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

**OFFICIAL AUDIT
REPORT
MARCH 12, 2008**

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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 Juvenile Court Department, which established 11 Divisions, each having a specific territorial jurisdiction, to preside over juvenile-related 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 Berkshire Division of the Juvenile Court Department (BJC) presides over juvenile-related matters falling within its territorial jurisdiction: the cities and towns of Berkshire County. During the period July 1, 2005 through December 31, 2006, BJC collected revenues totaling \$47,531 which it disbursed to the Commonwealth. In addition to processing monetary assessments on juvenile cases, BJC was the custodian of 16 cash bails amounting to \$1,210 as of December 31, 2006.

BJC operations are funded by appropriations under the control of 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 for the 18-month period amounted to \$963,511.

The purpose of our audit was to review BJC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including juvenile case activity, cash management, payroll time and attendance reporting, the Court Appointed Special Advocates (CASA) program, and inventory for the period July 1, 2005 to December 31, 2006.

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submitted timely, the vendor's monthly invoices sometimes exceeded the contract's allowable monthly maximum allocation, and periodic reports were not always in agreement with court records, and were indicative of underperformance of contract specifications. As a result, state funds may have been improperly spent, and there is limited assurance that the needs of neglected and abused children involved with juvenile-related court cases were met.

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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 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 Juvenile Court Department (JCD), which has general jurisdiction over delinquency, children in need of services (CHINS), care and protection petitions, adult contributing to the delinquency of a minor cases, adoption, guardianship, termination of parental rights proceedings, and youthful offender cases. The JCD established 11 Divisions of the JCD, each having a specific territorial jurisdiction, to preside over the juvenile-related 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 Berkshire Division of the Juvenile Court Department (BJC) presides over juvenile-related matters falling within its territorial jurisdiction of the cities and towns of Berkshire County. During our audit period, July 1, 2005 to December 31, 2006, BJC collected revenues totaling \$47,531, which it disbursed to the Commonwealth as either general or specific state revenue. The following table shows the breakdown of the \$47,531 in revenues collected and transferred to the Commonwealth:

Revenue Type	Total	July 1, 2005 to June 30, 2006	July 1, 2006 to December 31, 2006
General Revenue	\$1,122	\$927	\$195
Probation Fees	20,427	13,570	6,857
Reimbursement for Indigent Counsel	12,055	7,683	4,372
Victim/Witness Fund	10,820	7,480	3,340
Counsel for Indigent Salary Enhancement Trust Fund	1,185	855	330
Victims of Drunk Driving Trust Fund	255	255	--
Head Injury Program	250	250	--
Miscellaneous	<u>1,417</u>	<u>1,117</u>	<u>300</u>
Total	<u>\$47,531</u>	<u>\$32,137</u>	<u>\$15,394</u>

In addition to the funds collected and transferred to the Commonwealth, BJC was custodian of approximately 16 cash bails amounting to \$1,210 as of December 31, 2006. Bail is the security given to the court by sureties to obtain release and to ensure appearance in court by the child, at a future date, on juvenile-related matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release.

BJC operations are funded by appropriations under the control of either the Division (local) or the AOTC or the Commissioner of Probation Office (central). Under local control was an appropriation for personnel-related expenses of the Clerk-Magistrate's Office, 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, 2005 to December 31, 2006 totaled \$963,511¹.

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 of BJC. The scope of our audit

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

included BJC's controls over administrative and operational activities, including juvenile case activity, cash management, payroll time and attendance reporting, the Court Appointed Special Advocates (CASA) program, and inventory 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 BJC's internal controls over juvenile case activity, cash management, payroll time and attendance reporting, the CASA program, and inventory; and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding BJC's compliance with applicable state laws, rules, and regulations, other state guidelines, and AOTC and JCD policies and procedures.

Our review centered on the activities and operations of BJC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed juvenile case activity, cash management activity, payroll time and attendance activities, and inventory records 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 BJC'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 BJC was based on those interviews and the review of documents. We also observed physical working conditions at the court and its satellite location to determine whether there were health, safety, or security concerns.

Our recommendations are intended to assist BJC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that BJC's systems covering juvenile case activity, cash management, payroll time and attendance reporting, the CASA program, and inventory operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we have determined that, except for the issues noted in the Audit Results section of this report, BJC (1) maintained adequate internal controls over juvenile case activity, cash management, payroll time and attendance reporting, the CASA program, and inventory; and (2) complied with applicable laws, rules, and regulations for the areas tested.

After concluding audit fieldwork, a draft copy of this report was provided to BJC officials for their review and response; however, BJC officials chose not provide a written response.

AUDIT RESULTS

1. IMPROVEMENTS NEEDED IN THE INTERNAL CONTROL PLAN DEVELOPMENT PROCESS

Our audit found that the Berkshire Juvenile Court (BJC) prepared an internal control plan, but did not formally document its risk assessment as part of the court's internal control plan development process. As a result, the AOTC's efforts to ensure the integrity of court 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 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...

Accordingly, the AOTC issued Internal Control Guidelines for the Trial Court, establishing the following requirement for department heads when developing an internal control plan, including the following 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.

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

BJC officials indicated that when the court's internal control plan was developed, office operations were reviewed and those areas at risk were considered, but the court did not formally document its risk assessment.

Recommendation

The BJC should formalize, in writing, its risk assessment and modify its internal control plan, if necessary, for any risks not already addressed. Additionally, BJC should conduct annual risk assessments and update its internal control plan based on the results of these risk assessments, as necessary.

