

**STATE OF FLORIDA
AUDITOR GENERAL**



*OPERATIONAL AUDIT
OF THE*

*OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT*

For the Period January 1, 1997, Through December 31, 1997

Dated: June 30, 1998

13275

***STATE OF FLORIDA
AUDITOR GENERAL***

***OPERATIONAL AUDIT
OF THE***

***OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT***

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**OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT**

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STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE

CHARLES L. LESTER, CPA
AUDITOR GENERAL

June 30, 1998

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,
SIXTH JUDICIAL CIRCUIT,***

For the Period January 1, 1997, Through December 31, 1997.

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

Respectfully submitted,

A handwritten signature in black ink that reads "Charles L. Lester".

Charles L. Lester
Auditor General

Audit supervised by:
Karen J. Collington

Audit made by:
Patricia R. Cain

***OPERATIONAL AUDIT
OF THE***

***OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
For the Period January 1, 1997, Through December 31, 1997***

AUDIT REPORT SUMMARY

This audit report summary highlights the scope, objectives, methodology, and findings of audit report No. 13275, dated June 30, 1998. It is intended to present the findings of our report in a condensed fashion. The entire audit report should be read for a comprehensive understanding of our audit findings.

SCOPE/OBJECTIVES

The Auditor General, as part of the Legislature's oversight responsibility for operations of State agencies, makes operational audits to evaluate management's performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other guidelines and to determine the extent to which the internal control, as designed and placed in operation, promotes and encourages the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets.

The scope of this audit of the Office of the Public Defender, Sixth Judicial Circuit, focused primarily on assets, liabilities, fund equities, revenues, expenditures and disbursements, budgetary controls, management reporting, and motor vehicle assignment and use. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period January 1, 1997, through December 31, 1997.

METHODOLOGY

We conducted our audit in accordance with generally accepted auditing standards and applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

FINDINGS

Matters coming to our attention relating to noncompliance with various guidelines and those relating to significant deficiencies in the design or operation of the internal control for those operations audited are as follows:

Separation of Duties

The Office of the Public Defender recorded expenditures totaling approximately \$8,332,000 for salaries and benefits during the audit period. An essential internal control for the personnel and payroll functions is the separation of incompatible duties such that no one employee may complete all actions necessary to generate a payroll disbursement and also have access to the related payroll warrants. The Administrative Director at the Clearwater Office prepared and approved the original appointment papers for new employees, submitted the papers to the Florida Justice Administrative Commission (JAC) for data entry into the payroll system, and received the payroll warrants from the JAC for distribution. The performance of these incompatible duties by one employee limits management's assurance that errors or irregularities (such as unauthorized payroll warrants), should they occur, will be timely detected. (See paragraphs 19 through 22.)

Special Pay Increases

Chapter 27, Part III, Florida Statutes, and the related *Classification and Pay Procedures for the Employees of the Public Defender Offices of the State of Florida (Classification and Pay Procedures)* adopted pursuant to Section 27.53(1), Florida Statutes, provide each Public Defender broad authority and discretion in applying established guidelines relating to employee salaries, including specific provisions for special pay increases. Notwithstanding, Office procedures relating to special pay increases and the documentation required therefor could be improved. (See paragraphs 23 through 28.)

Annual Review of Compensation Policies

Section 27.5302, Florida Statutes, provides that each Public Defender shall undertake an annual review of compensation policies for the position of assistant public defender. Within the context of comparable skills, experience, and responsibility, any inequities found to exist on the basis of gender or race shall be eliminated. Although Office management indicated to us that an annual review of compensation policies for the position of assistant public defender had been conducted in accordance with the provisions of Section 27.5302, Florida Statutes, and that all inequities found to exist on the basis of gender or race had been eliminated, Office records did not include documentation of the review process and the results thereof. (See paragraphs 29 through 31.)

Other Personal Services

The Office recorded expenditures totaling approximately \$72,700 for other personal services (OPS) during the audit period. An essential internal control for the personnel and payroll functions is the separation of incompatible duties such that no one employee may complete all actions necessary to generate a payroll disbursement and also have access to the related payroll warrants. For OPS employees (other than law clerks) at the New Port Richey and Dade City Offices, the Office Manager interviewed applicants, hired applicants with approval of the Public Defender, verified and approved hours worked, and distributed payroll warrants. The performance of these duties by one employee limits management's assurance that errors or irregularities (such as unauthorized payroll warrants), should they occur, will be timely detected. (See paragraphs 32 through 35.)

