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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN FEES, BAIL, AND OTHER ACTIVITIES
OF THE
PLYMOUTH DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2008 TO DECEMBER 31, 2009

OFFICIAL AUDIT
REPORT
SEPTEMBER 21, 2010

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION**1**

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 \$27 million from certain named fees collected, provided that the first \$53 million of revenue shall be deposited in the General Fund and not retained. Another section of the annual appropriations act allows the same Chief Justice to spend up to \$26 million of Probation Supervision fees collected and deposited by the courts. These amounts are monitored and allocated to specific courts by a Trial Court Revenue Unit. The Administrative Office of the District Court Department (AODC) and the Office of the Commissioner of Probation (OCP) have also increased monitoring of revenues by instituting additional reporting processes.

Revenues generated by the AODC have increased over the years. During the period fiscal year 2006 to fiscal year 2009, revenues increased 13%. 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. While our audit was in progress, certain matters came to our attention that caused us to expand the original scope of our audit. As a result, we conducted additional procedures to examine cash, payroll time and attendance records, and certain other areas as we deemed necessary. Prior to the start of our audit fieldwork, the AOTC Fiscal Affairs Internal Audit group had conducted an audit that was issued February 10, 2010. Also, while audit fieldwork was in progress, AODC officials were on site to assess court operations and suggest implementation of various corrective actions.

The Plymouth Division of the District Court Department (PDC) presides over civil and criminal matters falling within its territorial jurisdiction. Of the 62 district courts throughout the Commonwealth, PDC is one that we selected for further review of the above fees and other activities. The purpose of our audit was to review PDC's internal controls and compliance with state laws and regulations regarding certain fees, bail funds, cash, payroll

time and attendance, and certain other activities for the period July 1, 2008 to December 31, 2009.

AUDIT RESULTS **8**

1. INTERNAL CONTROL IMPROVEMENTS NEEDED TO COMPLY WITH PROBATION FEE WAIVER REQUIREMENTS **8**

We found that PDC did not always document the granting of waivers of probation fees in accordance with state law as well as AODC and OCP guidance. A waiver of the probation fee allows the probationer to perform community service instead of paying the required monthly probation fee. As a result of the stipulated procedure for granting probation fee waivers not being followed, there is a breakdown in internal controls, PDC has inadequate assurance that probationers are complying with the terms of their conditions of probation, and the Commonwealth may not be receiving the funds to which it is entitled. There is also a lack of agreement between the independent records of the court order, Clerk-Magistrate's Office records, and Probation Office records.

2. CONSIDERATION SHOULD BE GIVEN TO ESTABLISHING AN ACCOUNTS RECEIVABLE SYSTEM **12**

We noted that although PDC 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 AODC 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 \$78 million collected by all district courts during fiscal year 2009, 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.

3. IMPROVEMENTS NEEDED TO STREAMLINE THE RECEIPT AND DISBURSEMENT OF COURT ASSESSMENTS AND FEES **14**

PDC 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 AODC 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.

4. INTERNAL CONTROL IMPROVEMENTS NEEDED OVER THE PROCESSING OF ABANDONED BAIL AND BAIL ASSOCIATED WITH CRIMINAL CASES IN DEFAULT 15

Our audit found that PDC 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. PDC 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. Additionally, PDC did not always 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 these funds and defendants or sureties that posted bail may not know it is available to be released.

5. INTERNAL CONTROL IMPROVEMENTS NEEDED OVER TIME AND ATTENDANCE REPORTING FOR EMPLOYEES OF THE CLERK-MAGISTRATE'S OFFICE 17

Our review of PDC's time and attendance documents found that internal control improvements were needed to address weaknesses in maintaining these records in the Clerk Magistrate's Office. Specifically, we found that time and attendance records were neither properly completed nor reviewed and that employees were allowed to earn compensatory time to which they were not entitled. Additionally, we noted that mathematical errors were made in the computation of employee leave balances. The absence of adequate documentation to support payroll expenditures potentially calls into question the validity of the associated personnel costs, which according to Office of the State Comptroller records totaled approximately \$1.15 million for fiscal year 2009.

6. NONCOMPLIANCE WITH CHAPTER 647 OF THE ACTS OF 1989 REPORTING REQUIREMENTS 20

Our examination found that, contrary to the reporting requirements set forth in Chapter 647 of the Acts of 1989, PDC did not report internal control deficiencies to the Office of the State Auditor (OSA) with respect to two missing cash bails totaling \$500. Therefore, the OSA was precluded from carrying out its responsibilities under Chapter 647.

7. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION 21

Our audit found that PDC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, our audit also found that PDC did not reconcile its monthly Revenue Transmittal and Reporting Sheet (RTRS) to either the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS) or to the amounts posted on AOTC's website as required by the Trial Court. As a result, PDC and the Commonwealth could not be assured that all revenues were properly credited to the appropriate general or specific state revenue account.

8. VARIOUS INTERNAL CONTROL IMPROVEMENTS NEEDED TO COMPLY WITH AOTC AND AODC POLICIES AND PROCEDURES **22**

During our review, we identified a number of internal control weaknesses in the Clerk-Magistrate's Office that highlight a need for improvement. Many of these issues were also identified in an AOTC internal audit report issued February 10, 2010. Strengthening internal controls ensures compliance with designated policies and procedures and helps ensure the integrity of court records and assets. While our audit fieldwork was in progress, a number of changes were made to improve controls by PDC and AODC staff working at PDC.

a. Lack of Segregation of Duties between Bookkeeping and Cashiering **23**

Our audit found that the PDC Clerk-Magistrate's Office bookkeeper would, at times, also function as a cashier, contrary to AOTC requirements. Without strict segregation of duties in the Clerk-Magistrate's Office, funds are susceptible to loss, theft, or misuse. Segregation of duties between these two functions is essential to maintaining strong internal controls.

b. Lack of Segregation of Duties between Check Preparation and Approval **24**

Our audit found a lack of segregation of duties, at times, between the check preparation and approval functions in the Clerk-Magistrate's Office. Without strict segregation of duties in the Clerk-Magistrate's Office, funds are susceptible to loss, theft, or misuse. Segregation of duties between these two functions is essential to maintaining strong internal controls.

