

**Board of Public Defense
Financial Audit**

For the Three Fiscal Years Ended June 30, 1998

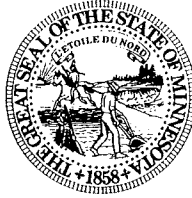
October 1998

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**Financial Audit Division
Office of the Legislative Auditor
State of Minnesota**

98-58

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STATE OF MINNESOTA
OFFICE OF THE LEGISLATIVE AUDITOR
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Mr. R. Peter Madel, Jr., Chair
Board of Public Defense


Members of the Board of Public Defense


Mr. John M. Stuart
State Public Defender

We have audited the Board of Public Defense for the period July 1, 1995, through June 30, 1998, as further explained in Chapter 1. Our audit scope included the following areas: payroll and travel expenditures, grants to counties and public defense corporations, and administrative expenditures, including rent, supplies and equipment, and professional and technical services. The following Summary highlights our audit objectives and conclusions. We discuss the audit objectives and conclusions more fully in the individual chapters of this report.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, as issued by the Comptroller General of the United States. Those standards require that we obtain an understanding of management controls relevant to the audit. The standards also require that we design the audit to provide reasonable assurance that the Board of Public Defense complied with provisions of laws, regulations, contracts, and grants that are significant to the audit. Management of the board is responsible for establishing and maintaining the internal control structure and complying with applicable laws, regulations, contracts, and grants.

This report is intended for the information of the Legislative Audit Commission and the management of the Board of Public Defense. This restriction is not intended to limit the distribution of this report, which was released as a public document on October 8, 1998.


James R. Nobles
Legislative Auditor


Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

End of Fieldwork: July 24, 1998

Report Signed On: October 5, 1998

SUMMARY

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Board of Public Defense

Financial Audit

For the Three Fiscal Years Ended June 30, 1998

Public Release Date: October 8, 1998

No. 98-58

Background

The Board of Public Defense is a Judicial Branch agency whose purpose is to provide criminal defense services to indigent defendants in Minnesota. The Public Defender System is organized into three component areas: the Public Defense Board and its Administrative Services Office, the State Public Defender, and District Public Defense. The Public Defense Board is primarily responsible for overseeing the state's public defender system. The board is also responsible for allocating funds to the state public defender, the ten district public defender operations, and five public defense corporations. The State Public Defender's Office provides services to indigent prisoners appealing criminal cases to the Supreme Court and the Court of Appeals. Mr. John M. Stuart is the State Public Defender.

The Administrative Services Office provides administrative support to all three component areas. It has responsibility for the payroll and disbursement functions for the board, the State Public Defender's Office, and the district public defense offices.

Scope and Conclusions

We audited the Board of Public Defense for the period July 1, 1995, through June 30, 1998. Our audit scope included the following areas: payroll and travel expenditures, grants to counties and public defense corporations, and administrative expenditures, including rent, supplies and equipment, and professional and technical services.

We found that the board should improve its purchasing process. The board did not always encumber funds before purchasing goods, formally document payment approval before paying for goods and services, and establish contracts before the vendor provided services. In addition, the board did not correctly classify certain disbursements on the accounting system. Finally, we found that, in some cases, the board did not maintain documentation supporting certain accounting transactions.

We found that the board generally designed and implemented internal controls to provide reasonable assurance that payroll and travel expenditures were accurately reported in the accounting records. However, the board incorrectly computed hourly pay based on annual salaries. We also found that the board accurately recorded grants to counties and public defense corporations in the accounting records. However, the board was unable to obtain written agreements with the fourth judicial district (Hennepin County) public defense office during the audit period.

The board generally agreed with the report, except for the issue of computing hourly pay based on annual salaries. In the board's response, it indicated that a conscious decision was made concerning the method of calculating hourly pay. However, the board agreed to convert its annual salaries to the state standard for all staff beginning in fiscal year 2000.

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Audit Participation

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

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Jeanine Leifeld, CPA	Audit Manager
Susan Rumpca, CPA	Auditor-in-Charge
Steve Johnson, CPA	Senior Auditor
Terry Hanson	Auditor

Exit Conference

We discussed our findings and recommendations with the following representatives of the Board of Public Defense at an exit conference held on August 11, 1998:

John Stuart	State Public Defender
Richard Scherman	Chief Administrator
Kevin Kajer	Budget Director
Robert Ellingson	Government Relations Manager

Chapter 1. Introduction

The Board of Public Defense is a judicial branch agency whose purpose is to provide criminal defense services to indigent defendants in Minnesota. Pursuant to Minn. Stat. Chapter 611, the state's public defender system is organized into three component areas: the Public Defense Board and its Administrative Services Office, the State Public Defender, and District Public Defense. District Public Defense is comprised of district public defender offices and public defense corporations. Figure 1-1 shows the roles of each of these component areas within the public defender system.

Figure 1-1
Roles Within the Public Defender System

Board of Public Defense

- Oversees the state's public defender system
- Appoints the State Public Defender and chief public defenders in each judicial district
- Allocates funds to the State Public Defender's Office, the district public defense offices, and the five public defense corporations

State Public Defender

- Provides services to indigents appealing criminal cases to the Court of Appeals and the Supreme Court
- Provides legal services to prisoners in the areas of disciplinary hearings and parole violations through the Legal Advocacy Project (LAP)
- Provides legal assistance to prisoners in matters such as custody and divorce through the Legal Assistance to Minnesota Prisoners (LAMP) program
- Appoints the public defense chief administrator, who manages the Administrative Services Office
- Supervises the board's administrative staff and district public defender offices

District Public Defender

- Provides trial court criminal defense services to indigent clients charged with crimes in felony, gross misdemeanor, misdemeanor, and juvenile cases

Public Defense Corporations

- Serves minority defendants
- Receives grants which require a ten percent match

The Public Defense Board is primarily responsible for overseeing the state's public defender system. The board membership consists of seven appointees. The Supreme Court appoints four attorneys as members, and the Governor appoints three public members. The Public Defense Board appoints the State Public Defender, who is Mr. John M. Stuart. The board also appoints

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the chief public defenders in each of the ten judicial districts. The judicial districts cover multiple counties except for the second district (Ramsey County) and the fourth district (Hennepin County).

Effective July 1, 1990, the state, through the board, assumed primary financial responsibility for the district public defender operations. On January 1, 1993, the board's Administrative Services Office assumed full responsibility for the payroll and disbursement functions for each of the eight multi-county districts. All employees in these districts are state employees. However, the second and fourth judicial district public defense offices (Ramsey and Hennepin Counties, respectively) continue to function under their respective county government structure. Pursuant to Minn. Stat. Section 611.263, public defender employees of the second and fourth judicial districts are county employees.

As a judicial branch agency, the board is exempt from most state rules and regulations guiding state executive branch agencies. However, many of the board's financial policies are patterned after similar state policies.

Table 1-1 summarizes the financial activity for the Board of Public Defense during the audit period.

Table 1-1
Board of Public Defense
Summary of Financial Activity
Fiscal Years 1996, 1997 and 1998

	Fiscal Year		
	1996	1997	1998
State Appropriation (1)	\$37,593,000	\$38,781,000	\$41,966,804
Revenues (2)	120,439	260,914	131,858
Balance Forwarded In	163,127	1,074,492	130,799
Total Resources	<u>\$37,876,566</u>	<u>\$40,116,406</u>	<u>\$42,229,461</u>
Expenditures (3)			
Employee payroll	\$19,109,738	\$21,286,061	\$22,516,580
Rent	838,748	988,406	1,034,166
Professional/Technical Services	884,631	994,675	788,947
Travel	700,581	663,967	564,793
Supplies and Equipment	598,007	843,133	619,972
Grants to Counties	12,820,290	12,903,644	14,073,658
Grants to Public Defense Corps	968,000	969,000	969,000
Other	882,080	1,298,216	1,027,404
Total Expenditures	\$36,802,074	\$39,947,102	\$41,594,521
Balance Forwarded Out (4)	1,074,492	130,799	634,940
Cancellations	0	38,505	0
Total Uses of Resources	<u>\$37,876,566</u>	<u>\$40,116,406</u>	<u>\$42,229,461</u>

(1) Fiscal year 1998 appropriation was decreased by \$21,196 for the transfer to the Department of Finance for the decrease in retirement contributions made by employers.

(2) Fiscal year 1997 and 1998 revenues include transfers of \$37,687 and \$31,116, respectively, from the State Treasurer's Office for public defense reimbursement. The board had not received the fiscal year 1998 public defense reimbursement as of July 24, 1998.

