

STATE OF FLORIDA
AUDITOR GENERAL



OPERATIONAL AUDIT
OF THE

OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT

FOR THE PERIOD APRIL 1, 1996,
THROUGH MARCH 31, 1997

DATED: JUNE 9, 1997

STATE OF FLORIDA

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STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE

CHARLES L. LESTER, CPA
AUDITOR GENERAL

June 9, 1997

The President of the Senate, the Speaker of the
House of Representatives, and the
Legislative Auditing Committee

Pursuant to the provisions of Section 11.45, Florida Statutes, and as part of the
Legislature's oversight responsibility for operations of State agencies, I have directed that an
operational audit be made of the

OFFICE OF THE PUBLIC DEFENDER,
TWELFTH JUDICIAL CIRCUIT,

For the Period April 1, 1996, Through March 31, 1997.

The results of the audit of the Office of the Public Defender are presented herewith.

Respectfully submitted,

Charles L. Lester
Auditor General

Audit supervised by:
Robert D. Jones

Audit made by:
Kathy M. Cremaschi

OPERATIONAL AUDIT
OF THE

OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
For the Period April 1, 1996, Through March 31, 1997

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REPORT ON INTERNAL CONTROL
AND LEGAL COMPLIANCE

- (1) Office of the Public Defender, Twelfth Judicial Circuit, management is responsible for administering numerous operating units, programs, activities, functions, and classes of transactions in accordance with governing provisions of laws, administrative rules, and other guidelines. Additionally, the proper administration of public funds requires that management establish and maintain a system of internal control to provide reasonable assurance that specific entity objectives will be achieved. The Auditor General, as part of the Legislature's oversight responsibility for operations of State agencies, makes operational audits to determine the extent to which management has fulfilled those responsibilities.
- (2) The scope of this audit focused primarily on assets, liabilities, fund equities, revenues and cash receipts, expenditures and disbursements, budgetary controls, and management reporting. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period April 1, 1996, through March 31, 1997.
- (3) We conducted our audit in accordance with generally accepted auditing standards, and Government Auditing Standards issued by the Comptroller General of the United States. Our audit objectives for the operating units, programs, activities, functions, and classes of transactions within the scope of audit were:
- To evaluate the Office's performance in administering its assigned responsibilities in accordance with applicable laws, administrative rules, and other guidelines.

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- To determine the extent to which the Office's system of internal control, and selected relevant controls, promotes and encourages the achievement of management's objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic and efficient operation of the Office; the reliability of financial records and reports; and the safeguarding of assets.
- To determine whether the Office has corrected, or is in the process of correcting, all deficiencies disclosed in the prior audit (report No. 12773).

(4) Office of the Public Defender management is responsible for compliance with applicable laws, administrative rules, and other guidelines. As a part of our audit, we examined, on a test basis, evidence supporting transactions (as well as events and conditions) which occurred; performed analytical procedures; and reviewed management's administrative constructions of law. Our objective was to evaluate management's compliance with significant provisions of laws, administrative rules, and other guidelines governing those operating units, programs, activities, functions, and classes of transactions within the scope of audit. However, the objective of our audit was not to provide an opinion on overall compliance with such provisions.

(5) The results of our tests of compliance indicated that, with respect to the items tested, the Office of the Public Defender had generally complied with the significant provisions of laws, administrative rules, and other guidelines governing those operating units, programs, activities, functions, and classes of transactions within the scope of audit.

(6) Office of the Public Defender management is responsible for establishing and maintaining a system of internal control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of controls. The objectives of internal control are to provide management with reasonable, but not absolute, assurance of compliance with applicable laws, administrative rules, and other guidelines; the economic and efficient operation of the Office; the reliability of financial records and reports; and the safeguarding of assets. Because of inherent limitations in any

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system of internal control, noncompliance, errors, or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of internal control to future periods is subject to the risk that controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

(7) In planning and performing our audit, we obtained an understanding of the system of internal control established by Office management. With respect to internal control, we obtained an understanding of the components of internal control sufficient to understand the design of controls relevant to those operating units, programs, activities, functions, and classes of transactions within the scope of audit; determine whether they have been placed in operation; and assess control risk. Our purpose in obtaining an understanding of internal control and assessing the level of control risk was to determine the nature, timing, and extent of substantive audit tests and procedures necessary to the accomplishment of our audit objectives. However, our purpose was not to provide an opinion on internal control; accordingly, we do not express such an opinion.

(8) Our consideration of internal control would not necessarily disclose all matters in the system of internal control that might be material weaknesses under generally accepted government auditing standards. A material weakness is a condition in which the design or operation of one or more of the components of internal control does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial records and resources of the operating units, programs, activities, functions, and classes of transactions being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the system of internal control and its operations that we consider to be material weaknesses as defined above.

(9) This report is intended for the information of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, and applicable management. Copies of this report are available pursuant to Section 11.45(7), Florida Statutes, and its distribution is not limited.

