

STATE OF CONNECTICUT



*AUDITORS' REPORT
JUDICIAL DEPARTMENT
FOR THE FISCAL YEARS ENDED JUNE 30, 2015 AND 2016*

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

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We have audited certain operations of the Judicial Department 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, 2015, and 2016. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions;
2. Evaluate the department'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, 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 present any findings arising from our audit of the Judicial Department.

COMMENTS

FOREWORD

The Judicial Department operates under the provisions of Article Fifth of the Constitution of the State of Connecticut and Titles 6 and 51, Chapters 78 and 870, respectively, of the General Statutes. The Office of Victim Services, established within the Judicial Department, operates under the provisions of Title 54, Chapter 968 of the General Statutes.

The Chief Justice of the Supreme Court heads the Judicial Department and is responsible for its administration. Daily operations of the department are under the direction of the Chief Court Administrator, who is responsible for the efficient and proper administration of judicial business. Included within the Judicial Department are the Supreme Court, Appellate Court, Superior Court, Office of Chief Court Administrator, courts of probate, and Public Defender Services Commission. For the purposes of the General Statutes, Judicial Branch means the Judicial Department. This audit does not include a review of the probate courts or the Public Defender Services Commission, which are reported on separately.

The Supreme Court, the state's highest court, hears certain appeals of Superior Court decisions and has discretion over whether to grant review of cases decided by the Appellate Court. It also has the authority to transfer any case to itself in the Appellate Court and, except certain original actions as provided by Article XXVI of the Amendments to the Connecticut Constitution, it may transfer a case or class of cases to the Appellate Court. The Appellate Court is an intermediate court of appeals.

The Honorable Chase T. Rogers served as Chief Justice throughout the audited period. The Honorable Patrick L. Carroll III served as Chief Court Administrator during the audited period. The Honorable Richard A. Robinson was appointed Chief Justice on May 3, 2018 and continues to serve in that capacity.

The Superior Court is the sole court of original jurisdiction for all cases of action except for (1) such actions over which the courts of probate have original jurisdiction, as provided by statute, and (2) the very limited number of actions over which the Supreme Court has original jurisdiction, as provided by the Constitution. During the period under review, the state was divided into 13 judicial districts and 20 geographical areas for civil and criminal matters. There were also 13 districts for juvenile matters and 6 separate courts established within various judicial districts solely for hearing housing matters. There also continues to be a tax session court located in New Britain. In addition, there was a statewide Centralized Infractions Bureau for processing infractions, certain motor vehicle violations, and certain minor criminal matters.

All aspects of the Judicial Department's financial operations are covered in this report with the following exceptions. The Office of the Probate Court Administrator is an agency within the Judicial Department and is reported on separately by the Auditors of Public Accounts; however, the individual local courts of probate are subject to audit by the Probate Court Administrator and are not audited by the Auditors of Public Accounts. Similarly, the Public Defender Services Commission is an autonomous body within the Judicial Department and is reported on separately.

Commission on Official Legal Publications

Section 51-216a of the General Statutes governs the activities of the Commission on Official Legal Publications (COLP), which is an agency of the Judicial Department and is composed of the Chief Justice of the Supreme Court (ex-officio); the Chief Court Administrator (ex-officio); a judge or former judge of the Supreme Court and a state referee, both of whom shall be appointed by the Chief Justice. The commission also includes the executive secretary of the Judicial Department, the Reporter of Judicial Decisions, and another Judicial Department employee appointed by the Chief Justice.

The commission is required to acquire, publish, distribute, and maintain a sufficient supply of official legal publications for the benefit of the state, as indicated in Section 51-216a (b) of the General Statutes. Section 51-216b of the General Statutes provides for the sale and distribution of publications at such prices as may be affixed by the Commission on Official Legal Publication.

Recent Legislation

Public Act 15-124 extended the Foreclosure Mediation Program for 3 years, until July 1, 2019. Mediation requests cannot be accepted on or after that date, and the program will terminate when mediation of all previously submitted requests concludes. The act also required the Chief Court Administrator to report on the program to the Banking Committee annually starting March 1, 2016 until March 1, 2019.

Public Act 15-246 requires the Judicial Department to collect data on the number of armed forces members, veterans, and nonveterans who applied for and were admitted or denied entry into the accelerated rehabilitation program, pretrial program for individuals with psychiatric disabilities, or pretrial drug education and community service program. Beginning January 15, 2017, the department must submit a report to the Veterans' Affairs and Judiciary committees annually.

RÉSUMÉ OF OPERATIONS

Revenues and Receipts

Revenues and receipts of the Judicial Department primarily consisted of the fines and fees collected at the various Superior Court locations and its Centralized Infractions Bureau. All such receipts are credited initially to the Fines Awaiting Distributions Fund, which totaled \$95,962,312, and \$94,906,919 for the 2014-2015, and 2015-2016 fiscal years, respectively, as compared to \$98,901,929 for the 2013-2014 fiscal year. Disbursements of the Fines Awaiting Distribution Fund consist of transfers to the following funds according to the provisions of the various statutes under which the fines and fees are levied.