c. Lack of Orderly Financial Records Filing **24**

Our audit found that the PDC Clerk-Magistrate's Office bookkeeper did not employ an orderly filing system for various financial documents, such as bank reconciliations, deposit slips, daily cash sheets, and electronic cash register tapes. Sound business practices advocate that financial record information be filed in an orderly fashion so that it is retrievable and able to support information recorded in the accounting system.

d. Transaction Voids Not Documented Properly **25**

Our examination of daily cash activity noted that transaction voids to the electronic cash register transactions were not always properly documented. Proper documentation of voided transactions is necessary, not only to comply with the AOTC Fiscal Systems Manual, but also to ensure the integrity of cash receipts transactions.

e. Bank Reconciliations Not Always Properly Prepared **26**

Our review of bank reconciliations in the PDC Clerk-Magistrate's Office found that the reconciliations were not always properly prepared. For example, incorrect check register balances were sometimes used to start the reconciliation process, and small variances would not be corrected until subsequent months. Reconciliation of cash balances is an important part of documenting the integrity of the balance of cash in the bank as well as the underlying transactions that result in that balance. As such, proper preparation of the monthly bank reconciliations is an important control procedure.

f. Unprocessed Witness Fee Payments

27

While our audit fieldwork was in progress, PDC and AODC officials working at PDC located a number of old documents for Witness Fee payments while trying to organize office records. These payments are generally small amounts to reimburse witnesses in court cases for their travel expenses.

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.

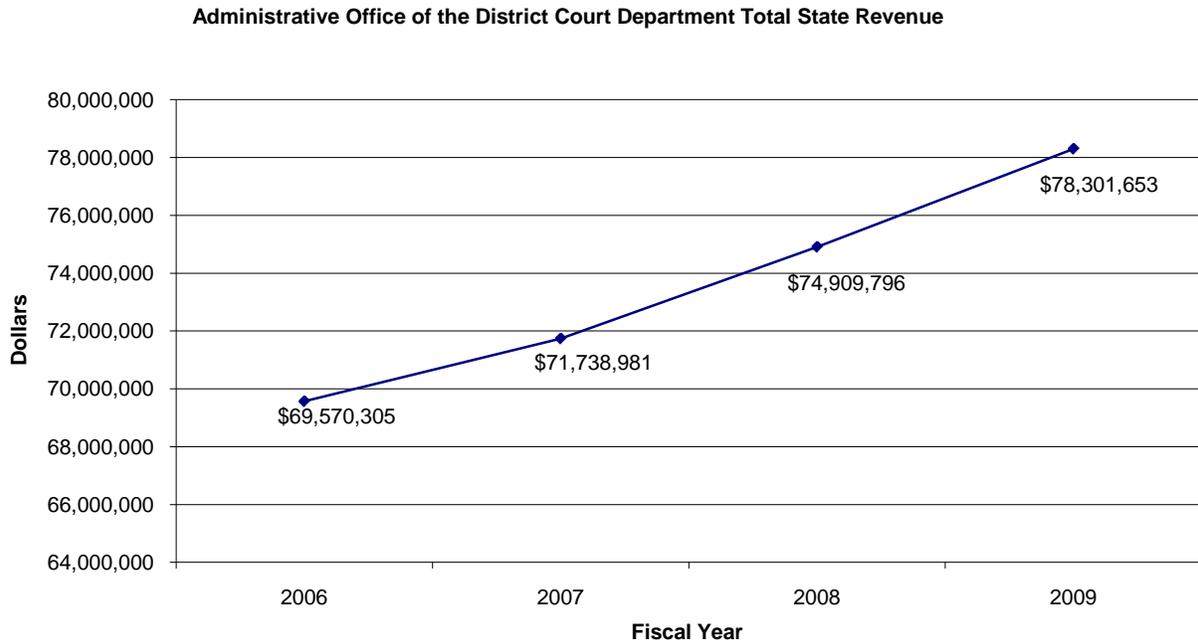
Current law provides for the AOTC to retain a portion of the revenues. One section of the annual appropriations act allows the AOTC Chief Justice for Administration and Management to spend up to \$27¹ million from certain named fees² collected by the courts, provided that the first \$53 million of revenue shall be deposited in the General Fund and not retained. Another section of the annual appropriations act allows the same Chief Justice to spend up to \$26³ million of Probation Supervision Fees collected and deposited by the courts. These amounts are monitored and allocated to specific courts by the AOTC Revenue Unit. The Administrative Office of the District Court Department (AODC) 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.

¹ Prior to July 1, 2009, the AOTC could spend up to \$20 million of these named fees that exceed the amount of fees collected for the base year of 2003.

² 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.

³ Prior to July 1, 2009, the amount was \$23 million.

Revenues generated by the AODC have increased over the years. During the period fiscal year 2006 to fiscal year 2009, revenues increased 13%. 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. A chart of the AODC revenue collections during fiscal years 2006 through 2009 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	2006	2007	2008	2009
General Revenue	\$34,621,161	\$36,110,747	\$37,746,391	\$41,494,270
Probation Fees	18,214,139	18,766,141	19,335,234	18,533,157
Indigent Counsel Fees	6,393,010	6,634,205	7,088,134	7,278,272
Victim Witness Fees	3,189,071	3,033,415	2,994,960	2,910,873
Civil Surcharges	2,468,156	2,620,719	2,893,583	3,368,295
Alcohol Fees	1,834,424	1,801,824	1,991,220	1,958,131
Head Injury Fees	1,636,350	1,602,282	1,633,554	1,632,128
All Other	<u>1,213,994</u>	<u>1,169,648</u>	<u>1,226,720</u>	<u>1,126,527</u>
Total	<u>\$69,570,305</u>	<u>\$71,738,981</u>	<u>\$74,909,796</u>	<u>\$78,301,653</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.

