

STATE OF CONNECTICUT

**AUDITORS' REPORT
CRIMINAL JUSTICE COMMISSION
AND
DIVISION OF CRIMINAL JUSTICE,
OFFICE OF THE CHIEF STATE'S ATTORNEY
FOR THE FISCAL YEARS ENDED
JUNE 30, 2001, 2002 AND 2003**

**AUDITORS OF PUBLIC ACCOUNTS
KEVIN P. JOHNSTON ♦ ROBERT G. JAEKLE**

Table of Contents

| | |
|---|----|
| INTRODUCTION | 1 |
| COMMENTS | 1 |
| Foreword..... | 1 |
| Members of the Commission..... | 2 |
| Significant New Legislation..... | 2 |
| Résumé of Operations..... | 2 |
| Program Evaluation..... | 4 |
| CONDITION OF RECORDS | 6 |
| Equipment and Inventory Records..... | 6 |
| Administrative Policies and Procedures Manual..... | 7 |
| Accounts Receivable Controls..... | 8 |
| Prosecuting Attorneys' Training Program..... | 14 |
| Clarification of Division's Administrative Structure..... | 16 |
| RECOMMENDATIONS | 20 |
| CERTIFICATION | 23 |
| CONCLUSION | 25 |

December 21, 2004

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We have made an examination of the financial records of the Criminal Justice Commission and the Division of Criminal Justice for the fiscal years ended June 30, 2001, 2002 and 2003. This report on that examination consists of the Comments, Recommendations and Certification that follow.

The financial statements pertaining to the operations and activities of the Criminal Justice Commission (Commission) and the Division of Criminal Justice (Division) for the fiscal years ended June 30, 2001, 2002 and 2003, are presented and audited on a Statewide Single Audit basis to include all State agencies and funds. This audit examination has been limited to assessing the Division's compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating the internal control structure policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Commission exists pursuant to Article 23 of the Amendments to the Connecticut Constitution and Section 51-275a of the General Statutes. The Commission is granted authority under Section 51-278 of the General Statutes to appoint the Chief State's Attorney to a five-year term, two Deputy Chief State's Attorneys to four-year terms, and a State's Attorney for each Judicial District to an eight-year term. The Commission also appoints Assistant State's Attorneys and Deputy Assistant State's Attorneys. Further, the Commission has the authority to remove any of the above officials after due notice and hearing.

Auditors of Public Accounts

The Division was established within the Executive Branch pursuant to Article 23 of the Amendments to the Connecticut Constitution and under the provisions of Section 51-276 of the General Statutes, and is responsible for the investigation and prosecution of all criminal matters in the Superior Court and has all management rights except the appointment of State's Attorneys. Under Article 23, the Chief State's Attorney is the administrative head of the Division.

Members of the Commission:

Terms of the six members of the Criminal Justice Commission, who are nominated by the Governor and appointed by the General Assembly, are coterminous with that of the Governor. Appointed members of the Commission as of June 30, 2003, were as follows:

Honorable Peter T. Zarella, Chairman
Honorable Thomas A. Bishop
Charles L. Howard, Esquire
Garrett M. Moore, Esquire
Herbert J. Shepardson, Esquire
Ann G. Taylor, Esquire

In addition to the above, the Honorable William J. Sullivan served as Commission Chairman until March 2001 and the Honorable Bernard D. Gaffney also served during the audited period. Appointed members serve without compensation other than for necessary expenses incurred in performing their duties. The Chief State's Attorney also serves as a member of the Commission.

John M. Bailey served as Chief State's Attorney until his retirement on November 1, 2002. Christopher L. Morano was appointed as Acting Chief State's Attorney on October 2, 2002, and was appointed Chief State's Attorney on December 23, 2002, and continues to serve in that position.

Significant New Legislation:

Public Act 00-3, later codified to Section 51-285 of the General Statutes, allows the Chief State's Attorney to hire special juvenile prosecutors and special inspectors on a contractual basis for a temporary period of time.

Public Act 00-72, Sections 7 and 12, later codified to Section 51-279d of the General Statutes, requires the Chief State's Attorney to establish a Hate Crimes Advisory Committee. The Committee coordinates Federal, State, and local efforts on enforcing bigotry and bias crime laws and programs increasing community awareness and reporting, and makes recommendations on training for police officers about bigotry and bias crimes.

RÉSUMÉ OF OPERATIONS:

Comparative summaries of Division receipts by fund for the audited period, as compared to the period ended June 30, 2000, are shown below:

| | <u>Fiscal Year Ended June 30,</u> | | | |
|-----------------------------|--|---------------------------|----------------------------|---------------------------|
| | <u>2000</u> | <u>2001</u> | <u>2002</u> | <u>2003</u> |
| General Fund: | \$ | \$ | \$ | \$ |
| Forfeitures | 3,488,675 | 4,490,342 | 7,215,040 | 3,993,434 |
| Federal aid – miscellaneous | 360,293 | 566,512 | 556,538 | 538,006 |
| Restricted contributions: | | | | |
| Other than Federal | 1,479,821 | 1,548,266 | 1,525,622 | 1,313,277 |
| Federal | 1,487,576 | 1,806,298 | 1,352,825 | 1,063,145 |
| All other receipts | <u>47,678</u> | <u>181,078</u> | <u>434,309</u> | <u>383,490</u> |
| Total General Fund Receipts | 6,864,043 | 8,592,496 | 11,084,334 | 7,291,352 |
| Pending Receipts Fund | <u>214,633</u> | <u>243,693</u> | <u>385,884</u> | <u>406,279</u> |
| Total Receipts | <u>\$7,078,676</u> | <u>\$8,836,189</u> | <u>\$11,470,218</u> | <u>\$7,697,631</u> |

The increases in General Fund receipts during the audited period are attributable to several factors. There were large increases in bond forfeiture collections that are a result of criminal defendants failing to appear for a court date. The total amount of the forfeitures can fluctuate greatly depending on the volume of activity in any given year. Also, there were increases in Federal and State reimbursements for continuing crime and drug control related programs during the audited period. The increases in the “all other receipts” category were due to proceeds received from the sale of older Division automobiles through auctions conducted by the Division of Administrative Services. Also, “penalty” moneys received as a result of global settlements of Medicaid Fraud cases prosecuted by the Federal government were deposited into the General Fund beginning in fiscal year 2001-2002. In response to prior reviews, the Division deposits various fines and miscellaneous forfeitures awaiting approval and final disposition into the Pending Receipts Fund.

