

STATE OF CONNECTICUT



*AUDITORS' REPORT
JUDICIAL DEPARTMENT
FOR THE FISCAL YEARS ENDED
JUNE 30, 2012, 2013 AND 2014*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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AUDITORS' REPORT JUDICIAL DEPARTMENT FOR THE FISCAL YEARS ENDED JUNE 30, 2012, 2013 AND 2014

We have audited certain operations of the Judicial Department in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to the years ended June 30, 2012, 2013, and 2014. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions;
2. Evaluate the department's compliance with policies and procedures internal to the department or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the department, and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department. For the areas audited, we identified:

1. Deficiencies in internal controls.
2. Apparent noncompliance with legal provisions; and
3. Need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations, and Program Evaluation in the accompanying report present any findings arising from our audit of the Judicial Department.

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 Office of Victim Services, established within the Judicial Department, operates under the provisions of Title 54, Chapter 968 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, the Office of Chief Court Administrator, the courts of probate, and the Public Defender Services Commission. For the purposes of the General Statutes, Judicial Branch means the Judicial Department. This audit does not include a review of the Probate Courts or the Public Defender Services Commission, which are reported on separately.

The Supreme Court is the state's highest court. It must hear certain appeals from decisions of the Superior Court and has discretion over whether to grant review of cases decided by the Appellate Court. It also has the 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 to the Appellate Court. The Appellate Court is an intermediate court of appeals.

The Honorable Chase T. Rogers served as Chief Justice throughout the audited period. The Honorable Barbara M. Quinn served as Chief Court Administrator until her retirement, effective October 1, 2013. The Honorable Patrick L. Carroll III was appointed Chief Court Administrator effective October 1, 2013, and continues to serve in that capacity.

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 12 judicial districts and 20 geographical areas for civil and criminal matters. There were also 13 districts for juvenile matters and there were 5 separate courts established within various judicial districts solely for hearing housing matters. There also continues 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 the Auditors of Public Accounts. However, the local courts of probate are subject to audit by the Probate Court Administrator and are not audited by the Auditors of Public Accounts. Similarly, the Public Defender Services Commission is an autonomous body within the Judicial Department and is reported on separately.

Commission on Official Legal Publications

Section 51-216a of the General Statutes governs the activities of the Commission on Official Legal Publications (COLP), which is an agency of the Judicial Department and is composed of the Chief Justice of the Supreme Court, ex-officio; the Chief Court Administrator, ex-officio; a judge or former judge of the Supreme Court and a state referee, both of whom shall be appointed by the Chief Justice; the executive secretary of the Judicial Department; the Reporter of Judicial Decisions; and one other employee of the Judicial Department appointed by the Chief Justice.

The requirements of the commission are to acquire, publish, distribute, and maintain for the benefit of the state a sufficient supply of official legal publications, as indicated in Section 51-216a subsection (b) of the General Statutes. Section 51-216b of the General Statutes provides for the sale and distribution of publications at such prices as may be affixed by the Commission on Official Legal Publication.

Recent Legislation

Public Act 12-89 increased certain court filing fees and established new fees. The fee increase took effect July 1, 2012, but sunsetted after 3 years (the sunset was repealed in 2014). The act required the Chief Court Administrator or designee, to certify the amount of revenue received as a result of the fee increases and new fees, and transfer 70% of that amount to the organization administering the interest on lawyers' trust accounts (IOLTA) program to fund legal services for the poor by the last day of January, April, July, and October of each year, starting in July 2012 and ending in July 2015. The act also transfers 30% of the amount to the Judicial Data

Processing Revolving Fund to maintain and improve the Judicial Department's information processing system. The act required the Chief Court Administrator to establish and administer the Judicial Data Processing Revolving Fund. Under prior law, any money remaining in the fund at the end of a fiscal year was carried forward to the next fiscal year. The act provides that, at the end of each fiscal year starting with the fiscal year ended June 30, 2013, any excess over \$5 million must be transferred to the General Fund.

Public Act 12-133, effective October 1, 2012, made numerous changes to court operations and to victim services, such as: allowing the department to enter into agreements with other state agencies on a broader range of security matters; eliminating the \$100 deductible on the total amount of victim compensation determined for an injury; and requiring the courts to determine that a matter is not frivolous before it waives a court fee or the state pays service of process costs for an indigent party.

Public Act 13-136, effective July 15, 2013, made numerous changes to the department's Foreclosure Mediation Program, including identifying the program's objectives and expanding its scope to include short sales and deeds in lieu of foreclosure as an option. It extended for 2 years, to June 30, 2014, foreclosure actions with filing dates of July 1, 2008 through June 30, 2009. The act also required the Chief Court Administrator to submit summaries of mediator reports to the Banking Committee by February 14, 2014 and 2015.

Public Act 14-207, effective October 1, 2014, requires the court clerk to deposit into the General Fund, any amount of money up to \$10 found on Superior Court property presumed to be abandoned and turned into the court clerk, and expands the type of Judicial Department fees, costs, fines, and charges a person can pay by credit card.

Public Act 14-217, section 260, repealed the sunset provisions of Public Act 12-89.