2. IMPROVEMENTS NEEDED OVER CONTRACT MONITORING

Our audit found that BJC needed to improve monitoring of its Court Appointed Special Advocates (CASA) contract. While vendor invoices and required statistical reports were submitted timely, the vendor's monthly invoices sometimes exceeded the contract's allowable monthly maximum allocation, and periodic reports were not always in agreement with court records, and were indicative of underperformance of contract specifications. As a result, state funds may have been improperly spent, and there is limited assurance that the needs of neglected and abused children involved with juvenile-related court cases were met. Provisions of the CASA contract, BJC's internal control plan, and state regulations require adequate documentation and verification of services prior to payment by the Commonwealth.

CASA are trained volunteers who are appointed by a Judge to look out for the best interests of abused and neglected children brought before the court. At BJC, the CASA program is operated by a local non-profit organization (vendor) under contract with the court. While the contract was not to exceed \$54,690 annually for fiscal years 2006 and 2007, the contract had a maximum

monthly obligation of \$4,558. The fiscal year 2007 contract also required the vendor to achieve specific performance measures that included:

....provide pre-service training to a total of 15-25 new volunteers, ages 21 and older, one to two times within the fiscal year, enabling the program to maintain an available trained pool of at least 30 volunteers and will provide in-service training to active volunteers four times per year.

.... match and supervise volunteers to serve the best interests of at least 30 children involved in CHINS and Care and Protection proceedings of the Berkshire Juvenile Court.

We reviewed statistical reports and monthly billings to verify compliance with contractual terms and conditions. Audit tests of monthly billings found that the vendor was not paid in excess of the contract's annual maximum, but there were six instances where the vendor submitted bills that exceeded the allowable maximum monthly allocation. The following chart reflects the six months where the vendor submitted invoices in excess of the contract's allowable monthly maximum by \$1,676 in total:

<u>Month</u>	<u>Vendor Invoice</u>	<u>Allowable Maximum Rate</u>	<u>Amount Overbilled</u>
November-2005	\$4,833.00	\$4,557.50	\$275.50
March-2006	4,813.00	4,557.50	255.50
May-2006	4,976.00	4,557.50	418.50
June-2006	4,966.00	4,557.50	408.50
August-2006	4,780.00	4,557.50	222.50
November-2006	<u>4,653.00</u>	<u>4,557.50</u>	<u>95.50</u>
	<u>\$29,021.00</u>	<u>\$27,345.00</u>	<u>\$1,676.00</u>

Audit analysis of quarterly reports submitted by the vendor for the first six months of fiscal year 2007 noted that the vendor did not meet certain minimum performance levels established in its contract with BJC. For example, while the vendor indicated it would "provide pre-service training to a total of 15-25 new volunteers...to maintain an available trained pool of at least 30 volunteers" and "serve the best interest of at least 30 children," quarterly reports for September and December 2006 indicate that no volunteers were trained, there were only 12 CASA volunteers available, and its total number of cases shrank from 9 to 7, with no new case assignments during the six-month period. Also, audit tests of court cases assigned to CASA volunteers noted that for 67% (4 of 6) of the cases tested, the vendor's record of CASA

assignments disagreed with court records. Specifically, the vendor reported CASA-assigned cases on the monthly invoices it submitted to BJC that, according to court records, were dismissed between 3 and 13 months earlier.

Paying vendor invoices that exceed the contract's allowable monthly maximum amount can result in state funds being improperly spent. Not meeting minimum performance goals established in the contract can result in not serving the needs of the children involved.

Regarding the six instances of overpayments to the vendor, BJC was unaware of the contract provision setting a maximum monthly obligation and thought that it was in compliance with contractual terms since it never exceeded the annual rate. Underutilization of CASA volunteers may have resulted from BJC's assignment of individuals from another court program (Special Educational Advocates), which the court thought better suited the children's needs. If the court had appointed CASA volunteers, services may have been duplicated.

Recommendation

BJC should refrain from paying for CASA contract services until vendor invoices are verified to the contract terms, and supporting documentation is verified to court records. The CASA contract should also be reviewed to determine whether CASA volunteer services are still beneficial to the affected children, or whether an alternative program is better suited to fit the children's needs. If the CASA contract continues, then BJC should ensure that the vendor adheres to the minimum performance standards established by the contract.

3. PROPERTY MANAGEMENT IMPROVEMENTS NEEDED AT RENTED COURT FACILITY

Our audit found ongoing health, safety, and after-hours security concerns at BJC's rented satellite court location in the City of North Adams. The most common problems noted by the court were roof leaks and lack of consistent janitorial service. While the landlord has made attempts to correct several of the deficiencies, the lack of adequate property management does not ensure the delivery of quality services necessary for the efficient and reliable operation of the court facility. Also, these prolonged issues leave Commonwealth assets susceptible to damage and misappropriation, sensitive court records subject to unauthorized access or destruction, and individuals who work at or use the North Adams location potentially at risk.

Provisions of AOTC's internal control guidelines and BJC's internal control plan require adequate safeguarding of court records and assets. Also, provisions of Chapter 29A of the General Laws allow the lease of buildings from private entities in the interest of efficient and cost-effective administration of justice.

Our audit noted that BJC has been proactive in bringing property management deficiencies to the attention of the landlord and AOTC. In particular, BJC has on several occasions notified the landlord and AOTC of various roof leaks and inconsistent janitorial service concerns within the building. These notifications have led to meetings between the AOTC and the landlord, which, according to AOTC, have resulted in the landlord scheduling corrective action to address BJC's concerns.

Recommendation

BJC and AOTC should continue to monitor the landlord's progress in correcting the current property management issues. BJC should continue to document and report any future concerns. If the landlord cannot fix the current problems or if future problems cannot be resolved in a timely manner to the satisfaction of the court, then consideration should be given to alternative sites that can provide for the efficient and reliable operation of the court.