



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 26, 2015

Title	Agenda Item Type
Judicial Branch Administration: Audit Report for Judicial Council Acceptance	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	June 26, 2015
Recommended by	Date of Report
Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	June 8, 2015
Hon. Richard D. Huffman, Chair	Contact
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Executive Summary

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of San Bernardino*. This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Recommendation

The A&E Committee and Judicial Council staff recommend that the Judicial Council, effective June 26, 2015, accept the following “pending” audit report:

- Audit report dated January 2015 entitled: *Audit of the Superior Court of California, County of San Bernardino*

This acceptance will result in the audit report progressing from “pending” status to “final” status, and publishing the final report on the California Courts public website.

Previous Council Actions

The Judicial Council at its August 27, 2010, business meeting approved the following two recommendations, which established a new process for review and acceptance of audit reports:

1. Audit reports will be submitted through the Executive and Planning Committee to the Judicial Council. Audit reports will not be considered “final audit reports” until formally accepted by the council.
2. All final audit reports will be placed on the California Courts public website to facilitate public access. This procedure will apply to all audit reports accepted by the Judicial Council after approval of this recommendation.

Since August 2010 audit reports have been submitted to the Judicial Council for acceptance.

Rationale for Recommendation

Council acceptance of audit reports submitted by the A&E Committee through the Executive and Planning Committee is consistent with its policy described above and with its responsibility under Government Code section 77009(h), which states that “[t]he Judicial Council or its representatives may perform audits, reviews, and investigations of superior court operations and records wherever they may be located.”

A&E Committee Comments

The A&E Committee reviewed the San Bernardino Superior Court (Court) audit report and recommended this audit report be on consent agenda. The A&E Committee expressed concerns regarding the Court not disbursing earnings on civil trust money when disbursing principal, the lack of accurate or consistently imposed domestic violence fines and fees, and the issues concerning manual receipt control, and financial accounting and reporting. While concerns were expressed over the issues discussed, the consent recommendation is primarily based on the following:

- The number of issues (133) in this audit is not considered unusual for a court this size based on our audits of other courts yet there are some significant issues as mentioned above and detailed below. Additionally, 82 or 62% are considered minor and only reported the appendix of the report.

- The Court has responded to the identified issues by correcting almost 100 issues (over 70%) at the end of the audit of the Court by Audit Services. Additionally, there are a minimal number (7) of issues repeated from the prior audit of the Court completed in 2008 with three of the seven are in the domestic violence section of this report.
- Almost all of the issues that Audit Services considers high risk, or posing a higher than normal exposure to operational loss, were immediately addressed by the Court, or are in process or correction, when Court management was informed of them.
- It is also worthy to note that the Court has had significant fiscal issues in the last few years that has resulted in facility closures, reductions in staff and court hours, and other operational changes that have resulted in operational impacts.
- Judicial officers authorized (78) are far less than actual.
- The last two fiscal years deficits resulted in expenditures in excess of revenues of approximately \$5.6 million and \$15.6 million on revenues of \$99 million and \$84 million, respectively.

Audit Services (AS) discussed the following specific issues from the Management Summary of the audit report and other concerns with the A&E Committee.

Earnings on Civil Trust Money Not Disbursed With the Principal Amounts

A superior court's obligation to pay out any interest that may have accrued on civil deposits when distributing the principal is covered by basic trust principals and case law. In the financial statements of June 30, 2014 (see page x of the audit report) San Bernardino Superior Court has recorded a total of \$12,999,895 of trust money held outside of the judicial council treasury. This balance is the majority of trust money under the Court's fiduciary responsibility and remains in the County treasury as it has historically. Our audit encompassed a total of 13 civil cases within the ten county "funds" reviewed.

Of the 13 civil cases tested, the principal amount deposited for ten of the civil cases had been disbursed. However, interest earned was not fully disbursed for these 10 cases due to a lack of specificity in the judicial order to do so. Audit Services has seen in the past judicial orders which did not discuss, or were not clear as to, the intent to disburse interest with the principal amounts in the judicial order. Therefore, due to this the Court apparently did not disburse the interest nor did the Court reevaluate the reasoning behind the lack of disbursement or elevate the issue for clarification or resolution. Using Court records, Audit Services identified 894 civil trust accounts having civil trust monies totaling over \$11 million as of the date of our review of this area. Out of these 894 civil trust accounts, 520 (58%) have over \$1.3 million with only interest left in the account that Audit Services believes should have been disbursed along with the principal disbursement authorized by a previous judicial order that did not apparently specify earnings to be included in the disbursement.

In order to accomplish correction of the issue Audit Services has identified and make all parties whole, it was recommended that the Court must immediately initiate a remediation program and then going forward ensure that judicial officers, court management, and staff are instructed on the requirements when handling the disposition of civil trusts. The Court agreed and responded

immediately with a remediation program that has researched the cases and has initiated the process of distributing the earnings.

Statutorily Required Domestic Violence Fines and Fees Are Not Accurately or Consistently Imposed

Audit Services' review of domestic violence (DV) case files for 30 criminal cases where the defendant was convicted of a DV charge (DV cases) from July 2013 through January 2014 found that the Court did not always impose the correct fines and fees. Specifically, our review noted the following exceptions:

- For four (17%) of the 24 DV cases reviewed where probation was ordered, the Court did not order the \$500 DV Fee amount pursuant to PC 1203.097(a)(5). In our prior audit of the Court we noted that in four of 11 cases tested the Court did not assess this fee and in one case it assessed less than the minimum amount required.
- For seven (35%) of the 20 DV cases where probation was ordered and the Court ordered a DV fee pursuant to PC 1203.097(a)(5), the Court assessed \$400 instead of the \$500 DV Fee in effect at the time of sentencing and did not state a reason on the record explaining why the minimum amount required was not assessed.
- For all 30 DV cases reviewed, the Court ordered a \$30 Court Operations fee per conviction instead of the required \$40 fee per conviction pursuant to PC 1465.8. IN our prior audit of the Court we noted that in 11 (69%) of the 16 cases tested the Court did not impose this fee.
- Although authorized by a county Board of Supervisors resolution, the Court did not impose the PC 1463.27 Local DV fee for all 30 DV cases reviewed.

The Court's response in February 2008 to the domestic violence fine and fee issues identified was a memorandum from the Presiding Judge at that time to all judges and commissioners reminding them of their obligations to assess these statutorily required fines and fees. In response to this audit's issues in this area, memos and an email were again sent to judicial officers and commissioners. Audit Services also recommends that the Court periodically monitor the assessment of these and other domestic fines and fees to ensure they are properly assessed in the future. The issue identified here is considered a systemic issue that is found in many audit reports and resulted in a lengthy discussion by the committee concerning how to possibly provide a recommendation to the Judicial Council on addressing it. The committee will discuss this further in the coming meetings and discuss the issue with the Presiding Judges Advisory Committee and the Court Executive Advisory Committee.

Other issues of significance for management's attention are detailed below and have either been corrected or are in the process of correction.

- Manual receipt control and oversight. This is one of the highest risk and exposure areas within the operational area of Court as it impacts the collection of court ordered debt and has resulted in numerous and significant defalcations in the superior courts. Audit Services notes that the control over the manual receipt books was not properly maintained and, additionally, our testing identified 23 missing receipts (22 at one location).

- Financial accounting and reporting. Audit Services review of general ledger funds and accounts noted that the Court did not follow prescribed financial accounting requirements for revenue and reimbursements whose use is restricted by statute or purpose. Additionally, Audit Services noted that the State Comprehensive Annual Financial Report (CAFR) did not properly report items. Examples of this include one lease which was not reported and software, software upgrades, and software consulting expenses which were reported as fixed asset additions.
- Civil Filing Fee Payments. Before courts proceed on civil cases, parties must pay their required civil filing fees in full or be granted a fee waiver which may initiate other payment processes including installment payment plans. Our review of nine civil cases in which the Court established a payment plan for the required civil filing fees found that the Court does not always fully collect the required civil filing fees. The Court's Compliance Unit is responsible for monitoring payment plans established for the payment of civil filing fees. Once an installment payment is delinquent, the Compliance Unit is required to generate and send a delinquent notice to the responsible party. However, of the nine civil cases reviewed where an installment payment plan had been established, seven civil cases had become delinquent but the Compliance Unit had not sent a delinquent notice. A ruling or judgment was rendered in four of the seven civil cases prior to full payment of the civil filing fees.

Audit Services will contact the Court on a periodic basis to follow-up on the status of the correction of the incomplete issues identified in the audit report. The Court must ensure that it monitors the report's issues and the corrective actions taken by the Court to ensure that the issues remain corrected and the Court's system of internal controls is not jeopardized. Audit Services will report this status to the Executive Office and the A&E Committee periodically and as appropriate.

Comments and policy implications

The process established for finalizing an audit report has been thoroughly discussed with judicial branch leadership, involves extensive reviews and discussions with the entity being audited. It also allows, at any point in the process, for the entity (trial courts generally) to request an additional review of the draft audit report by the Chief of Staff before the audit report is placed in a pending status and presented to the A&E Committee for review and discussion. Once presented to the A&E Committee, additional comments from the A&E Committee could result in further discussions with the entity being audited before the committee recommends submission of the report to the council for acceptance.

In its review of audit reports, the A&E Committee generally has comments and questions that, in some cases, require additional analysis or discussion with the trial courts. AS ensures that the results of any analysis, comments, and questions are addressed and provided to the A&E Committee.

Additionally, the Judicial Council, in December 2009, adopted rule 10.500 of the California Rules of Court, effective January 1, 2010, which provides for public access to nondeliberative or

nonadjudicative court records. Final audit reports are among the judicial administrative records that are subject to this public access unless an exemption from disclosure is applicable. The exemptions under rule 10.500(f) include records whose disclosure would compromise the security of a judicial branch entity or the safety of judicial branch personnel. As a result, confidential or sensitive information that would compromise the security of the court or the safety of judicial branch personnel is omitted from audit reports. In accordance with auditing standards, disclosure of the omissions is included in the applicable reports.

Alternatives

No alternatives were considered because the recommendation is consistent with approved council policy and with the provisions of Government Code section 77009(h).

Implementation Requirements, Costs, and Operational Impacts

The proposed recommendation imposes no specific implementation requirements or costs, other than disclosure of the attached audit reports through online publication.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendation contained in this report pertains to the activities of AS and the role it plays in the judicial branch as an independent appraisal entity. AS's role as an evaluator is important for both the strategic plan and the operational plan of the judicial branch. Specifically, IAS plays an important role as evaluator under Goal II, Independence and Accountability—in particular Goal II.B.4—by helping to “[e]stablish fiscal and operational accountability standards for the judicial branch to ensure the achievement of and adherence to these standards.” Additionally, IAS has an important role in fulfilling several of the objectives of the operational plan related to Goal II because its work pertains to the requirement that the branch “maintain the highest standards of accountability for its use of public resources and adherence to its statutory and constitutional mandates.” Part of the role and responsibility of AS also relates to Objective II.B.4 because the audit reports it produces help to “[m]easure and regularly report branch performance.”

Attachments

There are no attachments to this report. The following audit report will be placed on the California Courts public website (<http://www.courts.ca.gov/12050.htm>) after the Judicial Council has accepted it:

Audit report dated January 2015 entitled: *Audit of the Superior Court of California, County of San Bernardino*