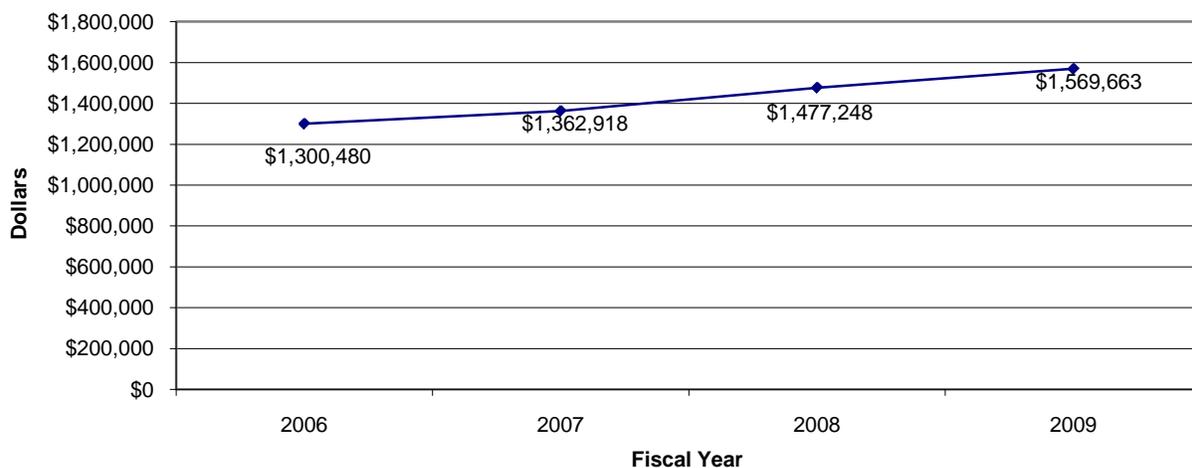
The fees we selected for further examination (Probation, Indigent Counsel, and Victim Witness) are established by various statutes and can have various fee amounts depending on the circumstances. An explanation of the fees follows.

- 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. Effective July 1, 2009, the amount of the fee is \$45 per month plus a \$5 per month Victim Services surcharge (prior to this date the amount of the fee was \$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 Plymouth Division of the District Court Department (PDC) generated revenues that increased from \$1,300,480 in fiscal year 2006 to \$1,569,663 in fiscal year 2009, as shown in the following chart.



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

Revenue Source	2006	2007	2008	2009
Probation Fees	\$407,594	\$394,393	\$458,284	\$431,807
Indigent Counsel Fees	79,682	76,932	76,070	86,479
Victim Witness Fees	<u>69,163</u>	<u>71,276</u>	<u>73,814</u>	<u>68,960</u>
Total	<u>\$556,439</u>	<u>\$542,601</u>	<u>\$608,168</u>	<u>\$587,246</u>

In addition to the above cash collections at PDC, 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 3% 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 PDC. The scope of our audit included an examination of PDC's controls over administrative and operational activities, including certain fees and bail funds for the period July 1, 2008 to December 31, 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 PDC's internal controls over the assessment, collection, accounting, waiver, and community service in lieu of payment of certain fees and PDC's internal controls over bail funds and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding PDC's compliance with applicable state laws,

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

Our review encompassed the activities and operations of PDC'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 AODC policies and procedures were being followed.

To achieve our audit objectives, we performed analytical reviews of AODC 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 PDC'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 PDC was based on those interviews and the review of documents.

Prior to the start of our audit fieldwork, the AOTC Fiscal Affairs Internal Audit group conducted an audit that was issued February 10, 2010. The purpose of that audit was to determine whether PDC was complying with the Trial Court Standard Accounting System as well as pertinent state laws and regulations and identified areas for corrective action. While our audit was in progress, certain matters also came to our attention that caused us to expand the original scope of our audit. As a result, we performed additional procedures, including: conducting a detailed analysis of cash in the Clerk-Magistrate's Office by preparing "four-column cash proofs"⁴ for the months of June 2009 through October 2009; expanding our analysis of bail funds; testing payroll time and attendance records for the Clerk-Magistrate's Office, and other matters we deemed necessary under the circumstances.

Our recommendations are intended to assist PDC in developing, implementing, or improving its internal controls and overall financial and administrative operations to ensure that PDC's systems covering certain fees, bail funds, cash, payroll time and attendance, and other areas important to the

⁴ Four-column cash proofs are an analytical review procedure used to determine agreement between bank records and accounting records. Activity is analyzed starting with independent source bank statements and adjusted to agree to local accounting records to determine if all activity is reflected in the accounting records.

proper functioning of PDC 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, PDC (1) maintained adequate internal controls over certain fee, bail fund activity, cash, payroll time and attendance, and other areas important to the proper functioning of court operations; (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.

AUDIT RESULTS

1. INTERNAL CONTROL IMPROVEMENTS NEEDED TO COMPLY WITH PROBATION FEE WAIVER REQUIREMENTS

We found that the Plymouth Division of the District Court Department (PDC) did not always document the granting of waivers of probation fees in accordance with state law as well as guidance provided by the Administrative Office of the District Court Department (AODC) and the Office of the Commissioner of Probation (OCP). A waiver of the probation fee allows the probationer to perform community service instead of paying the required monthly probation fee. As a result of the stipulated procedure for granting probation fee waivers not being followed, there is a breakdown in internal controls, PDC has inadequate assurance that probationers are complying with the terms of their conditions of probation, there is a lack of assurance that an undue financial hardship exists, and the Commonwealth may not be receiving the funds to which it is entitled. There is also a lack of agreement between the independent records of the court order, Clerk-Magistrate's Office records, and Probation Office records. State law, as well as AODC and OCP guidance, requires that local courts document certain steps when waiving cash payment of monthly probation fees and imposing community service to be performed.

State law requires the imposition of a designated fee, depending on whether the probationer is placed on supervised probation or administrative probation. The fee can be waived and community service performed, upon order of the court, as provided by Section 87A of Chapter 276 of the Massachusetts General Laws, as amended:

The court shall assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of \$60 per month. Said person shall pay said probation fee once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probation supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$20 per month. Said person shall pay said administrative probation fee once each month during such time as said person remains on administrative supervised probation. The court may not waive payment of either or both of said fees unless it determines after a hearing and upon written finding that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of said fees would cause such undue hardship then: (1) in lieu of payment of said probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation

department, for not less than one day per month and (2) in lieu of payment of said administrative probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than four hours per month.

