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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
SOUTHERN BERKSHIRE DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2006 TO OCTOBER 31, 2007

OFFICIAL AUDIT
REPORT
MAY 20, 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 District Court Department to establish 62 Divisions, each having a specific territorial jurisdiction, to preside over civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Southern Berkshire Division of the District Court Department (SBDC) presides over civil and criminal matters falling within its territorial jurisdiction: the towns of Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox and Becket. During the period July 1, 2006 to October 31, 2007, SBDC collected revenues totaling \$466,577, which it disbursed to the Commonwealth and those municipalities within its jurisdiction. In addition to processing civil entry fees and monetary assessments on criminal cases, SBDC was custodian of approximately 30 cash bails totaling \$19,833 as of October 31, 2007.

SBDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings. Although SBDC does not collect the associated monetary assessment when a motorist is found responsible for a CMVI, it is required to submit the results of the hearing to the Registry of Motor Vehicles, the agency that is responsible for the collections.

SBDC operations are funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC), or the Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$563,800 for the period July 1, 2006 to October 31, 2007.

The purpose of our audit was to review SBDC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity for the period July 1, 2006 to October 31, 2007.

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IMPROVEMENTS NEEDED WITH CONDUCTING RISK ASSESSMENTS AND SAFEGUARDING CASH COLLECTIONS

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Our review found that SBDC needs to document its risk assessments, correlate them to its internal control plan, and improve controls over cash collections.

a. Improvements Needed With Conducting Risk Assessments **5**

Our review found that the SBDC has made progress in developing an internal control plan. However, SBDC has not documented its risk assessments in accordance with Chapter 647 of the Acts of 1989 and AOTC guidelines. The lack of a risk assessment correlated to the internal control plan diminishes AOTC's efforts to ensure the integrity of the Court's records and assets.

b. Improvements Needed Over the Safeguarding of Cash Collections **7**

SBDC needs to improve controls over undeposited cash collections. Without adequate safeguards, cash collections may be vulnerable to mistakes, irregularities, or thefts that may not be detected in a timely manner.

INTRODUCTION

Background

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. The statute also created a central administrative office managed by a Chief Administrative Justice (CAJ), who is also responsible for the overall management of the Trial Court. The CAJ charged the central office, known as the Administrative Office of the Trial Court (AOTC), with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court, including a budget; central accounting and procurement systems; personnel policies, procedures, and standards for judges and staff; and the management of court facilities, security, libraries, and automation.

Chapter 211B of the Massachusetts General Laws authorized the District Court Department (DCD), which has civil jurisdiction over money-damage cases involving tort and contract actions; small claims; summary process; civil motor vehicle infractions (CMVI); mental health, alcoholism, and drug abuse commitments; and juvenile matters in Districts without a Juvenile Court. Its criminal jurisdiction extends over all misdemeanors and certain felonies. The DCD established 62 Divisions, each having a specific territorial jurisdiction, to preside over the civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Southern Berkshire Division of the District Court Department (SBDC) presides over civil and criminal matters falling within its territorial jurisdiction: the towns of Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox and Becket. During the period July 1, 2006 to October 31, 2007, SBDC collected revenues totaling \$466,577, which it disbursed to the Commonwealth and the municipalities within its jurisdiction. The majority (approximately 93%) of

revenue collected by SBDC was paid to the Commonwealth as either general or specific state revenue – totaling \$432,494 - as follows:

Revenue Type	July 1, 2006 to June 30, 2007	July 1, 2007 to October 31, 2007	Total
General Revenue	\$101,679	\$39,243	\$140,922
Miscellaneous	11	--	11
Surcharges	10,885	3,690	14,575
Environmental Fines	2,225	350	2,575
Victim Witness Fund	28,354	9,355	37,709
Alcohol Fees	12,185	6,363	18,548
Probation Fees	118,544	42,775	161,319
Drug Analysis Fund	325	--	325
Reimburse Indigent Counsel	21,979	8,916	30,895
Victims of Drunk Driving	3,845	1,660	5,505
Indigent Salary Enhancement Trust Fund	1,080	225	1,305
Highway Fund	1,590	440	2,030
Head Injury Program	11,420	5,355	16,775
Total	\$314,122	\$118,372	\$432,494

Approximately \$338,057 of those funds consisted of suspended fines, costs and other money assessments that were collected by the Probation Office and either transferred to the Clerk-Magistrate's Office for transmittal to the Commonwealth, or paid directly to the State Treasurer. During the same period, the Probation Office collected and paid \$56,188 of restitution money directly to the parties owed the funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, SBDC was custodian of approximately 30 cash bails amounting to \$19,833 as of October 31, 2007. Bail in the form of cash is the security given to the Court by defendants or their sureties to obtain release and to ensure appearance in court, at a future date, on criminal matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release.

SBDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings, which are requested by the alleged violator and heard by a Clerk-Magistrate or judge who determines whether the drivers are responsible for the CMVI offenses cited. SBDC does not collect the associated monetary assessment when a violator is found responsible, but it is required to submit the results of the hearing to the Registry of Motor Vehicles, which follows up on collections.

SBDC operations are funded by appropriations under the control of either the Division (local) or the AOTC or Commissioner of Probation Office (central). Under local control was an appropriation for personnel-related expenses of the Clerk-Magistrate's Office and Judge's Lobby support staff and certain administrative expenses (supplies, periodicals, law books, etc.) Other administrative and personnel expenses of the Division were paid by centrally controlled appropriations. According to the Commonwealth's records, local and certain central appropriation expenditures associated with the operation of the Division for the period of July 1, 2006 to October 31, 2007 totaled \$563,800¹.

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 SBDC. The scope of our audit included SBDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2006 to October 31, 2007.

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits and, accordingly, included audit procedures and tests that we considered necessary under the circumstances.

Our audit objectives were to (1) assess the adequacy of SBDC's internal controls over cash management, bail funds, and civil- and criminal-case activity and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding SBDC's compliance

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

with applicable state laws, rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures.

Our review centered on the activities and operations of SBDC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed bail and related criminal-case activity. We also reviewed cash management activity and transactions involving criminal monetary assessments and civil case entry fees to determine whether policies and procedures were being followed.

To achieve our audit objectives, we conducted interviews with management and staff and reviewed prior audit reports, the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and SBDC'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 SBDC was based on those interviews and the review of documents.

Our recommendations are intended to assist SBDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that SBDC's systems covering cash management, bail funds, and criminal- and civil-case activity operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we determined that, except for the issues noted in the Audit Results section of this report, SBDC (1) maintained adequate internal controls over cash management, bail funds, and civil- and criminal-case activity; (2) properly recorded, collected, deposited, and accounted for all receipts; and (3) complied with applicable laws, rules, and regulations for the areas tested.

AUDIT RESULTS

IMPROVEMENTS NEEDED WITH CONDUCTING RISK ASSESSMENTS AND SAFEGUARDING CASH COLLECTIONS

Our review found that the Southern Berkshire District Court (SBDC) needs to strengthen its internal controls by documenting its risk assessments and safeguarding cash collections prior to deposit.

a. Improvements Needed With Conducting Risk Assessments

Our audit found that the SBDC has made progress in developing an internal control plan, but additional work is needed to complete the plan. SBDC prepared internal control documents that outline overall internal control procedures and concepts. However, the SBDC did not document its risk assessment, which would be used to determine what internal control procedures are needed to minimize the identified risks. As a result, 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 Office of the State Comptroller (OSC) issued written guidance in the form of the Internal Control Guide for Managers and the Internal Control Guide for Departments. A revised Commonwealth Internal Control Guide subsequently replaced these internal control guides by streamlining the information contained in the previous guides and incorporating additional internal control principles. The OSC again stressed the importance of internal controls and the need for departments to develop internal control plans, defined as follows:

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

Further, AOTC issued Internal Control Guidelines for the Trial Court, establishing the requirements 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.

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

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

Recommendation

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

Auditee's Response

The First Justice, Clerk-Magistrate, and Chief Probation Officer concurred with our recommendation and noted that the Court should have a revised internal control plan submitted to the AOTC by July of 2008.

b. Improvements Needed Over the Safeguarding of Cash Collections

Our audit disclosed that SBDC needed to improve its internal controls to comply with the Trial Court rules and regulations regarding the safeguarding of cash collections. We found that while SBDC adequately segregated the duties of the cashiering and bookkeeping functions, it did not always deposit cash collections daily or properly secure these funds prior to deposit. As a result, cash collections that are not promptly deposited may be vulnerable to mistakes, irregularities, or theft that may not be detected in a timely manner.

While reviewing the court's cash collection process, we physically observed bank bags in the safes of the Clerk-Magistrate's and Probation Offices, which contained cash collections totaling \$2,320 and \$1,672 respectively. We noted that although all funds collected were secured by the end of the business day, the practice of not making daily deposits and allowing court employees access to these funds throughout the workday is contrary to procedures established in the Trial Court's Fiscal Systems Manual (FSM). Section 8.3 of the FSM states, in part::

All funds, including all checks, must be receipted and deposited on the same business day before the end of the bank's business day. Since local banks differ as to their closing hours, each Court must ensure that the day's deposit reaches the Local Bank before the Bank closes. The day's receipts must be stored in a secure location -- preferably in a locked, fireproof vault or safe -- if the deposit is not made before the bank closes.

The bookkeeper is responsible for the preparation of the daily deposit. The Clerk-Magistrate must assign personnel to make the daily deposit at the local bank.

Section 12.3 covering accounting for probation funds using the probation receipt accounting (PRA) system, states, in part:

The primary cashier must begin totaling the day's P.R.A. One-Write Receipt Register page (preferably by 2:00 PM) to begin daily closing procedures early enough in the day to complete them in time to make the deposit. All funds, including all checks, must be receipted and deposited on the same business day before the end of the bank's business day. Since local banks differ as to their closing hours, each Court must ensure that the day's deposit reaches the local bank before the bank closes. The day's receipts must be stored in a secure location -- preferably in a locked, fireproof vault or safe -- if the deposit is not made before the bank closes.

To ensure the security of funds collected by the Courts, each Court must end its daily collections with sufficient time to allow cashiers to close their drawers, the bookkeeper to close the Court's books, and the designated personnel to make the daily deposit by the end of the bank's business day.

Court representatives indicated that deposits were not always made daily either because cash collected was minimal or because staff was not always available to take deposits to the local bank. Also, it was noted that court personnel had access to the safes during the business day because SBDC staff needed to retrieve various court records which were kept in these safes.

We discussed this situation with the court personnel, who informed us that deposits would be made on a more regular basis.

Recommendation

The SBDC should review workload requirements and make necessary adjustments to enable designated office personnel to make daily deposits at the local bank. The SBDC should also clarify with AOTC if it can be exempted from the daily deposit requirement if deposits are of a low dollar value. Additionally, SBDC should ensure that cash storage locations are adequately secured and accessible only to authorized personnel.

Auditee's Response

The First Justice, Clerk-Magistrate, and Chief Probation Officer concurred with our recommendations and will attempt to deposit funds daily, although they indicated that this is not always possible. Court officials further noted that all funds collected will be adequately secured in compliance with the Fiscal Systems Manual.