

STATE OF CONNECTICUT



*AUDITORS' REPORT
OFFICE OF THE PROBATE COURT ADMINISTRATOR
FOR THE FISCAL YEARS ENDED JUNE 30, 2017, 2018, and 2019*

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

Table of Contents

EXECUTIVE SUMMARY	i
COMMENTS	2
FOREWORD	2
Probate Court Budget Committee	3
Connecticut Probate Assembly.....	3
Council on Probate Judicial Conduct	3
Significant Legislation.....	4
RÉSUMÉ OF OPERATIONS.....	5
Probate Fund Receipts and Expenditures	5
General Fund Transfers and the Probate Court Administration Fund.....	6
Special Revenue Fund – Federal and Other Restricted Accounts	6
STATE AUDITORS’ FINDINGS AND RECOMMENDATIONS.....	7
Absence of Medical Certificates on File	7
Interest Improperly Charged.....	7
RECOMMENDATIONS	9
Status of Prior Audit Recommendations	9
Current Audit Recommendations	9
ACKNOWLEDGEMENT	10
CONCLUSION.....	11

June 23, 2020

EXECUTIVE SUMMARY

In accordance with the provisions of Section 2-90 of the Connecticut General Statutes, we have audited certain operations of the Office of the Probate Court Administrator (PCA). The objectives of this review were to evaluate the department’s internal controls; compliance with policies and procedures, as well as certain legal provisions; and management practices and operations for the fiscal years ended June 30, 2017, 2018, and 2019.

The key findings and recommendations are presented below:

Page 7	Our review disclosed that one probate court did not maintain medical certificates for two employees who were on medical leave for more than 5 consecutive days. The Office of the Probate Court Administrator should strengthen controls to ensure that Probate Courts comply with the Probate Court Administrator Policy Manual for court employees. (Recommendation 1.)
Page 8	The Office of the Probate Court Administrator should strengthen controls over data entered into the Case Management System by probate court staff and review estate filings for multiple invoices. (Recommendation 2.)

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AUDITORS OF PUBLIC ACCOUNTS

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

JOHN C. GERAGOSIAN

ROBERT J. KANE

June 23, 2020

AUDITORS' REPORT OFFICE OF THE PROBATE COURT ADMINISTRATOR FOR THE FISCAL YEARS ENDED JUNE 30, 2017, 2018, and 2019

We have audited certain operations of the Office of the Probate Court Administrator 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, 2017, 2018, and 2019.

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 effectiveness, 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 various available sources including, but not limited to, the department's management and the state's information systems, 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. The Honorable Paul J. Knierim retired on August 31, 2019 and the Honorable Beverly K. Streit-Kefalas was appointed Probate Court Administrator effective September 3, 2019.

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, 2019 were:

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

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, 2019, Judge Philip A. Wright, Jr. was the president.

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, 2019 were: the Honorable William J. Lavery, Chairperson; the Honorable Andre D. Dorval, Probate Judge Region #19; Attorney Dennis Ferguson; Anne S. Evans; and James A. Connelly. Paul Cravinho also served for the council during the audited period.

Attorney Richard P. Healey served as legal counsel 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 the office. During calendar years 2017, 2018, and 2019, the council received a total of 64 complaints, of which 59 were resolved.

The council's expenditures totaled \$102,968, \$79,218, and \$70,107 for the fiscal years ended June 30, 2017, 2018, and 2019, respectively. Expenses consisted of payments to legal counsel and court reporters.

Significant Legislation

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

- **Public Act 16-2**, Section 1, enacted by the May 2016 Special Session of the General Assembly, effective July 1, 2016, appropriated \$6 million from the General Fund to the probate court system for the fiscal year ended June 30, 2017.
- **Public Act 16-3**, Sections 89-92 and 193, enacted by the May 2016 Special Session of the General Assembly, effective July 1, 2016, postponed compensation increases for judges until July 1, 2017. This act also capped probate fees on decedents' estates at \$40,000 for decedents who died on or after July 1, 2016.
- **Public Act 16-4**, Sections 187-199, enacted by the May 2016 Special Session of the General Assembly, effective July 1, 2016, eliminated the bond funding for a new Probate Court Administrator office building and authorized \$4 million to develop and implement an e-filing system for the Probate Courts.
- **Public Act 17-51**, effective June 13, 2017, swept \$3.4 million from the Probate Court Administration Fund. The act also included language that suspended the automatic sweep of the fund on June 30, 2017.
- **Public Act 17-136**, effective October 1, 2017, extended the whistleblower protection to Probate Court employees under Section 4-61dd of the General Statutes. In addition, this public act amends various sections of the General Statutes that affect the probate court operations.
- **Public Act 18-81**, Section 1, effective July 1, 2018, reduced the General Fund appropriation for the probate court system to \$4.35 million for the fiscal year ended June 30, 2019. Section 33 suspended the automatic sweep of the Probate Court Administration Fund to enable the system to retain the full fund balance for fiscal year 2019.

RÉSUMÉ OF OPERATIONS

Probate Fund Receipts and Expenditures

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

Probate Fund Receipts:	Fiscal Year Ended June 30,		
	2017	2018	2019
Probate Court Fees	\$ 49,649,828	\$41,576,028	\$43,013,400
General Fund Appropriations	5,450,000	1,900,000	4,350,000
Miscellaneous Revenue	3,880	2,400	720
Pass-through Funding	150,000	135,000	133,218
Other Refunds	(132,556)	(187,624)	(157,830)
Interest Fees	347,474	299,598	342,845
STIF Interest	73,234	182,549	363,024
Total Receipts	\$55,541,860	\$43,907,951	\$48,045,377

Probate court fees receipts increased 27% during fiscal year 2017, from \$38,956,043 during fiscal year 2016 and decreased 16% during fiscal year 2018 due to statutory changes. Section 448 of Public Act 15-5 of the June Special Session of the General Assembly increased the fees on estates of decedents and eliminated the \$12,500 cap. Public Act 16-3 of the May Special Session of the General Assembly reinstated a cap on probate fees of \$40,000 for decedents who died on or after July 1, 2016.

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

Probate Fund Expenditures:	Fiscal Year Ended June 30,		
	2017	2018	2019
Purchases and Contracted Services	\$27,883,914	\$ 27,379,452	\$ 27,439,170
Personal Services and Benefits	10,341,131	13,148,754	18,545,848
Other Expenses	2,150,050	2,135,000	2,133,218
Information Technology	798,161	944,448	1,487,932
Capital Outlays Equipment	123,593	57,062	60,066
Premises and Property Expenses	59,373	63,312	69,424
Employee Expenses	23,281	13,489	17,844
Purchased Commodities	50,052	174,217	136,362
Motor Vehicle Costs	0	616	876
Total Expenditures	\$41,429,555	\$43,916,350	\$49,890,740

Expenditures increased by 6% and 14% during the fiscal years ended June 30, 2018 and 2019, respectively. The increases were primarily attributable to an increase in employer contributions to the Probate Judges and Employees Retirement System due to changes in actuarial assumptions for the valuation dated December 31, 2017. During the fiscal year ended June 30, 2019, probate administration received approval from the retirement commission to make an additional contribution

of \$5,000,000. In addition, information technology expenditures increased due to the implementation of a new eFiling system and various software upgrades.

Employment statistics for PCA and the probate courts as of June 30, 2017, 2018, and 2019 were as follows:

Probate Court Filled Positions	June 30,		
	2017	2018	2019
Office of the Probate Court Administrator	22	21	22
District Court Staff and Judges	367	372	366
Total Filled Positions	389	393	388

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:

PCA Fund Balance and Transactions	Fiscal Year Ended June 30,		
	2017	2018	2019
PCA Fund Beginning Balance	\$4,579,562	\$15,291,867	\$15,283,468
Receipts per Core-CT	55,468,626	43,725,403	47,682,352
Expenses per Core-CT	(41,429,555)	(43,916,350)	(49,890,740)
Other Transfers and Income:			
Transfer to General Fund	(3,400,000)	-	
Investment Income	73,234	182,548	363,025
Ending Balance PCA Fund	\$15,291,867	\$15,283,468	\$13,438,105

The transfer to the General Fund during the fiscal year ended June 30, 2017 was required as previously described.

Special Revenue Fund – Federal and Other Restricted Accounts

Restricted Fund expenditures from special revenue funds were \$1,017, \$0, and \$35,244 during the fiscal years ended June 30, 2017, 2018, and 2019, respectively. Expenditures for fiscal year 2016-2017 consisted mainly of consulting fees. During fiscal year 2017-2018 there were no special revenue fund expenditures. Expenditures of \$35,244 for fiscal year 2018-2019 represent the return of an unspent federal grant.

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.

Absence of Medical Certificates on File

Criteria: Policy 104 of the Probate Court Administrator's Policy Manual states, if an employee charges sick leave in excess of 5 days, a medical certificate must be filed and retained.

Condition: During our fieldwork, we conducted 6 site visits of various probate courts as part of our review of payroll and personnel. We focused on reviewing personnel files for new hires and terminations, and examining medical records for employees who had extended medical leave.

Our review disclosed that one probate court tested did not maintain medical certificates for two employees who charged 6 and 9 consecutive sick days.

Effect: Without documentation in support of extended sick leave, the leave taken may not be justified.

Cause: The probate courts maintain personnel files at each individual court, and the Office of the Probate Court Administration has limited staff to perform audits of probate court records.

Prior Audit Finding: A similar finding was previously reported in the last audit report covering the 2013, 2014, 2015, and 2016 fiscal years.

Recommendation: The Office of the Probate Court Administrator should strengthen controls to ensure that Probate Courts comply with the Probate Court Administrator Policy Manual for court employees. (See Recommendation 1.)

Agency Response: "We agree. While we view the missing documents at one court as a unique situation where the Judge verbally verified the leave was necessary, we will remind and continue to train the courts to obtain a written medical certificate for employees in the circumstances stated in Policy 104."

Interest Improperly Charged

Background: The probate courts use the Case Management System (CMS) application to retrieve all case data and create invoices. Probate courts submit decedent estate data in CMS for processing, monitoring, reporting, and accumulating financial information. PCA has access to all data entered in CMS by the probate courts.

- Criteria:* According to Policy 404 of the PCA Policy Manual on Interest Charges on Unpaid Probate Fees, interest accrues on unpaid probate charges if a bill from a probate court is not paid within 30 days. In addition, interest accrues on a decedent's estate if an estate tax return is not filed within six months of the date of death or the extended due date.
- Condition:* A probate court charged interest of \$1,018 for unpaid estate fees when the estate had paid the total estate fees of \$33,502 on a different invoice. The Norwalk Probate Court received a pre-payment of \$30,000 from an estate, which was recorded in CMS as invoice #002. However, when the actual probate fee of \$33,985 was later billed on invoice #3, the probate court never credited the estate for the \$30,000 pre-payment.
- Effect:* Failing to make billing adjustments in CMS when multiple invoices are created increases the risk of incorrect interest charges to estates.
- Cause:* Multiple invoices were created for an estate, and payments were not combined appropriately to reflect the total estate activity. CMS automatically charges interest on unpaid invoices, even if there is an invoice with an offsetting credit. Since the billing adjustment was not made in a timely manner, interest was incorrectly charged.
- Prior Audit Finding:* This finding has not been previously reported.
- Recommendation:* The Office of the Probate Court Administrator should strengthen controls over prepayments entered into the Case Management System by probate court staff and review estate filings for multiple invoices. (See Recommendation 2.)
- Agency Response:* "We agree. While we view this as an isolated incident, we are developing and will implement an automated control in our CMS by October 1, 2020 to address this issue."

RECOMMENDATIONS

Our prior report on the Office of the Probate Court Administrator contained 3 recommendations, of which 2 were resolved and 1 has been modified and repeated.

Status of Prior Audit Recommendations

- 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. **This recommendation is being repeated in revised form. (See Recommendation 1.)**
- The Office of the Probate Court Administrator should strengthen procedures relating to the calculation of statutory fees. **This recommendation has been resolved.**
- 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. **This recommendation has been resolved.**

Current Audit Recommendations

1. **The Office of the Probate Court Administrator should strengthen controls to ensure that Probate Courts comply with the Probate Court Administrator Policy Manual for court employees.**

Comment:

Our review disclosed that one probate court tested did not maintain medical certificates for two employees who charged more than 5 consecutive sick days.

2. **The Office of the Probate Court Administrator should strengthen controls over prepayments entered into the Case Management System by probate court staff and review estate fillings for multiple invoices.**

Comment:

Our review noted that a probate court charged an estate \$1,018 in interest for unpaid estate fees, when the estate had paid the total estate fees of \$33,502.06.

ACKNOWLEDGEMENT

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

Ramiz Mehmedovic
Bruce Vaughan
Benjamin Viccari

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.

State Auditor John C. Geragosian recused himself from reviewing and signing this audit report in order to avoid the appearance of a conflict of interest.



Bruce Vaughan
Principal Auditor

Approved:



Robert J. Kane
State Auditor