

STATE OF CONNECTICUT

**AUDITORS' REPORT
OFFICE OF THE PROBATE COURT ADMINISTRATOR
FOR THE FISCAL YEARS ENDED JUNE 30, 2003 AND 2004**

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

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February 27, 2006

**AUDITORS' REPORT
OFFICE OF THE PROBATE COURT ADMINISTRATOR
FOR THE FISCAL YEARS ENDED JUNE 30, 2003 AND 2004**

We have made an examination of the financial records of the Office of the Probate Court Administrator for the fiscal years ended June 30, 2003 and 2004.

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 Office of the Probate Court Administrator. This audit examination has been limited to assessing the Office of the Probate Court Administrator's compliance with certain provisions of financial related laws, regulations, and contracts and evaluating the internal control policies and procedures established to ensure such compliance.

This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification that follow.

COMMENTS

FOREWORD:

The Office of Probate Court Administrator (Office) operates under Title 45a, Chapter 801, of the General Statutes and is responsible for the supervision of the probate courts throughout the State including the review of the administrative and financial operations of the courts to ensure that State statutes and rules of probate are followed and that courts are operated efficiently. The duties of the Probate Court Administrator (Administrator) include the review of the accounting, statistics, billing, recording, filing and other court procedures and the recommendation of uniform rules and practices that become binding upon all probate courts upon adoption. Under the provisions of Section 45a-77, subsection (c), of the General Statutes, the Administrator is required to regularly review the operations of the courts of probate and Section 45a-77, subsection (d), requires the Administrator, or his designee, to visit and examine the court records and files of each court at least once during each two-year period.

The Probate Court Administrator is appointed by and serves at the pleasure of the Chief Justice of the Supreme Court. The Honorable James J. Lawlor continued to serve as Administrator throughout the audited period.

Connecticut Probate Assembly:

The Connecticut Probate Assembly operates in accordance with Sections 45a-90 and 45a-91 of the General Statutes and consists of all probate judges in the State. The following judges were officers of the Assembly, as of June 30, 2004:

Honorable Joseph D. Marino, President
Honorable Dianne E. Yamin, First Vice-President
Honorable Daniel F. Caruso, Second Vice-President
Honorable Frank J. Forgione, Executive Secretary
Honorable Heidi Famiglietti, Recording Secretary
Honorable Paul E. Cravinho, Treasurer

The Administrator meets with the Assembly at various times during the year to discuss the business, policies, procedures and administration of the probate courts in order to improve the efficiency and effectiveness of the probate court system.

The financial operations of the Assembly are separate from the Office of the Probate Court Administrator. Annually, the financial activity of the Assembly is audited by an independent certified public accountant.

RÉSUMÉ OF OPERATIONS:

Operations of the Office are financed through the Probate Court Administration Fund, a Special Revenue Fund established under Section 45a-82 of the General Statutes. The State Treasurer, pursuant to Section 45a-82 of the General Statutes, is custodian of the Fund and has the authority to administer and invest its monies. Financial activity of the Probate Court Administration Fund during the fiscal years audited, and the previous fiscal year, is presented below:

	Fiscal Year Ended June 30,		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Beginning Fund Balance	\$26,704,724	\$30,250,470	\$16,623,048
Revenues	9,597,432	9,144,061	9,189,729
Expenditures	(4,914,414)	(6,402,072)	(6,775,922)
Transfers to Retirement Fund	(1,137,272)	(1,369,411)	(1,704,662)
Transfers to General Fund	-	(15,000,000)	-
Ending Fund Balance	<u>\$30,250,470</u>	<u>\$16,623,048</u>	<u>\$17,332,193</u>

Note: The increase in fund balances from the prior audit report of \$1,011 and \$4,465, at June 30, 2002 and 2003, respectively, are due to adjustments made to combine continuing appropriation amounts with fund balance.

Revenues:

A summary of Probate Court Administration Fund revenues during the audited period, and the previous fiscal year, follows:

	Fiscal Year Ended June 30,		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Assessments	\$8,876,857	\$8,741,273	\$9,004,926
Interest and penalty charges	4,966	3,286	4,290
Sale of probate manuals	1,287	499	289
Investment income	714,187	399,003	177,202
Miscellaneous receipts	<u>135</u>	<u>-</u>	<u>3,022</u>
Total Revenues:	<u>\$9,597,432</u>	<u>\$9,144,061</u>	<u>\$9,189,729</u>

Probate Court Administration Fund revenues consisted primarily of assessments received from the various probate courts, as specified under Section 45a-92 of the General Statutes. During the audited period, excess cash balances of the Fund were invested in the State Treasurer's Short Term Investment Fund (STIF). Decreases in investment income were due to lower STIF interest rates.