(3) Fiscal year 1998 expenditures include outstanding encumbrances as of June 30, 1998.

(4) Fiscal year 1998 balance forward out estimated as of June 30, 1998.

Source: MAPS accounting system for fiscal years 1996, 1997, and 1998.

Chapter 2. Payroll and Travel Expenditures

Chapter Conclusions

The Board of Public Defense generally designed and implemented internal controls to provide reasonable assurance that payroll and travel expenditures were accurately reported in the accounting records. However, we found that the board incorrectly computed hourly pay based on annual salaries. We also found that the board miscoded certain travel expenditures on the state's accounting system, as discussed in Chapter 4. Finally, during our audit, one case of noncompliance with the board's mileage reimbursement policy came to our attention. The board investigated the situation and is taking action to resolve the overpayment.

The Board of Public Defense's payroll and travel expenditures for fiscal years 1996 through 1998 totaled approximately \$62.9 million and \$1.9 million, respectively. Approximately 64 percent of the travel expenditures were mileage reimbursements. Table 2-1 shows the payroll and travel expenditures by fiscal year.

Table 2-1
Payroll and Travel Expenditures
Fiscal Years 1996, 1997 and 1998

<u>Expenditure</u>	<u>1996</u>	<u>Fiscal Year</u> <u>1997</u>	<u>1998</u>	<u>Total</u>
Payroll	\$ 19,109,738	\$ 21,286,061	\$22,516,580	\$62,912,380
Travel	700,581	663,967	564,793	1,929,341

Source: MAPS accounting system for fiscal years 1996, 1997, and 1998.

The Board of Public Defense has adopted its own personnel, payroll, and travel policies. However, Minnesota statutes guide the appointments and compensation for some of its employees. The board's travel policies follow the state executive branch Commissioner's Plan.

The State Public Defender's salary is set by two separate statutes. First, Minn. Stat. Section 15A.083 states "The salary of the state public defender must be 95 percent of the salary of the attorney general." In addition, Minn. Stat. Section 611.23 states "The salary of the state public defender shall be fixed by the state board of public defense but must not exceed the salary of the chief deputy attorney general."

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The board appoints the chief district public defender for each judicial district. Pursuant to Minn. Stat. Section 611.26, Subd. 3, the compensation for each chief district public defender is set by the board. During the audit period, the compensation for each assistant district public defender was set by the chief district public defender with the approval of the board. Pursuant to Minn. Stat. Section 611.263, the chief district public defenders and the assistant public defenders in the second and fourth judicial districts are county employees.

The board employs both part-time and full-time attorneys. Full-time attorneys receive full benefits, while part-time attorneys receive prorated benefits, based on the number of hours they agreed to work. For example, an attorney who works 910 hours per fiscal year is eligible for 75 percent employer contributions towards benefits. An attorney who works 1,364 hour per fiscal year receives 100 percent employer contribution.

Part-time attorneys work from one-quarter time to three-quarter time for the board. Pursuant to Minn. Stat. Section 611.26, Subd. 7, some part-time attorneys also engage in private practice in addition to working for the board. Part-time attorneys receive compensation for overhead costs incurred if the attorney met guidelines set by the board. During the audit period, the annual compensation for overhead costs was \$500, \$1,000, and \$1,500 for one-quarter time, one-half time, and three-quarter time attorneys, respectively.

The board used two different personnel and payroll systems during the audit period. From July to December 1995, the board used the state's personnel and payroll system (PPS). During that time, the districts sent their timesheets to the Administrative Services Office. The office, in turn, sent the timesheets to the Department of Employee Relations, which entered the data into PPS. During this same period, employees obtained reimbursement for travel expenses by submitting claims to the Administrative Services Office for entry into the Minnesota Accounting and Procurement System (MAPS).

The board converted from PPS to the Minnesota Statewide Employee Management System (SEMA4) in fiscal year 1996. Initially, the Administrative Services Office received all timesheets from the districts and entered the data on SEMA4. During fiscal year 1997, the process changed so that the districts began entering employee timesheet data directly into SEMA4. The Administrative Services Office continues to enter timesheets for its own employees and processes all personnel information.

The conversion to SEMA4 also affected the processing of employee expense reimbursements. The board gradually began entering employee expense reports on SEMA4 rather than MAPS. Each district and the Administrative Services Office now enter expense reimbursement information into SEMA4 for the employees in the respective locations. If an error occurs, either the Administrative Services Office or the district office corrects it, depending upon when it is discovered.

Audit Objective and Methodology

Our review of the Board of Public Defense payroll and travel expenditures focused on the following question:

- Did the Board of Public Defense design and implement internal controls to provide reasonable assurance that payroll and travel expenditures were accurately recorded in the

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accounting records and in compliance with applicable legal provisions and management's authorization?

To meet this objective, we interviewed board employees to gain an understanding of the controls over payroll and travel expenditures. We performed analytical procedures on payroll expenditures and reviewed a sample of travel expenditure transactions to determine if they were properly authorized, calculated, and recorded. We also reviewed payroll and travel expenditures to determine if the board complied with material finance-related legal provisions and office policies.

We did not review the salaries or payroll for employees of the second and fourth judicial district public defense offices. The payroll costs for those offices are included in the grants to counties discussed in Chapter 3.

Conclusions

The Board of Public Defense generally designed and implemented internal controls to provide reasonable assurance that payroll and travel expenditures were accurately reported in the accounting records. However, as discussed below, the board incorrectly computed hourly pay based on annual salaries. We also noted that the board did not always code travel expenditures accurately, as noted in Finding 3 in Chapter 4. Finally, during our audit, one case of noncompliance with the board's mileage reimbursement policy came to our attention. The board investigated the situation and is taking action to resolve the overpayment.

1. The board incorrectly computed hourly pay based on annual salaries.

The board used an incorrect number of hours per year when translating annual board approved salaries to hourly rates. The board used 2,080 hours as its standard number of hours in a year. The state standard for calculating hourly pay is 2,088 hours per year. The state's payroll system uses the hourly rate to calculate biweekly payroll amounts.

The board used 2,080 hours per year to translate the salaries of its employees to the hourly rate required to process biweekly payroll. For example, in its CY 1998 salary range table for chief public defenders, the board translated an annual salary of \$62,461 to be a rate of \$30.029 per hour based on its standard. In contrast, using the state standard of 2,088 hours per year, the same salary of \$62,461 would have been translated to \$29.914 per hour. Since employees routinely work and are paid for 2,088 hours per year, they actually received more than the board approved annual salary amount each year.

Because of the way the board translated annual salaries, the state public defender's annual paid salary exceeded the applicable statutory limits during part of the audit period. The state public defender's salary is set by two separate statutes. Minn. Stat. Section 15A.083 limits the salary to 95 percent of the attorney general's salary. Minn. Stat. Section 611.23 does not allow the state public defender's salary to exceed the salary of the chief deputy attorney general. During fiscal years 1996 through 1998, the state public defender's annual salary approved by the board was always less than the statutory limits. However, the actual paid salary based on the 2,088 hours worked during the year exceeded the statutory limits by \$390 from July 1, 1997, through August 18, 1998.

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Finally, by policy, the board limits the salaries of the chief district public defenders to the amount of the state public defender's salary. Any adjustment made to the state public defender's salary will affect those chief district public defenders whose salaries are currently near or at the salary of the state public defender.

Recommendations

- *The Board of Public Defense should revise its method of determining hourly pay rates for all employees whose annual salaries are set by the board, using the 2,088 hours per year standard.*
- *The board should revise the hourly payrates of the state public defender and the chief district public defenders as necessary to reflect the statutory and policy salary limits.*
- *The board should obtain repayment from the state public defender for the amount of pay which exceeded the statutory limit.*

Chapter 3. Grants to Counties and Public Defense Corporations

Chapter Conclusions

Except for certain coding errors discussed in Chapter 4, the Board of Public Defense accurately recorded grants to counties and public defense corporations in the accounting records. However, we found that the board was unable to obtain written agreements with the fourth judicial district (Hennepin County) public defense office during the audit period.

The Board of Public Defense grants funds to the second and fourth judicial district public defense offices (Ramsey and Hennepin Counties) and to five public defense corporations to provide defense services to indigent people. For the three fiscal years 1996 through 1998, the board granted about \$39.8 million to Ramsey and Hennepin Counties and about \$2.9 million to the public defense corporations, as shown in Tables 3-1 and 3-2.

The board has established procedures for the public defense corporations and the counties to apply for funding. The board reviews the requests and makes recommendations on the funding levels to the Legislature as part of its biennial budget request.

Audit Objective and Methodology

The primary objective of our review of grants to counties and public defense corporations was to answer the following question:

- Did the Board of Public Defense design and implement internal controls to provide reasonable assurance that grants to counties and public defense corporations were accurately recorded in the accounting records and in compliance with applicable legal provisions and management's authorization?

To meet this objective, we interviewed board employees to gain an understanding of the controls over grants. We tested grant expenditure transactions to determine if the total expenditures matched the allocated amount. We also reviewed the methods the board used to monitor the grantees' activities. Finally, we reviewed documentation from the public defense corporations to determine if the corporations complied with the matching requirements.

Grants to Counties

Table 3-1 shows the funding to Hennepin and Ramsey Counties during the audit period. The board requires monthly reporting by each county, showing details of the use of the grant funds.

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Table 3-1
Grants to Counties
Fiscal Years 1996 - 1998

<u>County</u>	<u>FY1996</u>	<u>FY1997</u>	<u>FY1998</u>
Hennepin County	\$ 8,864,645	\$ 8,858,600	\$ 9,583,200
Ramsey County	3,955,645	4,045,044	4,490,458
Total	<u>\$12,820,290</u>	<u>\$12,903,644</u>	<u>\$14,073,658</u>

Source: MAPS accounting data by fiscal year.

For fiscal years 1996 through 1998, the board advanced the entire initial allocation to each of the counties at the beginning of the fiscal year. Employees of the Administrative Services Office told us that providing each county with its funding immediately allows the county to offset certain administrative costs. Each county invests the money and earns interest until it disburses the funds as directed by the district's chief public defender. The interest earned by the counties serves to offset certain administrative costs incurred by the county which the state would otherwise be required to provide. However, the board has not empirically determined whether this offset is a good cash management practice for the state.

Public Defense Corporations

Minn. Stat. Section 611.216 allows the board to establish procedures for public defense corporations to apply for funding by the Legislature. Each corporation is required to provide a ten percent match of its state appropriation. Table 3-2 shows the state funding provided to public defense corporations during the audit period.

Table 3-2
Grants to Public Defense Corporations
Fiscal Years 1996 - 1998

<u>Corporation</u>	<u>FY1996</u>	<u>FY1997</u>	<u>FY1998</u>
Legal Rights Center (1)	\$272,000	\$273,000	\$273,000
Neighborhood Justice Center	256,000	256,000	256,000
White Earth Reservation	116,000	116,000	116,000
Leech Lake Indian Reservation	116,000	116,000	116,000
Duluth Indian Legal Assistance	208,000	208,000	208,000
Total	<u>\$968,000</u>	<u>\$969,000</u>	<u>\$969,000</u>

(1) The board made an oversight and underpaid the public defense corporation \$1,000 in fiscal year 1996.

Source: MAPS accounting data by fiscal year.

During the audit period, the board provided an advance to each public defense corporation at the beginning of the fiscal year and then made quarterly reimbursements to each corporation. The board required quarterly reporting by the public defense corporations. The reports showed how the entities spent the grant funds. The reports also showed how the corporations provided matching funds equal to ten percent of the amount appropriated to the corporations.

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Conclusions

The Board of Public Defense accurately recorded grants to counties and public defense corporations in the accounting records, except for the miscodings discussed in Chapter 4, Finding 3. We also found that the board did not have written agreements with Hennepin County, as discussed below.

2. The Board of Public Defense was unable to obtain written agreements with Hennepin County for all years audited.

The Board of Public Defense was unable to obtain written agreements specifying the terms and conditions of the grants given to Hennepin County in fiscal years 1996 through 1998. The agreement should include the amount granted, financial reporting requirements, documentation requirements, and the disposition of funds remaining at year end. Despite the lack of a formal agreement, we found that the board did receive all required monthly financial reports from the county.

Recommendation

- *The Board of Public Defense should establish written agreements with Hennepin County specifying the terms and conditions of the grant.*

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Chapter 4. Other Administrative Expenditures

Chapter Conclusions

The Board of Public Defense should improve its purchasing process. The board did not always encumber funds before purchasing goods, formally document payment approval before paying for goods and services, nor always establish contracts before vendors provided services. In addition, the board did not correctly classify certain disbursements on the accounting system. Finally, we found that, in some cases, the board did not maintain documentation supporting certain accounting transactions.

The Board of Public Defense's significant nonpayroll administrative expenditures consisted of rent, professional and technical services, and supplies and equipment. For certain recurring disbursements, the board encumbers the entire annual amount at the beginning of the year. In other cases, such as with supplies and equipment, the board must encumber individual purchases.

Rent

During the three-year audit period, rent expenditures were about \$2.9 million. The Administrative Services Office negotiated lease agreements for approximately 30 offices throughout the state. The districts received rent invoices from the lessors and forwarded them to the Administrative Services Office for payment.

Professional and Technical Services

The districts negotiated contracts for professional and technical services, which included legal services, court reporters, transcribers, expert witnesses, and computer system development. The Administrative Services Office approved all service contracts of \$5,000 or more. During the three-year audit period, professional and technical service expenditures totaled \$2.7 million.

Again, the districts received the invoices from the vendor and forwarded the invoices to the Administrative Services Office for payment.

Supplies and Equipment

Supplies and equipment expenditures for the three-year audit period were about \$2.1 million. The districts or the Administrative Services Office could initiate purchases of supplies and equipment. If a district office ordered the goods, the district received the invoice from the vendor. The district then forwarded the invoice to the Administrative Services Office, which processed all payments for supplies and equipment.

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The board used a fixed asset inventory system to track equipment with a useful life of two or more years. The board also tracked sensitive items, regardless of the acquisition cost. During the audit period, districts notified the Administrative Services Office of purchases and dispositions of assets. The office then updated the fixed asset inventory system accordingly.

Audit Objective and Methodology

The primary objective of our review of administrative expenditures was to answer the following question:

- Did the Board of Public Defense design and implement internal controls to provide reasonable assurance that administrative expenditures were accurately recorded in the accounting records and in compliance with applicable legal provisions and management's authorization?

To meet this objective, we interviewed board employees to gain an understanding of the controls over administrative expenditures. We tested administrative expenditure transactions to determine if the transactions were properly recorded and in accordance with applicable policies. We analyzed transactions to determine the reasonableness of the activity. Finally, we verified the existence of selected fixed asset purchases.

Conclusions

The Board of Public Defense should improve its purchasing process. The board did not always encumber funds before purchasing goods, formally document payment approval before paying for goods and services, and establish contracts before the vendor provided services. In addition, the board did not correctly classify certain expenditures on the accounting system. Finally, we found that, in some cases, the board did not maintain documentation supporting certain accounting transactions.

3. The Board of Public Defense needs to improve its purchasing process.

In some instances, the Board of Public Defense had some deficiencies in its purchasing process. First, the board did not always encumber funds before purchasing goods. For example, when testing a sample of supplies and equipment purchases, we found five instances where the board did not encumber funds until after it purchased goods. In fact, in four of the five cases, the board did not encumber the funds until after it received the goods. Without encumbering funds prior to purchasing, the board may incur a liability for which it has insufficient funds.

Second, the board did not always formally document payment approval before paying for goods and services. The district offices ordered goods and services from various vendors. The vendors delivered the goods and services to the district offices, which also received the invoices from the vendor. Although the districts routinely entered accounting data onto invoices, some districts did not formally document the receipt of goods or the approval to pay before forwarding the invoice to the Administrative Services Office for payment. Board policy requires that the district offices

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initial invoices prior to payment. However, in 22 of the 56 items tested, there was no documentation to show that the district office received the goods and authorized the invoice for payment. Without this documentation, the board cannot ensure that the invoices agree with the terms of the underlying purchase order or contract. It also is unable to ensure that it only pays for goods and services it has received.

Finally, the board did not always have a contract in place before a contractor began providing services. In one case, the contractor signed the contract on August 11, 1996, but the district public defender did not sign until August 29, 1996. The chief administrator signed the contract on September 11, 1996. However, the contractor billed the board for 200 hours of work during August 1996.