AODC guidance was provided in a September 1, 2006 memorandum from the Chief Justice of the District Court Department to District Court Judges, Clerk-Magistrates, and Chief Probation Officers. The memorandum reiterated the statutory requirements and suggested the use of a form, Assessment or Waiver of Moneys in Criminal Case, as a way to document compliance with the statutory requirements, as follows:

- a. First Justices. Please review with your respective Clerk-Magistrate and Chief Probation Officer your court's comprehensive approach to implementing the various legislative mandates for fines, fees, costs and assessments. You will also want to communicate that policy to the judges who sit from time to time in your court. General Laws c. 276 87A is clear that judges have a duty to waive the probation fee if it "would constitute an undue hardship on said person or his family," but the statute also requires that such waivers may be granted only "after a hearing and upon [a] written finding" of hardship, "only during the period of time that said person is unable to pay his monthly probation fee," and only if the judge requires the probationer "to perform unpaid community work service" of at least one day (or 4 hours in lieu of an administrative probation fee) per month*
- b. Judges. It is important that each judge routinely use the mandatory "Assessment or Waiver of Moneys in Criminal Case" form whenever the judge disposes of a criminal case that involves the assessment or waiver of any required financial amount. The form has several functions. It serves as a reference checklist; it documents that the complex statutory requirements relative to assessments have been complied with; it avoids any omissions or errors in recording what the judge has ordered; and it offers a simple way for the judge to make the written finding(s) required when a judge waives the victim/witness assessment or probation supervision fee*

Further clarification on the collection of monthly probation fees was provided in a December 7, 2009 memorandum from the AODC Chief Justice to District Court Judges, Clerk-Magistrates, and Chief Probation Officers. This memorandum refers to a recently issued directive from the OCP to probation officers. The OCP directive established new procedures to address unpaid fees earlier in the probation term, rather than dealing with unpaid amounts just prior to case termination. The directive also provides the following protocol for probation officers to follow over three consecutive months when an individual fails to pay court ordered monthly probation fees:

If the probationer asserts that he or she is unable to pay, the probation officer must inform the offender that only the court may waive the requirement to pay the fee and a hearing before the court will be scheduled. He/she must also inform the probationer that, should the court waive payment of the fee, community service will be imposed in lieu of the payment.

At PDC, when the court issues an order placing the offender on probation, the associated monetary assessment or waiver thereof is not always consistently documented between the Clerk-Magistrate's Office and the Probation Office. Audit tests of 16 criminal case files noted two instances (12.5%) in which there were inconsistencies between the court-ordered payment of probation fees (as reflected in the Clerk-Magistrate's Office records) and certain Probation Office records. These practices permit the Chief Probation Officer (or probation officer assigned to the case) to be responsible for determining whether the individual will pay a probation fee or perform community service.

As a result of the stipulated procedure for granting probation fee waivers not being followed, there is a breakdown in internal controls, inadequate assurance that probationers are complying with the terms of their court ordered conditions of probation, and inadequate assurance that an undue financial hardship exists or that the Commonwealth is receiving the all funds to which it is entitled. There is also a lack of agreement between the independent records of the court order, Clerk-Magistrate's Office records, and Probation Office records.

PDC personnel indicated that although they are aware of the statutory requirement, the process is too cumbersome to have the cases brought back before the court each time the probationer is unable to pay the monthly fee, as it delays other important court work. PDC personnel also asserted that Probation Office staff are the most knowledgeable of an individual's ability to pay and would therefore be the most qualified to make that determination. Therefore, the court delegates the responsibility to its probation officers in order to cut down on the amount of court time taken for such modifications. AODC officials noted that many persons whom the court has determined to be indigent and therefore eligible for community service in lieu of paying a probation supervision fee choose to pay the probation supervision fee rather than perform the community service. This results in increased revenue to the Commonwealth.

Recommendation

To improve internal controls and ensure compliance with state law and AODC guidance, PDC should modify its procedures to document, by court order, the specific terms the probationer is expected to comply with. The order should definitively state whether a probationer shall either pay a probation fee or, in the case of an undue hardship, definitively state that the probationer shall perform community service. If a probationer's status changes from either paying a fee or doing community service, such change should be as a result of a court order. Additionally, the Probation Office and Clerk-Magistrate's Office should periodically compare case records to ensure that they contain corresponding information to eliminate the need to go before the court and retroactively adjust court orders.

Auditee's Response

PDC officials provided the following response:

To improve internal controls over the granting of waivers of probation fees, the Plymouth District Court new First Justice actively utilizes the "Assessment or Waiver of Moneys in Criminal Cases" form promulgated by the District Court and in the event the court waives the fee due to indigency it will be documented on the waiver form and the case docket. This form is available in all sessions and session staff will be reminded of its use and purpose. The new First Justice has met with judges that sit in the Plymouth District Court and she has instructed those judges that they must also use the fee waiver form. Additionally, a corresponding case docket entry and probation file entry is made whenever the court orders a waiver, reduction or other modification to the probation supervision fee assessment. In the summer of 2010, the Administrative Office of the Trial Court began the installation of the full MassCourts case management system which includes as one of its features the electronic tracking of the assessment or waiver of court ordered payments.

The determination regarding whether a probation fee shall be waived in whole or in part will only be made by the court if it determines after a hearing with the above written finding that payment would constitute an undue hardship.

It should be noted that the majority of defendants appearing in the courts are indigent and have appointed counsel as a result of their indigency. Many indigent persons choose to pay a fee rather than perform community service. Therefore, when a judge issued an order to either pay the probation supervision fee or perform community service the judge was determining that the defendant was indigent but provided them the option of paying the probation supervision fee instead of performing community service. This has resulted in the collection of additional funds for the Commonwealth while allowing the indigent defendant the opportunity of performing community service. In FY2010 the Trial Court will collect approximately 26 million dollars in probation supervision fees.

