

***State of New York  
Office of the State Comptroller  
Division of Management Audit  
and State Financial Services***

**OFFICE OF COURT  
ADMINISTRATION**

**ATTORNEY REGISTRATION  
PROCESS**

**REPORT 97-S-3**



***H. Carl McCall***  
*Comptroller*



# State of New York Office of the State Comptroller

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## Division of Management Audit and State Financial Services

### Report 97-S-3

The Honorable Jonathan Lippman  
Chief Administrative Judge  
Office of Court Administration  
Empire State Plaza  
Agency Building 4  
Albany, NY 12223

Dear Judge Lippman:

The following is our audit report on the Office of Court Administration's processes for registering attorneys and collecting registration fees.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. Major contributors to this report are listed in Appendix A.

*Office of the State Comptroller  
Division of Management Audit  
and State Financial Services*

January 28, 1999

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# Executive Summary

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## Office of Court Administration Attorney Registration Process

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### Scope of Audit

January 13, 1999 Section 468-a of the Judiciary Law and the Rules of the Chief Administrator of the Courts require that attorneys admitted to practice law in New York State file a registration statement and pay a \$300 fee before taking the constitutional oath of office. Thereafter, they must register once every two years with the Office of Court Administration (OCA). As of May 1, 1997, OCA's Attorney Registration Unit reported that approximately 168,000 attorneys were registered, including 16,204 retirees. Active practitioners pay the \$300 fee for such registration. Retired attorneys and full-time judges are required to register, but they do not have to pay the fee. For the three-year period that ended on March 31, 1997, OCA reported attorney registration fee revenues totaling nearly \$67.5 million.

Our audit addressed the following questions about the attorney registration process for the period from April 1, 1994 through August 31, 1997:

- Has OCA instituted procedures ensuring that attorneys are billed appropriately for their registration fees and that the fees are collected efficiently?
- Has OCA instituted procedures for following up with delinquent attorneys and collecting fees that have not been paid on a timely basis?
- What new technology could enhance OCA's attorney registration and admission computer systems?

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### Audit Observations and Conclusions

We found that OCA needs to improve its attorney registration processes and institute more effective methods of ensuring that attorneys register in a timely manner. We also concluded that OCA's computer systems were outdated and not able to provide the type of accurate and dependable information necessary for OCA to manage the registration process and the collection of fees.

As of March 31, 1997, OCA's Attorney Registration Unit reported that 18,458 attorneys admitted to practice law in New York State were delinquent in paying their registration fees and owed a total of more than \$9.7 million. OCA has not taken sufficient action to follow up and collect these outstanding fees, some of which have been outstanding since 1984. When attorneys do not register on time, the Attorney Registration Unit

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sends second and third notices, requesting payments. If lawyers still do not respond, their names are to be forwarded for disciplinary action to the Appellate Divisions of the Supreme Court. We found, however, that it can take between 24 and 34 months before the names are forwarded. Moreover, the Appellate Divisions are slow to act. Some attorneys may not be complying with the registration process because they have not notified OCA of a change in their mailing address and are not receiving OCA's registration mailings. In June 1997, we observed about 3,000 pieces of undeliverable mail, dating back to 1994, that had been returned to OCA, possibly because the attorneys' addresses had changed. We recommend that OCA officials institute effective methods of minimizing the number of attorneys who do not register when they are required to do so. These methods could include charging late fees and referring outstanding debts to the Department of Taxation and Finance for collection, and by making an effort to obtain correct addresses for the attorneys under its jurisdiction. (See pp. 5-13)

Appropriate use of computer technology can provide OCA with the ability to better manage the attorney-registration process and monitor the collection of registration fees. State-of-the-art technologies used in other State licensing agencies, such as the State Education Department, provide for appropriate management of the registration process and fee collection, and also facilitate public access to registration and professional discipline information on registrants.

At the time of our audit, OCA officials informed us that a new on-line attorney registration/admission database system was being developed in-house. Because the new system was in development, OCA officials asked us not to review the plans for it. However, we identified significant problems with the registration and admission systems, which need to be corrected by OCA to ensure the accuracy of data in the new system. In addition, we identified state-of-the-art computer technologies that could further enhance OCA's new system, making the administration of the fee-collection and data-entry processes more efficient and economical, and permitting employees to focus more time on their responsibilities for collection, reconciliation, and file maintenance. We shared this information with OCA officials during the course of our examination. (See pp. 15-22)

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## **Comments of OCA Officials**

OCA officials indicate they have instituted major changes in the attorney registration process since the audit, primarily as a result of the implementation of a new on-line registration database system. The new system addresses many of the issues identified in the audit.

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## Appendix A

Major Contributors to This Report

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Comments of OCA Officials

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# Introduction

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## Background

Section 468-a of the Judiciary Law (Judiciary Law) and the Rules of the Chief Administrator of the Courts (Court Rules) require that attorneys admitted to practice law in New York State register once every two years with the Office of Court Administration (OCA). Active practitioners must pay a \$300 fee for such registration. No fee is required from attorneys who certify that they have retired from the practice of law, or from full-time judges or justices of the State's Unified Court System, or of a court of any other state or of a Federal court. However, because the system is intended to locate both current and past practitioners, they must register nonetheless. The Attorney Registration, Accounting, and Data Processing units of OCA's Office of Management Support are responsible for the registration process, which involves the mailing of registration materials, accounting for attorneys' fees, and data entry.

The four Appellate Divisions of the State Supreme Court, which provide the Attorney Registration Unit with the names of new attorneys admitted to practice law in the State, are also solely responsible for conducting proceedings at which attorneys are admitted, suspended, or disbarred, as well as disciplining attorneys who do not pay the registration fees. Each Appellate Division serves a specific geographic region of the State encompassing several counties.

