

STATE OF CONNECTICUT



*AUDITORS' REPORT
JUDICIAL DEPARTMENT
FOR THE FISCAL YEARS ENDED
JUNE 30, 2007, 2008 AND 2009*

AUDITORS OF PUBLIC ACCOUNTS

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April 19, 2010

**AUDITORS' REPORT
JUDICIAL DEPARTMENT
FOR THE FISCAL YEARS ENDED JUNE 30, 2007, 2008 AND 2009**

We have examined the financial records of the Judicial Department for the fiscal years ended June 30, 2007, 2008 and 2009. This report on our examination consists of the Comments, Condition of Records, Recommendations and Certification that follow.

The financial statement presentation and auditing of the books and accounts of the State are done on a Statewide Single Audit basis to include all State agencies including the Judicial Department. This audit examination has been limited to assessing compliance with certain provisions of financial related laws, regulations, contracts and grants and evaluating internal control structure policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Judicial Department operates under the provisions of Article Fifth of the Constitution of the State of Connecticut and Titles 6 and 51, Chapters 78 and 870, respectively, of the General Statutes.

The Judicial Department is headed by the Chief Justice of the Supreme Court who is responsible for the administration of the Department. Daily operations of the Department are under the direction of the Chief Court Administrator who is responsible for the efficient and proper administration of judicial business. Included within the Judicial Department are the Supreme Court, the Appellate Court, the Superior Court and the various Courts of Probate.

The Supreme Court is the State's highest court. It must hear certain appeals from decisions of the Superior Court and it has discretion whether to grant review of cases decided by the Appellate Court. It also has authority to transfer to itself any case in the Appellate Court and, except certain original actions (as provided by Article XXVI of the Amendments to the Connecticut Constitution); it may transfer a case or class of cases from itself to the Appellate Court. The Appellate Court is an intermediate court of appeals.

During the audited period, the Honorable David M. Borden, the Senior Associate Justice, served as acting Chief Justice, in accordance with Section 51-3 of the General Statutes, until April 25, 2007, when the current Chief Justice, the Honorable Chase T. Rogers, was confirmed.

The Honorable William J. Lavery served as Chief Court Administrator until November 1, 2007, when he was replaced by the current Chief Court Administrator, the Honorable Barbara M. Quinn.

The Superior Court is the sole court of original jurisdiction for all cases of action except for (1) such actions over which the courts of probate have original jurisdiction, as provided by statute, and (2) the very limited number of actions over which the Supreme Court has original jurisdiction, as provided by the Constitution. During the period under review, the State was divided into 13 Judicial Districts and 20 Geographical Areas for purposes of applying venue in civil and criminal matters. There were also 13 Districts for the application of venue laws in juvenile matters and there were six separate courts established within various Judicial Districts solely for hearing housing matters. There also continued to be a tax session court located in New Britain. In addition, there was a Statewide Centralized Infractions Bureau for processing infractions, certain motor vehicle violations and certain minor criminal matters.

All aspects of the Judicial Department's financial operations are covered in this report with the following exceptions. The Office of the Probate Court Administrator is an agency within the Judicial Department and is reported on separately by us. However, the individual local Courts of Probate are subject to audit by the Probate Court Administrator and are not audited by us. Similarly, the Public Defender Services Commission is an autonomous body within the Judicial Department and is reported on separately.

RÉSUMÉ OF OPERATIONS:

Revenues and Receipts:

Revenues and receipts of the Department consisted primarily of the fines and fees collected at the various locations of the Superior Court and by its Centralized Infractions Bureau. All such receipts are credited initially to the Fines Awaiting Distributions Fund, which totaled \$85,302,248 \$89,372,829 and \$89,793,750 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively. Disbursements of the Fines Awaiting Distribution Fund consist of transfers to the following funds according to the provisions of the various statutes under which the fines and fees are levied.

	<u>Fiscal Year Ended June 30,</u>		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Transfer to Criminal Injury Compensation Fund	\$2,247,499	\$2,489,431	\$2,478,536
Transfer to General Fund	53,158,106	56,374,645	57,863,697
Transfer to Special Revenue Funds	4,412,981	4,586,233	4,321,028
Transfer to Special Transportation Fund	24,502,214	24,311,931	23,508,623
Fines distributed to towns and miscellaneous	<u>981,448</u>	<u>1,610,589</u>	<u>1,621,866</u>
Total Fund Disbursements	<u>\$85,302,248</u>	<u>\$89,372,829</u>	<u>\$89,793,750</u>

Parking fines are paid out to the towns in which the infractions occurred.

General Fund receipts, in addition to the transfers from the Fines Awaiting Distribution Fund, totaled \$5,166,834, \$4,423,209 and \$3,505,997 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively. The significant categories of receipts were refunds of prior years' expenditures, investment income and sales of the Commission on Legal Publications (COLP).

