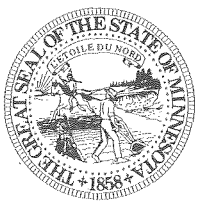

STATE PUBLIC DEFENDER
FINANCIAL AND COMPLIANCE AUDIT
FOR THE THREE YEARS ENDED JUNE 30, 1986

OCTOBER 1987

Financial Audit Division
Office of the Legislative Auditor
State of Minnesota



STATE OF MINNESOTA

OFFICE OF THE LEGISLATIVE AUDITOR

VETERANS SERVICE BUILDING, ST. PAUL, MN 55155 • 612/296-4708

JAMES R. NOBLES, LEGISLATIVE AUDITOR

Representative Phillip J. Riveness, Chairman
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. C. Paul Jones, State Public Defender
Office of the State Public Defender

Audit Scope

We have completed a financial and compliance audit of the Office of the State Public Defender for the three years ending June 30, 1986. Section I provides a brief description of the Public Defender's activities and finances. Our audit was made in accordance with generally accepted auditing standards and the standards for financial and compliance audits contained in the U.S. General Accounting Office Standards for Audit of Governmental Organization, Programs, Activities, and Functions, and accordingly, included such audit procedures as we considered necessary in the circumstances. Field work was completed on July 13, 1987.

The objectives of the audit were to:

- study and evaluate major internal control systems, including a review of revenues, expenditures, assets and liabilities of the Public Defender's Office;
- verify that financial transactions were made in accordance with applicable laws, regulations, and policies, including Minn. Stat. Chapter 611, and other finance-related laws and regulations;
- verify that financial transactions were properly recorded on the statewide accounting system; and
- determine the status of prior audit recommendations.

Management Responsibilities

The management of the Public Defender's Office is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly.

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Because of inherent limitations in any system of internal accounting control, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions, or that the degree of compliance with the procedures may deteriorate.

The management of the Public Defender's Office is also responsible for the agency's compliance with laws and regulations. In connection with our audit, we selected and tested transactions and records from the programs administered by the Public Defender's Office. The purpose of our testing of transactions was to obtain reasonable assurance that the Office had, in all material respects, administered their programs in compliance with applicable laws and regulations.

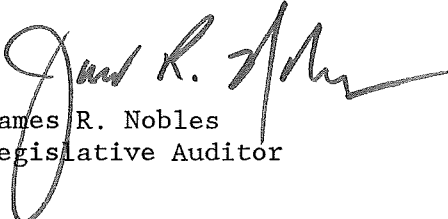
Conclusions

In our opinion, except for those issues raised in Section II, recommendations 1 through 3, the Public Defender's system of internal accounting control in effect on June 30, 1987, taken as a whole, was sufficient to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use of disposition, and that transactions are executed in accordance with management's authorization.

In our opinion, for the three years ended June 30, 1986, the Public Defender's Office administered its programs in compliance, in all material respects, with applicable finance-related laws and regulations.

In our opinion, for the three years ended June 30, 1986, the Public Defender's Office properly recorded, in all material respects, its financial transactions on the statewide accounting system.

We would like to thank the Public Defender's Office staff for their cooperation during this audit.


James R. Nobles
Legislative Auditor


John Asmussen, CPA
Deputy Legislative Auditor

October 16, 1987

OFFICE OF THE STATE PUBLIC DEFENDER

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AUDIT PARTICIPATION

The following members of the Office of the Legislative Auditor prepared this report:

John Asmussen, CPA
Tom Donahue
Mary Lentsch

Deputy Legislative Auditor
Audit Manager
Staff Auditor

EXIT CONFERENCE

The findings and recommendations in this report were discussed with the following staff of the Public Defender's Office at an exit conference held on July 17, 1987:

C. Paul Jones
Elizabeth Davies
Lilly Ann Cook

State Public Defender
Assistant Public Defender
Accountant

OFFICE OF THE STATE PUBLIC DEFENDER

I. INTRODUCTION

The State Board of Public Defense appoints the Minnesota Public Defender for a four year term. The statutes require a qualified and licensed attorney who engages in the full-time performance of his duties. C. Paul Jones, the current state Public Defender, has held this position since 1966.

The Public Defender's Office provides legal representation to all indigent clients in criminal cases involving appeals to the Minnesota Supreme Court, post conviction proceedings in the district courts throughout the state, appeals to the Minnesota Supreme Court from unsuccessful post conviction proceedings and in juvenile and adult parole revocation proceedings. The Public Defender's main office is located in Minneapolis. Another, a smaller office is located in St. Paul.

The Public Defender's Office also has two divisions known as the Legal Assistance to Minnesota Prisoners (LAMP) and the Legal Advocacy Project (LAP). LAMP provides legal services to inmates regarding their civil legal programs. LAP represents inmates in prison disciplinary hearings involving claimed violations of the institutional rules and regulations.

General fund appropriations finance the activities of the Public Defender's Office. Total General Fund expenditures for fiscal years 1986 and 1985 were \$1,227,922 and \$1,102,924, respectively.

OFFICE OF THE STATE PUBLIC DEFENDER

II. CURRENT FINDINGS AND RECOMMENDATIONS

The Public Defender's Office (PDO) is not properly managing compensatory time earned and taken by its employees.

Compensatory time earned results from overtime hours worked. In general, overtime hours are considered to be those hours worked in excess of 8 hours per day or 40 hours per week. Currently, the Public Defender's Office (PDO) does not have a formal policy concerning overtime worked and its subsequent payment through either compensatory time off or cash payment. In addition, no formal documentation or accounting records are maintained to support either the prior authorization for overtime worked or the accrued compensation balances resulting from compensatory hours earned and taken.

The attorneys of the PDO have an apparent understanding with the Public Defender regarding overtime. No written requests are submitted. However, the attorneys, if they work overtime, either maintain their own record of overtime worked or record it on their timesheets. However, recorded overtime hours worked and shown as compensatory hours on the timesheets are not input into the Central Payroll system. When compensatory time is subsequently used, the hours are entered into the system as regular hours worked. In addition, it is currently understood by the staff that when an attorney leaves the PDO, any remaining compensatory time balances are not paid.

If compensatory time is not properly authorized and documented, confusion and disagreements can arise over whether or not an attorney has compensatory time available. The purpose of a formal written overtime policy is to establish within the PDO an understanding of the conditions under which overtime will be worked and paid. The policy should identify who is eligible for overtime and the procedures necessary to ensure that overtime worked has been properly authorized and hours worked are properly accounted for. The policy should also provide for the systematic use of compensatory time off, whereby all compensatory time earned would be used during the fiscal year in which it was earned. The Supreme Court or the Attorney General's Office have overtime policies for its employees that PDO may want to consider adopting or using.

RECOMMENDATIONS:

1. The PDO should develop or adopt an overtime policy to establish the process under which compensatory time will be earned and used.
2. The PDO should properly account for compensatory time earned and used on the Central Payroll system.

OFFICE OF THE STATE PUBLIC DEFENDER

Controls over the student services contracts need improvement.

The Public Defender's Office has contracted with the University of Minnesota and William Mitchell College of Law for the services of its law students. The students help with legal assistance and represent people in custody with a wide variety of civil legal problems. In fiscal years 1985, 1986, and 1987, the office paid the University of Minnesota Law School \$15,000, \$16,000, and \$37,800, respectively, and paid William Mitchell College of Law \$20,500, \$19,000, and \$28,340, respectively, for these contracts. The contracts cover three school quarters and currently state that the law schools shall:

. . . provide the Minnesota State Public Defender with the services of law student interns and attorney supervision for legal research and writing; books; equipment and transportation, representing clients under the Student Practice Rule and other tasks designated by the Public Defender.

The schools are to submit invoices for services performed and travel incurred. However, the invoices do not identify how the amount being billed was calculated. Invoices request payment and state that the bill is "for the services of law Student Interns and Attorney supervision for legal research and writing; books; equipment and transportation." The Public Defender's Office should require documentation for services rendered, and travel and subsistence payments, to assure itself that it is paying for actual expenses incurred by the two law schools.

The contracts provide for a total amount which includes a specified amount for travel and subsistence expenses. However, in addition to paying the schools, the PDO has also been reimbursing the students for private mileage incurred. For example, the 1987 contract with the U of M for \$37,800 provides that of that amount, \$1,800 is for transportation costs. In addition to the \$37,792 actually paid by PDO under the contract, it also reimbursed students for mileage claims of \$1,181.

RECOMMENDATIONS:

3. The Public Defender's Office should require contract vendors to itemize their invoices for services rendered, and travel and subsistence claims.
4. The Public Defender's Office should clarify the contracts with the law schools to determine who is responsible for reimbursing private mileage to the students.

Fixed asset management and control require improvement.

The Public Defender's Office has elected to use the state's Fixed Asset Record Management (FARM) system to record their fixed assets. The FARM listing records asset location, acquisition date, cost, asset number, and net book value. We identified the following fixed asset control problems:

OFFICE OF THE STATE PUBLIC DEFENDER

- fixed assets are not always properly identified with state asset property labels, making it difficult to distinguish between PDO property and U of M property;
- all applicable fixed assets were not reported on FARMS; and
- the department has not taken a complete physical inventory for many years.

We found items on the FARM listing that were obsolete and also located items that did not appear on the FARM listing. In addition, we noted that many assets on hand in the PDO did not have state asset property labels. This is particularly important so that equipment on loan from the U of M is not confused with PDO assets.

While it may not be practical to perform a complete physical inventory of PDO assets each year, it is important to perform periodic spot-checks to ensure record accuracy. Because of the errors we found, we believe a complete physical inventory is necessary. Periodic spot-checks taken after the physical inventory should provide the PDO with the necessary information to help ensure accurate inventory records.

RECOMMENDATION:

5. The Public Defender's Office should:

- perform a complete physical inventory of all assets on hand in both the Minneapolis and St. Paul offices;
- require all applicable fixed assets to be identified with a state asset property label;
- update the FARM listing to include all applicable assets; and
- establish a system whereby periodic inventory spot-checks will be made and any discrepancies investigated and rectified.

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III. STATUS OF PRIOR AUDIT RECOMMENDATIONS
AND
PROGRESS TOWARD IMPLEMENTATION

Internal controls procedures over payroll need to be strengthened.

1. The Public Defender or someone in authority not responsible for preparing the biweekly payroll time roster should review and approve it.
2. The Office of the State Public Defender should establish a positive time and leave reporting system for its employees.

RECOMMENDATIONS IMPLEMENTED: In August 1984, the Public Defender took on the responsibility of reviewing and approving the biweekly payroll time roster. At the same time, the PDO established a positive time and leave reporting system for its employees.

STATE OF MINNESOTA

OFFICE OF THE STATE PUBLIC DEFENDER

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October 16, 1987

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Mr. James Nobles
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Dear Mr. Nobles:

Thank you for your legislative audit report under date of
September 29, 1987.

We appreciated the courtesy of Tom Donahue, audit manager, and
Mary Lentsch, auditor-in-charge, and also very, very much
appreciated the input of their technical expertise. As a
relatively small department we need, want, and respect this help.

As a result of their exit conference with us and the written
recommendations contained in your resulting audit report, we have
immediately followed up with implementation of the
recommendations.

1. Previously earned compensatory time must be utilized on
or before June 30, 1988 and future authorized compensatory time
earned must be utilized within 60 days. A review of personnel
policy has been undertaken.

2. All compensatory time earned has been inputed on the
Central Payroll System as will compensatory time used.

3. and 4. Invoices from law schools, including invoices for
student assistance, will in the future spell out the hours of
service and hourly rate or other charges and be in addition to
the other back-up records made in this regard. Mileage will not
be the responsibility of the law schools and will therefore not
be included in the contracts.

5. In regard to Fixed Asset Record Management (FARM), our
accountant, Mrs. Lilly Ann Cook, has completed the physical asset
inventory, has completed fixed asset identifications by affixing
a state asset property label on the assets not previously so

Mr. James Nobles
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identified, and has submitted to the Department of Materials Management an updated FARM listing which includes all applicable assets. Periodic inventory checks will be made in the future.

Sincerely,



C. Paul Jones
State Public Defender



Elizabeth Davies
Deputy Attorney for Administration



Lilly Ann Cook
Accountant

cc: Tom Donahue
Mary Lentsch