Every attorney admitted to practice law in New York State after January 1, 1986, must file a registration statement before taking the constitutional oath of office. As of May 1, 1997, the Attorney Registration Unit reported that approximately 168,000 attorneys were registered, including 16,204 who were retired. For the three-year period from April 1, 1994 through March 31, 1997, the Attorney Registration Unit reported that the Appellate Divisions had admitted approximately 20,000 attorneys to the bar, generating nearly \$67.5 million in attorney registration fees, including \$10,725,800 in back (late) payments. The Attorney Registration Unit also reported that 18,458 attorneys had not paid their registration fees as of March 31, 1997, and owed a total of more than \$9.7 million, including balances going back to 1984. (OCA officials believe that many of these attorneys have died or retired, and therefore do not owe any registration fees.) Twenty percent of the fees collected are allocated to the Lawyers' Fund for Client Protection, which reimburses clients for some of the losses they suffered at the hands of unscrupulous attorneys. The remaining 80 percent supports the administrative costs of the bar examination and OCA's admission and registration operations.

OCA's Attorney Registration System was established in 1979 as a batch-processing system that operated on a mainframe computer at OCA's Rensselaer data center. Originally designed to maintain biographical data from attorney registration statements, the system was modified in 1982 to

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provide support for the collection of registration fees. OCA's Attorney Admission System was also maintained on the mainframe computer with data entry controlled by the Attorney Registration Unit. The key file in this system, referred to as the admission file, lists the names of attorneys the Appellate Divisions have admitted to the bar. Subsequent to our audit, OCA officials reported that they have instituted major changes in the attorney registration process, primarily as a result of the development of a new on-line registration database system.

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## **Audit Scope, Objectives, and Methodology**

We audited OCA's processes for registering attorneys and collecting registration fees for the period from April 1, 1994 through August 31, 1997. The primary objectives of our financial-related audit were to determine whether the procedures in place were adequate for billing and collecting attorney registration fees and for following up and collecting outstanding fees. Another objective of our audit was to identify new technologies that could enhance OCA's computer systems.

To accomplish our objectives, we interviewed OCA personnel, including those in the Attorney Registration, Accounting, and Data Processing units. We examined documents such as original registration forms, listings of new admissions and of payments in default, and daily log transactions. We analyzed computer tapes of the July 1997 attorney registration file and the August 1997 admission file. We also sent a questionnaire to six jurisdictions outside of New York State to obtain information about their attorney-registration processes, and received responses from four: California, Connecticut, Wisconsin, and Washington, D.C.

We reviewed the OCA computer system in operation at the time of our audit for adequacy and reliability in supporting the Attorney Registration Unit's fee-collection responsibilities. At that time, OCA officials informed us that a new on-line database system was being developed to provide attorney registration information on-line to internal users who need it. Because the new system was in development at the time of our audit, OCA officials requested that we not review the plans for it.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of OCA which are included within the audit scope. Further, these standards require that we understand OCA's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in

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the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities for audit. We therefore focus our audit efforts on those activities we have identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, we use finite audit resources to identify where and how improvements can be made. We devote little audit effort to reviewing operations that may be relatively efficient or effective. As a result, we prepare our audit reports on an “exception basis.” This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

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## **Internal Control and Compliance Summary**

Our evaluation of the internal control structure identified control weaknesses at the Attorney Registration Unit related to follow-up actions to collect fees, the handling of “bounced” checks, and the maintenance of attorney registration and admission files. These matters are presented throughout the report.

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## **Response of OCA Officials to Audit**

A draft copy of this report was provided to OCA officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B.

Within 90 days after final release of this report, we recommend that the Chief Administrative Judge of the Office of Court Administration report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

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# Registration of Attorneys

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We reviewed OCA's procedures for both the initial registration and the re-registration of attorneys. We also examined the actions OCA takes when attorneys do not register as required, and compared them with the actions reportedly taken by other jurisdictions. We conclude that OCA needs to improve its registration processes and institute more effective methods of ensuring that attorneys register in a timely manner.

The Judiciary Law and Court Rules require every attorney admitted to practice law in New York State after January 1, 1986, to file a registration statement and pay a \$300 fee before taking the constitutional oath of office. Although not an OCA policy, in certain Appellate Divisions, before they can be sworn in, attorneys are required to provide a certified signed statement that they have registered. We examined a random sample of 187 names from the 20,043 attorneys reported as admitted to the bar from April 1, 1994 through March 31, 1997, and found that 45 (24 percent) of the attorneys in this random sample had not registered before they were sworn in, as shown in the following table:

Appellate Division	April 1, 1994 Through March 31, 1997	
	Number of Attorneys Reviewed in Each Division	Number of Attorneys Sworn in Before Registration
First	71	38
Second	64	1
Third	38	6
Fourth	14	0
Total	187	45

The 45 attorneys were sworn in from 1 to 34 days before their registration fees were paid. Although some of the applicants sign a statement indicating that they have registered, good accounting practice would require that proof of registration be attached to the statement.

OCA officials stated that since all attorneys in the sample did pay the required fee, it is likely that the payments were being processed at the time the applicants were admitted. They further indicated that the new system should eliminate the time differences between the actual registration and the recording of necessary information.

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We found, however, that timing differences may not always explain why the systems reflect that lawyers had been sworn in before they were registered. For example, the August 1997 admission file showed that seven attorneys had swear-in dates ranging from March 14, 1961 to January 29, 1997. However, their registration numbers, which identify them on the registration file, were issued after June 9, 1997. We provided the names of these seven attorneys to OCA officials.

Some of these attorneys may have signed false statements which could be violations that should be referred to the Appellate Division of the Supreme Court for disciplinary action, pursuant to Section 90 of the Judiciary Law which states, "The supreme court shall have power and control over attorneys and counselors-at-law and all persons practicing or assuming to practice law, and the appellate division of the supreme court in each department is authorized to censure, suspend from practice or remove from office any attorney and counselor-at-law admitted to practice who is guilty of professional misconduct, malpractice, fraud, deceit, crime or misdemeanor, or any conduct prejudicial to the administration of justice; and the appellate division of the supreme court is hereby authorized to revoke such admission for any misrepresentation or suppression of any information in connection with the application for admission to practice."

The Judiciary Law and Court Rules require both active and retired attorneys to re-register once every two years. As of March 31, 1997, the Attorney Registration Unit reported that 18,458 attorneys admitted to practice law in New York State were delinquent in paying their registration fees and owed a total of \$9,771,100. The uncollected fees of more than \$9.7 million included balances from 1984 through March 31, 1997. (OCA officials believe that many of these attorneys have died or retired, and therefore do not owe any registration fees.) OCA's reported receivables increased nearly 40 percent in the two years between March 31, 1995 and March 31, 1997, as indicated in the following table:

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Date	Current Receivables [1]	Past Due Receivables [2]	Total Receivables
3/31/97	\$348,900	\$9,422,200	\$9,771,100
3/31/96	154,800	6,903,550	7,058,350
3/31/95	194,000	6,806,000	7,000,000

[1] Current receivables are amounts up to 30 days old.

[2] Past due receivables are amounts over 30 days old.

The Attorney Registration Unit is responsible for sending registration forms to the lawyers whose names are on the registration database. According to OCA's procedures, the forms are sent to their business addresses approximately 30 days before the attorneys' birth dates. If no business address has been provided, the registration form is sent to the attorney's home address. However, these procedures do not always generate a response. According to the July 1997 attorney registration file, 17,423 (14.5 percent) of the 120,192 attorneys who were supposed to re-register in even-numbered years had not renewed their registrations in 1996, including 894 (13.9 percent) of the 6,411 attorneys who had initially registered in 1994.

When attorneys do not register within 30 days after their birthdays, the Attorney Registration Unit sends second and third notices, requesting payment. If the attorneys still do not register, their names are forwarded to the appropriate Appellate Division for disciplinary action. This forwarding process can take between 24 and 34 months. For example, in February 1994, the Attorney Registration Unit notified an attorney that she was required to re-register, but she did not comply. Her name was not forwarded to the Fourth Appellate Division for disciplinary action until December 1996, 34 months later. Such lax follow-up procedures for outstanding accounts do not compel attorneys to register promptly or to pay their fees as required.

In response to our draft report, OCA officials stated that they have introduced a new protocol designed to reduce the period of time between the initial notice to re-register and the submission of an attorney's name to the Appellate Division for disciplinary action. They believe the new protocol will reduce the time from 24-34 months to 13-24 months. While this is an improvement, there is no justification for permitting an attorney to practice for up to two years without paying the required registration fee. OCA officials should institute effective enforcement methods, such as those we discuss below, to encourage attorneys to register as required.

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New York State Debt Collection legislation (Chapter 55, Section 67, of the Laws of 1992) allows OCA to assess as much as 22 percent of the outstanding debt to cover the costs associated with collection of the debt. In addition, these debts may be referred to the New York State Department of Taxation and Finance for collection (Chapter 55, Section 81). OCA has used neither option.

We sent a questionnaire to six jurisdictions to obtain information about the way they register attorneys. California, Connecticut, Washington, D.C., and Wisconsin officials responded and told us how they attempt to minimize the number of attorneys who fail to comply with their registration procedures. For example, California charges penalties of 50 percent of the unpaid balance and suspends non-registered attorneys from the practice of law within the state. In the Washington, D.C. jurisdiction, suspension is automatic if attorney registration fees are not paid within five months of the due date; suspended members are barred from practicing law.

The Judiciary Law requires attorneys to report changes in their names and addresses by filing an amended statement with OCA within 30 days after the change. In June 1997, we observed that about 3,000 pieces of undeliverable mail dated as far back as 1994 had been returned to OCA; and that this backlog had still not been processed. The volume of returned mail may be so large because attorneys are not complying with this provision of the law. OCA cannot maximize the amount of fees it collects if mailings of registration forms are not received by the attorneys. In response to our draft report, OCA officials agreed with our observations stating that "A number of steps are being taken. . . . The initial notices are now sent to the attorney's home, rather than business address, based on the experience that home addresses are more stable. In addition, at the request of OCA, the New York State Bar Journal has published a reminder to attorneys of their obligation to inform OCA of all address changes and will continue to do so in future issues. OCA and the New York State Bar Association have also embarked on a cooperative endeavor in which databases are shared, in an effort to ensure both organizations maintain accurate, up-to-date attorney addresses."

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## **Recommendations**

1. Coordinate attorney-registration activities with the Appellate Divisions' swearing-in operations to ensure that applicants have registered prior to their taking the oath of office.
2. Refer the names of attorneys who sign false statements for appropriate disciplinary action by the Appellate Divisions.
3. Institute effective enforcement methods to encourage attorneys to register as required, such as charging late fees and referring outstanding debts to the New York State Department of Taxation and Finance for collection.
4. Regularly forward to the Appellate Divisions for appropriate disciplinary action, the names of attorneys who have not registered.
5. Clear up the backlog of undeliverable registration forms by conducting an active search for correct addresses for attorneys. Consider contacting credit reporting agencies, the United States Post Office, or bar associations to obtain the addresses.

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# Disciplining Delinquent Attorneys

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The Appellate Divisions are solely responsible for disciplining attorneys who do not pay the registration fees and those who do not file registration forms. We reviewed the Appellate Divisions' methods of dealing with attorneys who do not pay their fees, and found they use varying tactics without consideration of their effectiveness.

In June 1996, the First Appellate Division's Disciplinary Committee wrote letters to 937 attorneys who were not properly registered. This group, whose last names began with the letters A through C, were among 5,000 attorneys who had failed to register from 1982 through 1994. As shown in the following chart, the First Division reported that 69.7 percent of the letters were undeliverable, similar to the Attorney Registration Unit's experience with returned registration mailings:

Results of Mailing by First Appellate Division		
Reasons Given	Number of Instances	Percent of Total
Undeliverable	653	69.7%
Delivered	218	23.3%
Unaccounted for	34	3.6%
Attorney deceased	25	2.7%
Other	7	0.7%
Totals	937	100%

In November 1996, the First Appellate Division's Disciplinary Committee filed a petition seeking to suspend 575 lawyers who did not respond. Subsequent to the filing of the petition, a list of the names was published in the New York Law Journal. As of May 27, 1997, suspensions were enacted for 383 attorneys. On September 29, 1997, a list of 839 delinquent lawyers whose last names began with the letters D through H was published in the New York Law Journal. As of that date, no action had been taken by the First Appellate Division with respect to attorneys whose last names began with the letters I through Z.

In December 1996, the Attorney Registration Unit sent the names of 1,448 delinquent attorneys to the Second, Third, and Fourth Appellate Divisions

for disciplinary action. The results of their efforts were reported as shown in the following table:

Attorney Status	2 <sup>nd</sup> Division		3 <sup>rd</sup> Division		4 <sup>th</sup> Division	
	No. of Attorneys	Percentage of Total	No. of Attorneys	Percentage of Total	No. of Attorneys	Percentage of Total
Registered	321	33.0%	46	13.9%	20	13.7%
Retired	128	13.2%	2	0.6%	3	2.1%
Not located	115	11.8%	23	7.0%	40	27.4%
Deceased	83	8.5%	3	0.9%	10	6.8%
Outside of Jurisdiction	87*	9.0%	252	76.4%	67	45.9%
Resigned	21	2.2%	0	0.0%	0	0.0%
Disbarred/ Suspended	2	0.2%	1	0.3%	1	0.7%
Disciplined	0	0.0%	0	0.0%	5	3.4%
Transferred to other Grievance Committees	6	0.6%	0	0.0%	0	0.0%
Case Pending	209	21.5%	3	0.9%	0	0.0%
Totals	972	100%	330	100%	146	100%

\* On November 6, 1997, the Second Appellate Division mailed letters to 14 of the 87 attorneys, asking them to resign from the New York State bar.

Each Division handled the delinquent attorneys in a different way. As previously discussed, the First Division published the names of delinquent attorneys in the law journal; the other three employed investigators to perform detailed investigations of the delinquent attorneys. Division officials have not analyzed the costs and benefits of each of these approaches.

OCA's response to our draft report indicates that the responsibility to discipline attorneys rests solely with the Appellate Divisions. OCA officials indicated that they will ensure that this report is forwarded to the Appellate Divisions for any action they deem appropriate.

We also found that attorneys whose checks are dishonored by payer banks (i.e., "bounced" checks) are not referred to the Appellate Divisions for discipline. The Attorney Registration Unit receives the registration fees

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and forwards the checks to the Accounting Unit, which verifies the accuracy of the data and deposits the funds in the bank. After verification, the Attorney Registration Unit updates the attorney's record in the database. If the check used to pay the registration fee is dishonored by the payer bank, the attorney is considered to be in default, but not delinquent.

OCA reported that 260 attorneys had defaulted in their payment of registration fees from April 1, 1994 through March 31, 1997. The Accounting Unit is responsible for following up on attorneys whose payments are in default and sending letters to notify them of their status. On a monthly basis, the Accounting Unit notifies the Attorney Registration Unit to change their payment status to indicate the default. However, we found that when lawyers' checks are dishonored by the bank, the Attorney Registration Unit does not always change the payment status on the database. OCA officials agreed that when an attorney's check is dishonored by a bank, OCA's registration and admission files should indicate that the attorney is in default status. However, attorneys who are delinquent may be subject to disciplinary procedures by the Appellate Divisions, while defaulted attorneys are not at risk of being disciplined. As of October 1997, OCA officials responded that 18 of the 260 attorneys were still in default.

### **Recommendations**

6. Provide administrative assistance to the Appellate Divisions to improve the collection of attorney registration fees.
7. Refer the attorneys who are in default (i.e., their fee payment check is not honored by the bank) to the Appellate Divisions for disciplinary action.



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# Attorney Registration and Admission Systems

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OCA's Attorney Registration System was established in 1979 as a batch-processing system used on a mainframe computer. It was modified in 1982 to provide support for the collection of registration fees. The Attorney Admission System was also maintained on the mainframe. We reviewed these systems and concluded that they were outdated and did not provide information that was sufficiently accurate and dependable to enable OCA personnel to properly manage the registration process and the collection of fees.

Appropriate use of computer technology can provide OCA with the ability to manage the attorney registration process and monitor the collection of registration fees. State-of-the-art technologies used in other State licensing agencies, such as the State Education Department, provide for appropriate management of the registration process and fee collection, as well as facilitate public access to registration and professional discipline information on registrants.

At the time of our audit, OCA officials informed us that a new on-line database system was being developed. Because the new system was in development, OCA officials requested that we not review the plans for it. Our audit has identified significant problems with the registration and admission systems, some of which we believe need to be corrected by OCA to ensure the accuracy of the data for the new system. We also identified new technologies that could further enhance OCA's new system. We shared this information with OCA officials during the course of our examination. (OCA's response to our draft report indicates that the new system, which became operational in February 1998, addresses many of the issues identified in this report.)

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## Accuracy of System Data

We found that the registration and admission systems were not fully reconciled. For that reason, there is no assurance that the registration of all attorneys admitted to practice in New York State is being tracked. The Attorney Registration Unit receives listings of those newly admitted to the bar by the Appellate Divisions; and sends them to the Data Processing Unit, where the transactions are added to the admission file. Data Processing Unit personnel compare the registration and the admission files electronically on a weekly basis, and submit the resulting exception reports to the Attorney Registration Unit.

Each attorney whose name appears on the admission file is to be identified with a seven-digit attorney registration number. But when we reviewed the August 1997 admission file, we found 81,495 entries that had not been

assigned registration numbers. OCA officials explained that the numbers were not listed because the admission file dates back to 1898. Registration was required for the first time in 1979. The August 1997 admission file included records for 12,848 attorneys who had taken their oaths in 1898. We found that nine of the lawyers who were sworn in that year had been assigned registration numbers; however, the admission dates listed in the registration file for these nine attorneys ranged from 1908 to 1988. We have provided these names to OCA officials to follow up on.

We also reviewed a sample of 15 attorney records that had no registration numbers. Our review disclosed that the Attorney Registration Unit had no registration information for nine of these lawyers, and could not match the admission records it had received from the Appellate Divisions with its own registration records. Thus, as many as 9 of the 15 attorneys in our sample may be neither receiving registration reminders nor paying fees.

When we compared the records in the two files, we found that 1,223 names on the July 1997 registration file (containing 179,622 records) were not on the August 1997 admission file; and that 224 names on the August 1997 admission file (containing 185,177 records with attorney registration numbers) did not appear on the July 1997 registration file. Moreover, 6,554 records in the admission file had duplicate attorney registration numbers. The contents of the two files are summarized below:

<u>July 1997 Registration File</u>	<u>August 1997 Admission File</u>
179,622 records	185,177 records with attorney registration numbers
1,223 records were not on the admission file	224 records were not on the registration file
_____	6,554 records had duplicate attorney registration numbers *
<u>178,399</u> records matched the admission file	<u>178,399</u> records matched the registration file

\* OCA creates duplicate records on the admission file when attorneys' names change.

Regarding the 1,223 records that were in the July 1997 registration file, but not in the August 1997 admission file, OCA officials suggested the following possible explanations: the attorney registered prior to admission; there were spelling or name changes; or data-entry errors may be preventing matches between the registration and admission records.

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According to OCA officials, the Attorney Registration Unit spends considerable time and effort reconciling the admission and registration data. An employee is assigned to manually match records not verified by computer, a time-consuming process that often involves a search for the original registration and admission file documents. As part of the attorney registration process, the Data Processing Unit key-verifies last names for old records and full names for name changes and new records. A similar process was recently undertaken for admission records as well, according to OCA officials.

We also identified the following significant problems in the attorney registration and admission systems:

- There are no monetary fields (i.e., amount paid, balance due, etc.) in the registration system. Instead, a series of “flags” are used to indicate whether an attorney has registered and whether the fee has been paid. The system also does not have an accounts receivable functionality, and cannot determine how many registration periods an attorney has missed. As a result, OCA staff must intervene manually to calculate the amount due from an attorney who may owe more than the current fee. According to OCA, fees collected are generally credited to the current period, even when prior period fees are owed. One reason for this is that staff do not have ready access to the file. For example, when attorneys pay in person, their forms are coded for the current period because the Attorney Registration Unit staff cannot access the file electronically to determine whether prior fees have been paid. According to OCA officials, the new system allows direct, on-line access to attorney registration information eliminating this problem. However, as a complicating factor, we found that the attorney registration file reflects significant lapses in the maintenance of filing and payment information before 1987. Queries regarding payments before that year must be verified manually.
- The Attorney Registration Unit processes registration forms off-line, in an inefficient, time-consuming series of multiple steps that require handling by several OCA employees. Whether incoming registration transactions are made over the counter or by mail, they are placed in groups, or batches, for entry into a cash register. The register captures basic information such as a registration number, the period covered by the transaction, the amount paid, etc. These transactions are uploaded electronically, in batches, from the cash register to the mainframe. If registration forms require either changes to the registration information or the addition of new registrants, they are sent to the Data Processing Unit.

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There, these transactions are keyed into a terminal and uploaded electronically, in batches, to the mainframe. Nightly, the cash register transactions and data-entry transactions are matched and processed. Data entry may take several days depending on interoffice mail, data-entry backlogs, etc. During this time the cash register payment transaction is placed on hold. At the end of this process, confirmation letters for completed registrations are mailed to the registrants. (OCA officials indicate that mainframe data is now downloaded daily so that the data is current.)

- It is not possible for court employees or the Attorney Registration Unit staff to gain direct on-line access to either system to handle inquiries about an attorney's registration status. Staff must rely on reports that may not reflect up-to-date information, and the public can obtain such information only by request. Because the systems have no inquiry capabilities, lists of all registrants must be generated each week in the form of printouts and microfiche. Answers to public inquiries about the status of a registrant are based on information in these printouts, and court personnel use similar printouts to verify registration status. The Attorney Registration Unit manager does have the ability to write and run batch programs if it is necessary to obtain the information directly from the system. But this is time consuming and it is important for the public to have direct access as well, because they can act as a control or check on the process and on the quality of data, and may alert officials about unregistered lawyers who are practicing without the knowledge of the Attorney Registration Unit. (OCA officials indicate that the new system provides direct, on-line access to attorney registration information, including historic payment data.)
- The registration system was modified in 1982 to support the collection of registration fees. Because all attorneys admitted before 1982 were required to register in that year, and in even years thereafter, more than two-thirds of the State's lawyers are to re-register in even years. The resulting heavy volume of even-year registrations, alternated with the lighter volume of odd-year registrations, has led inevitably to workload imbalances.
- The Attorney Registration Unit includes in its registration file the names of attorneys who pay their registration fees long before they are sworn in as paid-up, registered attorneys. We reviewed 1,335 records of attorneys who were admitted to practice law in New York State in 1994 and whose names were listed in the system as not having paid their fees in 1994 and 1996. The records showed

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that 536 (40 percent) of these lawyers had paid their registration fees in 1992 and 1993, but had not been sworn in until 1994. Because the file had indicated incorrectly that these attorneys had been registered in 1992 and 1993, they might have been practicing law before their character and fitness tests had been completed, and before they had been approved by the bar.

- Of the 6,411 attorneys who had initially registered in 1994, we found 7 attorneys who had been billed in an incorrect year and had filed registration forms at least three times between 1993 and 1997. If payments were made along with these registrations, OCA might have collected more fees than required, since they should only have filed twice: 1994 and 1996. OCA officials reviewed the records for these seven attorneys and found that four of them were entitled to refunds. They were so notified. Two of the attorneys' fees will be applied to the following registration period, and the seventh case was determined to be a mix up of two records with the same last name. All seven records have been corrected, and OCA is instituting a control to avoid this problem in the future.

Many of these problems may permit attorneys to practice without meeting their registration obligations in a timely manner and, as a result, the State of New York may either lose or experience delays in receiving fee payments. Some of these problems, especially those affecting the quality of the data on the registration system, need to be remedied by OCA in its new system. Carrying the data over from the old system to the new system (for example, without fully reconciling the list of registered attorneys with the list of admitted attorneys) would result in perpetuating some of the same problems of the old process.

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## **Recommendations**

8. Evaluate the accuracy of the attorney registration file. Correct any flaws, and reconcile information in the file to the data in the admission file to ensure complete collection of registration fees for all attorneys and to ensure an accurate database for the new information system. As appropriate, consider issuing refunds or making adjustments for overpayments.
9. Ensure that all attorneys are properly accounted for by identifying those who have not been assigned registration numbers. Assign numbers to attorneys who have not yet received them.
10. Ensure that the registration file does not list attorneys as registered before they are sworn in.
11. Distribute re-registrations over a 24-month period to balance the work volume.

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## **New Technologies**

In addition to ensuring the accuracy of the data carried over to the new system, OCA officials should take advantage of the state-of-the-art computer techniques available to them to make the administration of the fee-collection and data-entry processes more efficient and economical, permitting employees to focus more time on their responsibilities for collection, reconciliation, and file maintenance.

Direct on-line transaction-processing and inquiry is a first step toward improving the current process. It allows for an entire transaction to be processed in one action, without multiple handling. With on-line inquiry access to records, both public and internal inquiries could be processed quickly. In fact, if such access could be provided via the Internet or public terminals at agency facilities, some inquiries could even be self-serviced, possibly bringing public pressure to bear on attorneys to register on a more timely basis. Other states, including California and Connecticut, already permit computerized public access to attorney registration records.

Electronic file-matching would also allow OCA staff to identify deceased individuals in OCA's files by comparing the attorney data with information that is readily available from governmental and private sources. OCA would then be able to identify and eliminate the names of deceased

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lawyers, and avoid wasting time and money trying to contact them for re-registration. For example, the attorney registration file we reviewed listed 136 delinquent attorneys with birth dates between '76 and '99 (two-digit years), possibly indicating 1876 and 1899. Re-registration notices are sent to each one automatically by the system unless OCA is notified that the attorney is deceased, incapacitated, or disbarred. To add this function to its system, OCA would need to begin collecting the Social Security numbers of registrants, a key factor in identifying deceased individuals. As a side benefit, this information could also act as a fraud-prevention tool that could alert OCA personnel to attempts to register or practice in the name of someone who is dead.

The use of a bank lockbox service, whereby a bank would receive the registration fees, deposit the checks, and electronically provide registration data to OCA, would streamline the processing of incoming registration transactions and improve cash controls because the responsibility for handling bounced checks and dealing with the unbalanced annual workload would be transferred to a third party. (OCA responded that it has entered into a lockbox agreement.)

Adding bar-coding to renewal applications could also speed OCA's processing at several points. Once identified with a bar code, the appropriate attorney record could be retrieved more quickly, and address changes that could reduce the amount of returned mail could be facilitated greatly. In their response to our draft report, OCA officials agreed that bar-coding would improve the registration process and plan to take advantage of this technology in the future. Moreover, links to other OCA systems might further support enforcement of the registration requirements, by automatically detecting unregistered attorneys who file papers or schedule court hearings.

OCA officials have reported that they have installed a new interactive telephone system capable of providing information regarding the registration process. However, it does not provide public access to the attorney registration data. To determine the status of an attorney, the public must ask an employee to research the question and provide the answer. This task could also be automated with existing technology.

OCA needs to continually reevaluate and reengineer the process in use by the Attorney Registration Unit. For example, the Office of Professions of the State Education Department (SED), which licenses 38 professions, including Certified Public Accountants, nurses, dentists, doctors, etc., has substantially streamlined its operations. SED is able to handle a re-registration transaction within one day of receipt and its public Internet access allows anyone to immediately verify the registration status of any

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professional it licenses. In addition, through its interactive telephone system that provides taped information, SED can handle inquiries without staff intervention. Registrants can also use e-mail to communicate with SED, which has reported significant improvements in productivity and customer services and in its ability to attend to backlogs that had existed before the system was implemented. OCA could learn from SED's experience.

OCA officials stated that their new system will address many of the issues contained in this report. It will provide on-line transaction processing, on-line inquiry, and file-matching with Appellate Division records. It will also eliminate multiple handling and entry of paperwork, provide faster access to up-to-date information by staff and public inquiry, and improve the fiscal processing of information. OCA officials also indicated that they now have a contract for lockbox services. Regarding input from users, OCA officials indicated that the Appellate Divisions have not been involved in the planning of the new system. System planning should consider the needs of its users.

### **Recommendations**

12. Identify additional uses of technology that could speed up or simplify the functioning of the Attorney Registration Unit, and enable its staff to focus on efforts to pursue full registration of all known attorneys practicing law in New York State. Consider bar-coding, electronic file-matching, Internet public access, etc.
13. Consider the data-use needs of the Appellate Divisions, courts, and other OCA units, and obtain their input when developing changes in the registration system.

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# Major Contributors to This Report

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Jonathan Lippman  
Chief Administrative Judge

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99 OCT 23 AM 9:57  
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October 19, 1998

Hon. H. Carl McCall  
Comptroller  
270 Broadway  
New York, New York 10007

OFFICE OF THE STATE COMPTROLLER

OCT 23 1998

ROBERT H. ATTMORE  
DEPUTY COMPTROLLER

Dear Comptroller McCall:

On September 4, 1998, the Office of the State Comptroller issued a draft audit report (97-S-3) on the attorney registration process. The audit addressed the following questions:

- Has the Office of Court Administration ("OCA") instituted procedures ensuring that attorneys are billed appropriately for their registration fees and that the fees are collected efficiently?
- Has OCA instituted procedures for following up with delinquent attorneys and collecting fees that have not been paid on a timely basis?
- What new technology could enhance OCA's attorney registration and admission computer systems?

The draft audit report suggested a number of ways to improve the attorney registration process and to ensure that attorneys register in a timely manner. The audit also found that the OCA computer systems were outdated and not able to provide the type of information necessary to manage the attorney registration process and the collection of fees.

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The audit covered the period from April 1, 1994 through August 31, 1997. Since that time, OCA has instituted major changes in the attorney registration process, primarily as a result of the development of a new on-line registration database system. The audit report noted that OCA was in the process of developing the system, but the system was not in place during the audit period and was not considered in the audit report.

In February 1998, the new pc-based attorney registration system became operational. The new system significantly improves the attorney registration and fee collection processes, and addresses many of the issues identified in the audit.

Key features of the new system are:

- On-line access Staff of the Attorney Registration Unit now have, for the first time, direct, on-line, access to attorney registration information. Thus, it is no longer the case, as described in the audit, that OCA staff must rely on printed reports or microfiche records that may not reflect up-to-date information.
- System-wide access Because the system is an intranet application, the data is also available to all Unified Court System courts and staff with access to CourtNet, the UCS computer network.
- Complete data An attorney's entire registration record is now available in one place. (Only partial data was available on microfiche records accessed by the staff under the old system.)
- Up-to-date data Mainframe data is now downloaded daily to the server, so that the data is current. (Under the old system, it could take up to two weeks to incorporate new data.)
- Ready access to historic payment data An attorney's entire registration and payment history is displayed on the screen. Thus, it is no longer the case, as described in the audit report, that attorney registration staff must undertake a cumbersome manual investigation to determine if an attorney owes more than the current fee. One benefit of the improved system is that it is very unlikely that payments will be credited to the incorrect registration period.

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In conjunction with the new on-line attorney registration system, OCA has taken a variety of other steps to improve the process, many of which also address issues identified in the report:

Lockbox agreement with Chase Manhattan Bank The audit report suggested that OCA use a bank lockbox service, under which a bank would receive registration forms, deposit attorney registration checks, and provide registration data to OCA. In April 1998, OCA reached such an agreement with Chase Manhattan Bank, and the system will begin operation within one month. The lockbox system is expected to speed the processing of routine registration transactions. Equally important, the new system will free the staff of the Attorney Registration Unit to spend more time on other important tasks, such as file maintenance, responding to attorneys' questions, and correspondence.

Improved file maintenance The audit report noted a number of examples of inaccurate data, noting in particular discrepancies between admission and registration data. There are a number of explanations for inconsistencies between registration information (which is generated by the OCA Attorney Registration Unit) and admission data (which is generated by the four Appellate Division), including an attorney's use of different names for admission and registration, and data entry errors. The Attorney Registration Unit spends considerable time and effort reconciling the admission and registration data, and in otherwise attempting to maintain accurate files. With the implementation the lockbox system, the Attorney Registration staff will be able to devote additional time and resources to these critical tasks.<sup>1</sup>

Interactive telephone system OCA's move to its new location at 25 Beaver Street in July 1997 afforded us the opportunity to install a new interactive telephone system for the Attorney Registration Unit. The system is capable of providing callers with general information, (hours of operation, location), and specific information regarding the attorney registration process (how to change names, addresses in our files,

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<sup>1</sup> One of apparent discrepancies in data cited in the audit report concerns 1,223 names there were included in the July 1997 registration file, but not in the August 1997 admission file. The audit states that OCA officials suggested, among the possible explanations, that the attorneys never registered or that the attorneys' registrations were in process. That is incorrect. Rather, it is more likely that the attorney might not yet have been admitted. Attorneys are required to register prior to admission, and there is no requirement that admission occur immediately after registration.

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how to obtain a Certificate of Good Standing, etc.) Most important, the system is able to queue-up calls, forwarding them to the next available operator. (Prior to the installation of this system, callers would receive a busy signal when all operators were handling other calls.)

New procedures for notice to attorneys and submission to Appellate Divisions

OCA has introduced new protocol, which are designed to improve attorney response time, as well as reduce the period of time between initial notice to reregister and submission of an attorney's name to the Appellate Division in those cases in which disciplinary action may be appropriate. The new schedule is as follows:

- First Notice -- one month prior to the attorney's birthday
- Second Notice-- three months after the attorney's birthday
- Third Notice -- six months after the attorney's birthday
- Submission of name to Appellate Division -- beginning of the calendar year of the next biennial registration period

The new schedule reduces the time from initial notice to referral to the Appellate Division for disciplinary action from 24-34 months to 13-24 months (depending on the month of the attorney's birthday).<sup>2</sup>

Improved accuracy of mailing addresses A number of steps are being taken to address the problem, identified in the audit, of undeliverable registration forms due to incorrect attorney addresses. The initial notices are now sent to the attorney's home, rather than business address, based on the experience that home addresses are more stable. In addition, at the request of OCA, the New York State Bar Journal has published a reminder to attorneys of their obligation to inform OCA of all address changes and will continue to do so in future issues. OCA and the New York State Bar Association have also embarked on a cooperative endeavor in which databases are shared, in an effort to ensure both organizations maintain accurate, up-to-date attorney addresses.

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<sup>2</sup> Under the new schedule an attorney is referred to the Appellate Division for possible disciplinary action if the attorney files to pay the registration fee during the two-year registration period. That timing reflects the historic experience that the vast majority of attorneys who do not register within a month of their birthdays do in fact register and pay the fee during the two-year period.

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A recent mass-mailing to all New York State attorneys about the new Continuing Legal Education ("CLE") requirements that will go into effect later this year provided another opportunity to update our address file. Significant resources were devoted to a project in which all correspondence returned from the Post Office indicating a forwarding address was re-mailed with a change of address form and a letter requesting that the attorney verify the new address. The success of these efforts to verify and update attorney addresses is evident in the fact that only 1.3 percent, or 1,900 of the 150,000 letters included in the CLE mailing, were returned as undeliverable.

Improved registration forms A number of changes in the registration forms have or will be made shortly. In an effort to assist attorneys in complying with registration requirements, and to minimize delays in compliance that might be due to confusion about the process or the requirements, the Attorney Registration Unit's phone number was added to the registration form in Spring 1998. In January 1999, a completely new Attorney Registration form will be issued. The impetus for this change was the need to incorporate Continuing Legal Education compliance language into the form, but it presented us with the opportunity to redesign the form, making it much easier to read and to complete. One expected benefit of the revised form is a reduction in time spent correcting errors, thereby improving compliance times.

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We are confident that, collectively, these initiatives will greatly improve the attorney registration process, and address the various problems that we had identified, and that the audit also highlighted. We will continue to monitor this important function closely and attempt to find other ways to improve the process. For example, we agree with the audit's recommendation that bar-coding would improve and speed the registration process, and we plan to take advantage of this technology in the near future. Similarly, we are in the preliminary stages of integrating the Appellate Divisions' admissions databases with our registration database, which will make the reconciliation process faster and more accurate.

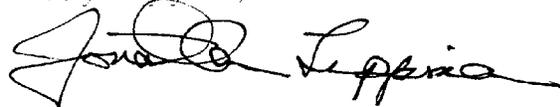
There are two other issues raised in the audit that should be briefly addressed. First, the report refers to unpaid fees and past due receivables totalling \$9.7 million. This amount should be placed in the appropriate perspective and context, noting in particular that it includes unpaid fees dating back as far as 1984. That figure assumes that every attorney expected to re-register (that is, attorneys who had previously registered) had done so for the last 13 years. Undoubtedly many of these attorneys (particularly those from the 1980s) have died or retired, and therefore do not owe any registration fees. In addition, a very high percentage of the fees that are overdue for

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more recent periods will be paid. For example, the March 31, 1997 accounts receivable report indicates that 7,983 attorneys were delinquent (that is, overdue by 30 or more days) in paying a total of \$2,394,200 in fees that were due in 1996. The December 31, 1997 report shows that 64 percent (5,080 of 7,983) of those attorneys had paid the fee by the end of the year, during the registration period for which the fees were due.

Finally, we would call to your attention the need to revise the report to accurately explain and delineate the responsibilities of the Appellate Division and the Attorney Registration Unit. The responsibility and authority to admit or to discipline attorneys rests solely with the Appellate Divisions. Any suggestions that the Office of Court Administration or the Attorney Registration Unit has the discretion to suspend or otherwise alter the status of an attorney is inaccurate. The attorney discipline process is defined by law and by policies set by the Administrative Board of the Courts and the Appellate Divisions. We will ensure that the report is forwarded to the Appellate Divisions for any action they deem appropriate.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph P. Lippia". The signature is fluid and cursive, with a large initial "J" and "L".

JL/smw

cc: Hon. Ann T. Pfau  
Laura Weigley  
Dennis W. Donnelly, CPA