Leave Policies

The *Classification and Pay Procedures*, Sections 3.07 and 3.08, require that accurate records be maintained of all leave accrued and taken. Our tests of leave records disclosed numerous mathematical errors, primarily relating to the recording of leave accruals, that resulted in leave balance overstatements ranging from 2 to 40 hours. Failure to maintain adequate leave records could result in employees being paid incorrect amounts upon termination or being permitted to take more leave than actually earned. (See paragraphs 36 through 38.)

Tangible Personal Property

The Office reported tangible personal property totaling \$974,275.35 at June 30, 1997. The reported balance was in material agreement with Office detailed subsidiary property records. A periodic reconciliation of detailed subsidiary property records to general ledger control accounts and capital outlay expenditures is necessary to ensure the accuracy and completeness of Office tangible personal property accounts and records. Our review disclosed that Office accounting procedures did not provide for the posting of tangible personal property transactions to general ledger control accounts and the periodic reconciliation of subsidiary records to these control accounts. Office personnel indicated that capital outlay expenditures were periodically reconciled to the subsidiary property records; however, the reconciliations were not documented. (See paragraphs 39 through 41.)

Motor Vehicle Assignment and Use

The Office operated six publicly owned vehicles as of December 31, 1997, including two vehicles owned by Pinellas County. Five vehicles were assigned on a pooled basis; one was assigned on a 24-hour basis. Established procedures required that vehicle usage logs be maintained for each vehicle and include information such as the driver's initials, point of departure, destination, and ending odometer reading. Contrary to established Office procedures, the vehicle usage logs maintained by the Office during the audit period did not always contain adequate information to evidence that vehicle usage was primarily for authorized public purposes. (See paragraphs 42 through 45.)

The Public Defender's written response to the audit findings and recommendations included in audit report No. 13275 is presented as Exhibit D.

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**OPERATIONAL AUDIT
OF THE**

**OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
For the Period January 1, 1997, Through December 31, 1997**

Par.
No.

REPORT ON COMPLIANCE AND INTERNAL CONTROL

- (1) Office of the Public Defender, Sixth 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, expenditures and disbursements, budgetary controls, management reporting, and motor vehicle assignment and use. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period January 1, 1997, through December 31, 1997.
- (3) We conducted our audit in accordance with generally accepted auditing standards and applicable standards contained in *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.
 - 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 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.

- To determine whether the Office has corrected, or is in the process of correcting, all deficiencies disclosed in the prior audit (report No. 12797).

- (4) 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; reviewed management's administrative constructions of law; and performed such other procedures as we considered necessary in the circumstances. 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, providing an opinion on compliance with those provisions was not an objective of our audit.
- (5) The results of our tests of compliance indicated that, with respect to the items tested, the Office 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. Matters coming to our attention relating to noncompliance with various guidelines for those operations audited are noted in the ***FINDINGS AND RECOMMENDATIONS*** section of this report.
- (6) In planning and performing our audit, we considered the Office's internal control relevant to those operating units, programs, activities, functions, and classes of transactions within the scope of audit. Our purpose in considering internal control was to determine the nature, timing, and extent of substantive audit tests and procedures necessary to the accomplishment of our audit objectives, not to provide assurance on internal control.
- (7) We noted certain matters involving the design and operation of the Office's internal control that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control that, in our judgment, could adversely affect management's 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. Those matters coming to our attention for the operating units, programs, activities,

functions, and classes of transactions within the scope of audit are noted in the ***FINDINGS AND RECOMMENDATIONS*** section of this report.

