Massachusetts Census. As states other than Massachusetts do not conduct their own annual census, their judicial districts rely on the other sources (most often voter registration lists or driver's license data), and it is not uncommon for a combination of four source lists to be used. As a result of using only the Numbered Resident List, the OJC may not be obtaining as many potential jurors as it could if it used multiple source list information. The OJC is required to use the annual census information provided by the cities and towns in a Numbered Resident List in accordance with Chapter 234A, Section 10, of the Massachusetts General Laws. This information is input by the municipalities and is processed through the State Secretary to the OJC. However, there is a concern over whether census data accurately counts the entire population. For example, the Metropolitan Area Planning Council, which serves 101 cities and town in the metropolitan Boston area, prepared a fact sheet that stated that the population estimates prepared by the United States Census Bureau during the 1990s undercounted the population by over 700,000 residents.

In an attempt to obtain a better Massachusetts population list, the Legislature included a provision in the Fiscal Year 2008 Budget to develop a working group to explore the possibility

of creating an Administrative Records List. This list would be a combination of various source list data and could be used to create jury pools, purge voter lists, and develop a better population estimate for the Commonwealth. Specifically, the Fiscal Year 2008 Budget, Section 71, states:

*Notwithstanding any general or special law to the contrary, the secretary of administration and finance or his designee, hereinafter referred to as the secretary, the jury commissioner or her designee and the state secretary or his designee shall convene a working group to establish an administrative records list of all residents 17 years of age and older for the purpose of testing the feasibility of using such a list for the creation of jury pools and purging voter lists. The working group shall consist of representatives of appropriate executive and judicial agencies and others, as determined by the secretary. The secretary shall consult with and work collaboratively with the working group in carrying out this section. All state agencies possessing an electronic database which contains information relative to these persons including, but not limited to, the state secretary, the registry of motor vehicles, the department of revenue, the board of higher education, the department of transitional assistance, the office of medicaid, the department of public health and the division of unemployment assistance, shall provide in electronic form a copy of the database in a format acceptable to the secretary. In addition, a city or town that conducts an annual census shall provide the data to the secretary and all public and private colleges and universities shall provide the data from enrollment records.*

The use of multiple source lists is also recommended by the American Bar Association, which stated, “States should implement the use of multiple source lists for juror identification to ensure a diverse jury pool that accurately represents the community.”<sup>2</sup> Although this recommendation is meant to increase diversity in the jury pool, it also has the effect of increasing the number of jurors on the source list. Specifically, another study found that seven counties in California went from using just Registry of Voters lists to adding Department of Motor Vehicle license information, a change that “yielded an increase in the number of potential jurors of approximately 70% over the use of ROV [Registry of Voters] lists alone.”<sup>3</sup> Although a 70% increase in potential jurors cannot be guaranteed in all circumstances, such numbers suggest that additional sources for potential jurors should be explored. (We should also note that this study did not address the quality of the names on the increased source list. If the quality of the names were lower on the combined source list information, an adjustment to summons yield amounts would have to be made.)

As a result of all potential jurors not being included to start the process of creating the Master Juror List, certain court locations are running low on available jurors. Residents that are

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<sup>2</sup> Attacking Bias in the Justice System: A Compendium of Program Alternatives, Section V, American Bar Association

<sup>3</sup> Race and the Jury: Racial Disenfranchisement and the Search for Justice, Edgar W. Butler, Hirashi Fukurai, Richard Krooth, Springer Publishing, January 31, 1993

appearing on the Numbered Resident List in those jurisdictions that are low on potential jurors are more likely to be summonsed for jury duty every three years.<sup>4</sup> Continuously summonsing the same people for jury duty may decrease their desire to serve jury duty. Additionally, using multiple source list information could result in a better cross-section of potential jurors representative of the judicial districts' population.

We discussed the issue of using additional source list information with the OJC Commissioner and Deputy Commissioner, who noted that they had held meetings with the responsible parties in accordance with Section 71 of the Fiscal Year 2008 Budget. The Commissioner noted that the American Bar Association's recommendation to use multiple source lists was made because no other state conducts a state census and therefore the recommendation was aimed at trying to develop a comprehensive list, which she believes Massachusetts already has.

### ***Recommendation***

The OJC should continue efforts to explore the potential for increasing the number of jurors by supplementing the Numbered Resident List from the annual Massachusetts Census with other source list data. If such a change is made, the OJC will also need to closely monitor summons yield information, since the new combined source list may result in an unpredictable number of people actually showing up to serve jury duty.

