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

July 1, 2001 to June 30, 2003
Enclosed is our report on the audit of the Judiciary, Administrative Office of the Courts, Superior Court of New Jersey, Mercer Vicinage for the period July 1, 2001 to June 30, 2003. If you would like a personal briefing, please call me at (609) 292-3700.

November 26, 2003
# Table of Contents

<table>
<thead>
<tr>
<th>Section</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>Probation Fund Collections:</td>
<td></td>
</tr>
<tr>
<td>Fines, Penalties and Restitutions</td>
<td>3</td>
</tr>
<tr>
<td>Outstanding Cash Bail</td>
<td>8</td>
</tr>
<tr>
<td>Internal Controls: Bail and Probation Funds</td>
<td>9</td>
</tr>
</tbody>
</table>
Scope

We have completed an audit of the Judiciary, Administrative Office of the Courts, Superior Court of New Jersey, Mercer Vicinage for the period July 1, 2001 to June 30, 2003. Our audit included financial activities accounted for in the state’s General Fund as well as the Judiciary Bail, Probation, Special Civil, and Superior Court funds. The audit did not include the financial transactions of the Child Support Fund.

The vicinage is one of 15 vicinages encompassing the 21 counties in New Jersey. The prime responsibility of the Judiciary, Administrative Office of the Courts, Superior Court of New Jersey, Mercer Vicinage is the overall operation of the Civil, Criminal and Family Courts, the Probation Services Unit, and Trial Court Services. Annual General Fund expenditures were $18.4 million. Cash receipts for all funds were $3.9 million.

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 the significant conditions noted in our prior report.

This audit 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 directives, circular letters promulgated by the State Comptroller, and policies of 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 vicinage personnel to obtain an understanding of the programs and the internal controls.

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. Sample populations were sorted and transactions were judgmentally selected for testing.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the vicinage 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 vicinage's programs, were reasonable, and were recorded properly in the accounting systems. In making this determination, we noted certain internal control weaknesses meriting management’s attention. We also found that the vicinage has resolved the significant issues noted in our prior report except for internal controls over bail processing. This issue has been restated in our current report.
The enforcement collection process over fines, penalties, and restitutions from probationers should be improved.

Probation Fund Collections: Fines, Penalties, and Restitutions

In fiscal year 2003, the vicinage collected $1.2 million in court ordered fines, penalties, and restitutions from offenders on probation. The vicinage tracks receipts, disbursements, and receivables of fines, penalties, and restitutions by using the Comprehensive Automated Probation System (CAPS). As of June 30, 2003, the total debt due from probationers amounted to $12 million, as indicated in the following table.

<table>
<thead>
<tr>
<th>Case Type</th>
<th>Debt Receivable due from Probationers</th>
<th>Number of Cases</th>
<th>Monthly Collection Rate (percentage of clients making payment) for June 2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collection Only Cases (Supervision Terminated)</td>
<td>$5.6 million</td>
<td>3,300</td>
<td>9%</td>
</tr>
<tr>
<td>Supervised Cases (Active Probationers)</td>
<td>$5.2 million</td>
<td>4,560</td>
<td>20%</td>
</tr>
<tr>
<td>Bench Warrant Cases (Probation Violations)</td>
<td>$1.2 million</td>
<td>1,000</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12.0 million</strong></td>
<td><strong>8,860</strong></td>
<td><strong>13%</strong></td>
</tr>
</tbody>
</table>

The $12 million debt owed by probationers is composed of $6.7 million in restitution to victims and $5.3 million in fines to state agencies and local governments. The current fines and penalties assessed at sentencing include a range of legislatively mandated and court-imposed sanctions. Receipts from these monetary sanctions are used to fund victim and community programs, law enforcement operations, and to pay restitution to victims. There are 3,300 cases classified as “collection only” cases, in which the probationer’s supervised probation period has ended, but monies are still owed. If any client becomes delinquent, they become subject to the Comprehensive Enforcement Program (CEP) for further collection efforts. The vicinage’s CEP
The coordinator determines the number of delinquent clients to be selected for CEP. To support enforcement funding, the CEP program receives a 25 percent commission on selected fines and penalties collected. In addition, a $2 transaction fee, which amounts to $460,000 in annual statewide revenue, is collected from each probationers’ receipt for the purpose of enhancing the CAPS system. The receivable and collection process needs improvement.

- CEP delinquency letters are mailed to probationers, based on a random method of selecting 150 cases for each CEP hearing date, instead of issuing 100 percent delinquency letters to all probationers who are in default. Statewide CEP analysis indicates $12 of every $16 collected during the CEP enforcement process is received prior to the actual court hearing. The vicinage has not determined the number of cases in delinquency status. It would be advantageous if all delinquent cases are subject to CEP because the additional 25 percent commission revenues may be utilized for collection enforcement purposes.

- As compared to billings and collections practices in the private sector, the AOC is behind in technology and standard practices for increasing probation collections. Although financial resources generated from fees and CEP revenues are available for improving collections, the AOC does not permit payments by credit card, internet payments (similar to municipal traffic offenses), or scheduled automatic withdrawals from personal checking accounts. In addition, probationers are not billed monthly, issued late penalty fees, or assessed interest charges. Also, private collection agencies are not used to aid in collections.
• Based on the probationers’ ability to pay, scheduled monthly payment plans are established to facilitate and enforce collections. However, approximately 40 percent of the 8,900 cases recorded in CAPS have no scheduled payment plans. Many of these probationers are not paying their expected monthly obligation and are not considered delinquent by CAPS because they have no payment plans. The lack of payment plans was primarily caused by incomplete follow-up procedures during the January 2000 system conversion to CAPS.

• The vicinage converted to CAPS in January 2000 from the Court Management Information System (CMIS). During the conversion process, the vicinage was responsible for assuring that all probationers’ cases and financial debt balances were properly transferred to CAPS. The conversion process was undocumented. In addition, there was no system cross-match performed to ensure that all cases were transferred. Testing of the CMIS ledgers showed that 17 of 30 probation cases and/or outstanding debt balances had not been transferred to CAPS. The probationers that were not transferred are receiving favorable treatment over paying probationers, while the victims of these crimes are not receiving restitution because the vicinage is not enforcing collections.

• The collection reports do not provide adequate information to evaluate the effectiveness of the vicinage in collecting the debt receivable nor is there a standard comparison made to other vicinages. The vicinage’s monthly collection rate is misleading because a collection is considered made if a probationer makes a $1 payment, even though the required payment may be more. The proper collection rate should be calculated as actual dollars collected over total scheduled payment amounts due for a particular
time period. In addition, the vicinage does not request a report that identifies the number of cases in arrearage. The vicinage’s finance division does not provide guidance to the probation department in developing adequate collection statistical reports.

- CEP hearing result summaries provide information regarding enforcement activity in order to evaluate the CEP program. From July 1, 2002 to June 30, 2003, 13 of 24 hearing results summaries were not forwarded to the CEP program. We also noted that neither the CEP management of the AOC nor the vicinage followed up on these missing hearing result summaries.

**Recommendations**

To improve collections from probationers, we recommend the vicinage:

- Issue delinquency letters to all defaulted probationers.

- Implement collection technology similar to the private sector.

- Seek private collection agencies to improve collections.

- Work with the AOC to develop CAPS comparative statistical reports by county including, but not limited to, collection rates against debt receivables, arrearages, and CEP designations.

- Prepare and record payment plans for the cases in CAPS currently without payment plans.

- Review cases in CMIS ledgers for transfer to CAPS, and convert all outstanding cases found.

- Update CEP hearing summary results timely.
Auditee’s Response

• Not all clients in delinquency status are eligible for CEP. Certain clients in default (e.g. those who are incarcerated, hospitalized, in an inpatient treatment substance program or legitimately unemployed) are not scheduled.

Trial Court Management will review issues, document the advantages and disadvantages and then determine the feasibility of 100 percent delinquency mailings.

• AOC and the appropriate conferences will continue to investigate various collection technologies currently being used by the private sector. With regard to the use of private collection agencies, the AOC will explore the implication of accepting a reduced payment (net of service fee) for restitution.

• AOC will also work with the vicinages to develop statistical reports geared to compare, and improve performance. In addition, efforts will be undertaken to address archived cases or to initiate procedures to declare a case uncollectible.

• Mercer is currently researching and identifying those client records that were not converted from the former probation system CMIS into CAPS. When identified, these records will be back-loaded into CAPS, and the clients will be mailed delinquency notices and scheduled for CEP. CEP will take the necessary action to bring each case into compliance.

• All CEP hearing results are now updated timely after court and faxed to the AOC CEP Division within one week following the court date.
The vicinage needs to improve procedures for discharging and refunding outstanding cash bails.

The vicinage collects bail funds and posts them to the Central Automated Bail System (CABS), a statewide system used by the bail units to account for cash receipts, cash disbursements, and receivables. When cash bail is posted to CABS, it is given a status in the system of POST and remains in this status until released by the bail unit either as a forfeiture to the state and county or as a refund to the surety. Outstanding cash bail may also be in refund pending (RFNP) status until a surety’s address is verified. As of February 28, 2003, cash bail totals were as follows:

<table>
<thead>
<tr>
<th>Bail Type</th>
<th>Number of Bails</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Posted Bail - POST</td>
<td>1,022</td>
<td>$920,000</td>
</tr>
<tr>
<td>Refund Pending - RFNP</td>
<td>84</td>
<td>$62,000</td>
</tr>
<tr>
<td>Totals</td>
<td>1,106</td>
<td>$982,000</td>
</tr>
</tbody>
</table>

Generally, criminal cases are adjudicated and bail is released within one year of bail posting. In our sample of 30 cases from a population of 632 cash bails in POST status for over one year, 14 (47 percent) should have been refunded to the surety or forfeited. We have determined some causes for the number of bails in POST status. The vicinage continues to hold the bail funds for cases that are transferred to municipal court and the municipalities are not informing the vicinage when those cases are disposed. The vicinage is aware that these old cash bails should be researched for proper disposition. The scheduled implementation of the Promis Gavel interface should aid in reducing old outstanding bails.

The vicinage does not take the initiative to locate sureties when address verification letters are not answered by sureties or are returned as undeliverable.
The bail recognizance forms provide personal information such as home phone numbers, social security numbers, and driver license numbers that can be used for motor vehicle “look ups” to find correct mailing addresses of sureties or to allow calling sureties directly. The vicinage should issue reminder letters periodically to sureties of outstanding bail.

**Recommendation**

The bail unit should review all outstanding cash bails in POST status to see if the funds should continue to be held, forfeited, or refunded. In situations where the case has been transferred to a municipality, the vicinage should require the municipality to communicate the status of the case to the vicinage. Procedures should be implemented to reduce outstanding unclaimed bail.

**Auditee’s Response**

The bail unit is currently reviewing all outstanding cash bails and will continue this process on a regular basis. Mercer Vicinage recently received the Promis-Gavel / CABS interface upgrade, which will ensure that the case transactions between the two systems are linked and appropriate action is required.

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**Internal Controls: Bail and Probation Funds**

The purpose of internal controls over the vicinage’s bail and probation funds is to provide adequate checks and balances to ensure financial transactions are properly authorized and recorded, and to provide a means to safeguard these court held funds. Generally, internal controls are the responsibility of the finance division at the vicinage. At a minimum, adequate internal controls over court held funds must provide segregation of duties, restricted system security access, and independent cash reconciliations. The failure to maintain adequate internal controls may result in unauthorized transactions, improper recordkeeping, fraud, and/or misappropriation of these funds.
IT Security

There is a lack of segregation of duties over system access in the bail and probation funds. In the bail unit, the employees have the ability to post bail and refund bail in CABS even though the vicinage has sufficient staff to segregate system post and refund access function capabilities.

The probation fund uses the CAPS system to record probationers’ accounts receivable, cash receipts, cash disbursements, and case management transactions. There are more than 40 system access function levels. CAPS employee security access needs updating for proper segregation of duties. Supervising probation officers have CAPS access capabilities to enter and adjust receivables, as well as verifying and approving their own receivable transactions. Since supervisors have these incompatible access function levels, there is a high risk for fraud to occur. CAPS system access functions were not justified for 15 out of 22 employee IDs tested.

The lack of segregation of duties over the CABS and CAPS system access functions is caused by the vicinage’s finance division not reviewing or updating security profiles periodically. Currently, the probation department is approving CAPS system access security profiles.

Cash Reconciliations

Cash reconciliations provide accountability of court held funds. The vicinage was not properly preparing reconciliations for bail and probation funds. The bail reconciliations to CABS were not properly completed because there were unreconciled month-to-month differences ranging up to $30,000. These differences were easily resolvable during our reconciliations. In addition, we discovered a potential check forgery. If the vicinage had completed reconciliation properly, this alleged check
forgery would have been detected by management. The alleged check forgery is being investigated by the vicinage. At the end of our field work, management was preparing complete bail reconciliations. Cash bail of $1 million was reconciled as of March 2003, with the exception of a consistent immaterial monthly difference of $3,000.

Due to CAPS limitations, the vicinage does not adequately reconcile probation CAPS liabilities to the cash bank balance. The vicinage has the fiduciary responsibility to ensure that CAPS liabilities are reconciled to the cash balance. In our prior statewide audit report, dated May 4, 1999, the AOC stated, “in conjunction with Conference of Vicinage Finance Division Managers, the AOC is developing the reconciliation procedures ... and plans to roll out the process over the course of the next year ... enhancements to the automated systems are needed to facilitate the reconciliation process.” More than four years have passed without the enhancements necessary for CAPS to provide a uniform reconciliation. The vicinage attempts a reconciliation each month, and for May 2003 there was an unexplained $47,000 surplus in excess of the CAPS liabilities of $195,000.

**Recommendation**

We recommend the vicinage segregate duties, restrict systems access to appropriate employees, and improve and implement completed cash reconciliations over the bail and probation funds.

**Auditee’s Response**

Finance, IT and Probation will review the current CAPS access functions and re-assign access to staff, as necessary to ensure the appropriate levels of segregation and will monitor all new access requests to insure proper and adequate security. The Finance Division has requested two additional staff members be given access to CABS. This will improve security and ensure segregation of duties. The AOC will be implementing a state wide initiative for the reconciliation of CABS / NJCFS by vicinage in
November 2003 and will begin a CAPS / NJCFS reconciliation initiative in 2004.