Recommendation

- *The Board of Public Defense should improve its purchasing process by encumbering funds prior to purchase, formally documenting receipt of goods or services before paying, and executing contracts before the contractor performs services.*

4. The Board of Public Defense did not correctly classify certain disbursements on the accounting system.

The Board of Public Defense used incorrect state accounting system (MAPS) codes when processing certain transactions. For example:

- In fiscal year 1996, the board did not code all grant expenditures to public defense corporations consistently. The board coded \$902,000 as "aid to nongovernmental organizations," yet disbursed \$968,000 to public defense corporations that year. In fiscal years 1997 and 1998, the board coded all grant expenditures as "aid to counties," even though \$969,000 was granted to public defense corporations, which are nongovernmental organizations, in each of the years.
- For the travel items tested, we found that the board coded \$7,085 in training expenses as travel expenses. One district office also coded photocopy expenses as living expenses during fiscal year 1996.
- We also found that one district's monthly rent invoices contained postage charges. The board coded the entire invoice as rent rather than using separate lines for the various components.
- For the supplies and equipment items tested, we found inconsistencies in the classifications. We found computers, printers, and software that were coded as supplies for some purchases and as equipment for other purchases. We also found phone equipment, meals, and rent that were coded as supplies.

Correctly classifying transactions results in accounting information which is more meaningful for budgeting, monitoring, and analysis. In addition, properly classifying equipment purchases facilitates inventory tracking.

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Recommendation

- *The Board of Public Defense should properly classify transactions on the accounting system.*

5. The Board of Public Defense did not always maintain documentation supporting certain accounting transactions.

The Board of Public Defense did not always maintain adequate documentation to support some of its accounting transactions. We found the following instances of missing documentation:

- The board could not find two contracts for legal services. The board paid a total of \$13,594 under these contracts during the audit period.
- The board could not find three invoices for legal services, which totaled \$37,528 and one invoice of \$4,213 for supplies and equipment.
- The board could not find documentation to support an additional \$576 paid to a vendor on an invoice. The invoiced amount was \$16,415 but the board paid the vendor \$16,991.

The board must preserve documentation which supports the use of public funds. In addition, the board is required to protect and preserve government records under Minn. Stat. Section 15.17.

Recommendation

- *The Board of Public Defense should maintain documentation supporting its business operations.*

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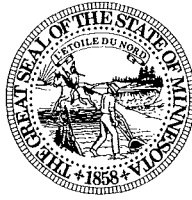
Status of Prior Audit Issues As of July 24, 1998

Most Recent Audit

Legislative Audit Report 93-60, covering the period from July 1, 1990 through April 30, 1993, was issued in December 1993. The report included two findings. In the first finding, we reported that the board had accepted host county reports without verifying their accuracy. In five of eight districts, the final settlements did not agree with the host county's detailed accounting reports. In a February 4, 1994, letter to the Department of Finance, the board reported that it had successfully reconciled the final settlements in the remaining counties, resulting in an approximate \$126,000 credit to the state. In the second finding, we reported that the Administrative Services Office did not follow statewide accounting procedures for establishing encumbrances. This continues to be an issue, as noted in Finding 2 in Chapter 4 of the current report.

Board of Public Defense

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BOARD OF PUBLIC DEFENSE**

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September 29, 1998

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Office of the Legislative Auditor
1st Floor Centennial Office Building
658 Cedar St.
St. Paul, MN 55155

Dear Mr. Nobles:

The purpose of this correspondence is to respond to the July 1, 1995, through June 30, 1998, financial audit of the Board of Public Defense that the Office of the Legislative Auditor recently completed.

The Board of Public Defense would like to complement your staff for the work that they did. The Administrative Services Office appreciated the collaborative approach they took in the audit process.

The fiscal years that were audited were years filled with significant change for the public defense system in Minnesota. There were significant transfers of fiscal responsibilities and personnel from County based systems to state ones. Representation of Juvenile and misdemeanor criminal cases became a state function. Full-time Chief Public Defender Offices were setup in all Judicial Districts staffed with new state personnel. Responsibility for payroll entry, procurement, expense reports, as well as a host of other responsibilities needed to be quickly implemented in a short period of time. Concurrently, during this time, the State began using new personnel/payroll and accounting/procurement systems. Compounding all of this, was that in some cases, this was the third payroll and accounting system that the Judicial District Public Defender Offices had used in approximately three years.

While we are appreciative of the assistance your staff gave to our Board in making recommendations to increase the efficiency of our offices as well as providing insight on how to accomplish certain findings, it is important to point out that many of those

findings occurred during the early period of the audit. Within that context it is the Board's intent to immediately correct any current deficiencies through amending Board policies, focalized training programs and institutionalization of better monitoring techniques.

The Board does feel that it should respond to several of the findings and they are as follows:

PAYROLL AND TRAVEL EXPENDITURES

The Board of Public Defense generally designed and implemented internal controls to provide reasonable assurance that payroll and travel expenditures were accurately reported in the accounting records. [However, we found that the Board incorrectly computed hourly pay based on annual salaries.]

We do not believe that this statement is correct and we believe that there is an honest difference of opinion here. There was a conscious decision made seven years ago to use the 2080-hour standard as nearly 90% of our staff were part-time and paid on a lump sum basis. Today, two thirds of the attorney staff of the Board continue to be part time employees paid on a lump sum basis. For these individuals the annual salary is divided by twenty-six equal pay periods. As full time staff have been added, their salaries were divided by 2080 hours in order to equal those of the part time lump sum staff. In order to bring "harmony" to this issue, however, the Board will convert the annual salaries to the 2,088 hour standard for new hires, and for all staff beginning in FY 2000.

GRANTS TO COUNTIES AND PUBLIC DEFENSE CORPORATIONS

Except for certain coding errors, the Board of Public Defense accurately recorded grants to counties and public defense corporations in the accounting records. [The Board of Public Defense was unable to obtain written agreements with Hennepin County for all years audited.]

We agree. The Board has attempted to have these agreements completed. It will continue to do so in the future.

OTHER ADMINISRATIVE EXPENDITURES

The Board of Public Defense should improve its purchasing process. The Board did not always encumber funds before purchasing goods, formally document payment approval before paying for goods and services, nor always establish contracts before vendors provided services. In addition, the Board did not correctly classify certain

disbursements on the accounting system. Finally, we found that, in some cases, the Board did not maintain documentation supporting certain accounting practices.

There is room for improvement. Many of the instances identified in your working papers, however, were isolated instances that occurred in certain Judicial District Offices or occurred in FY 1995 and FY 1996 during the transition to the new accounting/payroll system.

A revised policy on encumbrance of funds has been developed and it has been distributed to all District Offices. It should be noted that because of no technology funding by the State, until last year, District Offices did not have the capability of printing purchase orders from the Minnesota Accounting and Procurement System (MAPS). This made encumbering funds a very laborious and involved process. It should also be noted that there is only one person in each District who orders goods and services. The likelihood of incurring a liability without sufficient funds to pay for them was/is somewhat remote.

The revised policy on encumbrance of funds also now emphasizes the formal documentation of goods received and payments to be made. (i.e.) In some District Offices, the managing legal secretary, in lieu of their signature, stamped invoices with the purchase order number. In the future, District staff will initial all invoices of goods or services that were received, to insure that the amount invoiced is correct.

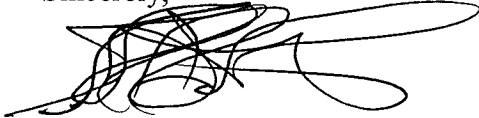
In regard to other items such as classification of certain disbursements and documentation of certain accounting transactions, it would appear that there are sufficient policies in place that have been adopted by the Board. The problem does not appear to be one of deliberate accounting errors, but instead due more to improper monitoring and a lack of training. We have begun an analysis of the problem areas brought to our attention and have identified the necessary training programs to correct these problems. In addition there are being instituted new processes and requirements for finalizing contracts for services and goods. It should be noted, however, that in the case of employment of attorney's on an emergency basis, it is doubtful that signed contracts will be in place prior to work being commenced. This is not to say that there will not be said agreements, but this type of work (public defense) is not always conducive to institutionalized contracting process and procedures.

We would again like to thank the Legislative Auditor's Office for their assistance in this recent audit of the Board of Public Defense. We have one of the smallest management offices for public defense in the United States and therefore we are appreciative of your assistance in identifying accounting concerns that warrant correction. As stated previously, many of those concerns were found to have occurred in FY's 1995 and 1996 and were already corrected. The previous narrative addresses our efforts to correct

Mr. James Nobles
September 29, 1998
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current concerns. We believe that the findings of your office are positive in nature and will assist us in moving forward in providing efficient and accountable services as a state agency.

Sincerely,

A handwritten signature in black ink, appearing to be "Richard F. Scherman", written over a horizontal line.

Richard F. Scherman
Chief Administrator

RFS:pf

cc: Peter Madel, Chair
John Stuart, State Public Defender
Kevin Kajer, Budget Director