In accordance with Section 51-52, subsection (e), of the General Statutes, excess funds from the Department's Clerk's Trust Accounts are deposited in the State Treasurer's Short Term Investment Fund (STIF). Investment income from STIF was deposited in the General Fund and totaled \$3,127,059, \$2,270,187 and \$582,206 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively. The decrease in investment income over the three-year audit period corresponded to the steady decline of the STIF rate of return from over five percent during the 2006-2007 fiscal year to approximately one-half of one percent as of June 2009.

COLP sales of legal publications totaled \$449,304, \$398,640 and \$376,034 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively.

General Fund Expenditures:

General Fund expenditures for the Judicial Department are summarized below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Personal Services and Employee Benefits:			
Salaries and Wages	\$279,217,110	\$297,121,220	\$311,928,628
All other	<u>6,033,706</u>	<u>7,012,984</u>	<u>7,288,690</u>
Total Personal Services and Employee Benefits	<u>285,250,816</u>	<u>304,134,204</u>	<u>319,217,318</u>
Purchases and Contracted Services:			
Professional, scientific and technical services	14,643,472	16,119,371	17,010,942
Premises and property expenses	31,149,206	32,821,185	35,078,342
Fixed charges	67,191,324	78,599,695	87,535,036
Client services	3,430,088	2,934,214	2,541,526
Information technology	6,520,678	7,087,316	6,584,893
Purchased commodities	5,938,257	5,855,430	5,318,591
Communications	2,995,713	2,964,418	3,314,193

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Capital outlays-Equipment	2,373,542	2,693,294	3,069,029
All other	<u>2,911,328</u>	<u>3,180,412</u>	<u>3,291,380</u>
Total Purchases and Contracted Services	<u>137,153,608</u>	<u>152,255,335</u>	<u>163,743,932</u>
Total General Fund Expenditures	<u>\$422,404,424</u>	<u>\$456,389,539</u>	<u>\$482,961,250</u>

Overall Department General Fund expenditures increased by \$24,618,556, \$33,985,115 and \$26,571,711, or approximately six, eight and nearly six percent for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively.

The above increases can be mainly attributed to increases in personal services and fixed charges. Personal services increased by approximately seven, six and five percent for the three audited fiscal years. These increases were from increases in the number of employees, regular collective bargaining increases along with increases for non-union employees, law clerks and judges. The number of full-time General Fund filled positions were 3,980, 4,170 and 4,141 as of June 30, 2007, 2008 and 2009, respectively.

The above increases in fixed charges are increases in State grants and transfers of grants from other State agencies. This represents increased funding for expanded community based programming for both adult and juvenile offenders.

The Department additionally purchased equipment through the Capital Equipment Purchases Fund totaling \$1,089,724, \$1,394,348 and \$895,875 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively.

Special Revenue Fund- Federal and Other Restricted Accounts

Special Revenue Fund receipts, in addition to transfers from the Fines Awaiting Distribution Fund, totaled \$13,645,110, \$14,758,436 and \$15,387,315 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively. This consisted mostly of Federal Grant receipts, totaling \$7,551,625, \$7,082,802, and \$6,345,179 and non-Federal Grants receipts, totaling \$5,329,254, \$7,122,118 and \$8,900,557 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively.

Non- Federal restricted accounts include the Client Security Fund which operates under Section 51-81d of the General Statutes. The Fund is used for reimbursing claims for losses caused by the dishonest conduct of attorneys and is financed by an annual \$110 assessment for practicing attorneys and \$55 for non-practicing attorneys, paid by any person admitted as an attorney by the Superior Court. Such fees totaled approximately \$2,910,211, \$2,980,156 and \$3,072,050 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively.

A summary of the Department's Special Revenue Fund expenditures follow:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Personal Services and Employee Benefits	<u>\$893,227</u>	<u>\$2,304,531</u>	<u>\$3,939,814</u>
Purchases and Contracted Services:			
Client Security Fund payments	2,188,903	4,271,041	1,667,049
Criminal injury awards	647,666	432,533	409,227
Grants-other	7,634,679	5,988,320	5,800,926
All other	<u>1,373,881</u>	<u>1,655,053</u>	<u>1,950,851</u>
Total Purchases and Contracted Services	<u>11,845,129</u>	<u>12,346,947</u>	<u>9,828,053</u>
 Total Expenditures	 <u>\$12,738,356</u>	 <u>\$14,651,478</u>	 <u>\$13,767,867</u>

The overall decrease in expenditures for the 2008-2009 fiscal year can be attributed to the significant decrease in the payment of claims filed with the Client Security Fund account. The number of claims from victims of attorney theft will vary from year to year and there is no limit on a claim payout.