RÉSUMÉ OF OPERATIONS

Revenues and Receipts

Revenues and receipts of the department consisted primarily of the fines and fees collected at the various Superior Court locations and by its Centralized Infractions Bureau. All such receipts are credited initially to the Fines Awaiting Distributions Fund, which totaled \$95,048,928, \$96,671,483, and \$98,901,929 for the 2011-2012, 2012-2013 and 2013-2014 fiscal years, respectively, as compared to \$102,614,229 for the 2010-2011 fiscal year. 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>2012</u>	<u>2013</u>	<u>2014</u>
Transfer to Criminal Injury Fund	\$2,395,945	\$2,655,008	\$3,048,984
Transfer to General Fund	57,944,547	54,604,820	55,007,024
Transfer to Special Revenue Fund	3,456,003	3,061,911	3,210,292
Transfer to Special Transportation Fund	21,372,143	20,384,922	22,102,015

Transfer to Connecticut Bar Association	7,628,970	11,787,330	11,426,216
Transfer to Data Processing Revolving Fund	0	1,964,171	1,871,394
Fines Distributed to Towns, and Misc.	<u>2,250,320</u>	<u>2,213,321</u>	<u>2,236,004</u>
Total Fund Distributions	<u>\$95,048,928</u>	<u>\$96,671,483</u>	<u>\$98,901,929</u>

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

As noted, Public Act 12-89 increased certain fees and established new fees. It also required the Chief Court Administrator to transfer 30% of the amount of the fee increases and new fees to the Data Processing Revolving Fund, beginning in fiscal year 2012-2013.

General Fund receipts, in addition to the transfers from the Fines Awaiting Distribution Fund, totaled \$1,731,041, \$1,502,727, and \$1,985,605 for the 2011-2012, 2012-2013 and 2013-2014 fiscal years, respectively. For comparison purposes, General Fund receipts totaled \$1,770,550 for the 2010-2011 fiscal year. The significant categories of receipts were refunds of prior years' expenditures, investment income, and sales of publications.

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 to the General Fund and totaled \$53,222, \$48,793 and \$40,006 for the 2011-2012, 2012-2013, and 2013-2014 fiscal years, respectively.

Sales of publications totaled \$394,661, \$393,692, and \$366,605 for the 2011-2012, 2012-2013 and 2013-2014 fiscal years, respectively.

General Fund Expenditures

General Fund expenditures for the Judicial Department are summarized below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2012</u>	<u>2013</u>	<u>2014</u>
Personal Services and Employee Benefits:			
Salaries and Wages	\$312,685,911	\$301,441,171	\$315,998,641
All Other	<u>6,757,965</u>	<u>6,533,298</u>	<u>7,043,040</u>
Total Personal Services and Employee Benefits	<u>319,443,876</u>	<u>307,974,469</u>	<u>323,041,681</u>
Purchases and Contracted Services:			
Professional, Scientific, Technical Services	16,394,793	18,478,679	20,260,099
Premises and Property Expenses	31,922,742	32,810,983	33,222,082
Fixed Charges	94,566,545	94,069,971	102,344,022
Client Services	3,492,012	4,712,741	4,838,990
Information Technology	5,502,153	6,196,557	8,717,892
Purchased Commodities	4,632,092	5,111,008	5,918,709
Communications	3,193,621	3,106,772	2,842,282

Capital Outlays-Equipment	386	72,982	450,050
All Other	<u>2,812,801</u>	<u>2,398,055</u>	<u>2,222,010</u>
Total Purchases and Contracted Services	<u>162,517,145</u>	<u>166,957,746</u>	<u>180,816,138</u>
Total General Fund Expenditures	<u>\$481,961,021</u>	<u>\$474,932,215</u>	<u>\$503,857,818</u>

Total General Fund expenditures decreased by \$14,405,311 (2.9%) in the fiscal year ended June 30, 2012, compared to the fiscal year ended June 30, 2011, in which expenditures totaled \$496,366,332. Total general fund expenditures decreased by \$7,028,806 (1.5%) and increased by \$28,925,603 (6.1%) in the fiscal years ended June 30, 2013 and 2014, respectively. Personal services, along with employee benefits and fixed charges, accounted for the majority of expenditures during the audited period.

There was a 27th payroll in fiscal year 2011-2012 of approximately \$10.5 million. Fiscal year 2012-2013 had 26 payrolls, accounting for most of the reduction in that fiscal year over the previous one. Personnel service costs increased by approximately \$14.6 million in fiscal year 2013-2014 over the 2012-2013 level, or about 5%, which can be attributed to a small net increase in full-time positions as well as collective bargaining agreements to cost of living and annual increases. Full-time positions increased to 4,024 by the end of fiscal year 2012-2013, and to 4,087, as of June 30, 2014.

The department also purchased equipment through the Capital Equipment Purchase Fund totaling \$684,875, \$1,354,327, and \$587,348 for the 2011-2012, 2012-2013, and 2013-2014 fiscal years, respectively.

Special Revenue Funds

Federal and Other Restricted Accounts

Special Revenue Fund receipts, in addition to transfers from the Fines Awaiting Distribution Fund, totaled \$16,900,794, \$18,342,150 and \$22,092,953 for the 2011-2012, 2012-2013 and 2013-2014 fiscal years, respectively. This consisted primarily of federal grant receipts, totaling \$9,436,021, \$8,502,627, and \$10,213,384 and non-federal grants receipts, totaling \$7,463,893, \$9,436,129 and \$12,377,374 for the 2011-2012, 2012-2013, and 2013-2014 fiscal years, respectively.

Non-Federal restricted accounts include the Client Security Fund, which operates under Section 51-81d of the General Statutes. The fund reimburses claims for losses caused by the dishonest conduct of attorneys and is financed by an annual assessment on any person admitted as an attorney by the Superior Court. Such fees totaled \$3,280,049, \$2,461,874 and \$2,372,003 for the 2011-2012, 2012-2013, and 2013-2014 fiscal years, respectively.