BACKGROUND

Authority

- (10) Section 27.50, Florida Statutes, provides that there shall be a Public Defender for each of the judicial circuits of the State who shall be elected at the General Election by the qualified electors of the circuit. The duties of the Public Defender as prescribed by Chapter 27, Part III, Florida Statutes, include representing, without additional compensation, any person who is determined by the court to be indigent as provided in Section 27.52, Florida Statutes, and who is: (1) under arrest for, or is charged with, a felony; (2) under arrest for, or is charged with, a misdemeanor, a violation of Chapter 316, Florida Statutes, which is punishable by imprisonment, criminal contempt, or a violation of a municipal or county ordinance in the county court, unless the court, prior to trial, files in the cause a statement in writing that the defendant will not be imprisoned if he or she is convicted; (3) alleged to be a delinquent child pursuant to a petition filed before a circuit court; or (4) sought by petition filed in such court to be involuntarily placed as a mentally ill person or involuntarily admitted to residential services as a person with developmental disabilities.

Organizational Structure

- (11) Elliott C. Metcalfe, Jr., is the Public Defender of the Twelfth Judicial Circuit. The Public Defender of the Twelfth Judicial Circuit is responsible for performing the duties described above, as provided by law, in Sarasota, Manatee, and DeSoto Counties. Offices are maintained at Sarasota and Venice in Sarasota County, at Bradenton in Manatee County, and at Arcadia in DeSoto County. At June 30, 1996, the Office of the Public Defender employed 79 people in 78.50 full-time equivalent positions to perform the duties of the Office. An organizational chart of the Office of the Public Defender is presented as Exhibit C.

- (12) The Office of the Public Defender, Twelfth Judicial Circuit, was funded by State appropriations for the 1995-96 and 1996-97 fiscal years, respectively, pursuant to Chapters 95-429 and 96-424, Laws of Florida, the General Appropriations Acts. The following is a summary of released appropriations by appropriation category for the 1995-96 fiscal year:

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<u>Appropriation Category</u>	<u>Amount Released</u>
Salaries and Benefits	\$3,288,044.05
Other Personal Services	65,633.95
Expenses	235,096.00
Data Processing Services	1,304.00
Operating Capital Outlay	43,112.00
Special Category:	
Public Defenders - Law Library	<u>74,381.00</u>
Total	<u>\$3,707,571.00</u>

(13) As required by Section 27.54(3), Florida Statutes, the counties which comprise the Twelfth Judicial Circuit provided facilities and services to the Office of the Public Defender. These facilities and services included office space, utilities, telephone service, and other support as itemized in Section 27.54(3), Florida Statutes.

(14) The Public Defender's salary was governed by Section 27.5301(1), Florida Statutes, and applicable General Appropriations Acts of the Legislature. Section 27.5301(2), Florida Statutes, provides that the salary for each assistant public defender shall be set by the Public Defender at an amount not to exceed 100 percent of the Public Defender's salary. The Classification and Pay Procedures for the Employees of the Public Defender Offices of the State of Florida, promulgated by the Florida Public Defender Association, Inc., as required by Section 27.53(1), Florida Statutes, was used to set the salary ranges for the several classes of employees.

(15) A comparison of the Office of the Public Defender's budgeted with actual expenditures and commitments for the 1995-96 fiscal year, the last complete year subject to audit, is presented as Exhibit A. The purpose of this budget comparison is to provide information useful to an understanding of the budgetary structure and operations of the Office of the Public Defender. This comparison presents both budgetary and actual amounts on the basis specified in Chapter 216, Florida Statutes, and the applicable portions of the 1995-96 General Appropriations Act, as further described in the notes to the Exhibit. The Exhibit was prepared by us from the Office's records and was reviewed by Office management.

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- (16) The objectives of this audit did not include the expression of an opinion on the comparison of budgeted with actual expenditures and commitments, which is presented on the basis specified in Chapter 216, Florida Statutes, and includes several elements and accounts relating to the Office's budgetary operations. Therefore, an independent auditor's report on the budgetary comparison, as contemplated by AU Section 623, Special Reports, Codification of Statements on Auditing Standards, is not included herein.

Related Audits

- (17) Our audit did not extend to an examination of the Office of the Public Defender's financial statements. On January 30, 1997, this Office issued audit report No. 12907, with accompanying general purpose financial statements of the State of Florida as of and for the fiscal year ended June 30, 1996. The Office of the Public Defender is an integral part of the reporting entity of the State of Florida. The financial information relative to the Office of the Public Defender was included by the State Comptroller in the general purpose financial statements that accompany that report. A similar audit of the general purpose financial statements of the State of Florida for the fiscal year ended June 30, 1997, will be the subject of a separate audit report.

- (18) The Office of the Public Defender's expenditures and commitments for salaries and benefits for the fiscal year ended June 30, 1996, are shown on Exhibit A. Although budgetary authority is also a primary control, disbursements for salaries and benefits must be made within the salary rate limitations prescribed by Section 216.181, Florida Statutes. Salary rate, as managed by the Office of the Public Defender, was excluded from the scope of this audit. The results of our separate audit of the establishment and management of the salary rates of the Offices of the State Attorneys and Public Defenders of the State of Florida are presented in audit report No. 12867, dated December 16, 1996.

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Prior Audit Findings

- (19) For those operating units, programs, activities, functions, and classes of transactions within the scope of this audit, the Office of the Public Defender has substantially corrected the deficiencies noted in audit report No. 12773.

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AUDIT AUTHORITY

- (20) Pursuant to the provisions of Section 11.45(7), Florida Statutes, I have directed that this audit report, including all Exhibits thereto, be prepared to present the results of the operational audit of the Office of the Public Defender, Twelfth Judicial Circuit.

Respectfully submitted,



Charles L. Lester, CPA
Auditor General

EXHIBITS

The following Exhibits are attached to and form an integral part of this report:

- EXHIBIT - A Comparison of Budgeted With Actual Expenditures and Commitments
 - By State Fund Type.
- EXHIBIT - B Notes to Comparison of Budgeted With Actual Expenditures and
 Commitments - By State Fund Type.
- EXHIBIT - C Organizational Chart.

EXHIBIT - A

OFFICE OF THE PUBLIC DEFENDER
 TWELFTH JUDICIAL CIRCUIT
 COMPARISON OF BUDGETED WITH ACTUAL
 EXPENDITURES AND COMMITMENTS - BY STATE FUND TYPE
 For the Fiscal Year Ended June 30, 1996

Fund Type/ Appropriation Category	Final Operating Budget	Actual Expenditures of Current Appropriations	Other Commitments of Budgeted Resources	Total Expenditures and Other Commitments of Current <u>Appropriations</u>	Variance - Favorable (Unfavorable)
GENERAL REVENUE FUND					
Current:					
Salaries and Benefits	\$3,288,044.05	\$3,287,846.33	\$	\$3,287,846.33	\$ 197.72
Other Personal Services	65,633.95	49,411.13		49,411.13	16,222.82
Expenses	235,096.00	189,182.69	41,954.28	231,136.97	3,959.03
Data Processing Services	1,304.00	1,304.00		1,304.00	
Operating Capital Outlay	43,112.00	6,014.50	36,649.00	42,663.50	448.50
Special Category:					
Public Defenders - Law Library	<u>74,381.00</u>	<u>69,411.67</u>	<u>1,830.50</u>	<u>71,242.17</u>	<u>3,138.83</u>
TOTAL GENERAL REVENUE FUND	<u>\$3,707,571.00</u>	<u>\$3,603,170.32</u>	<u>\$80,433.78</u>	<u>\$3,683,604.10</u>	<u>\$23,966.90</u>

The accompanying notes to this Exhibit describe in more detail the information included in this comparison.

OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS - BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1996

EXHIBIT - B

(1) The following procedures are used in adopting, amending, and reporting budgets and budgetary data:

- Section 216.011(1)(kk), Florida Statutes, indicates that for purposes of Chapter 216, Florida Statutes, Public Defenders are to be considered State agencies. Accordingly, budgets are prepared and submitted to the Legislature in the form and manner prescribed by Chapter 216, Florida Statutes, for State agencies.
- As provided by Section 27.60, Florida Statutes, limited transfers of expenditure authority may be made by the Public Defender.
- Budgetary information is integrated into the accounting system.
- In accordance with Chapter 216, Florida Statutes, annual appropriations are used for: (1) authorized expenditures incurred during the current fiscal year; (2) encumbrances outstanding at year-end approved for liquidation in the subsequent year; and (3) legal, due, and unpaid obligations relating to the prior year which were not requested and/or approved to be liquidated from appropriations of the prior year.

(2) Because the budgetary basis of accounting for operating categories described in Chapter 216, Florida Statutes, requires recognition of amounts which are in addition to those used to recognize and report expenditures in accordance with generally accepted accounting principles, the expenditures and commitments presented on Exhibit A have been shown on a basis comparable to the budget. To present these data on a basis comparable to the budget, accrual basis expenditures paid from or charged to 1995-96 fiscal year appropriations have been shown in the "Actual Expenditures of Current Appropriations" column. Additionally, encumbrances at June 30, 1996, which were approved for certification forward to be paid in the 1996-97 fiscal year are shown in the "Other Commitments of Budgeted Resources" column.

EXHIBIT - B
(Continued)

OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS - BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1996

(3) Adjustments to reconcile the budget amounts for the operating categories shown on Exhibit A with amounts appropriated are as follows:

Description	General Revenue <u>Fund</u>
Appropriated by Chapter 95-429, Laws of Florida	\$3,658,327
Changes Authorized by the Executive Office of the Governor	<u>49,244</u>
Total Final Operating Budget, Exhibit A	<u>\$3,707,571</u>

OFFICE OF THE PUBLIC DEFENDER
 TWELFTH JUDICIAL CIRCUIT
 ORGANIZATIONAL CHART
 As of March 31, 1997

EXHIBIT - C