	<u>Fiscal Year Ended June 30,</u>		
	<u>2014</u>	<u>2015</u>	<u>2016</u>
Transfer to Criminal Injury Fund	\$3,048,984	\$3,068,789	\$3,405,738
Transfer to General Fund	55,007,024	53,988,112	52,645,813
Transfer to Special Revenue Fund	3,210,292	2,995,425	3,098,514
Transfer to Special Transportation Fund	22,102,015	21,752,416	21,652,461
Transfer to Connecticut Bar Foundation	11,426,216	11,504,291	11,573,975
Transfer to Data Processing Revolving Fund	1,871,394	280,514	278,280
Fines Distributed to Towns, and Misc.	<u>2,236,004</u>	<u>2,372,765</u>	<u>2,250,123</u>
Total Fund Distributions	<u>\$98,901,929</u>	<u>\$95,962,312</u>	<u>\$94,906,919</u>

Parking fines are paid to the towns in which the infractions occurred.

General Fund receipts, in addition to the transfers from the Fines Awaiting Distribution Fund, totaled \$2,644,655 and \$2,034,919 for the 2014-2015 and 2015-2016 fiscal years, respectively. For comparison purposes, General Fund receipts totaled \$1,985,605 for the 2013-2014 fiscal year. The significant categories of receipts were refunds of prior years' expenditures, investment income, and sales of the Commission on Official Legal Publications (COLP).

In accordance with Section 51-52 (e) of the General Statutes, excess funds from the department's Clerk's Trust Accounts are deposited in the State Treasurer's Short Term Investment Fund (STIF). Investment income from STIF was deposited in the General Fund and totaled \$51,932 and \$74,334 for the 2014-2015 and 2015-2016 fiscal years, respectively.

COLP receipts totaled \$294,445 and \$263,221 for the 2014-2015 and 2015-2016 fiscal years, respectively.

General Fund Expenditures

General Fund expenditures for the Judicial Department are summarized below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2014</u>	<u>2015</u>	<u>2016</u>
Personal Services and Employee Benefits:			
Salaries and Wages	\$315,998,641	\$334,279,294	\$339,152,827
All Other	<u>7,043,040</u>	<u>7,023,269</u>	<u>7,153,425</u>
Total Personal Services and Employee Benefits	<u>323,041,681</u>	<u>341,302,563</u>	<u>346,306,253</u>
Purchases and Contracted Services:			
Professional, Scientific, Technical Services	20,260,099	19,872,272	20,306,800
Premises and Property Expenses	33,222,082	34,010,017	30,028,983
Fixed Charges	102,344,022	100,624,618	102,205,114
Client Services	4,838,900	4,150,824	3,112,032
Information Technology	8,717,892	11,334,489	11,499,869
Purchased Commodities	5,918,709	5,680,928	5,171,003
Communications	2,842,282	2,441,653	2,672,172
Capital Outlays-Equipment	450,050	456,828	14,869
All Other	<u>2,222,010</u>	<u>2,179,891</u>	<u>4,855,263</u>
Total Purchases and Contracted Services	<u>180,816,138</u>	<u>180,751,521</u>	<u>179,866,105</u>
Total General Fund Expenditures	<u>\$503,857,818</u>	<u>\$522,054,084</u>	<u>\$526,172,358</u>

Total General Fund expenditures increased by \$18,196,266 (4%) and by \$4,118,274 (1%) in the fiscal years ended June 30, 2015 and 2016, respectively. Personal services, employee benefits, and fixed charges accounted for the majority of expenditures during the audited period.

Personal services increased by approximately \$18.3 million in the fiscal year 2014-2015 over the 2013-2014 fiscal year level (6%), which can be attributed to a small net increase in full-time positions, and normal cost of living and annual increases. Full-time positions decreased to 3,703 as of June 30, 2016, from 4,087 as of June 30, 2014.

The department also purchased equipment through the Capital Equipment Purchase Fund totaling \$321,904 and \$536,721 for the 2014-2015 and 2015-2016 fiscal years, respectively.

Special Revenue Funds

Federal and Other Restricted Accounts

Special Revenue Fund receipts, in addition to transfers from the Fines Awaiting Distribution Fund, totaled \$22,505,330 and \$20,683,767 for the 2014-2015 and 2015-2016 fiscal years, respectively. This consisted primarily of federal grant receipts, totaling \$12,053,450 and \$10,077,390, and non-federal grants receipts totaling \$10,446,863 and \$10,575,863 for the 2014-2015 and 2015-2016 fiscal years, respectively.

Non-Federal restricted accounts include the Client Security Fund, which operates under Section 51-81d of the General Statutes. The fund is used to reimburse claims for losses caused by the dishonest conduct of attorneys and is financed by an annual assessment on any attorney admitted by the Superior Court. Such fees totaled \$2,356,863 and \$2,667,478 for the 2014-2015 and 2015-2016 fiscal years, respectively.