A summary of the department's Special Revenue Fund-Federal and Other Restricted Accounts expenditures follows:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2012</u>	<u>2013</u>	<u>2014</u>
Personal Services and Employee Benefits	<u>\$3,364,418</u>	<u>\$4,247,583</u>	<u>\$4,553,420</u>
Purchases and Contracted Services:			
Client Security Fund Payments	485,633	197,347	1,107,480
Criminal Injury Awards	314,702	543,292	708,708
Grants-Other	7,476,774	6,586,671	6,439,573
Capital Outlays-Equipment	202,342	639,331	735,699
All Other	<u>2,569,880</u>	<u>4,258,500</u>	<u>4,238,952</u>
Total Purchases and Contracted Services	<u>11,049,331</u>	<u>12,225,140</u>	<u>13,230,412</u>
 Total Expenditures	 <u>\$14,413,749</u>	 <u>\$16,472,723</u>	 <u>\$17,783,831</u>

Disbursements from the Client Security Fund totaled \$1,180,996, \$870,797, and \$1,884,212 in the fiscal years 2011-2012, 2012-2013, and 2013-2014, respectively. Included in the above expenditures were claims totaling \$485,633, \$197,347, and \$1,107,480 for the fiscal years 2011-2012, 2012-2013, and 2013-2014, respectively. As of June 30, 2014, the cash balance of the Client Security Fund was \$16,720,263.

The majority of the expenditures involved various grant transfers. The expenditure category, Criminal Injury Awards, consists of 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 with overall Special Revenue Fund expenditures totaling \$5,502,835, \$5,716,991, and \$5,423,684 for the 2011-2012, 2012-2013 and 2013-2014 fiscal years, respectively.

Banking Fund

Public Act 08-176, effective June 12, 2008, required the Judicial Department to establish a Foreclosure Mediation Program in each judicial district to facilitate the best outcome for all parties to a foreclosure action. 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, if a lender starts a foreclosure action, the lender 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. Under Public Act 09-209, the program's services were made mandatory for cases in which the defendant appeared in court and qualified for such services. Public Act 11-201 extended the program until July 1, 2014. Public Act 14-89 extended the program through June 30, 2016, and Public Act 15-124 extended the program until July 1, 2019.

The act appropriated funding from the Banking Fund, a special revenue fund, to fund the cost of the Foreclosure Mediation Program. During the fiscal years 2011-2012, 2012-2013, and 2013-2014, the department expended \$4,888,773, \$5,115,273 and \$5,430,558, respectively, primarily

for personal services and fringe benefits for the foreclosure mediators. A program evaluation of this area was performed and is presented later in this report.

Superior Court Condemnation Award Fund

Under Section 48-11 of the General Statutes, compensation offered by the state Department of Transportation commissioner as part of condemnation proceedings disputed by property owners is deposited into 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 \$3,270,886, \$1,477,642, and \$8,039,421 for the 2011-2012, 2012-2013, and 2013-2014 fiscal years, respectively. Fiscal year 2010-2011 deposits totaled \$3,786,035. For the same period, disbursements paid to owners of property or returned to the Department of Transportation totaled \$4,833,160, \$2,446,198, and \$3,903,266, respectively. For comparison purposes, disbursements totaled \$4,486,353 for fiscal year 2010-2011.

The ending cash balance in the fund amounted to \$3,908,312, \$2,939,756, and \$7,075,911, as of June 30, 2012, 2013, and 2014, respectively.

Sandy Hook Workers Assistance Program

Special Act 13-1 established the Sandy Hook Workers Assistance Program and Fund to provide financial assistance to certain people who suffered a mental or emotional impairment related to the events at Sandy Hook Elementary School, its grounds, and the immediate vicinity, including the Sandy Hook Volunteer Fire Department, between 8 a.m. and midnight on December 14, 2012, and the Sandy Hook Elementary School and its grounds on December 15, 2012. Eligible claimants can receive financial assistance for uncompensated leave from their employment if the mental or emotional impairment caused a total or partial disability preventing them from working. They can also receive payments for related medical expenses not covered by their health insurance. Benefit payments ended on August 15, 2015.

During the period the fund was operating, donations totaling \$388,396 were received and payments from the fund totaled \$272,909, leaving a balance of \$115,487 in the fund as of June 30, 2016. The remaining funds in the account, \$115,827 (the balance plus accrued interest) were distributed to the United Labor Agency on August 26, 2016 in accordance with Section 2(d) of Special Act 13-1.

State Bar Examining Committee

The State Bar Examining Committee operates under the authority of 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, 2014, cash and cash equivalents totaled \$1,043,787. Cash receipts consisted primarily of fee collections and totaled \$851,632,

\$907,245 and \$909,861, for the 2011-2012, 2012-2013 and 2013-2014 fiscal years, respectively. Cash receipts totaled \$704,087 for fiscal year 2010-2011. For the same period, the committee's cash disbursements totaled \$802,587, \$852,670, and \$720,935, respectively, and were for salaries and other administrative expenses. Disbursements totaled \$741,734 for the 2010-2011 fiscal year.

Interest on Lawyers' Trust Accounts (IOLTA) and Court Fees Grants In-Aid

Section 51-81c of the General Statutes established the Interest on Lawyers' Trust Accounts (IOLTA). The purpose of the account is for the organization administering the program to use the interest earned on these accounts to provide funding for the delivery of legal services to the poor by nonprofit corporations whose principal purpose is to provide such legal services, and to provide law school scholarships based on financial need. Section 51-5d of the General Statutes authorized the Chief Court Administrator to transfer revenues received as a result of certain fee increases to the organization administering the IOLTA, for funding delivery of legal services to the poor. The Connecticut Bar Foundation, Inc. is the organization that administers both these programs. During the fiscal years audited, \$7,628,970, \$11,787,330, and \$11,426,216, were transferred to the Connecticut Bar Foundation, Inc. As of December 31, 2014, the net assets in the IOLTA account and the Court Fees Grant In-Aid account were \$5,654,857, and \$279, respectively.