The majority of the expenditures involved various grant transfers. The expenditure category "Criminal injury awards" are payments to victims by the Office of Victim Services in addition to payments from the Criminal Injuries Compensation Fund. The source of funding was from Crime Victim Assistance Grants (CDFR # 16.575) with overall Special Revenue Fund expenditures totaling \$4,965,307, \$5,120,010 and \$4,806,167 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively.

Special Revenue Fund- Banking Fund:

Public Act 08-176, effective June 12, 2008, required the Judicial Department to establish a foreclosure mediation program in each judicial district. The program is available to owner-occupants of one-to-four family residential real property in Connecticut who are also borrowers under a mortgage encumbering the property and who use the property as their primary residence. Under the Act, until July 2010, if a lender starts a foreclosure action, they must give the borrower notice of the foreclosure mediation program which includes providing a foreclosure mediation request form. The borrower may then submit the form to the court and receive mediation under Department policies and procedures.

The Act appropriated funding from the Banking Fund, a Special Revenue Fund, to fund the cost of foreclosure mediation program. During the 2008-2009 fiscal year, the Department spent \$1,957,916 in personal services and fringe benefits for the foreclosure mediators.

Superior Court Condemnation Award Fund:

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Under Section 48-11, of the General Statutes, compensation offered by the State Transportation Commissioner as part of condemnation proceedings that are being disputed by property owners is deposited in this Fund. The money on deposit is paid to the proper persons through the State Treasurer on application of the owner or owners and on order of the Court. Deposits by the State Transportation Commissioner totaled \$10,307,456, \$22,330,263 and \$5,627,109 for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively. For the same period, disbursements paid to owners of property or returned to the State Department of Transportation totaled \$9,227,134, \$16,477,623 and \$16,359,464, respectively.

State Bar Examining Committee:

The State Bar Examining Committee operates under the authority of State law (Section 51-81 of the General Statutes) and the rules of the Superior Court (Connecticut Practice Book, Chapter 2). It assists the Court in overseeing the admittance of persons to the practice of law in Connecticut.

The Committee funds its operations through the fees it collects from applicants. The funds so derived are retained by the Committee and are not accounted for within any authorized State Fund. Based on the Committee's financial statements, as of June 30, 2009, cash and cash equivalents totaled \$1,038,117. Cash receipts consisted mostly of fee collections and totaled \$626,098, \$1,350,261 and \$755,844, for the 2006-2007, 2007-2008 and 2008-2009 fiscal years, respectively. For the same period, the Committee's cash disbursements totaled \$626,368, \$853,305 and \$985,050, respectively, and were for salaries and other administrative expenses. (See "Condition of Records" section.)

CONDITION OF RECORDS

Our audit of the Judicial Department's records revealed several areas requiring improvement or further comment as discussed below:

Employee Evaluations:

Criteria: According to all Judicial bargaining unit agreements and the Judicial Branch's Administrative Policies and Procedures Manual, an annual performance appraisal shall be completed approximately three but no less than two months prior to the employee's annual salary increase date.

Condition: Our test of payroll showed that annual performance appraisals were not on file for seven out of 20 employees tested. Appraisals ranged from one to four years in arrears while the employees continued to receive annual increments.

Effect: The Department was not in compliance with established policies included in collective bargaining agreements and the Judicial Branch's Administrative Policies and Procedures Manual.

Cause: There were no controls in place to ensure that employee evaluations were performed.

Recommendation: The Department should ensure annual evaluations are performed for all its employees. (See Recommendation 1.)

Agency Response: "In response to the last audit report, in October 2008, a memo was sent to all Executive Directors by the Executive Director of Administrative Services to ensure compliance with Judicial Branch requirements and recommendations of the Auditors of Public Accounts concerning annual performance appraisals. A follow-up memo was sent to the Executive Directors requesting that they certify by November 1, 2009, and annually thereafter, that performance appraisals in each of the units had been completed. It is anticipated the new certifications will significantly increase compliance, however, since performance evaluations are performed in the fall of each year the policy was not in effect until after the audit period and, therefore, not reflected in the current audit period."

Attendance Records:

Criteria: 1. Timesheets- The Judicial Department's Administrative Policies and Procedures Manual requires each employee and supervisor to initial both the biweekly timesheet and the JASMIN attendance form (Form ND04). JASMIN is the automated payroll and personnel system for recording and processing payroll transactions for the Judicial Department. Form ND04

is the official record of the employees' attendance for the JASMIN system.

2. Compensatory time- According to the Judicial Department's Administrative Policies and Procedures Manual, employees excluded from earning overtime will earn compensatory time subject to prior supervisory approval. In addition, employees eligible for overtime under FLSA shall not accumulate beyond 240 hours in compensatory time.