A summary of the department's Special Revenue Fund expenditures follows:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2014</u>	<u>2015</u>	<u>2016</u>
Personal Services and Employee Benefits	\$4,553,420	\$4,672,859	\$4,496,203
Purchases and Contracted Services:			
Client Security Fund Payments	1,107,480	347,788	3,651,104
Criminal Injury Awards	708,708	531,783	333,490
Grants-Other	6,439,573	10,253,351	8,765,516
Capital Outlays-Equipment	735,699	324,592	12,151
All Other	<u>4,238,952</u>	<u>2,779,883</u>	<u>2,859,428</u>
Total Purchases and Contracted Services	<u>13,230,412</u>	<u>14,237,397</u>	<u>15,621,689</u>
Total Expenditures	<u>\$17,783,831</u>	<u>\$18,910,255</u>	<u>\$20,117,892</u>

Total disbursements of the Client Security Fund totaled \$1,138,063 and \$4,469,788 in the fiscal years 2014-2015 and 2015-2016, respectively. Included in these expenditures were claims paid to clients totaling \$347,788, and \$3,651,104 for the fiscal years 2014-2015 and 2015-2016, respectively. As of June 30, 2016, the cash balance of the Client Security Fund was \$16,136,753.

The majority of the expenditures involved various grant transfers. The Criminal Injury Awards expenditure category, consists of payments to victims by the Office of Victim Services in addition to payments from the Criminal Injuries Compensation Fund. These are funded from Crime Victim Assistance Grants with overall Special Revenue Fund expenditures totaling \$5,373,911 and \$5,925,544 for the 2014-2015 and 2015-2016 fiscal years, respectively.

Data Processing Revolving Fund

Section 51-5b of the General Statutes requires the Chief Court Administrator to establish the Judicial Data Processing Revolving Fund, which is to be used to maintain and improve the department's data processing systems. Any person or public agency seeking online access to these systems, or information from them, may be required to pay a fee as established by the Office of the Chief Court Administrator. The fund is separate from other funds and accounts. Since July 1, 2013, any balance in the fund that exceeds \$5,000,000 as of June 30th, is transferred to the General Fund. The fund recorded receipts of \$992,970 and \$547,468, and expenditures of \$822,475 and \$758,760 during the 2014-2015 and 2015-2016 fiscal years, respectively. Also, the department transferred \$750,000 and \$1,000,000 during the same two fiscal years from the fund to the General

Fund in accordance with Public Acts 15-241, and 16-1, respectively. As of June 30, 2016, the balance in the fund was \$608,528.

Banking Fund

Public Act 08-176, effective June 12, 2008, required the Judicial Department to establish a foreclosure mediation program in each judicial district to facilitate the best outcome for all parties to a foreclosure action. The program is available to owner-occupants of one-to-four family residential real property in Connecticut who are also borrowers under a mortgage on the property. Under the act, if a lender starts a foreclosure action, it must give the borrower notice of the Foreclosure Mediation Program, which includes providing a foreclosure mediation request form. The borrower may then submit the form to the court and receive mediation under department policies and procedures. Under Public Act 09-209, the program's services were made mandatory for cases in which the defendant appeared in court and qualified for such services. Public Act 11-201 extended the program until July 1, 2014. Public Act 14-89 extended the program until June 30, 2016. Public Act 15-124 extended the program until July 1, 2019. Public Act 19-145 further extended the program until June 30, 2023.

The act appropriated funding from the Banking Fund, a special revenue fund, to fund the cost of the Foreclosure Mediation Program. During the fiscal years 2014-2015 and 2015-2016, the department expended \$5,647,479 and \$5,938,239, respectively. Most expenditures related to personal services and fringe benefits for the program's mediators.

Superior Court Condemnation Award Fund

Under Section 48-11 of the General Statutes, compensation offered by the state transportation commissioner as part of condemnation proceedings that are disputed by property owners is deposited in this fund. The money is paid to the proper persons through the State Treasurer on application of the owner and on order of the court. Deposits by the state transportation commissioner totaled \$3,868,613 and \$9,241,929 for the 2014-2015 and 2015-2016 fiscal years, respectively. Fiscal year 2013-2014 deposits totaled \$8,039,421. For the same period, disbursements paid to property owners or returned to the Department of Transportation totaled \$5,768,904 and \$11,383,857, respectively. For comparison purposes, disbursements totaled \$3,903,266 for the 2013-2014 fiscal year. The ending cash balance in the fund was \$3,033,692, as of June 30, 2016.

State Bar Examining Committee

The State Bar Examining Committee operates under the authority of Section 51-81 of the General Statutes and the rules of the Superior Court (Connecticut Practice Book, Chapter 2). It assists the court in overseeing the admittance of persons to the practice of law in Connecticut.

The committee funds its operations through fees it collects from applicants. These funds are retained by the committee and are not accounted for within any authorized state fund. Based on the committee's financial statements, as of June 30, 2016, cash and cash equivalents in the State Treasurer's Investment Fund totaled \$1,087,821. Cash receipts consisted primarily of fee collections and totaled \$870,712 and \$810,930 for the 2014-2015 and 2015-2016 fiscal years,

respectively. Cash receipts totaled \$909,861 for the 2013-2014 fiscal year. For the same period, the committee's cash disbursements totaled \$793,184 and \$844,424, respectively. The fees were for salaries and other administrative expenses. Disbursements totaled \$720,935 for the 2013-2014 fiscal year.

Interest on Lawyers' Trust Accounts (IOLTA) and Grants In-Aid

Section 51-81c of the General Statutes established the Interest on Lawyers' Trust Accounts (IOLTA). The account's purpose is for the organization administering the program to use the interest earned on these accounts to provide funding for the delivery of legal services to the poor. These legal services are provided by nonprofit corporations whose principal purpose is to provide such services, and to provide law school scholarships based on financial need. Section 51-5d of the General Statutes authorized the Chief Court Administrator to transfer revenues received as a result of certain court fee increases to the organization administering the IOLTA for legal services to the poor. The Connecticut Bar Foundation, Inc. is the organization that administers both of these programs. During the fiscal years audited, the Judicial Department transferred \$11,504,291 and \$11,573,975 to the Connecticut Bar Foundation, Inc. IOLTA income totaled \$2,092,117 and \$1,946,909 in calendar years 2015 and 2016, respectively. This income is received directly from the financial institutions maintaining these accounts. As of December 31, 2016, the net assets in the IOLTA account and the Court Fees Grant In-Aid account were \$8,431,001 and \$479, respectively.

In addition, the Connecticut Bar Foundation, Inc. acts as a pass-through entity for the State of Connecticut Judicial Department Grants-in-Aid program. The foundation distributes these funds to current IOLTA grantees for civil legal representation for indigent persons. \$1,500,000 was transferred each fiscal year during the audited period.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

The following recommendations resulted from our current review of the Judicial Department:

Legacy Computer Applications

- Background:* Core-CT is the statewide human resources management, financial, and accounting system. Core-CT replaced many older legacy systems in 2003, bringing with it the promise of standardization, increased ad hoc reporting capabilities, simplified reconciliation, and interactivity with its users. Most executive departments use full scope Core-CT, which encompasses the entirety of financial and personnel transactions processed in the system. Others use limited scope Core-CT, which does not include detailed position data, employee self-service time coding, purchase orders, or contract data.
- Criteria:* The Office of Policy and Management strategic plan for the 2016-2017 fiscal year identified legacy systems as a burden on the state's information technology infrastructure. Legacy systems have impediments to integration with newer systems that prevent agencies from achieving greater efficiencies.
- Condition:* The Judicial Department identified 15 legacy applications in its information technology infrastructure. During our review, we identified 11 legacy applications that appear to perform fiscal operations similar to Core-CT. The Judicial Department currently uses Core-CT on a limited scope basis, in which legacy applications transmit expenditure and payroll transaction data to Core-CT for payment processing. Although the department informed us that its upcoming strategic plan will explore all available options to replace outdated legacy systems, it has not completed a business case study to formally document risks and benefits of using full scope Core-CT and whether those risks can be addressed.
- Effect:* By not examining full scope Core-CT as a viable option, the Judicial Department could incur increased costs in the replacement of legacy systems and limit available efficiencies.
- Cause:* During the initial implementation of Core-CT in 2003, the Judicial Department determined it was best to use Core-CT on a limited scope basis and to continue to operate its own fiscal applications in use at the time. The Judicial Department has stated it has statutory rights in the administration of fiscal operations and a separate fiscal

information system facilitates independence and separation from the other departments of government.

Recommendation: The Judicial Department should perform a business case study and examine the possibility of using full scope Core-CT as a possible solution to its legacy fiscal information systems. (See Recommendation 1.)

Agency Response: “The Judicial Branch is a separate branch of government, a separate employer and a limited scope agency in Core-CT. The Branch currently uses Core-CT for personnel transactions, payroll and accounts payable transactions. Separate information systems help maintain the Branch’s independence and constitutional separation from the Executive and Legislative Branches. Statutory rights and privileges afforded to the Branch include exclusive budget authority pursuant to CGS 4-73, authority for personnel matters pursuant to CGS 51-12, separate procurement and property & equipment practices under CGS 4e-12 and 4a-4, and oversight of capital improvements pursuant to CGS 4b-1. Core-CT is managed by the Executive Branch. This is a concern to the Judicial Branch given its statutory authority and obligations.

A 1998 strategic plan for information technology, updated in 2014 and currently being revised to coincide with the FY 2020/21 biennial budget, provides a roadmap for the development and maintenance of modern and legacy systems to support operational and administrative needs. This revised plan will include a particular focus on legacy systems that are vulnerable due to the loss of institutional computer programming skills through retirement. Alternatives to legacy systems that meet the unique business, access and security needs of the Branch will be explored.

The Judicial and Executive Branches have collaborated on shared information technology projects, such as the co-located Data Center in Groton and use of CORE-CT. The upcoming strategic plan will explore all available options, including CORE-CT, as possible solution to aging legacy systems.”

Capital Projects Change Orders

Criteria: Section 4a-57 of the General Statutes states that all purchases and contracts should be competitively bid when possible and the solicitation of competitive bids should be in a manner that maximizes public participation and promotes competition.

The Department of Administrative Services Agency Administered Projects Procedure Manual states that an agency may use a Connecticut-licensed consultant to review and inspect documents and work for building and fire code compliance during the design phase of construction.

Condition:

During the audited period, the Judicial Branch completed 21 projects with expenditures totaling \$3,445,360. We tested those projects with change orders exceeding 10% of the original bids, resulting in 6 projects with costs totaling \$922,736.

Our review disclosed the following.

- A construction renovation project had a low original bid of \$65,590 and change orders totaling \$61,990. There was a significant change in scope that increased project costs by 95%. The department expanded the scope of work when more funding became available. The additional work was not competitively bid and was instead awarded to the original bidder, because the total project cost was still lower than the other bids on the original project after the change orders.
- One project to upgrade a fire alarm system had an original cost of \$22,805. The department did not use a third-party technical expert to evaluate the bid request. As a result, the department needed a change order of \$10,386 after it awarded the initial contract for work that was not in the final bid request.

Effect:

Significantly changing the scope of and not competitively bidding contractual work limits public participation and possible cost savings.

By not using third-party assessments with appropriate technical knowledge, the department limited its ability to obtain the best possible pricing and most accurate work.

Cause:

For the first project, the Judicial Department had additional renovations funding after entering the initial contract and awarded the additional work in the most expedient manner.

For the second project, the Judicial Department did not have policies and procedures requiring a third-party with requisite technical knowledge to evaluate the bid request.

Recommendation: The Judicial Department should improve internal control over competitive bidding on construction projects. The department should consider using third-party construction experts to consult on building and code compliance issues. (See Recommendation 2.)

Agency Response: “The Judicial Branch has responsibility for 38 court facilities statewide ranging in age from relatively new to historic and encompassing over 3 million square feet of space. Working off a master list of short and long term projects, on a yearly basis the Branch self-administers several million dollars’ worth of repair, replacement, renovation or restoration projects. The projects range in size and complexity from the simple replacement of a building system’s component to extensive restoration work of the building’s exterior façade.

In order to develop bid specifications and the appropriate scope of work for any given project, the Branch relies upon the expertise, advice and consultation of professional architectural and engineering firms. The Judicial Branch is cognizant of the potential for unanticipated work to significantly increase the costs of projects and will continue to work diligently with its professional architectural and engineering advisors to accurately assess the scope of projects and develop accurate and comprehensive bid specifications in order to reduce possible change orders.

The Judicial Branch is in agreement that 3rd party technical assessments may be desirable when there is a knowledge gap on a construction project and will develop the necessary policies and procedures to make use of such 3rd party technical assessments in the future.”

Commission on Official Legal Publications Operations

Criteria: The Commission on Official Legal Publications (COLP) is authorized by Chapter 883b of the General Statutes. Section 51-216b (a) (1) of the General Statutes allows the commission to sell legal publications at such prices as it sees fit.

Section 51-216b (c), in part, requires the commission to furnish official legal publications free of charge to courts of records, law libraries, public officers, departments, agencies, and state boards and commissions. It also requires the commission to furnish the Connecticut Law Journal free of charge to any member of the General Assembly making a request.

Condition: COLP revenues have continued to decline each fiscal year. They totaled \$366,605, \$294,445, and \$263,221 in the 2013-2014, 2014-2015, and 2015-2016, respectively. They increased slightly in the 2016-2017 fiscal year to \$295,224. Revenue for the 2017-2018 fiscal year totaled only \$87,400.

Although revenues declined, expenditures continued to rise. COLP operational expenditures were \$1,816,144, \$1,820,547, \$3,871,230, \$3,995,473, and \$2,864,666 in fiscal years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 respectively. It should be noted that these expenditures also reflect the costs of providing statutorily-required free publications, and the costs of printing numerous internal Judicial Department forms. The large increase in expenditures in the 2015-2016 fiscal year represents an accounting change in the recording of postage costs. Previously, those costs were charged to a different unit code.

Currently, the department records all COLP operations in the General Fund. The use of the General Fund is not optimal for this type of operation. It would be more effectively accounted for in enterprise (for sales to outside parties) and internal service (for sales to other Judicial Department divisions or other governmental agencies) funds. In those funds, revenues are matched with expenses, and not expenditures, to determine net income. Accounting for COLP activities in the proprietary funds (Enterprise and Internal Services Funds) would allow management to make better decisions, resulting in more efficient use of resources.

Effect: Resources devoted to this operation could be better utilized.

Cause: There are several causes for the decline in revenue. More publications the commission used to sell are available online at no charge. The commission does not currently accept credit card sales and phone orders. The commission operates a full-service, commercial grade printing facility, yet has made limited attempts to market its services to a wider customer base. The commission has not increased prices in several years, despite an 11% rise in the consumer price index (inflation) over that period.

Recommendation: The Judicial Department should develop a plan for the future operations of the Commission on Official Legal Publications. The commission should consider pricing changes, expanding the customer base, allowing credit card and phone sales, and accounting for operations in enterprise and internal service funds. (See Recommendation 3).

Agency Response: “The Judicial Branch agrees with the audit recommendation to develop a plan to ensure future operations and accounting remains relevant going forward.”

Committee on Recording Monitors and Court Reporters

Background: In 2010, the Judicial Branch’s Committee on Court Recording Monitors and Court Reporters made recommendations to the Chief Justice related to the recording of transcripts. Those recommendations included increasing access, improving quality, improving service delivery, and addressing production staffing issues.

Criteria: Section 51-63 (c) of the General Statutes requires the Chief Court Administrator to adopt policies and procedures necessary to implement the provisions related to the establishment and administration of a system of fees for production of expedited transcripts.

Condition: The committee’s 4 recommendations pertaining to the practice of producing transcripts are:

- “The Judicial Branch should eliminate the practice of allowing court reporters and court recording monitors to produce transcripts for private parties on Judicial Branch time.
- The Judicial Branch should adopt uniform standards for the type of work court reporters and court recording monitors may perform while on Branch time.
- The Judicial Branch should eliminate the use of U-time by Court reporters that was compensated time not charged to earned leave time.
- The Judicial Branch should create a list of transcriptionists/companies whose transcripts meet Judicial Branch standards and are acceptable for use in all court proceedings.”

The committee issued its recommendations nearly 8 years ago. As of June 2018, the Judicial Department has only implemented the recommendation pertaining to U-time.

The committee noted that court recording monitors are able to supplement their base incomes by preparing transcripts of judicial proceedings, and while the Judicial Department employs its court reporters and monitors to memorialize proceedings, it still must

separately compensate them for the production of all paper transcripts on a per-page basis. The report noted that the department permits court reporting monitors to create transcripts during the work day when they have no proceedings to be reported or monitored. This applied to the production of transcripts for the Branch, state agencies, and private parties. The report expressed concerns over the potential ethical issue of state employees using state-compensated time to generate income from private sources. The report also conveyed uncertainty about how many transcripts of court proceedings these employees prepared for private attorneys and the financial impact on court reporting monitors who fulfill those outside requests on state time.

During the 2014-2015, 2015-2016, and 2016-2017 fiscal years, the Judicial Department paid court recording monitors \$282,326, \$246,643, and \$199,502, respectively, in fees for transcripts ordered by the department in addition to their regular salaries. Court recording monitors also received an undetermined amount of fees for transcripts produced on state time for other state agencies and private parties. As of June 30, 2017, the department employed 160 permanent court monitors, and 36 temporary court monitors.

In June 2017, the department entered into a one-page, handwritten memorandum of agreement (MOA) with the court recording monitors' union that effectively postponed the decision on the issue of court reporting monitor production of transcripts on state time for private parties until the expiration of the current collective bargaining agreement in 2021. In it, the department agreed that it would not contract out for the production of written transcripts as long as there are bargaining unit employees able to produce such transcripts within the applicable time limits. The agreement was signed by the officials of the union and the department. The MOA also stipulated that nothing precluded the department from producing and distributing other records of court proceedings that do not constitute official transcripts. The union has a right to negotiate over the impact of this production and distribution, according to the agreement.

In October 2017, the department issued a request for proposal (RFP) to provide external parties with access to digital audio recordings of courtroom testimony captured by the department using For the Record technology. The department issued this RFP in response to the committee's recommendation that the department maximize public access to digital audio recordings of court proceedings.

- Effect:* Additional compensation for transcripts from the Judicial department and other state agencies increases the employees' annual salaries and state pensions. The MOA effectively postponed any implementation of the committee's recommendations related to court reporting monitor production of transcripts on state time for private parties until the expiration of the collective bargaining agreement in 2021.
- Cause:* The Judicial Department has considered the implementation of these recommendations difficult due to collective bargaining issues.
- Recommendation:* The Judicial Department should implement the recommendations in the Committee on Court Recording Monitors and Court Reporters final report issued in 2010. Those recommendations include issues related to the production of private party transcripts for fees on state time, the adoption uniform standards for the work court reporting monitors may perform on state time, and the creation of a list of transcriptionists/companies meeting department standards. The department should develop a written plan to implement these recommendations pending the expiration of the memorandum of agreement in 2021. (See Recommendation 4).
- Agency Response:* "The Judicial Branch agrees with this recommendation. The Branch has, and will continue, to move forward methodically to address the recommendations in the 2010 report to ensure that any changes do not negatively impact stakeholders who rely on transcripts, particularly the Supreme and Appellate courts. To date the Branch has eliminated the use of "U" time and reclassified all Court Reporters to Court Monitors which allows all courtroom proceedings to be digitally recorded. The Branch is planning to launch the sale of digital audio recordings in October 2018. The Court Monitors are members of a collective bargaining unit, and as such, significant changes to their duties are subject to collective bargaining. The Memorandum of Understanding was entered into in good faith negotiations between the employee union and the Branch.
- During the effective period of the MOU, the Branch will develop a plan that will (1) determine if any statutory changes are required in order to outsource transcripts; (2) release an RFP to identify an entity to produce transcripts; (3) address labor issues that arise; and (4) determine duties of Court Monitors when they are not in court or typing transcripts."

Excessive Mileage Reimbursement

Criteria: The Judicial Branch Policies and Procedures Manual Policy regarding reimbursable business-related expenses states the amount of reimbursement for mileage will be based upon the number of round-trip miles actually traveled from the employee's regular duty station to the location where the Judicial business is conducted. If an employee's work-related duties require business transactions at a location other than the regular duty station during an otherwise normal commute, the department will only reimburse the cost associated with the additional number of miles incurred. Furthermore, the policy states that commuting expenses from the employee's residence to the regular duty station are not reimbursable. The regular duty station is the location the branch designates as the employee's location of record, where the employee regularly performs duties, and is determined by the needs of the branch and not the proximity to the employee's home or preferred living area. The department also applies this policy to its rehired retirees.

Condition: An employee retired on July 31, 2016 and returned to work under the 960 hour retired retiree policy on August 1, 2016. The department limits rehired retirees to 960 hours in a year, but does not impose the 120-day limit. Although rehired for the same position, the employee's regular duty station was changed from 231 Capitol Avenue in Hartford, where the employee still maintained an office, to 60 Housatonic Avenue in Bridgeport, where the branch anticipated the employee would perform a significant amount of work. This employee resided in the Bridgeport area. From August 31, 2016 through October 31, 2017, the department reimbursed the employee \$10,509 for mileage expenses, most of which was for driving from Bridgeport to Hartford. For the same time period, the department reimbursed the employee approximately \$533 for traveling to locations other than Hartford. During this time period, the employee worked a total of 255 days. The employee drove to Hartford on 179 of those days (70%).

Effect: The department's decision to change this rehired employee's regular duty station from Hartford to Bridgeport resulted in an inefficient use of state resources in the form of mileage reimbursements.

Cause: The department changed this employee's regular duty station from Hartford to Bridgeport, which was closer to the employee's home, and mileage was reimbursed for days that the employee drove to Hartford. Although it became evident that the employee was mostly working in Hartford, the department took no corrective action to

change the duty station until our auditors brought it to the department's attention.

Recommendation: The Judicial Department should strengthen internal controls to ensure that duty stations are assigned in accordance with the Department's Reimbursable Business-Related Expenses policy. (See Recommendation 5).

Agency Response: "The Judicial Branch recognizes the importance of monitoring assigned duty stations of all employees. The Branch regularly compares submitted In-State Travel reimbursement requests to employee duty stations to confirm the accuracy of the documentation. The Branch will enhance its internal controls by notifying divisional offices to promptly submit duty station changes to the Administrative Services Division Human Resource Management Unit."

Property Control

Criteria: The State Comptroller's Property Control Manual states that property acquired by donation should be capitalized if it meets established criteria. The asset is normally recorded at fair value as of the date of donation. Capitalized land is reported on the CO-59 Asset Management/Inventory Report to the Office of the State Comptroller.

Condition: As of June 30, 2016, the Judicial Department's land inventory included 14 parcels of property with a recorded value of zero. The land totals 21.93 acres, and the parcels range in size from .14 to 4.7 acres. The department noted the acquisition method for these properties as "gift" in the inventory records. The department acquired these properties between 1960 and 1999.

Effect: The department understated the value of the land by an undetermined amount on its CO-59 Asset Management/Inventory report.

Cause: Property was donated at various times to the Judicial Branch. The Judicial Department did not record the fair value of these parcels as of the date of donation, as required by the Property Control Manual.

Recommendation: The Judicial Department should follow the procedures in the State of Connecticut Property Control Manual and record donated property (land) at fair value as of the date of donation. If records exist documenting the fair values of the property at the date of donation, the department should use those values. If the fair values

are not available, the department should seek guidance from the Office of State Comptroller to determine a fair value for each parcel. (See Recommendation 6).

Agency Response:

“The Judicial Branch will seek guidance from the Office of the State Comptroller regarding how to determine a fair market value for each of the 14 parcels. We anticipate it will be difficult to research and assign values to certain parcels that were acquired many decades ago.”

RECOMMENDATIONS

Our prior report on the Judicial Department covered the fiscal years ended June 30, 2012, 2013, and 2014, and contained 6 recommendations. Of these recommendations, 2 have been implemented or otherwise resolved and 4 have been restated to reflect current conditions. As a result of our current examination, we have included 2 new recommendations. The status of the prior recommendations is presented below:

- **The Judicial Department should review the staffing needs of the Foreclosure Mediation Program and develop a plan to right-size the program over the next 3 years to reflect the continuing reduction in foreclosure mediation applications, case inventory, and in anticipation of the program terminating in 2019.** The Department has made several changes to reduce the expenditures to the Banking Fund. This recommendation has been resolved.
- **The Judicial Department should continue to implement the recommendations of the Internal Audit unit with respect to Property Control and Reporting to better comply with Section 4-36 of the General Statutes, the Comptroller's Property Control manual and the Judicial Department's Property Policies and Procedures.** The department has made considerable progress in implementing this recommendation; however, further improvements are still needed. Accordingly, this recommendation is being repeated in revised form. (See Recommendation 6.)
- **The Judicial Department should review its policies and procedures to determine whether they are sufficient to ensure that all major work on a project is included in the original bid package.** This recommendation is being repeated in revised form. (See Recommendation 2.)
- **The Judicial Department should review the operations of the Commission on Official Legal Publications and develop a plan to make the operations more financially viable by seeking to increase revenues. The Judicial Department should review the current prices of the items offered for sale and seek to widen its customer base. The Judicial Department should consider allowing customers to make purchases by credit cards, on-line, and by telephone, and consider displaying the publications available for sale more prominently on its website.** This recommendation is being repeated. (See Recommendation 3.)
- **The Commission on Racial and Ethnic Disparity should comply with its statutory reporting requirements.** The department implemented this finding. Accordingly, we are not repeating this recommendation.
- **The Judicial Department should implement the recommendations made by the Committee on Court Recording Monitors and Court Reporters in its Final Report issued in 2010, pertaining to court reporters/monitors producing transcripts for fees on state time for private parties, adopting uniformed standards for the type of work they may perform on state time, and creating a list of transcriptionists/companies.** This recommendation is being repeated. (See Recommendation 4.)

Current Audit Recommendations:

- 1. The Judicial Department should perform a business case study and examine the possibility of using full scope Core-CT as a possible solution to its legacy fiscal information systems.**

Comment:

The Judicial Department identified 15 legacy applications in its information technology infrastructure, 11 of which appear to perform fiscal operations similar to Core-CT. The Judicial Department currently uses Core-CT on a limited scope basis, in which legacy applications transmit expenditure and payroll transaction data to Core-CT for payment processing. The department has not completed a business case study to formally document risks and benefits of using full scope Core-CT and whether those risks can be addressed.

- 2. The Judicial Department should improve internal control over competitive bidding on construction projects. The department should consider using third-party construction experts to consult on building and code compliance issues.**

Comment:

We noted a construction renovation project had a low original bid of \$65,590 and change orders totaling \$61,990. There was a significant change in scope that increased project costs by 95%. The new renovation work was not competitively bid and was awarded to the original contractor, limiting public participation and competition. We also noted a project in which the department did not use a third-party technical expert to evaluate the bid request and, as a result, a sizable change order was needed.

- 3. The Judicial Department should develop a plan for the future operations of the Commission on Official Legal Publications. The commission should consider pricing changes, expanding the customer base, allowing credit card and phone sales, and accounting for operations in enterprise and internal service funds.**

Comment:

Revenues continued on a general decline each fiscal year while expenditures continued to rise. Currently all COLP operations are recorded in the General Fund. The use of the General Fund is not optimal for this type of operation. It would be more effectively accounted for in enterprise (for sales to outside parties) and internal service (for sales to other Judicial Department divisions or other governmental agencies) funds.

4. **The Judicial Department should implement the recommendations made in the Committee on Court Recording Monitors and Court Reporters final report issued in 2010. Those recommendations included issues related to the production of private party transcripts for fees on state time, the adoption uniform standards for the work court reporting monitors may perform on state time, and the creation of a list of transcriptionists/companies meeting department standards. The department should develop a written plan to implement these recommendations pending the expiration of the memorandum of agreement in 2021.**

Comment:

Of the Committee's four recommendations pertaining to the practice of producing transcripts, the Judicial Department has only implemented the recommendation pertaining to U-time.

In June 2017, the department entered into a one-page, handwritten memorandum of agreement (MOA) with the court recording monitors' union that effectively postponed the decision on the issue of court reporting monitor production of transcripts on state time for private parties until the expiration of the current collective bargaining agreement in 2021.

In October 2017, the department issued a request for proposal (RFP) to provide external parties with access to digital audio recordings of courtroom testimony captured by the department using For the Record technology. The department issued this RFP in response to the committee's recommendation that the department maximize public access to digital audio recordings of court proceedings.

5. **The Judicial Department should strengthen internal controls to ensure that duty stations are assigned in accordance with the Department's Reimbursable Business-Related Expenses policy.**

Comment:

An employee retired on July 31, 2016 and returned to work under the 960 hour rehired retiree policy on August 1, 2016. Although the rehired retiree returned to work in the same capacity, the department changed the regular duty station from Hartford, where the employee still maintained an office, to Bridgeport, which was closer to the employee's home.

From August 31, 2016 through October 31, 2017, the department reimbursed the employee \$10,509 for mileage expenses, most of which was for driving from Bridgeport to Hartford. For the same time period, the department reimbursed the employee approximately \$533 for traveling to locations other than Hartford. During this time period, the employee worked a total of 255 days and drove to Hartford on 179 of those days (70%).

- 6. The Judicial Department should follow the procedures in the State of Connecticut Property Control Manual and record donated property (land) at fair value as of the date of donation. If records exist documenting the fair values of the property at the date of donation, the department should use those values. If the fair values are not available, the department should seek guidance from the Office of State Comptroller to determine a fair value for each parcel.**

Comment:

As of June 30, 2016, the Judicial Department's land inventory included 14 parcels of property with a recorded value of zero. The land totals 21.93 acres, and the parcels range in size from .14 to 4.7 acres. The department noted the acquisition method for these properties as "gift" in the inventory records.

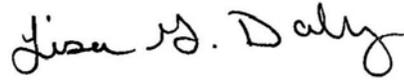
ACKNOWLEDGEMENT

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

Brian M. Grabel
Gary P. Kriscenski
Nancy G. Niedzwiecki

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by the personnel of the Judicial Department during the course of our audit.



Lisa G. Daly
Administrative Auditor

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor