

STATE OF CONNECTICUT



*AUDITORS' REPORT
OFFICE OF THE PROBATE COURT ADMINISTRATOR
FOR THE FISCAL YEARS ENDED JUNE 30, 2013, 2014,
2015, and 2016*

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

Table Of Contents

INTRODUC	1
COMMENTS	2
FOREWORD	2
Probate Court Budget Committee	3
Connecticut Probate Assembly.....	3
Council on Probate Judicial Conduct	4
Significant Legislation.....	4
RÉSUMÉ OF OPERATIONS.....	6
Probate Fund Receipts and Expenditures	6
General Fund Transfers and the Probate Court Administration Fund.....	7
Special Revenue Fund – Federal and Other Restrict Account	8
Other Matter – Prior Assessment Reporting and Collection	8
STATE AUDITORS’ FINDINGS AND RECOMMENDATIONS.....	9
Personnel Records	9
Statutory Probate Fee Calculation	10
Mileage Reimbursement.....	11
Whistleblower Process	12
RECOMMENDATIONS	14
ACKNOWLEDGEMENT	17
CONCLUSION.....	18

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

JOHN C. GERAGOSIAN

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

ROBERT J. KANE

April 27, 2018

AUDITORS' REPORT OFFICE OF THE PROBATE COURT ADMINISTRATOR FOR THE FISCAL YEARS ENDED JUNE 30, 2013, 2014, 2015 AND 2016

We have audited certain operations of the Office of the Probate Court Administrator (PCA) 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, 2013, 2014, 2015 and 2016. The objectives of our audit were to:

1. Evaluate the office's internal controls over significant management and financial functions;
2. Evaluate the office'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, as well as certain external parties; 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 in the accompanying report presents any findings arising from our audit of the Office of the Probate Court Administrator.

COMMENTS

FOREWORD

The Office of the Probate Court Administrator was established under Title 45a, Chapter 801, Sections 45a-74 through 45a-85 of the General Statutes. Section 45a-77 of the General Statutes sets forth the powers and duties of the Probate Court Administrator, including administering and enforcing the laws and resulting regulations under Chapter 801. The administrator also shall ensure performance of the duties of judges and clerks of probate. The office consists of 4 departments: Law, Financial Services, Information Technology, and Communications and Intergovernmental Relations. The Law Department provides legal advice and training to judges and staff, works with the courts to interpret statutes, and conducts court visits. The Financial Services Department reviews the financial operations, tracks all revenue and expenses, and conducts on-site financial reviews of each court. The Information Technology Department maintains the computer network, hardware, software, and a help desk utilized by the probate courts, including the case management system. The Communications and Intergovernmental Relations Department is responsible for legislative initiatives, public relations and interagency efforts of the probate court system. The Probate Court Administrator is appointed by and serves at the pleasure of the Chief Justice of the Supreme Court. The Honorable Paul J. Knierim was appointed on October 1, 2008 and served as administrator throughout the audited period.

Article Fifth, Section 4 of the Constitution of the State of Connecticut indicates that judges of probate shall be elected to 4-year terms by the electors residing in the respective districts. In accordance with Section 45a-2 of the General Statutes, there are 54 probate districts and Section

45a-8a states that the Probate Court Administrator may establish 7 regional children's probate courts. Currently, there are 6 regional children's probate courts located in New Haven, Meriden, New London, Waterbury, Hartford, and Windham. The administrative judges for the children's courts are appointed by the Probate Court Administrator with the advice of the participating probate judges of the districts located in the designated region.

Probate Court Budget Committee

The Probate Court Budget Committee was established under Section 45a-85 of the General Statutes and is responsible for establishing a compensation plan, including benefits for the employees of the probate courts. The committee also sets the staffing levels and determines a miscellaneous office budget for each probate court. The Probate Court Administrator serves as the chairperson and 2 probate judges are appointed to the committee by the Connecticut Probate Assembly. Members serving on the committee as of June 30, 2016 were:

Honorable Paul J. Knierim, Probate Court Administrator, Chairperson
Honorable Joseph D. Marino, Middletown District Probate Judge
Honorable Fred J. Anthony, Shelton District Probate District

Connecticut Probate Assembly

The Connecticut Probate Assembly operates pursuant to Sections 45a-90 and 45a-91 of the General Statutes and all probate judges are members. The assembly is authorized to transact any business that pertains to the probate courts, the improvement of and uniformity in their procedure and practice, the administration of justice in the courts of probate and the administration of the assembly. The assembly may make such recommendations to the Probate Court Administrator regarding these matters. Officers of the assembly are elected by its members. As of June 30, 2016, Judge Brian T. Mahon was the president.