2. CONSIDERATION SHOULD BE GIVEN TO ESTABLISHING AN ACCOUNTS RECEIVABLE SYSTEM

We noted that although PDC 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 AOTC and the AODC 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 \$78 million collected by all district courts during fiscal year 2009, 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 AODC 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 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 AODC 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 AODC 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

PDC officials provided the following response:

The Plymouth District Court presently follows existing Trial Court fiscal procedures for the collection and disbursement of funds. The current policy does not require a court to maintain an accounts receivable component as part of its' financial record keeping. The Plymouth District Court recognizes that enhanced collection methods which include an accounts receivable system would improve the court's ability to collect, record and account for court-ordered assessments; however without an electronic account management system, the Plymouth District Court presently has insufficient resources to assume the challenges of a manual system. In the summer of 2010, the Administrative Office of the Trial Court will begin installation of the full MassCourts case management

system which will include as one of its features a computerized accounts receivable system.

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

PDC 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 fiscal year 2009, the Clerk Magistrate's Office collected and transmitted revenues of over \$1,560,000 to the Commonwealth and approximately \$67,000 to municipalities within PDC'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 AODC is not switching any more courts to central cashiering 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 AODC should continue testing the MassCourts financial module, whose implementation should help streamline receipt and disbursement activity at PDC.

Auditee's Response

PDC officials provided the following response:

The Plymouth District Court looks forward to the implementation of the MassCourts full case management system which includes the financial component allowing for a centralized cashing component. In an effort to insure that probation and clerk's office records are accurate and consistent the clerk's office and the probation departments implemented a policy in April, 2010 that . . . financial staff from each of the two departments review each day the cases scheduled for probation termination or for payment and to review the status of payments.

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

Our audit found that PDC needs to improve its internal controls to comply with state law and AOTC rules and regulations regarding the processing of abandoned bail and bail applying to criminal cases in default status. Specifically, PDC 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. While our audit was in progress, PDC and AODC officials implemented a number of improvements at PDC over bail procedures.

AOTC's 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 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.

PDC's detailed bail trial balance reported that there were 641 cash bails totaling \$283,166 on hand as of December 31, 2009. Our preliminary review identified potential problems in this area. Specifically, we found a number of old bails that could be treated as abandoned property as well as bails in default that could be forfeited and transmitted to the OST. We discussed our concerns with court personnel as well as AODC officials working at PDC, who then conducted a review of the entire bail trial balance. As a result of that review, PDC was able to reduce the bail trial balance to \$181,706 as of March 31, 2010. This reduction was accomplished by having the court forfeit bail on 27 cases totaling \$13,651, transmitting 132 bails totaling \$28,606 to the OST as abandoned property, and returning approximately \$60,000 of bail to the parties owed the funds.

PDC personnel indicated that, although they were aware of the Commonwealth's laws and regulations, staffing constraints resulted in individual bails not receiving appropriate attention and that there were not effective procedures in place for the bookkeeper to be readily notified of the status of cases involving bail.

When AODC and PDC staff were made aware of these issues, bails were promptly reviewed. Appropriate corrective action was taken, as explained earlier, in that some bail accounts were transmitted to the OST as abandoned property and other bails where defendants were in default were forfeited and transmitted to the OST. Additionally, a number of bails that were available for release were returned to the sureties who posted the bail. AODC and PDC officials were still reviewing the status of bail accounts when audit fieldwork was completed in April 2010 and were taking appropriate corrective action on accounts identified.

Recommendation

PDC should continue to 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

PDC officials provided the following response:

Beginning in January, 2010 AODC staff initiated a bail abandonment and forfeiture project with the goal of returning bail to sureties who were entitled to have bail returned, as well as forfeiting bail funds on hand as appropriate. The bulk of this project occurred between January 15, 2010, and April 30, 2010. This effort included assistance of AODC clerical staff in Boston who generated the bail abandonment letters based on information provided to them by PDC staff. Additionally, clerk's office staff was instructed to announce in court to defendants that their bail could be returned upon conclusion of their case. Further, the new First Justice has entered a standing order that bail is ordered forfeited if a defendant who has defaulted after posting bail. On June 2, 2010, the bail held on account has been reduced from \$283,166 to \$173,000.

Additionally, systems were put in place in January, 2010 that letters would be sent to defendants upon completion of their case if they had bail which was eligible for return and to note in the bail book dates bail are eligible for abandonment. Systems were also put in place for bail to be forfeited when an individual defaults. While lack of clerical staff was not cause of bail funds not being abandoned or returned, the loss of approximately 1/3 of the clerk's office clerical staff since February, 2010 threatens the clerk's offices ability to continue to support these processes in the future.

5. INTERNAL CONTROL IMPROVEMENTS NEEDED OVER TIME AND ATTENDANCE REPORTING FOR EMPLOYEES OF THE CLERK-MAGISTRATE'S OFFICE

Our review of PDC's time and attendance documents found that internal control improvements were needed to address weaknesses in maintaining these records in the Clerk Magistrate's Office. Specifically, we found that time and attendance records were neither properly completed nor reviewed and that employees were allowed to earn compensatory time to which they were not entitled. Additionally, we noted that mathematical errors were made in the computation of employee leave balances. The absence of adequate documentation to support payroll expenditures potentially calls into question the validity of the associated personnel costs, which according to Office of the State Comptroller records totaled approximately \$1.15 million for fiscal year 2009. Provisions of AOTC internal control guidelines and Trial Court Collective Bargaining Agreements provide for proper accountability of work hours, including the accumulation and use of compensatory time. While our audit was in progress, PDC and AODC officials implemented improvements in time and attendance procedures.

During the course of on-site audit fieldwork, we observed that Clerk-Magistrate's Office employees were not fully completing the sign in/sign out logs (daily time sheets) and that these time sheets were not always reviewed by office management. This issue was also identified in an

AOTC internal audit issued February 10, 2010. The daily time sheet is a key source document utilized for substantiating biweekly payrolls. We also found that attendance calendars showed unauthorized leave time credited to employees. These earnings contradicted the provisions of the collective bargaining agreement. PDC and AODC officials working at PDC conducted a more detailed analysis and identified 14 employees whose leave earnings were overstated by 310 hours and another three employees whose leave time was understated by four hours. Overstatements resulted from both mathematical errors and employees being credited with compensatory time by either working through their lunch period and scheduled breaks or working overtime without prior supervisory authorization. Understatements of compensatory time were attributed to mathematical errors. Also, compensatory time issues occurred due to the lack of familiarity with AOTC and union agreement provisions and ineffective oversight by management.