- (8) A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that operating deficiencies, 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. Our consideration of internal control would not necessarily disclose all matters in the Office's internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described in the ***FINDINGS AND RECOMMENDATIONS*** section of this report is a material weakness.
- (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 an order of no imprisonment which states 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) Robert Dillinger is the Public Defender of the Sixth Judicial Circuit. The Public Defender of the Sixth Judicial Circuit is responsible for performing the duties described above, as provided by law, in Pasco and Pinellas Counties. Offices are maintained at Clearwater in Pinellas County and New Port Richey and Dade City in Pasco County. At June 30, 1997, the Office of the Public Defender employed 181 people in 184.5 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, Sixth Judicial Circuit, was funded by State appropriations for the 1996-97 and 1997-98 fiscal years, respectively, pursuant to Chapters 96-424 and 97-152, Laws of Florida, the General Appropriations Acts. The following is a summary of released appropriations by appropriation category for the 1996-97 fiscal year:

<u>Appropriation Category</u>	<u>Amount Released</u>
Salaries and Benefits	\$ 8,029,094.00
Other Personal Services	82,867.00
Expenses	445,187.94
Data Processing Services	31,658.00
Operating Capital Outlay	219,384.00
Special Category:	
Acquisition of Motor Vehicles	49,464.06
Public Defenders - Law Library	<u>43,357.00</u>
Total	<u>\$ 8,901,012.00</u>

- (13) As required by Section 27.54, Florida Statutes, the counties which compose the Sixth 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 1996-97 fiscal year, the last complete year subject to audit, is presented as Exhibit A. The purpose of this budgetary 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 1996-97 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.
- (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 29, 1998, this Office issued audit report No. 13138, with accompanying general purpose financial statements of the State of Florida as of and for the fiscal year ended June 30, 1997. 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, 1998, will be the subject of a separate audit report.

FINDINGS AND RECOMMENDATIONS

- (18) Chapter 27, Part III, Florida Statutes, provides general authority for the financial administration of the Office of the Public Defender. In addition, the Florida Public Defender Association, Inc., has provided guidance for the financial administration of the Office of the Public Defender. Such guidance includes the adoption of the *Classification and Pay Procedures for the Employees of the Public Defender Offices of the State of Florida (Classification and Pay Procedures)*, pursuant to the provisions of Section 27.53(1), Florida Statutes, and the adoption of the *Public Defender Uniform Purchasing Manual*, as required by Chapter 82-215, Laws of Florida. Our detailed findings and recommendations concerning noncompliance with governing laws, administrative rules, and other guidelines as well as those detailed findings and recommendations concerning deficiencies in the design or operation of the system of internal control for those operations audited are presented under appropriate subheadings below.

Personnel Administration

Separation of Duties

- (19) The Administrative Director at the Clearwater Office prepared and approved the original appointment papers for new employees, submitted the papers to the Florida Justice Administrative Commission (JAC) for data entry into the payroll system, and received the payroll warrants from the JAC for distribution. The performance of these incompatible duties by one employee limits management's assurance that errors or irregularities (such as unauthorized payroll warrants), should they occur, will be timely detected.
- (20) The Office of the Public Defender recorded expenditures totaling approximately \$8,332,000 for salaries and benefits during the audit period. An essential internal control for the personnel and payroll functions is the separation of incompatible duties such that no one employee may complete all actions necessary to generate a payroll disbursement and also have access to the related payroll warrants.
- (21) Our review of Office control procedures and records for the administration of the personnel and payroll functions disclosed that the Administrative Director prepared and approved the original appointment papers for new employees, submitted the papers to the JAC for data entry into the payroll system, and received the payroll warrants from the JAC for distribution. The

performance of these incompatible duties by one employee limits management's assurance that errors or irregularities (such as unauthorized payroll warrants), should they occur, will be timely detected.

- (22) Although our audit tests of payroll transactions did not disclose any errors or irregularities, our tests cannot substitute for management's responsibility to implement appropriate control procedures. We recommend that the Office, to the extent practicable, separately assign the incompatible duties described above, especially the duty of warrant distribution.