Comparative summaries of Division expenditures for the audited period, as compared to expenditures for the period ended June 30, 2000, are shown below:

| | <u>Fiscal Year Ended June 30,</u> | | | |
|--|--|--------------------------|--------------------------|--------------------------|
| | <u>2000</u> | <u>2001</u> | <u>2002</u> | <u>2003</u> |
| Budgeted Accounts: | \$ | \$ | \$ | \$ |
| Personal services | 31,604,417 | 32,584,019 | 34,907,578 | 35,099,664 |
| Contractual services | 3,082,358 | 3,706,831 | 3,064,373 | 2,652,799 |
| Commodities | 453,262 | 495,199 | 438,272 | 376,937 |
| Sundry charges | 44,931 | 3,305 | 3,120 | 2,067 |
| Equipment | <u>430,835</u> | <u>45,529</u> | <u>624,030</u> | <u>362,603</u> |
| Total Budgeted Accounts | <u>35,615,803</u> | <u>36,834,883</u> | <u>39,037,373</u> | <u>38,494,070</u> |
| Restricted Contributions Accounts: | | | | |
| Federal contributions | 1,471,653 | 1,854,118 | 1,486,209 | 1,262,097 |
| Other than Federal contributions | <u>1,471,211</u> | <u>1,597,550</u> | <u>1,366,425</u> | <u>1,235,117</u> |
| Total Restricted Contribution Accts. | <u>2,942,864</u> | <u>3,451,668</u> | <u>2,852,634</u> | <u>2,497,214</u> |
| Total General Fund Expenditures | <u>38,558,667</u> | <u>40,286,551</u> | <u>41,890,007</u> | <u>40,991,284</u> |

Auditors of Public Accounts

| | | | | |
|-----------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Capital Equipment Purchase Fund | 659,948 | 744,613 | 198,410 | 35,504 |
| Pending Receipts Fund withdrawals | <u>158,217</u> | <u>268,341</u> | <u>381,359</u> | <u>417,423</u> |
| Total Expenditures | <u>\$39,376,832</u> | <u>\$41,299,505</u> | <u>\$42,469,776</u> | <u>\$41,444,211</u> |

Expenditures from General Fund budgeted accounts increased a total of eight percent over the three-year audited period. Budgeted expenditures represented 91 percent, 93 percent, and 94 percent of total General Fund expenditures for the fiscal years ended June 30, 2001, 2002 and 2003, respectively. Budgeted personal services expenditures increased by three percent, seven percent, and one percent in fiscal years 2000-2001, 2001-2002 and 2002-2003, respectively. Personal service increases in fiscal year 2001-2002 were due to an increase in contractual employees during that year. The bulk of the equipment expenditures were for the replacement of the Division's automobiles, and computers and related peripheral equipment for the various State's Attorneys' offices.

General Fund Restricted Contributions expenditures primarily consisted of personal services, related fringe benefits, and miscellaneous costs that were used for various State and Federal programs including Juvenile Prosecution Enhancement, Stop Violence Against Women, Statewide DWI Prosecution and Community Prosecution Programs.

Capital Equipment Purchase Fund expenditures were used to purchase motor vehicles, computer related equipment and telecommunication equipment. Pending Receipt Fund withdrawals were based on actual activity and represented the final disposition of previously deposited unknown receipts into appropriate revenue accounts or returned to payors.

In addition, the Criminal Justice Commission also had expenditures for the three year period which totaled \$580, \$544, and \$302, respectively. These expenditures were primarily for food provided for the Commissioners at their meetings.

PROGRAM EVALUATION:

Section 2-90 of the General Statutes authorizes the Auditors of Public Accounts to examine the operations of State agencies to determine their effectiveness in achieving legislative directives.

In a follow-up from our prior audit review, our current review considered the Division's implementation, tracking and compliance with Section 51-279c, subsection (a), of the General Statutes and with the Connecticut Association of Prosecutors' Collective Bargaining Agreement (CAP). Section 51-279c, subsection (a), states that the Chief State's Attorney is to establish a formal training program for all newly appointed prosecuting attorneys consisting of not less than five days and an ongoing training program for all prosecuting attorneys consisting of not less than two days each year. CAP mandates that each member of the Union participate in 14 hours of professional development in each fiscal/contract year. Our prior review concluded that the Division was not in compliance with the training requirements and needed to establish formal training programs for all State prosecutors and formally document prosecutors' participation and compliance with the training requirements.

In response to our prior review and recommendation, the Division did develop and began offering a two-day training seminar to all of its prosecutors in the 2002-2003 fiscal year; however, attendance is not mandatory. The Division also made attempts to send new employees to four and one-half day training programs offered by the National District Attorneys Association. However, due to a limited number of course openings and time constraints not all new employees are able to attend these courses and may not receive five days of formal training within a timely period.

We reviewed controls over the prosecutors' training programs to determine if the Division developed adequate records/files for documenting employee compliance with statutory and collective bargaining requirements. Our review found that the Division has not established adequate internal controls over the recording and tracking of prosecutors' compliance to the requirements. The Division did not have a complete and comprehensive record that includes every prosecutor and the amount of time and type of training programs each participated in during the 2001, 2002, or 2003 calendar years.