3. Medical certificates- According to Judicial Department procedures, an employee must submit a request form (HR-1 Judicial) for FMLA leave. The Judicial Department follows the Department of Administrative Services' FMLA Manual. It requires that an employee must provide 30 days advance notice of foreseeable leave and notice within five business days when the employee realizes the need for leave in unforeseen cases. Those requiring additional leave time must submit an additional request form (HR-2 Judicial) and supporting documentation.

Conditions:

1. Attendance records- Our review of 20 payroll transactions found four biweekly timesheets were not signed by the employee or supervisor, three employees did not initial Form ND04 to verify their attendance, and Form ND04 was not available for three other employees.

2. Compensatory time- We selected ten employees from a Department report of compensatory time balances as of August 2009 and noted the following:

a. There were instances where compensatory time was not lapsed in accordance with their bargaining unit contract for five of the ten employees. Three of the five employees had been improperly carrying accumulated balances of compensatory time in excess of 240 hours, ranging from 240 to 666 hours.

b. Four of the ten employees did not have sufficient documentation on file to support that compensatory time earned was necessary and approved.

c. There were three employees with timesheets not signed by their supervisor and another employee's starting and ending time was unclear. Thus, we could not verify whether the compensatory time earned was valid.

3. Medical certificates- Our sample of 25 employees on extended sick leave included 16 on FMLA sick leave and nine on maternity leave. Four of those on FMLA leave did not have a FMLA Employee request form (HR-1 Judicial) on file. Two employees continued to be absent for 24

and 250 days, respectively, past the approved FMLA leave period without submitting any further requests or medical certificates to justify the extended absence. In addition, there were instances where either the FMLA and maternity leave paperwork was not processed in a timely manner. Such requests and approvals were not processed until after the employee returned to work.

Effect:

1. Timesheets- The lack of timesheet documentation or verification and/or approval of timesheets increased the risk of errors and/or fraud.
2. Compensatory time- The failure to lapse compensatory time in a timely manner and allowing such balances to exceed the maximum limit of 240 hours violated the Department's policies. It also resulted in an additional unnecessary cost to the State by allowing an employee to substitute compensatory time for vacation time.
3. Medical certificates- Inadequate and/or insufficient documentation of sick leaves increases the risk that such extended leave was not valid, resulting in increased unnecessary costs to the State.

Cause:

The deficiencies in timesheet documentation appear to be the result of a lack of verification of completeness in the records. Regarding compensatory time, the JASMIN system did not prevent accumulation of compensatory time in excess of 240 hours. There was also a lack of oversight and employee understanding of compensatory time policies and procedures. The deficiencies with medical certificates were attributed to transitions in duties of human resources staff in 2007, a lack of awareness by employees of reporting requirements for sick leave and delays in getting documentation from medical practitioners.

Recommendation:

The Department should improve its attendance record documentation involving timesheets, compensatory time and medical certificates. (See Recommendation 2.)

Agency Response:

“The Branch will establish an internal audit procedure to provide for review of attendance documents which require employee and supervisor signatures. Many employees earn compensatory time in direct support of the court. Therefore, the need to work beyond the normal work day is not uncommon and occurs spontaneously based upon the specific matters being heard on a given day. Written approval prior to earning compensatory time is not always possible in these instances. As a result, sometimes supervisors receive requests to approve compensatory time at the end of the day. Adjustments will be incorporated into existing compensatory time policies to better reflect this reality. In addition, a memo will be sent to the divisions reminding them of the importance of the employee's certifying signature on the time sheet, supervisor's

approvals, the necessity of retention of attendance forms, and the required documentation to support compensatory time earned.

A recent check and random audit by the Human Resources Unit of the JASMIN system did indicate that compensatory time is appropriately lapsing. A review of Federal law (29 CFR 553.24) provides that “public safety” employees are not capped by the 240 hour compensatory time maximum, but may accumulate not more than 480 hours of compensatory time for FLSA overtime hours worked. This recommendation has been brought to the attention of the appropriate divisions and the Branch will continue to monitor for compliance with the policy.

Effective November 2009, the Branch has implemented the medical certification requirement for all FMLA applications. Effective January 2010, pursuant to new procedures, the Branch sends a second FMLA application to those employees who request an extension. Training for new requirements will be provided to the affected staff.”

Auditors’ Concluding

Comments:

At the time of our review, the Judicial Department’s Administrative Policies and Procedures Manual imposed a maximum of 240 compensatory hours. We were informed that the Branch would revise its policy so that certain groups of employees could accumulate up to 480 hours of compensatory time. Such policy clarification is needed so that employees and their supervisors can consistently enforce the agency’s policies.