### ***Auditee's Response***

In response to this issue, the Jury Commissioner stated, in part:

*The report states that "...additional potential jurors could be obtained by using additional source list information in addition to the data the OJC is currently using." There is no evidence that this is true, as in theory all residents who appear on "additional" source lists would also appear on the municipal census: voters, drivers, taxpayers, etc. The purpose of the administrative records list is not to locate additional jurors, but rather to reduce costs to cities and towns by eliminating the annual census. . . .*

*The reference to the Metropolitan Area Planning Council is misplaced, in that it is referring to the federal census, not the state census. Whether or not the federal authorities undercounted the Massachusetts population has no relevance to the accuracy of the lists prepared each year by local authorities in each of the 351 cities and towns in Massachusetts.*

*The statement that the Legislature convened a working group in order to "obtain a better Massachusetts population list" is inaccurate. The purpose of the working group is to*

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<sup>4</sup> State law provides that residents who have served jury duty are exempt from serving for a period of three years.

*determine whether an adequate (not necessarily better, or even as good) list can be developed in order to relieve the cities and towns of the financial responsibility of conducting the census by repealing the municipal census law. Thus, the goal is to obtain a less expensive list, not a "better" one.*

*The reference to the American Bar Association's recommendation to use multiple source lists implies that the ABA recommends multiple source lists over census lists. In fact, the ABA is recommending multiple source lists as opposed to the inadequate single source lists, such as voter registration lists, that other states must rely on, because no other state has a municipal census.*

*The report also notes that if the quality of a multiple source list degraded, "an adjustment to summons yields amounts would have to be made." The report should note that lower quality lists also result in increased costs, as more summonses need to be printed and mailed to attain the needed number of jurors, and more staff may be required to process returned mail and disqualifications from people who are summoned multiple times or have moved from the address at which they were summoned. . . .*

*Also, the report must note that the creation of the Master Juror List is governed by statute, with explicit direction that only the numbered resident list is to be used. While the OJC is always interested in determining if a better list is available, without legislative change it has no authority to switch or supplement the statutorily-mandated source list.*

### **Auditor's Reply**

Contrary to the OJC's assertion, our report clearly states that the OJC is currently mandated to use the Numbered Resident List in accordance with current state law. Our recommendation is that the OJC explore the possibility of using additional sources of residents to determine whether such a change would result in a more inclusive list of residents being eligible to serve jury duty. Our recommendation also coincides with the requirements of Section 71 of the Fiscal Year 2008 Budget, which also requires the current requirements of creating jury pools not be changed until further action of the general court.

The Jury Commissioner's statement that "the purpose of the working group is to determine whether an adequate list can be developed in order to relieve the cities and towns of the financial responsibility of conducting the census by repealing the municipal census law" appears to be a reference to Chapter 46 of the Acts of 2003, "An Act Providing Relief and Flexibility to Municipal Officials," and not the 2008 budget requirements we cite in our report. Furthermore, one of the provisions of the 2008 budget requirements is that the information from the combined administrative records list be made available to "University of Massachusetts Donahue Institute for the purposes of testing the administrative records list and supporting efforts to improve United States Census Bureau population estimates for the commonwealth."

Lastly, the Jury Commissioner suggests that our reference to the Metropolitan Area Planning Council is misplaced in that it refers to federal census information, not state census (Numbered Resident List) information, and that the federal government's undercounting of the state's population has no bearing on the state's census information. However, our analysis indicates that the federal census information reflects approximately 200,000 more residents (4.9 million estimated federal residents vs. 4.7 million residents on the state census Numbered Resident List). Based on this comparison, it appears that the state census may have undercounted the population even more than the federal census.

## **2. IMPROVEMENTS NEEDED IN JUROR UTILIZATION**

Our audit found that the OJC, the AOTC trial court departments, and local jury pool managers should continue to take steps to ensure that only the minimum number of jurors needed for a trial court session is brought to the court jury pool. State law provides that the Jury Management Advisory Committee (JMAC), the OJC, and the local courts are responsible for ensuring that the jury system operates efficiently. Part of operating efficiently includes ensuring that only the minimum number of jurors necessary is called for jury duty. If too many jurors are summonsed to appear at court, those jurors will not be available for other cases. There are various ways in which juror efficiency might be improved, including reducing jury pool target numbers, performing partial cancellation of jurors the day before they are scheduled to report if not all jurors are going to be needed, monitoring and improving summons yield information, and reactivating the JMAC's Juror Utilization Sub-Committee. We calculate that these changes could result in savings of potentially 15,000 juror days annually, which would reserve those jurors for future sessions, save employers at least \$2.2 million annually, and increase juror morale, since people wouldn't be called for duty as often. Given that Massachusetts has been adversely affected by a shortage of potential jurors, particularly in certain counties, it is important that jurors be efficiently utilized.