The financial operations of the assembly were previously accounted for separately from the Office of the Probate Court Administrator and were audited annually by an independent certified public accountant. Our prior audit recommended that the Connecticut Probate Assembly pursue an official status and follow through with filing required organizational and annual reports. As a result of the recommendation, the assembly engaged an attorney to determine its organizational status. The attorney's report clearly stated that the Connecticut Probate Assembly is a state entity. As a result, changes were made to the assembly's by-laws and the balance in the assembly's checking account of \$207,846 was transferred to the probate court administration fund on September 16, 2015. The assembly has an annual budget of approximately \$40,000 and expenses incurred by the assembly are now processed by the Office of the Probate Court Administrator.

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 receiving and investigating formal complaints against Connecticut probate judges and recommending further action against such judges when appropriate. Complaints to the council concern misconduct under Section 45a-63 (a) and the Code of Probate Judicial Conduct. The council has 5 members. The probate judges elect 1 probate judge to serve on the council, the Chief Justice appoints a retired state referee, and the Governor makes 3 appointments (1 attorney and 2 non-attorneys). The council members as of June 30, 2016 were: Honorable William J. Lavery, Chairperson; Honorable Andre D. Dorval, Probate Judge Region #19; Attorney Dennis Ferguson; Anne S. Evans; and Paul Cravinho. Sharon Purtill and Janet Wildman also served for the council during the audited period.

Richard Banbury was the executive director of the council throughout the audited period. Complaints must be submitted in writing, and the council may consider complaints about a judge's violation of the law or a canon of ethics, or the failure to properly perform the duties of office. During calendar years 2013, 2014, 2015, and 2016, the council received a total of 89 complaints, of which 87 were resolved.

The council's expenditures totaled \$97,295, \$74,004, \$114,519 and \$70,685 for the fiscal years ended June 30, 2013, 2014, 2015 and 2016, respectively. Expenses consisted of payments to the executive director and court reporters.

Significant Legislation

Notable legislative changes that took effect during the audited period are presented below:

Public Act 12-66, effective October 1, 2012, changed the frequency of the Probate Court Administrator's report from an annual report to a biennial report, aligning it with the fiscal year. The report is due by April 1st of even-numbered years. This act also eliminated statutory inconsistencies in establishing policy for the management of probate court records. The Probate Court Administrator may, in consultation with the public records administrator, issue and enforce regulations or policies on the management, preservation, and disposition of probate court records.

Public Act 12-93, effective July 1, 2012, established the Commission on Judicial Compensation. The commission examines the need for adjusting the compensation of judicial positions in the Supreme, Appellate, and Superior Courts. The commission has no direct authority over the compensation of probate judges, but any changes affecting Superior Court judges automatically modify the compensation of probate judges, in accordance with Section 45a-95a of the General Statutes.

Public Act 13-184, effective July 1, 2013, appropriated \$9.35 million and \$10.75 million from the General Fund to the probate court system for the fiscal years ended June 30, 2014 and

2015, respectively. The appropriations provided the funding necessary for pay increases for court staff and judges. This act also required the transfer of \$1 million from the Probate Court Administration Fund to the General Fund for the fiscal year ended June 30, 2014.

Public Act 13-247, effective July 1, 2013, amended Section 45a-82 of the General Statutes to allow for the retention of 15% of the probate court system budget in the Probate Court Administration Fund. Under prior law, all surplus funds from the Probate Fund were annually transferred to the General Fund on June 30th. This act also allowed the probate courts to charge applicable processing fees to individuals who pay probate fees by credit card.

Public Act 14-47, effective July 1, 2014, made adjustments to the biennial state budget adopted during the 2013 legislative session. The act maintains the General Fund appropriation of \$10.75 million to the Probate Court Administration Fund. This act also transferred \$250,000 from the Kinship Fund to the Grandparents and Relatives Respite Fund, maintaining total funding for both programs at \$2.05 million.

Public Act 14-98, effective July 1, 2014, authorized state bonding in the amount of \$3 million for building acquisition and renovation for probate court offices.

Public Act 14-103, effective July 1, 2014, corrected an oversight in the prior year's budget legislation. The biennial budget adopted in 2013 transferred funding for the Kinship Fund and Grandparents and Relatives Respite Fund programs from the Department of Social Services (DSS) to the Probate Courts. This act completed the transition by transferring administration of the grants from DSS to the Office of the Probate Court Administrator. This act also repealed the requirement that the Probate Court Budget Committee submit an annual report to the Governor and the General Assembly.

Public Act 15-217, effective July 2, 2015, authorized the probate courts to maintain separate bank accounts for escrow accounts; office budgets and kinship and respite funds; and prohibits the commingling of funds. Section 25 of this act, effective October 1, 2015, granted explicit authority to probate courts to serve as passport acceptance agencies, at the option of each judge.

Public Act 15-244, effective July 1, 2015, adopted the state budget for fiscal years ended June 30, 2016 and 2017. This budget eliminated General Fund support for the probate courts for both fiscal years.

June Special Session Public Act 15-1, effective July 1, 2015, provided bonding in the amount of \$4.1 million for the acquisition of a new facility for the Office of the Probate Court Administrator. This bond authorization is in addition to the \$3 million amount approved in fiscal year 2013-2014.

June Special Session Public Act 15-5, effective July 1, 2015, increased the fees on estates of decedents with a basis of costs over \$2 million, from 0.25% to .5% on the amount over \$2 million. This section also eliminated the \$12,500 cap on fees. The change applies to the estates of decedents dying on or after January 1, 2015. This act also increased the compensation of Superior Court judges by 3% in each of the next 2 fiscal years. Since the compensation of

probate judges is statutorily determined by reference to Superior Court judges, probate judges received equivalent increases.

RÉSUMÉ OF OPERATIONS

Probate Fund Receipts and Expenditures

The receipts for the Probate Court Administration Fund during the audited period are summarized below:

	<u>Fiscal Year Ended June 30,</u>			
Probate Fund Receipts:	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Probate Court Fees	\$30,106,675	\$31,133,709	\$31,343,047	\$38,956,043
Miscellaneous Revenue	6,476,458	7,321,175	8,201,037	2,764
Pass-through Funding	1,900,582	2,200,000	2,200,000	150,000
Assessments	116,720	805	96	-
Insurance Reimbursement – Other	-	2,693	-	-
Other Refunds	(41,984)	(44,591)	(39,021)	(51,549)
Interest Fees	138,212	201,525	211,129	236,741
Total Receipts	<u>\$38,696,663</u>	<u>\$40,815,316</u>	<u>\$41,916,288</u>	<u>\$39,293,999</u>

As presented above, receipts were relatively consistent for the fiscal years ended June 30, 2013, 2014 and 2015. Probate court fees during the fiscal year ended June 30, 2016 increased by 24.3% while miscellaneous revenue decreased dramatically (nearly 100%) compared to the fiscal year ended June 30, 2015. During the fiscal years ended June 30, 2013, 2014 and 2015, the Office of the Probate Court Administrator (PCA) received General Fund appropriations totaling \$6,475,000, \$7,300,000 and \$8,200,000, respectively. These appropriations are reflected within the Miscellaneous Revenue category. Public Act 15-244 Section 1 eliminated General Fund support for the probate courts for the fiscal years ended June 30, 2016 and 2017. In an attempt to compensate for the lack of General Fund support, Public Act 15-5 June Special Session Section 448 increased the fees on estates of decedents and eliminated the \$12,500 cap on fees. This change was retroactively applied to estates of decedents with a date of death on or after January 1, 2015, and accounts for the significant increase in fees during the fiscal year ended June 30, 2016.

The expenditures for the Probate Court Administration Fund during the audited period are summarized below:

	<u>Fiscal Year Ended June 30,</u>			
Probate Fund Expenditures:	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Purchases and Contracted Services	\$24,483,771	\$25,791,368	\$27,886,151	\$28,745,109
Personal Services and Benefits	8,300,832	9,517,721	9,946,980	10,180,050
Other Expenses	1,900,702	2,200,000	2,200,050	1,750,050
Information Technology	948,349	977,633	1,054,636	885,749
Capital Outlays Equipment	117,299	25,185	28,404	34,302
Premises and Property Expenses	52,024	56,514	58,783	56,406
Employee Expenses	18,000	18,473	17,636	18,203

Purchased Commodities	22,694	126,806	66,548	119,637
Motor Vehicle Costs	<u>1,574</u>	<u>1,512</u>	<u>996</u>	<u>652</u>
Total Expenditures	<u>\$35,845,245</u>	<u>\$38,715,212</u>	<u>\$41,260,184</u>	<u>\$41,790,158</u>
Transfer to General Fund	<u>-</u>	<u>2,584,806</u>	<u>-</u>	<u>-</u>
Total Expenditures and Transfers	<u>\$35,845,245</u>	<u>\$41,300,018</u>	<u>\$41,260,184</u>	<u>\$41,790,158</u>

Expenditures increased by 8% and 6.6% during the fiscal years ended June 30, 2014 and 2015, respectively. The increases were primarily attributable to purchases, contracted services, personal services, and employee benefits. Probate court employees are not state employees, and their salaries and benefits are included within the purchases and contracted services category. During the fiscal years ended June 30, 2014 and 2015, PCA employees and court employees received cost of living adjustments and merit increases which resulted in expenditure increases during those fiscal years. The transfer to the General Fund during the fiscal year ended June 30, 2014 was statutorily required. Section 45a-82(j) of the General Statutes states, in part, that any balance in the Probate Court Administration Fund in excess of an amount equal to 15% of the total expenditures authorized pursuant to subsection (a) of Section 45a-84 for the immediately succeeding fiscal year shall be transferred to the General Fund. In addition, Public Act 13-184 Section 89 required the transfer of \$1,000,000 to the General Fund from the Probate Court Administration Fund for fiscal year ended June 30, 2014.

Employment statistics for the PCA and the probate courts as of June 30, 2013, 2014, 2015, and 2016 were as follows:

	<u>June 30,</u>			
	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Probate Court Filled Positions				
Office of the Probate Court Administrator	21	22	22	21
District Court Staff and Judges	<u>412</u>	<u>395</u>	<u>394</u>	<u>378</u>
Total Filled Positions	<u>433</u>	<u>417</u>	<u>416</u>	<u>399</u>

General Fund Transfers and the Probate Court Administration Fund

Operations of the office and the probate and children's courts are financed through the Probate Court Administration Fund, which is a special revenue fund established under Section 45a-82 of the General Statutes. The State Treasurer is the custodian of the fund and tracks the cash and investment balances. Financial activity of the Probate Court Administration Fund during the audited period is presented below:

	<u>Fiscal Year Ended June 30,</u>			
	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
PCA Fund Balance and Transactions				
PCA Fund Beginning Balance	\$4,000,000	\$6,862,909	\$6,391,182	\$7,061,418
Receipts per Core-CT	38,696,664	40,815,315	41,916,288	39,293,999
Expenses per Core-CT	(35,845,245)	(38,715,211)	(41,260,184)	(41,790,157)
Other Transfers and Income:				

Transfer to General Fund	-	(2,584,806)	-	
Investment Income	<u>11,490</u>	<u>12,975</u>	<u>14,132</u>	<u>14,302</u>
Ending Balance PCA Fund	<u>\$6,862,909</u>	<u>\$6,391,182</u>	<u>\$7,061,418</u>	<u>\$4,579,562</u>

Receipts during the fiscal years ended June 30, 2013, 2014, and 2015 included transfers from the General Fund totaling \$6,475,000, \$7,300,000 and \$8,200,000, respectively. PCA did not receive any General Fund appropriations during the fiscal year ended June 30, 2016. The transfer to the General Fund during the fiscal year ended June 30, 2014 was required as previously described.

Special Revenue Fund – Federal and Other Restrict Account

Restricted Fund receipts were \$708,562, \$176,181, \$64,632 and \$179,800 during the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively. Receipts consisted of multiple grant awards received from the U.S. Bureau of Justice Statistics for the National Instant Criminal Background Check System Act Record Improvement Program. These funds were used to make improvements to the probate court case management system.

Expenditures from this fund were \$517,487, \$408,362, \$272,225 and \$178,783 during the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively.

Other Matter – Prior Assessment Reporting and Collection

Prior to probate court reform, judges reported and forwarded assessment amounts to the Office of the Probate Court Administrator. Each probate court judge performed the calculation of assessments owed pursuant to Section 45a-92(g) of the General Statutes. The administrator made efforts to collect amounts based upon the prior assessment method while also considering any work-in-process payments due to the judges. Work-in process payments represent compensation paid to judges for estates they worked on before leaving office that had not yet paid the probate fees. This procedure was eliminated with the passage of Public Act 10-41, effective May 18, 2010.

On June 24, 2013, the administrator notified the Office of the State Treasurer of a possible claim of the Probate Court Administration Fund against a former judge of probate. The judge owed a \$22,175 balance on the assessments for that probate court for the 2010 calendar year. That amount was fully collected through regular payroll deductions. The judge also owed \$24,102, which was the result of an erroneous deposit of funds into the probate court's checking account, rather than a State Treasurer bank account. The probate judge resigned in April 2013 and was not able to repay the remaining amount owed. During the course of the current audit, we noted that the amount due had increased to \$31,690, as a result of accumulated interest since April 13, 2013. The Office of the Probate Court Administrator determined that this debt would not be satisfied and requested approval from the Office of Policy and Management (OPM) to write off this account balance. On March 20, 2017, OPM granted approval to cancel this uncollectible account.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our review of the financial records of the Office of the Probate Court Administrator disclosed areas of concern that are discussed below.

Personnel Records

Criteria: Section 31-128 (c) of the General Statutes states that each employer that retains medical records shall be required to keep said medical records pertaining to a particular employee for at least 3 years following termination of employment. Medical records, if kept by an employer, shall be kept separately and not as part of any personnel file.

Policy 801 of the Probate Court Administrator Policy Manual for Court Employees defines the records retention policy. Specifically, the policy states that each court shall retain administrative, financial and human resource records in accordance with the retention periods set forth on its Records Retention and Disposition Schedule. Courts may destroy records only after the applicable minimum retention periods have expired. Personnel records are required to be maintained for a minimum of 5 years after the date of separation.

Condition: In January 2017, we conducted 5 site visits at various probate courts as part of our review of payroll and personnel files. Our review focused on personnel files for new hires, terminations, and an examination of the medical records of employees with extended medical leave.

Our review disclosed that 1 of the probate courts did not maintain medical records separate from personnel files.

Our review also found that personnel files in 1 court were missing for 2 employees that had terminated employment during the calendar year ended December 31, 2015.

Cause: The probate court apparently was not aware of the requirements of Section 31-128 (c) of the General Statutes.

Missing personnel records may have been the result of disgruntled employees. Apparently, upon their termination, these employees removed their personnel records from the probate court.

Effect: Probate courts that do not retain medical files separately are in violation of the requirements of Section 31-128 (c) of the General Statutes.

Failure to comply with policies relating to records retention may have unwanted consequences, such as penalties for destroying records before the end of the required retention period.

Recommendation: The Office of the Probate Court Administrator should strengthen internal controls to ensure that probate courts comply with the requirements of Section 31-128(c) of the General Statutes, as well as Policy 801 of the PCA Manual for Court Employees. (See Recommendation 1.)

Agency Response: “We agree. While we view the two missing files at one court as an isolated incident, we have added a reminder on retention of files for former employees to our procedures for separation from employment. In addition, we will continue to train chief clerks on the requirements for proper maintenance of personnel and medical files and continue to review files at on-site court financial reviews.”

Statutory Probate Fee Calculation

Criteria: Section 45a-107 of the General Statutes specifies fees and expenses for the settlement of decedent estates and describes the method of computation to calculate the fee.

Probate Court Regulations Section 29.2 (b) states that each court of probate shall use the case management system established by the administrator for all transactions involving fee revenue, including but not limited to, invoices, bills, statements, waivers, credit memoranda, receipts, and refunds.

Sound internal controls require that data entered into the case management system to calculate the statutory probate fee for the settlement of decedent estates should be accurate and in agreement with supporting documentation.

Condition: Our test of cash receipts consisted of an examination of 22 individual receipts totaling \$3,296,032. In 6 of those 22 receipts (27.3%), there was an exception.

The audit revealed that the amounts used to calculate the statutory probate fee were either inaccurate or unsupported. In 1 out of the 6 instances noted, the decedent’s estate was under billed by \$7,521. For 5 out of the 6 exceptions, incorrect amounts were used to calculate the fee, but resulted in no impact to the statutory fee assessed. While we did note in those 5 instances that the statutory fee assessed was not impacted by the erroneous data, the potential for an incorrect fee assessment existed.

In a separate test conducted in the area of accounts receivables, we noted similar issues. Two out of 10 account receivable accounts reviewed (20%)

had exceptions. Although the statutory probate fee billed was ultimately correct, incorrect amounts were used in the calculations.

Cause: Court employees responsible for data entry necessary to calculate the statutory probate fees are not subject to a secondary review process.

Effect: Fees assessed for the settlement of decedent estates may be calculated incorrectly. This can impact the amount owed to the Probate Court Administration Fund, or result in overbilling of decedents estates.

Recommendation: The Office of the Probate Court Administrator should strengthen procedures relating to the calculation of statutory fees. (See Recommendation 2.)

Agency Response: “We concur and will update PCA Policy 402, which establishes procedures for invoicing, to require a secondary review of all invoices for fees on decedents’ estates. The update will be effective on July 1, 2017.

We have previously concentrated on staff training and on-site financial reviews as our primary quality control mechanisms for probate fee invoices. Given the complexity of the statutory fee calculation for decedents’ estates and the number of exceptions noted, we agree that the additional step of a secondary review of invoices is warranted”

Mileage Reimbursement

Criteria: Policy 506 of the Probate Court Administrator Policy Manual states that judges and court staff will be reimbursed for mileage and parking expenses necessary for the conduct of probate court business within state boundaries. Judges should consider whether the trip is the most efficient and effective way of achieving the objective when deciding whether to travel.

Specifically, the policy allows for mileage reimbursement for judges and court staff for travel directly associated with normal probate business (e.g. travel to make bank deposits). The amount of reimbursement is based upon the actual round-trip mileage from the employee's regular work location to the location the probate business is conducted. Employees are expected to use the most direct route possible.

Condition: During the course of our audit, we noted that a court employee was being paid mileage reimbursement to make bank deposits at a bank located approximately 7 miles away from the employee’s regular work location. Further review revealed that a state-approved bank depository was accessible less than a mile from the court location. The employee was reimbursed a total of \$889 from July 2013 through April 2016.

Cause: It appears that the employee was making the deposits at a financial institution conveniently located closer to the employee's home.

Effect: The employee was reimbursed for mileage that was not necessary. The court did not utilize the most direct route to make bank deposits.

Recommendation: The Office of the Probate Court Administrator should monitor and enforce its policies over mileage reimbursement and require that court employees adhere to Policy 506 of the PCA Manual for Court Employees. (See Recommendation 3.)

Agency Response: "The court permitted this arrangement because it was less time consuming and safer for the employee to make deposits while driving home from work rather than using the branch closest to the court. The nearest branch does not have parking. As a consequence, an employee would need to walk to the branch to make deposits, exposing the employee to greater risk and consuming more work time than using the branch nearer the employee's home. Under the circumstances, we view the court's approach as the most efficient alternative.

We note, however, Policy 506 requires an employee who conducts court business on the way to or from work must deduct his or her regular commute distance from the mileage reimbursement. The employee's failure to deduct the commute distance in this instance was a violation of Policy 506.

PCA selects a sample of mileage reimbursement records for audit at on-site court financial reviews. The mileage reimbursement records of this employee were not selected during the financial review conducted during the period covered by the state audit"

Whistleblower Process

Criteria: An essential element of internal controls should include an efficient and effective whistleblower process to help prevent, detect, and mitigate the risk of waste, fraud, and abuse. Whistleblower complainants should be protected from retaliatory behavior to encourage reporting of issues in state agencies and large state contractors.

Condition: There is no formal structure for district court employees or judges, who are not state employees, to report complaints anonymously for appropriate review.

Cause: Section 4-61dd of the General Statutes applies to state or quasi-public agencies, including the Office of the Probate Court Administrator, but it does not apply to the district probate courts.

Legislation has been proposed since 2014 to change the current state whistleblower law to include probate court employees and judges. However, it has not been enacted.

Effect: The risk that fraud or misconduct will occur is increased.

Conclusion: PCA sought legislation to extend whistleblower protection to court staff in the 2015, 2016 and 2017 legislative sessions. That effort was successful with the passage of Public Act 17-136, effective October 1, 2017.

RECOMMENDATIONS

Our prior report on the Office of the Probate Court Administrator contained 13 recommendations. Each of the 13 prior audit recommendations were satisfactorily implemented. There are 3 new recommendations being presented as a result of our current examination.

Status of Prior Audit Recommendations:

- **The Office of the Probate Court Administrator should have cash in state-approved bank accounts and the related transactions accounted for within the state's centralized accounting system.** This recommendation has been resolved.
- **The Probate Court Budget Committee should authorize payments only to approved vendors, and the Probate Court Administrator should pay amounts in accordance with state contracts, recover overpayments, and authorize payment for expedited shipping only when necessary.** Our current review did not identify major exceptions in this area. Therefore, this recommendation will not be repeated.
- **The Office of the Probate Court Administrator should determine whether statutory authority is needed for expenses related to the administration of passports and should determine and document an appropriate staffing allocation method to ensure that undue burdens are not placed on such courts.** Public Act 15-215 Section 25, effective July 2, 2015, states that the judge of each Probate Court may elect to have the court serve as a passport acceptance agency in accordance with Title 22 United States Code Section 211a and Title 22 Code of Federal Regulations 51.22. Therefore, this recommendation has been resolved.
- **The Office of the Probate Court Administrator should provide guidance, oversight, and monitoring to the district courts to ensure proper segregation of duties over the collection, recording, and depositing of revenues, as well as accountability reports.** This recommendation has been implemented and will not be repeated.
- **The Office of the Probate Court Administrator should follow the directives within Section 3-7 of the General Statutes and the State Accounting Manual for administration of its receipts, receivables, and write-offs.** This recommendation has been implemented and will not be repeated.
- **The Office of the Probate Court Administrator should report district court receivables to the State Comptroller.** During the current audited period, we found that the Office of the Probate Court Administrator properly reported its district court receivables to the State Comptroller. Therefore, this recommendation will not be repeated.
- **The Office of the Probate Court Administrator should correct its inventory records, comply with Section 4-36 of the General Statutes, and implement the requirements of the State Property Control Manual to ensure complete accountability in**

managing the state's inventory. Our current review noted significant improvements in the area of asset management; this recommendation will not be repeated.

The Office of the Probate Court Administrator should strengthen internal controls to implement a formal structure for complaints to be filed anonymously. This recommendation has been resolved pursuant to legislative changes.

- **The Office of the Probate Court Administrator should establish written policies for conservator billings.** This recommendation has been implemented and will not be repeated.
- **The Office of the Probate Court Administrator should file the schedules of regular meetings with the Office of the Secretary of the State in accordance with Section 1-225 (b) of the General Statutes.** The current audit noted that the Office of the Probate Court Administrator notified the Office of the Secretary of State of its regular meetings. Therefore, this recommendation will not be repeated.
- **The Office of the Probate Court Administrator should develop and test a comprehensive disaster recovery plan to ensure resumption of critical business operations in a timely manner in case of a disaster.** This recommendation has been implemented and is not being repeated.
- **The Office of the Probate Court Administrator should acquire and review the audit report on the processes of the outside service organization it hired to produce payroll for the non-state, district court employees.** This recommendation has been implemented and is not being repeated.
- **The Connecticut Probate Assembly should pursue an official status and follow through with filing organizational and annual reports as required.** This recommendation has been implemented and is not being repeated.

Current Audit Recommendations:

1. **The Office of the Probate Court Administrator should strengthen internal controls to ensure that probate courts comply with the requirements of Section 31-128(c) of the General Statutes, as well as Policy 801 of the PCA Manual for Court Employees.**

Comment:

One probate court did not maintain medical files separate from its employees' personnel files. Personnel files were missing for 2 employees who had terminated during 2015.

- 2. The Office of the Probate Court Administrator should strengthen procedures relating to the calculation of statutory fees.**

Comment:

We noted several instances in which incorrect amounts were used to calculate the statutory probate fee.

- 3. The Office of the Probate Court Administrator should monitor and enforce its policies over mileage reimbursement and require that court employees adhere to Policy 506 of the PCA Manual for Court Employees.**

Comment:

A court employee was unnecessarily reimbursed mileage to make bank deposits.

ACKNOWLEDGEMENT

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

Nancy Niedzwiecki

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Office of the Probate Court Administrator during the course of our examination.

Stephanie Novello
Stephanie Novello
Associate Auditor

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor