



Commonwealth of Massachusetts
Office of the State Auditor
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Official Audit Report-Issued October 2, 2012

Worcester Superior Court

For the period July 1, 2009 through December 31, 2010



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INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments, one of which is the Superior Court Department (SCD). The SCD established 14 divisions, each having a specific territorial jurisdiction to preside over civil and criminal matters brought before it. The Worcester Division of the Superior Court Department (WSC) presides over civil and criminal matters falling within its territorial jurisdiction of Worcester County.

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) conducted an audit of certain activities of WSC for the period July 1, 2009 through December 31, 2010. Our audit objectives were to (1) examine the adequacy of WSC's internal controls over cash management, bail funds, and revenues and (2) follow up on problems identified during our prior audit of WSC, as detailed in our prior audit report (No. 2006-1117-3O).

Highlight of Audit Findings

Our audit did not identify any internal control weaknesses in the areas tested. Further, we found that WSC has taken measures to address the problems the OSA identified during its prior audit of WSC.

OVERVIEW OF AUDITED AGENCY

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. The statute also created a central administrative office managed by a Chief Justice for Administration and Management (CJAM), who is responsible for the overall management of the Trial Court. The CJAM charged the central office, known as the Administrative Office of the Trial Court (AOTC), with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court, including a budget, central accounting and procurement systems, policies and procedures for judges and staff, and the management of court facilities, security, libraries, and case management automation.

Chapter 211B of the Massachusetts General Laws established the Superior Court Department (SCD), which has original jurisdiction in civil actions valued at over \$25,000 or where equitable relief is sought. It also has original jurisdiction in actions involving labor disputes where injunctive relief is sought, exclusive authority to convene medical malpractice tribunals, and appellate jurisdiction over certain administrative proceedings. Additionally, the SCD has jurisdiction over all felony matters and other crimes, although it shares jurisdiction over crimes for which other Trial Court Departments have concurrent jurisdiction. The SCD has 14 divisions, each having a specific territorial jurisdiction, to preside over civil and criminal matters brought before it. The divisions' organizational structure consists of two main offices: the Clerk's Office, headed by a Clerk of the Courts who is an elected official, and the Probation Office, headed by a Chief Probation Officer. The Clerk of the Courts and the Chief Probation Officer have responsibility for the internal administration of their respective offices.

The Worcester Division of the Superior Court Department (WSC) presides over civil and criminal matters falling within its territorial jurisdiction of Worcester County. During the audit period, WSC collected revenues totaling \$1,910,893, which it disbursed to the Commonwealth as either general or specific state revenue, as shown in the following table:

Revenue Type	July 1, 2009 to June 30, 2010	July 1, 2010 to December 31, 2010	Totals
General Revenue	\$934,325	\$476,099	\$1,410,424
Probation and Administrative Supervision Fees	217,228	129,200	346,428
Victim/Witness Fund	20,263	20,225	40,488
Surcharge	36,315	18,140	54,455
Reimbursement for Indigent Counsel	23,157	12,515	35,672
Drug Analysis Fund	15,150	6,760	21,910
Other	<u>475</u>	<u>1,041</u>	<u>1,516</u>
Totals	<u>\$1,246,913</u>	<u>\$663,980</u>	<u>\$1,910,893</u>

The WSC Clerk of the Courts' Office was also the custodian of approximately 250 cash bails totaling \$1,633,250 as of December 31, 2010. Bail is the security given to the court by defendants or their sureties to obtain release and to ensure appearance in court, at a future date, on criminal matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release.

In addition to the funds collected and transferred to the Commonwealth, WSC controlled 32 civil escrow accounts valued at \$1,618,061 as of December 31, 2010. These accounts are considered assets held in trust by the court and kept in the custody of the Clerk of the Courts pending disposition by the court.

WSC operations are funded by appropriations under the control of either the division (local) or the AOTC or the Commissioner of Probation Office (central). Under WSC's local control for fiscal years 2010 and 2011 were appropriations from the Commonwealth for personnel-related expenses of the Clerk of the Courts' support staff and certain administrative expenses (e.g., supplies, periodicals, law books). Other administrative and personnel expenses of the division were paid by centrally-controlled appropriations. According to the Commonwealth's records, local and certain central expenditures associated with the operation of WSC for the 18-month period that ended December 31, 2010 amounted to \$2,374,245.¹

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

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor conducted an audit of certain activities of the Worcester Division of the Superior Court Department (WSC) for the period July 1, 2009 through December 31, 2010, relative to its Clerk of the Courts and Probation offices. Our audit objectives were to (1) examine the adequacy of WSC's internal controls over cash management, bail funds, and revenues and (2) follow up on problems identified during our prior audit of WSC, as detailed in our prior audit report (No. 2006-1117-3O).

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.

To achieve our audit objectives, we conducted interviews with WSC management and other staff. We reviewed our prior audit report (No. 2006-1117-3O), reports relative to WSC's revenues and expenses produced by the Office of the State Comptroller's Massachusetts Management Accounting and Reporting System (MMARS), and Administrative Office of the Trial Court statistical reports. In addition, we reviewed copies of relevant documents, statutes, and regulations as well as WSC policies, procedures, and accounting records. The financial data we obtained from MMARS relative to WSC's activities during our audit period was not used in our audit testing; it was used solely for the purposes of presenting background information in our report. Consequently, we did not assess the reliability of this data.

At the conclusion of our audit, the results were discussed with WSC officials, and comments these officials made regarding the issues presented in this report were considered in the drafting of the final report.

AUDIT FINDINGS

PRIOR AUDIT RESULTS RESOLVED

Our prior audit report (No. 2006-1117-3O), which covered financial and management controls over certain operations of the Worcester Division of the Superior Court Department (WSC) for the period July 1, 2004 to February 28, 2006, identified three issues, which WSC has resolved, as detailed below:

a. Risk Assessments and Internal Control Plan

Our prior audit found that, contrary to the requirements of Chapter 647 of the Acts of 1989 and Administrative Office of the Trial Court (AOTC) guidelines, WSC did not perform a risk assessment and correlate the results of that assessment to its internal control plan. Our prior audit recommended that WSC document its risk assessments and modify its internal control plan to correlate the risks to its internal control procedures. We also recommended that WSC conduct annual risk assessments and update its internal control plan based on the results of these risk assessments.

Our follow-up audit determined that WSC implemented our prior audit recommendations. Specifically, WSC staff conducted a risk assessment and correlated the results of the assessment to its internal control plan. Its internal control plan also requires it to perform periodic risk assessments and to document any areas that may be at risk from fraud, waste, and unauthorized use or theft of assets assess the level of risk and establish commensurate levels of control.

b. Revenue Reconciliation

Our prior audit found that WSC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, WSC personnel could not reconcile the revenue transmittals made by the WSC with the Commonwealth's Massachusetts Management Accounting and Reporting System as required by AOTC procedures. In this regard, the state's accounting system, administered by the Office of the State Comptroller (OSC), generated reports that were used by WSC to reconcile revenue transmittals that were no longer available after the OSC upgraded the state's accounting system during fiscal year 2005. Our prior audit recommended that the AOTC update its

reconciliation procedures and implement an alternate method that would allow it to perform these reconciliations.

Our follow-up audit determined that the AOTC has developed procedures to reconcile revenue to the Commonwealth's accounting system and that WSC is following these procedures.

c. Abandoned Property

Our prior audit found that WSC was not complying with the provisions of Chapter 200A, Section 6, of the Massachusetts General Laws and AOTC policies for transferring abandoned bail and civil escrow property (funds held for more than three years after the case was closed or bail released) to the Office of the State Treasurer and Receiver General (OST). At that time, WSC officials stated that staff workload constraints prevented this transfer. Our prior audit recommended that the WSC Clerk of the Courts review staff workload requirements and make any necessary adjustments to ensure that WSC transfers all abandoned and civil escrow property and unclaimed bail to the OST in accordance with Chapter 200A.

Our follow-up audit determined that WSC now transfers all abandoned bail and civil escrow property to the OST in accordance with Chapter 200A.