Special Pay Increases

- (23) Notwithstanding that the Public Defender has been authorized considerable latitude in the granting of special pay increases for employees of the Office, Office procedures relating to special pay increases and the documentation required therefor could be improved.
- (24) Chapter 27, Part III, Florida Statutes, and the related *Classification and Pay Procedures* adopted pursuant to Section 27.53(1), Florida Statutes, provide each Public Defender broad authority and discretion in applying established guidelines relating to employee salaries, including specific provisions for special pay increases. For example, Section 2.06 of the *Classification and Pay Procedures* provides that, if conditions exist which justify pay increases, the Public Defender may approve a special pay increase for any employee. However, the authority of the Public Defender in establishing the salary rates for employees is not unlimited. All expenditures, to qualify as authorized expenditures, must be documented in the public record as reasonable in the circumstances and necessary for the accomplishment of an authorized public purpose.
- (25) Accordingly, effective control policies and procedures should be in place to ensure that salary increases granted to Office employees are processed in accordance with the above-described laws and administrative guidelines and that documentation is placed in the public record to demonstrate that such salary increases qualify as authorized expenditures. Established control policies and procedures should address, for example, the authorized frequency of salary increases and criteria to establish eligibility for and the amount of the salary increase. Although the Public Defender adopted an *Employee Handbook* on January 1, 1997, implementing local procedures relating to personnel matters, these procedures do not address the granting of special pay increases and the documentation required therefor. The *Employee*

Handbook does provide that all information concerning salary shall be maintained in the employee's personnel file maintained by the Administrative Division.

- (26) As a part of our audit of payroll expenditures, we reviewed documentation in Office records relating to special pay increases granted during the audit period. Analytical reviews relating to our tests of 61 payroll disbursements disclosed that the Public Defender granted to 52 employees 55 special pay increases ranging from 1.59 to 10.24 percent, including 50 special pay increases effective May 1, 1997. The Public Defender informed us in a memorandum dated March 26, 1998, that, after addressing pay inequities, filling vacant positions, and reorganizing some positions, in May 1997 he approved a special pay increase to almost all of the staff to utilize the remaining fiscal year funds most fairly. However, other than the amounts and effective dates, the reasons for the salary increases were generally not documented in the employees' personnel files. A similar finding was noted in audit report No. 12797, paragraphs 23 through 28.
- (27) We recognize that the Public Defender has been authorized considerable latitude in the granting of special pay increases for employees of the Office. However, the Public Defender, as a matter of proper administrative practice, is responsible for adequately describing in the public records the basis for such special pay increases. In this respect, our comment is not intended to question the propriety of the salary increases granted, but rather to note that the reasons for such actions were not always clearly evident from the public records of the Office.
- (28) We recommend that the Office adequately address in its local procedures issues relating to special pay increases, including, for example, the authorized frequency of salary increases and criteria to establish eligibility for and the amount of the salary increases. Further, we recommend that documentation for all special pay increases be improved.

Annual Review of Compensation Policies

- (29) Although Office management indicated to us that an annual review of compensation policies for the position of assistant public defender had been conducted in accordance with the provisions of Section 27.5302, Florida Statutes, and that all inequities found to exist on the basis of gender or race had been eliminated, Office records did not include documentation of the review process and the results thereof.

- (30) Section 27.5302, Florida Statutes, provides that each Public Defender shall undertake an annual review of compensation policies for the position of assistant public defender. Within the context of comparable skills, experience, and responsibility, any inequities found to exist on the basis of gender or race shall be eliminated. The Administrative Director indicated to us that the Public Defender began a review of compensation policies after his election as Public Defender and before taking office and that this review indicated that inequities did exist. Also, after taking office in January 1997, the Public Defender continued this review on an in-depth basis (considering each assistant public defender's background, experience, and responsibilities within the existing Office structure) and addressed and corrected all inequities within budgetary limitations. However, Office records did not include documentation of the review process, including the factors considered, inequities identified, and corrective action taken.
- (31) We recommend that subsequent reviews of compensation policies for the position of assistant public defender be documented in sufficient detail to demonstrate that such reviews were conducted in the manner prescribed by Section 27.5302, Florida Statutes.

Other Personal Services

- (32) For other personal services employees (other than law clerks) at the New Port Richey and Dade City Offices, the Office Manager interviewed applicants, hired applicants with approval of the Public Defender, verified and approved hours worked, and distributed payroll warrants. The performance of these duties by one employee limits management's assurance that errors or irregularities (such as unauthorized payroll warrants), should they occur, will be timely detected.
- (33) The Office recorded expenditures totaling approximately \$72,700 for other personal services (OPS) during the audit period. An essential internal control for the personnel and payroll functions is the separation of incompatible duties such that no one employee may complete all actions necessary to generate a payroll disbursement and also have access to the related payroll warrants.
- (34) Our review of Office control procedures and records for the administration of the personnel and payroll functions relating to OPS employees other than law clerks at the New Port Richey and Dade City Offices disclosed that the Office Manager interviewed applicants, hired

applicants with the approval of the Public Defender, verified and approved hours worked, and distributed payroll warrants. A similar finding was noted in audit report No. 12797, paragraphs 29 through 34. The performance of these duties by one employee limits management's assurance that errors or irregularities (such as unauthorized payroll warrants), should they occur, will be timely detected.