AOTC recognized the importance of payroll expenditure accountability in its issuance of Internal Control Guidelines in January 2003 to all AOTC departments, divisions, and offices. These guidelines discussed the provisions of Chapter 647 Internal Control Requirements and the safeguarding of AOTC assets, including payroll expenditures. Within the document, the Chief Justice for Administration and Finance outlined guidelines to protect public funds by requiring adequate documentation for such expenditures, as follows:

Payroll expenditures must be supported by time and attendance records. All time records must be maintained in ink, stating the actual time of arrival and departure of each employee. The department head or designee must utilize these records when preparing the time reporting forms. These permanent records must be made available to the Authorized Signatory of the payroll for inspection and approval, as well as be maintained for audit purposes. Automated systems must be consistent with these principles.

Additionally, provisions of the collective bargaining agreement between the Chief Justice of Administration and Management and the union representing clerical staff of the Clerk-Magistrate's Office exclude employees from earning compensatory time during lunch periods or breaks and require managers to approve overtime requests before an employee works overtime.

While our on-site audit fieldwork was in progress, PDC and AODC officials instituted changes to time and attendance reporting to mitigate any recurrence of these issues. Those changes included reassigning payroll responsibilities to staff trained in the payroll process, balancing

accumulated leave time amounts by either collecting overpayments from employees or giving additional credit where applicable, and reiterating the payroll approval process to management.

Recommendation

The Clerk-Magistrate's Office should continue to implement the payroll changes set forth by the AODC and AOTC internal audit. In the future, it should periodically revisit this issue to ensure that the implemented changes are working effectively.

Auditee's Response

PDC officials provided the following response:

In the Fall of 2009, AODC and the AODC regional office became concerned regarding attendance issues and complaints from the public and the Bar regarding the Plymouth District Court Clerk's Office. At AODC's request the Trial Court initiated an audit of the court in the late fall of 2009 specifically to review attendance and bookkeeping issues. As a result of a review of the AOTC audit the issues of concern were substantiated and on January 3, 2010, the AODC Director of Court Operations assumed a presence in the Plymouth District Court Clerk's Office three days a week to assist the Acting Clerk Magistrate in addressing the outstanding management issues at the court. Efforts were made to identify attendance irregularities as well as to assist the Acting Clerk Magistrate in managing the courts day to day operational issues. Identified attendance irregularities were addressed based on the available attendance and payroll records dating back to January, 2009. Employees were required to adjust their lunch schedule reducing their lunch break to one-half hour to insure they worked 7.5 hours a day. A review of the attendance records indicated that several employees "owed time" as a result of being paid for days they were not working at the court but were reported on payroll documents as at work on those days. This review also revealed that some employees also were not paid for some time that they actually worked. Some of these payroll errors appear to be mathematical errors by staff who were responsible for keeping time. These errors have been reconciled back to January, 2009 based on records available and staff who owed time have had their time records adjusted and have had time deducted from their vacation balances.

In the past staff were allowed to work through their lunch, work late or come in early to earn compensation time without prior approval of the Acting Clerk Magistrate. Compensation was often "earned" in a pattern to insure the hours worked each week exceeded 40 hours to insure that compensation hours would accrue at a 1.5 multiplier. Additionally, court employees were occasionally allowed to work at home during the work week and on weekends often earning compensation time. As of January, 2010 no employees were allowed to earn compensation time and employees are not allowed to work at home. In the interest of being able to focus on current work the internal review of attendance and the effort to adjust for any time owed did not go back past January 1, 2009. Given that the attendance discrepancies appeared to be random in nature and a product of inattentiveness and lack of supervision, they were not referred for any further action.

Clerk's office staff that was responsible for attendance documentation has been reassigned with others being assigned these responsibilities. Their performance is supervised by the office manager.

6. NONCOMPLIANCE WITH CHAPTER 647 OF THE ACTS OF 1989 REPORTING REQUIREMENTS

Our examination found that, contrary to reporting requirements set forth in Chapter 647 of the Acts of 1989, PDC did not report internal control deficiencies to the Office of the State Auditor (OSA). Therefore, the OSA was precluded from carrying out its responsibilities under Chapter 647, which requires that the OSA (a) identify internal control weaknesses that may have contributed to the problems documented, (b) make recommendations to correct the conditions found, (c) identify necessary modifications to internal control policies and procedures, and (d) report the matter to management and appropriate law enforcement officials. Because PDC had not followed prescribed reporting requirements, the OSA was precluded from carrying out its responsibilities under the Chapter 647 requirements.

Our review at PDC found that two cash bails totaling \$500 were turned into the Clerk-Magistrate's Office on March 9, 2009. However, before office personnel had a chance to process them through the court's cash receipts system, the cash bails became missing. Office personnel unsuccessfully searched their desks and paperwork to try to locate the missing bail funds.

In accordance with Chapter 647 of the Acts of 1989, all state agencies, including the Trial Court, are required to report all unaccounted-for variances, losses, shortages, or thefts of property or funds to the OSA.⁵ Furthermore, Chapter 647 requires the OSA to determine the internal control weaknesses that contributed to or caused an unaccounted-for variance, loss, shortage, or theft of funds or property; make recommendations to correct the condition found; identify the internal control policies and procedures that need modification; and report the matter to appropriate management and law enforcement officials.

PDC officials notified the Plymouth District Attorney's Office, and state police conducted a review into the matter. PDC officials stated that the state police were unable to determine what happened to the money. The Clerk-Magistrate stated that he was unfamiliar with the Chapter

⁵ Reporting requirements are also promulgated in the AOTC Internal Control Guidelines, Section 1.5.8, Reporting Unaccounted for Variances, Losses, Shortages or Thefts of Funds or Property.

647 reporting requirements and believed that he took appropriate action by reporting the matter to the District Attorney's Office. Ultimately, the employees involved with the receipting and bookkeeping process voluntarily repaid the missing funds so that court records would be in balance.

The Clerk-Magistrate's Office modified its receipting procedures to either require immediate processing of cash amounts or refuse cash payments if cashiers are unable to have information to process the transaction at the time it is being tendered.

