



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2007-1154-30

INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
IPSWICH DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO MARCH 31, 2007

OFFICIAL AUDIT
REPORT
NOVEMBER 19, 2007

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION

1

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. Chapter 211B of the Massachusetts General Laws authorized the District Court Department to establish 62 Divisions, each having a specific territorial jurisdiction, to preside over civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Ipswich Division of the District Court Department, (IDC) presides over civil and criminal matters falling within its territorial jurisdiction: the municipalities of Ipswich, Hamilton, Wenham and Topsfield. During the period July 1, 2005 through March 31, 2007, IDC collected revenues of \$805,628, which it disbursed to the Commonwealth and to those municipalities within its jurisdiction. In addition to processing civil entry fees and monetary assessments on criminal cases, IDC was the custodian of approximately 56 cash bails totaling to \$46,475 and four small claims deposits totaling \$400 as of March 31, 2007.

IDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings. Although IDC does not collect the associated monetary assessment when a motorist is found responsible for a CMVI, it is required to submit the results of the hearing to the Registry of Motor Vehicles, the agency that is responsible for the collections.

IDC operations are funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC) or the Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$1,247,117 for the period July 1, 2005 through March 31, 2007.

The purpose of our audit was to review IDC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including cash management, bail funds, and criminal and civil case activity for the period July 1, 2005 to March 31, 2007.

AUDIT RESULTS

5

IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

5

Our review found that the Ipswich District Court (IDC) did not develop an internal control plan or conduct periodic risk assessments for its Probation Office as required by state law and regulations. In addition, the internal control plan developed for the Clerk Magistrate's Office needed to better document major transaction cycles and identify how

the control activities associated with these cycles would mitigate any identified risks. As a result, the AOTC's efforts to ensure the integrity of court records and assets were not optimized.

INTRODUCTION

Background

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. The statute also created a central administrative office managed by a Chief Administrative Justice (CAJ), who is also responsible for the overall management of the Trial Court. The CAJ charged the central office, known as the Administrative Office of the Trial Court (AOTC), with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court, including a budget; central accounting and procurement systems; personnel policies, procedures, and standards for judges and staff; and the management of court facilities, security, libraries, and automation.

Chapter 211B of the Massachusetts General Laws authorized the District Court Department (DCD), which has civil jurisdiction over money-damage cases involving tort and contract actions; small claims; summary process; civil motor vehicle infractions (CMVI); mental health, alcoholism, and drug abuse commitments; and juvenile matters in Districts without a Juvenile Court. Its criminal jurisdiction extends over all misdemeanors and certain felonies. The DCD established 62 Divisions, each having a specific territorial jurisdiction, to preside over the civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Ipswich Division of the District Court Department (IDC) presides over civil and criminal matters falling within its territorial jurisdiction: the municipalities of Ipswich, Hamilton, Wenham and Topsfield. During our audit period, July 1, 2005 to March 31, 2007, IDC collected revenues totaling \$805,628, which it disbursed to the Commonwealth and the above municipalities. The majority (approximately 92%) of revenue collected by IDC was paid to the Commonwealth as either general or specific state revenue - totaling \$740,730 - as follows:

Revenue Type	Amount
Probation fees	\$292,191
General Revenue	278,235
Victim/Witness Fund	42,778
Alcohol Fees	36,978
Head Injury Program	36,868
Legal Counsel	26,447
Surcharges	11,680
Victims of Drunk Driving	8,325
Environmental Fines	4,100
Highway Fund	1,668
Miscellaneous	515
Indigent Defense	510
Drug Analysis	435
Total	<u>\$740,730</u>

During the period from July 1, 2005 to March 31, 2007, the Clerk-Magistrate's Office collected approximately \$68,654 of restitution money and paid \$68,944 directly to the parties owed the restitution funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, IDC was custodian of approximately 56 cash bails totaling \$46,475 as of March 31, 2007. Bail in cash (IDC does not accept non-cash forms of bail) is the security given to the court by defendants or their sureties to obtain release and to ensure appearance in court, at a future date, on criminal matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release. In addition, IDC was the custodian for four small claims deposits totaling \$400 as of March 31, 2007.

IDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings, which are requested by the alleged violator and heard by a Clerk-Magistrate or judge who determines whether the driver is responsible for the CMVI offenses cited. IDC does not collect the associated monetary assessment when a violator is found responsible, but it is required to submit the results of the hearing to the Registry of Motor Vehicles, which follows up on collections.

IDC operations were funded by appropriations under the control of either the Division (local) or the AOTC or Commissioner of Probation Office (central). Under local control was an appropriation for personnel-related expenses of the Clerk-Magistrate's Office and Judge's Lobby support staff, and certain administrative expenses (supplies, periodicals, law books, etc.) Other administrative and personnel expenses of the Division were paid by centrally controlled

appropriations. According to the Commonwealth's records, local and certain central appropriation expenditures associated with the operation of the Division for the period of July 1, 2005 to March 31, 2007 totaled \$1,247,117¹.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of the financial and management controls of IDC. The scope of our audit included IDC's controls over operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2005 to March 31, 2007.

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits and, accordingly, included audit procedures and tests that we considered necessary under the circumstances.

Our audit objectives were to (1) assess the adequacy of IDC's internal controls over cash management, bail funds, and civil- and criminal-case activity and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding IDC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures.

Our review centered on the activities and operations of IDC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed bail and related criminal-case activity. We also reviewed cash management activity and transactions involving criminal monetary assessments and civil case entry fees, to determine whether policies and procedures were being followed.

To achieve our audit objectives, we conducted interviews with management and staff and reviewed prior audit reports, the Office of the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and IDC's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records,

¹ This amount does not include certain centrally controlled expenditures, such as facility lease and related operational expenses, as well as personnel costs attributable to judges, court officers, security officers and probation staff, and related administrative expenses of the probation office, since they are not identified by court division in the Commonwealth's accounting system.

and other source documents. Our assessment of internal controls over financial and management activities at IDC was based on those interviews and the review of documents.

Our recommendations are intended to assist IDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that IDC 's systems covering cash management, bail funds, and criminal- and civil-case activity operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we determined that, except for the issues noted in the Audit Results section of this report, IDC (1) maintained adequate internal controls over cash management, bail funds, and civil- and criminal-case activity; (2) properly recorded, collected, deposited, and accounted for all receipts; and (3) complied with applicable laws, rules, and regulations, for the areas tested.

AUDIT RESULTS

IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

Our review of internal controls at the Ipswich District Court (IDC) found that the court did not develop an internal control plan for its Probation Office, and that enhancements were needed in the internal control plan developed by the Clerk-Magistrate's Office to comply with the guidelines issued by the Office of the State Comptroller (OSC). As a result, AOTC's efforts to ensure the integrity of court records and assets were not optimized.

Chapter 647 of the Acts of 1989, an Act Relative to Improving the Internal Controls within State Agencies, states in part: "Internal control systems for the various state agencies and departments of the commonwealth shall be developed in accordance with internal control guidelines established by the Office of the Comptroller." Subsequent to the passage of Chapter 647, the OSC issued written guidance in the form of the Internal Control Guide for Managers and the Internal Control Guide for Departments, which require that each department's internal control plan be unique and contain five components: risk assessment, control environment, information and communication, control activities, and monitoring. In these guides, the OSC stressed the importance of internal controls and need for departments to develop an internal control plan, defined as follows:

[A] high-level summarization, on a department-wide basis, of the department's risks (as the result of a risk assessment) and of the controls used by the department to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures. We would expect this summary to be from ten to fifty pages depending on the size and complexity of the department...

Accordingly, AOTC issued Internal Control Guidelines for the Trial Court, establishing the following requirement for department heads when developing an internal control plan, including the following important internal control concepts:

[The internal control plan] must be documented in writing and readily available for inspection by both the Office of the State Auditor and the AOTC Fiscal Affairs department, Internal Audit Staff. The plan should be developed for the fiscal, administrative and programmatic operations of a department, division or office. It must explain the flow of documents or procedures within the plan and its procedures cannot conflict with the Trial Court Internal Control Guidelines. All affected court personnel must be aware of the plan and/or be given copies of the section(s) pertaining to their area(s) of assignment or responsibility.

The key concepts that provide the necessary foundation for an effective Trial Court Control System must include: risk assessments; documentation of an internal control plan; segregation of duties; supervision of assigned work; transaction documentation; transaction authorization; controlled access to resources; and reporting unaccounted for variances, losses, shortages, or theft of funds or property.

In addition to the Internal Control Guidelines, Fiscal Systems Manual, and Personnel Policies and Procedures Manual, AOTC has issued additional internal control guidance (administrative bulletins, directives, and memorandums) in an effort to promote effective internal controls in court divisions and offices.

The Chief Probation Officer stated that he thought AOTC's internal control guidelines dated July 1, 1998, along with various policies and procedures manuals, constituted the Probation Office's internal control plan.

During the course of our fieldwork, the Clerk Magistrate's Office prepared an internal control plan which incorporated the internal control components discussed in the guidelines issued by the OSC. Our review of this plan indicated that it could be improved by better documenting the information and communication systems sections (accounting and non-accounting) in place at IDC, and that the monitoring and control activities components should be more closely linked with the risks identified and the associated information and communication cycles. We advised the IDC about the guidance available on the OSC's website, and suggested that AOTC staff could assist in developing and improving internal control plans.

Recommendation

The IDC Clerk-Magistrate's Office should modify its internal control plan to better describe its accounting and information systems, and to more closely identify the control and monitoring activities associated with these systems and identified risks. The IDC Probation Office should review OSC's Internal Control Guidelines, conduct a risk assessment, and develop a high-level internal control plan that addresses the risks and internal control requirements specific to its operations. Moreover, IDC should conduct annual risk assessments and update its internal control plans based on the results of these risk assessments as necessary.

Auditee's Response

The Clerk-Magistrate's Office of the Ipswich District Court is in the process of editing the Internal Control Plan to optimize the integrity of the Court's records and assets in order to be in compliance with Chapter 647 of the Acts of 1989. Toward that end, the Clerk-Magistrate designated an Internal Control Plan Coordinator, who has attended a training session sponsored by the Office of the Chief Justice for Administration and Management. The document is expected to be complete after a follow-up meeting in November. At that time, a copy will be distributed to each employee.

Likewise, the Chief Probation Officer and a staff member of the Probation Department have attended a similar training session and are drafting an Internal Control Plan for the Probation Department, in coordination with the Commissioner of Probation.

Thereafter, updates to the Internal Control Plan will be made to address any new risk areas, along with a yearly review by the Clerk-Magistrate and Chief Probation Officer and their respective designated staff.