- (35) Although our audit tests of payroll transactions relating to OPS employees other than law clerks did not disclose any errors or irregularities, our tests cannot substitute for management's responsibility to implement control procedures. We recommend that the Office, to the extent practicable, separately assign the incompatible duties described above, especially the duty of payroll warrant distribution.

Leave Policies

- (36) Our tests of leave records disclosed numerous mathematical errors, primarily relating to the recording of leave accruals, that resulted in leave balance overstatements ranging from 2 to 40 hours. Failure to maintain adequate leave records could result in employees being paid incorrect amounts upon termination or being permitted to take more leave than actually earned.
- (37) The *Classification and Pay Procedures*, Sections 3.07 and 3.08, require that accurate records be maintained of all leave accrued and taken. The Administrative Director maintains leave records for all Office employees. Our review of the leave records of 61 employees disclosed that for 6 employees (or approximately 9.8 percent) leave records contained mathematical errors, primarily relating to the recording of leave accruals, that resulted in leave balance overstatements ranging from 2 to 40 hours. An accurate record of each type of leave earned and taken should be maintained on a current basis for each employee. Failure to maintain adequate leave records could result in employees being paid incorrect amounts upon termination and employees being permitted to take more leave than actually earned.
- (38) We provided to Office personnel details of the errors disclosed by our tests and corrections were made. We recommend that management provide for a review of Office leave records to address any further corrections that may be needed.

Tangible Personal Property

- (39) A periodic reconciliation of detailed subsidiary property records to general ledger control accounts and capital outlay expenditures is necessary to ensure the accuracy and completeness

of Office tangible personal property accounts and records. Our review disclosed that Office accounting procedures did not provide for the posting of tangible personal property transactions to general ledger control accounts and the periodic reconciliation of subsidiary records to these control accounts. Office personnel indicated that capital outlay expenditures were periodically reconciled to the subsidiary property records; however, the reconciliations were not documented.

- (40) The Office reported tangible personal property totaling \$974,275.35 at June 30, 1997. The reported balance was in material agreement with Office detailed subsidiary property records. However, because Office accounting procedures did not provide for the posting of tangible personal property transactions to general ledger control accounts and the periodic reconciliation of subsidiary records to these control accounts, management's assurance of the completeness of the tangible personal property records and the accuracy of the amounts reported was limited. Office personnel indicated that capital outlay expenditures were periodically reconciled to the subsidiary property records; however, the reconciliations were not documented. Therefore, we could not determine on audit the propriety of any adjustments made to the property records or the adequacy of steps taken by Office personnel to resolve any differences noted.
- (41) To provide effective control over and accountability for tangible personal property, we recommend that the Office establish and maintain general ledger control accounts. Such control accounts should be posted from documents evidencing transactions relating to the acquisition, transfer, and disposition of property items. We further recommend that documentation of periodic reconciliations between the subsidiary records and the control accounts and capital outlay expenditures be maintained and include the disposition of all noted differences.

Motor Vehicle Assignment and Use

- (42) Contrary to established Office procedures, the vehicle usage logs maintained by the Office during the audit period did not always contain adequate information to evidence that vehicle usage was primarily for authorized public purposes.
- (43) The Office operated six publicly owned vehicles as of December 31, 1997, including two vehicles owned by Pinellas County. Five vehicles were assigned on a pooled basis; one was

assigned on a 24-hour basis. Established procedures required that vehicle usage logs be maintained for each vehicle and include information such as the driver's initials, point of departure, destination, and ending odometer reading. Completed vehicle usage logs were submitted on a monthly basis to the Finance and Accounting Director.

