

LBA Financial Audit Report Summary:

Department of Justice Audit Report For the Nine Months Ended March 31, 2005

Reporting Entity And Scope

The reporting entity of this audit and audit report is the New Hampshire Department of Justice for the nine months ended March 31, 2005.

The report describes the financial activity of the Department of Justice, as it existed during the period under audit. Unless otherwise indicated, reference to the Department or DOJ refers to the Department of Justice.

Organization

The Department of Justice is under the executive direction of the Attorney General, a constitutional officer appointed by the Governor, with the consent of the Council, to a four-year term. The Attorney General nominates a Deputy Attorney General for appointment by the Governor, with the consent of the Council, also to a four-year term. Assistant Attorneys General are appointed by the Attorney General to five-year terms, subject to the approval of the Governor and Council.

The Department of Justice was established July 1, 1985 by RSA 21-M. In accordance with RSA 21-M, the Department is responsible for the following general functions:

- Advising and representing the State and its executive branch agencies in all civil legal matters.
- Supervising and conducting criminal investigations and prosecutions.
- Enforcing the various consumer protection and antitrust laws of the State.
- Assisting and advising those agencies charged with protecting the environment and enforcing the environmental laws of the State.

In addition, RSA 611-A establishes the Office of Chief Medical Examiner and RSA 7:8-b establishes the Charitable Trust Unit within the Department.

At March 31, 2005, the Department employed 118 full-time and four part-time employees.

Responsibilities

The New Hampshire Department of Justice administers a variety of programs which provide service to all areas of New Hampshire's criminal justice system. These programs are supported by federal, state, and dedicated funds.

The Criminal Justice Bureau (CJB) investigates and prosecutes major criminal cases throughout New Hampshire including homicides, drug trafficking, economic and public integrity crimes, and Medicaid Fraud. It also handles the appeals of all criminal cases tried in New Hampshire courts. The CJB works cooperatively with police agencies statewide. It also works with administrative agencies such as the Department of Revenue and the Department of Health and Human Services to investigate and prosecute crimes unique to the areas within those agencies' purview.

The Consumer Protection and Antitrust Bureau (Bureau) is responsible for ensuring that the consumer protection and antitrust laws of New Hampshire are enforced and that trades and businesses operating within the State of New Hampshire are conforming to governing statutes. The Bureau is responsible not only for the investigation, regulation, and enforcement of the Consumer Protection Act and the antitrust laws, but also for more than thirty other statutes. The other statutes include such laws as Fair Debt Collection, Automated Telemarketing Calls, and the Condominium and Land Sales Full Disclosure Acts. In addition, the Administrative Prosecutions Unit (APU) is attached to the Bureau.

The Environmental Protection Bureau (Bureau) performs two central functions: enforcing environmental laws through civil and criminal court actions and providing legal counsel and representation to the agencies responsible for the protection, control, and preservation of the State's environment. Increasingly, the Bureau has taken a lead role in multi-state litigation initiatives aimed at protecting the State's air and water from threats that largely originate outside New Hampshire. Most notably, the Bureau filed the first and only state-initiated lawsuit against the manufacturers of MTBE, a gasoline additive that has contaminated surface and ground waters throughout the State, including public and private water supplies. Finally, the Bureau is involved in transactional matters, such as Brownfields redevelopment and bankruptcy proceedings, where its focus is typically to harmonize environmental cleanup and compliance with economic development of old and present industrial sites.

The mission of the Charitable Trusts Unit (the Unit) is to protect the integrity of the charitable sector in the State of New Hampshire through effective registration, education, and enforcement. During fiscal years 2004 and 2005, the Unit registered the highest number of charities in its history and the value of the charitable assets in New Hampshire was estimated to exceed \$12.2 billion dollars. The charitable sector in New Hampshire remains strong, diverse, and responsive to the growing demands placed upon the sector.

The Civil Law Bureau (Civil) acts as legal counsel for 114 executive branch agencies, boards, commissions, and councils. It provides legal advice and representation to 38 State agencies, many of which have multiple divisions with varied duties and functions. In addition to the State agencies, Civil also provides legal advice and representation to 53 licensing/regulatory boards and 23 councils/commissions.

The Transportation Law Bureau (Bureau) acts as legal counsel for the New Hampshire Department of Transportation (NHDOT). The Bureau represents the NHDOT in eminent domain, real estate, contract, construction, administrative, personnel, and personal injury cases related to the State's transportation

systems and public works projects. The Bureau provides the NHDOT with general legal advice on a broad range of transactions and civil proceedings. Its role encompasses a wide range of trial and appellate advocacy in State and federal courts, as well as administrative law before a variety of boards. The Bureau performed legal roles in major projects, including the Conway Bypass, Keene Bypass, Manchester Airport Access Road, the Granite Street Extension, the implementation of E-ZPass, and the I-93 Expansion Project, as well as a multitude of smaller projects throughout the State.

The primary mission of the Office of the Chief Medical Examiner (OCME) is the investigation of sudden, unexpected, or violent death. By statute (RSA 611), there are twenty-five categories of death reportable to the medical examiner for inquiry. This inquiry includes an investigation into the circumstances of death and examination of the body, including performance of an autopsy. Goals and objectives of this process include determination of cause and manner of death as well as proffering, when scientifically defensible, a hypothesis regarding specific aspects of the fatal episode. While aiding law enforcement in the investigation of violent death, approximately 40% of all medical examiner's cases are the result of natural causes; thus the OCME serves a vital public health function in monitoring the overall health of citizens of the State. The OCME also serves as a consultant to various entities regarding wound pattern recognition and mechanisms of injury in non-fatally injured persons.

Funding

The financial activity of the Department of Justice is accounted for in the General, Capital Projects, and Education Trust Funds of the State of New Hampshire. A summary of the Department's revenues and expenditures for the nine months ended March 31, 2005 is shown in the following schedule.

Summary Of Revenues And Expenditures

For The Nine Months Ended March 31, 2005

	General Fund	Capital Projects Fund	Education Trust Fund	Total Governmental Funds
Total Revenues	\$ 21,498,240	\$ -0-	\$ 464,629	\$ 21,962,869
Total Expenditures	\$ 26,507,083	\$ 27,887	\$ -0-	\$ 26,534,970
Excess (Deficiency) Of Revenues Over (Under) Expenditures	<u>\$ (5,008,843)</u>	<u>\$ (27,887)</u>	<u>\$ 464,629</u>	<u>\$ (4,572,101)</u>

The Auditor's report on the Department of Justice's financial statements was qualified with respects to the lack of presentation of the financial position of the Department in the government-wide and fund financial statements.

The audit report includes the auditor's report on internal control over financial reporting and on compliance and other matters and an auditor's report on other issues. The following is a list of the comments in the report.

Internal Control Comments

Reportable Conditions

Financial Accounting And Reporting

- Medicaid Fraud Control Unit Revenue Should Be Recognized Timely
- Use Of The Consumer Protection Escrow Account Should Be Reviewed
- Staff Training For Recognizing And Recording Accounts Payable Should Be Provided
- Revenue Should Not Be Recorded As Negative Expenditures

Chief Medical Examiner's Office

- Controls Over The Collection Of Statutory Fees Should Be Improved
- Employment Status Of Assistant Deputy Medical Examiners Should Be Clarified And Documented
- Controls Should Be Established For The Receipt Of Revenue In The Chief Medical Examiner's Office

Other Reportable Conditions

- Reliance On Key Employees Should Be Limited
- Monitoring Of Federal Program Subrecipients Should Be Improved
- Controls Should Be Established Over Revenues Collected For The Department By Other State Organizations
- Payroll Duties Should Be Properly Segregated
- Compliance With State Purchasing Policies Should Be Improved
- Policies And Procedures Manuals Should Be Established

- Controls Over Department Checking Account Should Be Improved
- Formal Fraud Risk Mitigation Efforts Should Be Developed And Implemented
- Formal Risk Assessment Policies And Procedures Should Be Established
- Controls Over Department IT Systems Should Be Improved
- Invoicing For Legal Services Should Be Supported By Analysis Of Costs Of Providing Service
- Controls Should Be Improved For The Receipt Of Revenue Through The Mail
- Commuting Use Of State Vehicles Should Be Reported As A Component Of Employee Wages
- Controls Over Equipment Inventory Should Be Improved
- Controls For Department-Owned And Borrowed Assets Should Be Improved

Compliance Comments

State Compliance

- Required Administrative Rules Should Be Adopted
- Seized Asset Account Should Be Established And Utilized
- Drug Asset Forfeiture Guidelines Should Be Adopted And Maintained
- Gifts And Donations Should Be Subject To Governor And Council Approval
- Statutes Should Be Reviewed For Continued Applicability
- Biennial Seized Asset Report Should Be Filed

Federal Compliance

- Income From Federal Programs Should Be Reported In Compliance With Program Requirements 41
- Grant Expenditures Should Be Made On Reimbursement Basis Unless Otherwise Allowed
- Earmarking Requirements Should Be Met

Management Issues Comment

- Policies And Procedures For The Timely Use Of Consumer Settlement Moneys Should Be Established 46