



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Judiciary
Administrative Office of the Courts
Judiciary Bail Fund**

July 1, 2013 to May 31, 2016

**Stephen M. Eells
State Auditor**

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The Honorable Stephen M. Sweeney
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The Honorable Vincent Prieto
Speaker of the General Assembly

Ms. Peri A. Horowitz
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Enclosed is our report on the audit of the Judiciary, Administrative Office of the Courts, Judiciary Bail Fund for the period of July 1, 2013 to May 31, 2016. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in black ink, appearing to read "Stephen M. Eells".

Stephen M. Eells
State Auditor
June 19, 2017

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Scope

We have completed an audit of the Judiciary, Administrative Office of the Courts (AOC), Judiciary Bail Fund for the period July 1, 2013 to May 31, 2016. Our audit included financial activities accounted for in the Judiciary Bail Fund (fund) and processed through the Central Automated Bail System (CABS).

The prime responsibility of the fund is to serve as a repository for the collection of bail, the return of bail to the surety, and the remittance of forfeited bail and bail filing fees to the proper governmental agency. The fund is primarily administered by the Judiciary with specific responsibilities assigned to the Executive Branch regarding the enforcement and collection of bail judgments. The Judiciary is responsible for setting bail and recording bail amounts, including forfeiture and judgment. The ability to negotiate the dollar amount of bail forfeitures has been delegated to the County Counsel by the Attorney General's Office. The Attorney General's Office maintains oversight and responsibility for the collection and enforcement of bail forfeitures and judgments on behalf of the state. Our audit focused on activities of the Judiciary Bail Fund. The objectives of the CABS are to automate the recording of the collection, disbursement, and reporting of bail; provide the ability to track modifications to bail; and support the central disbursement of all bail funds. According to the CABS, there was approximately \$1.1 billion in open bail and 41,356 open bail cases as of May 31, 2016. An average of \$59 million per month was deposited in the fund from August 2014 through May 2016.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the fund, were reasonable, and were recorded properly in the accounting systems. We also tested whether procedures for the collection of forfeited bail from sureties are adequate. An additional objective was to determine the adequacy of logical access for the CABS and the Promis/Gavel management information system.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

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

In preparation for our testing, we studied legislation, *Rules Governing the Courts of the State of New Jersey*, the Remittitur Guidelines, and other policies of the Judiciary. Provisions we

considered significant were documented and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the fund and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions on our audit objectives as well as internal controls and compliance. Sample populations were sorted and transactions were judgmentally selected for testing. The sample population of negotiated bail cases was judgmentally selected to include all counties, with an emphasis on high bail amounts.

Conclusions

We found the financial transactions included in our testing were related to the Judiciary Bail Fund, were reasonable, and were recorded properly in the accounting systems. We also found that procedures for the collection of forfeited bail from sureties were adequate. In addition, logical access controls for the CABS and Promis/Gavel were adequate. In making these determinations, we noted a reportable condition meriting management's attention. In addition, we noted an observation regarding negotiated bail.

User Access

User access to CABS and Promis/Gavel should be properly limited and periodically reviewed.

AOC and county vicinage users have excessive access to the Central Automated Bail System (CABS) and Promis/Gavel system. The CABS is a financial system that records all bail postings, while Promis/Gavel provides information regarding the status of criminal court activity. User access between these two systems should be segregated so that users do not have the ability to post and disburse funds, change address tables, forfeit or transfer bail, and update information in both systems. Best practices suggest user access should be limited to the minimum access users need to perform their job duties. Currently, there is no automatic user review in place for the CABS and no manual or automatic review in place for Promis/Gavel.

- We tested all 248 users who had access to both the CABS and Promis/Gavel and found 30 users who had read and write access to both systems. When brought to management's attention, they took corrective action for 21 users who had their access levels altered to not have read and write access to both systems. Corrective action has not been taken for the remaining nine users.
- We tested all 796 CABS users and found 12 users who were not in compliance with CABS user access requirements because they were assigned a combination of restricted user access codes. When addressed with management, they took corrective action and removed two user IDs and reduced four access codes. There are still six users for whom no corrective action has been taken.

Our additional tests for these weaknesses did not disclose discrepancies.

Recommendation

We recommend the AOC align employees' job duties to the CABS security codes and Promis/Gavel access codes and periodically review user access to both systems to ensure segregation of duties and reduce the risk of fraud.



Observation

Negotiated Bail

Our review of negotiated bail revealed improvements could be made regarding the low negotiated collection rate between corporate sureties and County Counsels. The collection rate for negotiated bails is consistently low throughout the state. We analyzed the 3,951 bails, negotiated from July 1, 2013 through November 30, 2015, totaling \$113.85 million, and

determined County Counsels settled for \$10.65 million (9 percent). During our previous audit, which covered the period July 1, 2006 to May 1, 2007, 18 percent of the original bail amount of \$47 million was negotiated for collection.

Remittitur Guidelines were issued by the Administrative Office of the Courts to provide guidance to the state courts for the handling of requests for the remission of bail forfeitures. Remission allows those who posted bail to apply for it to be returned if it has been forfeited. The guidelines state that substantial remission is warranted for a defendant who is no longer a fugitive and did not commit a new crime while a fugitive and where the surety provided close ongoing supervision while the defendant was out on bail and made immediate substantial efforts to recapture the defendant. The sooner the defendant was captured, the closer to 100 percent remission the surety would be granted. The guidelines also state that the denial of any remission is entirely appropriate if the defendant remains a fugitive when the remission motion is made. Of the 35 negotiated bail cases we tested, six were negotiated by County Counsels while the defendant was still a fugitive. The percentage collected on these six forfeitures averaged 34 percent of the bond amount and was as low as 5 percent.



GLENN A. GRANT, J.A.D.
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June 2, 2017

Mr. John J. Termyna, Assistant State Auditor
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Re: Judiciary Response -- Draft OLS audit report on the Judiciary, Administrative Office of the Courts, Judiciary Bail Fund for the period July 1, 2013 to May 31, 2016

Dear Mr. Termyna:

I am in receipt of the draft OLS audit report on the Judiciary, Administrative Office of the Courts, Judiciary Bail Fund for the period July 1, 2013 to May 31, 2016. Thank you for the opportunity to comment on the draft. Thank you also for the work that your team of auditors did in conducting this audit. I appreciate the time that you took to work with Superior Court Clerk Michelle Smith to clarify information related to the scope of this audit.

The following are the Judiciary's responses to the one finding and one observation in the draft report.

Finding #1 – User Access – “User access to CABS and Promis/Gavel should be properly limited and periodically reviewed.”

OLS Recommendation: “We recommend the AOC align employees’ job duties to the CABS security codes and Promis/Gavel access codes and periodically review user access to both systems to ensure segregation of duties and reduce the risk of fraud.”

Judiciary Response:

Promis/Gavel User Access

The Judiciary Information Security Unit has established an annual internal access recertification program. The review will occur twice annually in August and December. The 2016 review was completed on September 16, 2016. Additionally, corrective action has been taken for all 9 CABS users with data entry access in Promis/Gavel.

CABS User Access

Upon investigation of the "six users for whom no corrective action has been taken" in CABS, we found the following:

- Three (3) of the users had no conflict, indicating that corrective action had been taken as of the date of this letter.
- One (1) user mans the CABS Helpdesk, and requires all of the codes in order to help users with their problems. Additional steps have been implemented to monitor this users activity.
- One (1) user requires both posting and refunding capabilities in CABS, in order to ensure adequate service levels in the vicinage Bail unit, and additional security measures have been undertaken in this vicinage to ensure that there are no problems.
- One (1) user had a user access change request submitted in March 2016, but it was never completed. After notifying the vicinage, their IT unit approved the change on 11/18/16.

Observation – Negotiated Bail

This observation in the draft audit report relates solely to the role and responsibility of the twenty-one County Counsel in the collection and enforcement of forfeited bail. N.J.S.A. 2A:162-7.1 and Rule 4:26 provide for the Office of the Attorney General and County Counsel to collect and enforce bail forfeitures. Oversight of those collections remains the exclusive responsibility of the Office of the Attorney General. The Judiciary will work closely with the Attorney General's Office to assist in providing whatever information is available to ensure the proper collection and remission of bail.

Very truly yours,



Glenn A. Grant, J.A.D.

Cc: Steven D. Bonville, Chief of Staff
Jack McCarthy, Director, ITO
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