Recommendation

PDC should continue to strengthen its internal control plan to ensure compliance with Chapter 647 reporting requirements and report all unaccounted-for shortages, variances, losses, or thefts of funds or property directly to the OSA. We also recommend that PDC formally file a Chapter 647 report for this incident.

Auditee's Response

PDC officials provided the following response:

Chapter 647 reporting requirements will be followed in the future regarding any all unaccounted for shortages, variances, losses, or thefts of funds or property. The court will also file a Chapter 647 report for the above incident. At the exit interview with the State Auditor's Office AODC learned that staff at the court reimbursed the court for missing funds. This is being reviewed by AODC.

7. IMPROVEMENTS NEEDED OVER REVENUE RECONCILIATION

Our audit found that PDC accounted for and transmitted revenues to the Commonwealth in accordance with established procedures. However, our audit determined that office personnel did not reconcile the revenues it remitted to the Commonwealth since July 1, 2004, when the Commonwealth changed its accounting system. With the implementation of an upgraded automated accounting system, PDC was no longer able to reconcile its revenue transmittals with the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS). As a result, PDC and the Commonwealth cannot be assured that revenues were properly received and credited to the appropriate general or specific state revenue account.

With the Commonwealth's change in accounting system, the former revenue reconciliation report (the 466C report) was no longer available as of July 1, 2004. Effective August 16, 2006,

AOTC issued Fiscal Year 2007 Memo #6, which addressed new procedures for revenue transmittal, reporting, and reconciliation. The new procedure allowed courts to verify revenue transactions and addressed the revenue reconciliation requirements. To that end, the AOTC provided the courts with an alternative reconciliation procedure to reconcile its Revenue Transmittal and Reporting Sheet (RTRS) amounts to the total amount posted on the Trial Court's intranet web page on a monthly basis. Without timely reconciliations being performed, PDC and the Commonwealth cannot be assured that all revenues were properly received and credited to the appropriate general or specific state revenue account.

PDC officials could not explain why the revenue reconciliations were not performed. However, PDC personnel and AODC officials working at PDC reconciled the court revenue to the AOTC intranet site amounts while our audit was in progress. They also reviewed proper revenue reconciliation procedures with the new bookkeeper and office manager.

Recommendation

PDC should comply with the AOTC Fiscal Year 2007 Memo #6 requiring the completion of monthly revenue reconciliations to ensure that revenues are transmitted and credited to the correct court and proper accounts (general or specific) in the Commonwealth's MMARS system.

Auditee's Response

PDC officials provided the following response:

Until the direct involvement of AODC the court was unaware that this monthly reconciliation was required. Based in part on issues identified in the Trial Court Audit new staff was assigned bookkeeping responsibilities in January, 2010 by AODC staff. Since the backup bookkeeper did not have adequate bookkeeping training and the new backup had no bookkeeping training, AOTC audit staff provided training including training regarding the monthly reconciliation process. This monthly reconciliation has occurred each month since January, 2010 and is documented in the clerk's office monthly financial folder.

8. VARIOUS INTERNAL CONTROL IMPROVEMENTS NEEDED TO COMPLY WITH AOTC AND AODC POLICIES AND PROCEDURES

During our review, we identified a number of internal control weaknesses in the Clerk-Magistrate's Office that highlight a need for improvement. Many of these issues were also identified in an AOTC internal audit report issued February 10, 2010. Strengthening internal controls ensures compliance with designated policies and procedures and helps ensure the

integrity of court records and assets. While our audit fieldwork was in progress, a number of changes were made to improve controls by PDC and AODC staff working at PDC.

a. Lack of Segregation of Duties between Bookkeeping and Cashiering

Our audit found that the PDC Clerk-Magistrate's Office bookkeeper would, at times, also function as a cashier. The AOTC Fiscal Systems Manual, Volume 8, Section 8.3, states, in part:

To ensure proper controls over the court's collection of funds, strict segregation of duties in the collection process must be maintained. This policy requires that the Court's cashier and bookkeeper be different employees. One individual must not perform both cashiering and bookkeeping functions on the same day.

Office personnel stated that staffing constraints have made it impossible to comply with the requirements on the segregation of duties. However, we observed that there appears to be sufficient personnel available to segregate these functions. Without strict segregation of duties in the Clerk-Magistrate's Office, funds are susceptible to loss, theft, or misuse. Segregation of duties between these two functions is essential to maintaining strong internal controls.

During our audit fieldwork, PDC and AODC officials installed a new bookkeeper, appointed an office manager, and reiterated the importance of segregation of duties between the bookkeeping and cashiering functions.

Recommendation

PDC officials should monitor segregation of duties to ensure proper internal controls between the cashiering and bookkeeping functions.

Auditee's Response

PDC officials provided the following response:

In January, 2010, as a result of a review of the AOTC audit and its own observations of the risk in the Plymouth District Court clerk's office it was clear to AODC staff on site that significant risk existed due to the lack of segregation of duties and a lack of understanding of the importance of same in the clerk's office. In January, 2010, new cashiers and beekeepers were trained and deployed for use in the clerk's office. The concepts of segregation of duties were explained to the court. In May, 2010 the bookkeepers and the office manager attended a fiscal training conducted by AOTC focusing on financial issues and the segregation of duties. Since the beginning of

January 2010 duties of the bookkeeper and cashier have been fully segregated. This segregation of duties is being supervised by the office manager.

b. Lack of Segregation of Duties between Check Preparation and Approval

Our audit found a lack of segregation of duties, at times, between the check preparation and approval functions in the Clerk-Magistrate's Office. Specifically, when the department head was not available, the bookkeeper would both prepare disbursement checks and sign them for approval. Section 8.5 of the AOTC Fiscal Systems Manual provides that there should be a segregation of duties between the check preparer and check signer, in order to maintain an adequate segregation of duties.

During our audit fieldwork, PDC and AODC officials installed a new bookkeeper, appointed an office manager, and conducted training on the proper procedures for processing disbursement check transactions.

Recommendation

PDC officials should monitor check disbursement transactions to ensure that duties between check preparer and signature approval functions are segregated.