Bar Examining Committee:

Background:

As noted in the Resume of Operations section, the Bar Examining Committee (BEC) funds its operations through the fees it collects from applicants. BEC’s funds are not accounted for within any authorized State fund. The BEC maintains a checking account for its everyday activities. Excess funds are transferred to the Committee’s STIF account.

Criteria:

1. BEC checking account- To increase operating efficiency and reduce inherent risk, business operations should be consolidated and any unneeded bank accounts eliminated.
2. Disbursements- BEC procedures for checking account disbursements require an “Approval for Payment” form signed by the BEC Administrative Director, Chairman and Treasurer.

Condition:

1. BEC checking account- The BEC continues to operate a checking account which appears unnecessary since their receipts and disbursements could be handled through the establishment of a restricted account in the

General Fund similar to the Department's Client Security Fund. Receipts and disbursements would then be processed by the Agency's business office which has established internal controls over receipts and disbursements.

2. Disbursements lacking complete signed approval- A sample of 25 BEC disbursements showed six invoices, totaling \$2,078, where the required "Approval for Payment" form was not signed by the BEC Chairman or Treasurer.

Effect: The Committee's checking account and time spent by its staff in its maintenance appears to be an unnecessary duplication of effort and increases inherent risk. The lack of complete approval of check disbursements could result in inappropriate and/or unnecessary payment.

Cause: The BEC has kept its checking account apparently considering it a preferable method to conduct its business. The lack of signatures for authorizing payments was attributed to oversight by the BEC during a period of transition.

Recommendation: The Bar Examining Committee should close its checking account with its activities accounted for in a restricted General Fund account and obtain all appropriate approvals for disbursements. (See Recommendation 3.)

Agency Response: "As noted in our previous audit, the Bar Examining Committee, a board comprised of both private attorneys and judges, is by nature of its operation, a quasi-judicial, quasi-independent operation. As such, management of its operations is inherently a partnership with the Branch. Although the Committee has not incorporated some of the changes recommended, the current practices continue to result in appropriate ways to conduct business. The Branch will continue its collaborative efforts with the Bar Examining Committee to improve operations and optimize the utilization of resources and assets. With a change in officers in May 2008, improvements to monitor approvals for disbursements were implemented and no instances of non-compliance have been noted to date."

Agency Administered Construction Projects:

Background: The Department expenditures for agency administered construction projects totaled \$2,307,432 and \$3,585,727 and 4,477,950 for the fiscal years ended June 30, 2007, 2008 and 2009, respectively. These expenditures were mainly from Capital Projects and Other Purposes Funds.

- Criteria:* According to Section 4b-52 of the General Statutes, State agencies may administer and/or award a contract for construction, renovations, repairs or alterations to any State facility costing between \$100,000 and \$500,000 with the permission of the Department of Public Works (DPW). *DPW Guidelines and Procedures Manual for Agency Administered Projects* requires the completion of a “Certificate of Completion” form for such agency administered projects to be submitted to DPW with a copy to the State Building Inspector’s Office.
- Condition:* Our review of 15 agency administered construction projects during the audited period showed there were four projects where the Department did not send a Certificate of Completion to DPW or the State Building Inspector’s Office.
- Effect:* The Department failed to follow DPW guidelines in completing and properly submitting a “Certificate of Completion” form for four agency administered projects.
- Cause:* The Department was apparently not aware that a “Certificate of Completion” was a requirement for the completed projects.
- Recommendation:* The Department should follow the documentation requirements for the completion of agency administered construction projects. (See Recommendation 4.)
- Agency Response:* “The Branch had been unaware of the requirement to provide a Certificate of Completion for applicable projects and will do so in the future.”

Expenditures:

- Criteria:* Sound business practice would limit the purchase of electronic equipment to immediate operational needs in consideration of the rapid changes in technology, limited manufacturers’ warranties, and limited financial resources.
- The use of temporary employment services should be documented by properly signed and approved timesheets.
- The Judicial Department’s Administrative Policies and Procedures Manual (Section 802) requires that purchases between \$3,000 and \$9,999, not on contract, need to have at least three written quotations from vendors.
- Condition:* 1. Unused equipment- Our random physical inspection of 25 equipment items disclosed that six items purchased from May 2007 to November

2008 were still in the original delivery packaging, An additional review disclosed that several equipment items, including flat panel monitors, printers, laptops, scanners, and digital pens, which were purchased between October 2005 and November 2008, at a total cost of \$45,054, were still unused and in storage as of October 2009 when we conducted our inspection. Our review also found an additional \$72,096 of similar computer equipment, purchased from March through June 2009 still in the original packaging as of October 2009.

2. Lack of timesheet documentation for temporary employment services- The Department contracted with a vendor for a temporary office clerk for 19 hours per week for a 13 week period ending in June 2009. The total payment was \$3,150. We were informed that the vendor was paid with an invoice for the total without any supporting timesheets. We noted that the agency had used the vendor for a total of \$52,391 in temporary services over the three audited fiscal years without requiring timesheet documentation.

3. Continuing purchases without a contract- During the 2008-2009 fiscal year, we noted that the Department spent a total of \$4,848 in credit card payments and \$1,870 in regular payments through the business office to a particular vendor for document stamps. The Department did not have a contract with the vendor nor did it solicit bids.

Effect: The equipment that remains unused for a significant period of time is a waste of State resources that could be used for more immediate needs. In addition, such unused equipment may become obsolete with the passage of time resulting in unnecessary loss of funds.

The lack of signed and approved timesheets for temporary employees lessens the assurance that such services were properly performed.

The failure to follow Department purchasing policies may cause extra expenses to the State by not obtaining the most competitive pricing for goods and/or services.

Cause: Unexpected delays in several grant funded projects resulted in the stockpiling of equipment. The contract for temporary employment services did not require timesheets. The lack of a contract or bids for the document stamps vendor was apparently an administrative oversight.

Recommendation: The Department should improve internal control over expenditures. (See Recommendation 5.)

Agency Response: “The Branch is increasingly reliant on technology to efficiently meet its statutory and constitutional responsibilities. The Branch presently carries

an inventory of more than \$16 million in electronic equipment that includes in excess of 4,900 desktops, 1,700 laptops, 3,700 monitors, 2,500 printers and 800 scanners, and historically spends \$750,000 to \$1,000,000 annually to obtain new equipment and update existing systems. Present warehouse practices include receiving items, promptly tagging and recording them in inventory, and deploying them to the field. The overwhelming majority of these items are immediately deployed to the field. However, there are circumstances beyond the Branch's control that may cause some items to remain warehoused for longer periods. These circumstances include delays in hiring staff due to budgetary rescissions, as well as logistical complications that inevitably arise from the rollout of statewide initiatives among the Branch's 82 locations. To further reduce the possibility of equipment waiting for deployment in the warehouse, a new policy was initiated in July 2009 that will significantly improve centralized controls and coordination in purchasing in the purchasing of new equipment.

The Branch purchases of temporary employment services totaled approximately \$1,300,000 over the audit period. The units receiving temporary services for this particular vendor sign the Temporary Employment Agencies time sheet in addition to signing the Invoice for Goods and Services Rendered to the State of Connecticut, Form CO-17. The invoice includes the hours worked by temporary employees. Purchasing has instructed the new temporary employee contractor to henceforth send a copy of the employee's timesheet when submitting invoices.

Purchasing Cards have been an invaluable means of efficiently and economically obtaining goods for the Branch. The Branch monitors the individual's year-to-date purchasing card activity. The Branch is initiating year to date reporting by vendors for purchasing card activity in order to better determine when a blanket order or contract is appropriate."

State Grants:

Criteria:

Sound internal control requires adequate procedures to ensure that payments are for actual services. In reviewing invoices involving fees for services, invoices based on units of referrals and different types of treatment should be verified for accuracy.

Section C-8 of the Department's contract with providers specifies that contractors exempt from the provisions of OMB Circular A-133 and Section 4-230 through 4-236 of the General Statutes may be required to submit to an audit at a time and in a manner prescribed by the Judicial Department and at the expense of the Department.

Condition: 1. Lack of invoice monitoring- Our review of two providers, involving adult behavioral health services, revealed that the Department made payments without being able to verify the accuracy of the providers' invoices. Information such as monthly client referrals and their treatments were not available to the Department's Court Support Services Division Administration Unit. As a result, payments were made without any confirmation that referrals and treatments were valid. We were informed that this same condition applied to all fees for service contracts involving adult behavioral health services, which totaled \$14,370,039 during the three year audited period. Such payments are part of a State grant for the Alternative Incarceration Program.

2. Lack of audit review- We noted a provider was exempt from the State and Federal single audit requirements and accordingly did not submit any audited financial statements. However, the Department's contract with the provider contains a provision which can require the "exempt" provider to submit to an audit. The Department contracted with the provider to run several juvenile risk reduction centers. The provider was paid a total of \$9,709,776 over the three fiscal years ending June 30, 2007, 2008 and 2009. Such a significant amount of payments should have prompted the Department to require an audit of the provider.

Effect: The lack of invoice monitoring increases the risk of improper or incorrect payments. The lack of audit review results in material State grant expenditures not being audited for compliance or whether the provider's financial statements are free of material misstatement.

Cause: We were informed that the lack of invoice monitoring was due to insufficient data collection. Also, Judicial field offices were not instructed to compare the provider's invoices to their client referral lists. The lack of requiring an audit was due to the Department not monitoring the significant funding to the provider exempt from State and Federal single audit requirements.

Recommendation: The Department should ensure thorough reviews of provider's invoices to detect any erroneous payments and require an audit of any provider receiving significant State funding. (See Recommendation 6.)

Agency Response: "The Court Support Services Division (CSSD) within the Judicial Branch administered an annual average of more than \$85,000,000 in contracted services during the audited years. Of this amount approximately \$12,000,000, or 14 percent, encompasses contracts identified as fees for services. There are currently 16 staff members in the Grants and Contracts Unit of CSSD and 3 staff members in the Fiscal Administration Unit who have responsibilities associated with ensuring contractors adhere to the requirements of the contract terms, Judicial Branch financial

guidelines and invoicing procedures. Compliance staff members perform over 900 program site visits per fiscal year to verify contract compliance. These site visits encompass a significant amount of case file and program record reviews with the specific goal of maximizing the quality and cost effectiveness of the services provided to the Branch. Program invoices and budgets are thoroughly reviewed and examined by the accounting staff to ensure that fiscal resources committed to the provision of client services by the Judicial Branch are expended responsibly.

In addition, CSSD has under development an automated contractor data collection system that will enhance the Branch's ability to track services and program operations at the client level. This automated system will create a cost effective method to enhance the Branch's ability to monitor the activities of contracted providers including, but not limited to, the verification of client services received in unit cost contracts.

CSSD will also undertake a thorough review of monitoring procedures currently in place to determine if additional processes could be developed and implemented to improve current monitoring systems within the context of available resources.

CSSD will undertake a review of the current status of contracted services that are exempt from the requirement to provide an audit of their programs under the provisions of the State Single Audit Act. Parameters will be reviewed and implemented under which such audits might be required at the expense of the Judicial Branch.”

Office of Victim Services:

Background:

The Office of Victim Services (OVS) within the Judicial Department is the payer of last resort for the losses suffered by crime victims up to a maximum of \$15,000 for personal injury claims and \$25,000 for claims involving a homicide. Claim payments are made from the Criminal Injury Compensation Fund, a Special Revenue Fund financed by monthly transfers of receipts from fines and fees collected by the Judicial Department (initially deposited in the Fines Awaiting Distribution Fund).

Criteria:

Under Section 53a-139 of the General Statutes, it is a Class D Felony to falsely make a written instrument that is a public record with the intent to defraud. In addition, a fundamental function of government is to protect its citizens from those who engage in any form of criminal or illegal activities. This would include situations where any potential violation of either State or Federal laws occurs during the course of a public employee's duties. Such knowledge of improprieties should be reported to the appropriate governmental authorities.

Condition: Our prior review disclosed that the OVS had not established any policy or procedure for notifying State or Federal authorities of possible illegal activities from applicants who are illegal immigrants or those who had received wages “under the table”.

The Department informed us that there is no law that requires OVS to report possible illegal immigrants to Federal authorities. It was explained, however, that if the U.S. Immigration and Customs Enforcement (ICE) or any other agency was to approach OVS for information regarding an OVS claimant, they would comply with the agency’s request. We are not aware that OVS has attempted to contact ICE about a course of action should OVS come into contact with a possible illegal immigrant.

As of November 2009, OVS has developed proposed procedures to contact the Department of Revenue Services with contact information about employers found to be paying unreported wages. We note that at this time, the Judicial Department has not yet formally approved the policy.

We would additionally note that any unreported wages should also be reported to the Workers’ Compensation Commission.

Effect: The lack of procedures to address the reporting of illegal activities results in the continuance of such activities and the loss of tax revenues to the State and Federal government.

Cause: OVS had not established any policy or procedure for reporting the possible illegal status of a claimant to State or Federal agencies as there are no laws or regulations that require it.

Conclusion: We are not making a recommendation at this time in anticipation that the OVS policies for unreported wages will be formally adopted and approved. In addition, although the Department is not legally bound to report information about illegal immigrants, we would encourage contacting U.S. Immigration and Customs Enforcement for any guidance when discovering possible illegal immigrants during the processing of claims.

Agency Response: “The issues addressed in the finding have broad implications for the Judicial Branch. The Branch’s Criminal Practice Committee has established an Immigration Committee, which is co-chaired by the Honorable David Gold and the Honorable Joette Katz. The Committees were developed from the strategic plan of the Public Service and Trust Commission. The Immigration Committee is charged with making recommendations to the Criminal Practice Commission on what would be

the ideal process for the Judicial Branch to follow regarding issues related to immigration.”

