

# OFFICE OF THE STATE AUDITOR

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# DIANA DIZOGLIO

Official Audit Report – Issued April 18, 2024

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## New Bedford District Court

For the period July 1, 2020 through June 30, 2022



OFFICE OF THE STATE AUDITOR

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**DIANA DIZOGLIO**

April 18, 2024

Honorable Joseph P. Harrington, Acting First Justice  
New Bedford District Court  
75 North 6th Street  
New Bedford, MA 02740

Dear Honorable Joseph Harrington:

I am pleased to provide to you the results of the enclosed performance audit of the New Bedford District Court. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2020 through June 30, 2022. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the New Bedford District Court. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Best regards,



Diana DiZoglio  
Auditor of the Commonwealth

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## EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the New Bedford District Court (NBDC) for the period July 1, 2020 through June 30, 2022.

The purpose of this audit was to determine whether NBDC has closed criminal case information in an electronic format that was remotely accessible to the public, unless otherwise restricted, as required by Rule 5(a)(2) of Massachusetts Trial Court Rule XIV: Uniform Rules on Public Access to Court Records. We also determined whether NBDC ensured that at least one clerk attended all criminal sessions of the court, as required by Section 12 of Chapter 218 of the General Laws.

Our audit revealed no significant instances of noncompliance by NBDC that must be reported under generally accepted government auditing standards. However, we did identify an issue we believe warrants attention, which we outlined in the Other Matters section of this report. This issue relates to the Massachusetts Trial Court, NBDC's oversight agency, which was outside the scope of this audit but prevented NBDC from meeting its requirements under the law.

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## OVERVIEW OF AUDITED ENTITY

The District Court Department, established under Section 1 of Chapter 211B of the Massachusetts General Laws, is one of seven departments of the Massachusetts Trial Court. Chapter 478 of the Acts of 1978 restructured the Massachusetts Trial Court into these seven departments: the Boston Municipal Court, the Land Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the District Court.

According to the District Court Department's website,

*The District Court Department hears a wide range of criminal, civil, housing, juvenile, mental health, and other types of cases. District Court criminal jurisdiction extends to all felonies punishable by a sentence up to 5 years, and many other specific felonies with greater potential penalties, all misdemeanors, and all violations of city and town ordinances and by-laws. In civil matters, the District Court hears cases in which the damages are not likely to be more than \$50,000, and small claims cases up to \$7,000.*

The District Court Department consists of 62 courts across the Commonwealth, one of which is the New Bedford District Court (NBDC). NBDC presides over civil, criminal, and other matters in its territorial jurisdiction: the city of New Bedford and the towns of Acushnet, Dartmouth, Fairhaven, Freetown, and Westport.

NBDC has not received an individual state appropriation since 2009. All of its funds for wages, employee benefits, and administrative expenses come from Massachusetts Trial Court appropriations for the district courts. The district courts in Massachusetts were allocated \$77,540,004 in fiscal year 2021 and \$72,444,291 in fiscal year 2022. For supplies, travel, etc., NBDC requests funds from the Massachusetts Trial Court. NBDC received an allotment of \$17,758 in fiscal year 2021 and \$12,585 in fiscal year 2022.

### Public Remote Access to Closed Criminal Cases

The public may access court records either at the courthouse in which the trial took place or through remote access. At a courthouse, individuals can make records requests to the clerk at the counter or use a computer kiosk. The public can remotely access court records through the Massachusetts Trial Court Electronic Case Access system, which is also called MassCourts. MassCourts is the central case management system used by all Massachusetts Trial Court departments. Attorneys registered to practice in Massachusetts can also access court records through the Attorney's Portal, which is part of MassCourts and allows attorneys to access additional information specific to cases in which they are involved.

## **Clerk Attendance in Sessions**

NBDC has a clerk magistrate, a first assistant clerk, four assistant clerks, and three session clerks. At least one clerk must attend each session of the court and keep a record of session proceedings. These clerk(s) update the criminal docket<sup>1</sup> with the presiding judge(s), dispositions, findings, and other information (e.g., scheduled events related to the case).

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1. According to Rule 1(e) of Massachusetts Trial Court Rule XIV, a docket is “the paper or electronic list of case information maintained by the Clerk that contains the case caption, case number, and a chronological entry identifying the date and title of each paper, order, or judgment filed in a case, and the scheduling and occurrence of events in the case.”

## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the New Bedford District Court (NBDC) for the period July 1, 2020 through June 30, 2022.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Did NBDC have closed criminal case information in an electronic format that was remotely accessible to the public, unless otherwise restricted, as required by Rule 5(a)(2) of Massachusetts Trial Court Rule XIV: Uniform Rules on Public Access to Court Records?	Yes; see <u>Other Matters</u>
2. Did NBDC ensure that at least one clerk attended all criminal sessions of the court, as required by Section 12 of Chapter 218 of the General Laws?	Yes

To accomplish our audit objectives, we gained an understanding of the aspects of NBDC's internal control environment that we determined to be relevant to our objectives by reviewing NBDC's mission statement, policies, and procedures, as well as by interviewing NBDC management and employees. We evaluated the design and implementation and tested the operating effectiveness of the internal control for criminal complaint applications,<sup>2</sup> which must be approved by a clerk before criminal cases are assigned a docket number to make them official cases before they are entered into MassCourts.

To obtain sufficient, appropriate evidence to address our audit objectives, we performed the following procedures.

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2. According to the Massachusetts Trial Court website, a complaint application in a criminal case is "a complaint alleging that a crime has been committed by the defendant . . . including a police report . . . or other written information supporting the complaint." A police department or an individual submitting a complaint submits this application to the clerk magistrate.

## **Public Remote Access to Closed Criminal Cases**

We determined whether NBDC had closed criminal case information in an electronic format that was remotely accessible to the public, unless otherwise restricted, as required by Rule 5(a)(2) of Massachusetts Trial Court Rule XIV: Uniform Rules on Public Access to Court Records. To do this, we selected a random, statistical sample of 60 closed criminal cases—using a 95% confidence level,<sup>3</sup> a 0% expected error rate,<sup>4</sup> and a 5% tolerable error rate<sup>5</sup>—from the population of 11,106 criminal cases that were closed during the audit period. We obtained the case files related to our sample and verified that the case file information was remotely accessible to the public. Specifically, we verified that the public could remotely access the following information: the defendant’s name, the name of each attorney who had entered an appearance in the case, docket information, and calendar information (e.g., scheduled events related to the case).

We noted no exceptions in our testing; therefore, we conclude that, for the items we tested, NBDC made closed criminal case information available in an electronic format that was remotely accessible to the public.

## **Clerk Attendance in Sessions**

To determine whether NBDC ensured that at least one clerk attended all criminal sessions of the court, as required by Section 12 of Chapter 218 of the General Laws, we selected a random, statistical sample of 60 closed criminal cases—using a 95% confidence level, a 0% expected error rate, and a 5% tolerable error rate—from the population of 11,106 criminal cases that were closed during our audit period. We obtained the case files related to our sample and verified that at least one clerk attended the related criminal sessions of the court.

We noted no exceptions in our testing; therefore, we conclude that, for the items we tested, NBDC ensured that at least one clerk attended all criminal sessions of the court.

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3. Confidence level is a mathematically based measure of the auditor’s assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.
  4. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor’s knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.
  5. The tolerable error rate (which is expressed as a percentage) is the maximum error in the population that is acceptable while still using the sample to conclude that the results from the sample can be relied on.
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## **Data Reliability Assessment**

To determine the reliability of the list of criminal cases that were closed during the audit period, which we received from NBDC officials, we selected a random sample of 20 closed criminal cases from the list and traced them to the hardcopy closed criminal dockets for agreement. In addition, we selected a judgmental sample of 20 hardcopy closed criminal dockets from our audit period and traced them to the list of criminal cases that were closed during the audit period for agreement. We also performed validity and integrity tests on the list, including checking for dates outside our audit period, hidden rows and columns, and duplicates records.

Based on the results of the data reliability assessment procedures described above, we determined that the information obtained for our audit period was sufficiently reliable for the purposes of our audit.

## **Conclusion**

Our audit revealed no significant instances of noncompliance by NBDC that must be reported under generally accepted government auditing standards; therefore, this report contains no findings.

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## OTHER MATTERS

### **The Massachusetts Trial Court did not have all required information for closed criminal cases remotely available to the public.**

During our review of the sample of 60 closed criminal cases, we found that the public portal in MassCourts did not allow the public to remotely access all information. Specifically, the closed criminal cases in the public portal in MassCourts did not include docket information and calendar information. We found that the New Bedford District Court (NBDC) entered all of this required information into MassCourts; however, this required information was not available remotely to the public through this portal. The Massachusetts Trial Court is responsible for MassCourts, including what information is available remotely to the public.

If the Massachusetts Trial Court does not ensure that criminal case information is remotely accessible to the public, then individuals cannot access this information without physically visiting the courthouse, which may not be possible for all individuals.

Rule 5(a)(2) of Massachusetts Trial Court Rule XIV: Uniform Rules on Public Access to Court Records states,

*The following information shall be viewable remotely in criminal court records: . . .*

*(C) The docket of a specific case; and*

*(D) Calendar information*

Massachusetts Trial Court officials did not provide a reason why this information was not available remotely to the public.

NBDC should follow up with the Massachusetts Trial Court to ensure that all of the required information for criminal cases in its court is available remotely to the public.

NBDC did not provide a response to our audit report.