



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2007-1190-30

**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
ORLEANS DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO DECEMBER 31, 2006**

**OFFICIAL AUDIT
REPORT
JUNE 20, 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 and 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 Orleans Division of the District Court Department (ODC) presides over civil and criminal matters falling within its territorial jurisdiction: the municipalities of Brewster, Chatham, Dennis, Eastham, Orleans, Harwich, Truro, Wellfleet and Provincetown. During the period July 1, 2005 to December 31, 2006, ODC collected revenues totaling \$1,416,207, which it disbursed to the Commonwealth and those municipalities. In addition to processing civil entry fees and monetary assessments on criminal cases, ODC was custodian of approximately 107 cash bails amounting to \$110,480 as of December 31, 2006.

ODC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings. Although ODC 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.

ODC 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 \$705,723 for the period July 1, 2005 to December 31, 2006.

The purpose of our audit was to review ODC'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, 2005 to December 31, 2006.

AUDIT RESULTS

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IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

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Our review disclosed that the ODC Probation Office did not formalize its internal control plan or document its risk assessment as required by state law and AOTC rules and regulations. As a result, AOTC's efforts to ensure the integrity of the Court's records and assets were not optimized.

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 Orleans Division of the District Court Department (ODC) presides over civil and criminal matters falling within its territorial jurisdiction: the municipalities of Brewster, Chatham, Dennis, Eastham, Orleans, Harwich, Truro, Wellfleet and Provincetown. During the period July 1, 2005 to December 31, 2006, ODC collected revenues totaling \$1,416,207, which it disbursed to the Commonwealth and those municipalities. The majority (approximately 95%) of revenue collected

by ODC was paid to the Commonwealth as either general or specific state revenue—totaling \$1,345,218—as follows:

Revenue Type	Total	July 1, 2006 to December 31, 2006	July 1, 2005 to June 30, 2006
General Revenue	\$533,126	\$181,486	\$351,640
Victim/Witness	61,406	19,425	41,981
Surcharges	42,330	14,475	27,855
Victim of Drunk Driving	14,340	5,299	9,041
Indigent Defense	17,242	6,100	11,142
Legal Counsel	53,947	17,805	36,142
Highway Fund	9,045	3,060	5,985
Drug Analysis Fund	935	185	750
Head Injury Program	51,918	16,500	35,418
Probation Fees	496,678	168,846	327,832
Environmental Fines	4,625	1,700	2,925
Indigent Salary Enhancement Trust Fund	1,825	270	1,555
Alcohol Fees	<u>57,801</u>	<u>18,885</u>	<u>38,916</u>
Total	<u>\$1,345,218</u>	<u>\$454,036</u>	<u>\$891,182</u>

Approximately \$419,620 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 \$319,185 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, ODC was custodian of approximately 107 cash bails amounting to \$110,480 as of December 31, 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.

ODC 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. ODC 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.

ODC 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, 2005 to December 31, 2006 totaled \$705,723¹.

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 ODC. The scope of our audit included ODC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2005 to December 31, 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 ODC'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 ODC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures.

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.

Our review centered on the activities and operations of ODC'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.

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 ODC'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 ODC was based on those interviews and the review of documents.

Our recommendations are intended to assist ODC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that ODC'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, ODC (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.

AUDIT RESULTS

IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

Our review disclosed that the Orleans District Court (ODC) Probation Office did not formalize its internal control plan and document its risk assessment as required by state law and AOTC rules and regulations. As a result, the AOTC's efforts to ensure the integrity of court records and assets were not optimized.

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.

We informed ODC Probation Office personnel of AOTC's requirements to develop an internal control plan and conduct a risk assessment on a Division level. As of the completion of our audit fieldwork, the ODC Probation Office was in the process of developing an internal control plan document.

Recommendation

The ODC Probation Office should review AOTC's Internal Control Guidelines and the OSC's internal control plan requirements, conduct a risk assessment, and formally document its internal control plan that addresses the risks and internal control requirements specific to its operations. Moreover, ODC should conduct annual risk assessments and update their internal control plans based on the results of these risk assessments, as necessary.

Auditee's Response

The First Justice provided the following response:

...The Orleans District Court Probation Office is currently reviewing the AOTC's Internal Control Guidelines as well as OSC's internal control plan requirements. The task of addressing risk assessment and formalizing a Department Internal Control Plan will be completed and in operation not later than June 18, 2007. As an aid in the proper preparation of such plan, the Chief Probation Officer and the Office Manager will attend a trial court sponsored Internal Control Plan training session. Internal Control Act, Chapter 647 of the Acts of 1989 and the AOTC Fiscal Memorandum No. 4 Entitled Trial Court Internal Control Guidelines will be the focus of this training session...