Expenditures and Transfers:

During the audited period, Probate Court Administration Fund expenditures and transfers consisted of operating costs of the Office, retirement contributions to the Probate Judges' and Employees' Retirement Fund and transfers to the General Fund. A summary of Probate Court Administration Fund expenditures and transfers during the audited period, and the previous fiscal year, follows:

	Fiscal Year Ended June 30,		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Personal Services	\$ 831,582	\$ 836,541	\$ 917,798
Contractual Services	1,607,546	2,414,440	2,711,101
Commodities	54,331	68,945	81,891
Revenue Refunds	55,371	62,823	-
Sundry-Medical Insurance	1,791,710	2,027,901	2,377,909
Sundry-Other	498,558	592,256	574,452
Equipment	<u>75,316</u>	<u>399,166</u>	<u>112,771</u>
Total Expenditures	4,914,414	6,402,072	6,775,922
Transfers to Retirement Fund	1,137,272	1,369,411	1,704,662
Transfers to General Fund	<u>-</u>	<u>15,000,000</u>	<u>-</u>
Total Expenditures and Transfers	<u>\$6,051,686</u>	<u>\$22,771,483</u>	<u>\$8,480,584</u>

Expenditures totaling \$6,402,072 and \$6,775,922, during the respective audited fiscal years, consisted mainly of personal services, employee fringe benefit costs and fees for contractual services. The Office employed a staff of between 15 and 16 employees throughout the audited period.

Contractual Services, which consisted primarily of general operating costs and client service fees, increased by \$806,894 and \$296,661 during the 2002-2003 and 2003-2004 fiscal years, respectively. These increases were mainly attributable to increases in the number of court cases involving indigent applicants resulting in increases in court-appointed attorney fees and court entry fees paid on behalf of such clients. In addition, in the 2003-2004 fiscal year, there were significant increases in the rates paid to court-appointed attorneys and conservators which took effect on February 1, 2004.

Sundry costs included medical insurance premiums paid in accordance with Section 5-259 of the General Statutes, for payment of individual health coverage of the Probate Court judges and employees and 50 percent of the premiums in excess of individual coverage. Health insurance cost increases during the audited period were attributable to increased employee participation and premiums.

In addition to the expenditures shown above, transfers of \$1,369,411 and \$1,704,662 were made to the Probate Judges' and Employees' Retirement Fund during the 2002-2003 and 2003-2004 fiscal years, respectively. The State Treasurer acts as custodian of the Retirement Fund, which operates under Sections 45a-34 through 45a-57 of the General Statutes. The State Employees' Retirement Commission administers this retirement system and periodically bills the Probate Court Administration Fund for administrative costs and amounts required to maintain proper actuarial funding of the Retirement Fund.

During the 2002-2003 fiscal year, \$15,000,000 of funds in excess of operating needs was transferred to the General Fund in accordance Section 45a-82(f) of the General Statutes through the following legislation:

- Section 42 of Public Act 02-01 (May 2002 Special Session), An Act Concerning Adjustments to the State Budget for the Biennium Ending June 30, 2003, State Revenues..., provided for \$5,000,000 to be transferred from the Probate Court Administration Fund to the General Fund.
- Section 6 (b)G(f) of Public Act 03-02, An Act Concerning Modifications to Current and Future State Expenditures, provided for \$10,000,000 to be transferred from the Probate Court Administration Fund to the resources of the General Fund.

Waterbury Probate Court:

Judge James J. Lawlor was appointed as Probate Court Administrator effective February 1, 2002. Section 45a-92, subsection (d), of the General Statutes, provides that any probate judge who is the Administrator, may not receive compensation from the net income derived from his district court and, upon his appointment as Administrator, Judge Lawlor waived his right to fees from the Waterbury Probate District. Effective January 8, 2003, Judge Thomas P. Brunnock became the newly elected probate judge for the Waterbury Probate District. During the interim period until Judge Brunnock took office, Judges Carey R. Geghan and Judith P. Lentz were cited-in to each serve two days per week and were paid on a per diem basis as provided by the regulations of the Probate Court Administrator. Judge Lawlor also remained involved in the financial operations of the court but limited his involvement in daily court operations to hearing children's probate cases one day per week.