Auditee's Response

PDC officials provided the following response:

In January, 2010, AODC staff observed that clerical staff had check signing authority and that the existing bookkeeper had check signing authority. In January, 2010 Check signature authorization was reduced to only the Acting Clerk and the assist clerks. The bookkeeper now only prepares checks and does not have check signing authority by virtue of this change. This segregation of duties has been in place since January, 2010 and remains supervised by the office manager.

c. Lack of Orderly Financial Records Filing

Our audit found that the PDC Clerk-Magistrate's Office bookkeeper did not use an orderly filing system for various financial documents, such as bank reconciliations, deposit slips, daily cash sheets, and electronic cash register tapes. For example, audit staff had to organize bank reconciliation records prior to being able to conduct audit reviews on them.

As part of our audit test procedures, we selected a random sample of 10 days of daily cash sheets and electronic cash register tapes for further review. When we gave this list to court

personnel to retrieve for us, they had difficulty locating the information and, when they did find it, the information was not filed orderly. Court personnel ultimately found all 10 daily cash sheets and were eventually able to locate nine of the 10 requested electronic cash register tapes.

Sound business practices advocate that financial record information be filed in an orderly fashion so that it is retrievable and able to support information recorded in the accounting system. Additionally, the AOTC Fiscal Systems Manual, Section 8.3, has specific steps in place for orderly filing of the daily cash activity forms, as follows:

Chronologically file the day's ECR master tape, Local Bank deposit slip copy and deposit receipt, and central and satellite court Daily Cash Sheet(s) with attached Order Forms and ECR readings.

During our audit fieldwork, PDC and AODC officials installed a new bookkeeper, appointed an office manager, organized the financial record filing system, and reiterated the importance of keeping the filing system orderly and current.

Recommendation

PDC officials should monitor the financial filing system to ensure that documents are filed in an orderly fashion and are readily available for review.

Auditee's Response

PDC officials provided the following response:

During the audit fieldwork in January, 2010, it became clear to AODC officials that the court was having a difficult time finding documents requested by the auditor. It became clear that monthly financial folders securing a month's financial records did not exist. On the morning of January 15, 2010 a random look through court file cabinets showed financial records in disarray and kept in no order. AODC staff called in the Trial Court auditors on the same day to view the state of the records. Beginning in January, 2010 the Clerk's Office maintains financial folders categorized by month containing the month's financial records and also containing a checklist of information to be kept in each month's financial folders.

d. Transaction Voids Not Documented Properly

Our examination of daily cash activity noted that transaction voids to the electronic cash register transactions were not always properly documented. Section 8.3 of the AOTC Fiscal Systems Manual requires that transaction voids be documented in the "Comments" section

of the daily cash sheet and that the voided receipts be attached to the sheet. Also, the case docket documents should be validated thorough the electronic cash register to reflect both the original and voided transaction.

Proper documentation of voided transactions is necessary, not only to comply with the Fiscal Systems Manual, but to ensure the integrity of cash receipts transactions.

During our audit fieldwork, PDC and AODC officials installed a new bookkeeper, appointed an office manager, and conducted training on the proper procedures for processing transactions, including transaction voids.

Recommendation

PDC officials should monitor the cash receipting process, including transaction voids, to ensure that the designated procedures are being followed to ensure the integrity of cash receipt transactions.

Auditee's Response

PDC officials provided the following response:

In January, 2010, new bookkeepers were trained and put in place by AODC staff. They are currently directly supervised by the office manager. Additionally the primary bookkeeping and cashiering responsibilities are periodically rotated so that back ups are not stale. Since January, 2010 management in the clerk's office is engaged in monitoring the financial management of the court. All voids have been properly documented since January, 2010.

e. Bank Reconciliations Not Always Properly Prepared

Our review of bank reconciliations in the PDC Clerk-Magistrate's Office found that reconciliations were not always properly prepared. For example, incorrect check register balances were sometimes used to start the reconciliation process, and small variances would not be corrected until subsequent months.

Although we were able to identify the reasons for the incorrect bank reconciliations, the AOTC Fiscal Systems Manual and subsequent directives provide guidance for the preparation of bank reconciliations. Reconciliation of cash balances is an important part of documenting the integrity of the balance of cash in the bank as well as the underlying

transactions that result in that balance. As such, proper preparation of the monthly bank reconciliations is an important control procedure.

During our audit fieldwork, PDC and AODC officials installed a new bookkeeper, appointed an office manager, and conducted training on the proper procedures for completing bank reconciliations.

Recommendation

PDC officials should monitor the preparation of the monthly bank reconciliations, determine that proper balances are used in the reconciliation process, and follow up on variances or reconciling items identified.

Auditee's Response

PDC officials provided the following response:

Managerial officials in the clerk's office have been put into place by AODC to oversee this process. Staff has been reassigned to assume direct responsibility for bookkeeping and they attended training regarding those processes in April, 2010. Additionally, the Trial Court audit department has generously supported the court in providing additional direct training. Monthly reconciliations have been performed by the clerk's office since January, 2010 and this reconciliation has been made part of the monthly financial checklist.

f. Unprocessed Witness Fee Payments

While our audit fieldwork was in progress, PDC and AODC officials working at PDC located a number of old documents for Witness Fee payments while trying to organize office records. These payments generally represent small amounts to reimburse witnesses in court cases for their travel expenses. In total, there were 64 payment documents totaling \$543 spanning a period of three years that were not processed. The AOTC Fiscal Systems Manual provides procedures for processing witness fee payment documents.

PDC officials were unable to explain why these amounts were never processed. They did, however, determine that the amounts were valid, the funds were in fact owed to the parties named, and processed the documents so that the witnesses could receive their payments.

PDC and AODC officials reviewed procedures for processing witness fee payments with the new bookkeeper in the Clerk-Magistrate's Office to ensure that the bookkeeper is aware of proper processing procedures.

Recommendation

PDC officials should ensure that AOTC procedures are followed for timely processing of witness fee payments.

Auditee's Response

PDC officials provided the following response:

This issue was brought to the attention of the state auditors by AODC staff after AODC staff discovered unprocessed witness fees documentation randomly lying in clerk's office file cabinets on January 15, 2010. The witness fees in question have been processed and the process for witness fee payments has been explained to the court and staff has been assigned to process same.