The Division did not have procedures that address the criteria used or the reporting of attendance at individual in-house orientation-type or mentoring training programs that could be used to meet some of the training requirements. A spreadsheet was established to record a prosecutor's participation in training programs. It includes the employee's name, seminar/course title, attending date and number of hours of professional training the prosecutor received and/or reports to the Division. However, the attending dates and hours posted are not always based on an actual attendance record or a certificate of completion. Attendance information was sometimes posted using only the sign-up sheet and not the actual attendance sign-in sheet. Copies of all sign-in sheets or attendance documentation were not centrally maintained to document the spreadsheet postings. In addition, all prosecutors were not properly monitored to ensure that they participated in enough professional training programs to meet the required amount of training within the required amount of time.

In summary, although the Division has made progress in complying with the statute and collective bargaining requirements, it has not developed adequate administrative controls to verify every prosecutor's compliance with the training requirements. A finding relating to the aforementioned conditions is presented in the "Condition of Records" and "Recommendations" sections of this report.

CONDITION OF RECORDS

Our review of the financial records of the Division of Criminal Justice disclosed some areas requiring comment and/or improvements that are discussed below:

Equipment and Inventory Records:

Criteria: The State Property Control Manual requires that each State agency establish and maintain an adequate and accurate property control record system to provide for complete accountability and safeguarding of assets. This includes annual physical inventories to verify the existence and condition of inventory and the timely reporting of missing/stolen equipment.

Condition: Our review of the Division's Annual Fixed Assets/Property Inventory Report/GAAP Reporting Form (CO-59), as of June 30, 2003, revealed that various controllable items were erroneously included in the reported stores and supplies total. The stores and supplies total was overstated by approximately \$100,000.

A complete physical inventory of agency vehicles was not taken to verify each vehicle's existence and condition. A Division owned vehicle became inoperable in May 1999. The Juvenile Investigator assigned the vehicle never notified the Division of its condition or status. The vehicle was eventually towed from a Department of Correction's facilities garage in New Haven where it had been parked. There is no documentation to account for where or when the vehicle was towed. The Division did not become aware that the vehicle was missing until May 2001, when it was scheduled to be replaced. A vehicle loss report was filed with the State Comptroller on July 12, 2001. The vehicle's value was included on the Division's annual CO-59 report for the fiscal year ended June 30, 2000.

A laptop computer was certified as being on hand during a physical inventory taken during the 2000-2001 fiscal year; however, it was never actually seen. It was formally reported as missing/stolen in February 2002.

The Division did not file a Report of Loss or Damage to Real and Personal Property for approximately \$8,000 of inventory items that were noted as missing or unaccounted for during the physical inventory taken during the 2002-2003 fiscal year, until May 2004.

Effect: The above conditions indicate a weakness in controls that resulted in a misstatement of inventory values and the untimely reporting of lost/stolen equipment.

Cause: An actual physical inventory was not taken of all vehicles and the laptop computer was never physically seen. The other causes were not determined.

Recommendation: The Division should strengthen its controls over fixed assets/inventory and the annual reporting of such assets. (Recommendation 1.)

Agency Response: “In the CO-59 submission for Fiscal Year 2004 the agency will correct the overstatement of the stores and supplies total as noted in the audit ...

In the summer of 2003 the Division instituted a report form for the physical inventory of fleet vehicles housed at the Chief State’s Attorney’s Office. In preparation for the 2004 CO-59 report we expanded the use of this form to field locations where each Supervisory Inspector personally inspected vehicles assigned to personnel in the office. The State’s Attorney in each office performed the inventory of the vehicle assigned to the Supervisory Inspector. ... We will continue the practice of physically verifying the existence and condition of fleet vehicles assigned to all Division personnel. We are also more closely monitoring the submission of monthly mileage usage reports from personnel who are assigned State vehicles, and imposing sanctions when such reports are not submitted in a timely manner. ... These efforts will strengthen our controls over State vehicles and assure that they are appropriately accounted for.

We will improve the timeliness of filing Reports of Loss or Damage to Real and Personal Property. However, lack of adequate administrative staff resources, coupled with the expanded workload and processing time associated with the implementation of CORE-CT, has impeded our ability to keep current with some tasks. We will seek to remedy this by requesting additional administrative personnel in the agency’s FY05-07 biennial budget submission.”

Administrative Policies and Procedures Manual:

Criteria: Pursuant to Section 51-279, subsection (a)(3), of the Connecticut General Statutes, the Chief State's Attorney is to "... establish guidelines, policies and procedures for the internal operation and administration of the division which shall be binding on all division personnel ...”.

Condition: The Division does not have an updated and complete written Administrative Policies and Procedures Manual to address current administrative policies and accounting systems. Many of the Division’s written policies on hand during the audited period have not been updated since 1994. The Division began drafting a new policy and procedures manual that includes updated guidelines, policies and procedures pertaining to employment, personnel and payroll, financial transactions, materials management and items relating to the internal administration of

the Division. However, our review of that draft manual disclosed that it is not complete and had not been reviewed or approved by the Chief State's Attorney as of May 2004. During the 2000-2001 fiscal year, the Financial Services Unit began developing draft sections of the manual relative to the Division's accounting systems, policies and controls; only two components were completed. No additional components were worked on during the audited period.

Effect: The lack of updated written administrative and accounting system policies and procedures weaken overall controls.

Cause: It was indicated that the lack of staffing and time constraints due to the implementation of the CORE-CT System has hindered the work on the manual.

Recommendation: The Division should have a complete and updated comprehensive Administrative Policies and Procedures Manual. (Recommendation 2.)

Agency Response: "The Division's previous Deputy Chief State's Attorney for Administration, Personnel and Finance (who retired in early July, 2004) had completed a draft policies and procedures manual which was inclusive of all existing policies and procedures except for those relating to the accounting system. Work previously begun on updating the accounting system policies and procedures ceased when the State announced the planning for CORE-CT, ... in July of 2003.