Provisions of Chapter 234A of the General Laws provide for efficiency in the operation of the jury system. Section 6 of this Chapter provides for the duties of the JMAC to supervise the OJC and to "assist and counsel the office of jury commissioner in the implementation and administration of this chapter; to foster continuing study, research, and improvement of all aspects of the jury system; to encourage increased public interest and education in this field; to

encourage improved cooperation and efficiency between the state and federal courts in matters of juror selection and management; and to encourage improved cooperation and efficiency between the judicial branch, other branches, and local units of government in the preparation and utilization of population lists and other materials.”

Section 79 of Chapter 234A provides that the OJC shall prepare an annual report and provides that: “The report may contain recommendations for the improvement of juror selection and management systems of the commonwealth.”

Lastly, Section 78 of Chapter 234A provides for the responsibilities and requirements of the local courts to provide adequate treatment of jurors. This section states, in part, that they shall have:

*An adequate full time staff and emergency backup staff shall be specially trained and assigned to supervise jurors and to work cooperatively with and under the guidance of the office of jury commissioner. The juror-pool staff shall be provided with reasonable secretarial services, postage, office supplies, and telephone service. The court and its staff shall attempt to improve juror utilization and management. Attendance compensation, utilization, and management data shall be provided in a timely manner to the office of jury commissioner. The court shall summon only the minimum number of jurors necessary, cancel jurors as soon as it has been determined that scheduled jurors are not needed, and discharge jurors as early in the day as possible after it has been determined that their services will not be required.*

**a. Reducing Juror Target Numbers**

Our audit found that the target number of jurors may be able to be reduced, resulting in fewer jurors being called to courthouses for jury duty, savings to employers for employees missing work for jury duty, and increased juror morale. The target number is the number of jurors that it is hoped will report for jury duty at a particular court location on a given day. We estimate that reducing the juror target numbers from their calendar year 2005 amounts could reduce by over 15,000 the number of jurors needed annually at the district court level alone.

The state of Florida has spent considerable time and effort studying and updating its jury procedures. In July 1996, Florida produced an updated Jury Managers’ Manual, which included procedures for determining the jury pool size (i.e., target number). This methodology suggested that the number of prospective jurors be determined by taking into consideration the number of jurors to be selected, alternates, peremptory challenges, and reserve jurors.

We examined target numbers for the District Court Department, primarily because most have stand-alone jury sessions (i.e., not a large jury pool covering many different types of courts) and it is clear to see the impact of target number changes and juror utilization. In the case of a Massachusetts district court jury-of-six trial, the State of Florida's methodology would provide for a target number of 17 jurors determined as follows: six jurors to be selected, two alternates (although only one is often used), two peremptory challenges for both the defendant and plaintiff of the case in accordance with state law, and an estimated five reserve jurors for challenges for cause. If Massachusetts were to adopt a similar methodology at the District Court Department level, the target number would change from an average of 21 (as of our audit period) to 17, thereby translating to a potential reduction of juror demand of approximately 15,000 juror days. This reduction of juror days would equate to savings to employers of \$2,280,000.<sup>5</sup>

We met with District Court Department officials, who to their credit had already conducted a review of juror target numbers and reduced juror target numbers, generally by three jurors per location (i.e., 24 to 21), during calendar year 2005. As a result, this change translated to an annual reduction of 14,747 jurors being needed at the stand-alone district court jury sites. District Court Department officials indicated that they were reluctant to make further blanket reductions in jury target numbers because they are concerned about having an insufficient amount of jurors, which would result in postponement of cases and create backlogs in the district court system. However, District Court Department officials told us that they intend to make further juror target number reductions in specific courts, which will result in reducing some juror target numbers to as low as 18, effective during calendar year 2008. Based upon more timely and accurate utilization of data provided by the OJC's new software system, for each jury pool location, we contend that further reductions in target numbers may still be feasible and should continue to be an ongoing analytical process that is site-specific. The jury sites appear to use historical information when determining their target number. Also, most jury locations would rather err on the side of calling in more jurors than may be necessary so that they will not run out of jurors.

