



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Judiciary
Administrative Office of the Courts
Probation Services Division**

July 1, 2002 to June 30, 2004

**Richard L. Fair
State Auditor**



New Jersey State Legislature

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Enclosed is our report on the audit of the Judiciary, Administrative Office of the Courts, Probation Services Division for the period July 1, 2002 to June 30, 2004. If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair
State Auditor

October 28, 2004

Table of Contents

	Page
Scope	1
Objectives	1
Methodology	1
Conclusions	2
Background	2
Findings and Recommendations	
Collection of Probation Fines, Penalties And Restitution	4
CAPS Security Administration	12
Proper Accounting for and Reconciliation Of Probation Funds	17
Auditee Response	19

Judiciary Probation Services Division

Scope

We have completed an audit of the Judiciary, Administrative Office of the Courts, Probation Services Division revenue collections for the period July 1, 2002 to June 30, 2004. Our audit included program and financial activities accounted for in the Judiciary's Comprehensive Automated Probation System (CAPS) relative to the receipt and processing of Probation Fund revenue collected at the 15 vicinages and the Intensive Supervision Program. Total receipts recorded in CAPS for fiscal years 2003 and 2004 were \$33.5 million and \$35.7 million, respectively.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the Probation Fund, were reasonable, and were recorded properly in the accounting system. We also tested for resolution of the significant conditions noted in our prior vicinage and Judiciary reports pertaining to the Probation Fund.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, and policies of the agency. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of transactions. We also read the budget message, reviewed financial trends, and interviewed

personnel to obtain an understanding of the programs, and the internal controls.

A nonstatistical sampling approach was used. Our samples of transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample populations were sorted and transactions were judgmentally selected for testing.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the agency and walked through the system to determine if the corrective action was effective.

Conclusions

We found that the transactions included in our testing were related to the program, were reasonable, and were recorded properly in the accounting system. In making this determination, we noted certain internal control weaknesses meriting management's attention. We also found that the agency has not yet resolved the issue of monthly reconciliations between the state's Comprehensive Financial System (CFS) and the division's Comprehensive Automated Probation System (CAPS). This issue has been restated in our current report.

Background

The primary responsibility of the Probation Services Division is to ensure compliance with court orders. Those selected for probation are afforded the opportunity to remain in the community subject to compliance with the rules and conditions imposed by the sentencing court. In addition to the court ordered supervision and treatment requirements of a probationer, the court often imposes a financial obligation to provide restitution to the victim(s), as well as fines and penalties which are used to support a variety of state and local programs. N.J.S.A. 2A:168-11(d) charges the division with the responsibility "To collect from persons under their supervision such payments as may be ordered by the court so to be made, and disburse the money so

received under the direction of the court.” The state’s citizens have an expectation that offenders should be held accountable for their actions and these financial obligations are part of those expectations.

Collections of fines, penalties, and restitution are controlled at the vicinage/county level and are deposited into the Judiciary Probation Fund which serves as a repository for the collection and disbursement of these court imposed financial obligations. The financial goal of the probation program is to have the probationer pay off his debt prior to the conclusion of the probation term. Unfortunately, due to either the probationers’ inability or unwillingness to comply with their monetary court obligations, there remains a population of collection only cases in which the probationers have completed their supervision phase but still have an outstanding financial obligation.

The Judiciary’s Comprehensive Automated Probation System (CAPS) serves two purposes. It provides a tracking system to ensure compliance with probation requirements such as treatment programs, supervision requirements, and community service responsibilities. In addition, it is the primary accounting system used to account for the Probation Fund receipts and disbursements, as well as the balances due to victims and various state agencies.

The Comprehensive Enforcement Program (CEP) was established in 1995 to increase the collection of court-ordered fines and fees imposed on probationers. In general, an individual is subject to the program when court-ordered payments are more than 60 days past due. Those delinquent in their payments or in completing hours of community service receive a notice informing them of their delinquency and are given two weeks to comply. Otherwise, they are ordered to appear before a hearing officer, who has the authority to impose additional sanctions against probationers for noncompliance. With active supervision clients,

probation officers have the option of either referring a probationer to CEP or violating a client's probation when they are delinquent in their payments.

Not all the clients in delinquency status are selected for the CEP program due in part to the limited number of hearings held monthly and the ineligibility of some clients due to their incarceration, hospitalization, inpatient treatment for substance abuse, or documented unemployment. In addition, municipal court cases are not eligible for the program unless the municipality agrees to the terms of the program. CEP tends to concentrate on the population of probationers who are under active supervision to ensure that these financial obligations are paid off by the end of their probation term.

Collection of Probation Fines, Penalties and Restitution

The division's collection efforts regarding fines, penalties, and restitution from probationers should be improved.

We determined that the division's statewide average monthly collection rate was only 27 percent of the amount owed for those probationers with established payment plans for the period of July 1, 2002 through November 30, 2003. The division collected \$3 million of the \$11 million expected monthly. This low collection rate means that restitution to victims, as well as fines and penalties due to state and local agencies, are not being met. In our analysis of the CAPS database we determined there were 180,000 probationers as of November 30, 2003 whose court imposed debt totaled \$296 million, comprised of \$198 million in restitution to victims and \$98 million in fines and penalties due to state agencies, local governments, and community groups.

We have determined that there are multiple reasons for this low collection rate. Additionally, we recognize the fact that the collection rate could be impacted by the 18 percent of probationers in bench warrant status at November 30, 2003. Existing collection policies need to be improved and enforced

statewide. In addition, because the AOC doesn't obtain and maintain information such as a probationer's social security number, the division is precluded from utilizing specialized computer database matches to enhance their collections. Details of these conditions follow.

Probationers Without Payment Plans

Pursuant to N.J.S.A. 2C:46-1, "...the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence... the assessment, fine, penalty, fee or restitution shall be payable forthwith, and the court shall file a copy of the judgment of conviction with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments..." To facilitate and enforce collection efforts, scheduled monthly payment plans should be established by the courts at sentencing based on the probationer's ability to pay. All payment plans, including voluntary consent orders, must be approved by a judge in a court order to be enforceable. We found 28,500 probationers owing \$65 million did not have an established payment plan and 18,200 or 64 percent had not made a single payment as of November 30, 2003. Further analysis revealed that 10,700 of these clients were initially entered into CAPS after December 31, 2000.

Invalid Social Security Numbers

Although CAPS provides a data field for the collection of social security numbers (SSN), there were 25,800 probationers with invalid SSNs listed in the system whose outstanding debt totaled \$37 million. During our field visits we were informed that the lack of valid social security numbers was attributable to juvenile cases which had been transferred over to probation for collection, a large population of illegal aliens, or older cases which were back loaded into CAPS.

We found that 12,200 (47 percent) of the 25,800 active probationers with invalid SSNs were juveniles at the time of their first offense. The Tax Reform Act of 1986 required SSNs for dependents starting in 1987. The AOC did not require the Family Court to provide valid SSNs at the time these cases were entered into CAPS. In addition, there is no consistent identifier for illegal aliens. Not capturing valid SSNs prevents the division from using the Department of the Treasury's Set Off of Individual Liability (SOIL) program to enhance collection efforts and deters the division from identifying probationers who have achieved steady employment.

Match of Probationers with the Department of Labor's Wage & Hour Database

Our analysis of the CAPS payment types revealed that the use of income withholding/garnishments has steadily decreased over the past three years. Currently, collections in this form are done strictly on a voluntary basis since the division has not mandated income withholding/garnishments, although they have the legal authority to impose them pursuant to N.J.S.A. 2C:46-1 and 46-2(1)(d). We performed a database match between CAPS and the Department of Labor's Wage and Hour database covering reported earning for the first three quarters of calendar year 2003. Utilizing a three-point match on social security number, last name, and first name we isolated those probationers with payment plans and earnings equal to or greater than \$5,000 in a quarter (annual income \$20,000). We determined if any of these probationers were not satisfying their financial obligations per their payment plan. On average we identified 5,000 probationers owing \$26 million as of November 30, 2003 who could have paid an additional \$1.6 million per quarter. Two thousand four hundred probationers made no payment and 600 of these probationers had quarterly earnings of \$10,000 or more (\$40,000 annually).

Access to the Department of Labor's Wage and Hour database could help identify earnings and the utilization of a wage garnishment sanction could improve the collection rate.

Match Probationers with the State's Death Records

A comparison of the CAPS database to the Department of Health and Senior Services, Bureau of Vital Statistics death records for calendar years 1998 through 2002 was done to determine which cases should be written off as truly uncollectible and removed from the CAPS system. Since these databases were not fully compatible we were unable to identify three point matches (SSN, last name, and first name). Our matches for this test were broken down into two populations:

Death Record Matches	Number of Probationers	Outstanding Debt
Two Point Matches (SSN and Last Name)	916	\$1.3 million
One point Matches (SSN Only)	291	\$1.0 million

Generally, the division learns of a probationer's death from a family member or from the obituaries listed in the newspaper. The probation officer will contact the family, funeral home, or county health department to locate a death certificate in order to close out the case. There is no standardized method for researching the death of a probationer such as checking the Social Security Ancestry Death Index.

Low Dollar Balances within CAPS

We found that there were 6,000 probationers with balances under \$25. We believe the division should write off these balances for those probationers who are no longer supervised, once they confirm that the probationer has no quarterly earnings in accordance with the CEP legislation. If this balance includes

restitution, the division should obtain permission from the victim(s) prior to writing these funds off.

An additional 20,000 probationers owing \$1 million had an outstanding balance between \$25 and \$100. For this population the division should require those under active supervision to pay off this debt prior to the conclusion of their probation term. For those classified as “collection only”, the division could issue more aggressive collection letters such as notifying them that their driver’s license will be automatically suspended unless they make a payment within 30 days of the notice or scheduling special CEP hearings for these clients to promote the prompt collection of these low balance accounts.

Pretrial Intervention (PTI) and Conditional Discharge (CD)

Those eligible for PTI and CD are either first time offenders or perpetrators of relatively minor crimes. Participants are supervised by probation officers and the level of this supervision is dependent upon their crime. Participants’ cases are reviewed by the assignment judge every six months and enrollment in the program can be extended to a maximum term of three years. The PTI program represents Superior Court cases, while CD cases are municipal court cases which are supervised at the state level by the Probation Services Division. In both instances the division is responsible for the collection of all fees, fines, restitution, and penalties imposed by the program.

If the client does not violate the conditions of PTI, their charges will be dismissed at the end of the term, even if the client has failed to pay off their financial obligations or even made a good faith effort to do so. Once the charges are dismissed, the division indicated that they have no legal authority to pursue collection efforts because clients are not required to sign a statement or consent order acknowledging their financial obligation as a condition of acceptance

into the program. This acknowledgment would facilitate the filing of a civil judgment, thus protecting the financial interests of the victim(s) and the state.

We determined that there are 9,400 probationers owing \$21.2 million statewide that have a disposition type of either PTI or CD. Assuming that all the PTI and CD cases are extended to the maximum term and that the probationers make all of their scheduled payments, we project that 4,500 of these cases will not fully satisfy their assessments, leaving a balance of \$13.9 million that would become uncollectible.

Civil Judgments on Uncollectible Cases

N.J.S.A. 2B:19-8 makes CEP the only avenue for declaring a case uncollectible. After the division has exhausted all search efforts to locate the person, they may declare the case uncollectible provided that the following three conditions are met: the case is within 60 days of the termination date or the date has passed, a Bench Warrant has been issued, and a Civil Judgment has been docketed for the total amount outstanding.

There were 10,300 probationers labeled as uncollectible as of November 30, 2003 who had a total outstanding debt of \$14 million. There were no entries in CAPS stating that a civil judgment had been docketed in Superior Court for 54 percent of these probationers. When we compared this population of uncollectible probationers with the Department of Labor's Wage and Hour database for the first three quarters of calendar year 2003, we found 1,200 probationers with earnings totaling \$10.2 million who had an uncollectible outstanding balance in CAPS totaling \$1.6 million.

When a case is declared uncollectible, the vicinages/counties no longer consider the case a part of their receivable, therefore the case gets very little,

if any, attention with regard to collections. If civil judgments are not docketed for these cases before they are declared uncollectible, as required by the Judiciary's CEP policy, there is little or no chance that the money will ever be collected.

Recommendations

To improve collections from probationers, we recommend the following actions be taken.

- The vicinage/counties should provide the presiding judges with a monthly listing of the cases received from the court which lack a payment plan so that the appropriate court orders can be obtained and payment plans can be established in CAPS. Otherwise, the division should establish default payment plans.
- The AOC should ensure that the social security number is captured during the intake phase, especially for those cases which are referred from Family Court. This action should enhance identification of clients which can improve future collection efforts. Also, the AOC should designate that only "999-99-9999" be utilized to populate the social security number field for those probationers identified as illegal aliens.
- The AOC should obtain on-line access to the Department of Labor's Wage and Hour computer system for all the counties, as well as obtain quarterly updates of this information in a database format to facilitate automated cross matches to identify probationers having sufficient earnings to meet their approved payment plans. Having access to the Wage and Hour database would also be beneficial in attempting to locate probationers who are in bench warrant status, as well as evaluate the probationer's financial condition to determine if their payment plans should be adjusted.

In addition, the AOC should utilize income withholding/garnishment as a condition of probation, when probationers are not making a good faith effort to pay off their financial obligations. The AOC should also pursue the suspension of probationers' driver licenses and professional licenses to motivate compliance with the financial obligations cited in the court sentencing documents.

- The AOC should periodically request a download of the Department of Health and Senior Services' Death Index to facilitate a comparison to their database in an effort to identify deceased probationers.
- The AOC should write off outstanding balances less than \$25 since these balances are not eligible for collection by the Department of Treasury's SOIL program and the costs to pursue these balances outweigh the benefit. To motivate the prompt payment of those probationers having a balance of \$100 or less, the division should aggressively pursue the suspension of drivers' licenses or schedule them for a CEP hearing.
- The AOC should obtain a legal opinion regarding PTI and CD cases concerning their authority to collect on the outstanding obligation once the charges have been dismissed. In addition, the AOC should require clients to sign a statement or consent order acknowledging their financial obligation with regard to these cases and require the docketing of a civil judgment.
- The division should review all of the cases currently listed in CAPS as uncollectible to verify that the proper procedures were followed in declaring the cases uncollectible, including the filing of civil judgments. In addition, we recommend the division institute a policy to

require that civil judgments be filed within 90 days of the disposition date to protect both the victims' and the state's financial interests or establish a dollar threshold for when a civil judgment should be filed immediately due to large assessments or arrearages.

- The AOC should consider the development of a central collection unit to handle the tracking of "collection only" and "uncollectible" caseloads. This unit would be responsible for performing the wage matches for these caseloads to identify probationers who have achieved steady employment and thus have the ability to pay off their debt. In addition, this unit would be responsible for forwarding cases to the Department of the Treasury's SOIL program for continued collection efforts. All cases having an outstanding balance in excess of \$25 should be referred to the SOIL program including those previously identified as uncollectible.



CAPS Security Administration

The Judiciary relies on the Comprehensive Automated Probation System (CAPS) to track clients' compliance with probation conditions as well as the assessment, payment, and disbursement of probation funds. The Judiciary's Information Technology Office (ITO) Security Group provides the vicinage/county Information Security Representatives (ISR) with their computer access and ISRs are responsible for establishing their employees' ids and CAPS security profile based upon guidelines established in the CAPS Security Handbook. Employees are given a security profile which defines their access to various screens in the system. Currently, CAPS has 45 screen level accesses. The CAPS User Security Listing as of February 24, 2004 identifies 2,900 active logon ids,

The division should limit employees' access within the CAPS system to those pertinent to their job functions.

Certain CAPS users have the ability to assume another user's logon id without the need of their password.

CAPS security access based upon an employee's job title is not consistently applied statewide.

49 percent of which have access to between 24 and 29 different screen levels.

Our analysis and testing of CAPS revealed conditions which could result in unauthorized system access. Failure to effectively monitor and limit access to the CAPS system jeopardizes the integrity of the data, as well as the network itself.

We identified 38 users who could assume other user's logon ids without them becoming aware of it and both parties could be working on-line at the same time. Of those 38 users, nine were non-employee consultants working on CAPS. We tested this function by having one of our auditors switch over to another CAPS user's id who had access to all 45 security screen levels. In addition, three team members signed onto the CAPS system as themselves and then all three switched over to the Assistant Chief Probation Officer's logon id at the same time. Access to this function is granted by the IT security manager, and requires no written request. This creates the risk of inappropriate transactions using another's logon id occurring without management's knowledge.

Our analysis of the CAPS User Security Listing database for the 2,100 user ids with non-supervisory job titles found that 1,300 (62 percent) have screen level access greater than that provided for in the CAPS Security Handbook. In addition, we found that there was no definitive pattern as to what screen levels were given to a particular job title. The number of user ids with access greater than the guidelines was as low as 26 percent in Camden County to as high as 97 percent in Salem County.

During the audit, we discovered several reasons why employees had greater access than was necessary. Our field visits revealed that the ISRs normally model the access levels for new employees on that of current employees. In addition, a number of non-

supervisory employees were given access to the Supervisor Process when their county converted over to CAPS in order to facilitate the approval of cases which were being back loaded onto the system and this access was never removed. Also, we found that the June 2003 Security Handbook states one particular screen level security is “no longer required” for any employee, but the county ISRs have not removed it from users’ profiles in a timely manner. We found another screen level that was restricted per the Security Handbook to members of the finance staff, but in some counties was given to probation officers to perform the functions associated with it. Lastly, some counties believed that a particular screen level was needed to perform certain types of modification and approval transactions, which was not true. Excessive access levels could be significantly reduced if ISRs corrected these issues.

Modification and Verification Capabilities

In CAPS, once a case is entered into the system and approved, any subsequent change to that client’s case requires a modification. In order to file a modification, a user must have access to the Modification Process. Modifications affecting a client's monetary condition, excluding the posting of payments made by the clients, must be approved before the changes can take effect. To approve a modification, you must have access to the Supervisor Process. The system contains no edits to prevent anyone with access to both the Modification and Supervisory Process from modifying any field and approving that change. Our review found that these two functions were not properly segregated. Since July 1, 2002 there have been 30,500 instances where the same person has performed and approved their own modification. In addition, 14,400 of these transactions were entered by employees in non-supervisory titles who have access to the Supervisor

Process. This condition creates the risk of inappropriate transactions being processed and not detected by management.

Our field work revealed that 66 of 145 (46 percent) files reviewed lacked supporting documentation for the modification transaction. The division has no policy requiring the vicinages to retain source documentation for these transactions. We found that the codes utilized to describe the modification and post an automatic case book entry in CAPS were insufficient to determine why the modification was made. Documentation is important to verify the need for and accuracy of a modification.

CAPS Users with Multiple Logon Ids

The Judiciary's ITO Security Group lacks procedures to periodically review for multiple ids. We identified 52 employees having multiple user ids, for a total of 107 user ids. We provided a list of these employees to the ISRs for each of the vicinages we visited. Once presented with this information, the ISR took immediate action to remove the duplicate id. A list of the duplicate ids statewide was presented to the Judiciary ITO Security Group prior to our field visits.

Separated Employees

We found 79 instances where the employee had separated from the division, yet their logon id still had a screen level security profile in CAPS, 54 of which separated over a year ago. We discovered seven instances where the system was accessed using the employee's id after the employee's date of separation. We could not determine if current employees used these ids to access the system. Access should be terminated promptly once an individual separates employment.

During our field visits we noted inconsistencies regarding the removal of separated employees from the CAPS User Security Listing. According to Judiciary's ITO Security Group, when an employee separates the ISR is responsible for removing all of the screen level security from the user id. Different counties use various procedures for separated employees, and not all of them are effective in removing their system access. We found that there was no written policy from the division or the ITO concerning proper procedures for removing a separated employee's access to the CAPS system.

The ITO does not monitor the activities of the county ISRs to ensure that separated employees are removed in a timely manner and that security access to CAPS is consistently applied from county to county based on an employees' job responsibilities.

Recommendation

We recommend:

- the Judiciary's ITO review the list of users who have the ability to assume another user's id and evaluate whether these individuals need this type of access to the CAPS system. In addition, the ITO should develop a system access form to document who was given this access, who approved this decision, and provide a justification for why this access is necessary. This access should be limited and should be provided to state employees only.
- the ITO's Security Group and the division should reassess which screen levels are necessary for each job title and/or unit, and make any adjustments necessary to separate incompatible functions and reclassify screen levels to ensure that there is a proper segregation of duties. In addition, after centrally reviewing and modifying the existing guidelines, the division should ensure that they are instituted uniformly

statewide and that any deviations from the new standards require special approval from the ITO's Security Group.

- the division institute a policy that requires modification and approval functions be performed by two different employees for a single transaction and that the approval capabilities be limited to employees with supervisory job titles. The division should also develop standard requirements for the levels of documentation needed for different types of transactions. This information should be retained in the client's case file.
- the ITO and the division should remove all duplicate CAPS user ids from the system and develop procedures to prevent additional duplicate ids from being created.
- the division should remove all CAPS screen level access for existing separated employees. The ITO and the division should develop and distribute a policy to all counties outlining the proper procedures for removing a user's CAPS access.



Proper Accounting for and Reconciliation of Probation Funds

Recconciliation of financial data retained on the state's accounting system (NJCFIS) and those of CAPS are necessary to ensure the integrity of the system's balances

The Judiciary Banking and Cash Management Unit is responsible for the monthly reconciliation of the monies deposited in the bank to the amount recorded on the New Jersey Comprehensive Financial System (NJCFIS). Each vicinage is responsible for reconciling NJCFIS to CAPS on a monthly basis.

Our review of the May 2003 reconciliations attempted by 13 of 21 counties revealed an estimated \$4.1 million difference between the two computer

systems, with the higher dollar amount being reflected on NJCFS.

This item has been a recurring finding within the Probation Fund dating back to 1999. In response to our reports, the AOC has previously stated that they are in the process of developing uniform reconciliation procedures. During our discussions with management and representatives at the county level, we learned that there are significant programming issues within CAPS. An example of this is that daily receipt totals do not tie out with the monthly totals. The division has created a CAPS Reconciliation Committee who are currently working to correct these programming deficiencies within CAPS by addressing one report at a time which feeds into the reconciliation process and then testing these modifications to ensure that these changes have not had an adverse effect on another report.

Recommendation

We recommend that the division make the necessary enhancements to the system a priority, in order to facilitate uniform monthly reconciliations between CAPS and NJCFS for all the vicinages.



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October 26, 2004

Mr. Richard L. Fair
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Dear Mr. Fair:

We have reviewed the **Judiciary, Administrative Office of the Courts, Probation Services Division** audit report for the period July 1, 2002 to June 30, 2004 and welcome this opportunity to comment.

Collection of Probation Fines, Penalties and Restitution

Recommendation

To improve collections from probationers, we recommend the following action to be taken.

- *The vicinage/counties should provide the presiding judges with a monthly listing of the cases received from the court which lack a payment plan so that the appropriate court orders can be obtained and payment plans can be established in CAPS. Otherwise, the division should establish default payment plans.*

Response

We have pointed out in prior correspondence that the bulk of cases without payment plans, indeed the bulk of overdue payments, are from cases not under active supervision, such as fugitives, persons in jail, or otherwise uncollectible. Nonetheless, we have and will continue to take steps to improve our collections practices. To increase the payment plans, the judiciary created an edit in CAPS that prevents the establishment of the enforcement until a payment plan has been addressed and appropriately entered. The edit was effective statewide in August 2004 and will serve to assure that all necessary payment plans are entered at the start of the case.

- *The AOC should ensure that the social security number is captured during the intake phase, especially for those cases which are referred from Family Court. This action should enhance identification of clients, which can improve future collection efforts. Also, the AOC should*

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designate that only "999-99-9999" be utilized to populate the social security number field for those probationers identified as illegal aliens.

Response

Although the Social Security number (SSN) is not a required field for probation records, we realize its value for identification purposes.

It should be clear that many juveniles in the system, who are generally 13 to 17 years-of-age, do not have Social Security numbers. Other probationers who have no SSNs are aliens or have used various SSNs in their criminal lifestyles, so validity remains a question. We will use CAPS management reports with the Conference of Chief Probation Officers and their staffs to correct any "999-99-999" entries made in error. We will explore the possibility of using the Social Security Web site to validate SSN numbers. Our ITO is working with the Department of Labor to acquire a report that will be matched against our files for identification of those probationers working or collecting unemployment insurance. This will provide a source for obtaining Social Security numbers.

- *The AOC should obtain on-line access to the Department of Labor's Wage and Hour computer system for all counties, as well as obtain quarterly updates of this information in database format to facilitate automated cross matches to identify probationers have sufficient earnings to meet their approved payment plans. Having access to the Wage and Hour database would also be beneficial in attempting to locate probationers who are in bench warrant status, as well as evaluate the probationer's financial condition to determine if their payment plans should be adjusted. In addition, the AOC should utilize income withholding/garnishment as a condition of probation, when probationers are not making a good faith effort to pay off their financial obligations. The AOC should also pursue the suspension of probationers' driver's licenses and professional licenses to motivate compliance with the financial obligations cited in the court sentencing documents.*

Response

As stated in our response to recommendation #2, we are actively engaged in obtaining not only inquiry access with the Department of Labor, but a program designed for probation that will help us identify wages, SSNs, employers, addresses, unemployment insurance payments, etc., matched to our database. This will help us locate absconders and enforce compliance with court-ordered payments with those identified as having assets previously unreported to probation.

As to having income withholding as a condition of probation, unlike child support, where income withholding is automatic as part of child support enforcement lawful procedures, each condition of probation is part of the individual sentence. We will pursue income withholding/garnishment where deemed appropriate.

This same recommendation encourages the suspension of noncompliant probationers' driver's licenses and professional licenses to motivate compliance. The question becomes whether suspension of a driver's license causes the probationer to lose the ability to get to work or even to report to probation. This would deter compliance, not encourage it.

There is no statutory authority for probation, or CEP as its enforcement process, to suspend professional licenses.

- *The AOC should periodically request a download of the Department of Health and Senior Services' Death Index to facilitate a comparison to their database in an effort to identify deceased probationers.*

Response

We agree. Our ITO is already engaged in the process of developing the database match, which we will run periodically against our caseloads.

- *The AOC should write off outstanding balances less than \$25 since these balances are not eligible for collection by the Department of Treasury's SOIL program and the costs to pursue these balances outweigh the benefits. To motivate the prompt payment of those probationers having a balance of \$100 or less, the division should aggressively pursue the suspension of drivers' licenses or schedule them for a CEP hearing.*

Response

We agree that balances less than \$25 should be eliminated from probation receivables. However, at present there is no authority to cancel these debts without legislative change. The Conference of Chief Probation Officers will consider the possibility of scheduling hearings to address low balances of \$100 or less.

- *The AOC should obtain a legal opinion regarding PTI and CD cases concerning their authority to collect on the outstanding obligation once the charges have been dismissed. In addition, the AOC should require clients to sign a statement or consent order acknowledging their financial obligation with regard to these cases and require the docketing of a civil judgment.*

Response

Pretrial Intervention is a diversionary program of "supervisory treatment" and not a sentence. There is no admission of guilt required and full restitution is not required for successful completion of the program. (See Rules for Governing the New Jersey Courts, R.3-28 and NJSA 2C: 43-12 and 43-13).

The period of supervisory treatment in a Pretrial Intervention case can be extended to three years, but the authority to extend it any longer is not supported by statute. However, when probation assumed supervision of PTI participants in 1984, they accepted balances after probation dismissal and carried them as "collection only" cases. This practice will cease since there is no authority to supervise the case once the charges are dismissed. There is no legal authority to file judgments against those who leave balances at the end of PTI, despite good faith efforts to pay. Although Court Rule 3:28 addresses the fact that admission to the program cannot be based on a person's ability to pay full restitution, neither the Rule nor the PTI statute addresses mandatory penalties required of PTI participants. We could not find any authority under statutes mandating the penalties that would extend PTI for collection only. (N.J.S.A. 2C:43-3; 43-3.3 and 2C:35-20; 35-15). The Conference of Criminal Presiding Judges will address these issues.

Conditional discharge cases which do not pay their court-ordered obligations, could be returned to municipal court for noncompliance or scheduled for CEP first. We will need to assess which cases are most beneficial to be scheduled for CEP and which should be returned to court.

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- *The division should review all of the cases currently listed in CAPS as uncollectible to verify that the proper procedures were followed in declaring the cases uncollectible, including the filing of civil judgments. In addition, we recommend the division institute a policy to require that civil judgments be filed within 90 days of the disposition date to protect both the victim's and the state's financial interests or establish a dollar threshold for when a civil judgment should be filed immediately due to large assessments or arrearages.*

Response

We will produce management reports for Chief Probation Officers to identify uncollectible cases where the civil judgment code has not been entered so the vicinage can correct the coding omission.

The recommendation of filing a civil judgment within 90 days of the disposition date on all cases may be unnecessary where probationers are making their payments. The Conference of Chief Probation Officers will assess this recommendation and take any necessary action.

- *The AOC should consider the development of a central unit to handle the tracking of "collection only" and "uncollectible" caseloads. This unit would be responsible for performing the wage matches for these caseloads to identify probationers who have achieved steady employment and thus have the ability to pay off their debt. In addition, this unit would be responsible for forwarding cases to the Department of the Treasury's SOIL program for continued collection efforts. All cases having an outstanding balance in excess of \$25 should be referred to the SOIL program including those previously identified as uncollectible.*

Response

The central collection unit to handle the tracking of "collection only" and "uncollectible" cases already exists and falls under the supervision of the Chief of Collections and CEP in the AOC's Probation Services Division. This same unit is responsible for CEP. The central office is working with our ITO and the Conference of Chief Probation Officers on the wage match against these caseloads and others. Regular reports to manage and track progress on compliance will be created and used routinely. This unit is already responsible for referring cases to SOIL, producing an electronic tape that is sent annually to SOIL as required. This has been done for the past three years and includes "uncollectible" cases with balances more than \$25 as well as any other such cases where no payment was made in the past six months.

CAPS Security Administration

Recommendation

- *We recommend the Judiciary's ITO review the list of users who have the ability to assume another user's id and evaluate whether these individuals need this type of access to the CAPS system. In addition, the ITO should develop a system access form to document who was given this access, who approved this decision, and provide a justification for why this access is necessary. This access should be limited and should be provided to state employee only.*

Response

This item has been addressed by changes made to the CAPS system and put into production as of September 24, 2004. The ability to assume another user's ID is no longer available. The functionality mentioned in the above recommendation has been removed and therefore there is no need for any systems access form or justification since the ability to do so has been removed.

- *We recommend the ITO's Security Group and the division should reassess which screen levels are necessary for each job title and/or unit, and make any adjustments necessary to separate incompatible functions and reclassify screen levels to ensure that there is a proper segregation of duties. In addition, after centrally reviewing and modifying the existing guidelines, the division should ensure that they are instituted uniformly statewide and that any deviations from the new standards require special approval from the ITO's Security Group.*

Response

A new report was put into production on September 20, 2004 and will be run on a weekly basis for all Information Security Representatives (ISRs) as well as the ITO Security Group for review and evaluation regarding the assignment of appropriate screen level access.

- *We recommend the division institute a policy that requires modification and approval functions be performed by two different employees for a single transaction and that the approval capabilities be limited to employees with supervisory job titles. The division should also develop standard requirements for the levels of documentation needed for different types of transactions. This information should be retained in the client's case file.*

Response

The formation of a Modification and Verification Process Team took place on September 14, 2004. The team will be re-designing and re-defining the Modification and Verification processes to ensure that proper controls and responsibilities are defined.

- *We recommend the ITO and the division should remove all duplicate CAPS users ids from the system and develop procedures to prevent additional duplicate ids from being created.*

Response

The introduction of the new "Metadirectory" software by the ITO security group will directly address this recommendation and prevent duplicate and multiple user ID's.

- *We recommend the division should remove all CAPS screen level access for existing separated employees. The ITO and the division should develop and distribute a policy to all counties outlining the proper procedures for removing a user's CAPS access.*

Response

The Human Resources Division has established an internal control procedure, which among other items, addresses separation of employees. This procedure will be circulated to all ISRs and ITO staff. As stated in the procedure, "As part of the exit interview process, vicinage Human Resources staff shall notify both the Operations and Information Technology Divisions when employees leave the payroll, so that access to offices, buildings, and computer applications can be deleted. For Central Office employees, the Human Resources Division shall notify the AOC Management Services Division and the Information Technology Office."

Proper Accounting for and Reconciliation of Probation Funds

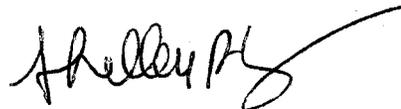
Recommendation

- *We recommend that the division make the necessary enhancements to the system a priority, in order to facilitate uniform monthly reconciliations between CAPS and NJCFS for all the vicinages.*

Response

The Judiciary agrees that for financial integrity and improved financial controls it is important to reconcile the Probation case management system, CAPS, to the state's book of records (NJCFS). A committee of vicinage CAPS users, AOC Finance Managers, Trial Court System Analysts and ITO have been working for approximately one year to identify system issues that have been the primary impediment to accurate reporting required for the reconciliation process. A number of reporting and system issues have been identified and ITO is committed to complete these enhancements by January 2005. Reconciliation teams have been formed and AOC Financial Management will manage the rollout process.

Sincerely,



Shelley R. Webster
Assistant Director