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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
HOLYOKE DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2004 TO JUNE 30, 2006**

**OFFICIAL AUDIT
REPORT
APRIL 12, 2007**

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The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. Chapter 211B of the Massachusetts General Laws authorized the District Court Department to establish 62 Divisions, each having a specific territorial jurisdiction, to preside over civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Holyoke Division of the District Court Department (HDC) presides over civil and criminal matters falling within its territorial jurisdiction of the City of Holyoke. During the period July 1, 2004 to June 30, 2006, HDC collected revenues totaling \$1,386,387, which it disbursed to the Commonwealth and the City of Holyoke. In addition to processing civil entry fees and monetary assessments on criminal cases, HDC was custodian of approximately 1,603 cash bails amounting to \$570,129 as of June 30, 2006.

HDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings. Although HDC does not collect the associated monetary assessment when a motorist is found responsible for a CMVI, it is required to submit the results of the hearing to the Registry of Motor Vehicles, the agency that is responsible for the collections.

HDC operations are funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC), or the Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$1,283,225 for the period July 1, 2004 to June 30, 2006.

The purpose of our audit was to review HDC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity for the period July 1, 2004 to June 30, 2006.

AUDIT RESULTS

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1. IMPROVEMENTS NEEDED WITH CONDUCTING RISK ASSESSMENTS TO COMPLETE THE INTERNAL CONTROL PLAN

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Our review disclosed that the HDC has made progress in developing an internal control plan. However, HDC has not documented its risk assessments in accordance with Chapter 647 of the Acts of 1989 and AOTC guidelines. The lack of a risk assessment correlating the assessment to the internal control plan diminishes AOTC's efforts to ensure the integrity of the Court's records and assets.

2. IMPROVEMENTS NEEDED IN PROCESSING ABANDONED PROPERTY**6**

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

INTRODUCTION

Background

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

Chapter 211B of the Massachusetts General Laws authorized the District Court Department (DCD), which has civil jurisdiction over money-damage cases involving tort and contract actions; small claims; summary process; civil motor vehicle infractions (CMVI); mental health, alcoholism, and drug abuse commitments; and juvenile matters in Districts without a Juvenile Court. Its criminal jurisdiction extends over all misdemeanors and certain felonies. The DCD established 62 Divisions, each having a specific territorial jurisdiction, to preside over the civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Holyoke Division of the District Court Department (HDC) presides over civil and criminal matters falling within its territorial jurisdiction of the City of Holyoke. During the period July 1, 2004 to June 30, 2006, HDC collected revenues totaling \$1,386,387, which it disbursed to the Commonwealth and the City of Holyoke. The majority (approximately 90%) of revenue collected by HDC was paid to the Commonwealth as either general or specific state revenue—totaling \$1,248,280—as follows:

Revenue Type	Total	July 1, 2005 to June 30, 2006	July 1, 2004 to June 30, 2005
General Revenue	\$560,867	\$297,663	\$263,204
Victim/Witness	75,334	36,812	38,522
Surcharges	37,268	19,633	17,635
Victim of Drunk Driving	3,405	2,055	1,350
Indigent Defense	184,145	96,206	87,939
Highway Fund	5,628	2,395	3,233
Drug Analysis Fund	1,905	850	1,055
Head Injury Program	22,175	10,825	11,350
Probation Fees	345,673	195,887	149,786
Environmental Fines	550	150	400
Alcohol Fees	11,284	4,549	6,735
Miscellaneous	<u>46</u>	<u>-0-</u>	<u>46</u>
Total	<u>\$1,248,280</u>	<u>\$667,025</u>	<u>\$581,255</u>

Approximately \$136,669 of those funds consisted of suspended fines and costs that were collected by the Probation Office and submitted to the Clerk-Magistrate's Office for transmittal to the Commonwealth. The Probation Office collected approximately \$76,725 of restitution money that it paid directly to the parties owed the funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, HDC was custodian of approximately 1,603 cash bails amounting to \$570,129 as of June 30, 2006. Bail in the form of cash 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.

HDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings, which are requested by the alleged violator and heard by a Clerk-Magistrate or judge who determines whether the drivers are responsible for the CMVI offenses cited. HDC does not collect the associated monetary assessment when a violator is found responsible, but it is required to submit the results of the hearing to the Registry of Motor Vehicles, which follows up on collections.

HDC operations are funded by appropriations under the control of either the Division (local) or the AOTC or Commissioner of Probation Office (central). Under local control was an appropriation for personnel-related expenses of the Clerk-Magistrate's Office and Judge's Lobby support staff and certain administrative expenses (supplies, periodicals, law books, etc.) Other administrative and personnel expenses of the Division were paid by centrally controlled appropriations. According to the Commonwealth's records, local and certain central appropriation expenditures associated with the operation of the Division for the period of July 1, 2004 to June 30, 2006 totaled \$1,283,225¹.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of the financial and management controls over certain operations of HDC. The scope of our audit included HDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2004 to June 30, 2006.

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

Our audit objectives were to (1) assess the adequacy of HDC's internal controls over cash management, bail funds, and civil- and criminal-case activity and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding HDC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures.

Our review centered on the activities and operations of HDC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed bail and related criminal-case activity. We also reviewed cash management activity and transactions involving criminal monetary assessments and civil case entry fees to determine whether policies and procedures were being followed.

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

To achieve our audit objectives, we conducted interviews with management and staff and reviewed prior audit reports, the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and HDC's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records, and other source documents. Our assessment of internal controls over financial and management activities at HDC was based on those interviews and the review of documents.

Our recommendations are intended to assist HDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that HDC's systems covering cash management, bail funds, and criminal- and civil-case activity operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we determined that, except for the issues noted in the Audit Results section of this report, HDC (1) maintained adequate internal controls over cash management, bail funds, and civil- and criminal-case activity; (2) properly recorded, collected, deposited, and accounted for all receipts; and (3) complied with applicable laws, rules, and regulations for the areas tested.

After concluding audit fieldwork, a draft copy of this report was provided to HDC officials for their review and response. The HDC officials agreed with our audit results and recommendations and did not believe a further response was necessary.

AUDIT RESULTS

1. IMPROVEMENTS NEEDED WITH CONDUCTING RISK ASSESSMENTS TO COMPLETE THE INTERNAL CONTROL PLAN

Our audit disclosed that the Holyoke District Court (HDC) has made progress in developing an internal control plan, but some additional work is needed to complete it. HDC prepared internal control documents that outline overall internal control procedures and concepts. However, the HDC did not document its risk assessment, which would be used to determine what internal control procedures are needed to minimize the identified risks. As a result, the AOTC's efforts to ensure the integrity of the Court's 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 the need for departments to develop an internal control plan, defined as follows:

[A] high-level summarization, on a department-wide basis, of the department's risks (as the result of a risk assessment) and of the controls used by the department to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures. We would expect this summary to be from ten to fifty pages depending on the size and complexity of the department...

Further, AOTC issued Internal Control Guidelines for the Trial Court, establishing the following requirement for department heads when developing an internal control plan, including important internal control concepts:

[The internal control plan] must be documented in writing and readily available for inspection by both the Office of the State Auditor and the AOTC Fiscal Affairs department, Internal Audit Staff. The plan should be developed for the fiscal,

administrative and programmatic operations of a department, division or office. It must explain the flow of documents or procedures within the plan and its procedures cannot conflict with the Trial Court Internal Control Guidelines. All affected court personnel must be aware of the plan and/or be given copies of the section(s) pertaining to their area(s) of assignment or responsibility...

The key concepts that provide the necessary foundation for an effective Trial Court Control System must include: risk assessments; documentation of an internal control plan; segregation of duties; supervision of assigned work; transaction documentation; transaction authorization; controlled access to resources; and reporting unaccounted for variances, losses, shortages, or theft of funds or property.

AOTC, in addition to issuing the Internal Control Guidelines, Fiscal Systems Manual, and Personnel Policies and Procedures Manual, has issued additional internal control guidance (administrative bulletins, directives, and memorandums) in an effort to promote effective internal controls in court Divisions and offices.

The HDC prepared internal control documents that outline overall internal control procedures and concepts. However, the HDC did not document its risk assessment, which would then be used to determine what internal control procedures are needed to minimize the identified risks. HDC personnel were not aware of the need to formally conduct and document their risk assessments.

Recommendation

HDC should document its risk assessment and make any necessary modifications to their internal control plan to correlate the risks to the internal control procedures. The Court should then conduct annual risk assessments and update their internal control plan based on the results of these risk assessments, as necessary.

2. IMPROVEMENTS NEEDED IN PROCESSING ABANDONED PROPERTY

Our audit disclosed that HDC needs to improve its internal controls to comply with state law and Trial Court rules and regulations regarding the prompt transfer of abandoned property to the State Treasurer. Our audit disclosed that HDC did not conduct a timely review of bail funds held by the Court and did not promptly transfer unclaimed bail amounts to the State Treasurer. As a result, the Commonwealth may not

be receiving all funds to which it is entitled. Provisions of the General Laws and the AOTC Fiscal Systems Manual provide for the periodic review of bail amounts and the transfer of unclaimed bail funds to the State Treasurer as abandoned property.

The Court's detailed bail trial balance reported that there were 1,603 cash bails totaling \$570,129 on hand as of June 30, 2006. We did not conduct a detailed analysis of the bail trial balance, due to the time required to research the large number of criminal cases associated with the bails on hand. However, we did determine which bails have been on hand for more than three years to estimate the potential population that may be eligible to be treated as abandoned property. Our analysis disclosed that HDC was holding approximately 1,098 bails totaling \$363,657 that had been received more than three years earlier, with the earliest having been received in March 1985, which qualifies these amounts as potentially abandoned bail accounts. Additional research would be needed to identify which associated criminal cases are still active and which were closed more than three years ago.

The AOTC Fiscal Systems Manual, Section 9.2, defines abandoned bail as follows:

Abandoned Property—bail (or other held monies) unclaimed after three years, despite written attempts to contact the surety in accordance with Massachusetts General Law, Chapter 200A, Section 6.

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

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

As a result of the HDC not reviewing the bail accounts in a timely manner, the Commonwealth may not be receiving all funds to which it is entitled.

We discussed this situation with the Clerk-Magistrate, who informed us that the Court is understaffed, which delays him from researching the criminal cases associated with the

bail accounts in question. He also noted that the status of some bails was reviewed in the past,² at which time some bail accounts were transferred to the State Treasurer as abandoned property.

Recommendation

The Clerk-Magistrate's Office should review workload requirements and make necessary adjustments to enable office personnel to determine the status of old bail accounts, process those determined to be abandoned property, and transfer these bail accounts to the State Treasurer. If additional help is necessary, the Court should consider contacting the AOTC to request additional assistance in reviewing the cases. Once the status of the old cases is resolved, the Court should conduct periodic reviews of the bail trial balance and process them in accordance with the provisions of the Fiscal Systems Manual and the abandoned property laws.

² The last three transfers of abandoned bail occurred in April 2006 (37 cases totaling \$10,680), August 2005 (3 cases totaling \$750), and March 2001 (38 cases totaling \$7,005).