



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – Issued February 22, 2016

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## Orange Division of the District Court Department— Review of Probation Supervision Fees: Transactions and Monitoring of Fulfillment by Probationers

For the period July 1, 2012 through December 31, 2013





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February 22, 2016

David S. Ross, First Justice  
Orange Division of the District Court Department  
1 Court Square  
Orange, MA 01364

Dear First Justice Ross:

I am pleased to provide this report on the Orange Division of the District Court Department. This report details the scope of our overall audit of the Trial Court as well as the objectives and procedures related to our audit testing at this specific court for the period July 1, 2012 through December 31, 2013. My staff discussed the contents of this report with court personnel, whose comments we considered in drafting this report.

I would also like to express my appreciation to the Orange Division of the District Court Department for the cooperation and assistance provided to my staff during the audit testing.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written in a cursive style.

Suzanne M. Bump  
Auditor of the Commonwealth

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## **LIST OF ABBREVIATIONS**

OCP	Office of the Commissioner of Probation
ODC	Orange Division of the District Court Department
PSF	probation supervision fee

## **EXECUTIVE SUMMARY**

This report reflects audit testing performed at the Orange Division of the District Court Department (ODC) as part of an audit of the Trial Court's administration and oversight of probation supervision fee (PSF) assessments. A PSF is a monthly fee that judges are statutorily required to assess for a criminal offender placed on probation (a probationer), to be paid for the length of his or her probation term. Section 87A of Chapter 276 of the Massachusetts General Laws allows for PSFs to be waived in certain instances; normally, in order to grant a waiver, the court must document the existence of financial problems or other issues that would make paying the monthly fee an undue hardship for the probationer. In these situations, the statute requires the probationer to perform unpaid monthly community service for as long as the potential undue hardship exists.

Our overall audit of the Trial Court's administration of PSFs (Report No. 2014-5160-3J) included audit testing at 16 district-court locations, including ODC, to assess the process the Trial Court has established for PSFs, determine whether PSF-related transactions were properly documented in court records, and determine whether probationers were adequately monitored to ensure that they were fulfilling the PSF requirement. This report presents the results of our audit testing at ODC specifically. Audit findings for the entire audit project are presented in a separate report for that project.

Our review confirmed that, with regard to our objectives, ODC has adequately recorded criminal-case activity to support court orders of monthly PSFs, adequately documented written findings when paying PSFs would constitute an undue hardship for probationers, and required those probationers to perform monthly community service instead. We did not identify any significant deficiencies in the areas related to our objectives.

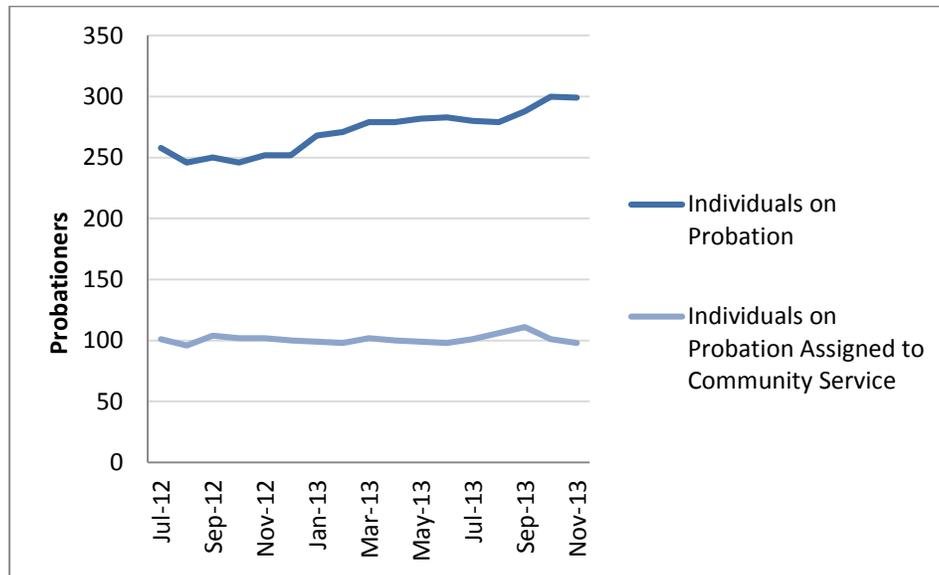
## OVERVIEW OF ENTITY

The Orange Division of the District Court Department (ODC) presides over civil, criminal, and other matters falling within its territorial jurisdiction: the towns of Athol, Erving, Leverett, New Salem, Orange, Shutesbury, Warwick, and Wendell. It is responsible for scheduling, holding, and recording proceedings in civil and criminal matters and for the care and custody of all the records, books, and papers that pertain to, or are filed or deposited in, the Clerk-Magistrate's Office. ODC's Probation Office is responsible for enforcing court orders when an individual before the court is placed on probation.

When an individual is placed on probation, Section 87A of Chapter 276 of the Massachusetts General Laws requires courts to assess the individual a \$50 (administrative) or \$65 (supervised) monthly probation supervision fee (PSF). Supervised probation requires more interaction with a probation officer than administrative probation, which may only require the individual to report to the officer quarterly or at the end of the probation term. It also generally has a longer duration than administrative probation. The statute allows judges to waive the fee in full if the individual is making monthly restitution payments that are greater than or equal to the fee. It also allows the judge to waive the fee if the court "determines after a hearing and upon written finding that such payment would constitute an undue hardship on [a probationer] or his family due to limited income, employment status or any other factor." That waiver requires the individual to perform unpaid monthly community service.

During the audit testing period (July 1, 2012 through December 31, 2013), ODC reported 542 new probation cases and 503 discharged probation cases, leaving 309 probation cases at the end of this period. As of December 31, 2013, 48% of the probationers were on supervised probation and 52% were on administrative probation.

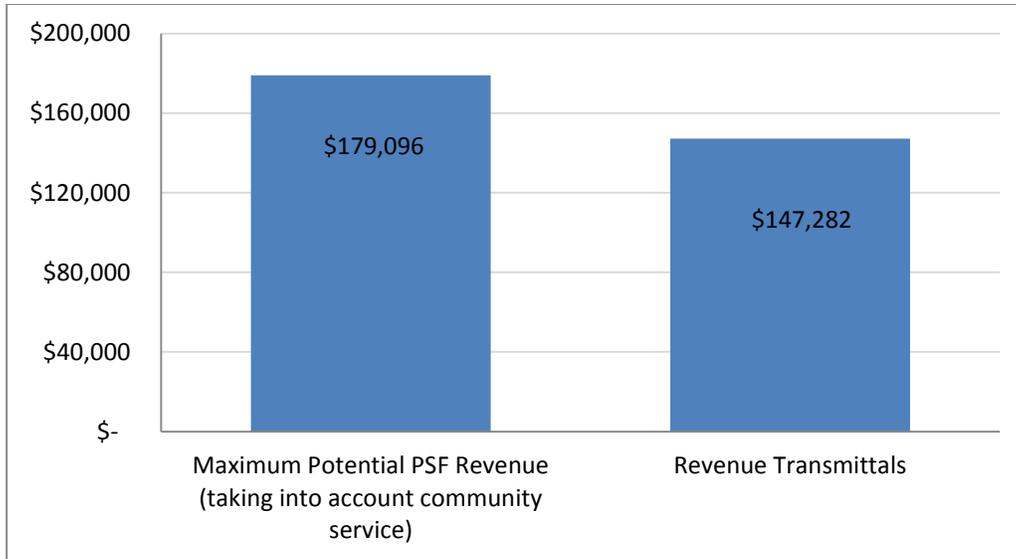
Additionally, ODC records indicated that approximately 37% of these probationers were required to perform unpaid community service. The graph below reflects the month-end number of probationers and how many of them were assigned community service.



During the testing period, ODC collected and transmitted \$147,282 of PSFs to the State Treasurer. Taking into account the number of individuals required to perform community service, ODC’s actual transmittals were approximately 82% of the estimated potential PSF revenue. We calculated this estimate by combining ODC’s monthly reports of probation activity; totaling the numbers of individuals on administrative and supervised probation at the end of each month; and multiplying those numbers by either \$50 or \$65, as applicable. The estimate does not include probationers whose supervision may have been transferred to another court but who are carried on the original court’s record. The difference between this percentage and 100% could be the result of subsequent court-ordered remittals<sup>1</sup> of PSFs (either the full amount or any remaining unpaid PSF balance) and/or probationers defaulting on their payment obligations.

1. Remittal occurs when the court terminates a person’s probation because s/he has not complied with the terms and conditions of probation (sometimes resulting in incarceration) or when the court waives the balance of the PSF for a documented reason at the end of the probation term.

The following chart compares estimated potential PSF revenue with actual PSF revenue transmittals (after the community-service percentage is accounted for).



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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Trial Court’s administration and oversight of monthly probation supervision fees (PSFs) for the period July 1, 2012 through December 31, 2013. The scope of that audit includes an assessment of the process the Trial Court has established for PSFs and whether court divisions are adequately recording, monitoring, and fulfilling court-ordered assessments of PSFs at 16 selected district-court locations, which together account for \$7.5 million (23%) of the \$32.8 million in PSF collections transmitted to the state for the 18 months covered by the audit. The Orange Division of the District Court Department (ODC) was one of the 16 court locations selected. ODC accounted for \$147,282 in PSF revenue transmitted during those 18 months.

The procedures we completed at ODC were part of the overall Trial Court PSF audit, which we conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our objectives related to the procedures completed at ODC, indicating each question we intended our audit testing to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Are PSFs assessed in the correct amounts, and when a PSF is waived, does the court record include a written finding that the fee would constitute an undue hardship that requires monthly community service instead?	Yes
2. Are PSF assessments properly recorded by the Clerk-Magistrate’s Office?	Yes
3. Are probation officers enforcing the requirement that probationers pay PSFs?	Yes
4. Is the performance of community service, when allowed by the court in lieu of monthly PSF payments, adequately tracked, promptly reported, and accurately recorded?	Yes

Our analysis of ODC’s information and data was intended to determine whether PSF transactions and the court’s monitoring of probationers’ PSF obligations were adequately supported by the court records; it was not designed to detect all weaknesses in the court’s internal control system. Further, our procedures

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did not include tests of internal controls to determine their effectiveness, because in our judgment, such testing was not necessary to determine the accuracy or reliability of PSF records. Our understanding of internal controls and management activity at ODC was based on our interviews and document reviews. Our audit testing was limited to what we considered appropriate when determining the cause of any PSF noncompliance.

To achieve our objectives, we performed the following procedures:

- We interviewed officials and other staff members from the Trial Court, the Office of the Commissioner of Probation (OCP), and ODC and reviewed relevant documents, statutes, and regulations as well as ODC's policies, procedures, and accounting records.
- We reviewed internal audits conducted by the Trial Court and OCP to determine whether any weaknesses that had been identified pertained to our current objectives.
- We obtained statistical data regarding probationer counts from OCP and compared the data to counts in ODC's monthly report of probation activity for the testing period.
- We obtained from the Trial Court PSF assessment data (financial docket reports) for ODC, which we compared to ODC case files for accuracy.
- We obtained and reviewed records of community service from OCP's Office of Community Corrections, which operates the Trial Court's community-service program.
- We obtained and analyzed case data from selected court criminal case docket records and traced and compared them to MassCourts (ODC's case-management system) for consistency and completeness. We also interviewed court officials who were knowledgeable about MassCourts data-input activities. Since the court case docket record is the source document used to update MassCourts and the principal document that identifies all court activity for a civil or criminal case (including the assessment and collection of various fees and fines, civil judgments, and criminal case adjudication), we did not rely on MassCourts for the purposes of our audit testing. We believe the information we obtained from case docket records was sufficient for the purposes of our analysis and findings. We relied on hardcopy source documents, interviews, and other non-computer-processed data as supporting documentation on which we based our conclusions.
- We obtained and analyzed information regarding probationers from the Probation Office's hardcopy files and traced and compared it to MassCourts for consistency and completeness. Since the Probation Office file is the source document that identifies all the probationer's activity (including documentation of assessment, waiving, and collection of monthly PSFs and monitoring of monthly PSFs and/or performance of community service), we did not rely on computer-processed data. We believe the information we obtained from the Probation Office files was sufficient for the purposes of our analysis and findings.
- For our examination of PSFs, we selected transactions primarily by using random, nonstatistical sampling in order to eliminate bias by giving all items in the population an equal chance of being

chosen. Therefore, we did not project the results of our samples to the population. More specifically,

- For recording and fulfillment of court-ordered PSF assessments, we randomly selected 30 out of 333 cases on the financial docket reports to test whether the PSF activity was accurately and promptly recorded by the Clerk-Magistrate's Office and whether, when PSFs were waived, judges provided written findings of fact and required the probationers to perform monthly community service instead.
- For performance of community service (when allowed by the court as a means of fulfilling the PSF assessment), we randomly selected 26 out of 123 probationers assigned community service to verify that probation officers were monitoring and tracking the probationers' progress toward completion.

Any financial data we obtained from the Massachusetts Management Accounting and Reporting System about ODC's activities during the testing period were not used in our testing; the data were used solely for the purpose of presenting background information in our report. Consequently, we did not assess the reliability of these data.