Under the provisions of Section 45a-92, subsection (d), of the General Statutes, the books and records of the probate court of any judge acting as Probate Court Administrator shall be audited annually by the Auditors of Public Accounts during his term as Administrator and upon completion of his term as either Administrator or probate court judge, whichever occurs first. We conducted an audit of the Waterbury Probate Court covering the calendar year ended December 31, 2002 and the period from January 1, 2003 through January 7, 2003, which had net incomes of \$256,374 and (\$363), respectively. Financial records were found to be in good order, however, the examination did disclose that expenditures authorized by Judge Lawlor during this period were not properly approved by the Chief Court Administrator as statutorily required. This exception is discussed further in the Condition of Records section of this report under the caption of Waterbury Probate Court expenditures.

Council on Probate Judicial Conduct:

The Council on Probate Judicial Conduct operates under the provisions of Sections 45a-62 through 45a-68 of the General Statutes and is responsible for investigating any complaint involving a judge of probate. The members of the Council on Probate Judicial Conduct, as of June 30, 2004, were as follows:

<u>Member</u>	<u>Term Expires</u>
Appointed by the Chief Justice:	
Honorable John C. Flanagan, Chairman	September 30, 2007
Elected by the Judges of Probate:	
Honorable Philip D. Main	September 30, 2007
Appointed by the Governor:	
Attorney Cameron F. Hopper	September 30, 2007
Thomas J. Gallagan	September 30, 2007
Janet Wildman	September 30, 2007

Section 45a-67 of the General Statutes provides that any sums expended on behalf of the Council be appropriated from the Probate Court Administration Fund. Operating costs applicable to the Council on Probate Judicial Conduct totaled \$58,891 and \$63,441 during the fiscal years ended June 30, 2003 and 2004, respectively, as compared to \$60,790 during the fiscal year ended June 30, 2002. Expenditures consisted of per diem compensation and travel expenses paid to Council members and fees for outside professional services.

CONDITION OF RECORDS

Our review of the financial records of the Probate Court Administrator disclosed the following matters of concern requiring Agency attention:

Late Filing of Annual Inventory Report:

- Criteria:* The State of Connecticut Property Control Manual requires that the annual report of all capitalized and real and personal property be submitted annually by October 1st.
- Condition:* The annual inventory reports for the 2002-2003 and 2003-2004 fiscal years were both submitted approximately two months late.
- Cause:* Staffing changes and the implementation of a new property control system contributed to the late filing of this report.
- Effect:* Annual reports were not filed on a timely basis in accordance with State requirements.
- Recommendation:* The Office of the Probate Court Administrator should file annual inventory reports on a timely basis in accordance with State requirements. (See Recommendation 1.)
- Agency Response:* “Prior to 2002, the Probate Court Administrator maintained records relative to the inventory of the property under the control of the Agency. Reporting was random and inadequate. After 2002, the Agency undertook a revision of the reporting process by substituting an electronic record keeping system with bar code identification of items of property. The system was designed by staff in the Agency and tested against existing processes. The testing has demonstrated that the new system is successful and we have now abandoned old processes. The adoption and testing of the new system resulted in delays in reporting in the 2002-2003 and the 2003-2004 fiscal years. Notwithstanding the delays, we have verified that the assets under our control are in existence and that we have established a reliable, dependable accounting system to verify this. Reports in future years shall be completed properly and shall be delivered in a timely fashion.”

Financial Assistance Agreements:

- Criteria:* Section 45a-82(k) of the General Statutes provides that each judge of probate requesting financial assistance from the Probate Court Administrator, shall file a sworn statement showing the actual gross receipts and itemized expenses of the judge's court, the amount requested and an explanation.
- Condition:* A review of eight temporary financial assistance agreements disclosed that six did not have a required statement sworn by the judge of probate.
- Cause:* The Office of the Probate Court Administrator did not enforce the requirement that a sworn statement be filed with a request for financial assistance.
- Effect:* There was a lack of compliance with State requirements.
- Recommendation:* The Probate Court Administrator should require judges of probate to file sworn statements prior to granting temporary financial assistance. (See Recommendation 2.)
- Agency Response:* "Your examination of the records of the Agency has disclosed that financial assistance agreements submitted under Section 45a-82(k) of the General Statutes were not accompanied by a sworn statement showing the actual gross receipts and the itemized expenses of the judge's court. We have established internal procedures to assure that future submissions will have appropriate supporting materials. We have also communicated with courts with outstanding loan balances but have failed to provide a sworn statement. We have requested that the sworn statement be submitted in order to complete the reporting materials for the previous request (cases in which the requirement for repayment of the financial assistance still exists)."