The draft manual had not yet been submitted to the Chief State's Attorney for review prior to the Deputy's retirement. A new Deputy Chief State's Attorney was appointed this summer and ... instructed ... to make the completion of this manual a priority. Now that we have completed the first year of activity under the new CORE-CT system, and assuming that the modifications put in place by the State over this past year are final, ... the Director of Financial Services ...[will] resume work on the accounting system policies and procedures, but the inadequacy of administrative staff resources may prevent her from devoting her full attention to this."

Accounts Receivable Controls:

Criteria: Management's responsibility is to establish and maintain adequate and effective internal controls. The State Accounting Manual prescribes policies and procedures for accounts receivable records management, including that records should be accurate and complete. Good business practices and internal controls over accounts receivable should include maintaining proper documentation of transactions, accounts reconciliation, timely collection efforts, write-off of uncollectible accounts, and reliable and accurate reports.

Drug Asset Forfeitures: Section 54-36h, subsection (b), of the General Statutes authorizes the Division of Criminal Justice to pursue civil actions for the forfeiture of assets seized during arrests relating to controlled substances. Section 54-36i, subsection (a), of the General Statutes, establishes the drug asset forfeiture revolving account for depositing the net proceeds of ordered forfeitures, while subsection (c), requires that 70 percent of these forfeitures be allocated to the Department of Public Safety, 20 percent to the Department of Mental Health and Addiction Services and ten percent to the Division. The Department of Public Safety allocation is passed through to law enforcement agencies. The Division has a fiduciary responsibility for deposits and allocations of this account.

Bond Forfeitures: Section 51-279, subsections (b), and (c), of the General Statutes establishes the Division's responsibility for the collection of forfeited bonds and provides for the authority to compromise the amount due. The former Chief State's Attorney established a uniform standard that requires payment of 50 percent within seven days, 75 percent within 30 days, and 100 percent thereafter.

Judicial Department Imposed Costs: Section 51-286a, subsection (b), of the General Statutes, gives the Division responsibility for the collection and/or compromise of certain costs, ranging between \$1 and \$20, imposed on certain types of cases.

Condition: We noted weak internal controls over the recording and collection of accounts receivable relating to drug asset forfeitures, bond forfeitures, and various Judicial Department costs.

Drug Asset Forfeitures: Drug asset forfeiture accounts receivable totaled approximately \$1,500,000, as of June 30, 2003, per the Division's records. Our review indicated that this total was misstated. We were unable to determine the total amount of the misstatement; however, weaknesses in internal controls resulted in receivables that were understated for amounts due from forfeitures pursued through criminal cases, overstated by amounts that should be written off, and overstated for accounts that were incorrectly recorded. Receivables that were incorrectly collected and deposited by the Judicial Department were not pursued in a timely manner for transfer back into and subsequent allocation from the revolving account. The untimely action resulted in having to write-off some accounts. Collection efforts, in general, were not pursued in a timely manner. As of June 30, 2003, over \$1,100,000 of receivables was outstanding more than one and a half years after the court-ordered forfeiture date.

Correspondence from a local police department, dated September 2003, notified the Division of 19 outstanding accounts receivable, dating back as far as 1995, totaling over \$13,800. The Office of the Chief State's

Attorney (OCSA) had no former knowledge of these accounts. As of May 2004, the OCSA had not recorded these receivables on its criminal drug asset forfeiture database. Many accounts receivable resulting from criminal case forfeitures were not entered into the database until the law enforcement agency actually complied with the forfeiture. We were unable to determine the outstanding total of unrecorded accounts receivable generated by criminal cases.

The Division's formal collection policy requires that letters be sent to 11 larger law enforcement agencies intermittently throughout the calendar year. Remaining agencies only receive a notice at the end of each calendar year. The Division did not comply with the above-mentioned collection policy. The schedule does not provide for the timely collection of outstanding accounts receivable and resulted in delaying the detection of errors. As a result, over \$4,000 of receivables dating back to the 1990's that had incorrectly been deposited by the Judicial Department, could not be properly documented for transfer back into the revolving account, and had to be written-off in July 2001. Since the Division did not pursue timely collections, we could not determine if there were additional amounts due back from the Judicial Department. The Division did not write-off additional accounts that it had determined to be uncollectible during the audited period.

Bond Forfeitures: The Division collected approximately \$15,700,000 during the audited period. The outstanding accounts receivable balance, as of June 30, 2003, totaled over \$4,700,000 per the Division's records. We were unable to determine the reliability of these totals.

The Division's bond forfeiture system includes a database that calculates the amount due, based on the compromise schedule and data downloaded from the Judicial Department. Significant system weaknesses include the failure to protect Judicial's downloaded data from unauthorized changes, and the lack of reconciliation between actual receipts and the amounts posted to the database. The system does not adequately address accounting for multiple payments made against a single account, nor does it account for overpayments made by a bondsman. It is not programmed to provide users with a list of aged outstanding accounts receivable.

In June 2002, the employee responsible for entries to the bond forfeiture database resigned when asked about some excessive compromises. The Division completed a criminal investigation of the individual in October 2002. The investigation did not establish any personal gain, and barring any corroborative evidence of fraud, it was decided not to take any further action against the individual. Our review of the investigation indicates that it failed to consider the aforementioned system weaknesses. Due to the weaknesses we could not determine the total amount of under-collections. An expanded test of 14 larger forfeited bonds indicated

under-collections of at least \$127,000 based on the established collection schedule. The individual lacked the authority to compromise these receivables and did not pursue proper approvals.

