



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. 2007-1158-30

INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
NEWBURYPORT DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 THROUGH JANUARY 31, 2007

OFFICIAL AUDIT
REPORT
JULY 25, 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 Newburyport Division of the District Court Department, (NDC) presides over civil and criminal matters falling within its territorial jurisdiction: the City of Newburyport and towns of Amesbury, Merrimack, Newbury, Rowley, Salisbury, and West Newbury. During the period, July 1, 2005 through January 31, 2007, NDC collected revenues totaling \$2,585,962, 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, NDC was the custodian of approximately 160 cash bails amounting to \$236,716 and four small claims deposits amounting to \$400 as of January 31, 2007.

NDC is also responsible for conducting civil motor vehicle infractions (CMVI) hearings. Although NDC 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.

NDC operations are funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC), or Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$1,124,552 for the period July 1, 2005 through January 31, 2007.

The purpose of our audit was to review NDC'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 through January 31, 2007.

AUDIT RESULTS

5

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

5

Our review disclosed that the NDC Clerk-Magistrate's Office did not conduct a risk assessment or develop an internal control plan as required by state law and Trial Court

rules and regulations. The lack of an internal control plan and periodic risk assessment diminishes the AOTC's efforts to ensure the integrity of court records and assets.

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 Newburyport Division of the District Court Department (NDC) presides over civil and criminal matters falling within its territorial jurisdiction: the City of Newburyport and towns of Amesbury, Merrimack, Newbury, Rowley, Salisbury, and West Newbury. During our audit period, July 1, 2005 to January 31, 2007, NDC collected revenues totaling \$2,585,962, which it disbursed to the Commonwealth and to those municipalities. The majority (approximately 94%) of revenue

collected by NDC was paid to the Commonwealth as either general or specific state revenue - totaling \$2,423,875 - as follows:

Revenue Type	Amount
Probation fees	\$935,605
General Revenue	822,048
Victim/Witness Fund	172,386
Alcohol Fees	123,773
Head Injury Program	110,519
Legal Counsel	110,445
Surcharges	36,235
Victims of Drunk Driving	32,886
Environmental Fines	32,040
Indigent Defense	23,065
Highway Fund	21,493
Drug Analysis	2,565
Miscellaneous	530
Indigent Salary Enhancement Trust	<u>285</u>
Total	<u>\$2,423,875</u>

In addition to the above fines and costs, the Court also collected approximately \$174,133 of restitution money and paid \$168,872 directly to the parties owed the restitution funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, NDC was custodian of approximately 160 cash bails amounting to \$236,716 as of January 31, 2007. Bail in the form of cash (NDC 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, NDC was the custodian for four small claims deposits totaling \$400 as of January 31, 2007.

NDC 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. NDC 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.

NDC operations are 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 January 31, 2007 totaled \$1,124,552¹.

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 over certain operations of NDC. The scope of our audit included NDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2005 to January 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 NDC'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 NDC'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 NDC'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 NDC'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 NDC was based on those interviews and the review of documents.

Our recommendations are intended to assist NDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that NDC'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, NDC (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 found NDC Clerk-Magistrate's Office did not develop an internal control plan or conduct periodic risk assessments as required by state law and AOTC rules and regulations. As a result, NDC'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 the internal control guidelines established by the Office of the Comptroller." Subsequent to the passage of Chapter 647, the Office of the State Comptroller (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.

Personnel in the NDC Clerk-Magistrate's Office stated that they thought AOTC's internal control guidelines from July 1, 1998, along with the various policies and procedures manuals, constituted the court's internal control plan. They were unfamiliar with the OSC's definition of an internal control plan and AOTC's requirement to develop such a plan on a Division level. We advised NDC about the guidance available on the OSC's website and suggested that AOTC's staff might be helpful in developing an internal control plan.

We have been informed that the Clerk-Magistrate's Office Manager (1) has contacted AOTC's Fiscal Affairs Office to obtain a copy of the Trial Court Internal Control Guidelines; (2) will review the guidelines, conduct a risk assessment, document controls specific to their office, and update any areas as necessary; and (3) will assign an individual to function as an Internal Control Officer and perform the annual review.

Recommendation

The NDC Clerk-Magistrate's Office should review OSC's Internal Control Guidelines, conduct a risk assessment, and develop and document a high-level internal control plan that addresses the risks and internal control requirements specific to its operations. Moreover, NDC should conduct annual risk assessments and update their internal control plans based on the results of these risk assessments, as necessary.

Auditee's Response

The response provided by the First Justice stated, in part:

(T)he Clerk's Office is in the process of compiling a Risk Assessment and an Internal Control Plan that will more strictly comply with Chapter 647 of the Acts of 1989.

To that end, an assistant clerk- magistrate attended a training seminar on that subject on May 23, 2007, conducted by the Office of the Chief Administrative Justice. A follow-up training is scheduled for mid-September, after which time a written Internal Control Plan should be

completed and ready for distribution. Additionally, an assistant clerk-magistrate has been assigned to function as an Internal Control Officer and to perform the annual review. I trust that once these steps are completed, we will be in compliance with AOTC rules and regulations, as well as Chapter 647 of the Acts of 1989.