- (44) Our review of 18 vehicle usage logs maintained by the Office disclosed that the logs did not always contain adequate information to evidence that vehicle usage was primarily for an authorized public purpose. Three of the vehicle usage logs did not always include the name of the individual using the vehicle. Eight of the vehicle usage logs did not include adequate descriptions of the public purposes of the trips, and 5 of the 8 vehicle usage logs did not include the times of the trips. Similar deficiencies were noted in prior audit reports, most recently in audit report No. 12797, paragraphs 35 through 38. As a result, the use of public vehicles by Office personnel was not documented in such a manner as to fully demonstrate that those uses were for a primary public purpose.
- (45) We recognize that many aspects of the operation of the Office must remain confidential; however, consistent with such requirements, the Office should emphasize compliance with established procedures and adequately document the authorized public purpose of all vehicle use either specifically on the vehicle usage logs or by appropriate reference to a case or proceeding.

Prior Audit Findings

- (46) For those operating units, programs, activities, functions, and classes of transactions within the scope of this audit, the Office of the Public Defender has not substantially corrected the deficiencies noted in audit report No. 12797.

STATEMENT FROM AUDITED OFFICIAL

- (47) In accordance with the provisions of Section 11.45(7)(d), Florida Statutes, a list of audit findings and recommendations was submitted to the Office of the Public Defender, Sixth Judicial Circuit. The Public Defender's written response to the audit findings and recommendations included in this report is shown as Exhibit D.

AUDIT AUTHORITY

- (48) 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, Sixth 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 - D](#) *Statement from Audited Official.*

EXHIBIT – A
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1997

Fund Type/ Appropriation Category	Final Operating Budget	Actual Expenditures of Current Appropriations	Other Commitments of Budgeted Resources	Total Expenditures and Other Commitments of Current Appropriations	Variance - Favorable (Unfavorable)
GENERAL REVENUE FUND					
Current:					
Salaries and Benefits	\$ 8,029,094.00	\$ 8,008,356.41	\$ -	\$ 8,008,356.41	\$ 20,737.59
Other Personal Services	82,867.00	81,541.89	-	81,541.89	1,325.11
Expenses	445,187.94	377,692.03	65,260.16	442,952.19	2,235.75
Data Processing Services	31,658.00	31,658.00	-	31,658.00	-
Operating Capital Outlay	219,384.00	122,502.32	96,881.68	219,384.00	-
Special Category:					
Acquisition of Motor Vehicles	49,464.06	25,803.94	23,660.12	49,464.06	-
Public Defenders - Law Library	<u>43,357.00</u>	<u>23,269.21</u>	<u>20,000.60</u>	<u>43,269.81</u>	<u>87.19</u>
TOTAL GENERAL REVENUE FUND	<u>\$ 8,901,012.00</u>	<u>\$ 8,670,823.80</u>	<u>\$ 205,802.56</u>	<u>\$ 8,876,626.36</u>	<u>\$ 24,385.64</u>

