



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

*Making government work better*

Official Audit Report – Issued April 26, 2017

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## Southeast Division of the Housing Court Department

For the period July 1, 2014 through June 30, 2016





Commonwealth of Massachusetts  
Office of the State Auditor  
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*Making government work better*

April 26, 2017

Honorable Anne Kenney Chaplin, First Justice  
Southeast Division of the Housing Court Department  
289 Rock Street  
Fall River, MA 02720-3246

Dear First Justice Chaplin:

I am pleased to provide this performance audit of the Southeast Division of the Housing Court Department. This report details the audit objectives, scope, methodology, and conclusions for the audit period, July 1, 2014 through June 30, 2016. My audit staff discussed the contents of this report with court personnel, whose comments are reflected in this report.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular watermark.

Suzanne M. Bump  
Auditor of the Commonwealth

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## EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Southeast Division of the Housing Court Department (SHC) for the period July 1, 2014 through June 30, 2016. In this performance audit, we determined that SHC has a process in place that ensures that its housing specialists (HSs) meet the established criteria under Section 16 of Chapter 185C of the General Laws (see Appendix A) to fulfill their duties of mediating and resolving cases, thus reducing SHC judges' caseloads.

HSs are appointed by the First Justice of the court, can serve for an indefinite period, and are required by Section 16 of Chapter 185C of the General Laws to be knowledgeable about the following:

*the maintenance, repair, and rehabilitation of dwelling units; the problems of landlord and tenant as they pertain to dwelling units; the types of funds and services available to assist landlords and tenants in the financing and resolution of such problems; the federal and state laws, rules and regulations pertaining to the maintenance, repair and rehabilitation of such units; and the financing and resolution of such problems.*

During our audit period, a total of five HSs worked at SHC's five courthouse locations (Fall River, New Bedford, Brockton, Plymouth, and Taunton).

Based on our audit, we have concluded that SHC has a process in place to ensure that HSs meet the established criterion, Section 16 of Chapter 185C of the General Laws, to fulfill their duties.

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## OVERVIEW OF AUDITED ENTITY

According to Section 3 of Chapter 185C of the Massachusetts General Laws, the Housing Court Department (HCD) has jurisdiction over the following:

*the use of any real property and activities conducted there on as such use affects the health, welfare and safety of any resident, occupant, user or member of the general public and which is subject to regulation by local cities and towns under the state building code, state specialized codes, state sanitary code, and other applicable statutes and ordinances.*

HCD has established five divisions (Boston, Northeast, Southeast, Western, and Worcester), each having a specific territorial jurisdiction, to preside over the housing-related matters brought before it. Each 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 Housing Specialist Department, headed by a Chief Housing Specialist. The First Justice is the administrative head of the division and is responsible for appointing the Chief Housing Specialist. The Clerk-Magistrate is responsible for the accounting for the division's revenue and the internal administration of his/her office. The Chief Housing Specialist supports the presiding justices, conducts State Sanitary Code violation inspections for the court, and serves as a mediator in litigation involving housing-related issues.

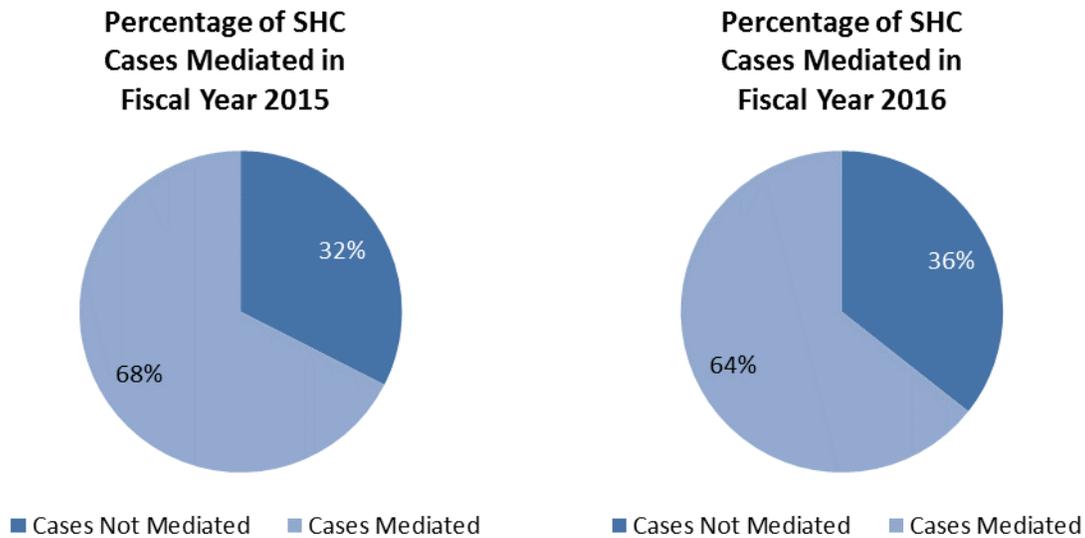
The Southeast Division of the Housing Court Department (SHC) presides over housing-related matters falling within its territorial jurisdiction, which encompasses 47 cities and towns in Bristol and Plymouth counties. SHC's main courthouse is located in Fall River, and SHC operates additional courthouses in New Bedford, Brockton, Plymouth, and Taunton (see Appendix B).

According to SHC officials, SHC originally operated in two locations (Fall River and New Bedford) but grew to five locations, identified above. SHC is currently operating in these five locations with five housing specialists (HSs). However, because of staffing issues, it cannot hold court sessions at all five locations every day of the week. Therefore, SHC instituted a rolling schedule under which court locations are open for sessions on different days. Currently, Plymouth is open for sessions on Monday, Taunton on Tuesday, Brockton on Wednesday, Fall River on Thursday, and New Bedford on Friday. SHC staff members, including its five HSs, work at the different court locations based on this rolling schedule.

SHC has jurisdiction over residential housing matters, including zoning, general nuisance-related matters, consumer protection, criminal jurisdiction, and evictions. Furthermore, SHC has jurisdiction in

landlord-tenant matters such as contracts, torts, and equity matters. The court hears summary process (eviction) cases; small-claims cases; and civil actions involving personal injury, property damage, breach of contract, discrimination, and other claims. SHC also provides mediation services through HSs to help parties involved in pending cases reach mutually acceptable agreements instead of going before a judge, thus decreasing the number of cases judges have to hear.

According to statistics on the Massachusetts Trial Court website, SHC filed 8,870 cases in fiscal year 2015, with 5,988 cases mediated by HSs, and it filed 9,207 cases in fiscal year 2016, with 5,926 cases mediated by HSs.



According to the Massachusetts Trial Court website, HSs mediated more than half of the SHC cases for fiscal years 2015 and 2016.

Considering the work conducted by the HSs at SHC, as supported by the above statistics, and the fact that the five existing HCD division jurisdictions do not cover all the cities and towns in Massachusetts, the Trial Court is pursuing expanding these courts and/or increasing the number of HSs in an effort to provide all residents of the Commonwealth with access to housing litigation assistance.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Southeast Division of the Housing Court Department (SHC) for the period July 1, 2014 through June 30, 2016.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is our audit objective, indicating the question we intended our audit to answer and the conclusion we reached regarding the objective.

Objective	Conclusion
Does SHC have a process in place to ensure that housing specialists (HSs) meet the established criterion, Section 16 of Chapter 185C of the General Laws, to fulfill its duties?	Yes

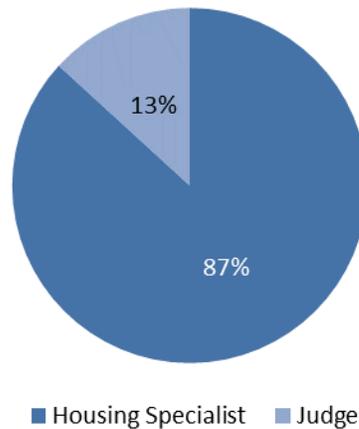
To achieve our objective, we gained an understanding of the internal controls over SHC HSs that we deemed significant to our audit objective.

Additionally, we performed the following procedures:

- We defined “knowledgeable” for auditing purposes. Section 16 of Chapter 185C of the General Laws states that HSs should be knowledgeable in specific areas (see Appendix A). Based on the Merriam-Webster Dictionary definition of “knowledgeable” (“having information, understanding, or skill that comes from experience or education”), we used the following criteria to evaluate whether HSs were knowledgeable:
  1. Experience—We established a minimum of three years of experience as a reasonable amount of time for an HS to become knowledgeable, based on Trial Court hiring criteria and time subsequently dedicated to training.
  2. Education—In interviews, HSs stated that they must complete 30 hours of orientation training and a six-month probationary period.
  3. Skills—We believe that the ability of the HSs to resolve 80% or more of the caseload indicates that the HSs have the skills, and therefore the knowledge, to fulfill their duties.

- We obtained and examined source documentation, such as emails confirming training attendance; the agenda for the annual training provided to HSs and all corresponding timesheets; and the binder of applicable laws, rules, and regulations that each HS is required to learn.
- We interviewed the Chief Housing Specialist, who provided the number of years of experience for each HS, and corroborated this testimonial evidence by obtaining start dates for all HSs from the head administrative assistant. We further traced this information to an organization chart and determined that each HS had more than 10 years of experience.
- We verified the completeness and accuracy of data from MassCourts (SHC's case-management system) by tracing a random sample of cases for fiscal years 2015 and 2016 to and from the source documents in the hardcopy case files. Based on the analysis conducted, we determined that the data obtained were sufficiently reliable for the purpose of this audit.
- From the population of 501 days that court was in session for fiscal years 2015 and 2016, we selected a nonstatistical random sample of 70 days to test whether 80% or more of the SHC cases scheduled on those days were resolved by an HS rather than being held before a judge. We applied a nonstatistical approach; therefore, the results of our test cannot be projected to the entire population and apply only to the items selected.

#### Cases Resolved by an HS or a Judge



HSs resolved 87% of the cases we selected to test, evidencing the efficient and effective operation of SHC.

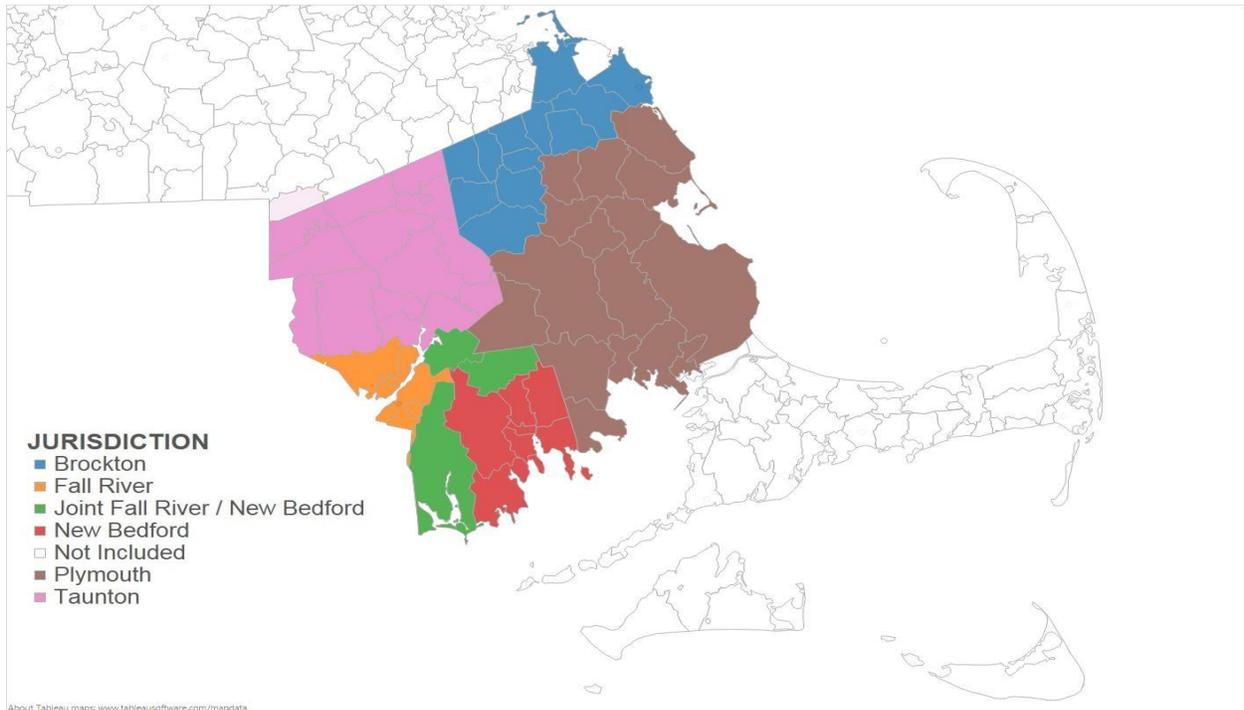
## **APPENDIX A**

### **Section 16 of Chapter 185C of the Massachusetts General Laws**

*The first justice of a particular housing court may appoint, subject to appropriation and subject to the approval of the chief justice of the housing court department, such number of housing specialists as he may from time to time determine. Said first justice may designate one of them as chief housing specialist for the court. All housing specialists shall hold office at the pleasure of said chief justice, subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems. All housing specialists shall be knowledgeable in the maintenance, repair, and rehabilitation of dwelling units; the problems of landlord and tenant as they pertain to dwelling units; the types of funds and services available to assist landlords and tenants in the financing and resolution of such problems; the federal and state laws, rules and regulations pertaining to the maintenance, repair and rehabilitation of such units; and the financing and resolution of such problems. The housing specialists shall have such powers and perform such duties as said chief justice shall from time to time prescribe. Every housing specialist shall be sworn by the chief justice of the housing court, who shall, upon administering the oath, forthwith make return of such act with the date thereof to the state secretary.*

## APPENDIX B

### Southeast Division of the Housing Court Department Jurisdiction Map



### Cities and Towns within the Jurisdiction of the Southeast Division of the Housing Court Department

Fall River	Brockton	New Bedford	Plymouth	Taunton
Fall River	Abington	Acushnet	Carver	Attleboro
Freetown*	Bridgewater	Dartmouth	Duxbury	Berkley
Somerset	Brockton	Fairhaven	Halifax	Dighton
Swansea	East Bridgewater	Freetown*	Hanson	Easton
Westport*	Hanover	New Bedford	Kingston	Mansfield
	Hingham	Westport*	Lakeville	North Attleborough
	Hull		Marion	Norton
	Norwell		Marshfield	Raynham
	Rockland		Mattapoisett	Rehoboth
	Scituate		Middleborough	Seekonk
	West Bridgewater		Pembroke	Taunton
	Whitman		Plymouth	
			Plympton	
			Rochester	
			Wareham	

\* Westport and Freetown are listed under both the Fall River and New Bedford jurisdictions and can bring their cases to either housing court.