PROGRAM EVALUATION

Section 2-90 of the General Statutes authorizes the Auditors of Public Accounts to perform evaluations of selected agency operations. The objective of this evaluation is to review the operations of the Foreclosure Mediation Program within the Judicial Branch.

In 2008, in response to the dramatic increase in foreclosures, the General Assembly passed Public Act 08-176, creating the Foreclosure Mediation Program. This placed requirements on the Chief Court Administrator to establish a Foreclosure Mediation Program in each judicial district to address all issues of foreclosure, including, but not limited to, reinstatement of the mortgage; disposition of the property through means other than the foreclosure process, including short sales and deeds in lieu of foreclosure; assignment of law days; assignment of sale date; and restructuring of the mortgage debt and foreclosure by decree of sale. Several public acts passed since Public Act 08-176 have made changes to the program, including extending its sunset date. The latest, Public Act 15-124, extended funding of the program through June 30, 2019. The program was codified into statute as Sections 49-31k through 49-31o, and in Sections 49-31t through 49-31v (Sections 49-31t and 49-31u of the General Statutes were repealed effective October 1, 2016). Section 49-31v of the General Statutes requires that the Foreclosure Mediation Program be funded within available appropriations. The program's size shall be determined by available funding and the number and need of participants. The program was initially funded with an appropriation of \$2,000,000 from the Banking Fund. The yearly appropriation for the program has increased each fiscal year since. The appropriation for the 2016-2017 fiscal year was \$6,350,389.

The appropriations were from the Banking Fund, a special revenue fund established by Section 36a-65 (b) (2) of the General Statutes. The number of employees paid from the Banking Fund was 50 for most of the fiscal years the program has been administered by the Judicial Department. About half of the employees were mediation specialists, and the remainder were supervisory and support staff. From the inception of the Foreclosure Mediation Program through June 30, 2016, a total of \$36,976,321 was spent, all paid from the Banking Fund.

The number of mortgage foreclosure requests has declined since 2009, reaching a peak of 9,799 in that year. Of that, the number of applications accepted in the program was 8,571. Some applications may have been determined ineligible for mediation. For comparison purposes, in calendar year 2015, the number of mortgage foreclosure requests was 2,639, and the number of applications accepted in the program was 2,276. Cases pending as of December 31, 2008 were 3,093; as of December 31, 2009, 9,927; and as of December 31, 2015, 6,346. The December 31, 2008 figure represents the activity only for the period of July 1, 2008 through December 31, 2008, because the Judicial Department did not differentiate between a mortgage and non-mortgage foreclosure prior to July 1, 2008.

Given this trend of reduced foreclosure applications, a decline in the number of positions assigned to this program would be expected. As of January 2016, 45 filled positions (24 mediation specialists, 20 support staff, and 1 program manager) were paid from the Banking Fund. The department started the process of transferring positions out of the program in February 2016. As of November 16, 2016, there were 21 employees paid from the Banking Fund, a reduction of 25 positions since February 2016 (1 program manager, 22 support staff, and 2 mediation specialists). Of the 21 employees currently paid from the Banking Fund, 19 are mediation specialists and 2 are administrative clerks.

Program Achievements:

The Foreclosure Mediation Program appears to have been successful in achieving its primary objective of providing homeowners and lending institutions the opportunity to mediate foreclosure issues to arrive at settlements acceptable to both parties, thus avoiding judicial foreclosures. The Judicial Department has defined the settlement rate as the percentage of homeowners remaining in their homes plus those who have moved from their homes under an agreement for a short sale, a deed in lieu of foreclosure, or an extension of the law day or sale date. According to department statistics, as of September 30, 2016, of the 25,430 cases that have completed mediation for the period from July 1, 2008 through September 30, 2016, 17,852 (70%) homeowners remained in their homes. Department records indicate that 84% of these 17,852 homeowners received a loan modification. The percentage of homeowners who moved from their homes under an agreement for a short sale, a deed in lieu of foreclosure, or an extension was 16% (3,965 cases), for an overall settlement rate of 86%.

Based on the above, we are making the following recommendation:

Background:

The Foreclosure Mortgage Mediation program was established by Public Act 08-176 in response to an increasing number of mortgage foreclosures. Originally scheduled to end in 2010, the

program's termination date has been extended several times. Public Act 15-124 extended funding of the program until June 30, 2019.

Criteria: Section 49-31v of the General Statutes states that the Foreclosure Mediation Program, established pursuant to section 49-31m, shall be funded within available appropriations and available until June 30, 2019. The size of the program shall be determined by available funding and the number and need of participants.

Condition: The number of foreclosure applications filed with the Foreclosure Mediation Program has been on a general decline since peaking in 2009. In calendar year 2015, the number of applications filed (2,639) represented less than 1/3 of those filed in 2009. As of December 31, 2015, the department had 6,346 cases pending, having reached a high of 12,892 as of December 31, 2013. However, only until very recently has the number of positions funded for the program declined commensurately with the decline in activity. As of December 2016, there were 21 positions (19 of which were mediation specialists), as compared to the original allocation in 2009 of 50 positions, (25 of which were mediation specialists).

Effect: Inefficient use of resources may result if staffing levels are not adjusted to reflect the declining program activity. This would also negatively affect a smooth transition of employees from the program to other functions.

Cause: The department indicated that the program was established in each judicial district and the department needed to maintain a mediator and support staff in each district, even as overall filings have declined.

