



# The Commonwealth of Massachusetts

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INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN ACTIVITIES OF THE  
CHICOPEE DIVISION OF THE  
DISTRICT COURT DEPARTMENT OF THE  
MASSACHUSETTS TRIAL COURT  
JULY 1, 2006 TO SEPTEMBER 30, 2007

OFFICIAL AUDIT  
REPORT  
JANUARY 10, 2008

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## TABLE OF CONTENTS/EXECUTIVE SUMMARY

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### INTRODUCTION

1

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 Chicopee Division of the District Court Department (CDC) presides over civil and criminal matters falling within its territorial jurisdiction of the City of Chicopee. During the period July 1, 2006 to September 30, 2007, CDC collected revenues totaling \$1,081,971, which it disbursed to the Commonwealth and the City of Chicopee. In addition to processing civil entry fees and monetary assessments on criminal cases, CDC was custodian of approximately 749 cash bails totaling \$217,509 as of September 30, 2007.

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

CDC 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 \$777,454 for the period July 1, 2006 to September 30, 2007.

The purpose of our audit was to review CDC'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, 2006 to September 30, 2007.

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### AUDIT RESULTS

5

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

5

Our review disclosed that CDC has made progress in developing an internal control plan. However, CDC 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 correlated 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**

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Our audit disclosed that CDC needed 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 CDC 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 of the 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 Chicopee Division of the District Court Department (CDC) presides over civil and criminal matters falling within its territorial jurisdiction of the City of Chicopee. During the period July 1, 2006 to September 30, 2007, CDC collected revenues totaling \$1,081,971, which it disbursed to the Commonwealth and the City of Chicopee. The majority (approximately 94%) of revenue collected by CDC was paid to the Commonwealth as either general or specific state revenue – totaling \$1,012,448 – as follows:

Revenue Type	Total	July 1, 2006 to June 30, 2007	July 1, 2007 to September 30, 2007
General Revenue	\$518,581	\$458,001	\$60,580
Victim/Witness Fund	42,585	36,969	5,616
Surcharges	33,614	28,639	4,975
Victims of Drunk Driving	3,821	3,260	561
Reimbursement for Indigent Counsel	132,231	114,061	18,170
Indigent Salary Enhancement Trust Fund	1,815	1,455	360
Highway Fund	2,920	2,830	90
Drug Analysis Fund	1,035	735	300
Head Injury Program	7,455	6,485	970
Probation Fees	253,743	220,391	33,352
Environmental Fines	350	350	--
Alcohol Fees	<u>14,298</u>	<u>12,798</u>	<u>1,500</u>
Total	<u>\$1,012,448</u>	<u>\$885,974</u>	<u>\$126,474</u>

Approximately \$572,397 of those funds consisted of suspended fines, costs, and other monetary assessments that were collected by the Probation Office and either transferred to the Clerk-Magistrate's Office for transmittal to the Commonwealth or paid directly to the State Treasurer. During the same period, the Probation Office collected \$77,421 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, CDC was custodian of approximately 749 cash bails totaling \$217,509 as of September 30, 2007. 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.

CDC 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. CDC 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.

CDC operations are funded by appropriations under the control of either the Division (local) or AOTC or the Commissioner of Probation's 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 July 1, 2006 to September 30, 2007 totaled \$777,454<sup>1</sup>.

### ***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 CDC. The scope of our audit included CDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2006 to September 30, 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 CDC'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 CDC'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 CDC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed bail and related criminal-case activity. We also reviewed

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<sup>1</sup> 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.

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 Office of the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and CDC'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 CDC was based on those interviews and the review of documents.

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

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## AUDIT RESULTS

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

Our audit disclosed that although the Chicopee District Court (CDC) has made progress in developing an internal control plan, additional work is needed. CDC prepared internal control documents that outline overall internal control procedures and concepts. However, CDC did not document its risk assessments, which could then be used to determine what internal control procedures are needed to minimize the identified risks. As a result, the Administrative Office of the Trial Court's (AOTC) 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. A revised Internal Control Guide has subsequently replaced the previous guides by streamlining the information contained in the previous guides and incorporating additional internal control principles. The OSC continues to stress the importance of internal controls and the need for departments to develop internal control plans, defined as follows:

*An internal control plan is a description of how a department expects to meet its various goals and objectives by using policies and procedures to minimize risk. The Commonwealth has defined the internal control plan to be a high-level summary supported by lower level policy and procedures.*

Further, AOTC has 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.

CDC has prepared internal control documents that outline overall internal control procedures and concepts. However, CDC did not document its risk assessments, which could then be used to determine what internal control procedures were needed to minimize the identified risks. CDC personnel indicated that they were not aware of the need to formally conduct and document their risk assessments.

### ***Recommendation***

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

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

In response to this issue, CDC's First Justice stated, in part:

*The lack of a risk assessment correlating the assessment to the Internal Controls Plan is being worked on.*

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

Our audit disclosed that CDC needed to improve its internal controls to comply with state law and AOTC rules and regulations regarding the prompt transfer of abandoned property to the State Treasurer. Specifically, our audit disclosed that CDC 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 of the 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 749 cash bails totaling \$217,509 on hand as of September 30, 2007. 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 CDC was holding approximately 399 bails totaling \$56,869 that had been received more than three years earlier, with the earliest having been received in September 1991, 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 CDC not reviewing the bail accounts in a timely manner, the Commonwealth may not be receiving all of the funds to which it is entitled.

We discussed this situation with CDC personnel, who informed us that understaffing has caused delays in researching the criminal cases associated with the bail accounts in question.

***Recommendation***

The Clerk-Magistrate's Office should review workload requirements and make any 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, CDC should consider contacting AOTC to request additional assistance in reviewing the cases. Once the status of the old cases is resolved, CDC should conduct periodic reviews of the bail trial balance and process them in accordance with the provisions of the Fiscal Systems Manual and abandoned property laws.

***Auditee's Response***

In response to this issue, CDC's First Justice stated, in part:

*[We are working on] improvements relative to processing abandoned property so that there will be a timely review of bail funds held with a prompt transfer of same to the State Treasurer.*