PERFORMANCE AUDIT
OF THE

TRIAL COURT SERVICES DIVISION

STATE COURT ADMINISTRATIVE OFFICE

June 2002

05-210-01

EXECUTIVE DIGEST

TRIAL COURT SERVICES DIVISION

INTRODUCTION

This report, issued in June 2002, contains the results of our performance audit* of the Trial Court Services Division, State Court Administrative Office (SCAO).

AUDIT PURPOSE

This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency*.

BACKGROUND

The SCAO was created by the Supreme Court of Michigan, in accordance with Article VI, Section 3 of the State Constitution. The SCAO's mission* is to provide leadership and promote effective, efficient, equitable, uniform, and accessible court and justice system services to advance the highest quality of justice in Michigan. The SCAO performs its duties under the direction of the Supreme Court and is responsible for providing administrative oversight and management or technical assistance to the judges and staff of Michigan's 244 trial courts.

The Trial Court Services Division of the SCAO is the primary source for management support for the trial courts. The Division's responsibilities include implementing Supreme Court administrative policy; conducting legislative

* *See glossary at end of report for definition.*

and policy analysis for the Supreme Court and the SCAO; providing performance and procedural standards for trial court operations; providing various publications, procedural manuals, and standard court forms for use in everyday operations within the courts; administering court reporter/recorder testing and certification; and serving as liaison to trial court-related associations. The Division's Family Division Unit provides management assistance and addresses issues related to all substantive jurisdictional areas of the family divisions of the circuit courts.

As of August 31, 2001, the Trial Court Services Division had 35 staff and Michigan's trial courts were comprised of the following:

Type of Court	Number of Courts	Number of Judges	Number of Staff
Circuit	57	210	5,326
District	104	259	3,190
Probate	78	106	415
Municipal	5	6	28
Totals	244	581	8,959

AUDIT OBJECTIVE, CONCLUSION, AND NOTEWORTHY ACCOMPLISHMENTS

Audit Objective: To assess the effectiveness of the Trial Court Services Division's management assistance and support services provided to trial courts.

Conclusion: We concluded that the Division was generally effective in its management assistance and support services provided to trial courts. However, we noted reportable conditions* related to friend of the court grievance reporting, the Division's Foster Care Review

* *See glossary at end of report for definition.*

Board unit (FCRB) documentation of follow-up reviews, and FCRB annual reports (Findings 1 through 3).

Noteworthy Accomplishments: The Division initiated and managed the development of a series of minimum standards and guidelines to establish benchmarks for evaluation of court administration and to promote uniformity of trial court administration Statewide. The standards and guidelines were called for by the Supreme Court of Michigan's Program for Reforming the Judicial Branch of Government. At the time of our review, the Division and the SCAO had publicized standards relating to domestic violence batterer intervention, case file management, collections, communications, data, digital audio/video recording systems, and facilities. Other standards were in the process of development. The Division supports the standards and guidelines by providing training and management assistance to judges and court staff and by responding to individual court inquiries. In addition to the Division providing the standards and guidelines to trial courts and assisting them in their implementation, the SCAO has made the documents available on its web site.

In October 2000, the Division initiated the Court Interpreter Certification Program to train and certify foreign language interpreters to assist citizens who participate in the judicial system, as needed. Michigan is one of 27 member states of the National Center for State Courts Consortium for State Court Interpreter Certification. As of the time of our review, the Division had conducted two training sessions

and certified 7 interpreters in Spanish and 5 interpreters in Arabic. The Division plans to expand the program in the future to include additional languages, such as Russian or Vietnamese, as funding permits.

In December 2000, the Division made all SCAO-approved court forms available through the SCAO web site in an effort to enhance the general public's interaction with the trial courts. At the time of our review, there were approximately 800 court forms available for use by the general public and trial court judges and staff. The Division is also considering the development of a court forms search function on the web site so that users can more easily locate needed forms.

AUDIT SCOPE AND METHODOLOGY

Our audit scope was to examine the program and other records of the Trial Court Services Division. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our audit included examination of the Division's records and activities primarily for the period October 1, 1998 through August 31, 2001. We conducted a preliminary review of the Division's operations to formulate a basis for defining the audit objective and scope. Our review included interviewing Division personnel; reviewing applicable statutes, policies and procedures, and other

reference materials; and obtaining an understanding of the Division's operational activities.

We assessed the Division's Friend of the Court Bureau's (FOCB's) compliance with applicable statutes and policies and procedures. We reviewed FOCB's operations and activities relating to the management assistance it provided to circuit courts in the operations of local friend of the court offices.

We assessed FCRB's compliance with applicable statutes and policies and procedures. We reviewed FCRB's operations and activities relating to its oversight of the local citizen foster care review boards.

We gained a general understanding of the court reporter/recorder testing and certification process and the management assistance projects that the Division performed at the trial courts. We surveyed court administrators regarding management assistance and support services provided to the trial courts by the Division.

AGENCY RESPONSES

Our audit report includes 3 findings and 3 corresponding recommendations. The SCAO's preliminary response indicated that it agrees with the findings and has complied or will comply with the recommendations.

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THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

June 19, 2002

The Honorable Maura D. Corrigan
Chief Justice of the Supreme Court of Michigan
G. Mennen Williams Building
and
Mr. John D. Ferry, Jr.
State Court Administrator
Supreme Court of Michigan
309 N. Washington Square
Lansing, Michigan

Dear Chief Justice Corrigan and Mr. Ferry:

This is our report on the performance audit of the Trial Court Services Division, State Court Administrative Office.

This report contains our executive digest; description of agency; audit objective, scope, and methodology and agency responses; comment, findings, recommendations, and agency preliminary responses; and a glossary of acronyms and terms.

The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Thomas H. McTavish, C.P.A.
Auditor General

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STATE COURT ADMINISTRATIVE OFFICE

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Description of Agency

The State Court Administrative Office (SCAO) was created by the Supreme Court of Michigan, in accordance with Article VI, Section 3 of the State Constitution. The SCAO's mission is to provide leadership and promote effective, efficient, equitable, uniform, and accessible court and justice system services to advance the highest quality of justice in Michigan. The SCAO performs its duties under the direction of the Supreme Court and is responsible for providing administrative oversight and management or technical assistance to the judges and staff of Michigan's 244 trial courts.

The Trial Court Services Division of the SCAO is the primary source for management support for the trial courts. The Division's responsibilities include implementing Supreme Court administrative policy; conducting legislative and policy analysis for the Supreme Court and the SCAO; providing performance and procedural standards for trial court operations; providing various publications, procedural manuals, and standard court forms for use in everyday operations within the courts; administering court reporter/recorder testing and certification; and serving as liaison to trial court-related associations. The Division's Family Division Unit provides management assistance to circuit courts in the implementation of the family divisions of the circuit courts. Also, the Family Division Unit addresses issues related to all substantive jurisdictional areas of the family divisions of the circuit courts and includes the following statutorily created functions in addition to other unit responsibilities:

a. Friend of the Court Bureau (FOCB)

   FOCB was established pursuant to Act 294, P.A. 1982, to provide management assistance to circuit courts in the operations of local friend of the court offices. FOCB's responsibilities include developing local policies and procedures, establishing and implementing child support guidelines, analyzing federal and State legislation, collecting and analyzing data regarding friend of the court operations, providing training to court staff, and developing public self-help information.

b. Foster Care Review Board Unit (FCRB)

   The Foster Care Review Board Program was established pursuant to Act 422, P.A. 1984, to provide a means for citizen volunteers to review the efforts of courts and social service agencies to achieve permanency for children in foster care. The Program is administered by FCRB. Local citizen foster care review boards review

randomly selected foster care cases and make recommendations to local circuit courts and social service agencies regarding those cases. Data from local board reviews and a State-level advisory committee are used to analyze and recommend changes to improve the functioning of the State's foster care system.