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

EXHIBIT – B
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1997

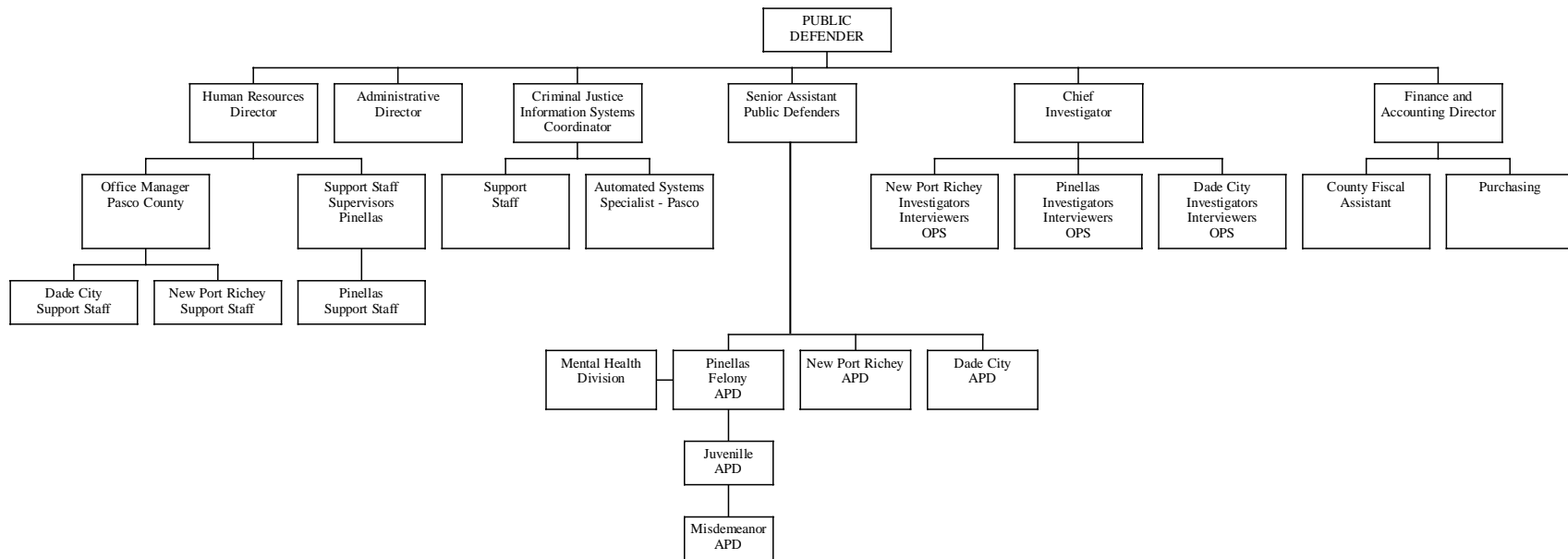
- (1) The following procedures are used in adopting, amending, and reporting budgets and budgetary data:
- Section 216.011(1)(kk), Florida Statutes, indicates that for purposes of Chapter 216, Florida Statutes, Public Defenders are to be considered State agencies. Accordingly, budgets are prepared and 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 1996-97 fiscal year appropriations have been shown in the “Actual Expenditures of Current Appropriations” column. Additionally, encumbrances at June 30, 1997, which were approved for certification forward to be paid in the 1997-98 fiscal year are shown in the “Other Commitments of Budgeted Resources” column.

EXHIBIT – B (Continued)
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1997

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

Description	General Revenue Fund
Appropriated by Chapter 96-424, Laws of Florida	\$ 8,736,468
Changes Authorized by the Executive Office of the Governor	<u>164,544</u>
Total Final Operating Budget, Exhibit A	<u>\$ 8,901,012</u>

EXHIBIT – C
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
ORGANIZATIONAL CHART
As of December 31, 1997



Legend:
 APD - Assistant Public Defender
 OPS - Other Personal Services

EXHIBIT - D
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
STATEMENT FROM AUDITED OFFICIAL
For the Period January 1, 1997, Through December 31, 1997



OFFICE OF
PUBLIC DEFENDER

BOB DILLINGER
PUBLIC DEFENDER

SIXTH JUDICIAL CIRCUIT OF FLORIDA

PLEASE REPLY TO:

June 19, 1998

Charles L. Lester
Auditor General
State of Florida
111 West Madison Street
P.O. Box 125
Tallahassee, Florida 32302-1735

Dear Mr. Lester:

I am in receipt of the audit findings and wish to respond as outlined below.

I believe it is important to understand that I was elected to this office as a result of prevailing in the Republican primary in September of 1996. There was no Democratic contender. Between September and December of 1996, I was unable to obtain any cooperation in transition and was in fact specifically prohibited from entering the Public Defender's Office. I had to make arrangements with the State Attorney and the judges in order to obtain meeting areas in which to meet with the employees of the Public Defender's Office. All but one of the previous administration's fiscal, personnel and purchasing department's staff resigned as of December 31 and none of those resigning people ever had communication in order to assist in the transition. I certainly do not offer this as an excuse but as background in order to understand the position of the new employees who took over effective January 1, 1997.

As to the aspect of separation of duties in personnel administration, upon taking office this administration was faced with the task of replacing over twenty employees who had resigned, as well as initially setting up a personnel, payroll and benefits administration system. I assigned our present Administrative Director, who worked under my supervision, this responsibility. No employee was ever hired, nor was any personnel action taken, without my knowledge and approval; and I was simply unaware that these responsibilities, which seemed compatible, should in fact be separated. Further to our discussions with your

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PUBLIC DEFENDER OFFICES

Office of the Public Defender
14250 - 49th Street North
Clearwater, FL 33762
Telephone: (813) 464-6516
Fax: (813) 464-6119

Office of the Public Defender
38053 Live Oak Avenue
Dade City, FL 33523
Telephone: (352) 521-4388
1-800-368-4274
Fax: (352) 521-4394

Office of the Public Defender
7530 Little Road
New Port Richey, FL 34654
Telephone: (813) 847-8155
1-800-368-2411
Fax: (813) 847-8025

EXHIBIT – D (Continued)
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
STATEMENT FROM AUDITED OFFICIAL
For the Period January 1, 1997, Through December 31, 1997

Audit
Report
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Charles L. Lester
Auditor General

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- (19-22) audit staff, I have begun the practice of initialing each Personnel Action Request to indicate that I have in fact reviewed and approved it, which we have been informed will adequately address this issue without the need to make further reassignments of duties which are now being handled by our Administrative Director.
- (23-28) As to special pay increases, it should be noted that there were pay increases and pay decreases upon my taking office; numerous inequities were detected and corrected. No increase or decrease was given which was inconsistent with the established guideline ranges of the Public Defender Classification and Pay Procedure manual. To address this issue, we shall amend our Employee Manual to more adequately explain the criteria utilized in assigning rate of pay, and further document in each employee's file the factors considered in granting a pay increase or instituting a pay decrease.
- (29-31) As to documentation of our annual review of compensation policies, as required by Section 27.5302, upon taking office we were unable to locate any record indicating that this procedure had been performed in the past. As noted, this office did undertake a review of the compensation policies and made numerous adjustments to correct the prior inequities. This process is and will be ongoing, and our annual review mandated by Section 27.5302 shall be more explicitly documented to adhere to the statutory requirement.
- (32-35) As to Other Personnel Services in our New Port Richey and Dade City offices, there is one (1) OPS employee in New Port Richey and none in Dade City. Our Human Resources Director is now involved in the hiring process for every support staff member, including OPS employees, which will resolve this issue in a global manner from this point forward. To correct the immediate issue, we have modified our salary warrant distribution process in New Port Richey and Dade City to appropriately segregate personnel duties as related to OPS employee(s) in those offices.
- (36-38)
↓
As to the issue of leave balances, again, when our administration took office it was necessary to initially set up and then maintain all internal office procedures. No information was available to access or operate the PETS system, which was previously used to maintain leave records. This office completed installation of BOMS (Business Office Management System) in April of 1997, which included a module to maintain leave balances; however by that time it was necessary to initially input leave records for the months of December 1996 through April 1997. In the six (6) cases audited where leave accruals were incorrect, it was

EXHIBIT – D (Continued)
OFFICE OF THE PUBLIC DEFENDER
SIXTH JUDICIAL CIRCUIT
STATEMENT FROM AUDITED OFFICIAL
For the Period January 1, 1997, Through December 31, 1997

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Par. No.

Charles L. Lester
Auditor General

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(36-38)

noted that the affected employees' leave accrual rates had changed during that five month period due to an anniversary date being attained. However, since all accruals were being posted in April, the higher figure was utilized in the system when it may not have actually been in affect in the prior months being posted. This problem has been resolved now that our BOMS program is up to date and operational and should not recur in the future.

(39-41)

As to the tangible personal property audit finding, no such general ledger control account existed upon our assuming office. An audit had been done by the previous administration and an audit was done upon our assumption. Both appeared accurate, and since the absence of the control account was never addressed in a preceding audit, we were totally unaware of the necessity for such a control account. In an effort to correct this, we have been in touch with the Justice Administrative Commission and are working to create the general ledger control account to the satisfaction of the Auditor General's Office so that we may comply with reporting requirements in this area.

(42-45)

As to motor vehicle assignment and use finding, those items have been specifically addressed with the individuals who utilized those vehicles to make sure that adequate descriptions are reflected on the documentation in each vehicle. Each log has been reviewed and is reviewed on a monthly basis and that review has confirmed that no vehicle was used for any improper purpose, and reporting requirements are being more strictly adhered to.

We sincerely appreciate the comments and suggestions made by the Auditor General's staff during our first audit, as implementing the improved methods outlined above will allow this office to better comply with state reporting and documentation requirements.

Very truly yours,



Bob Dillinger