RECOMMENDATIONS

Our prior report on the Judicial Department covered the fiscal years ended June 30, 2005 and 2006, and contained nine recommendations. The following is a summary of those recommendations and the action taken by the Judicial Department.

- The Department should ensure annual evaluations are performed for all its employees and personnel files contain all relevant information about an employee's history. The first part of the recommendation concerning employee evaluations will be repeated while the other part concerning personnel files has been resolved. (See Recommendation 1.)
- The Department should ensure that all compensatory time is properly approved before it is earned. (See Recommendation 2.)
- The Department should improve its property control records. This recommendation has been resolved.
- The Bar Examining Committee should close its checking account with its activities accounted for in a restricted General Fund account and improve monitoring over the approval of payments. The first part of the recommendation concerning the closing of the checking account will be repeated. The second part of the recommendation condition concerning the monitoring of payments has been resolved and replaced by the need to get proper approvals for disbursements. (See Recommendation 3.)
- The Department should continue to ensure the accuracy of mileage reimbursements for State Marshals serving summary process. This recommendation has been resolved.
- The Department should improve its oversight over the use of State Purchasing Cards by its employees. The recommendation will not be repeated since conditions have significantly improved since our last review.
- The Department should improve its internal control and review overpayments to property management vendors. This recommendation has been resolved.
- The Department should ensure that all contractors have proof of current insurance coverage while working on agency administered construction projects. This recommendation has been resolved.
- The Office of Victim Services should (1) require proof of payment for victims receiving compensation, (2) ensure complete forms are on file for victims receiving a waiver on the \$100 deductible for claims payments, (3) consider all allowable sources of funds including insurance benefits in determining compensation payments and (4) develop procedures to report any illegal activities noted by claim reviewers to the proper governmental authorities. We note that there has been sufficient action taken in this matter to withdraw this recommendation.

Current Audit Recommendations:

- 1. The Department should ensure annual evaluations are performed for all its employees.**

Comment:

Our review found the Department was not consistent in performing annual evaluations of its employees.

- 2. The Department should improve its attendance record documentation involving timesheets, compensatory time and medical certificates.**

Comment:

Our review showed an overall lack of supervisory approval of employees earning compensatory time and proper lapsing of compensatory time balances.

- 3. The Bar Examining Committee should close its checking account with its activities accounted for in a restricted General Fund account and obtain all appropriate approvals for disbursements.**

Comment:

The Bar Committee's checking account is unnecessary since its financial activities could be accounted for in a General Fund restricted account by the Department's business office. Our test of disbursements showed instances where the required signed approvals were not obtained.

- 4. The Department should follow the documentation requirements for the completion of agency administered construction projects.**

Comment:

Our review found several instances where the Department did not submit a "Certificate of Completion" for several projects, as required by established guidelines.

5. The Department needs to improve internal controls over expenditures.

Comment:

Our review found instances of recently purchased equipment that remained unused in inventory for more than a year, a temporary employment service that was paid without providing signed and approved timesheets to document hours actually worked, and the continuing use of a vendor for document stamps without a contract or solicitation of bids to ensure that the most competitive price was obtained.

6. The Department should ensure thorough reviews of provider's invoices to detect any erroneous payments and require an audit of any provider receiving significant State funding.

Comment:

The agency was paying for adult behavioral health services from providers without sufficient documentation to verify the accuracy of the providers' invoices. We also noted a provider that received significant State grant funding was not being annually audited despite contractual provisions which allowed a financial audit.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Judicial Department for the fiscal years ended June 30, 2007, 2008 and 2009. 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 Judicial Department for the fiscal years ended June 30, 2007, 2008 and 2009, 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 Judicial Department 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.

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

In planning and performing our audit, we considered the Judicial Department's internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Agency's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the Agency's internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance requirements was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be significant deficiencies.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the Agency's ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that

there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by the Agency's internal control. We consider the following deficiencies, described in detail in the accompanying "Condition of Records" and "Recommendations" sections of this report, to be significant deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements: Recommendation 6 concerning provider invoice review and audits of providers exempt from single audit requirements.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements, was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency described above is a material weakness.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Judicial Department with laws, regulations, contracts and grant agreements, 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, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those 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 or other matters that are required to be reported under Government Auditing Standards. However, we noted certain matters which we reported to Agency management in the accompanying "Condition of Records" and "Recommendations" sections of this report.

The Judicial Department's response to the findings identified in our audit are described in the accompanying "Condition of Records" section of this report. We did not audit the Judicial Department's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of Agency management, 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

In conclusion, we wish to express our appreciation for the assistance and courtesies extended to our representatives by the personnel of the Judicial Department during the course of this examination.

Donald R. Purchla
Principal Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts