



COMPLIANCE AND CONTROL AUDIT REPORT

Judicial Branch

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 1998**

Legislative Post Audit Committee

Legislative Division of Post Audit

The **Legislative Post Audit Committee** and its audit agency, the **Legislative Division of Post Audit**, are the audit arm of Kansas government. The programs and activities of State government now cost about \$8 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of government agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U. S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. These audit standards have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the representatives, three are appointed by the Speaker of the House and two are appointed by the House Minority Leader.

As part of its audit responsibilities, the Division is charged with meeting the requirements of the Legislative Post Audit Act which address audits of financial matters. Those requirements call for two major types of audit work.

First, the Act requires an annual audit of the State's financial statements. Those statements, prepared by the Department of Administration's Division of Accounts and Reports, are audited by a certified public accounting firm under contract with the Legislative Division of Post Audit. The firm is selected by the Contract Audit Committee, which comprises three members of the Legislative Post Audit Committee (in-

cluding the Chairman and Vice-Chairman), the Secretary of Administration, and the Legislative Post Auditor. This audit work also meets the State's audit responsibilities under the federal Single Audit Act.

Second, the Act provides for a regular audit presence in every State agency by requiring that audit work be conducted at each agency at least once every three years. Audit work done in addition to the annual financial statement audit focuses on compliance with legal and procedural requirements and on the adequacy of the audited agency's internal control procedures. These compliance and control audits are conducted by the Division's staff under the direction of the Legislative Post Audit Committee.

LEGISLATIVE POST AUDIT COMMITTEE

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Senator Anthony Hensley
Senator Pat Ranson
Senator Chris Steineger
Senator Ben Vidricksen

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March 16, 1998

To: Members, Legislative Post Audit Committee

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Senator Anthony Hensley
Senator Pat Ranson
Senator Chris Steineger
Senator Ben Vidricksen

Representative Eugene Shore, Vice-Chair
Representative Richard Alldritt
Representative Doug Mays
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Representative Dennis Wilson

This report contains the findings, conclusions, and recommendations from our completed compliance and control audit of the Judicial Branch.

This report includes several recommendations for improvements to reduce the risk of loss and increase consistency among the courts. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.


Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY
LEGISLATIVE DIVISION OF POST AUDIT

**Question: Has the Judicial Branch Established Adequate
Financial-Management Practices to Ensure that District Courts
Collect Moneys They Should and Deposit Those Moneys
Appropriately?**

The Judicial Branch generally has established adequate financial-management practices to ensure that District Courts handle revenues properly, but some improvements are needed. page 2
The Office of Judicial Administration has issued written guidance to the District Courts setting out requirements for collecting and distributing moneys, has developed and required use of an automated accounting system, and has required audits of District Courts.

Current procedures may not adequately control the risk of loss or misuse of funds, because traffic tickets are recorded in two separate accounting records. As a result, differences could occur between what is recorded in each of the two sets of records. Because the Office doesn't require the two to be compared, mistakes could be made and not found. However, periodic monitoring would help reduce the likelihood of any problems.

Further, when partial payments are collected, District Courts don't distribute them in the same order to the various accounts. This could reduce the amount of moneys received by the State if all the payments aren't made.

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This audit was conducted by Jerry Fair. Randy Tongier was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Fair at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call (785) 296-3792, or contact us via the Internet at: LPA@mail.ksleg.state.ks.us.

JUDICIAL BRANCH

The Legislative Division of Post Audit has conducted compliance and control audit work at the Judicial Branch covering fiscal year 1997. Compliance and control audits identify noncompliance with applicable requirements and poor financial-management practices. The resulting audit findings often identify needed improvements that can help minimize the risk of potential future loss or misuse of State resources.

At the direction of the Legislative Post Audit Committee, this audit focused on how the Judicial Branch, through the Office of Judicial Administration, ensures that moneys are properly collected and deposited appropriately to State and local accounts. The audit addresses the following specific question:

- 1. Has the Judicial Branch established adequate financial-management practices to ensure that District Courts collect moneys they should and deposit those moneys appropriately?**

To answer these questions, we identified applicable statutes and standard financial-management practices. We also reviewed the Office's written procedures, interviewed appropriate judicial personnel, and visited six District Courts in order to review their procedures. In conducting this audit work, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

Our findings are discussed on the following pages.

Has The Judicial Branch Established Adequate Financial-Management Practices To Ensure That District Courts Collect Moneys They Should And Deposit Those Moneys Appropriately?

Through the Office of Judicial Administration, the Judicial Branch generally has established adequate financial-management practices to ensure that district courts collect the moneys they should and deposit those moneys appropriately. However, without periodic monitoring, the Judicial Branch has only limited assurance that district courts are following those procedures as well as they should. Further, even if district courts properly follow current procedures, a risk remains that traffic ticket receipts could be misappropriated without detection. Finally, district courts aren't consistent in how they distribute periodic payments received among their various accounts. These and other findings are presented in the following sections.

The Judicial Branch Generally Has Established Adequate Financial Management Practices To Ensure That District Courts Handle Revenues Properly, But Some Improvements Are Needed

District courts collect more than \$25 million a year for such things as traffic fines, restitution moneys, and docket fees. Most of these moneys are sent into the State Treasury. The Office of Judicial Administration is responsible for helping ensure that district courts collect the moneys they should and deposit those moneys appropriately.

To do that well, the Office of Judicial Administration should provide guidance to the district courts about the amount of moneys to collect, how those moneys should be distributed among the various accounts, and what procedures to follow in handling those moneys. In addition, the Office should take steps to ensure that district courts are doing what they should.

To determine how well the Judicial Branch's procedures work, we interviewed judicial officials at both the Office of Judicial Administration and some district courts. We also reviewed the guidance provided by the Office to district court personnel. Finally, we visited a sample of six district courts, where we reviewed and tested accounting and other related records.

We found that the Judicial Branch's procedures generally are adequate to ensure that district courts take appropriate action. Those procedures include the following:

- The Office of Judicial Administration has developed and provided written guidance to the district courts setting out the requirements for collecting moneys and distributing them to appropriate accounts.

- The Office of Judicial Administration has developed and required the district courts to use an automated accounting system for moneys collected by district courts. Five large district courts that already had automated systems were allowed to continue using their own systems.
- State law makes district court moneys subject to audit as part of the required annual county audits. That same State law requires a report to the Office of Judicial Administration if the auditors find any financial discrepancies or non-compliance with legal requirements.

Periodic monitoring would further reduce the likelihood of problems at the district courts. At one time, Office of Judicial Administration staff monitored procedures used by district courts to ensure proper procedures were being followed. The Office has stopped this monitoring because of limited resources. Instead, the Office currently relies on audits required by State law to ensure that district courts follow appropriate procedures and adhere to legal requirements.

Although State law requires these audits, it doesn't tell the auditors what kind or how much work to do in this area. In addition, the auditors won't necessarily look at district courts' adherence to procedures included in Office guidelines. As a result, even though the Office of Judicial Administration hasn't received any notices of discrepancies or noncompliance, the Office can't be sure that problems don't exist, because they don't really know how "in-depth" the audits are. Restarting monitoring, even on a limited basis, could reduce the risk of problems.

Current district court procedures may not adequately control the risk of loss or misuse of traffic fine moneys. Most moneys collected by district courts are recorded only in the main accounting system (with few exceptions, the one that's been provided to the district courts by the Office of Judicial Administration). That same system includes a record of both the amount that should be paid, the amount that is paid, and a history of court appearances.

Traffic tickets generally are an exception, mostly because they often don't involve a court appearance. In five of the six district courts we visited, traffic fines due are recorded in a separate accounting record until they are collected. Once these fines are collected, the collections then are recorded in both the main accounting system and the original accounting record. The two separate accounting records aren't reconciled to each other, and only the main accounting system is reconciled to bank deposits. This causes the following problems:

- Because only the main accounting system is reconciled to daily deposits, the risk of fraud is increased. For example, the employee receiving a \$100 traffic fine paid in cash could record that full amount received in the traffic ticket accounting records. Then the employee could keep \$75, record a \$25 receipt in the main accounting system, and deposit the \$25 in the bank. The main accounting system's receipts would agree with the bank deposit, and the ticket

accounting records would show the applicable fine as paid, even though the amount recorded as received would be different in the two accounting records.

- Because each transaction is recorded twice, the likelihood of a simple error in one set of records or the other is increased. Because the two sets of accounting records aren't reconciled, errors made in one system but not the other won't be caught.

**District/County Attorneys Can Make Decisions About
Diversion Agreements That Affect the Amount of Moneys
The State Receives**

State law allows district and county attorneys to enter into a diversion agreement instead of taking an individual accused of committing a crime to court. The terms of the agreement are determined solely by the district or county attorney. The diversion agreement usually includes a diversion fee, which is deposited into county funds. Also, in most cases, court costs are included as part of the diversion agreement, as well as other requirements.

However, in one district court we reviewed, misdemeanor offenses we reviewed were treated the following way. A misdemeanor normally calls for paying \$102.50 in court costs, with \$92.50 of that going into State funds and \$8 going into county funds. Instead, the county attorney entered into diversion agreements with the individuals in the cases we reviewed that re-

sulted in payments of restitution and a \$100 diversion fee, all of which went to the county. The diversion agreement didn't order payment of any court costs. In each case, the use of the diversion agreement resulted in decreased revenue to the State of \$92.50, and increased revenue to the county of \$92. Because this is different from the way most courts handle diversion agreements, we discussed the matter with the District Court clerk. The District Court clerk told us that most misdemeanor cases were treated this way in their court.

Because the district and county attorneys have the discretion to determine what provisions will be included in the diversion agreement, they are able to affect the amount of moneys the State receives.

Our testwork at one district court identified a small difference in the recorded amounts for one traffic ticket between the two accounting records. That isolated instance doesn't indicate a serious problem at that court, but it does show that the problems with existing procedures can result in real discrepancies.

Not all district courts distribute periodic payments to their various accounts in the same way. Amounts collected by district courts often must be recorded in several different accounts for different purposes. For example, moneys received might be used to make restitution to a victim, cover court costs, and pay a fine. (Part of these moneys could go to an individual, part to the State, and part to the county.)

When the total amount due is collected in a series of payments, the district courts must decide how to distribute each payment among the various recipients.

This can cause problems if the person making the payments doesn't pay the total amount due. For example, if the district court has distributed the first payments all to restitution, the other recipients (the State and the county) won't get their share of the amount actually received. This is because court costs, which are primarily State moneys, may never be paid. Even if all payments are made, not all accounts would get their share of the moneys at the same time.

In reviewing our sample of six district courts, we found differences in the order of distribution of partial payments. Four district courts distributed payment first to cover court costs, while the other two distributed first to restitution to victims. The two courts that paid restitution first were relying on a judicial order included in the district court accounting manual. When we checked with the Office, we found that this order of payment actually may not have been officially approved. In any event, it seems that district courts aren't consistent among themselves in how they distribute periodic payments to the various funds, which may result in differences in the amount of moneys the State receives. This issue needs to be clarified.

Conclusion

The Office of Judicial Administration is responsible for establishing and maintaining procedures to help ensure that district courts properly handle moneys they receive. The Office generally has done a good job of that. However, improvements can be made to reduce further the risk of loss or misuse and to achieve better consistency among the courts.

Recommendations

1. To better ensure that district courts are following its guidelines, the Office of Judicial Administration should return to its past practice of doing periodic monitoring of district court procedures. If resources are limited, that monitoring could be limited in frequency and focused on courts that might have more difficulty adhering to the guidelines, such as those with limited staff or newer personnel.
2. To further reduce the risk of loss or misuse of moneys, the Office of Judicial Administration should amend its procedural guidelines for district courts to include periodic reconciliations of recorded traffic ticket receipt figures and bank deposits.
3. To increase consistency among the district courts in how they distribute periodic payments received among their various funds, the Office of Judicial Administration should seek direction from the State Supreme Court, and provide guidance to the district courts consistent with that direction.

APPENDIX A

Agency Response

On March 5, 1998 we provided a copy of the draft audit report to the Judicial Branch's Office of Judicial Administration. The Office's response is included as this appendix.



State of Kansas

Office of Judicial Administration

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March 13, 1998

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Dear Ms. Hinton:

I have reviewed the draft copy of your completed compliance and control audit of the Judicial Branch. Your auditors were very professional and thorough in their review.

Upon review of the draft copy of your audit, it is clear that there indeed appears to be discrepancies between the financial management practices among the various district courts. We do make regular efforts, through both statewide and regional training, to insure consistent and appropriate procedures in the 110 district courts in the state. We will continue this and especially focus on the recommendations you made.

In addition, we will be developing guidelines for the distribution of partial payments and presenting those recommendations to the Supreme Court.

Again, we greatly appreciate the time and energy expended by your Division interviewing court personnel, researching past accounting procedures, and reviewing current policies and practices within a variety of district courts and bringing these issues to our attention.

Sincerely,


Jerry Sloan
Budget and Fiscal Officer

JS/nrt