As of August 31, 2001, the Trial Court Services Division had 35 staff.

Each different type of trial court performs a certain role within the judicial branch, according to the jurisdiction given to it by the State Constitution and by statute:

a. Circuit Courts

Circuit courts are generally referred to as the trial court of general jurisdiction because of their broad powers. Circuit courts have jurisdiction over all actions except those given by State law to other courts. Generally speaking, circuit courts have original jurisdiction in all civil cases involving more than $25,000; in all felony criminal cases; in certain serious misdemeanors; and in all domestic relations cases, such as divorce and paternity actions. Effective January 1, 1998, the juvenile divisions of probate courts became part of the family divisions of the circuit courts. Circuit courts also hear cases appealed from lower courts. The State is divided into judicial circuits along county lines. As of August 31, 2001, there were 57 circuit courts with a total of 210 judges and 5,326 staff.

b. District Courts

District courts have exclusive jurisdiction over all civil litigation up to $25,000 and handle garnishments, eviction proceedings, land contract and mortgage foreclosures, all civil infraction violations, and other proceedings. In addition, district courts are responsible for both preliminary examinations in felony cases and all misdemeanors for which punishment does not exceed one year in jail. District courts include small claims divisions and may make use of magistrates. Magistrates may set bail; accept guilty pleas; and set sentences for traffic, motor carrier, snowmobile, dog, game, and marine law violations. Magistrates may, at the direction of the chief judge, perform other duties allowed by statute. District courts cover areas defined by statute, which include cities, townships, and other municipalities. As of August 31, 2001, there were 104 district courts with a total of 259 judges and 3,190 staff.

c. Probate Courts

Probate courts are courts of original jurisdiction. Probate courts have exclusive jurisdiction over supervision of the probating of wills and the administration of estates and trusts. Probate courts also hear cases pertaining to guardianships and conservatorships for minors and adults. Prior to January 1, 1998, probate courts had juvenile divisions that handled cases of delinquent, neglected, or abused children and adoption proceedings. The juvenile divisions are now part of the family divisions of the circuit courts. Probate courts are responsible for hearing cases in one or more counties. As of August 31, 2001, there were 78 probate courts with a total of 106 judges and 415 staff.

d. Municipal Courts

Some municipalities have chosen to retain a municipal court, rather than change to a district court. Municipal court civil jurisdiction is limited to $1,500. Its criminal jurisdiction is similar to that of a district court. As of August 31, 2001, there were 5 municipal courts with a total of 6 judges and 28 staff.

Audit Objective, Scope, and Methodology and Agency Responses

Audit Objective

The objective for our performance audit of the Trial Court Services Division was to assess the effectiveness of the Division's management assistance and support services provided to trial courts.

Audit Scope

Our audit scope was to examine the program and other records of the Trial Court Services Division. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures, conducted from April through August 2001, included examination of the Division's records and activities primarily for the period October 1, 1998 through August 31, 2001.

We conducted a preliminary review of the Division's operations to formulate a basis for defining the audit objective and scope. Our review included interviewing Division personnel; reviewing applicable statutes, policies and procedures, and other reference materials; and obtaining an understanding of the Division's operational activities.

We assessed the Division's Friend of the Court Bureau's (FOCB's) compliance with applicable statutes and policies and procedures. We reviewed FOCB's operations and activities relating to the management assistance it provided to circuit courts in the operations of local friend of the court offices. We evaluated whether FOCB was effective in developing local guidelines and procedures and analyzing federal and State legislation. We determined whether FOCB collected, analyzed, and accurately reported data regarding friend of the court operations, including statistics relating to grievances received by the local offices. We reviewed the establishment of the citizen friend of the court advisory committees by each county and the operation of the State advisory committee established by FOCB.

We assessed the Division's Foster Care Review Board unit's (FCRB's) compliance with applicable statutes and policies and procedures. We reviewed FCRB's operations and activities relating to its oversight of the local citizen foster care review boards. Our assessment included reviewing the establishment of the local review boards, the training of board members, and the methods used by the boards to select foster care cases for review and ensure the timely review of cases. We also reviewed the establishment and functions of the State-level advisory committee. Finally, we evaluated FCRB's annual reports on the activities of the local review boards.

We gained a general understanding of the court reporter/recorder testing and certification process and the management assistance projects that the Division performed at the trial courts. We surveyed court administrators regarding management assistance and support services provided to the trial courts by the Division.

Agency Responses

Our audit report includes 3 findings and 3 corresponding recommendations. The State Court Administrative Office's (SCAO's) preliminary response indicated that it agrees with the findings and has complied or will comply with the recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the SCAO's written comments and oral discussion subsequent to our audit fieldwork.

COMMENT, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

EFFECTIVENESS OF MANAGEMENT ASSISTANCE AND SUPPORT SERVICES

COMMENT

Audit Objective: To assess the effectiveness of the Trial Court Services Division's management assistance and support services provided to trial courts.

Conclusion: We concluded that the Division was generally effective in its management assistance and support services provided to trial courts. However, we noted reportable conditions related to friend of the court grievance reporting, the Division's Foster Care Review Board unit (FCRB) documentation of follow-up reviews, and FCRB annual reports.

Noteworthy Accomplishments: The Division initiated and managed the development of a series of minimum standards and guidelines to establish benchmarks for evaluation of court administration and to promote uniformity of trial court administration Statewide. The standards and guidelines were called for by the Supreme Court of Michigan's Program for Reforming the Judicial Branch of Government. At the time of our review, the Division and the State Court Administrative Office (SCAO) had publicized standards relating to domestic violence batterer intervention, case file management, collections, communications, data, digital audio/video recording systems, and facilities. Other standards were in the process of development. The Division supports the standards and guidelines by providing training and management assistance to judges and court staff and by responding to individual court inquiries. In addition to the Division providing the standards and guidelines to trial courts and assisting them in their implementation, the SCAO has made the documents available on its web site.

In October 2000, the Division initiated the Court Interpreter Certification Program to train and certify foreign language interpreters to assist citizens who participate in the judicial system, as needed. Michigan is one of 27 member states of the National Center for State Courts Consortium for State Court Interpreter Certification. As of the time of our review, the Division had conducted two training sessions and certified 7 interpreters in

Spanish and 5 interpreters in Arabic. The Division plans to expand the program in the future to include additional languages, such as Russian or Vietnamese, as funding permits.

In December 2000, the Division made all SCAO-approved court forms available through the SCAO web site in an effort to enhance the general public's interaction with the trial courts. At the time of our review, there were approximately 800 court forms available for use by the general public and trial court judges and staff. The Division is also considering the development of a court forms search function on the web site so that users can more easily locate needed forms.

FINDING

1. Friend of the Court Grievance Reporting

The Division's Friend of the Court Bureau (FOCB) had not reviewed the biannual grievance reports submitted by the local friend of the court offices and requested corrected reports in accordance with its Policy and Procedure Memo 1984-3. As a result, FOCB did not identify inaccuracies and used the incorrectly summarized information in its 2000 annual report to the Legislature.

FOCB is required by Section 552.519(3)(d) of the *Michigan Compiled Laws* to:

> . . . annually issue a report containing a detailed summary of the types of grievances received by each office, and whether the grievances are resolved or outstanding. The report shall be transmitted to the legislature and to each office and shall be made available to the public.

Each office is required by Section 552.526(2) of the *Michigan Compiled Laws* to maintain a record of all grievances received and transmit its record of grievances not less than biannually to FOCB.

According to FOCB Policy and Procedure Memo 1984-3, *Annual Grievance Report Process for Friends of the Court,* FOCB is required to review ". . . each of the reports to assure that all of the correct forms were used and completed properly, and that the data was entered correctly." If the report was on the wrong form or completed incorrectly, FOCB should return the form to the friend of the court office for correction and resubmission to FOCB.

There are currently 65 local friend of the court offices associated with the 57 circuit courts in the State. In accordance with Section 552.526(1) of the *Michigan Compiled Laws,* a party to a domestic relations matter who has a grievance concerning a local friend of the court office's operations or employees can file a grievance with the appropriate friend of the court office. The friend of the court office shall investigate and respond to each grievance.

The offices reported grievance data relating to numerous reporting criteria, including, but not limited to, the number of grievances, type of grievances (employee-related or related to office operations), disposition of grievances (agreed to in full or in part, denied, or non-grievable), and actions taken by the local office (changes in office procedures, employee actions, or no action).

We randomly selected 15 of the 65 friend of the court offices to review the biannual grievance reports for calendar year 2000. We determined that each of the 15 friend of the court offices had submitted the required reports for 2000. However, we observed deficiencies in the reports we reviewed. Six (40%) of the 15 friend of the court offices had incorrectly summarized information on 9 (75%) of the 12 reports that the 6 offices had submitted.

We recalculated the data on the 12 grievance reports from the 6 offices and noted the following errors:

	Number Reported to the Legislature by FOCB	Auditor Recalculated Number	Error	Error Percentage
Number of grievances	239	204	35	14.6%
Type of grievances	258	224	34	13.2%
Disposition of grievances	229	184	45	19.7%
Actions taken	226	158	68	30.1%

Grievance reports submitted by the local friend of the court offices to FOCB are important because they summarize grievance activity for use in reporting such information to the Legislature. Without effective procedures to review the accuracy of biannual grievance reports, FOCB cannot ensure that information it reports to the Legislature and makes available to the public is accurate.

RECOMMENDATION

We recommend that FOCB review the biannual grievance reports submitted by the local friend of the court offices and request corrected reports in accordance with its Policy and Procedure Memo 1984-3.

AGENCY PRELIMINARY RESPONSE

The SCAO agrees with the audit finding. We were informed that, based on the SCAO's analysis, it appears that the errors for the period covered were due in part to a change in reporting forms made in 1998 and, in addition, to the use of an outdated automated reporting process used in one jurisdiction. A revised process for audit of statistics submitted by friend of the court offices to ensure accuracy of the data submitted has been implemented. An additional audit to ensure accuracy of data entry has been implemented as well. The SCAO is planning to automate the reporting process by trial courts to streamline the reporting and data audit process by 2003.

FINDING

2. FCRB Documentation of Follow-Up Reviews

FCRB needs to improve its documentation practices relating to Foster Care Review Board Program follow-up reviews.

The Program was established in the SCAO by Act 422, P.A. 1984. The purpose of the Program is to provide independent monitoring and review of treatment in foster care of neglected children in the State's foster care system. The Program consists of 30 local boards, made up of a minimum of five volunteers each, located throughout the State. The local boards are responsible for reviewing selected cases and developing written findings and recommendations regarding the care, maintenance, and supervision of children in foster care, based on the boards' assessments of the initial placement plans, interviews with interested parties, and review of other case materials. Section 722.137(1)(b) of the *Michigan Compiled Laws* requires that the local boards conduct follow-up reviews of case materials and progress reports every six months after a case has been initially reviewed. The follow-up reviews are to determine whether the purpose for which the child had been placed in foster care, as described in the initial placement plan, is being achieved and whether the plan continues to be appropriate to ensure effective treatment.

Section 722.133 of the *Michigan Compiled Laws* requires the SCAO to establish uniform policies and procedures for the Program and to establish a system to monitor the status of each child who is in foster care and who has been assigned to a local board. The SCAO assigned the responsibility of oversight of the Program to FCRB.

During fiscal year 1999-2000, the Program's local boards conducted a combined 2,517 initial and follow-up case reviews. We randomly selected 50 of the case files to review for compliance and completeness of documentation. Our review disclosed that 14 (28%) of the 50 case files had at least one period of 9 or more months between follow-up reviews. Further review of these cases disclosed that none of the 14 case files specifically indicated the reasons for the extended periods between follow-up reviews. Also, FCRB's automated database did not include such case status information. For each of the 14 cases, FCRB staff attempted to determine the reasons for the extended periods between follow-up reviews. FCRB staff informed us that some of the reasons that the follow-up reviews were not conducted at the required six-month intervals were because of lack of Program staff to attend the reviews or interested parties not attending the scheduled reviews.

Documenting reasons why follow-up reviews are delayed would provide FCRB staff and management with a means to easily determine the status of a case. In addition, it would help ensure consistency in case file documentation among the local boards. Inclusion of such information in the FCRB database could also allow FCRB staff and management to develop reports to closely monitor the timing of case reviews and compliance with the review requirements and could eliminate the need to manually search case files to locate this information.

RECOMMENDATION

We recommend that FCRB improve its documentation practices relating to Foster Care Review Board Program follow-up reviews.

AGENCY PRELIMINARY RESPONSE

The SCAO agrees with the audit recommendation that the method for documentation regarding follow-up reviews could be improved. The SCAO stated that documentation related to the follow-up reviews is a part of each finding and

recommendation report. The FCRB automated tracking system also records the date the case is due for the next review.

We were informed that in order to provide additional documentation, when a review does not take place or take place when scheduled, an entry will be made to the case summary sheet to document the reasons. The automated tracking system will be revised to allow recording of this interim event data to eliminate the need for manual entries and improve case tracking.

FINDING

3. FCRB Annual Reports

FCRB did not include all required reporting elements in its Foster Care Review Board Program annual reports.

Section 722.139 of the *Michigan Compiled Laws* requires that the SCAO publish an annual report of the Program, submit the report to the Legislature and the Governor, and make it available to the public. The annual report shall include an evaluative summary supplemented by applicable quantitative data of the activities and functioning of each local board during the preceding year. Section 722.139 also requires that an evaluative summary and quantitative data be provided for the aggregate of all local boards in the State.

We reviewed the FCRB's fiscal year 1999-2000 and fiscal year 1998-99 annual reports. We determined that, although the reports did include summary data of the activities of all local boards and other required reporting elements, they were limited to the inclusion of only one brief table with information relating to the individual local boards and generally did not include an evaluative summary or quantitative data of the activities and functioning of each of the 30 local boards. In comparison, we reviewed FCRB's fiscal year 1997-98 and fiscal year 1996-97 annual reports, which did include detailed analyses and tables relating to the individual local boards. The reports included useful information, such as the number of reviews performed by each local board, the percentage of times that each local board concurred with a child's plan for permanent placement, and the barriers to a child's permanent placement in each of the local board's review area.

FCRB staff informed us that they changed the annual report format for fiscal year 1999-2000 and fiscal year 1998-99 because they considered the fiscal year 1997-98 report format to be too lengthy.

Quantitative data on the activities of each local board is useful information to the users of the annual reports in determining the level of activity and assessing the treatment of children in the foster care system in specific counties or communities.

RECOMMENDATION

We recommend that FCRB include all required reporting elements in its Foster Care Review Board Program annual reports or seek amendatory legislation for changes in the reporting requirements.

AGENCY PRELIMINARY RESPONSE

The SCAO agrees with the audit finding and recommendation. We were informed that during the transition to a new automated system, individual county data was not available. The new system collects all statutorily required information, which will be included as a supplement in future annual reports. The SCAO will also seek legislative change to eliminate data requirements that are not useful for program or policy purposes.

Glossary of Acronyms and Terms

effectiveness	Program success in achieving mission and goals.
efficiency	Achieving the most outputs and outcomes practical with the minimum amount of resources.
FCRB	Foster Care Review Board unit, Trial Court Services Division, State Court Administrative Office.
FOCB	Friend of the Court Bureau, Trial Court Services Division, State Court Administrative Office.
mission	The agency's main purpose or the reason that the agency was established.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
reportable condition	A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.
SCAO	State Court Administrative Office.