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<sup>5</sup> Calculated by multiplying 15,000 juror days times eight hours per day times an hourly wage rate of \$19. The \$19 hourly rate was the same amount used by the "Visiting Committee on Management in the Courts" (also known as the Monan Report) when it calculated employer savings from increased jury utilization.

We discussed the target number issue with OJC officials, who noted that they are not responsible for establishing target numbers for any of the trial court departments, but rather are responsible for summoning the number of jurors necessary for obtaining the desired target number at the jury locations. Although we agree that the OJC is not primarily charged with determining jury target numbers, Chapter 234A, Section 6, of the General Laws provides for the JMAC to supervise the OJC and to “foster continuing study, research, and improvement of all aspects of the jury system.”

### ***Recommendation***

The JMAC, trial court departments, jury pool managers, and the OJC should continue to review current target number information and utilization at all jury pool locations. Similar to the analysis and target number reductions made by the District Court Department, other trial court departments using a jury pool should immediately analyze utilization data and, where feasible, reduce target numbers. Moreover, the District Court Department should continue to conduct additional reviews at court locations and determine whether further reductions of jury target numbers are feasible at specific court locations to ensure that only the minimum number of jurors are called to report to the court jury pool location.

### ***Auditee's Response***

In response to this issue, the Jury Commissioner stated, in part:

*The report suggests reducing District Court juror target numbers from the 2005 level of 21 jurors per day to 17 per day, following a model developed in the Florida courts. The report states that this would result in a reduction of 15,000 jurors per year, with a commensurate savings to employers of \$2.2 million per year. The District Court Department has already reduced its juror target numbers in most locations to 18 jurors per juror day, and has also eliminated some juror days altogether. Further reductions in all court departments are currently being planned or have already been implemented.*

*The report recommends further reductions and ongoing site-specific study. This effort has been ongoing for many years, and is largely responsible for the reductions that have taken place thus far. OJC works closely with the court departments to provide customized data on specific court locations, which form the basis of recommendations for change.*

### ***Auditor's Reply***

As noted in our report, the District Court Department conducted an in-house review and reduced target numbers from 24 to 21 during fiscal year 2005 and intends to reduce jury target



numbers at certain locations during the second half of fiscal year 2008. We continue to recommend that the District Court Department changes be monitored and adjusted, as necessary, based on actual results. Additionally, we continue to recommend that the JMAC, trial court departments, jury pool managers, and the OJC review juror utilization information and make necessary adjustments, where feasible, to improve juror utilization.

**b. Canceling Partial Jury Pools**

Another way to efficiently utilize jurors is to take full advantage of the OJC's call-in procedure for canceling jurors. The OJC has established procedures to allow local jury pool managers to cancel either all jurors or partial jurors scheduled to report for duty. However, many of the jury pool managers we interviewed noted that they do not cancel partial jury pools because of the potential confusion that can result from doing so. As a result of partial jury pools not being cancelled, jurors are unnecessarily called to the court, and therefore are not eligible to serve for three years from that date of service. However, potential jurors who did not have to report to the courthouse would be eligible to serve in one year.

Massachusetts uses a call-in system to notify jurors whether they need to report for jury duty. Jurors call in to a designated telephone number the day before they are scheduled to appear and are told whether they are to report for jury duty. According to OJC procedures, the recorded message should state whether all jurors are to report for duty or inform jurors who do not need to report. However, several jury pool managers start processing the next day's work in the early afternoon so that everything will be ready for the next morning's juror check-in. When the jury pool managers do this processing, the juror numbers are reordered for randomness and assigned a new number. Since the juror numbers are changed at this point, the original juror numbers are not readily retrievable, so the jury pool managers do not have information to cancel specific jurors. We also noted that the new jury software should have a web-based juror confirmation package component that will allow jurors to either confirm or change their date of service through the Internet, but this component is still under construction.

As a result, many of the jury pool managers will only cancel entire jury pools (e.g., when they know a judge will not be available that day) or will have the entire pool report for duty. If more jurors report for duty than are necessary, jury utilization is obviously impacted.

We discussed this matter with OJC personnel, who informed us that certain jury pool managers do conduct partial cancellation of jurors, but agreed that some locations do not cancel partial jury pools.

### ***Recommendation***

The OJC should review current, established procedures for partial cancellation of jury pools with the jury pool managers. If it is determined that current procedures do not allow sufficient time to process the next day's business, then the OJC should determine whether alternative procedures should be developed to enable partial cancellation of jury pools. The OJC and jury pool managers should consider how the eventual implementation of the web-based juror confirmation system, when implemented, will affect procedures for partial cancellation of jury pools.

### ***Auditee's Response***

In response to this issue, the Jury Commissioner stated, in part:

*[Partially canceled jurors] are notified by means of a 2-3 digit Group Number that appears on their reminder notice, and they are classified by range. Thus, a partial cancellation message would state, "Jurors in Group Numbers 1 through 20 must report. All others are cancelled." Also, the web-based Juror Service Website has been in operation since December 2007.*

### ***Auditor's Reply***

Our audit site visits to various jury locations throughout the Commonwealth indicated that many jury pool managers find it difficult to cancel partial jury pools, as noted in our audit report. Our report also notes the anticipated implementation of the web-based juror confirmation system subsequent to our audit fieldwork. We continue to recommend that the OJC review procedures for canceling partial jury pools and determine whether any changes are necessary to facilitate canceling partial jury pools, resulting in fewer jurors needing to report for jury duty and improving jury utilization.

### **c. Monitoring Summons Yield Information**

An important part of getting the correct amount of jurors to report on a specific day is summons yield (the number of jurors who served at their designated time divided by the number of jurors summonsed). While conducting our site visits to jury pools, we noticed that the jury

pool locations tend to have more jurors report than the target number of jurors desired. This is due to differences in summons yield where more people report for jury duty than is anticipated. The OJC is conducting a major overhaul of its computerized juror management software. This change should result in more accurate and timely information to monitor juror utilization statistics and should allow summons yield information to be better tracked and adjusted to yield a more accurate count of actual jurors reporting to the target number preferred.

State law provides for the Jury Commissioner to use discretion in determining how many jurors to summon and provides examples of factors that may be used in making such a determination. Specifically, Chapter 234A, Section 18, of the General Laws provides:

*At least twelve weeks prior to the commencement of any term of grand or trial juror service, the jury commissioner shall determine, as a matter of discretion, the numbers of jurors to be summoned from each juror district for grand and trial juror service. In making these discretionary determinations, the jury commissioner shall consider, among other factors, the experience of each court with respect to the numbers of grand or trial jurors who are impaneled or whose services are used during the impaneling process in comparison with the numbers of jurors who are summoned.*

The OJC's old jury management software did not provide timely information on summons yield information. However, its new software provides information about summons yield information, by court location, thereby allowing for the prompt review of the yield information. Historically, the OJC has had an operational summons yield of 32%. In other words, the OJC summons three times the number of jurors needed to arrive at the target number of jurors desired. Most court jurisdictions nationwide consider a summons yield percentage of 30% or more to be acceptable, but most strive for a summons yield of 40%. Many prospective jurors can be summonsed but do not appear for various reasons, including their not receiving the summons due to incorrect mailing addresses, not being eligible to serve, having elected to postpone service to a future date, or failing to appear as scheduled.

We discussed summons yield monitoring with OJC officials, who stated that the new software provides more timely information than the previous system and can adjust summons yield information based on a variety of factors.

**Recommendation**

The OJC should continue to review summons yield information, by jury location, and make adjustments to the number of jurors summonsed to ensure, as much as possible, that the minimum number of jurors are summonsed to arrive at the desired jury location target number.

**Auditee's Response**

In response to this issue, the Jury Commissioner stated, in part:

*The report states that "historically, the OJC has had an operation summons yield of 32%," and goes on to state that most jurisdictions nationwide strive for a summons yield of 40%, although yields over 30% are considered acceptable. No sources are cited for these statements, which are somewhat contrary to the OJC's experience. First, there is no single summons yield in Massachusetts, since each court is calculated separately and because of widely disparate configurations, can range from a low of 18% to a high of 50% or more. Second, the aspirational yield of 40% for other jurisdictions is high based on our knowledge of other jurisdictions, and we are curious to know if SAO used 1-step or 2-step jurisdictions, one-court counties versus large urban areas (which tend to have lower yields than Massachusetts), etc.*

**Auditor's Reply**

The 40% summons yield we note in our report is an industry standard, since it is mentioned in a number of jurisdictions' jury management manuals. One of the most comprehensive sources of jury management information can be found from the National Center for State Courts (NCSC) and their literature also mentions the 40% summons yield statistic. We compared Massachusetts yield information to one-step court information, since that is the summoning procedure used by the OJC. If we used the two-step yield procedure, the desired yield amount would be 60%, based on NCSC information. We agree with the OJC that the overall summons yield of 32% is a combined statistic, since Massachusetts has a statewide jury system as opposed to a single court system. Our intention of noting the 32% yield is to show that Massachusetts falls within the normal range of summons yield compared to other jurisdictions.

**d. Jury Utilization Committee**

The JMAC, which is a standing committee of the SJC in accordance with state law, has established a Juror Utilization Sub-Committee (JUSC) to survey and report on ways to improve juror utilization. In March 2006, further meetings of the JUSC were postponed until after implementation of the new jury management software was completed. While audit fieldwork was in progress in the spring and early summer of 2007, the JUSC had not resumed meeting.

Chapter 234A, Section 6, of the General Laws indicates that the JMAC has the responsibility for overseeing the Office of Jury Commissioner, improving jury management systems, and fostering cooperation and education about jury issues. This section states, in part:

*The jury management advisory committee, hereinafter referred to as the committee, shall be appointed to assist and counsel the chief justice and the supreme judicial court in supervising the office of jury commissioner, to perform direct supervision of the office of jury commissioner pursuant to duties specified in this chapter and in matters delegated to the committee by the chief justice of the supreme judicial court. The committee is authorized to assist and counsel the office of jury commissioner in the implementation and administration of this chapter; to foster continuing study, research, and improvement of all aspects of the jury system; to encourage increased public interest and education in this field; to encourage improved cooperation and efficiency between the state and federal courts in matters of juror selection and management; and to encourage improved cooperation and efficiency between the judicial branch, other branches, and local units of government in the preparation and utilization of population lists and other materials.*

Since efficient utilization of jurors is important from the perspective of employers, jurors, the general public, and the courts, efforts to improve juror utilization are important.

### **Recommendation**

The JUSC should be reinstated to study and make recommendations on the efficient utilization of jurors.

### **Auditee's Response**

*The juror utilization subcommittee ceased to exist shortly after its inception, with the resignation of its chair from the JMAC and the need to dedicate all available staff resources to the statewide implementation of the NextGen system. Currently, due to vacancies and expiring terms, there are only four members of the JMAC, so forming a "subcommittee" is unrealistic. However, the JMAC itself discusses juror utilization at every meeting, has held special meetings with all court departments, and has made recommendations and presentations at court conferences on the topic. Essentially, the JMAC is performing the function that was intended for the subcommittee, and will continue to do so.*

### **Auditor's Reply**

If all affected parties (e.g., JMAC, AOTC, and OJC) concur that the JMAC can sufficiently monitor and report on ways to improve juror utilization, then we agree that reinstating the JUSC is not necessary. Otherwise, we again recommend that the JUSC be reinstated as software implementation and staff resources allow.

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### **3. PROCUREMENT MANAGEMENT AND MONITORING OF THE NEW JURY SYSTEM SOFTWARE CONTRACTOR NEEDS IMPROVEMENT**

Our audit found that the OJC needs to improve its performance monitoring of the contractor it used as a project manager to implement its new jury system software. Specifically, the contractor billed for hours worked, but the OJC had no documentation to support how those billings tied into any specific phase of the project or what tasks the contractor was working on. Monitoring contractor performance becomes especially important since, in this case, the contract increased from an original amount of \$150,000 in 2004 to a total of \$1.4 million as of June 2007. Without adequate documentation to support what the contractor was working on and being paid for, the OJC cannot accurately monitor or support payments on the project.

The OJC decided to upgrade its jury management software to a system that provides more comprehensive and timely information. The old software system, NX View, was an internally created system that was old and failing and had been repeatedly modified over the past 30 years. The old software system was also operated on an obsolete mainframe processor that was failing and needed to be taken off-line. The new system, known as Jury+ Next Generation (NextGen), is a state-of-the-art Microsoft Windows-based program purchased from a private vendor that specializes in jury system software. In addition to purchasing the software, the OJC employed a consulting firm to oversee project management and coordinate modifications necessary for operating in the Massachusetts environment. The project started in March 2004, and implementation of a substantial portion of the system was completed by September 2006. Remaining portions of the system to be implemented as of October 2007 include completion and testing of the web-based interactive juror component and statistical tracking and reporting. The web-based interactive juror component provides jurors an Internet site to perform a variety of tasks, such as confirming receipt of their juror summons, completing the juror questionnaire, or postponing their service to a future date.