Recommendation: The Judicial Department should review the staffing needs of the Foreclosure Mediation Program and develop a plan to appropriately staff the program over the next 2 years to reflect the continuing reduction in foreclosure mediation applications, case inventory, and the program's anticipated termination in 2019. (See Recommendation 1.)

Agency Response: "The Judicial Branch agrees with the State Auditors' recommendation. Since the inception of the program staffing levels remained close to the number of authorized positions. Declining foreclosure filings concurrent with branch-wide reductions in staff, as a result of attrition and budget cuts, provided an opportunity to fill gaps in other areas with valuable and experienced staff while continuing to fulfill the statutory requirements of the program. At this point 21 Banking Fund employees are currently working on

the Foreclosure Mediation program and whether or not additional reassignments of any employees are possible depends on future foreclosure filings. In addition, the Branch asked for reduced allocations in the Banking Fund in the Current Services Budget Request for FY18-19.”

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

The following recommendations resulted from our current review of the Judicial Department:

Property Control

Criteria: Section 4-36 of the General Statutes and the State Property Control Manual require each agency to establish and maintain accurate property control records for complete accountability and the safeguarding of assets.

Condition: Our prior audit covering the fiscal years ended June 30, 2010 and 2011 disclosed that equipment was missing, the department did not conduct an annual physical inventory during the audited period, and the annual CO-59 report submitted to the State Comptroller for the fiscal year ended June 30, 2011 was overstated by approximately \$812,000, along with other conditions.

In fiscal year 2011-2012, the Materials Management Division of the department undertook a physical inventory of 1,493 capitalized and controllable property items with a status of "M" (missing) in the department's inventory system. The result of that physical inventory revealed that 840 items, totaling \$681,744, remained unaccounted for.

As a result, the Internal Audit Unit of the Judicial Department conducted an extensive review of the department's property control function, issuing its report in May 2013. The scope of the examination included reviewing existing documentation to determine compliance with current State Comptroller and Judicial Department property inventory policies, procedures and directives, and recommend the best practices that can be implemented to protect the public's resources. The internal audit report presented a number of recommendations for improvement in this area.

To implement the recommendations, an action plan was approved, containing both short and long-term objectives. We reviewed that status of the plan with the Director of Internal Audit, and determined that it appropriately addresses the conditions noted in our prior audit and those found in the internal audit review. We will review this area more extensively during our next scheduled audit covering the fiscal years 2015 and 2016, as the corrective actions have not been fully implemented as of the end of the current audited period.

Effect: These conditions can diminish the safeguarding of public resources and proper reporting of property values in the financial statements.

Cause: The Internal Audit Unit cited several causes, including an outdated paper-dependent legacy property accounting system; staff limitations; divisional staff who are first and foremost concerned with carrying out their court-related responsibilities; and the rapidly changing nature of equipment, with increased reliance on electronic devices that are portable, subject to breakage, swapped out, and upgraded. The Internal Audit Unit concluded that without significant changes to existing property accounting systems and practices, the department would continue to struggle to maintain an accurate and up-to-date property inventory. The audit unit recommended the department utilize technology to achieve more accurate and timely tracking and recording of property, increase accountability for department property to better manage access and use of assets, and obtain proper authorization for the retention or disposal of idle or obsolete equipment.

Recommendation: The Judicial Department should continue to implement the recommendations of the Internal Audit Unit with respect to property control and reporting to better comply with Section 4-36 of the General Statutes, the State Property Control Manual, and the Judicial Department's Property Policies and Procedures. (See Recommendation 2.)

Agency Response: "The Judicial Department continues to implement the recommendations of the Internal Audit unit with respect to property control and reporting to better comply with Section 4-36 of the General Statutes, the Comptroller's Property Control manual and the Judicial Department's Property Policies and Procedures to increase accountability for department property, to better manage access and use of assets, and obtain proper authorization for disposal of idle or obsolete equipment.

Following the fiscal year ended June 30, 2014 the Judicial Branch's Property Policies and Procedures were reassessed, evaluated, and updated to improve the accuracy of its reporting in compliance with Section 4-36 of the General Statutes and the Comptroller's property control manual. These changes place accountability for annual physical inventories with each office supervisor across all divisions of the Branch.

Supervisory training was provided for all supervisors and administrative leaders. Training continues to be required of all supervisors through the Branch's Learning Management System.

Every supervisor is required to appoint a subordinate within their office to participate on teams conducting a physical inventory for offices run by their counterparts in the other divisions in their building. Supervisors are interviewed regarding items that are not located or items not shown in the office inventory. The annual inventory is prepared and submitted for reconciliation centrally by the Materials Management Unit Property Accounting office. The reconciliation process consists initially of reviews of individual office inventory reports and items not accounted for by division and then secondly a branch-wide review is completed in the process of compiling each division's inventory for inclusion in the Branch's annual CO -59 submission.

These new inventory procedures are complimented by new electronic transfers, decentralized access to on-line inventory records, and a new Inventory Services staff assembled to lead the annual physical inventory process across the Branch. Improvements in the results of the annual inventory process and refinements in the types of items controlled for inventory, based on recent experiences continue."

Capital Projects

- Criteria:* When soliciting bids for construction projects, good business practices include a thorough assessment of the work to be performed to obtain the lowest price. This is critical, especially for projects in which there is the potential for unforeseen work due to little or no access prior to performing invasive demolition.
- Condition:* We analyzed 10 projects totaling \$1,217,203. One of the projects tested was for cornice roof replacement and masonry repair work to a courthouse. The bid selected was \$321,609 but 11 change orders brought the total final cost to \$497,377, \$175,768 (55%) over the original bid amount.
- Effect:* The extra work was not subject to the competitive bidding process. Competitive bids generally result in a more favorable price.
- Cause:* According to the department, 5 of the change orders, totaling \$62,062, were necessary due to unforeseen work resulting from little or no access to the building prior to performing invasive demolition. The department believed that the remaining 6 change orders involving additional costs, totaling \$113,706, were within the original scope of the project.

