
**RHODE ISLAND DISTRICT COURT
BAIL AND REGISTRY FUND**

PERFORMANCE AUDIT

December 2003

Ernest A. Almonte, CPA, CFE
Auditor General

State of Rhode Island and Providence Plantations
General Assembly
Office of the Auditor General



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December 16, 2003

JOINT COMMITTEE ON LEGISLATIVE SERVICES

SPEAKER William J. Murphy

Senator William V. Irons
Senator Dennis L. Algieri
Representative Gordon D. Fox
Representative Robert A. Watson

We have completed a performance audit of the Bail and Registry Fund administered by the Rhode Island District Court. The audit was requested by the Rhode Island Judiciary to seek improved procedures for the fiscal management and oversight of the bail and registry fund within the District Court. Our report is included herein as outlined in the Table of Contents.

Sincerely,

Ernest A. Almonte, CPA, CFE
Auditor General

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EXECUTIVE SUMMARY

Performance Audit - District Court Bail and Registry Fund

We conducted a performance audit of the Rhode Island District Court Bail and Registry Fund at the request of the Rhode Island Judiciary. Bail monies may be collected at any of the four divisions of the District Court, at a municipality before a Bail Commissioner, or at the Adult Correctional Institutions. Bail funds are deposited into checking accounts maintained for this purpose. Registry funds are amounts held by the court in civil cases.

The courts utilize a comprehensive case management system known as Banner. Information specific to the pending criminal matter along with details pertaining to the posted bail is entered into the Banner system.

The various divisions of the District Court each maintain a manual checking account. The balances in these accounts totaled over \$2 million in May 2003. At each division, the individual who prepares the daily bank deposit also writes checks from the account and reconciles the monthly bank statement. These incompatible functions are serious control weaknesses that increase the possibility of defalcations or misappropriation of funds.

The checking account at the 6th Division in Providence had not been reconciled since June 2001. Since reconciliation of checking accounts is an important internal control, staff duties and responsibilities must be realigned to ensure the checking account is reconciled monthly.

Case-specific bail information is entered into the Banner system. At the same time, the actual cash received is deposited into one of the four checking accounts maintained by the District Court. However, no effort is made to reconcile these checking accounts to the case information in the Banner system. The lack of reconciliation is a significant weakness in internal control, and should be resolved immediately.

Bail commissioners collect cash bail and transmit the bail funds to the District Court on the next business day. To reduce the risk associated with holding cash for extended periods, bail commissioners should be instructed to deposit cash into the night deposit box at the bank. Another weakness in this process is that these cases are not entered into the Banner system at the time bail is collected. This could be resolved by extending the Banner system to all municipalities in which bail funds are collected by bail commissioners.

According to Federal Deposit Insurance Corporation regulations, accounts owned by the same entity, but designated for different purposes, are not separately insured. Instead, such accounts are combined and insured for up to \$100,000 in the aggregate. Therefore, approximately \$1.9 million currently on deposit in the bail fund is not insured. The District Court could open an escrow account consisting of a master account and numerous sub-accounts. Each sub-account is insured for \$100,000.

Other recommendations address the timely deposit of bail, safekeeping of daily receipts, transfer of bail, bail proceeds, unclaimed bail, policy and procedures manual, employee training, and security over the Banner system.

II. INTRODUCTION

OBJECTIVES, SCOPE AND METHODOLOGY

We conducted a performance audit of the Bail Fund at the Rhode Island District Court at the request of the Rhode Island Judiciary. Our audit was conducted in accordance with *Government Auditing Standards*. The period covered by our audit was primarily the fiscal year ended June 30, 2003. Where relevant, we extended our audit procedures to prior fiscal years.

Our audit focused on evaluating the practices and procedures employed by the District Court in administering the Bail Fund. Our objective was to identify practices and procedures that could be improved or made more efficient. To achieve our audit objectives, we reviewed relevant policies and procedures, interviewed responsible personnel, observed key operations, and performed tests and other procedures as considered necessary in the circumstances.

BACKGROUND

The District Court in Rhode Island has four divisions: Providence (6th), Kent County (4th), Washington County (3rd), and Newport (2nd). All criminal cases originate in the District Court. Misdemeanors remain in the District Court. Felonies also remain in the District Court if the defendant waives the right to a jury trial. When the defendant does not waive this right, the case is transferred to the Superior Court for trial, and the bail posted in the District Court is transferred to the Superior Court.

The District Court includes 13 judges, 2 magistrates, and 72 support staff. In fiscal 2003, 29,653 misdemeanor cases were filed and 28,391 were disposed. During the same period, 7,399 felony cases were filed and 6,610 were disposed.

Bail is governed by Section 12-13 of the Rhode Island General Laws, which states in part, *“Every person who is held on any criminal process to answer to any indictment, information, or complaint shall be released on giving recognizance with sufficient surety ... before a justice of the district court, when the complaint is pending in that court, or the person is held to answer to that court, in the sum named in the process [or] a sum deemed reasonable by the justice, to appear before the court...or to answer to it whenever called on so to do, and in the meantime keep the peace and be of good behavior.”*

Bail monies may be collected at any of the Divisions of the District Court, at a municipality before a Bail Commissioner, or at the Adult Correctional Institution. Bail collections are deposited daily into checking accounts maintained for this purpose at three of the four divisions, and weekly at the other.

The courts utilize a comprehensive case management system known as Banner. Core components include docket management, scheduling and calendar, document production, accounting management, service processing, and reporting.

Information specific to the pending criminal matter along with details pertaining to the posted bail is entered into Banner. This system has been configured to capture, store and report upon the required case specific bail information. Bail monies are usually held until the case is adjudicated at the District Court level or transferred to the Superior Court. Once the case is adjudicated, fines and fees can be deducted from the posted bail amount; the balance is returned to the person who originally posted the bail.

The Banner system is not fully implemented. The return of bail proceeds is a manual process; details concerning the check date and number, payee and amount are not captured within the Banner system. Although the Banner system is capable of automating this process, the required procedures to implement this option have not been developed.

STATUS OF PRIOR AUDIT FINDINGS AND RECOMMENDATIONS

The state Bureau of Audits conducted an audit of agency funds at the District Court for the fiscal year ended June 30, 2000, and issued an audit report dated April 5, 2002. The status of the recommendations contained in that report that pertain to the bail fund are discussed below.

- ❑ Administrators should establish a policy and procedures manual.

In process but not completed (see page 17 of this report)

- ❑ A formal accounting system should be established to provide accountability, enhance financial reporting, and to demonstrate the discharge of the court's financial responsibility.

Not implemented (See page 7 of this report)

- ❑ An employee or member of management who is independent of the cash receipting, disbursing, and recording functions for this account should perform bank reconciliations for the bail account.

Not implemented (See page 5 of this report)

- ❑ Interest earned by the 6th division's bail account during the period December 1998 through June 2000 was not remitted to the General Treasurer.

Implemented

- ❑ The total for individual bail and registry accounts is not reconciled to the checking account balance on deposit.

Not implemented (See page 7 of this report)

- ❑ Bail and registry accounts should be reviewed periodically to identify inactive accounts, which should be disposed of in accordance with state general laws.

Not implemented (See page 15 of this report)

- ❑ The cash balance on deposit in the 6th division's bail account is in excess of current needs. All excess cash on deposit should be transferred to an online state account.

Not implemented (See page 16 of this report)

POSITIVE ACHIEVEMENTS

The District Court has improved the physical security at the Sixth Division in Providence. Video cameras, which are connected to videotaping machines, have been installed. All money-handling areas have been glassed in to further protect state funds. Also, separate cash drawers for each cashier have been ordered, and a new electronic entry card system has been installed and is about to be implemented.

Recognizing the overall importance of the internal audit function as a critical aspect of fiscal management and oversight, the State Court Administrator advised that the Judiciary is currently developing and will implement an internal audit function that will include the position of internal auditor.

III. FINDINGS AND RECOMMENDATIONS

SEPARATION OF DUTIES

Separation of duties improves internal control by assuring that no one individual has control of a critical function, such as handling cash. Separation of duties also will prevent or decrease the risk of errors or irregularities; identify problems; and ensure that corrective action is taken when errors are identified. We found that the District Court lacks separation of duties regarding the handling of bail funds at each division.

The various divisions of the District Court each maintains a manual checking account to deposit receipts, transfer funds to other jurisdictions, and return remaining bail funds to those individuals who originally posted bail. Substantial amounts of funds are maintained in these checking accounts, as these May 2003 balances indicate:

Second Division	\$ 183,713
Third Division	179,587
Fourth Division	116,872
Sixth Division	<u>1,595,091</u>
TOTAL	\$2,075,263

At each division of the District Court, we noted that the individual who prepares the daily bank deposit also writes the checks from that account and reconciles the monthly bank statement. These incompatible functions are serious control weaknesses that increase the possibility of defalcations or misappropriation of funds.

RECOMMENDATIONS

1. Realign duties so no one employee can receive and disburse funds.
2. Establish a formal policy and procedure to ensure that no one employee can be assigned to do these functions exclusively.

Auditee Views:

The District Court concurs with these recommendations. Administrative Order 2003-5 will require separating the function of reconciling the bail account from the function of writing checks from that account. Two signatures will be necessary on all bail fund dispersal checks.

RECONCILIATION OF BANK STATEMENTS

We reviewed the activity in these checking accounts at each division. We found that the checking account at the 6th Division in Providence had not been reconciled since June 2001. We were informed that this was due to staff shortages. Since we regard reconciliation of checking accounts to be an important internal control, we believe staff duties and responsibilities must be realigned to ensure the checking account is reconciled monthly.

We were able to reconcile the checking account through February 2002, using a court-produced spreadsheet that listed deposits and checks for each month. Since the monthly spreadsheet was not maintained beyond February 2002, we did not attempt to reconcile any additional months beyond that date.

We found two significant errors: in August 2001, a deposit of \$15,177.57 was not recorded in the spreadsheet; in October 2001, a deposit of \$5,800 was erroneously recorded as \$800. We also found immaterial errors in other months we reconciled. We believe the 6th division should assign personnel to record receipts and disbursements for the period from March 2002 to the current month. Each month should then be reconciled and any errors corrected. Subsequently, an individual having no other cash responsibilities should reconcile the monthly bank statement.

Bank reconciliations were current at the other three divisions. However, we found that the individuals reconciling the checking account at each location are also authorized to sign checks and prepare deposits as well. Internal control would be improved by assigning the task of reconciling the monthly bank statement to an individual not having responsibility for other checking account activities.

RECOMMENDATIONS

3. Reconcile checking accounts monthly to the bank balance.
4. Assign the task of reconciling the monthly bank statement to an individual with no other responsibility for checking account activities.

Auditee Views:

The District Court concurs. The Director of Finance within the Office of the State Court Administrator will be implementing an internal protocol to ensure reconciliation of the monthly bank statement.

RECONCILIATION TO BANNER SYSTEM

Case-specific bail information is entered into the Banner system. At the same time, the actual cash received is deposited into one of the four checking accounts maintained by the District Court at its four divisions. Bail transfers and payments from these checking accounts are also entered into Banner. However, no effort is made to reconcile these checking accounts to the case information in the Banner system.

The state Bureau of Audits prepared a schedule as of June 30, 2001 that indicated that bail accounts recorded in the Banner system totaled \$2,277,876, while checking accounts balances totaled \$1,763,465, or an unreconciled difference of \$514,410. The actual difference at the time of our audit could not be discerned. The court staff had not attempted to reconcile this difference, and sufficient reliable information was not made available to enable us to perform a complete reconciliation.

We did determine, however, that there are some contributing factors to these differences. For example, registry funds are deposited into the checking accounts but not entered into Banner. Registry funds are amounts in dispute that are held by the court until the dispute is settled. In addition, the checking accounts contain bail funds that represent cases from the system used prior to Banner. These cases have not been entered into Banner.

We consider the lack of reconciliation between Banner and the checking accounts to be a significant weakness in internal control, and one that should be resolved immediately by financial personnel at the Courts.

RECOMMENDATION

5. Reconcile the total amount of bail recorded in the Banner system to the cash on deposit in the bail fund checking accounts.

Auditee Views:

The District Court concurs. The court realizes that this system is not ideal; other auditors recommended it because both bail and registry accounts are trust accounts, not state receipts. The implementation of the Banner Civil system in 2005 will alleviate this concern because registry funds will be recorded in that system.

COMMINGLING OF FUNDS

The District Court Bail Fund includes registry of the court funds as well as bail monies. The two types of funds are commingled into one account. The registry of the court funds are held in escrow until a judge determines the appropriate disposition of the funds.

Since registry of the court money is not entered into the Banner system, the system does not account for such funds. We believe these types of monies should be maintained in separate funds within the Banner system as a means of identifying, classifying, and recording all financial transactions involving these funds.

RECOMMENDATION

6. Improve internal control over the registry of the court funds by:
 - a. Separating the two types of funds;
 - b. Accounting for registry of the court funds in the Banner system;
 - c. Maintaining a separate control total for each type of fund and record receipts and disbursements; and
 - d. Monitoring the balances and ensure all cases can be traced from the bank account to the accounting transactions and agreeing in total.

Auditee Views:

The District Court concurs. See response to recommendation 5 above.

PREPARATION OF BANK DEPOSIT

Due to the volume of cases at the 6th Division in Providence, bail monies are collected in a money room adjacent to courtroom 4D. Each morning, the daily collections are prepared for deposit into the bail fund checking account. These funds are transferred to the fiscal office and combined with other bail collections for deposit.

No separate count of these funds is performed before the daily deposit is transferred to the armored car service for delivery to the bank. As a result, the source of any shortages cannot be identified. We believe that bail monies should be recounted when received at the fiscal office from the money room to ensure accuracy and identify any shortages.

RECOMMENDATION

7. Perform a second count of bail monies transferred from the money room to the fiscal office before the bank deposit is completed.

Auditee Views:

The District Court concurs. The recount will be mandated by Administrative Order 2003-5.

BAIL NOT DEPOSITED TIMELY BY DIVISIONS

The second division deposits bail received weekly rather than daily as is done at the other divisions of the District Court. Fiscal personnel at the 2nd division believe the small amount of bail received does not warrant a daily deposit.

Each day cash bail collected is counted, recorded in Banner, placed in an envelope, and stored in the safe. Each envelope is labeled with the date and total amount of cash bail received for that day. On Thursday afternoon, the deposit is prepared for cash bail received from the previous Friday to the current day, and is picked up by the armored car service on Friday morning. However, in preparing the deposit on Thursday, cash actually counted for the week is not verified to cash bail recorded in Banner for the week.

RECOMMENDATION

8. Deposit cash bail received on a daily basis.

Auditee Views:

The District Court concurs. This will be mandated by Administrative Order 2003-5.

COLLECTIONS BY BAIL COMMISSIONERS

Bail commissioners collect cash bail, issue a receipt to the defendant, and transmit the bail funds collected to the applicable division of the District Court on the next business day. However, if bail is collected on the weekend, the bail commissioner holds the funds until Monday morning. Therefore, the bail commissioner could be holding bail for as long as three days before transmitting the funds.

To reduce the risk associated with holding cash for extended periods, bail commissioners should be instructed to deposit cash into the night deposit box at the bank. Bail commissioners would then have to transmit a copy of the completed deposit slip to the appropriate court division on the next business day.

Another weakness in this process is that these cases are not entered into the Banner system at the time the bail is collected due to the unavailability of the Banner system at the municipal level. This results, for at least a brief period, in the Court holding bail funds for which no case has been created.

We believe this situation can be avoided by extending the Banner system to all municipalities in which bail funds are collected by bail commissioners. Municipal police personnel would have immediate access to court records concerning arrested individuals, and would be able to instantly create a new record as needed. Fiscal personnel would be able to

reconcile funds transmitted by bail commissioners to records created in the Banner system, and resolve any variances.

RECOMMENDATIONS

9. Allow bail commissioners to deposit cash bails posted on the weekend into a night deposit box at the bank.
10. Adequately train bail commissioners in performing this procedure.
11. Extend the Banner case management system to all municipal police departments at which bail is collected as soon as feasible. Require all cases to be entered into the Banner system concurrent with the collection of bail.

Auditee Views:

The District Court does not concur with recommendations 9 and 10. Under the current system, the bail commissioners are responsible for bail money until it is turned in and they receive their copy of the receipt form. The court believes this is an effective procedure to control these funds.

The District Court partially concurs with recommendation 11. While the court is working on an interface between the police data system and the court's data system, the court notes that a special arraignment is a judicial proceeding, and it has never been anticipated that police would enter court information.

SAFEKEEPING OF DAILY RECEIPTS

During our fieldwork at the 2nd division, we noted that the safe in the fiscal office is opened in the morning and remains open until the end of the business day at 4 p.m. All employees in the fiscal office know the combination to the safe.

We believe that appropriate security measures require that the safe be locked when not in use, that the combination to the safe be made available to only necessary personnel, and that it be changed periodically.

RECOMMENDATIONS

12. Keep the safe locked at all times.
13. Change the combination to the safe periodically, and only allow necessary personnel to know the new combination.

Auditee Views:

The District Court concurs, and has implemented these recommendations.

ORDER OF TRANSFER OF BAIL

All cases originate in the District Court. However, certain cases are transferred to the Superior Court for adjudication. When cases are transferred, the related bail funds posted at the District Court should be transferred to the Superior Court Bail Fund by using the “Order of Transfer of Bail” document. Bail should not be transferred without use of this document.

During our review of cases at the 2nd Division, we noted that the “Order of Transfer of Bail” form is not used. We were informed that the defendant’s attorneys can ask for a transfer of bail for their clients and bail is transferred. Also, there have been instances where the defendant will ask for the transfer to take place so the fines and fees imposed in Superior Court can be applied to the bail posted at the District Court after the transfer.

The 2nd District had its own unique system to identify the transfer of bail to the Superior Court in which a handwritten “X” is marked through the receipt. Also, written on the receipt is “T/S/C” to indicate the case was transferred to the Superior Court.

From the records provided at the 2nd division, we could not determine the amount, check number, or date of transfer of funds because no notation is made in the file. Due to the lack of an audit trail we could not determine whether the funds have been transferred.

This form is the mechanism and the authorization for District Court to transfer bail being held on behalf of the defendant to the Superior Court. Due to the lack of controls and written procedures, adherence to the procedure is not followed.

The current draft of the policy and procedures manual does not address the topic of transfer of bail; it should be revised to include the detailed steps that need to be followed.

RECOMMENDATIONS

14. Revise the policy and procedure manual to include which document is used for a particular transaction, such as the transfer of bail.
15. Record pertinent information relating to the transfer of bail i.e., check amount, and check number and date.
16. Conduct periodic tests to ensure policies and procedures are being followed.

Auditee Views:

The District Court concurs. The Order of Transfer form will be used in the Second Division as it is used elsewhere. This will be reiterated by Administrative Order 2003-5.

In addition, we discovered that bail transfers are not always accepted by the Superior Court. One case we examined originated in District Court and was transferred to Superior Court. The bail remained in the District Court. The case was adjudicated in Superior Court; fines and fees were assessed, but were not paid at the time of disposal. Meanwhile, the posted bail remained on deposit with the District Court.

Three months later, the District Court notified the defendant that a refund of the posted bail was available, although he had yet to pay the assessed fines and fees to the Superior Court.

RECOMMENDATION

17. Accurately record the status of all bail in each case file in the Banner system.

Auditee Views:

The District Court concurs.

APPLICATION OF BAIL PROCEEDS

Once a case is adjudicated, bail is to be either applied to fines and fees assessed by the judge or returned to the payor. We discovered two instances in our sample of 25 cases at the 2nd Division in which fines were assessed, but the bail to be applied to fines and fees was not transferred out of the bail account and into the fines and fees account.

This results in overstating the bail fund balance, and understating fines and fees, which is a state General Fund account. We brought this issue to the attention of the District Court personnel and it was agreed that it was an oversight and the problem would be rectified.

RECOMMENDATION

18. Once a case is adjudicated, transfer the bail to fines and fees as applicable, and return the remaining bail to the payor.

Auditee Views:

The District Court concurs. This procedure will be mandated by Administrative Order 2003-5.

RETURN OF BAIL PROCEEDS

Bail monies imposed to insure the appearance of the defendant at subsequent court proceedings are typically sufficient to cover whatever fines, fees and court costs may eventually be imposed. We noted numerous instances in which bail proceeds remaining after fines, fees and court costs are imposed are less than \$10.

For example, bail is frequently set at \$100 for misdemeanor cases. When the case is adjudicated, fines (\$60), fees (\$30) and court costs (\$3.50) imposed total \$93.50, leaving proceeds of \$6.50 owed to the person who posted the bail. We noted numerous instances at all of the District Court divisions in which checks in that amount remain outstanding for several months (for example, of the 85 outstanding checks at the 3rd Division in May 2003, 60 were for less than \$10). Also, our case review included several cases in which amounts of less than \$10 were owed, but no effort was made by the person who originally posted the bail to collect this remaining balance.

The amount of court costs has remained at \$3.50 since 1980. We believe this would be an appropriate time for legislation to increase this cost to \$10. In addition to increasing General Fund revenue, the increase would remove the administrative burden of issuing checks for small amounts, accounting for small refunds, notifying those persons who posted bail that a small bail refund is due them, and accounting for outstanding checks of small amounts.

RECOMMENDATION

19. Seek legislation to increase court costs from \$3.50 to \$10.

Auditee Views:

The District Court concurs. The Judiciary will consider proposing legislation increasing court costs to \$10.

We were informed that the District Court's informal policy is to require persons who are owed bail refunds to *appear in person* at the respective division to receive a check for the amount owed. A form letter is sent to these individuals if the bail refund is not immediately collected after the case is adjudicated.

We found that this policy is strictly followed only at the 6th Division in Providence. Our audit disclosed instances at the other divisions in which bail refunds were provided to attorneys representing out-of-state clients, without authorization from the clients. We also noted that the other divisions routinely returned bail refunds by mail when appropriate authorization was received.

We found that the 3rd Division in Warwick returned posted bail of \$10,000 to a relative of the defendant who had posted the bail personally, without written authorization from the defendant. Court personnel acknowledged that such authorization should have been secured before the payment was issued.

Court personnel informed us that persons owed bail refunds do not always seek these monies due to the following:

- ❑ the amounts involved may be small and do not warrant returning to the court location;
- ❑ defendants regard bail as a fee paid to secure their freedom pending a future court appearance and are not aware that bail can be refunded; and
- ❑ the persons involved live out-of-state and are unwilling to return to receive the bail owed in person.

In addition to the above, we believe that the form letter sent to those to whom bail refunds are owed is somewhat intimidating and may be difficult to comprehend.

We interviewed a fiscal representative of the Superior Court, who informed us that their policy is that bail can be returned via mail to the person who posted the bail. However, a signed affidavit is necessary to return bail to someone other than the person who posted bail, and in some instances, persons are required to visit the Court fiscal office to receive the refund check.

Our recommendation above to increase court costs will eliminate small-dollar refunds. This should make it easier to administer the return of bail by mail. Payments returned as undeliverable should be transferred to the Unclaimed Property program administered by the General Treasurer.

RECOMMENDATIONS

20. Return bail refunds by mail.
21. Transfer undeliverable payments to the Unclaimed Property program administered by the General Treasurer.

Auditee Views:

The District Court does not concur with recommendation 20. The court believes it is generally inadvisable to return bail by mail because of identification problems.

Regarding recommendation 21, see the response to recommendations 24-26, below.

DUPLICATE BAIL REFUNDS

We found one instance in a sample of 25 cases at the 2nd Division in which bail proceeds were returned twice to the same defendant. At our request, District court personnel reviewed the case and confirmed that the individual was reimbursed twice.

While the amount (\$6.50) in this case is not substantial, there was a breakdown in the internal controls governing the return of bail. Case documentation needs to be strengthened to preclude this type of situation from recurring.

RECOMMENDATIONS

22. Strengthen case documentation to preclude the possibility of duplicate bail refunds being processed and paid.
23. Review folders periodically to ensure all procedures are being followed.

Auditee Views:

The District Court concurs. The correct procedures will be reiterated by Administrative Order 2003-5.

UNCLAIMED BAIL

According to Rhode Island General Laws Section 8-12-2, when "...it appears that there are deposits in the registry of the supreme court, the superior court, the family court, or the district court unclaimed by any person prima facie entitled to the deposits...for a total of five (5) years next preceding the last business day of the month of June of the then current year, all deposits...shall be paid to the general fund to be held and used by the administrator of the state courts as approved by the chief justice of the supreme court subject to being repaid to the person who may subsequently establish a lawful right to the deposit."

Our review of unclaimed bail procedures found that no written uniform policies exist. One division had not submitted unclaimed bail to the General Treasurer in many years. Another division submits unclaimed bail annually, another quarterly, and yet another had not submitted bail since 2001.

The contributing factor in unclaimed bail not being submitted to the General Treasurer is that it is not adequately monitored and tracked. In addition, proper notice should be given to the defendant or other payor of the bail before the bail is submitted to the General Treasurer. According to Rhode Island General Law Section 33-21.1-17, notice is to be given not less than 120 days before the unclaimed bail is submitted to the General Treasurer.

RECOMMENDATIONS

24. Adequately monitor and track unclaimed bail.
25. Comply with Rhode Island General Law Section 8-12-2 in submitting unclaimed bail to the General Fund after five years.

26. Comply with Rhode Island General Law Section 33-21.1 in giving proper notice to the payor of bail.

Auditee Views:

A review and assessment of current Judiciary-wide practice and procedures regarding the accounting, monitoring, management and disposition of unclaimed deposits in the registry of the various courts will be initiated to ensure compliance with applicable Rhode Island General Laws.

DAILY CASHIER REPORT

The 3rd District Court does not have the capability to print the Daily Cashier Report from the Banner system. We believe this is an important document because it provides a breakdown of all the types of financial transactions that took place on a particular day. This detailed document serves as the support for the bank deposit at the 6th Division. We found this to be a valuable tool in analyzing the activity of any given day.

According to the personnel at the District Court, the document was available for approximately three days at the inception of Banner. Although the Banner “help desk” was contacted, the situation was never resolved.

RECOMMENDATIONS

27. Adopt uniform procedures for the proper use of all Banner documents. The current draft of the revised policy and procedure manual does not address all the documents within Banner and the intended purpose.
28. Follow up on all requests to resolve administrative issues at the various divisions.

Auditee Views:

The District Court concurs, and notes that this procedure has been in use at the 3rd Division since August 2003.

FDIC INSURED BANK ACCOUNTS

The District Court maintains bank accounts (*Government Interest Bearing checking accounts*) for each division. These accounts include bail posted for all defendants until the bail is remitted to the payor, applied to fines and fees following the disposal of a case, or transferred to the Superior Court Bail Fund.

The District Court Bail Fund bank accounts total approximately \$2 million as of May 2003. According to Federal Deposit Insurance Corporation (FDIC) regulations, accounts owned

by the same entity, but designated for different purposes, are not separately insured. Instead, such accounts are combined and insured for up to \$100,000 in the aggregate. Therefore, the FDIC does not insure approximately \$1.9 million currently on deposit in the District Court Bail Fund.

We determined that the District Court could open an escrow account, consisting of a master account and numerous sub accounts. The FDIC insures each sub account for \$100,000. The sub accounts will be in the name of each defendant or other payor posting bail. However, the defendant or other payor would not have the authority to obtain funds from this type of account.

Once the escrow account is established, the existing account should be maintained for a specific period of time (such as one year) to allow for current bail funds to be negotiated. After that time, the existing account should be closed and any remaining funds transferred to the General Treasurer's unclaimed bail account.

RECOMMENDATIONS

29. Establish an escrow account consisting of a master account and sub accounts for each bail posted.
30. Allow sufficient time for the old checking account to draw down and submit all unclaimed bail to the General Treasurer.

Auditee Views:

The District Court firmly believes that this proposal is worth exploring. The Director of Finance within the Office of the State Court Administrator will coordinate with appropriate banking and Executive Department officials to develop a protocol for implementation.

POLICY AND PROCEDURES MANUAL

We requested a current policy and procedure manual for the Courts and were informed that the existing manual is outdated. Most recently, the Courts have formed a committee to update the policy and procedure manual. On August 4, 2003, we were given an updated policy and procedure manual, which lacks the level of detail and specific guidance for day-to-day activities we believe is necessary. For instance, the manual should identify and provide examples of the documents needed to support the daily cash deposit. We found that the documentation to support the daily deposit differed in each division. For example, one division used the Banner Daily Cashier Report while another used the Banner receipt generated by the Banner case management system. The policy and procedures manual should include detailed steps and highlight the documentation that should accompany the deposit slip.

Our audit disclosed many inconsistencies regarding the interpretation and implementation of existing policies and procedures at the various divisions. For instance, there is no uniform bail deposit procedure. The 6th division has a split day; the 4th Division deposits funds in the morning for the prior day; the 2nd and 3rd divisions deposit funds at the end of the day. Also, the documents that support the deposits are different in each court.

Subsequent to our fieldwork, District Court personnel informed us that a uniform procedure regarding the timing of the deposit is being implemented for all divisions. However, the issue of uniform documentation still needs to be addressed.

RECOMMENDATIONS

31. Update and refine the draft policy and procedure manual and include detail. This manual should be used to assist department personnel in the daily activities in all aspects of the court.
32. Assign the task of updating the manual to an individual who will be responsible to ensure all staff personnel have received updates.

Auditee Views:

The District Court concurs, and believes that Administrative Order 2003-5 will satisfy this requirement.

CORRECT PAYOR INFORMATION

Our audit noted that the correct payor for bail is not entered into the Banner system in all cases. In the 2nd and 3rd Divisions, the payors' name is handwritten on the bail receipt, but the defendant's name is identified as the payor in the Banner system, which may not be correct.

This can cause a variance when bail is returned partially or in full. If the defendant is identified as the payor in the Banner system but did not post the bail, that person will receive the returned funds rather than the individual who actually posted the bail. In addition, the defendant may owe other fines and fees. If the payor is not correctly identified, the bail proceeds may be used to pay other amounts due.

RECOMMENDATION

33. Implement policies and procedures to ensure the correct payor is entered into the Banner system.

Auditee Views:

The District Court concurs.

ADDITIONAL BONDING INSURANCE

The amount of cash processed daily at each division ranges from \$2,500 at the 2nd Division to \$20,000 at the 6th Division. An Employee Dishonesty Policy insures State of Rhode Island employees for \$25 million (per incident). However, this insurance policy has a deductible of \$50,000. Therefore, the state would be held liable for any and all amounts up to the deductible for each incidence of fraud committed by an employee.

The District Court should consider purchasing additional bonding from a private bonding company to cover those employees who handle cash daily, thereby reducing the deductible to a reasonable level.

RECOMMENDATIONS

34. Reduce the deductible for only employees handling cash under the current insurance policy to a reasonable amount.
35. Purchase additional bonding from a private bonding company on employees handling cash on a daily basis.

Auditee Views:

The Office of the State Court Administrator will explore whether obtaining additional coverage for certain employees would be cost effective.

CLERICAL ERRORS

In our testing, we noted numerous clerical errors. Some divisions had more errors than others but the conditions existed in all of the District Courts. In the 2nd Division we tested 25 cases and of those we identified 15 exceptions. In some cases because of the lack of information we were unable to trace the disposition of the funds to fines and fees or the return of bail. The files lacked such pertinent information as check number, date, amount and payee. We were unable to trace the disbursements to the checkbook because of this lack of information; therefore, no clear audit trail existed.

RECOMMENDATIONS

36. Implement a quality control review to ensure all required data is recorded.
37. Review control procedures of recording information.
38. Include the detailed information that needs to be captured in the policy and procedure manual.

Auditee Views:

The District Court concurs, and notes that the promulgation of Administrative Order 2003-5 should assist in this process.

EMPLOYEE TRAINING

Our interviews with numerous personnel in the four divisions of the District Court determined a lack of training in software usage and general District Court policies.

We were informed by the Courts' Judicial Technology Center that Microsoft Office software was fully implemented as of March 2002. However, no division is currently using the software because division personnel have not received appropriate training. We found that they continue to use the older Lotus 1-2-3 software as a spreadsheet application rather than Microsoft Excel, which is part of the Microsoft Office software package.

In addition, most employees are not using the Banner System to its fullest capacity due to inadequate training. The Banner System was first implemented in 1999, and is a system in which bail and fines and fees are recorded.

In regards to general District Court policies, all divisions are performing similar duties in completely different ways. The implementation of our recommendation to create a policy and procedure manual will make training necessary to ease the transition and avoid any misconceptions.

RECOMMENDATIONS

39. Provide adequate training to employees who may use Microsoft Office.
40. Provide adequate training to employees who may use the Banner System.
41. Provide adequate training to employees regarding district court policies and procedures.

Auditee Views:

The District Court concurs. The Banner trainer for the District Court has been assigned to inquire as to which employees require further training and to have such training conducted.

BAIL PROCESSING-INFORMATION SYSTEMS SECURITY REVIEW

INTRODUCTION

Case specific bail information is now being input to the courts' automated Banner system at a number of court locations. Select users have been granted access to the Banner bail systems procedures to process information regarding the receipt, refund or transfer of bail funds. All of the data captured within the Banner system resides on computers located at a Data Center within the Garrahy Judicial Complex. The Judicial Technology Center (JTC) is the group that is responsible for administering the hardware and software used in the direct support of the Banner system.

Case-based information contained within the Banner system can be as current as the cases that were processed the previous day or as long as 20 years ago. When the Banner system was implemented, older criminal cases were converted from the legacy (Promis) system into the Banner system. In some instances, 'shell cases' were created within Banner to allow for the entry of information that had been kept in older manual files. Additionally, the JTC is aware that some cases have been adjudicated by the court but have not been properly closed in the Banner system. These improperly closed cases have caused a problem in the reporting of bail funds maintained within the Banner system. The JTC is proposing a long-term 'data cleanup' of these problem cases.

Our review of the established Banner bail system procedures focused on the information systems security controls that exist over the automated Banner bail operations.

INFORMATION SYSTEMS SECURITY PLAN

Effective security management procedures over all aspects of information systems technology are of critical importance to any government agency. This criticality derives from the agency's increasing dependence on information, and the systems and communications that deliver this information. The Banner system and the information contained within it is one of the State's most critical systems.

As with any new computer system, best practices would mandate the development and implementation of a formal written Information Systems Security Plan. An Information Systems Security Plan is essentially an outline of an agency's critical assets (hardware, software, and data) and how these assets must be protected.

Some common goals of an Information Security Plan include, but are not limited to, the organization of the collection, storage, logical handling and processing of data so that the integrity and confidentiality of this data is not compromised. Additionally, the plan must be designed to achieve the required level of information security relative to the 'value' of the information resources being protected by the plan.

Our review of the new Banner system found established procedures in place that addressed *selected areas* within information systems security. Yet, we found no formal, comprehensive Information Systems Security Plan to exist for the Rhode Island Judiciary.

An overall written Information Security Plan must be developed to establish policies, procedures, and standards to monitor the use of the Banner and all other judicial systems. This plan should have the means and ability to detect, record, analyze, report and act upon security incidents when they occur, while minimizing the probability of occurrence by applying intrusion testing and active monitoring. As part of the Information Security Plan, the Rhode Island Judiciary should have an individual or individuals maintaining and monitoring the plan and reporting their findings directly to senior management.

After the plan is developed, it must be deployed throughout the entire organization in order to be effective. Users should be fully trained in the use of the plan and agency management must develop steps to monitor the plan's ongoing operation and effectiveness. On a scheduled basis, the plan must be reviewed and updated to reflect any changes within the established policies or practices.

RECOMMENDATION

42. Develop an overall written Information Security Plan to establish policies, procedures and standards to monitor the use of the Banner system and all other judicial systems.

Auditee Views:

The Judicial Technology Center concurs. The Judiciary is currently engaged in the conversion of the software applications into a current version of the Banner system. A document developed within the scope of this project addresses application authentication and data security. Separately, a policy and documentation development project has begun. The project scope includes the development of an acceptable use policy as well as security policy as it relates to the network, and the policy and procedures related to use of email, equipment, the Internet, etc.

DISASTER RECOVERY AND CONTINGENCY PLAN

Disaster recovery and contingency procedures are required elements of a comprehensive operational plan for data centers housing computers, communications, and related support equipment. Agencies responsible for the ongoing operations of these data centers must develop and maintain a formal plan designed to facilitate recovery from any form of man-made or natural disaster. Simply stated, the plan should provide an effective means of minimizing the systems downtime in the event of a major disruption.

Our review of the Banner system determined that the Judicial Technology Center has not developed a formal written Disaster Recovery/Contingency Plan. The JTC must develop a

formal plan to facilitate systems recovery in the case of an incident or disaster. In designing the plan, best practices would mandate that all major elements of the disaster plan be specifically addressed within the plan.

RECOMMENDATION

43. Develop a formal written Disaster Recovery/Contingency Plan to facilitate systems recovery in the case of an incident or disaster.

Auditee Views:

The Judicial Technology Center concurs. A complete review of the Judiciary's Disaster Recovery and Planning Readiness was performed and a report produced in June 2002. Many of the report's recommendations have been completed; the remaining recommendations are under review. A project manager has been assigned to develop a formal Disaster Recovery/Contingency Plan, and a plan will be started in October 2003.

BANNER/NETWORK LOGICAL ACCESS CONTROLS

The Banner system captures a wide variety of case-file data on defendants as they proceed through the legal system. Stringent security is required over the use of the system because of the possible risks resulting from loss, misuse, unauthorized access, or modification of information. A means of delivering sufficient levels of security is to develop strong logical access controls over all Banner users.

Logical access controls are defined as a system of procedures and practices found within the agency's operations and in the software products used to protect all computer resources against unauthorized access. Measures must be taken to protect information from unauthorized modification, destruction, or disclosure whether accidental or intentional, as well as to ensure its authenticity, integrity, and availability. Due care must be taken to protect this information from its original source to its final destination. Procedures should be in place to ensure that timely actions are taken by the agency whenever a user's security status changes. In addition, a review of all users' accounts must be conducted by the agency on a regular basis. To assist in this review, the Banner system should be configured to collect and report upon all available systems security activities.

For our review, we divided the Judiciary's data collection and information systems delivery systems as two separate levels of review: (1) the Banner application, and (2) the network's logical structure. The majority of these findings are applicable to both levels of reviews, unless otherwise noted. For easier reporting, we have grouped this Logical Access section in three major logical access functions: Identification and Authentication, Resource Access Control, and Accountability and Auditability.

Identification and Authentication

The Banner system was designed to capture and maintain extensive amounts of case-specific information that is processed through this system. Since much of the data is sensitive in nature, controls must be established to ensure that only authorized users are allowed access to this information. Appropriate mechanisms should exist for user identification and authentication before allowing any individual access to the system.

Currently, the Banner system requires all users to supply the system with assigned security access codes before gaining entrance. The user identifications along with their password is used to determine who is requesting system access and what access privileges are to be granted. The majority of the state's computer systems use this identification and password scheme.

This type of user identification and authentication system is considered the weakest link in the access security chain. This type of identification system only guarantees that the individual requesting access knows the correct combination of identification and password of a specific user. The system cannot determine if the requestor is the authorized user or some unauthorized user attempting to gain improper access. When this type of identification system is in place, it is imperative that strong administrative controls be in place.

During our review, we found numerous weaknesses regarding user identification and authentication. Within some operational sections, multiple users were permitted to share the same password, therefore ignoring any type of individual accountability to data processed by this section.

We found also that passwords are not required to be of a specific length and design, and password changes are neither required nor enforced by the system in a formal schedule. Best practices mandate that at a minimum, passwords be changed every 90 to 120 days.

RECOMMENDATION

44. Develop proper identification and authentication policies and practices as part of the Information Systems Security Plan. At minimum, these policies should address the known weaknesses listed above.

Auditee Views:

The Judicial Technology Center concurs. See the response to recommendation 42 above.

Resource Access Control

Based on information gathered from Judicial Technology Center personnel interviews and our review of the Banner system and the Judiciary's network, we noted certain weaknesses regarding resource access control. For example, upon system entry, a message is not displayed warning an unauthorized user of the possible legal consequences.

Secondly, when a user logs on to the system, the following should be displayed:

- ❑ the date, time, and location of the user's last successful logon;
- ❑ the number of unsuccessful logon attempts since the last logon; and
- ❑ the number of days until the user's password expires.

These items are currently not displayed when users log on to the Banner system.

Also, an on-demand status report does not exist showing current security parameters.

RECOMMENDATION

45. Develop clear policies, procedures and practices that address the weaknesses noted above regarding the resource access control functions as part of the Information Systems Security Plan.

Auditee Views:

The Judicial Technology Center concurs, and will investigate the feasibility and costs associated with this recommendation.

Accountability and Auditability Function

All Banner users must be aware that they are responsible for the safekeeping of their access identifications and passwords for the various systems, and trained to exercise great care in protecting these assigned codes. Banner users must be instructed in the proper use of their assigned access privileges and the consequences of any misuse.

All controlled entry systems, such as Banner, must maintain comprehensive audit logs to track the users access and use of the systems data. Management must develop formal procedures to capture the required audit log data, and develop standard reports that detail occurrences of possible misuse.

Our review of the Banner system and the Judiciary's network disclosed weaknesses within the area of accountability and auditability. As an example, we found that data concerning users logons and logoffs is not captured. Further, changes made to a user's existing security privileges and access rights are not being recorded for subsequent review.

RECOMMENDATION

46. Develop clear policies, procedures and practices that address the weaknesses noted above regarding the accountability and auditability control functions as part of the Information Systems Security Plan.

Auditee Views:

The Judicial Technology Center concurs. See the response to recommendation 42 above.

USE OF BIOMETRIC ACCESS CONTROL DEVICES

The management of the Judicial Technology Center joins many other state agencies that are facing increased pressure to strengthen access controls over their recently installed computerized systems. The majority of these systems rely upon a manual “password authentication” as the means of controlling entry into their systems.

Password based user authentication has been found to be one of the weakest links in the information systems security chain. Properly configured password authentication systems could mandate that the user commit to memory passwords that are lengthy and complex in their makeup. The requirement of committing to memory these types of passwords may cause some users to disregard established procedures and create trivial meaningless passwords, reuse the same password or in some cases, simply write down their password on paper and attach it to the bottom of their keyboard. For example, our audit disclosed that all the fiscal employees at one division of the District Court share the same password.

A more secure method to prevent unauthorized access to system resources would be to install the new biometric fingerprint recognition technology. The benefit of fingerprint authentication is that your fingerprint can never be ‘forgotten’, and is not easily stolen. This technology would allow users to quickly and securely log on to the system with the single touch of their finger to an electronic pad. This new type of technology is relatively inexpensive and easy to use since fingerprint-reading devices are now very compact and built in on keyboards and mice.

RECOMMENDATION

47. Management of the Judicial Technology Center should review the current offering of biometric fingerprint authentication systems to determine if installation of this type of equipment would rectify the known password identification and authentication weaknesses found within current systems operations.

Auditee Views:

The Judicial Technology Center concurs. The Assistant Court Administrator for Information Technology will review the recommendation for feasibility.