The OJC did not solicit formal bids for a project consultant, and the Jury Commissioner told us that the consultant was selected based on a variety of factors, including the fact that the consultant was on the Operational Services Division (OSD) prequalified vendor contract list. Moreover, the Jury Commissioner told us that she was familiar with the contractor because it had performed work at another state division where she had previously worked and that the

contractor had experience with COBOL 74 and Oracle computer languages, which she maintained is a difficult combination to find.

On February 4, 2004, when the consultant was originally hired, the OJC estimated total consultant costs for the project to be \$150,000. However, in each future year, additional consultant services were obtained. There were also additional contract amendments that increased consultant costs for fiscal years 2004, 2005, and 2007, which brought total consultant costs to \$1.4 million as of the fiscal year ended June 30, 2007, as shown in the following chart.

Description	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Total
Contract Amount	\$150,000	\$200,000	\$200,000	\$300,000	\$ 850,000
Amendments	<u>310,000</u>	<u>200,000</u>	--	<u>70,000</u>	<u>580,000</u>
Total Contract Amount	<u>\$460,000</u>	<u>\$400,000</u>	<u>\$200,000</u>	<u>\$370,000</u>	<u>\$1,430,000</u>

Some of the contract amendments were the result of changes in work that the software vendor was originally going to supply, but the OJC determined that it was more advantageous for the consultant, rather than the software vendor, to perform the work. For example, the OJC wanted several years of data to be converted into the new system, but the software vendor had only planned on converting the most recent information to get the system running. Additionally, the OJC employed the consultant to develop the previously described web-based interactive juror system.

When the consultant billed for payment, supporting documentation indicated the person who did work during the billing period and the number of hours charged and, in most instances, included timesheets. However, the billing records contained no mention of what tasks the person worked on. Without adequate documentation to support what the consultants worked on, tracking and monitoring the project status is not possible. For example, in addition to project management and software development work that the consultant was doing, the consultant was also paid for performing the work of a key OJC employee while the employee was out on extended sick leave. However, the consultant billings and time records had no indication to differentiate such work from other work it was doing for the OJC.

We discussed these situations with the Jury Commissioner and the Deputy Jury Commissioner, who noted that a preliminary project plan indicated who would perform what tasks in the project. However, we noted that some of the original task assignments had changed over time and were not fully reflective of the services that were being delivered. The OJC representatives also noted that they have limited in-house computer expertise to devote to such a project and plan on using consultants to continue developing and testing the system, as well as making any future changes that may be necessary.

We also contacted the Information Services office of the Administrative Office of the Trial Court (AOTC) to determine what, if any, documentation or additional information it could provide regarding the selection of the consultant and implementation of the software system. However, we received no response from our inquiries.

Although the OJC indicated that there were several reasons for selecting the consultant it is utilizing, including expertise in certain computer languages and familiarity with the consultant's work in the past, we do not believe that this is adequate justification for a sole-source procurement. At a minimum, the OJC should have prepared a proposed scope of work and solicited proposals from several vendors on the state's prequalification list, thereby ensuring that the Commonwealth received the best value for this procurement.

### ***Recommendation***

The OJC should consider clearly defining what services it is seeking, obtaining detailed project plans for the consultant's work, updating those plans as work progresses, and ensuring that billing documents are supported by documentation for what was worked on during the billing period. The OJC should also consider soliciting either competitive bids or proposals from OSD pre-screened vendors for the type of work to be performed.

### ***Auditee's Response***

In response to this issue, the Jury Commissioner stated, in part:

*The statement that "OJC had no documentation to support how [the contractor's] billings tied into any specific phase of the project or what tasks the contractor was working on" is incorrect. The contractor submitted regularly-updated project plans and met with OJC staff on a weekly basis to review progress and specific tasks being performed by specific, dedicated resources. Invoices for the corresponding time periods are for work done on the items documented on the project plans. The contractor uses dedicated resources*



*(meaning only one person was assigned to perform each type of task: quality assurance testing, data conversion, website development, project management), and the relevant resource is identified by name on each line of the project plan. Thus, the invoices in combination with the project plans for the same period provide detailed documentation of the work performed and billed throughout the project. . . .*