Judicial Department Imposed Costs: The Judicial Department has the responsibility to impose various costs on certain cases. If an individual does not pay before leaving court, Judicial notifies the Division of the outstanding receivable for which the Division has collection responsibilities. Both Judicial and the Division have failed to maintain adequate documentation for numerous years therefore, we are unable to determine the full scope of outstanding receivables. We were informed that Judicial's non-cumulative quarterly report of outstanding receivables included over 400 accounts totaling approximately \$7,400, as of December 31, 2003. We noted the following: Judicial only notified the Division of some of the outstanding receivables; neither Judicial nor the Division maintained permanent cumulative records of the accounts receivable that it was aware of; both the Division and Judicial received payments, however, neither recorded the payments against a receivable record; and the Division failed to pursue collections beyond a first attempt.

Effect: The control weaknesses could result in a loss of revenue to the Division, law enforcement agencies, the Department of Mental Health and Addiction Services, the Judicial Department and the General Fund. Failure to protect downloaded bond forfeiture data from unauthorized changes and a lack of reconciling posted receipts to actual revenues could increase the risk of fraud and result in under-collections going undetected.

Cause: The Division did not implement adequate controls over accounts receivable.

Drug Asset Forfeitures: The Drug Asset Forfeiture Bureau within the OCSA is responsible for pursuing drug asset forfeitures as part of civil actions. However, some State's Attorneys elect to pursue asset forfeitures as part of their criminal cases, outside the scope of Section 54-36h, subsection (b). We were informed that some of the State's Attorneys pursuing forfeitures through criminal cases do not notify the OCSA that the case resulted in a receivable, nor do they monitor the collection of such receivables. There is no standard policy in place that requires the State's Attorneys to notify OCSA of the receivable. Failure to pursue timely collections on civil cases resulted in the delay of detecting errors and resulted in write-offs.

Bond Forfeitures: The database used to record and account for bond forfeitures is outdated and does not include controls over changes to data, transaction postings, and user access. The database does not provide adequate reports that could help in the collection process.

Judicial Department Imposed Costs: The Division was uncertain whether the Judicial Department was maintaining accounts receivable records and did not establish adequate procedures in conjunction with the Judicial Department concerning receivables.

Recommendation: Internal controls and procedures should be improved to ensure that accounts receivable are reliable and complete and that collection efforts are made in a timely manner. (Recommendation 3.)

Agency Response: “Drug Asset Forfeitures:

Significant improvements in the controls over the recording and collection of drug asset forfeiture account receivables have occurred since the last audit. The impact of these improvements was not fully realized until the fall of 2003, which was outside the period of this audit. Improvements included: (1) development of a new database application for the recording and reporting of receivables which enhances our ability to report and collect receivables; (2) formal adoption of a write-off policy that allows us to identify those receivables which cannot be collected and prevent an overstatement of receivable balances ...; and (3) finalization of an agreement with the Judicial Branch regarding standard policies and procedures for processing drug asset forfeiture cases that helps prevent the misdirection of Drug Asset Forfeiture Revolving Account proceeds to the General Fund

We acknowledge that there is a weakness in the ability of the Chief State’s Attorney’s Office Fiscal Unit to record the receivables associated with the filing of criminal drug asset forfeiture cases by Division field offices. Although there have been numerous attempts to remind field personnel of their responsibility to provide copies of all documents relating to such filings, there has not been universal compliance. To strengthen controls in this area, we have recently adopted a policy ... that requires prosecutors who handle such cases to comply. This policy has been reviewed with State’s Attorneys and all have agreed to enforce it in their jurisdictions.

We believe the above noted efforts will improve our ability to accurately record all receivables owed to the State’s Drug Asset Forfeiture Revolving Account and enhance our collection efforts. Lack of adequate accounts receivable staff resources, dedication of these resources to training for and eventual implementation of CORE-CT over the last two years, combined with an outdated and clumsy database application for recording court ordered drug asset forfeitures, have prevented the agency from adhering to an aggressive collection schedule for court ordered drug asset forfeitures.

...

Pursuant to the Division’s write-off policy, which was adopted in draft in 2001 (pending conclusion of the agreement between the Division and

Judicial) and finalized in 2003, \$76,110 of asset forfeiture and advertising cost receivables were written off in fiscal year 2004. ...

Bond Forfeitures:

In response to the audit concerns, Division has taken steps to protect the bond forfeiture database downloaded from Judicial from unauthorized changes. The application has been adjusted to require controls over addition of records and changes to the “bond amount” or “forfeiture date” fields consisting of a written justification of the change and authorization by the Deputy Chief State’s Attorney for Operations. The authorized changes are data entered in the system by the Systems Developer who is the sole person having rights to change these fields... We will create a new “AF status” field in the download data which will capture any changes to forfeiture status made by Division personnel.

... We will create a report of collections from the bond forfeiture database download to reconcile to actual receipts from the accounting records. We trust these changes will create the proper controls over changes to data, transaction postings, and user access addressed in the audit.

The Division is presently participating in a review of the bail bonds industry conducted by the General Assembly. This may result in new legislation affecting the administration of this program.

Judicial Department Imposed Costs:

The database containing various court costs and fines owed to the State is maintained by Judicial. The Division does not have access to this database and is reliant upon the reports Judicial provides ... to identify the outstanding fees and fines per court location for collection purposes. The Division’s collection effort has consisted of sending form letters to the persons listed on the report requesting payment of delinquent costs. If payment is made, Division personnel note the payment on the hard copy report and mail a copy to the appropriate court clerk’s office.

Prompted by questions raised during the audit, the Division investigated with Judicial the process of recording these costs. We learned that Judicial does not maintain a cumulative record of outstanding court costs, and that not all court locations handle the distribution of the reports to the State’s Attorneys’ Offices in their respective locations in the same way, or at all. ... The database is not updated for payments received. As a result of our discussions with Judicial, and to streamline and better control the report distributions, Judicial’s Deputy Director of Court Operations has determined that the Administration Unit of Judicial’s Court Operations would mail the reports directly to my office. The court clerks’ offices have been so advised

We do not believe that it is the responsibility of this agency to maintain the receivable balance for these costs since we do not have access to or maintain the database and do not have the staff to do so. In addition, since Judicial programs benefit from the collected fees, because a portion of the collections support its programs, we believe the responsibility for recording this receivable rests with Judicial.

We believe that there is no cost effective method to collect these very small fines and fees (\$10-\$20 each) once the person leaves the courthouse, and since further prosecution of the defendants based on these delinquencies is impractical and unlikely, we suggest that a better way to assure payment to the State is to require payment of the outstanding fees as a condition for registering a motor vehicle, similar to how unpaid property taxes are handled. We will explore such legislation during the next legislative session.”

Prosecuting Attorneys’ Training Program:

Criteria: Pursuant to Section 51-279c, subsection (a), of the General Statutes, the Chief State’s Attorney is to establish a formal training program for all newly-appointed prosecuting attorneys consisting of not less than five days, and an ongoing training program for all prosecuting attorneys consisting of not less than two days each year. The Connecticut Association of Prosecutors’ Collective Bargaining Agreement mandates that each member of the Union participate in 14 hours of professional development in each fiscal/contract year.

Condition: Adequate administrative controls have not been established to verify that prosecutors are in compliance with annual training requirements. During the spring of 2003, the Division developed and began offering an annual two-day training session to all of its prosecutors; however, attendance is not mandatory. An effort is made to send new prosecutors to the National District Attorneys Association’s four and one-half day training program; however, due to timing and limited access, not all new prosecutors can attend.

The Division developed a spreadsheet to record a prosecutor’s participation in training programs; however, the information is not complete or properly monitored. The spreadsheet information includes the prosecutor’s name, seminar/course title, attending date, and number of hours of professional training received. However, the attending dates and hours posted are not always based on actual attendance records or certificates of completion. Hours are sometimes posted using only the sign-up sheet and not actual attendance sign-in sheets. Copies of all sign-in sheets or attendance documentation are not centrally maintained to document the spreadsheet postings. The spreadsheet may not include all outside professional training that a prosecutor attends if he/she does not

notify the Division of such training. Individual in-house orientation-type or mentoring training is not always recorded.

In addition, there are no procedures in place to adequately monitor and ensure that every prosecutor received the required number of professional training program hours each year. The spreadsheet used to track training hours does not include every Division prosecutor, nor does it give cumulative totals by years, and is not actively reviewed for compliance with the requirements.

Effect: The Division cannot substantiate whether all prosecutors have received the amount of training required by statute and collective bargaining agreement.

Cause: The Division believes there is a lack of both funding and staffing resources to adequately provide the necessary training, and to monitor each prosecutor's compliance with those requirements.

Recommendation: The Division should continue its efforts in establishing formal training programs for new prosecutors and should monitor all prosecutors' training to ensure compliance with statutory and collective bargaining requirements. (Recommendation 4.)

Agency Response: "...The Division has improved its efforts to establish and document training of its prosecutors despite the lack of a full time dedicated training officer. Starting in the summer of 2003 the Chief State's Attorney's Office instituted an annual two-day in-house training seminar for prosecutors. We also regularly approve requests for attendance at the National District Attorneys Association (NDAA) training program for new prosecutors (which is at no cost to the State), requests for attendance at other NDAA seminars concentrating on special areas of criminal prosecution (such as child abuse), and other training opportunities to the extent that funds will allow.

The Chief State's Attorney's Office has developed a Training Request Form which is used to track employee training requests ... We recognize that the information contained on the spreadsheet may not be complete, hindering our ability to verify compliance with the statutory and bargaining unit training requirements for prosecutors. We acknowledge that development of an application dedicated to the collection and reporting of training detail is needed, but limited staff and financial resources, and competing demands for application development, have prevented us from realizing this goal.

In recognition of the need to better monitor and document staff training, I have assigned a manager at the Chief State's Attorney's Office the responsibility for expanding and maintaining detail in the existing

database, tracking all training of prosecutors (including mentoring training) for compliance with annual training requirements, identifying new training opportunities and documenting methods of verifying actual attendance. We will also request a full time dedicated Training Officer position and funding in the FY05-07 biennial budget submission for both this position and development of a training database application that will meet our needs.”

Clarification of Division’s Administrative Structure:

Background: Article XXIII of the Connecticut Constitution establishes within the executive department a Division of Criminal Justice. Said Division shall include the Chief State’s Attorney, who shall be its administrative head, and the State’s Attorneys for each judicial district. The prosecutorial power of the State shall be vested in a Chief State’s Attorney and the State’s Attorney for each judicial district. Section 51-278 of the General Statutes states that the Criminal Justice Commission shall appoint an administrative head of the Division of Criminal Justice whose title shall be Chief State’s Attorney. The Commission’s primary responsibility is “the appointment and discipline, unless otherwise provided by collective bargaining agreement, of attorneys in the Division of Criminal Justice, according to law”.

Criteria: As prescribed in Section 51-279 of the General Statutes, part of the Chief State’s Attorney’s duties shall include: establishing guidelines, policies and procedures for the internal operation and administration of the Division which shall be binding on all Division personnel, and supervising the administrative methods and systems employed in the Division. The Commission’s regulations provide for a disciplinary/removal process for State’s Attorneys but do not address whether the Chief State’s Attorney has any administrative authority over the judicial district State’s Attorneys. Section 51-278a requires that the State’s Attorneys devote full-time to their duties. Good business and administrative practices would include providing methods of adequate accountability in performing one’s duties and for centrally addressing all necessary financial information.

Condition: We noted weaknesses in the following administrative practices that relate to the Chief State’s Attorney, Deputy Chief State’s Attorneys and judicial district State’s Attorneys.

There are no Division policies or regulations requiring the Chief State’s Attorney, Deputy Chief State’s Attorneys and the 13 judicial district State’s Attorneys to maintain timesheets or other documentation of time spent performing their duties. They do not complete timesheets nor formally record or account for time worked. Each judicial district State’s Attorney recognizes that their normal scheduled hours should coincide with that of their court offices; however, due to the nature of the work they

can decide to work at home or at any location that they deem appropriate. They are required to be available any time of the day, night, or on weekends, if needed, to deal with issues relating to their functions.

In addition, they do not accrue or use any type of leave time, such as, personal, vacation or sick leave. We were informed that if a judicial district (JD) State's Attorney does take time for a vacation or is otherwise unavailable for duty, the JD State's Attorney is only required to notify the Chief State's Attorney in advance, in writing, of where he/she can be contacted, when it is anticipated that they will be out of State. They must also designate an individual in their office to act on his/her behalf during the absence. There is apparently no limit to the amount of time the Chief State's Attorney, Deputy Chief State's Attorney or a JD State's Attorney may be unavailable for duty for whatever reason, be it vacation or illness. They receive annual salaries, based on compensation plans set by the Department of Administrative Services. Annual salaries are adjusted only for disciplinary action taken by the Commission. The JD State's Attorneys believe that as "constitutional officers" serving a term, they do not have set hours and should not accrue or use leave time, and that there are no statutory or regulatory policies requiring them to do so.

We noted that four JD State's Attorneys participated in dual/additional employment. One JD State's Attorney taught a two-day class several times during the audited period. The class time included eight hours within a normal Friday's scheduled court day. Reimbursement for the Friday hours was determined based on the second job's hourly rate and not on his Division salary. JD State's Attorneys are required to be available at anytime to perform their functions, the use of dual employment could be considered inappropriate for these individuals.

As stated in our current accounts receivable recommendation, a JD State's Attorney sometimes pursues the forfeiture of assets, seized during certain controlled substances arrests, through criminal proceedings. Each JD State's Attorney decides when they report a resulting accounts receivable obtained by the criminal prosecution to the Division. Once receivable amounts are determined, it becomes an administrative issue that should be immediately reported to and accounted for centrally by the Division.

Effect:

It is unclear what authority the Chief State's Attorney has over the judicial district State's Attorneys concerning administrative policies and procedures relating to areas other than prosecutorial issues. Internal controls are weakened when time worked is not properly documented, and when a complete record of all accounts receivable is not centrally maintained. The Commission's decisions in reviewing State's Attorneys for possible disciplinary action or reappointment could be hampered without adequate supporting documentation of actual time worked.

Cause: The Chief State's Attorney's administrative authority over the appointed judicial district State's Attorneys has never been clearly defined. The Chief State's Attorney believes that he does not have the administrative authority to require the JD State's Attorneys to submit timesheets or any other type of documentation (e.g. personal calendars, schedules) for review or reference purposes. Historical practices of the Division have not required that time sheets or other internal supporting documentation be maintained, nor required the accrual and use of leave time. The Chief State's Attorney believes that since these attorneys are in the public eye and the Commission has a disciplinary process in place, there are enough controls to prevent the misuse of time off. There are no standard Division policies or procedures that require the immediate reporting and accounting of drug asset forfeiture receivables, obtained through criminal cases, to the Office of the Chief State's Attorney.

Recommendation: The Commission should seek legislative and/or constitutional clarification of the Chief State's Attorney's authority over the judicial district State's Attorneys concerning policies and procedures relating to matters other than prosecutorial issues. (Recommendation 5.)

Agency Response: "It is our belief that the audit revealed no significant structural problem requiring legislative action. However, there are areas of concern which we are addressing. As outlined in the response to audit finding #3, we have developed standard Division policies and procedures requiring the immediate reporting of drug asset forfeiture receivables obtained from criminal cases to the Asset Forfeiture Bureau of the Chief State's Attorney's Office. After consultation with the State's Attorneys a policy regarding dual employment was adopted on August 30th. ... We expect this policy will prevent any question of the appropriateness of such activity in the future. It is our belief that the establishment of such procedures is within the present jurisdiction of the Chief State's Attorney.

With respect to areas pointed out by the auditors concerning the accrual and use of leave time by the Judicial District State's Attorney's, no abuse or misuse has been identified by the audit. The State's Attorneys recognize the need to be able to respond to legitimate questions regarding their performance of duty and have committed to work with the Chief State's Attorney on procedures to reasonably assure that they will be able to do so. A committee consisting of the Chief State's Attorney and representatives of the State's Attorneys is in the process of being established to examine this issue in greater detail. The Chief State's Attorney and the two Deputy Chief State's Attorneys have recognized this issue and are exploring a mechanism for documenting their attendance and leave usage so that it will be available to the Criminal Justice Commission when their reappointments are considered. Only two issues with respect to inability or failure to perform on the part of a Constitutional Officer of the Division of Criminal Justice have occurred in recent history. One of those

situations involved a failure to perform, including a failure to be present in the office on a regular basis. That situation was resolved by action of the Criminal Justice Commission which determined not to reappoint the State's Attorney in question. The other situation involved the severe health issues of a former Chief State's Attorney. When it became clear that he would be unable to perform his duties he took a leave of absence and an acting Chief State's Attorney was appointed by the Criminal Justice Commission. That former Chief State's Attorney subsequently retired and has since passed away.

We will refer your recommendation regarding this finding to the Criminal Justice Commission.”

RECOMMENDATIONS

Our prior report on the Criminal Justice Commission and the Division of Criminal Justice contained five recommendations pertaining to the Division. Of these prior recommendations, two have been combined into one repeated recommendation and the remaining three recommendations are also being repeated. One new recommendation is being presented as a result of our current audit.

Status of Prior Audit Recommendations:

- The Division should strengthen its controls over fixed assets/supplies and subsequent recordkeeping to ensure accurate reporting and control over assets. Testing disclosed that some improvements have been made, however, there were still errors noted on the GAAP report and there were some problems with reporting missing/stolen items. This recommendation will be repeated as Recommendation 1.
- The Division should complete a comprehensive Administrative Policies and Procedures Manual. Although the Division began drafting updated guidelines and policies, it is not complete and has not been reviewed and approved by the Chief State's Attorney. This recommendation will be repeated as Recommendation 2.
- The Division, in cooperation with the Judicial Department and law enforcement agencies, should seek to improve accounting and operational controls for the drug assets forfeiture revolving account. There have been improvements with a new database and in establishing and distributing adequate policies and procedures to law enforcement agencies; however, there was still a lack of timely collections over forfeitures. Part of this recommendation will be repeated as Recommendation 3.
- The Division should ensure that financial reporting of receivables and collected balances are accurately reported to the State Comptroller; that receivable balances reflect verifiable amounts owing to the Division, and the Division should develop a formal write-off policy for receivables. There continued to be a problem with recording all drug asset forfeitures in the central database and while a write-off policy was developed, no accounts had been written-off during the audited period. Untimely collections resulted in amounts being incorrectly deposited by the Judicial Department. This recommendation will be modified and repeated as Recommendation 3.
- The Division should comply with Section 51-279c, subsection (a), of the General Statutes with respect to establishing formal training programs for all State prosecutors, monitoring program objectives and participation, and formally documenting prosecutors' compliance with the Division's training requirements. Some progress has been made in establishing training programs; however, monitoring of prosecutors' training attendance is still inadequate to substantiate compliance with the requirements. This recommendation will be repeated as Recommendation 4.

Current Audit Recommendations:

- 1. The Division should strengthen its controls over fixed assets/inventory and the annual reporting of such assets.**

Comment:

There were various controllable items erroneously included in the stores and supplies total on the annual GAAP reporting form for June 2003. Also there were some deficiencies noted in physical inventories that resulted in some missing/stolen items going undetected for a long period of time.

- 2. The Division should have a complete and updated comprehensive Administrative Policies and Procedures Manual.**

Comment:

The Division still does not have a complete or approved updated written comprehensive Administrative Policies and Procedures Manual addressing current administrative policies and accounting systems control processes and procedures. Internal controls are weakened without such a manual.

- 3. Internal controls and procedures should be improved to ensure that accounts receivable are reliable and complete and that collection efforts are made in a timely manner.**

Comment:

The Division does not have adequate controls over its accounts receivable. Formal collection efforts over drug asset forfeitures are not always made in a timely manner and receivables resulting from criminal case prosecutions are not always properly accounted for or monitored. The bond forfeitures database is outdated and does not provide adequate reports or reconciliations, and controls to protect data from unauthorized changes were weak. Collections and recording of receivables resulting from Judicial Department imposed costs were inadequate.

- 4. The Division should continue its efforts in establishing formal training programs for new prosecutors and should monitor all prosecutors' training to ensure compliance with statutory and collective bargaining requirements.**

Comment:

Although the Division had developed an annual two-day training program for prosecutors to attend, attendance is not mandatory. There is a lack of adequate tracking and monitoring to ensure that both new and continuing prosecutors are receiving the required amount of training per Section 51-279c, subsection (a) of the General Statutes or the collective bargaining agreement.

- 5. The Commission should seek legislative and/or constitutional clarification of the Chief State's Attorney's authority over the judicial district State's Attorneys concerning policies and procedures relating to matters other than prosecutorial issues.**

Comment:

It is unclear what actual authority the Chief State's Attorney has over the judicial district State's Attorneys concerning administrative policies and procedures. Although both the Constitution and the Statutes make the Chief State's Attorney administrative head of the Division, it has never been clearly defined as to what that means in relationship to the judicial district State's Attorneys. This lack of clarity can lead to internal control weaknesses and inefficiencies within the Division.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Criminal Justice Commission and the Division of Criminal Justice for the fiscal years ended June 30, 2001, 2002 and 2003. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grants, and to understanding, and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grants applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Criminal Justice Commission and the Division of Criminal Justice for the fiscal years ended June 30, 2001, 2002 and 2003, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Criminal Justice Commission and the Division of Criminal Justice complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grants and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Compliance:

Compliance with the requirements of laws, regulations, contracts and grants applicable to the Criminal Justice Commission and the Division of Criminal Justice is the responsibility of the Criminal Justice Commission and the Division of Criminal Justice's management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, contracts and grants, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations for the fiscal years ended June 30, 2001, 2002 and 2003, we performed tests of its compliance with certain provisions of the laws, regulations, contracts and grants. However, providing an opinion on compliance with these provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial or less than significant instances of noncompliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

The management of the Criminal Justice Commission and the Division of Criminal Justice is responsible for establishing and maintaining effective internal control over its financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts and grants applicable to the Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Criminal Justice Commission and Division of Criminal Justice's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grants, and not to provide assurance on the internal control over those control objectives.

However, we noted certain matters involving the internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that, in our judgment, could adversely affect the Agency's ability to properly record, process, summarize and report financial data consistent with management's authorization, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts and grants. We believe the following findings represent reportable conditions: weakened controls over fixed assets and the annual reporting of assets; weaknesses in accounts receivable controls and procedures; and lack of adequate monitoring of prosecutor's training requirements.

A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations, contracts and grants or the requirements to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material or significant weaknesses. However, we believe that none of the reportable conditions described above is a material or significant weakness.

We also noted other matters involving internal control over the Agency's financial operations and over compliance which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

This report is intended for the information of the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the courtesies and cooperation extended to our representatives by the Criminal Justice Commission and the Division of Criminal Justice personnel during the course of our audit.

Virginia A. Spencer
Principal Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts