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

Judiciary
Administrative Office of the Courts
Superior Court of New Jersey
Essex Vicinage

July 1, 1999 to July 31, 2001

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Governor of New Jersey

The Honorable John O. Bennett  
President of the Senate

The Honorable Richard J. Codey  
President of the Senate

The Honorable Albio Sires  
Speaker of the General Assembly

The Honorable Deborah T. Poritz  
Chief Justice of the Supreme Court

Mr. Albert Porroni  
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Enclosed is our report on the audit of the Judiciary, Administrative Office of the Courts, Superior Court of New Jersey, Essex Vicinage for the period July 1, 1999 to July 31, 2001. If you would like a personal briefing, please call me at (609) 292-3700.

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# Table of Contents

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope</td>
<td>1</td>
</tr>
<tr>
<td>Objectives</td>
<td>1</td>
</tr>
<tr>
<td>Methodology</td>
<td>1</td>
</tr>
<tr>
<td>Conclusions</td>
<td>2</td>
</tr>
<tr>
<td>Findings and Recommendations</td>
<td></td>
</tr>
<tr>
<td>Discharging Bail</td>
<td>3</td>
</tr>
<tr>
<td>Collections of Bail Forfeitures</td>
<td>4</td>
</tr>
<tr>
<td>Leave Time Postings</td>
<td>8</td>
</tr>
<tr>
<td>Cash Receipts - Probations Fines, Fees, and Restitutions</td>
<td>9</td>
</tr>
<tr>
<td>Transfer of Appropriations</td>
<td>10</td>
</tr>
</tbody>
</table>
Scope

We have completed an audit of the Essex Vicinage for the period July 1, 1999 to July 31, 2001. Our audit included financial activities accounted for in the state’s General Fund as well as vicinage functions related to the Judiciary-Bail, Probation, Special Civil, and Superior Court funds. The audit did not include the transactions of the Child Support Fund.

Total annual General Fund expenditures of the vicinage were $45 million. The prime responsibility of the vicinage is the overall operation of the Civil, Criminal and Family Courts, the Probation Services Unit, and a Field Operations Section. Annual vicinage revenues totaled $6 million and the major components of revenue were filing fees and bail forfeitures. In addition to these revenues, the vicinage also collects $8 million annually that is disbursed by the four other Judiciary funds.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the vicinage’s programs, were reasonable, and were recorded properly in the accounting systems. We also tested for resolution of significant conditions noted in our prior report.

This engagement was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, 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. In preparation for our testing, we studied legislation,
administrative code, circular letters promulgated by the State Comptroller, and policies of the Judiciary and the vicinage. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal control structure.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Transactions were judgmentally selected.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the agency and walked through the system to determine if the corrective action was effective.

**Conclusions**

We found that the financial transactions included in our testing were related to the agency’s programs, were reasonable, and were properly recorded in the accounting systems. In making this determination, we noted internal control weaknesses meriting management’s attention. We also found that the agency has resolved the significant issues noted in our prior report except for internal controls over recording employee leave time. This issue has been updated and restated in our current report.
The bail unit inappropriately retained old, unclaimed cash deposits totaling $1 million.

Discharging Bail

The Essex Bail Unit, comprised of employees from the vicinage’s criminal and finance divisions, collects over $5 million in receipts and processes 9,000 bail recognizances annually. These bail cases are posted to the Central Automated Bail System (CABS), a statewide system used by the bail units to account for cash receipts, revenues, and contingent receivables.

As of April 30, 2001, there were 2,500 open cash bail cases over two years old totaling $1.2 million. Tests indicate that 90 percent (27 of 30) of these cases have been adjudicated and the cash bail deposits should be returned to the sureties. The vicinage has a fiduciary responsibility to discharge and return bails when the cases are concluded. The practice, however, was not to discharge a bail until the surety made the request. As a result of this refunding practice, unclaimed bail funds have been allowed to accumulate. The longer funds go unclaimed, the more difficult and costly it becomes to locate the sureties.

Recommendation

The bail unit should review the criminal case system (Promis Gavel) to determine the status of old open bail cases, and initiate discharging and refunding procedures when applicable. The bail unit should also develop proactive written procedures that immediately initiate the discharge of bails on CABS when a case is completed. These procedures can include receiving notification of adjudicated cases from the court clerks, similar to the notification they receive from them on bail revocations and bench warrants. In addition, written procedures should be developed to follow up and identify the new addresses of those sureties when the discharge notification letters sent to the sureties are returned undeliverable.

Use of motor vehicle, income tax, and potential jury pool databases could aid in this identification.
Auditee’s Response

The Essex Vicinage Finance Division and Criminal Division will work together to streamline and document policies and procedures for the immediate discharge of bails at case disposition. The following steps will be taken:

- the Finance and Criminal Bail Units will work to complete the reconciliation of the open bail report in CABS to the current status listed in Promis Gavel,
- the Criminal Division will identify and provide reports and information to the Finance Division from Promis Gavel detailing case disposition,
- upon receipt of bail disposition, the Finance Division will immediately initiate bail refunds,
- the Finance Division has developed and implemented a procedure to further research the refund notices that are returned with a bad surety address,
- written procedures will be developed and shared with staff by March 1, 2002.

In addition, an automated interface between the Promis Gavel and CABS system is under development and scheduled for implementation in 2002. This interface will establish links between the two systems to facilitate sharing of up-to-date information and will generate a Bail Refund Pending List, identifying cases disposed of in Promis Gavel, but not in CABS.

Collections of Bail Forfeitures

On February 28, 2001, the Central Automated Bail System (CABS) reported $13.5 million of bail bonds at some level of forfeiture status. Because of procedural options available to the bail bonding companies which can delay, reduce, or eliminate the forfeiture amount due, or delays by the county counsel in the filing for judgment, these reports do not reflect the actual amount due nor the availability and collectability of these funds. However, our
review of these CABS reported forfeiture cases conclude that the coordinated follow up and collection efforts of the Bail Unit, County Counsel, and Clerk of the Superior Court could significantly increase revenues and encourage vigilant monitoring of defendants by bail bonding companies and agents.

The Administrative Office of the Courts (AOC) issued Administrative Directive 7-00 on December 14, 2000 stating that corporate sureties (bail bonding companies) that are in default of their forfeiture payments be removed from the statewide Bail Registry, precluding them from issuing any additional bonds until the debt is satisfied. Although over $400,000 is due to the vicinage in uncollected settlements and forfeitures, none of the corporate sureties involved in this obligation have been suspended from issuing additional bonding.

Of the 361 bail bonds totaling $4.3 million listed on the CABS February 2001 “Cumulative Order for Forfeiture” report that are over one year old, 243 ($2.9 million) have been reduced/settled by the court for a total amount of $375,050. Although these court consent orders (settlements) were agreed to years ago, $248,850 remains unpaid. In addition, our test of the remaining unsettled forfeiture status bails from this CABS report (118 cases totaling $1.4 million) found that in 15 percent of the cases (5 of 33), the defendant remains a fugitive ($57,500 in bonds). Efforts should be made to obtain court ordered judgments in these cases and collect the entire amount.

A second CABS report, the “Cumulative Default Judgment” report, lists forfeited bail bonds at the next stage of forfeiture, where the court has ordered the bonds be paid by the sureties. Of the 83 bail bonds totaling $1.7 million listed on this February 2001 report, 19 of these bonds ($525,000) have been reduced/settled by the courts for $61,350; yet
$11,250 of these settlement amounts remain unpaid. Our test of the remaining bail bonds in default judgment forfeiture status (64 cases totaling $1.2 million) found that in 27 percent of the cases (7 of 26), the defendant remains a fugitive ($85,000 in bonds). Since court ordered judgments have already been obtained, it is left to the bail unit to step up their collection efforts on these bonds.

Since we only tested a sample of the forfeiture cases to determine the current fugitive status of the defendant, there are probably other cases where the defendant remains a fugitive and the full bonded amount should also be collected from the corporate sureties. In addition, in those forfeiture cases where the defendant later surrenders or is apprehended by the court, although these bonds can also be ordered to be paid in full, it is common practice in Essex Vicinage to charge reduced settlements from the sureties. This settlement amount is assessed by the court to encourage vigilant monitoring of defendants by surety agents and to cover the court costs incurred due to the defendants’ failed appearance. We estimate that, if pursued by the bail unit, over $40,000 in additional settlements will be ordered for the remaining forfeiture and default judgment cases.

**Recommendation**

We recommend that the bail unit, as stated in Directive 7-00, notify the Clerk of the Superior Court of the unpaid judgments against the corporate surety companies, and the Clerk properly execute the final notification prior to their removal from the Bail Registry. We further recommend that the bail unit review all unsettled cases listed on the CABS “Cumulative Order for Forfeiture” report and make proper notification to all required parties and ask the county counsel to seek forfeiture judgment when warranted, especially where the defendant remains a fugitive.
Auditee’s Response

In order to effectively carry out the requirements of Directive # 7-00 issued December 14, 2000 (supersedes Directive # 5-00), the Finance and Criminal Divisions have instituted partnership meetings with the Essex County Counsel. It has been agreed that in an attempt to improve collections, County Counsel will request an order to show cause against the Insurance Company on all outstanding unpaid consent orders, default judgments and settlements posted on the Finance Division Accounts Receivable ledger.

In addition, County Counsel has requested that consent orders submitted include self executing language. Thus, if payment is not made within 30 days, judgment for the full forfeiture amount will be entered and the Criminal Division will forward a default judgment letter to the Clerk of the Superior Court.

Further, the Essex County Counsel, the Criminal Division and the Finance Division will review the Cumulative Order for Forfeiture Report and establish policies and procedures to streamline the current procedures. The Essex County Counsel will be asked to negotiate and prepare consent orders on those bails that are forfeited and to increase their collection efforts on consent orders. The Finance Division will review the Cumulative Order for Forfeiture Report and notify the Essex County Counsel and Criminal Division of those cases that can be moved for consent and/or default. The Criminal Division will prepare default judgment orders in those cases where a consent order has not been paid by the payment due date, where a defendant remains a fugitive past the 45 day cutoff, or where the attorney for the surety or surety has failed to file a motion to vacate forfeiture within the 45 days on cases where the defendant is in custody, and then forward them to the Office of the Clerk, Superior Court of New Jersey for the preclusion.
Internal controls over the vicinage employees’ recording of leave time needs to be strengthened.

Our test of 50 randomly selected employees, who incurred 653 leave hours (93 days) during our test period, found 32 hours of leave time was not properly posted to the employees’ Time and Leave Reporting System (TALRS) records. Statistically projecting this 4.9 percent error rate to the entire 1,000 employee population concludes, with 95 percent confidence, that at least 350 days are not being posted annually. The dollar value of these days approximates $45,000.

In a separate sample, we found control weaknesses caused by timekeepers entering their own leave time into TALRS. A test of timekeepers’ leave postings found one timekeeper failed to post 46 hours of their own leave time into TALRS during the 15-month period ended March 31, 2001.

Our prior report also noted weaknesses in controls over reporting leave time. Management had hoped that the installation of the new on-line time reporting system, TALRS, would alleviate the problems. As our tests have shown, some errors can still occur. A basic control feature of any process should include subjecting the work of each employee to the review of another. We found that there was no such review of the leave postings entered by the timekeepers. As a result, posting errors are not being detected.

Recommendation

We recommend that the vicinage make procedural changes to strengthen the controls over the posting of leave time to employee records. We also recommend that timekeepers not be allowed to enter their own leave time into TALRS.

Auditee’s Response

We concur with the auditors’ findings.

In order to strengthen internal controls over recordings of leave time, the Essex Vicinage Payroll Unit will develop a standardized time sheet for use in
all divisions, which will clearly categorize leave types (vacation, compensation, sick, other). On a quarterly basis, Payroll will audit one month’s time sheet from each division, while tracking any discrepancies and making appropriate corrections. These changes will be communicated to the Human Resource Liaisons in each division to ensure that any needed corrective action is initiated. Payroll will monitor trends, provide guidance to the Human Resource Liaisons, and communicate quarterly audit findings to the Division Managers and the Trial Court Administrator. Payroll will also enter time and leave of all timekeepers’ and backups into TALRS to ensure integrity and accuracy of their respective time.

Cash Receipts
Probation Fines, Fees, and Restitutions

Prior to consolidating operations into the one facility in July 2000, the probation unit had offices around the county. At the offices that did not have cashiers, probation officers were charged with collecting the probation fines, fees, and restitutions from their probationers, and forwarding these receipts for posting to the accounting records. We found control weaknesses in the monitoring and verification of the remittances of cash receipts from these offices. Although cash receipt vouchers were required to be issued whenever a probationer made a payment, there was no reconciliation of these vouchers to the remittances and a recent internal review conducted by the vicinage finance unit discovered some of these voucher booklets missing. Additionally, the aspect of having the probation officers collect from their probationers, in itself, is a control weakness because of the perceived intimidation which might discourage the probationer from questioning or reporting possible irregularities or defalcations.

The tests conducted during the internal review did not discover significant problems. These tests,
however, could not evaluate the remittances associated with the missing cash receipt booklets.

For these the audit trail is lost. It is, however, unlikely that the past control weaknesses resulted in material errors or irregularities, and the newly established procedures have eliminated these weaknesses.

**Recommendation**

Probationers should be informed that all payments be made only to the cashiers and that they retain the cash receipt voucher.

**Auditee’s Response**

We concur with the auditor’s findings and are pleased to note the auditors’ comment that “newly established procedures have eliminated weaknesses.” In fact, all cash receipts for probation fines, fees and restitution are now collected by authorized, approved and trained cashiers, and receipts are reconciled on a daily basis to cash received.

Signs will be posted in all three Essex Probation sites, advising probationers to make payment only to cashiers. Further, probationers are informed that they should retain the cash receipt voucher as evidence of payment.

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**Transfer of Appropriations**

During fiscal year 1999, the Administrative Office of the Courts transferred appropriations totaling $2,750,000 to the vicinage’s additions, improvement and equipment account. The transfer was to establish an obligation for the payment of a settlement agreement to the Essex County Treasurer involving a civil suit brought against the State of New Jersey. A payment was made to the Essex County Treasurer for $2,650,000 in December 1999. In accordance with the general provisions of the appropriation act, all requests for transfers of state and other non federal funds in amounts greater than
$300,000 should be submitted to the Legislative Budget and Finance Officer for legislative approval or disapproval.

Our review of the $2,750,000 transfer disclosed that 16 separate transfers were made, of which only two ($1,170,000) were submitted for legislative approval.

**Recommendation**

The Administrative Office of the Courts should receive the required legislative approvals for transfers of appropriations in accordance with the general provisions of the appropriation act.

**Auditee’s Response**

Our review indicates that during fiscal year 1999, the Administrative Office of the Courts initiated five transfers of appropriation totaling $2,650,000 to the vicinage’s addition, improvement and equipment account. The transfers were to establish an obligation for the payment to the Essex County Treasurer as settlement of a civil action initiated by the County of Essex, for Docket No. BER-C335-97. A payment was made to the Essex County Treasurer in December 1999.

Our review of the $2,650,000 transfers disclosed five separate transfers of appropriation consisting of sixteen lines in total. The transfer amounts are as follows; $1,170,000; $655,000, $500,000, $250,000 and $75,000.

The New Jersey Comprehensive Financial System (NJCF), administered by the Department of Treasury, incorporates controls that preclude using agencies from applying final approval on transfers of appropriation transactions. The Department of Treasury reviews transfers, routes them to the legislature for approval, and then applies the final approval. The Administrative Office of the Courts does not control which transfers are sent for legislative approval.