Recommendation: The Judicial Department should review its policies and procedures to determine whether they are sufficient to ensure that all relevant work on a project is included in the original bid package. (See Recommendation 3.)

Agency Response: “The Judicial Branch has responsibility for 38 court facilities statewide ranging in age from relatively new to historic and encompassing over 3 million square feet of space. Working off a master list of short and long term projects which totals over \$70M, on a yearly basis the Branch self-administers several million dollars’ worth of repair, replacement, renovation or restoration projects. The projects range in size and complexity from the simple replacement of a building system’s component to extensive restoration work of the building’s exterior façade. In order to determine the appropriate scope of work and to develop accurate bid specifications, the Branch utilizes the expertise and consultation of Architectural and Engineering firms. Due to the nature of project work, bid solicitations almost always include contingency, allowances and unit pricing to account for “unforeseen” circumstances. The practice of utilizing contingencies, etc. is very successful in almost every case. However, in rare instances, as evidenced by the fact that only 1 project in 10 tested had a seemingly inordinate amount of change orders, it is nearly impossible to compensate for every unforeseen scenario or more importantly to determine their magnitude. In those rare instances the use of change orders is much more practical and cost effective than stopping a project in midstream and competitively bidding out the required work. The Branch is very cognizant of the potential for change orders to significantly increase the cost of projects and will continue to be diligent in assessing the scope of projects and developing comprehensive bid specifications.”

The Commission on Official Legal Publications

Criteria: The Commission on Official Legal Publications is authorized by Chapter 883b of the General Statutes. Section 51-216b (a) (1) of the General Statutes states, in part, that the commission may sell official legal publications at such prices and upon such terms as to payment and security as it may fix. Section 51-216b (a) (2) states, in part, that the commission may appoint a selling agent to handle sales.

Section 51-216b subsection (c) states, in part, that the commission shall furnish official legal publications free of charge to courts of

records and law libraries within the state, and to public officers, departments, agencies, boards and commissions within the state and furnish the Connecticut Law Journal free of charge to any member of the General Assembly making a request.

Condition: Revenue earned by the Commission on Official Legal Publications operations continues to decline each fiscal year. Revenue in fiscal year 2010-2011 was \$448,551, and in fiscal year 2013-2014, \$366,605 a decline of 18%. Revenue in subsequent fiscal years continued to decline, from \$294,445 in fiscal year 2014-2015, and \$263,221 in fiscal year 2015-2016. This trend will likely continue if no changes are made. Resources devoted to this operation could be better utilized. We also noted that commission publications available for sale are not prominently displayed on the Judicial Branch website.

Effect: The revenue from the Commission on Official Legal Publications operations is not being maximized.

Cause: There are several causes for this condition. More publications are now available online at no cost. There has been no increase in prices since at least July 1, 2010. Credit card sales or phone orders are not accepted. The printing operation is a full-service commercial grade printing facility, yet there appears to be limited attempts to market its services to a wider customer base.

Recommendation: The Judicial Department should review the operations of the Commission on Official Legal Publications and develop a plan to make the operations more financially viable by seeking to increase revenues. The Judicial Department should review the current price structure and seek to widen its customer base. The Judicial Department should consider allowing customers to make purchases by credit cards, online, and by telephone, and consider displaying the publications available for sale more prominently on its website. (See Recommendation 4.)

Agency Response: “Prices for publications printed and sold are set by the Commission on Official Legal Publications. When the Commission recommends price changes we implement the modified prices. We would recommend a study to determine the level of interest in purchasing publications using credit cards via on-line or by telephone.”

Statutory Reporting of the Commission on Racial and Ethnic Disparity

<i>Criteria:</i>	Section 51-10c of the General Statutes requires the Commission on Racial and Ethnic Disparity in the Criminal Justice System to submit an annual report to the Governor and the General Assembly.
<i>Condition:</i>	The required reports for the last several calendar years were not submitted. The latest report submitted covered the period of 2006 to 2010.
<i>Effect:</i>	The statutory reporting requirements are not being met. The information required in the reports was not provided to the Governor or the General Assembly for legislative consideration.
<i>Cause:</i>	The commission cites a lack of resources for its inability to produce these reports in a timely manner.
<i>Recommendation</i>	The Commission on Racial and Ethnic Disparity should comply with its statutory reporting requirements. (See Recommendation 5).
<i>Agency Response:</i>	<p>“The Commission on Racial and Ethnic Disparity in the Criminal Justice System was created by Public Act 00-154 and has met bimonthly since.</p> <p>The Commission’s authorizing statute set out an expansive and ambitious charge that required the Commission to address the broad issue of racial and ethnic disparity in Connecticut’s criminal and juvenile justice system. Since the Commission began its work, its chairs and members have worked diligently to fulfill this charge. However, the Commission has never been provided with the necessary resources so has had to rely on the voluntary efforts of its members and member agencies to accomplish its work. In order to make the best use of its limited resources, over the years the Commission honed its focus to those areas where it could have the largest impact, including sponsoring educational events targeted at those who work in and with the criminal and juvenile justice systems, collaborating with state agencies and community organizations to facilitate conversations, and promoting initiatives to address bias.</p> <p>In recognition of the fact that there were unavoidable resource limitations to meet its statutory requirements, in 2015 the Commission asked the General Assembly to amend its enabling statute to more accurately reflect its strengths and capabilities. The</p>

result was Public Act 15-109. The act made several changes, including the following:

- Changing the Commission’s reporting requirement.
- Requiring the Commission to meet at least quarterly;
- Establishing the Commission’s mission; and
- Refining the Commission’s charge to be more achievable.

