

FOLLOW-UP AUDIT
REPORT OF THE
SHERIFF'S OFFICE

*Final Report
October 10, 2014
from the New Castle
County Auditor's
Office*

Follow-up Audit Report of Sheriff's Office

To: Trinidad Navarro, Sheriff

Stuart Snyder, Chief Deputy

Background

In February 2012, the County Auditor's Office issued an Audit Report on the Sheriff's Office. (See Appendix 1.) The Audit Opinion stated: "In our opinion, internal controls need improvement, primarily in the Sheriff's Sale function, and we have worked with the Sheriff's Office to identify areas where control enhancements can be made."

This is a follow-up audit to determine whether the Sheriff's Office has implemented the recommendations regarding the items deemed to be Material Weaknesses or Significant Deficiencies in that report. There were two material weaknesses and five significant deficiencies in that report. We also followed up on the items deemed to be Other Reportable Items in that report.

Sheriff's Sales

The largest contributor to the Office's revenue is the commissions generated from Sheriff's Sales of real property; these were approximately \$4.4 million in FY 2014. The Office conducts these sales monthly and, in FY 2014, facilitated the sale of approximately \$127.6 million (in winning bids) of foreclosed real estate, an average of approximately \$11.6 million each month. (Please note that the Sheriff's Office does not collect the winning bid on "buybacks", where the entity foreclosing upon the property "buys back" the property at the sale. Therefore, the amount collected by the Office is substantially less than the amount of winning bids.) The Office handles all facets of the sale including the advertising, communication to relevant parties, the auction itself, collection of funds from winning bidders, accounting for the funds, and disbursements to all parties who are legally due portions of the sale proceeds. Per NCC Code, 4% of the winning bid is retained by the Sheriff's Office (with a maximum commission of \$10,000). Other statistics for FY 2014 include:

- There were 1,840 properties scheduled for Sheriff' Sale, with 928 of these actually going to sale. The others were "stayed" before or on the date of the sale. This is a monthly average of 153 properties scheduled for sale and 77 properties actually sold.
- Approximately \$21.7 million was collected by the Sheriff's Office in FY 2011, a monthly average of approximately \$1.8 million. The majority of these funds were collected for Sheriff's Sales. The Office also handled the disbursements of these funds to NCC and other third parties.

Audit Objective

Delaware Code, Title 9, Chapter 14, Section 1405 states "The County Auditor shall follow up on audit recommendations ... to determine whether corrective measures have been implemented ..."

Therefore, the primary objective of this follow-up audit was to determine that either (1) corrective action was taken on the major comments and recommendations from the February 2012 audit report or (2) Sheriff's Office management has assumed the risk of not taking corrective action.

Specifically, we:

- Met with management to determine the current status of each comment and recommendation.
- Where deemed applicable, performed audit testing.

Audit Scope

We conducted this follow-up 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.

In general, our testing involves audit sampling. We evaluate the results of the tests and use professional judgment, based on the number of exceptions and/or the materiality of such exceptions, whether to include exceptions in the audit report and, if so, in which category to include them. In some cases, we perform additional testing to help us obtain additional audit evidence in making such evaluation and determination.

Because the scope of an audit does not allow us to examine every single function and transaction performed by an area, an audit would not necessarily disclose all matters that might be material weaknesses, significant deficiencies, or other reportable items.

Our evaluation of internal control may reveal three categories of internal control deficiencies. The first two categories are of a much greater magnitude than the third category.

- A Material Weakness is a matter that, in our judgment, could adversely affect the Sheriff's Office's ability to accomplish its major objectives.
- A Significant Deficiency is a control exception that is of a lesser magnitude than a material weakness; however, it could potentially, in the future, have an adverse impact upon the Sheriff's Office's ability to accomplish its major objectives and, therefore, warrants management's attention.
- Other Reportable Items are opportunities for improvements in the system of internal control in the Sheriff's Office. There is one Other Reportable Item in this report. (See page 9.)

Audit Results

As indicated in more detail beginning on page 5 of this report, the Sheriff's Office has implemented corrective action to address all material weaknesses and significant deficiencies from the February 2012 report.

For the Other Reportable Items from the February 2012 report, the Sheriff's Office has implemented corrective action for the majority of them. For the ones where management did not implement corrective action, we agree with management's sound reasoning for not doing so.

Overall, we believe that the Sheriff's Office takes their internal control responsibilities very seriously and we are pleased that the Sheriff's Office has worked together with the County Auditor's Office to improve Sheriff's Office operations to the betterment of the citizens of New Castle County.

Recognition of Participation and Cooperation

We would like to thank the Sheriff and his staff for providing outstanding cooperation during the course of the audit.

Response

Management's response to the one recommendation in this report is included after that recommendation. See page 10.

cc: Ronald Fioravanti, Chief Deputy Sheriff
Christopher McBride, Real Estate Coordinator
Thomas Gordon, County Executive
David Grimaldi, Chief Administrative Officer
James McDonald, Chief of Staff
Michael Coupe, Chief Financial Officer
Bernard Pepukayi, County Attorney
Antonio Prado, Communications Director
New Castle County Council Members
New Castle County Audit Committee Members

General Comment

Initiatives Undertaken Since February 2012 Audit Report

Since our last audit, the Sheriff's Office has taken several initiatives, listed below, which we believe warrant mention in this report. These initiatives are in addition to the tremendous job done by the Sheriff's Office in addressing the comments and recommendations in our February 2012 audit report.

- Working with the Delaware Attorney General's Office on several steps to address the unlawful practice of winning bidders on Sheriff's sales trying to enter a property prior to the confirmation date of the sale.
- Using a proactive approach to identify and locate the rightful owners for Sheriff's sales where there are excess proceeds.
- Working with the Delaware Attorney General's Office to create a website which notifies the Sheriff's Office if a criminal subpoena has been cancelled, thus saving the Sheriff's Office the expense of delivering the subpoena. The Sheriff's Office informed us that this tool has reduced the number of trips to deliver criminal subpoenas by 20-25%. (It should be noted that the Sheriff's Office does not earn revenue from delivering criminal subpoenas; thus, a reduction in the number of trips is very important.)
- The Sheriff is giving presentations to organizations (e.g., Church groups, senior centers) on Stranger Danger, Senior Safety, and Bullying.

Status of Recommendations from Prior Report

Material Weaknesses from Prior Report

#1 – Additional Control over Sheriff's Sale Processing

From Prior Audit Report:

Executive Summary

- Risk: Sheriff's Sales may not be processed in accordance with policies, procedures, laws, and/or Court rules.
- Control Concern: The processing of Sheriff's Sales is a complicated process; each case has its own unique circumstances. This, coupled with the fact that the volume of Sheriff's Sales has significantly increased because of the economy, increases the chances that errors and/or omissions may be made. There is currently little review of the work performed by the staff members involved in the process.
- Recommendation: Implement a corrective control whereby a supervisor/manager reviews a sample of Sheriff's Sales each month to ensure the sale was handled in accordance with formal policies and procedures. Tailor the sample size and quality control procedures based upon results of prior reviews.

Current Status:

This recommendation has been implemented. The Sheriff's Office has engaged an independent CPA to perform a monthly review of Sheriff's Office activity. This review encompasses the following:

- Test 10% of the cases that were scheduled for a prior Sheriff's sale. This testing is done to ensure (1) if a sale was "stayed", an accurate and timely refund was issued to the plaintiff, (2) sales were processed in accordance with Sheriff's Office's policies and procedures, (3) if a sale results in excess proceeds, verification that such proceeds were disbursed appropriately, and (4) if there are any follow-up items from the prior month's testing, following these through to conclusion.
- Review monthly bank reconciliation to ensure it was prepared timely and that any unusual items are adequately explained and resolved.

In our follow-up testing, we selected a sample of sales tested by the independent CPA as well as a sample of ones not tested by her. Our testing did not reveal any significant exceptions to Sheriff's Office's policies and procedures.

We believe that this monthly review by the independent CPA has strengthened internal controls over Sheriff's sales.

#2 – Office Security

From Prior Audit Report:

Executive Summary:

- Risk: Checks, Court documents, and other sensitive documents could be accessed by unauthorized individuals.
- Control Concern: The configuration of the Sheriff's Office is such that such documents could be accessed by unauthorized individuals.
- Recommendation: Strengthen physical security in Office, particularly over checks and sensitive court documents, by making it structurally more secure.

Current Status:

This recommendation has been implemented. The Sheriff's Office has reconfigured its entire area and significantly strengthened the physical security of the office. Visitors have to be admitted through a locked, password-required door in order to gain access to the office.

During our follow-up audit, we observed employees' desks after working hours and did not see any checks on employees' desks. Nor did we notice any checks on employees' desks when away from their desks during working hours. Employees are following office policy to place checks in a locked file drawer when away from their work stations.

Significant Deficiencies from Prior Report

#1 – Policies and Procedures Manual

From Prior Audit Report:

Executive Summary:

- Risk: Inconsistencies could occur in how Sheriff's Office personnel handle the various transactions occurring in the Office.
- Control Concern: The Office does not have a formal Policies and Procedures Manual governing the various aspects of the Office. This has, at times, resulted in inconsistencies in the processing of transactions.
- Recommendation: Develop a formal Policies and Procedures Manual.

Current Status:

As a result of the prior audit, the Sheriff's Office engaged an independent CPA to prepare a comprehensive Policies and Procedures Manual covering all major aspects of the office. Since we were most concerned with the policies and procedures covering the complicated Sheriff's sale process, we reviewed these policies and procedures in detail.

As a result of this review, we believe that the policies and procedures covering Sheriff's sales are comprehensive, well written, and serve as an excellent guide for both new and existing employees.

#2 – Supervisory Reviews

From Prior Audit Report:

Executive Summary:

- Risk: Sheriff's Office transactions may not be processed in accordance with policies, procedures, laws, and/or Court rules.
- Control Concern: The Office has not defined key aspects of its processes which require a supervisory review. Existing supervisory reviews appear non-routine.
- Recommendation: Define key reports to be reviewed on a periodic basis. Identify key aspects of Office processes and implement supervisory reviews over such processes. (Suggestions have been provided to management.)

Current Status:

In the prior report, we had identified particular reports / areas for which we believed the implementation of a formal supervisory review would be helpful. The Chief Deputy Sheriff now

prepares a Monthly Management Report which is submitted to the Sheriff for his review. This report includes a cover memorandum which summarizes the package of reports/analyses which are encompassed within the package. Such summary includes any issues identified which need to be followed up for the next month's Report.

We reviewed three of the Monthly Management Reports for a recent 12-month period and believe, based upon our review, that the Monthly Management Reports indicate that the Sheriff's Office has implemented supervisory reviews over the key aspects of the Office's processes.

#3 – Compliance with State Code and Court Orders

From Prior Audit Report:

Executive Summary:

- Risk: The Sheriff's Office could be in non-compliance with applicable laws, Court Rules, and Court documents.
- Control Concern: Our testing of 40 properties sold at the April 2011 sale revealed one instance where the Sheriff's Office had not complied with State Code on the advertising of Sheriff's Sales. Our testing of 15 refunds during FY '11 revealed one instance where the Sheriff's Office had not yet complied with a Court Order. (In this same test, although we were not testing for proper advertising, we noticed a note in the System which indicated another property that had not been advertised.)
- Recommendation: Enhance internal controls to ensure compliance with laws and Court documents.

Current Status:

Our discussion with Sheriff's Office personnel revealed that the Office has strengthened the internal controls over ensuring properties are properly advertised. We believe that the chances of a property not being properly advertised are now minimal. Our review of the independent CPA's monthly testing results for a recent 12-month period did not reveal any instances where a property was not properly advertised. Nor did our own testing reveal any such instances.

Regarding the prior report issue of not yet complying with a Court Order, we believe that the additional internal controls the Sheriff's Office has implemented (e.g. supervisory reviews) minimize the chance of this occurring.

#4 – Civil Serve System Controls

From Prior Audit Report:

Executive Summary:

- Risk: The Sheriff's Office may not be able to rely upon the adequacy of the internal controls within and surrounding the Civil Serve System.
- Control Concern: The Sheriff's Office has not obtained sufficient information from the software vendor to enable it to obtain assurance on the adequacy of the internal controls within and surrounding the Civil Serve System. Nor did it perform sufficient testing of such system prior to conversion.
- Recommendation: Ask software vendor to provide a report on its system of internal controls (e.g., a SSAE 16 report).

Current Status:

Sheriff's Office management informed us that SoftCode Inc. did not want to provide a SSAE 16 report, presumably because of the cost of doing so. However, we spoke to the County's external auditors who informed us that they do not believe an SSAE 16 report is needed because SoftCode Inc. is not hosting the software and the Sheriff's Office is simply licensing it.

#5 – Contract with SoftCode Inc.

From Prior Audit Report:

Executive Summary:

- Risk: The Sheriff's Office may not be adequately protected in the case of the software vendor having financial or other problems.
- Control Concern: The annual maintenance contract executed with SoftCode Inc. in 2003 has apparently not been reviewed since 2003, nor did the Office of Law or Information Technology Division have a copy of the contract.
- Recommendation: The Sheriff's Office should request the Office of Law and the IT Division to review the existing maintenance contract and ensure it adequately protects the County's interests.

Current Status:

The County's Information Technology (IT) Division first purchased Civil Serve licenses (to utilize the software) in 2003. SoftCode Inc. (SoftCode) has also, from the beginning, charged an annual maintenance fee.

Information Technology informed us that there was a maintenance contract executed with SoftCode in 2003; however, neither the Law Department nor the IT Division had a copy. The IT Division was able to obtain a copy of the contract from SoftCode.

Please note that we no longer consider this issue to be a significant deficiency.

Recommendation:

We recommend that the Sheriff's Office request the Office of Law and the IT Division to review the maintenance contract to ensure that (1) the contract is still valid and contains all elements necessary to protect the County's interests, and (2) if not, that a new contract be executed with Soft Code.

Management Response:

The Sheriff's Office has asked the Office of Law to review the maintenance contract.

Other Reportable Items from Prior Report

There were several Other Reportable Items in the prior audit report. For each of these comments, we met with the appropriate representative(s) in the Sheriff's Office and discussed the current status of our recommendations.

There were a few recommendations from the prior report that management decided not to implement and explained, in the response to the report, their reasoning for not doing so. We were comfortable with management's reasoning then and continue to be so.

For the recommendations from the prior audit report which management agreed to implement, we determined from inquiries and/or testing that such recommendations have been implemented.