

# The Commonwealth of Massachusetts

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INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN FEES AND BAIL OF THE  
STOUGHTON DIVISION OF THE  
DISTRICT COURT DEPARTMENT OF THE  
MASSACHUSETTS TRIAL COURT  
JULY 1, 2007 TO APRIL 30, 2009

OFFICIAL AUDIT  
REPORT  
APRIL 7, 2010

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Massachusetts courts generate revenues from a variety of sources, and the amount of total revenues has increased over the years. Revenues are established by either a specific statute or a uniform fee schedule developed in accordance with Administrative Office of the Trial Court (AOTC) rules and regulations. Revenues are collected by local courts and are transmitted monthly to municipalities in the courts' jurisdiction and to the Commonwealth, through the AOTC. Although revenues are generally paid in cash, certain circumstances allow for the performance of community service (unpaid work at not-for-profit or governmental entities) in lieu of a cash payment.

Current law provides for courts to retain a portion of the revenues, which generally help offset funding shortfalls to the courts' appropriation accounts. One section of the annual appropriations act allows the AOTC Chief Justice for Administration and Management to spend up to \$20 million from certain named fees collected that exceed the amount of those fees collected for the base year of 2003 (the floor amount). Another section of the annual appropriations act allows the same Chief Justice to spend up to \$23 million of Probation Supervision fees collected and deposited by the courts not subject to a floor amount. These amounts are monitored and allocated to specific courts by a Trial Court Revenue Unit. The District Court Department (DCD) and the Office of the Commissioner of Probation have also increased monitoring of revenues by instituting additional reporting processes.

Revenues generated by the DCD have increased over the years. During the period fiscal year 2005 to fiscal year 2008, revenues increased 16%. This is attributable to a variety of reasons, including new fees enacted in accordance with legislative action, general fee increases, and increased monitoring and collection of fees. For the purposes of our audit, we selected three of the largest dollar value criminal case monetary assessment revenues for further examination at various district courts, specifically, the Probation, Indigent Counsel, and Victim Witness fees. Additionally, we chose to examine bail activity at the district court locations based on issues identified at previous court audits conducted by the Office of the State Auditor, as bail can also be a source of revenue if the defendant does not appear in court as required by the terms of their release from jail.

The Stoughton Division of the District Court Department (SDC) presides over civil and criminal matters falling within its territorial jurisdiction. Of the 62 district courts throughout the Commonwealth, SDC is one that we selected for further review of the above fees. The purpose of our audit was to review SDC's internal controls and compliance with state laws and regulations regarding certain fees and bail funds for the period July 1, 2007 to April 30, 2009.

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We noted that although SDC has a system in place for collecting, disbursing, and accounting for partial payments of court-ordered assessments, its financial recordkeeping system does not have an accounts receivable component. Since this is a weakness at every district court location, the AOTC and the DCD should consider implementing an accounts receivable system to track collections rather than rely on the cash-based system currently in use. Without an accounts receivable system, courts lack control over a significant source of revenue and cannot readily identify the total amount to be collected, although detailed information is kept to identify what individuals owe. Of the total revenues of approximately \$75 million collected by all district courts during fiscal year 2008, over \$35 million of fees collected for all 62 district court locations in that year could have been processed through an accounts receivable system if the courts had one.

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SDC has two cash collection points--one in the Clerk-Magistrate's Office and another in the Probation Office--making the process for receiving and disbursing funds duplicative at times. As a result, there is a certain amount of redundancy as well as an inefficient use of court resources. Provisions of the Massachusetts General Laws allow courthouses to have a single cash collection and disbursement point for both offices. In the past, the DCD consolidated cash receipts and disbursements into one location, but has held off changing any more courts to the consolidated system until the new accounting system, MassCourts with a financial module, completes testing and is ready for implementation.

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Our audit disclosed that the SDC needs to improve its internal controls to comply with state law and Trial Court rules and regulations regarding the processing of abandoned bail and bail applying to criminal cases in default status. SDC did not transmit unclaimed bails released over three years ago to the Office of the State Treasurer as abandoned property and did not order bails forfeited when defendants failed to appear for their scheduled court date. As a result, the Commonwealth has been denied timely access and use of bails.

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A SDC Probation Office cashier circumvented established procedures, was able to embezzle funds being paid by probationers, and subsequently concealed the thefts by falsely issuing receipts to the probationers. Due to SDC's system of internal controls, the Probation Office was able to identify a problem with certain accounts. The case was referred to the Norfolk District Attorney's Office for further investigation and restitution in the amount of \$2,540 was made to SDC.

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## INTRODUCTION

### *Background*

Massachusetts courts generate revenues from a variety of sources, and the amount of total revenues has increased over the years. Revenues are established by either a specific statute or a uniform fee schedule developed in accordance with Administrative Office of the Trial Court (AOTC) rules and regulations. Revenues are collected by local courts and are transmitted either directly to municipalities in the courts' jurisdiction or indirectly to the Commonwealth, through the AOTC, monthly. The court system classifies revenues into two categories: general revenue or criminal case monetary assessments. General Revenue is the largest source of revenues, consisting of such items as civil case filing fees, bail forfeitures, court costs, fines, and other general court revenue, all of which are deposited into the Commonwealth's General Fund. Criminal case monetary assessments are established by specific statute and can be deposited into either the General Fund or a specific fund. For revenue deposited into the General Fund, the Commonwealth's accounting system often identifies it as a specifically designated revenue source. Revenues are generally paid in cash, but certain circumstances allow for the waiving of fees or performance of community service (unpaid work at not-for-profit or governmental entities) in lieu of cash payment of certain fees.

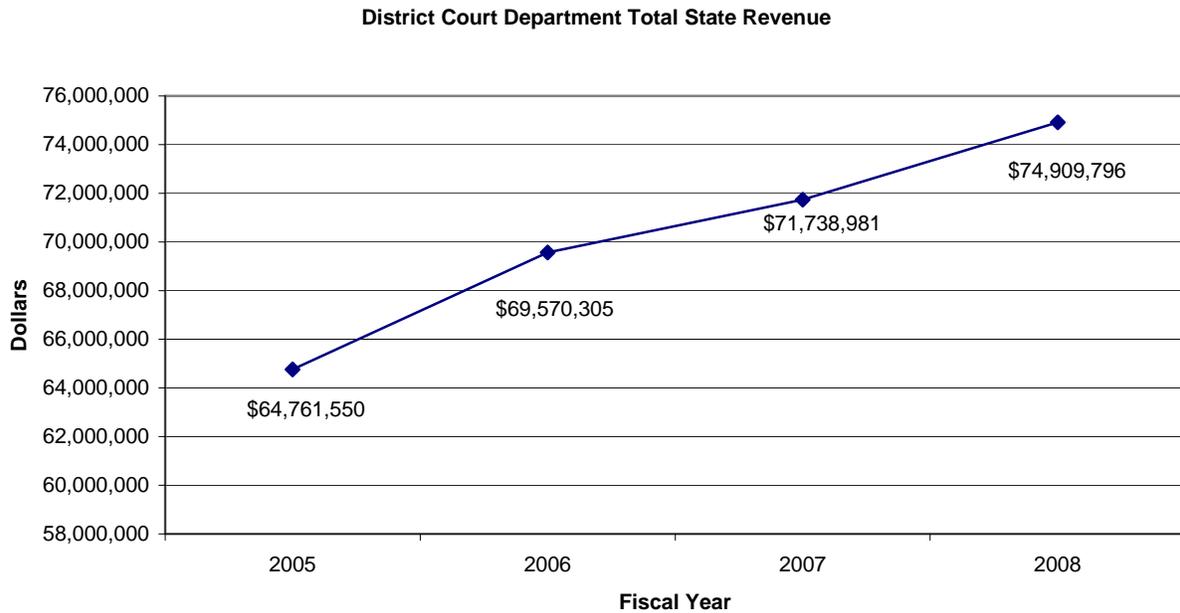
Current law provides for the AOTC to retain a portion of the revenues. One section of the annual appropriations act allows the AOTC Chief Justice for Administration and Management to spend up to \$20 million from certain named fees<sup>1</sup> collected by the courts that exceed the amount of those fees collected for the base year of 2003 (the floor amount). Another section of the annual appropriations act allows the same Chief Justice to spend up to \$23 million of Probation Supervision fees collected and deposited by the courts not subject to a floor amount. These amounts are monitored and allocated to specific courts by the AOTC Revenue Unit. The District Court Department (DCD) and the Office of the Commissioner of Probation (OCP) have also increased monitoring of revenues by instituting additional reporting processes. These revenues generally help offset funding shortfalls to the courts' appropriation accounts.

Revenues generated by the DCD have increased over the years. During the period fiscal year 2005 to fiscal year 2008, revenues increased 16%. This is attributable to a variety of reasons, including

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<sup>1</sup> At district courts, the applicable fees would include civil entry fees and related surcharges, small claims entry fees and related surcharges, and civil motor vehicle infraction fees.

new fees enacted in accordance with legislative action, general fee increases, and increased monitoring and collection of fees. A chart of the DCD revenue collections during fiscal years 2005 through 2008 from the Commonwealth’s accounting system and the AOTC Revenue Unit follows.



We further analyzed the above total revenues to determine the revenue sources. A table of this analysis, by fiscal year, listing revenue sources totaling \$1 million or more per item, is shown below.

Revenue Source	2005	2006	2007	2008
General Revenue	\$31,490,167	\$34,621,161	\$36,110,747	\$37,746,391
Probation Fees	16,484,678	18,214,139	18,766,141	19,335,234
Indigent Counsel Fees	6,309,767	6,393,010	6,634,205	7,088,134
Victim Witness Fees	3,294,909	3,189,071	3,033,415	2,994,960
Civil Surcharges	2,268,430	2,468,156	2,620,719	2,893,583
Alcohol Fees	1,970,116	1,834,424	1,801,824	1,991,220
Head Injury Fees	1,730,014	1,636,350	1,602,282	1,633,554
All Other	<u>1,213,469</u>	<u>1,213,994</u>	<u>1,169,648</u>	<u>1,226,720</u>
Total	<u>\$64,761,550</u>	<u>\$69,570,305</u>	<u>\$71,738,981</u>	<u>\$74,909,796</u>

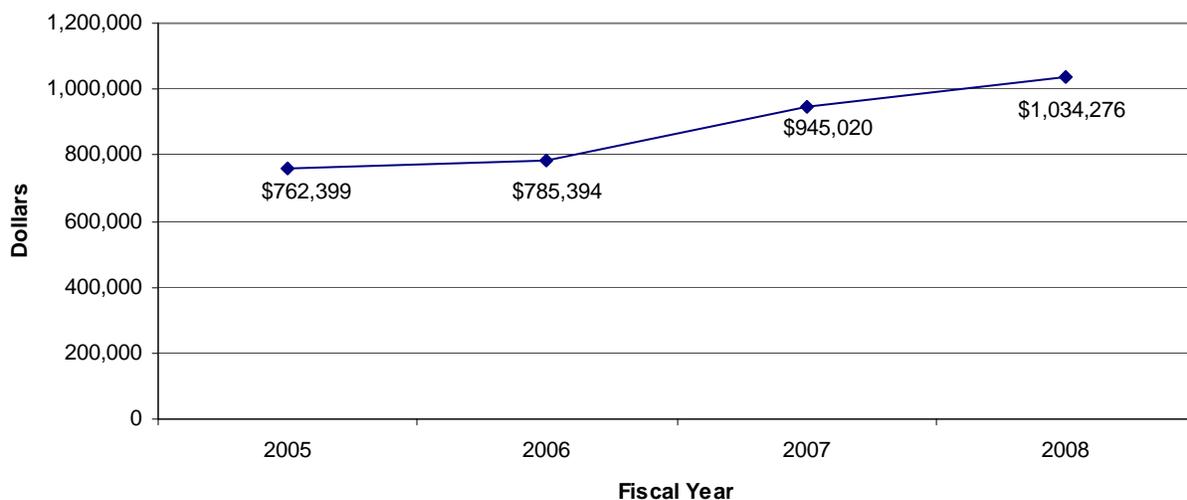
As shown in the preceding chart, the largest revenue source category, General Revenue, consists of a wide variety of items, including state fines, costs, surcharges, civil entry fees, copy fees, etc., that are deposited into the Commonwealth's General Fund. The next five revenue sources (Probation fees through Alcohol fees) are separately identified in the Commonwealth's accounting system, but are all deposited into the Commonwealth's General Fund. We selected the three largest dollar value revenues (excluding General Revenue) for further examination at various district courts, specifically, Probation, Indigent Counsel, and Victim Witness fees. We excluded General Revenue since our previous audit work at district courts covered items comprising the General Revenue category. Additionally, we chose to examine bail activity at the district court locations based on issues identified at previous court audits conducted by the Office of the State Auditor, as bail can also be a source of revenue if defendants do not appear in court as required by the terms of their release from jail.

The fees we selected for further examination (Probation, Indigent Counsel, and Victim Witness) are established by various statutes and can have various fee amounts depending on the circumstances. An explanation of the fees follows.

- Probation Fee - Supervised Probation: Established in accordance with Chapter 276, Section 87A, of the Massachusetts General Laws, this is a required fee if a defendant is placed on either supervised probation or operating under the influence probation. If the defendant is found indigent, he or she must perform one day of community service work monthly. The amount of the fee is \$60 per month plus a \$5 per month Victim Services Surcharge. The fee does not apply to nonsupport convictions where support payments are a condition of probation. The fee can be waived or reduced upon a court hearing if the payment of the fee would constitute an undue hardship on the defendant or his/her family, with the defendant required to perform some amount of community service. Additionally, the court hearing can result in the fee being offset by the amount of restitution payments (if applicable) against the defendant.
- Probation Fee - Administrative Probation: Established in accordance with Chapter 276, Section 87A, of the General Laws, this is a required fee if a defendant is placed on administrative supervised probation. If the defendant is found indigent, he or she must perform four hours of community service work monthly. The amount of the fee is \$20 per month plus a \$1 per month Victim Services surcharge. The fee does not apply to nonsupport convictions where support payments are a condition of probation. The fee can be waived or reduced upon a court hearing if the payment of the fee would constitute an undue hardship on the defendant or his/her family, with the defendant required to perform some amount of community service. Additionally, the court hearing can result in the fee being offset by the amount of restitution payments (if applicable) against the defendant.

- **Indigent Counsel Fee:** Established in accordance with Chapter 211D, Section 2A, of the General Laws, this is a required fee when legal counsel is appointed for a defendant who is indigent or indigent but able to contribute to the cost of counsel. The amount of the fee is \$150 and can be waived at the court’s discretion if it is determined that the defendant will be unable to pay the fee within 180 days. If the fee is not waived, the judge may permit the defendant to perform 10 hours of community service for each \$100 owed. The amount can also be remitted (brought to zero) if the defendant is acquitted.
- **Indigent Counsel Contribution:** Established in accordance with Chapter 211D, Section 2, of the General Laws and Supreme Judicial Court Rule 3:10 (10)(c), this is a contribution the court can impose when legal counsel is appointed for a defendant who is indigent but able to contribute to the cost of counsel. The amount of the contribution is determined by the court as the “reasonable amount” required toward the cost of counsel, in addition to the above Indigent Counsel Fee. The amount can also be remitted (brought to zero) if the defendant is acquitted.
- **Victim Witness Assessment:** Established in accordance with Chapter 258B, Section 8, of the General Laws, this is a required fee if a defendant is either convicted or pleads to a finding of sufficient facts in a case. The amount of the assessment, which varies depending on the type of case involved, is not less than \$90 for a felony, \$50 for a misdemeanor, and \$45 for any delinquency (juvenile cases). If the defendant has numerous cases, there is no limit on cumulative assessments. By statute, this assessment has first priority for recording collections. The amount can be waived or reduced if the court determines that the payment would cause a severe financial hardship.

The Stoughton Division of the District Court Department (SDC) generated revenues that increased from \$762,399 in fiscal year 2005 to \$1,034,276 in fiscal year 2008, as shown in the following chart.



With respect to the three fees being examined, SDC generated the amounts of revenues detailed in the following chart.

Revenue Source	2005	2006	2007	2008
Probation Fees	\$199,998	\$190,873	\$205,229	\$204,564
Indigent Counsel Fees	79,638	79,178	105,980	81,755
Victim Witness Fees	<u>21,465</u>	<u>19,316</u>	<u>26,179</u>	<u>19,251</u>
Total	<u>\$301,101</u>	<u>\$289,367</u>	<u>\$337,388</u>	<u>\$305,570</u>

In addition to the above cash collections at SDC, probationers also performed community service in lieu of paying probation and indigent counsel fees. Based on our review of probation office documents and reports as well as interviews with probation officials, approximately 25% of the fee assessments were satisfied with community service. With respect to Victim Witness fees, state law requires either payment of the fee or waiver of the fee if it would cause a severe financial hardship. The district courts do not summarize information on the number of waivers of the Victim Witness fees, so we do not have information on the number of waivers of that fee that were granted. However, our observations while conducting audit fieldwork indicated that the fee was generally assessed and not waived.

### ***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 SDC. The scope of our audit included an examination of SDC's controls over administrative and operational activities, including certain fees and bail funds for the period July 1, 2007 to April 30, 2009.

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 SDC's internal controls over the assessment, collection, accounting, waiver, and community service in lieu of payment of certain fees and SDC's internal controls over bail funds and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding SDC's compliance with applicable state laws,

rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures with respect to certain fees and bail funds.

Our review encompassed the activities and operations of SDC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed criminal-case activity for the three named fees as well as bail activity. We also reviewed the fee waiver processes and community service in lieu of fees procedures to determine whether DCD policies and procedures were being followed.

To achieve our audit objectives, we performed analytical reviews of DCD revenues, conducted interviews with management and staff and reviewed prior audit reports, the Office of the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and SDC'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 SDC was based on those interviews and the review of documents.

Our recommendations are intended to assist SDC in developing, implementing, or improving its internal controls and overall financial and administrative operations to ensure that SDC's systems covering certain fees and bail funds operate in an economical, efficient, and effective manner and in compliance with applicable laws, rules, and regulations.

Based on our review, we determined that, except for the issues noted in the Audit Results section of this report, SDC (1) maintained adequate internal controls over certain fee and bail fund activity; (2) properly assessed, recorded, collected, deposited, and accounted for the fees examined; and (3) complied with applicable laws, rules, and regulations for the areas tested.

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## AUDIT RESULTS

### 1. CONSIDERATION SHOULD BE GIVEN TO ESTABLISHING AN ACCOUNTS RECEIVABLE SYSTEM

We noted that although the Stoughton Division of the District Court Department (SDC) has a system in place for collecting, disbursing, and accounting for partial payments of court-ordered assessments, its financial recordkeeping system does not have an accounts receivable system. Since this is a weakness at every district court location, the Administrative Office of the Trial Court (AOTC) and the District Court Department (DCD) should consider implementing an accounts receivable system to track collections rather than rely on the cash-based system currently in use. Without an accounts receivable system, courts lack control over a significant source of revenue. Of the total revenues of approximately \$75 million collected by all district courts during fiscal year 2008, over \$35 million in fees collected for all 62 district court locations in that year could have been processed through an accounts receivable system if the courts had one.

The accounting system used by Massachusetts courts is a cash-based system. There are two variations of the system used to collect probationer's money that are found depending on the specific court location: the Probation Receipt Account (PRA) system and the centralized cash system, which handles collections from the Clerk-Magistrate's office as well as for people on probation. Although there are data elements captured in both the PRA and centralized cash systems that would be found in an accounts receivable system (e.g., total amount due and amounts collected to date), this information is not used to control overall activity and an accounts receivable control account is not used. Therefore, neither is a true accounts receivable system.

Sound business practices advocate the use of an accounts receivable system with a control account and supporting subsidiary detail accounts to control revenues. Such a system allows for the control of overall potential revenues as well as a summary of any adjustments made, such as expected cash receipts being reduced by either non-cash community service or adjustments in original amounts ordered by the court. An accounts receivable system would also be an important management tool to help age and analyze outstanding balances for further follow-up action and would provide an extra control feature to minimize risk of misstatement of court assets.

When the court system first established the PRA system over 25 years ago, computerization capabilities were at a much different level than they are now. The PRA system was established with more emphasis on meeting the needs of capturing information relating to the receipt of funds and subsequent payout and using this information to post to the cash receipts and disbursements journal. The centralized cash system was developed later, with an aim of minimizing redundancy between the Clerk-Magistrate's and Probation Office as well as creating one secure cash collection point for the court.

As a result of the courts' use of the current cash-based system, a number of weaknesses exist. Specifically, the system does not properly establish accountability for and control over the approximately \$35 million in DCD revenues that would traditionally be processed through an accounts receivable system, and the total amount to be collected cannot be readily identified, although detailed information is kept to identify what individuals owe. Additionally, the courts do not have a central control point to highlight non-cash adjustments to receivable balances, such as for community service to be performed in lieu of the payment of fees. Lastly, the potential exists for unauthorized adjustments to be made in the system that would not be identified timely by employees in the normal course of their work.

The AOTC and the DCD have begun developing and testing a financial module to be added to the MassCourts system. This module should have an accounts receivable system incorporated into it and will be used to track probation fees and restitution.

### ***Recommendation***

The AOTC and the DCD should continue developing and testing the financial module for the MassCourts system. Once a determination is made that the module will work as expected, it should be implemented as part of the MassCourts system at the district courts.

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

The Acting First Justice, Acting Clerk-Magistrate, and the Chief Probation Officer provided the following response:

*The SDC presently follows existing trial court fiscal procedures in the collection and disbursement of funds. We look forward to future system upgrades, which we understand will be accomplished through the MassCourts technology proposal.*

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## 2. IMPROVEMENTS NEEDED TO STREAMLINE THE RECEIPT AND DISBURSEMENT OF COURT ASSESSMENTS AND FEES

SDC has two cash collection points--one in the Clerk-Magistrate's Office and another in the Probation Office--making the process for receiving and disbursing funds duplicative at times. As a result, there is a certain amount of redundancy as well as an inefficient use of court resources. Provisions of the General Laws allow courthouses to have a single cash collection and disbursement point for both offices.

During the latest fiscal year, fiscal year 2008, the Clerk-Magistrate's Office collected and transmitted revenues of over \$1 million to the Commonwealth and approximately \$20,000 to municipalities within SDC's jurisdiction. Much of these funds were first receipted through the Probation Office accounting system and subsequently disbursed to the Clerk-Magistrate's Office for receipting into its accounting system. This receipting process requires both offices to record the receipt of the same funds, which includes validating the respective case papers.

Chapter 279, Section 1B, of the General Laws, as amended, allows courts to combine separate cash collection and disbursement functions of the Clerk-Magistrate's and Probation Offices into one, as follows:

*Notwithstanding any other provision of law, the administrative justice of a department of the trial court may direct that both the clerk-magistrate's office and the probation office of one or more court divisions are to utilize a single funds collection and disbursement point within the courthouse.*

Court personnel agree that having two collection sites is redundant, but indicated that the DCD is not switching any more courts to central cashing at this point, as the next system upgrade will be the implementation of the MassCourts financial module. This module is currently being tested at certain court locations and will be implemented at other courts at a later date.

### ***Recommendation***

The DCD should continue testing the MassCourts financial module, whose implementation should help streamline receipt and disbursement activity at SDC.

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

The Acting First Justice, Acting Clerk-Magistrate, and the Chief Probation Officer provided the following response:

*The SDC presently follows existing trial court fiscal procedures in the collection and disbursement of funds. We look forward to the streamlining of receipts and disbursements of court assessments and fees. It is our understanding that this will be accomplished through the MassCourts technology proposal.*

### **3. INTERNAL CONTROL IMPROVEMENTS NEEDED OVER THE PROCESSING OF ABANDONED BAIL AND BAIL ASSOCIATED WITH CRIMINAL CASES IN DEFAULT**

Our audit found that the SDC needs to improve its internal controls to comply with state law and Trial Court rules and regulations regarding the processing of abandoned bail and bail applying to criminal cases in default status. SDC did not transmit unclaimed bails released over three years ago to the Office of the State Treasurer (OST) as abandoned property and did not order bails forfeited when defendants failed to appear for their scheduled court date. As a result, the Commonwealth has been denied timely access and use of bails.

SDC's detailed bail trial balance reported that there were 316 cash bails totaling \$392,160 on hand as of April 30, 2009. Since our preliminary review identified potential problems in this area, we conducted a review of the entire bail trial balance, in conjunction with court personnel. This review disclosed 23 instances totaling \$3,975 that should have been transmitted to the OST as abandoned property. Additionally, there were 51 instances totaling \$127,855 for which SDC could have issued bail forfeiture orders, but abstained from such action.

AOTC's Fiscal Systems Manual, Section 9.2 defines abandoned bail as:

*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 established policies and procedures for the processing of abandoned bail. The section states, in part:

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

Under Chapter 276, Section 80 of the Massachusetts General Laws, the court is authorized to forfeit bail if defendants fail to appear in court in accordance with the terms of their release. Specifically, the law states, in part:

*At any time after default of the defendant, the court may order forfeited the money, bond or bank books deposited at the time of the recognizance and the court or clerk of the court with whom the deposit was made shall thereupon pay to the state treasurer any money so deposited.*

Although court personnel were aware of the Commonwealth's laws and regulations and the court had procedures in place to process abandoned bail and bails applying to cases in default, staffing constraints resulted in individual bails not receiving appropriate attention.

When SDC staff were made aware of these issues, bails were promptly transmitted to the OST as abandoned property and bails associated to cases where defendants were in default were forfeited and transmitted to the OST.

### ***Recommendation***

SDC should perform periodic reviews of bail records to ensure future compliance with the state law and AOTC regulations governing bail. This may enable the court to better comply with the provisions of the General Laws and AOTC requirements, and transmit those bails as either abandoned or forfeited.

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

The Acting First Justice, Acting Clerk-Magistrate, and the Chief Probation Officer provided the following response:

*The newly appointed Acting Clerk-Magistrate requested a complete review of all escrow accounts on or about May 1, 2009 and the following corrective measures were implemented:*

- All criminal cases in default status were reviewed by the First Justice and the Acting Clerk-Magistrate to determine if the posted bail was subject to forfeiture, and if applicable, such funds were transmitted to the Commonwealth under an order of forfeiture. As a result, since May 1, 2009 the SDC has submitted forfeited bail funds to the OST in the amount of \$140,980.*
- The Clerk-Magistrate's Office has implemented a procedure to flag all case jackets and dockets when bail is posted so that the session justice will be alerted that he or she should consider bail forfeiture when the defendant fails to appear. Also, all session personnel have been advised to present all forfeiture issues directly to the judge at the time of default.*
- To better assure timely abandonment of bail monies, the Bail Account Manager has been charged with maintaining the next future court event on the electronically maintained bail spreadsheet. Upon notice of termination of all future events, the Bail Account Manager will determine the future abandonment date as set forth in the Fiscal Systems Manual of the Trial Court and immediately notify the defendant/suretor that the bail is*

*now subject to return and that if it is not timely re-claimed it will be adjudged to be abandoned property and remitted to the OST. Since May 1, 2009, the adoption of this tracking process has resulted in the return of bail funds to many authorized recipients and the abandonment of \$800 to the OST.*

- *The Bail Account Manager will conduct a monthly review of the account and remit funds to the OST that were not timely re-claimed prior to the abandonment date.*
- *Finally, a similar review was completed on the civil escrow account in which the Clerk-Magistrate's Office holds bonds posted on Small Claims Appeals. As a result of such review, \$3,100 was returned to authorized recipients and a protocol has been implemented to assure that such escrow funds are returned on a timely basis.*

#### **4. CIRCUMVENTION OF PROCEDURES RESULTS IN THE THEFT OF FUNDS BY A PROBATION OFFICE CASHIER**

A SDC Probation Office cashier circumvented established procedures, as detailed in the AOTC Fiscal Systems Manual, as well as SDC policies and procedures regarding the collection of funds. As a result, that cashier was able to embezzle funds being paid by probationers and subsequently concealed the thefts by falsely issuing receipts to the probationers. Due to SDC's system of internal controls, the Probation Office was able to identify a problem with certain accounts. The case was referred to the Norfolk District Attorney's Office for further investigation and restitution in the amount of \$2,540 was made to the court as of November 2, 2009.

The AOTC Fiscal Systems Manual, Volume 11, Section 12.3, discusses the procedures for a Probation office cashier to receive funds over the counter and through the mail. The AOTC procedure provides that the cashier shall use the "one-write" system to enter individual payments. The "one-write" system provides an original receipt that is also carbonized, resulting in a carbon entry onto a daily cash control sheet, which is then used for posting activity to individual probationers accounts as well as daily receipts to the cash journal. The AOTC procedure was also incorporated into SDC's internal control policies and procedures.

Contrary to these established procedures, the cashier would receive funds from probationers, give a correct receipt to the probationer, but make an entry on the daily cash sheet for a lesser amount of money, pocketing the difference.

The cashier was able to circumvent established procedures for receiving funds because they would not complete the transaction in the main office area. Instead, the cashier would take the

money and complete the transactions in a separate work area out of view of the public as well as other Probation Office employees.

SDC became aware of a problem with certain accounts when probationers contested the amount of their outstanding account balance and had receipts to support that they had made more payments than they were given credit for. It should be noted that the cashier resigned his position with the court on August 24, 2009.

***Recommendation***

SDC should establish a policy to ensure that receipt of funds transactions are completed in view of the public as well as other Probation Office employees.

***Auditee's Response***

The Acting First Justice and the Chief Probation Officer provided the following response:

*The Chief Probation Officer, along with the Assistant Chief and Office Manager, will provide more oversight and supervision of cashiers when conducting their transactions.*