The Commission’s amended statutory charge requires the Commission to report not later than January 15, 2017 and biennially thereafter. The Commission has drafted a report to fulfill this requirement, which covers the period from 2011 through 2016. This Report will be released shortly.”

Committee on Recording Monitors and Court Reporters

Background:

In 2009, the Committee on Court Recording Monitors and Court Reporters was established to make recommendations to the Chief Justice to accomplish the following objectives: increase access to transcripts, improve the quality of transcripts, improve the delivery of service provided by the Court Transcript Services Unit, and address staffing issues related to transcript production. The committee met 9 times and presented its final report, which included 14 recommendations, to the Chief Justice on November 4, 2010. The full report can be viewed on the Judicial Branch website.

The duties of the position of court reporting monitor include the following: recording verbal testimony during court proceedings; setting up and testing equipment; monitoring the recordings using earphones; maintaining proper notes of proceedings; clearly marking notes for recall testimony; preparing transcripts and appeals papers; assembling and maintaining records and files; performing clerical duties, as assigned; and performing other related duties as required. As of July 2017, the Judicial Branch employs 191 court monitors: 58 full-time, 99 part-time, and 34 temporary.

Officials and assistant reporters and monitors shall be entitled to charge a party or other individual a fee for each transcript page which is, or previously was, transcribed from the original record as provided by law according to Section 51-63 (c) of the General Statutes.

Criteria: Section 51-63 (c) of the General Statutes states that the Chief Court Administrator shall adopt policies and procedures necessary to implement the provisions of this section, including but not limited to, the establishment and administration of a system of fees for production of expedited transcripts.

Condition: The committee's final report included 14 recommendations pertaining to the production, access, quality, and staffing issues related to transcript production. Four of the recommendations pertained to the practice of producing transcripts:

- The Judicial Branch should eliminate the practice of allowing court reporters and court recording monitors to produce transcripts for private parties on Judicial Branch time.
- The Judicial Branch should adopt uniform standards for the type of work court reporters and court recording monitors may perform while on Branch time.
- The Judicial Branch should eliminate the use of "U-time" (compensated time off not charged to vacation, personal or sick leave) by Court reporters.
- The Judicial Branch should create a list of transcriptionists/companies whose transcripts meet Judicial Branch standards and are acceptable for use in all court proceedings."

Of these 4, only the recommendation pertaining to "U-time" has been implemented.

The report noted that court reporters/recording monitors are able to supplement their annual base income by preparing transcripts of judicial proceedings, and while the Judicial Branch employs its court reporters and monitors to memorialize proceedings, it still must separately compensate them on a per-page basis for the production of all paper transcripts, even those ordered by judges and magistrates. The report noted that court reporters/monitors are permitted to create transcripts during the work day when there are no proceedings to be reported or monitored, that has applied to the production of transcripts for the Branch, and for all other requestors, including state agencies and private parties. This raises ethical concerns. The report was concerned over the potential ethical issue of state employees using state-compensated time to generate income from private sources. The report also states that it is uncertain how many transcripts of court proceedings are

prepared for private attorneys and the financial impact fulfilling those requests has on court report and court monitoring income.

During the fiscal years 2012-2013 through 2015-2016, the Judicial Branch paid the court reporters/monitors a total of \$1,111,065 in fees for transcripts, ordered by the Judicial Branch, in addition to their regular salaries. Court reporters and monitors also received fees for transcripts produced on state time for other state agencies and private parties, the amounts of which are not readily identifiable.

Effect: Additional compensation for transcripts from the Judicial Department and other state agencies has the effect of increasing the employees' annual salaries and their state pensions.

Cause: It appears that court reporters were once paid on a minimal per diem basis and the fees allowed by statute for the production of transcripts augmented that per diem amount. Court reporters and monitors are now paid a salary based on job title and step.

Recommendation: The Judicial Department should implement the recommendations made by the Committee on Court Recording Monitors and Court Reporters in its final report issued in 2010. The report pertains to court reporters/monitors producing transcripts for fees on state time for private parties, adopting uniform standards for the type of work they may perform on state time, and creating a list of transcriptionists/companies that meet department standards. (See Recommendation 6).

Agency Response: "The Judicial Branch agrees that the recommendation of the Committee on Court Recording Monitors and Court Reporters regarding the typing of transcripts on state time should be implemented. Implementing this recommendation will necessitate expanding the number of individuals authorized to type court transcripts.

Transcript production is fundamental to the operation of the Judicial Branch. Transcripts are required for our appellate system to function. The justices and judges of the Supreme and Appellate courts rely on transcripts in making their decisions. The potential impact of delaying the production of transcripts on the appellate system is immense. Without the timely production of transcripts, appellate cases will not be able to be heard in a timely manner, which will delay the final resolution in many cases.

Transcripts are also instrumental to attorneys, who utilize them for trial strategy. Other state agencies rely on court transcripts – Office of the Attorney General, Office of the Chief Public Defender, and

the Office of the Chief State's Attorney, among others. Transcripts are accessed by members of the public and media, and provided as an accommodation under the Americans with Disabilities Act (ADA). Because of the importance transcripts play in the judicial process, it is imperative that changes to the production process do not jeopardize the fundamental mission of the Judicial Branch.

Accordingly, a very deliberate process is in place to achieve the goal of eliminating the typing of transcripts on state time. The Branch has begun, and will continue to work toward, obtaining the necessary resources to effectuate the implementation of this recommendation. Effecting these changes and making these improvements will require a deliberate and careful process and collaboration with collective bargaining union representatives.

If the Judicial Branch eliminates the ability for Court Recording Monitors to type on state time, the need to seek legislative changes regarding the current fee structure would not be needed."

RECOMMENDATIONS

The prior report on the Judicial Department covered the fiscal years ended June 30, 2010, and 2011, and contained 5 recommendations. Of these recommendations, 4 have been implemented or otherwise resolved, and 1 has been restated to reflect current conditions. As a result of the current examination, we have included 5 new recommendations. The status of the prior recommendations is presented below:

- **The Judicial Department should improve its attendance record documentation for longevity payments and medical certificates and adhere to procedures for the emergency sick leave bank program.** We found no issues in the current audit. Accordingly, this recommendation is not being repeated.
- **The Judicial Department needs to improve internal controls over expenditures.** The Department has adequately addressed this finding. Accordingly, this recommendation is not being repeated.
- **The Judicial Department should follow its policies and procedures by ensuring that monitoring requirements for quality assurance of contractual services are being performed and records are retained for appropriate time periods.** This finding has been resolved satisfactorily. Accordingly, we are not repeating this recommendation.
- **The Judicial Department should improve COLP operations for receipts and deposits.** The Department has addressed this finding. Accordingly, this recommendation is not being repeated.
- **The Judicial Department should improve its controls over state property as outlined by the State Property Control Manual in accordance with Section 4-36 of the General Statutes.** This recommendation is being repeated in a revised form as Recommendation 2.

Current Audit Recommendations:

1. **The Judicial Department should review the staffing needs of the Foreclosure Mediation Program and develop a plan to appropriately staff the program over the next 2 years to reflect the continuing reduction in foreclosure mediation applications, case inventory, and the program's anticipated termination in 2019.**

Comment:

The number of foreclosure applications filed with the Foreclosure Mediation Program has declined since peaking in 2009. The number of positions funded from the Banking Fund has only recently been adjusted to reflect the reduction in applications and pending cases. Since the program is scheduled to end sometime after July 1, 2019 and the number of applications is declining, the staffing levels should be further adjusted to reflect this declining activity.

- 2. The Judicial Department should continue to implement the recommendations of the Internal Audit Unit with respect to property control and reporting to better comply with Section 4-36 of the General Statutes, the Comptroller's State Property Control Manual, and the Judicial Department's Property Policies and Procedures.**

Comment:

The prior audit covering the fiscal years ended June 30, 2010 and 2011 revealed that equipment was missing, an annual physical inventory was not conducted during the audited period, the CO-59 report to the State Comptroller for the 2010-2011 fiscal year was overstated by approximately \$812,000, as well as other conditions. In the 2011-2012 fiscal year, the Materials Management Division of the department undertook a physical inventory of 1,493 capitalized and controllable property items with a status of M (missing) in the inventory system. The result of that physical inventory found that 840 items, totaling \$681,744, remained unaccounted for. The Internal Audit Unit of the Judicial Department conducted an extensive review of the department's property control function. It issued a report in May 2013 that presented a number of recommendations for improvement.

- 3. The Judicial Department should review its policies and procedures to determine whether they are sufficient to ensure that all relevant work on a project is included in the original bid package.**

Comment:

We analyzed 10 projects totaling \$1,217,203. One of the projects tested was for cornice roof replacement and masonry repair work to a courthouse. The bid selected was \$321,609 but 11 change orders brought the total final cost to \$497,377, 175,768 (55%) over the original bid amount.

- 4. The Judicial Department should review the operations of the Commission on Official Legal Publications and develop a plan to make the operations more financially viable by seeking to increase revenues. The Judicial Department should review the current price structure and seek to widen its customer base. The Judicial Department should consider allowing customers to make purchases by credit cards, online, and by telephone, and consider displaying the publications available for sale more prominently on its website.**

Comment:

Revenue earned by the Commission on Official Legal Publications operations continues to decline each fiscal year. Revenues in the 2010-2011 fiscal year were \$448,551, and \$366,605, in the 2013-2014 fiscal year, a decline of 18%. It would appear that resources devoted to this operation could be better utilized, and publications available for sale should be prominently displayed on the Judicial Branch website.

- 5. The Commission on Racial and Ethnic Disparity should comply with its statutory reporting requirements.**

Comment:

The required reports for the last several calendar years have not been submitted. The latest report submitted covered the period of 2006 to 2010.

- 6. The Judicial Branch should implement the recommendations made by the Committee on Court Recording Monitors and Court Reporters in its final report issued in 2010. The report pertains to court reporters/monitors producing transcripts for fees on state time for private parties, adopting uniform standards for the type of work they may perform on state time, and creating a list of transcriptionists/companies that meet department standards.**

Comment:

The report included 14 recommendations pertaining to the production, access, quality, and staffing issues related to transcript production, of which 4 pertained specifically to the practice of producing transcripts. They included eliminating the practice of allowing court reporters/monitors to produce transcripts for private parties on Branch time, adopting uniform standards for the type of work court reporters/monitors may perform while on Branch time, eliminating the use of “U-time,” and creating a list of transcriptionists/companies whose transcripts meet Branch standards. Of these 4, only the recommendation pertaining to “U-time” has been implemented.

ACKNOWLEDGEMENT

The Auditors of Public Accounts would like to recognize the auditors who contributed to this report:

Mark Fortin
Gary P. Kriscenski
Nancy G. Niedzwiecki

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by the personnel of the Judicial Department during the course of our audit.



Gary P. Kriscenski
Principal Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert J. Kane
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