*While it is true that initially, the contractor was retained to “oversee project management and coordinate modifications,” it quickly became apparent that the contractor would have to take on additional responsibilities, including website development, data conversion, training, and statewide implementation, and that the vendor’s responsibilities (and cost) would be reduced accordingly. . . .*

*The contractor, who was listed on the Operational Service Division (OSD) prequalified vendor contract list, was selected in complete compliance with both OSD guidelines (see, e.g., OSD Update 02-45) and AOTC Fiscal Affairs Division procedures (see, e.g., FY06 Opening Memo, Attachment B). The primary factors driving the selection of the contractor were the contractor’s status as a prequalified vendor, the need to act expeditiously (with only four months left in the fiscal year), the contractor’s proven track record on similar projects, and the contractor’s expertise with relevant components of the project.*

*The statement that “[o]n February 4, 2004, when the consultant was originally hired, the OJC estimated total consultant cost for the project to be \$150,000” is not correct. As the February 2004 contract clearly states, “[t]he current obligation of this project is \$150,000.00 through June 30, 2004.” This project was always projected to be a multi-year undertaking: implementation alone took 10 months, on an accelerated schedule that was completed one month earlier than projected.*

*The report suggests that certain changes to the contract were optional or unnecessary enhancements. For example, having the contractor perform the data conversion is described as “more advantageous” because OJC “wanted” certain features. In fact, OJC needed the vendor to convert earlier data in order to comply with state records retention requirements, continue its Delinquent Juror Prosecution Program, and retain juror records for use in subsequent disqualifications, challenges to prosecutions, and the like. The vendor’s proposal to eliminate all historical data was unacceptable, and when it became apparent that the vendor did not have the technical ability to perform the necessary work, the contractor undertook to complete this critical component of the upgrade.*

*Several of the recommended actions were performed in this case, but the “recommendation” format suggests that they were not. Specifically, the OJC defined the services it sought in the scope of work for each contract, obtained detailed project plans for the consultant’s work, and obtained updated project plans on a weekly or monthly basis. As described above, the OJC believes that the billing documents were supported by adequate documentation, given the regular project plan updates and meetings and the use of dedicated resources.*

### **Auditor’s Reply**

Although the OJC states that the contractor submitted regularly updated project plans and had weekly meetings to review progress, we were not provided any evidence to show what transpired at those meetings. Also, when we asked for project plans, the last one we were provided with

was dated September 2005, which we were told was the last plan available. Additionally, the OJC notes that dedicated resources were used to support billings, but our report notes, as an example, that other work was performed by these dedicated resources and that work would not be identifiable from the billings provided. It was not until the OJC requested additional funding of \$70,000 in April 2007 for work previously performed that we became aware of these additional costs.

The OJC agrees that the contractor was hired to perform project management and that the scope of work subsequently changed. However, the initial contracts signed with both the software vendor and the consultant clearly indicates that work was to be completed by June 2004. If the OJC became aware of significant changes to the work that was going to be performed, it should have considered, as our recommendation notes, what services they were seeking to purchase and whether the contractor initially selected was still the best choice to perform the revised scope of work.

#### **4. IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS**

Our audit found that the OJC needs to conduct annual risk assessments and update its internal control plan as required by state law and AOTC rules and regulations. The OJC has prepared various procedural memorandums, which also address internal controls of those areas, but an overall internal control plan has not been developed. As a result, AOTC's efforts to ensure the integrity of its records and assets were diminished.

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. 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 and established 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 Internal Control Guidelines and the 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 within the Trial Court Department.

We discussed the need to conduct a risk assessment and prepare an internal control plan with the OJC Commissioner and Deputy Commissioner, who indicated that a review and update of controls has started on certain areas of their operations. They also noted that they are still in the process of implementing the OJC's new computerized juror software and that controls over many of those areas are dependent on the outcome of final implementation and testing, as well as receiving final documentation from the software vendor and the OJC consultant.

### ***Recommendation***

The OJC should review AOTC's Internal Control Guidelines for the Trial Court, conduct a risk assessment, and document their high-level internal control plan that addresses the risks and internal control requirements specific to their operations. Once the new computerized juror software system is completed, the risk assessment and internal control plan should be updated,

as applicable. In the future, the OJC should conduct annual risk assessments and update its internal control plan based on the results of the risk assessments, as necessary.

***Auditee's Response***

*OJC has completed risk assessments in each department and is participating in an AOTC initiative to develop internal control plans throughout the Trial Court.*