Waterbury Probate Court Expenditures:

- Background:* Judge James J. Lawlor was the judge of the Waterbury Probate District at the time of his appointment as Probate Court Administrator on February 1, 2002. Subsequently, two probate judges from other probate districts were cited-in to each hear Waterbury Probate Court cases two times per week. One of these judges was also assigned the responsibility for administrative oversight of the court. Judge Lawlor continued to serve on a limited basis by hearing cases one day per week and performing some administrative functions such as approving payments and signing checks. This arrangement was in effect until the election of a new probate judge on January 8, 2003.

- Criteria:* Section 45a-92, subsection (d), of the General Statutes, states that, “a judge of probate who is a Probate Court Administrator shall make no expenditure in his court for salaries, equipment, or any other expenditure exceeding the sum of \$100 in the aggregate, annually, without first having obtained the approval of the Chief Court Administrator.
- Condition:* Our review of Waterbury Probate Court records subsequent to the appointment of Judge Lawlor as Administrator on February 1, 2002 disclosed that he had signed 31 checks amounting to nearly \$150,000. All of these payments exceeded \$100 and were made without obtaining statutorily required approvals from the Chief Court Administrator.
- Effect:* Statutorily required approvals were not obtained for court operating expenditures exceeding \$100.
- Cause:* Required approvals were not obtained due to oversight.
- Recommendation:* Statutorily required approvals by the Chief Court Administrator for court expenditures exceeding \$100 should be obtained when the Probate Court Administrator also serves as a judge of probate. (See Recommendation 3.)
- Agency Response:* “The matter noted accurately reflects inadequate performance on the part of this Office. The deficiency results from inattention to detail. Controls will be established to assure that the statutory requirement is respected in the future.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

The prior auditors' report on the Office of Probate Court Administrator contained two recommendations. The Agency has taken action to resolve both of these findings as follows:

- *The Probate Court Administrator should maintain an adequate perpetual inventory system of probate forms stored at its printer's warehouse and reconcile those records to periodic physical inventories* – Improvements were noted in the maintenance of forms inventory including a reduction in the number of forms in inventory due to their direct availability by probate courts through compact disc media. As a result of the improvements made in this area, this recommendation is not being repeated.
- *The Agency should transfer computer cost data and all non-computer equipment data from the old system to the new system in order to account for inventory items and support reported balances* – The Office has transferred all equipment records onto Access databases, therefore, this finding is not being repeated.

Current Audit Recommendations:

- 1. The Office of the Probate Court Administrator should file annual inventory reports on a timely basis in accordance with State requirements.**

Comments:

Annual inventory reports for the 2002-2003 and 2003-2004 were submitted approximately two months late.

- 2. The Probate Court Administrator should require judges of probate to file sworn statements prior to granting temporary financial assistance.**

Comments:

A test of eight temporary financial assistance agreements disclosed that six did not have the required sworn statements from judges of probate on file.

- 3. Statutorily required approvals by the Chief Court Administrator for court expenditures exceeding \$100 should be obtained when the Probate Court Administrator also served as a judge of probate.**

Comments:

The Probate Court Administrator continued to authorize expenditures as probate judge for the Waterbury Probate District without obtaining required approvals from the Chief Court Administrator.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Office of the Probate Court Administrator for the fiscal years ended June 30, 2003 and 2004. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations and contracts 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, and contracts 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 Office of the Probate Court Administrator for the fiscal years ended June 30, 2003 and 2004, 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 Office of the Probate Court Administrator complied in all material or significant respects with the provisions of certain laws, regulations and contracts and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Compliance:

Compliance with the requirements of laws, regulations and contracts applicable to the Office of the Probate Court Administrator is the responsibility of the Office of the Probate Court Administrator's management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations and contracts, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations for the fiscal years ended June 30, 2003 and 2004, we performed tests of its compliance with certain provisions of laws, regulations and contracts. However, providing an opinion on compliance with these provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

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

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

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

However, we noted certain matters involving the internal controls over the Agency's financial operations, safeguarding of assets, and/or compliance that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal controls over the Agency's financial operations, safeguarding of assets, and/or compliance that, in our judgment, could adversely affect the Agency's ability to properly record, process, summarize and report financial data consistent with management's authorization, safeguard assets, and/or comply with certain provisions of laws, regulations, and contracts. We believe that the findings concerning the absence of sworn statements and Waterbury Probate Court expenditures to be reportable conditions.

A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations, and contracts or the requirements to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions by the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal controls over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal controls that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material or significant weaknesses. However, we believe that the reportable condition described above is not a material or significant weakness.

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

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

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by officials and staff of the Office of the Probate Court Administrator during the course of our audit.

Vincent Filippa
Auditor II

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts