

AUDIT REPORT

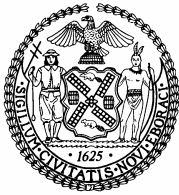


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Follow-up Audit on the Effectiveness of Child Support Enforcement Services Performed by the Sheriff's Office

MH08-082F

May 20, 2008



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has audited the Sheriff's Office, which is within the Department of Finance (DOF), to determine whether the Sheriff's Office has implemented the six recommendations made in a previous audit report issued in 2005.

The Sheriff's Office Family Court Warrants Unit works in partnership with the Office of Child Support Enforcement of the Human Resources Administration to obtain child support payments from parents who fail to make them. We audit City programs such as this as a means of ensuring that they make the best use of resources available to them.

The results of our audit, which are presented in this report, have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

William C. Thompson, Jr.
WCT/ec

Report: MH08-082F
Filed: May 20, 2008

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The City of New York
Office of the Comptroller
Bureau of Management Audit

**Follow-up Audit on the Effectiveness of
Child Support Enforcement Services
Performed by the Sheriff's Office**

MH08-082F

AUDIT REPORT IN BRIEF

This follow-up audit determined whether the Sheriff's Office implemented the six recommendations made in the *Audit Report on the Effectiveness of Child Support Enforcement Services Performed by the Office of the Sheriff* (MD04-081A), issued on June 30, 2005.

The Sheriff's Office, which is within the Department of Finance, is the chief civil law enforcement agency for the City of New York. The Sheriff's Office processes legal documents, such as summonses, subpoenas, and writs issued by the New York State Family, Supreme, and Surrogate Courts, as well as those issued by the City Civil and Criminal Courts. The Sheriff's Office Family Court Warrants Unit works in partnership with the Office of Child Support Enforcement of the Human Resource Administration (HRA) to obtain child support payments from parents who fail to make them. Child support is the amount of money a court decides a noncustodial parent owes to the custodial parent who is caring for their child or children. The agencies' cooperation is defined in a written agreement. It permits the Sheriff's Office to assist custodial parents in obtaining child support payments by serving summonses and subpoenas to the noncustodial parents (respondents) within the five boroughs of the City and by executing arrest warrants throughout the State of New York.

The previous audit concluded that the Sheriff's Office did not adequately research respondent address information; did not make attempts to find respondents at different times (one attempt in the morning, one in the afternoon, and one in the evening); did not make initial attempts to find respondents in a timely manner; and used alternate personal service (service to a person other than the actual respondent) on initial attempts to find respondents rather than making additional attempts of personal services.

Audit Findings and Conclusions

Of the six recommendations made in the prior audit, the Sheriff's office implemented one recommendation to use the Child Support Management System (CSMS) in obtaining addresses for respondent, and partially implemented two recommendations to use computer databases such as Lexis Nexis and to serve respondents at different times of the day. However, two recommendations—to establish written guidelines governing the length of time it should take to

make initial attempts to find respondents and monitor adherence to those guidelines—are no longer applicable since the Sheriff’s Office has considerably improved its timeliness. In addition, we believe that the remaining recommendation, that the Sheriff’s Office should adhere to its written agreement with HRA to initially use the personal method of service rather than the alternate personal method, is no longer applicable and that the Sheriff’s Office should attempt to revise its agreement with HRA.

Audit Recommendations

To address the issues that still exist, we recommend that the Sheriff’s Office:

- Fully utilize Lexis Nexis and indicate on the mock case cards that a search was performed and record the results.
- Follow its own procedure to ensure that Deputies make attempts to find respondents at different times of the day, including the morning, afternoon, and evening.
- Revise its agreement with HRA to reflect that using either personal service or alternate personal service is acceptable in serving respondents.

Agency Response

In their response, DOF officials generally agreed with the audit’s recommendations.

INTRODUCTION

Background

The Sheriff's Office, which is within the Department of Finance (DOF), is the chief civil law enforcement agency for the City of New York. The Sheriff's Office processes legal documents, such as summonses, subpoenas, and writs issued by the New York State Family, Supreme, and Surrogate Courts, as well as those issued by the City Civil and Criminal Courts. In addition, the Sheriff's Office is responsible for the seizure of property pending court decisions.

The Sheriff's Office Family Court Warrants Unit works in partnership with the Office of Child Support Enforcement of the Human Resources Administration (HRA) to obtain child support payments from parents who fail to make them. Child support is the amount of money a court decides a noncustodial parent owes to the custodial parent who is caring for their child or children. The agencies' cooperation is defined in a written agreement. It permits the Sheriff's Office to assist custodial parents in obtaining child support payments by serving summonses and subpoenas to the noncustodial parents within the five boroughs of the City and by executing arrest warrants throughout the State of New York. During Fiscal year 2007, the Sheriff's Office assigned 18 Deputy Sheriffs to perform child support enforcement services; HRA provided approximately \$2 million to the Sheriff's Office for those services.

HRA forwards to the Sheriff's Office the child support cases to be served as well as all pertinent information, such as the first and last name, home and work addresses, social security number, and court hearing date of the person against whom the case is brought—the respondent. Once cases are received, the Sheriff's Office enters all information into its computer system and calculates the service dates for each case, that is, the dates by which summonses must be delivered. A service date must be at least eight days before the scheduled court hearing date. The cases are then sorted and are assigned to individual Deputy Sheriffs.

To verify respondent address information given by HRA, the Sheriff's Office uses the Child Support Management System (CSMS), which is an automated system maintained by the Division of Child Support Enforcement of the New York State Office of Temporary and Disability Assistance. When a child support order is issued, a child support account is established by HRA in CSMS.

According to the written agreement between HRA and the Sheriff's Office, a minimum of three attempts at each address of record must be made when serving summonses and subpoenas. The three attempts are to be made on different days and at different times (one in the morning, one in the afternoon, and one in the evening), provided that the address exists. A summons can be served to a respondent in the following ways:

- **Personal Service:** Delivery of a true copy of the summons, petition, and related documents to the respondent named in the summons. Personal service is the preferred method of service.
- **Alternate Personal Service:** Delivery of a summons to a person other than the actual respondent who is of suitable age and discretion at the actual place of business or

dwelling place of the respondent and by mailing a copy of the summons to the respondent's last known address.

- **Nail and Mail Service:** Delivery of a summons by affixing the summons to the door of either the actual place of business or the dwelling of the respondent and by mailing the summons to the respondent's last known address.

The Sheriff's Office closes a case when a respondent has been found and served a summons, when a respondent has been found and arrested, or when due diligence has been performed but a respondent cannot be found and is not served or arrested. For all closed cases, the Sheriff's Office must submit detailed accounts to HRA on the Certificate of Service or Certificate of Attempted Service forms describing the successful or unsuccessful attempts made in finding respondents. During Fiscal year 2007, there was a total 19,432 delinquent cases—19,003 closed cases;¹ 408 open cases; 7 arrest cases; 10 withdrawn cases; 2 vacated cases; and 2 reviewed cases.

On June 30, 2005, our office issued an *Audit Report on the Effectiveness of Child Support Enforcement Services Performed by the Office of the Sheriff* (MD04-081A). The audit concluded that the Sheriff's Office did not adequately research respondent address information; did not make attempts to find respondents at different times (one attempt in the morning, one in the afternoon, and one in the evening); did not make initial attempts to find respondents in a timely manner; and used alternate personal service on initial attempts to find respondents rather than making additional attempts of personal services. The audit recommended that the Sheriff's Office: gain access to various computer databases such as Lexis Nexis to increase search options in finding respondents; ensure that it complied with its written agreement with HRA and make attempts on different days and at different times; and establish written guidelines governing the length of time it should take to make its initial attempts to find respondents.

Objective

The audit objective was to determine whether the Sheriff's Office has implemented the six recommendations made in the previous audit report, *Audit Report on the Effectiveness of Child Support Enforcement Services Performed by the Office of the Sheriff* (MD04-081A, issued June 30, 2005).

Scope and Methodology

The audit scope period was Fiscal Year 2007 (July 1, 2006, through June 30, 2007).

To obtain an understanding of the child support enforcement services, we interviewed officials at the Sheriff's Office, including the Chief of Operations, the Undersheriff, and a Lieutenant. We also interviewed HRA's Assistant Deputy Commissioner and the Executive Director of the Office of Child Support Enforcement. We reviewed the written agreement between HRA and the Sheriff's Office, as well as the internal procedures used by the Sheriff's Office.

¹ Prior to May 2007, served and not served cases were combined and categorized as "closed" on the Sheriff's Office computer system since the system lacked the capability to distinguish between the two categories.

To test whether the Sheriff's Office implemented the prior audit's recommendations, we obtained from the Sheriff's Office a file of 19,432 delinquent child support cases during Fiscal Year 2007. For our sample testing, we limited the random selection to three significant categories within the population-the served cases in which respondents were found and served summonses and subpoenas, the not served cases in which respondents could not be found and closed cases that contain both above-mentioned categories for a total of 19,003. To test the reliability of the data, we randomly selected 30 cases and compared the information in the case file to the computer file received from the Sheriff's Office. In addition, we selected 30 cases from the computer file and compared the information to the case files.

Of the 19,003 delinquent child support cases, we then randomly selected 147 child support cases to review, of which we found that 88 cases were served and 59 cases were not served.

To determine whether the Sheriff's Office improved its timeliness in making the initial attempts to serve summonses and subpoenas, we reviewed the 147 sampled cases. We compared the received dates (date cases were entered into the Sheriff's Office computer system) to the dates of the initial service attempt. We calculated the length of time of the first attempt based on business days, whereas in the previous audit, calendar days were used. We excluded weekends since the Sheriff's Office informed us that attempts to find respondents are not made on Saturdays and Sundays.

To determine whether the Sheriff's Office adequately researched the Child Support Management System (CSMS) database and Lexis Nexis to increase the search option for finding respondents, we reviewed the Certificate of Attempted Service and the mock case cards² of the 59 cases in our sample in which respondents were not found after several attempts were made. For these cases, we also conducted a search of CSMS and Lexis Nexis to determine if the Sheriff's Office has improved its effectiveness in obtaining additional addresses for cases in which the respondent was not found.

In addition, we reviewed the 59 cases in which respondents were not found to determine whether the Sheriff's Office is now making a minimum of three service attempts to the address of record, including the work place, if any. For all the cases in our sample in which two or more attempts were made, we determined whether those attempts were made on different days and at different times (one in the morning, one in the afternoon, and one in the evening).

Furthermore, to determine whether the Sheriff's Office used alternate personal service rather than personal service, we reviewed 88 cases in which respondents were found and served summonses and subpoenas. We then prepared a list of the case numbers, court dates, respondents' first and last names, and case docket numbers and asked that HRA verify that the respondent appeared in court. Our purpose was to determine whether the respondent was more likely to appear in court when personal service rather than alternate personal service was used.

The results of the above tests, while not statistically projected to the population from which the sample were drawn, provided a reasonable basis to determine whether the Sheriff's Office had implemented the previous audit's recommendations.

² This is a handwritten card that notes every attempt and outcome made by the Deputies for each case received by the Sheriff's Office.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. The audit was performed in accordance with the audit responsibilities of the City Comptroller, as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Results

The matters covered in this report were discussed with the Sheriff's Office and DOF officials during and at the conclusion of this audit. A preliminary draft report was sent to DOF officials on March 13, 2008, and was discussed at an exit conference held on March 28, 2008. On April 9, 2008, we submitted a draft report to the Sheriff's Office and DOF officials with a request for comments. We received a written response from DOF officials on April 30, 2008. In their response, DOF officials generally agreed with the audit's recommendations.

The full text of DOF's comments is included as an addendum to this report.

RESULTS OF FOLLOW-UP AUDIT

This follow-up audit determined that of the six recommendations made in the previous audit, the Sheriff's Office has implemented one, partially implemented two, and that three prior recommendations were no longer applicable.

The Sheriff's office implemented the recommendation to use CSMS in obtaining addresses for respondent and partially implemented the recommendations to use computer databases such as Lexis Nexis and to serve respondents at different times of the day. However, the recommendations to establish written guidelines governing the length of time it should take to make initial attempts to find respondents and monitor adherence to those guidelines are no longer applicable since the Sheriff's Office has considerably improved its timeliness. In addition, regarding the recommendation that the Sheriff's Office should adhere to its written agreement with HRA to initially use the personal method of service rather than the alternate personal method, we believe that this recommendation is no longer applicable and that the Sheriff's Office should attempt to revise its agreement with HRA.

Previous Finding: "Inadequate Respondent Address Research"

The previous audit found that the Sheriff's Office did not adequately research respondent address information. Of the 144 sampled cases in which respondents were not found, the Sheriff's Office determined that 72 respondents could not be found because of insufficient or inaccurate addresses. However, of the 144 cases that were reviewed, auditors found other addresses for 52 of the respondents by searching various computer databases, such as Lexis Nexis.

Previous Recommendation #1: "The Sheriff's Office should gain access to various computer databases such as Lexis Nexis to increase the automated search options for finding respondents."

Previous DOF Response: "The agency agrees. In fact, the Warrants Unit obtained access to Lexis-Nexis in October 2004 and is currently using Lexis-Nexis as a research tool. . . . The CSMS system currently, as well as during the time covered by this audit, obtains address information from various databases including the Department of Motor Vehicles and the State Directory of New Hires."

Current Status: PARTIALLY IMPLEMENTED

While the Warrants Unit has obtained access to and is currently using Lexis Nexis as a research tool to increase its chances of finding and serving respondents, there is a lack of evidence that Lexis Nexis is used to the fullest extent in finding additional addresses not available in CSMS. For the 59 sampled cases in which the Deputy Sheriff failed to successfully serve the respondent, notations in the case records did not always indicate whether additional searches were conducted through the use of Lexis Nexis. The records on the mock case cards showed that 24 (41 percent) of the 59 cases either had details indicating that a Lexis Nexis search was performed and resulted in eight new addresses or due to time constraints a search of Lexis Nexis would not have provided the Deputies with sufficient time to make additional attempts at a

new address. For the remaining 35 cases, there is no indication that Lexis Nexis was used. Our search of Lexis Nexis for the period reviewed showed that 20 of the 35 cases had one or more new addresses that the Sheriff's Office could have used to find the respondent.

Recommendation

1. The Sheriff's Office should fully utilize Lexis Nexis and indicate on the mock case cards that a search was performed and record the results.

DOF Response: DOF agreed stating, "We are currently utilizing Lexis-Nexis as recommended in the original audit report. However, we will conduct a comparative analysis with CSMS to determine whether increased utilization of this database is likely to produce updated addressees for respondents not otherwise available through CSMS. We will instruct staff that all such Lexis-Nexis inquiries must be included on the mock case cards."

Previous Recommendation #2: "Ensure that search inquiries within CSMS are made for obtaining updated addresses for respondents."

Previous DOF Response: "It was and is standard practice for the Sheriff to make CSMS inquiries for the vast majority of cases received. If the assigned Deputy discovered that the address for a respondent did not exist or that the respondent had moved and the assigned Deputy did not obtain any useful information in the field, the only other address information option during the period of time covered by this audit was the CSMS system. If an inquiry was made to the CSMS system and the CSMS system did not provide any additional address information for the respondent, the Deputy would have had no choice but to close the case as there would then be no productive information available with which to pursue it further."

Current Status: IMPLEMENTED

Our interviews of key personnel responsible for CSMS searches at the Sheriff's Office, along with our review of the 59 sampled case records, disclosed that the Sheriff's Office performs an adequate job researching the CSMS system for updated addresses. Of the 59 sampled cases in which respondents were not successfully served, CSMS searches were not needed for 6 cases. Of the remaining 53 cases, a CSMS search was conducted for 46 (87%). For the remaining seven cases, the files did not indicate why searches were not performed. For 12 (26%) of the 46 cases in which a search was performed, the search in CSMS resulted in new addresses. Therefore, the continued use by the Sheriff's Office of CSMS as a research tool to find respondents is a valid practice.

Previous Finding: "Attempts to Find Respondents Not Performed at Different Times"

The previous audit found that of the 144 sampled cases in which respondents were not found, 98 were cases in which two or more attempts to find respondents were performed by the Sheriff's Office. For 69 (70 percent) of these cases, the attempts were not performed at different times.

Previous Recommendation #3: “The Sheriff’s Office should ensure that it complies with its written agreement with HRA and makes attempts on different days and different times (one in the morning, one in the afternoon, and one in the evening).”

Previous DOF Response: “The Sheriff’s Office does ensure that it complies with its written agreement and does make attempts at service on different days at different times. However, if attempted service at any point reveals that the address information is incorrect further attempts at service in the evening or a later date at that location would be pointless and a waste of resources. . . . the cases the Warrants Unit receives are currently assigned on a manual basis by pulling cases from file drawers. The Sheriff’s Office is looking to implement a new computer program to ensure that work is assigned more efficiently and that attempts are made on different days at different times.”

Current Status: PARTIALLY IMPLEMENTED

In our review of the 59 sampled cases in which respondents were not found, for 7 cases (12 percent), only one attempt was made to find respondent even when there was sufficient time remaining. In addition, for 22 cases (37 percent) two or more attempts were made on different days; however, the attempts were not made to cover the morning, afternoon and evening periods.

For the remaining 30 sampled cases, either the three required attempts were made to cover the three periods or there were unforeseeable circumstances that prevented the Deputies from making additional attempts. Table I, following, shows a breakdown of the 29 cases in which attempts were not made to cover the three periods.

Table I

Breakdown of 29 Cases for Which Attempts Were Not Made to Find Respondents at Various Time of the Day

Time Category	Number of Cases	Percentage of Total Cases
Only Morning Attempt(s) Performed	9	31.03%
Only Afternoon Attempt(s) Performed	2	6.90%
Only Evening Attempt(s) Performed	5	17.24%
Only Morning and Afternoon Attempts Performed	4	13.79%
Only Morning and Evening Attempts Performed	7	24.14%
Only Afternoon and Evening Attempts Performed	2	6.90%
Total	29	100%

As shown in Table I, the Sheriff’s Office failed to make attempts at different times of the day. In 9 (31%) of the 29 cases, the Sheriff’s Office made multiple attempts at the same time during each of the attempts made—only during the morning, the evening or the afternoon—rather than making attempts through a combination of all three periods. At times, the Sheriff’s Office made more than three attempts to find the respondents; however, the attempts were not made to cover all three periods of the day. Doing so would ensure that the Sheriff’s Office increases its chance of finding the respondents.

DOF Response: “We do not agree with this finding. Our goal and the steps we have taken are to always make 3 attempts unless we receive information that an additional attempt beyond the first attempt will be futile and/or otherwise unnecessary. As examples, when we learn after the first attempt that a person is incarcerated, further attempts would not yield success and therefore will not be made. Additionally, where we have more than one address that field attempts are being made at, attempts may be made at both addresses during the same approximate time of day since attempts on different days and different times is a standard we always strive for when there is only one address of record. Keep in mind an exhaustive effort to locate respondents (i.e. 3 attempts at each address we find) would result in a lower successful service rate overall since our staffing resources are limited pursuant to our MOU [Memorandum of Understanding] with HRA. Moreover, the court has other remedies to compel appearance of respondents . . . following our attempts at service and pursuant to a filing of affidavits for same.”

Auditor Comment: In several instances, the Sheriff’s Office made only one attempt since the person who answered the door informed the Deputies that the respondent no longer lived there. The Deputies did not pursue any other action, such as verifying the legitimacy of that information. We believe that a person who answers the door cannot always be relied upon for an honest response to the whereabouts of a respondent who is

not home. Therefore, provided that the Deputies have additional time available, they should make attempts to verify the information, and if a new address is identified, should make additional attempts to find the respondent.

In addition, for the 22 cases in our sample in which two or more attempts were made on different days, the attempts were not made to cover the morning, afternoon, and evening as required by HRA's Memorandum of Understanding with the Sheriff's Office. Therefore, we stand by our finding.

Recommendation

2. The Sheriff's Office should follow its own procedure to ensure that Deputies make attempts to find respondents at different times of the day, including the morning, afternoon, and evening.

DOF Response: DOF agreed stating, "We appreciate that you have acknowledged that we have made progress in this area and we will continue to take steps to improve our attempts to find respondents at different times of the day to include morning, afternoon and evening attempts, unless such further attempts will be futile or otherwise unnecessary."

Previous Finding: "Initial Attempts at Finding Respondents Not Performed in a Timely Manner"

Using a nine-day median³ as the standard of how long the Sheriff's Office should take before going out to make its initial attempts, the previous audit found that 147 (49 percent) of the 297 cases reviewed exceeded nine days. In addition, of those 147 cases, 79 (54 percent) were for respondents who could not be found.

The previous audit further stated that when initial attempts to find respondents are not performed in a timely manner, the time remaining in which to find the respondents by the service dates is reduced as is the likelihood of finding the respondents. The remedy is to provide better assurance that there is adequate time to find respondents. Written guidelines governing the length of time it should take to make its initial attempts should be established and monitored.

Previous Recommendation #4: "Establish written guidelines governing the length of time it should take to make its initial attempts to find respondents."

Previous DOF Response: "Written guidelines [are] in place. . . . The Sheriff has to ensure that service attempts are made on all cases before the return date. . . . The goal of the Sheriff's Office is to ensure that service attempts are made on all process received."

Current Status: NO LONGER APPLICABLE

³ Due to lack of written guidelines governing the length of time it should take to make initial attempts, the previous audit established a nine-day median by calculating the average number of days between the dates cases were filed and the dates initial attempts were made. The nine-days included weekends.

While the Sheriff’s Office still has no written guidelines governing the length of time it should take to make initial attempts to find respondents, it has considerably improved its timeliness in this area. For the 144 cases reviewed, 118 (82 percent) cases had initial attempts made within the first five business days as compared to the nine-day median used in the previous audit.

Further, for those cases in which initial attempts were made after the five-days, there was sufficient time in which the case could be served before the required service date. For instance, sample number 36 was received by the Sheriff’s Office on April 6, 2007, and was due to be served by June 19, 2007. The records show that the Sheriff’s Office made an initial attempt on May 15, 2007, a month before the required service date.

Table II, following, shows the average number of days it took the Sheriff’s Office to make initial attempts for the sampled cases.

Table II
Range of Days the Sheriff’s Office Took To Make
Initial Attempts at Finding Respondents

Range of Days to Make Initial Attempt at Finding Respondents	Number of Cases
0 to 10 business days	135 (93.8%)
11 to 20 business days	8 (5.6)
21 to 30 business days	1 (0.6%)
≥ 30 business days	0
Total	144 ⁴

As shown in Table II, all attempts to find respondents were made within 30 business days. Additionally, all initial attempts were made with ample time remaining before the required service date for at least two more attempts, if needed.

Previous Recommendation #5: “Monitor adherence to its established guidelines.”

Previous DOF Response: “The Sheriff will continue to ensure that the supervisors assigned to the Warrants Unit continue to monitor the dates the work is received and when service attempts are made.”

Current Status: NO LONGER APPLICABLE

⁴ Analysis of initial attempts could not be performed for three cases in our sample since the cases lacked the mock case cards on which attempts made are recorded. Thus for this test, the sample was reduced from 147 to 144.

Since the previous recommendation #4 is no longer applicable, this associated recommendation is also no longer applicable.

DOF Response: “We agree with these findings. However, it is worth stating that the reason we [improved] timeliness in making initial attempts to find respondents is because we created our own performance metric.”

Previous Finding: “Alternate Personal Service Used on Initial Attempts to Find Respondents”

The previous audit found that 67 (44 percent) of the 153 sampled cases in which summonses and subpoenas were served, alternate personal service was used on the initial attempt to find the respondents, even though there was time left before the service dates to make the three required attempts to serve the respondents themselves. The agreement between the Sheriff’s Office and HRA states that personal service is the preferred method of service. However, when direct personal service is not possible, alternate personal service can be used.

Previous Recommendation #6: “The Sheriff’s Office should ensure that it adheres to its written agreement with HRA by using personal service-the preferred method of service. Alternate personal service should only be used after an established number of attempts to serve respondents personally have been unsuccessful.”

Previous DOF Response: “Alternate personal service is personal service. . . . The service of process by alternate personal service is personal service as described in section 308 of the New York State Civil Practice Law and Rules (CPLR) and as described in section 427(a) of the New York State Family Court Act.

“Implementing your recommendation would have an adverse impact on the number of respondents who are successfully served and a corresponding adverse impact on child support collections and would not serve any legal purpose.”

Current Status: NO LONGER APPLICABLE

We reviewed 88 cases that were successfully served either directly to the respondent named in the summons or to an alternate person of suitable age at the actual place of business or dwelling. Of the 88 successfully-served cases, 36 were served through direct personal service and 52 were served through alternate personal service. We reviewed the number of instances in which the respondent appeared in court when served through direct personal service and through alternate personal service. More than 50 percent of the respondents appeared in court when served by each method.

In addition, our interviews with the Sheriff’s Office and HRA officials revealed that they all agreed that although personal service is the preferred method of service, alternate personal service increases the opportunity for more respondents to be served summonses and therefore increases the likelihood of court appearance. Based on their perception and interpretation of the method of service, it would benefit both parties to revise the agreement so that it does not favor one method over the other.

Recommendation

3. The Sheriff's Office should revise its agreement with HRA to reflect that using either personal service or alternate personal service is acceptable in serving respondents.

DOF Response: DOF agreed stating, "We greatly appreciate that your follow-up audit acknowledges our contention all along that it is acceptable for the Sheriff's Office to use either personal service or alternate personal service when serving respondents. We will follow up with the New York City Human Resources Administration (HRA)."



**FINANCE
NEW YORK**
THE CITY OF NEW YORK
DEPARTMENT OF FINANCE
OFFICE OF THE SHERIFF

BY FAX AND HAND DELIVERY

April 30, 2008

John Graham
Deputy Comptroller
Audits, Accountancy & Contracts
Office of the Comptroller
1 Centre Street
New York, NY 1007-2341

Re: **DRAFT REPORT
Follow-up Audit on the Effectiveness of
Child Support Enforcement Services
Performed by the Sheriff's Office
Audit MH08-082F**

Dear Mr. Graham:

This letter is the New York City Department of Finance (Finance) response to the City of New York Office of the Comptroller (Comptroller) Draft Report on the Follow-up Audit on the Effectiveness of Child Support Enforcement Services Performed by the Sheriff's Office.

Thank you for your follow-up audit recommendations. The follow-up audit and its constructive recommendations are helpful in our continuing efforts to improve the services that we provide.

The original audit report from the Comptroller's Office contained six recommendations. We appreciate the follow-up audit's acknowledgement that "the Sheriff's Office has implemented one, partially implemented two and that three prior recommendations were no longer applicable."

Recommendation #1 in the original audit report stated,

The Sheriff's Office should gain access to various computer databases such as Lexis-Nexis to increase the automated search options for finding respondents.

Your follow-up audit report stated that we partially implemented this recommendation.

We agree with this finding. The reason we only partially implemented this recommendation is because through the use of various computer databases, CSMS has been determined by our staff to be a superior database. However, we will revisit and conduct a more thorough comparative analysis of databases to ensure that we maximize our ability to obtain updated address information for respondents.

Previous Recommendation #2

Ensure that search inquiries within CSMS are made for obtaining updated addresses for respondents.

Your follow-up audit report stated that we have implemented this recommendation.

We agree with this finding.

Previous Recommendation #3

The Sheriff's Office should ensure that it complies with its written agreement with HRA and makes attempts on different days and different times (one in the morning, one in the afternoon and one in the evening).

Your follow-up audit report states that we partially implemented this recommendation.

We do not agree with this finding. Our goal and the steps we have taken are to always make 3 attempts unless we receive information that an additional attempt beyond the first attempt will be futile and/or otherwise unnecessary. As examples, when we learn after the first attempt that a person is incarcerated, further attempts would not yield success and therefore will not be made. Additionally, where we have more than one address that field attempts are being made at, attempts may be made at both addresses during the same approximate time of day since attempts on different days and different times is a standard we always strive for when there is only one address of record. Keep in mind that an exhaustive effort to locate respondents (i.e. 3 attempts at each address we find) would result in a lower successful service rate overall since our staffing resources are limited pursuant to our MOU with HRA. Moreover, the court has other remedies to compel appearance of respondents (i.e. execution of a warrant) following our attempts at service and pursuant to a filing of affidavits for same.

Previous Recommendations #4 and #5

Establish written guidelines governing the length of time it should take to make its initial attempts to find respondents.

Monitor adherence to established guidelines.

Your follow-up audit report states that these recommendations are no longer applicable because we have "considerably improved its timeliness in this area."

We agree with these findings. However, it is worth stating that the reason we approved timeliness in making initial attempts to find respondents is because we created our own performance metric, "Percent of timely processed summonses." As your audit indicates, 82 percent of the cases in your case review had initial attempts made within 5 business days and 94% had initial attempts within 10 business days.

Previous Recommendation #6

The Sheriff's Office should ensure that it adheres to its written agreement with HRA by using personal service-the preferred method of service. Alternate personal service should only be used after an established number of attempts to serve respondents personally have been unsuccessful.

Your follow-up audit report states that this recommendation is no longer applicable.

We agree with this finding as the Sheriff's Office adheres to the CPLR governing service of process.

Your follow-up audit contains 3 recommendations that are set forth below.

Recommendation #1 in your follow-up audit report states:

The Sheriff's Office should fully utilize Lexis-Nexis and indicate on the mock case cards that a search was performed and record the results.

We are currently utilizing Lexis-Nexis as recommended in the original audit report. However, we will conduct a comparative analysis with CSMS to determine whether increased utilization of this database is likely to produce updated addresses for respondents not otherwise available through CSMS. We will instruct staff that all such Lexis-Nexis inquires must be included on the mock case cards.