

**STATE OF FLORIDA
AUDITOR GENERAL**



*OPERATIONAL AUDIT
OF THE*

*OFFICE OF THE PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT*

For the Period February 1, 1998, Through January 31, 1999

STATE OF FLORIDA

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CHARLES L. LESTER, CPA
AUDITOR GENERAL

**STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE**

May 5, 1999

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,
ELEVENTH JUDICIAL CIRCUIT,***

For the Period February 1, 1998, Through January 31, 1999.

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

Respectfully submitted,

A handwritten signature in cursive script that reads "Charles L. Lester".

Charles L. Lester
Auditor General

Audit supervised by:
Ramon A. Gonzalez

Audit made by:
Abel J. Le Fosse

**OPERATIONAL AUDIT
OF THE
OFFICE OF THE PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT
For the Period February 1, 1998, Through January 31, 1999**

Par.
No.

BACKGROUND

Authority

- (1) 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

- (2) Bennett H. Brummer is the Public Defender of the Eleventh Judicial Circuit. The Public Defender of the Eleventh Judicial Circuit is responsible for performing the duties described above, as provided by law, in Miami-Dade County. Offices are maintained at Miami. The Public Defender of the Eleventh Judicial Circuit is also designated, pursuant to Section 27.51(4)(c), Florida Statutes, to perform duties relating to indigent criminal appeals within the counties composing the Third District Court of Appeal, when requested by the applicable Public Defender. At June 30, 1998, the Office of the Public Defender employed 318 people in 369.50 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.

- (3) The Office of the Public Defender, Eleventh Judicial Circuit, was funded by State appropriations for the 1997-98 and 1998-99 fiscal years, respectively, pursuant to Chapters 97-152 and 98-422, Laws of Florida, the General Appropriations Acts. The following is a summary of released General Revenue appropriations by appropriation category for the 1997-98 fiscal year:

Appropriation Category	Amount Released	
	Trial Division	Appellate Division
Salaries and Benefits	\$ 14,550,974.67	\$ 1,458,706.76
Other Personal Services	82,542.68	8,687.52
Expenses	665,406.48	85,785.12
Operating Capital Outlay	283,969.01	6,775.93
Special Category:		
Public Defenders - Law Library	97,412.16	1,026.67
Risk Management Insurance	26,990.00	-
Transfer to State Employees' Health Insurance Trust Fund	<u>150,052.00</u>	<u>10,525.00</u>
Total	<u>\$ 15,857,347.00</u>	<u>\$ 1,571,507.00</u>

- (4) As required by Section 27.54, Florida Statutes, Miami-Dade County, which comprises the Eleventh 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.
- (5) 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.
- (6) A comparison of the Office of the Public Defender's budgeted with actual expenditures and commitments for the 1997-98 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 1997-98 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.

- (7) 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.

Year 2000 Compliance

- (8) The Office of the Public Defender is responsible for assessing the effects of the Year 2000 compliance issue on its significant information technology systems and processes and taking appropriate remedial action. Generally, the Year 2000 compliance issue arises from concerns that information technology systems and processes will not be Year 2000 compliant at January 1, 2000. Year 2000 compliant information technology systems and processes are those that are capable of successfully processing year-date data beyond the year 1999. The Office has reported progress toward achieving Year 2000 compliance in its information technology resources and plans to bring all major applications into Year 2000 compliance by June 30, 1999.
- (9) Because of the unprecedented nature of the Year 2000 issue, its operational effects and the success of related remediation efforts will not be fully determinable until the Year 2000 and thereafter. Accordingly, we do not provide assurance with regard to the representations made by Office management relative to Year 2000 compliance status. Further, we do not provide assurance that the Office is or will be Year 2000 ready, that the Office's Year 2000 remediation efforts will be successful in whole or in part, or that the parties with which the Office does business will be Year 2000 ready.

Related Audits

- (10) Our audit did not extend to an examination of the Office of the Public Defender's financial statements. On February 17, 1999, this Office issued audit report No. 13393, with accompanying general purpose financial statements of the State of Florida as of and for the fiscal year ended June 30, 1998. 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, 1999, will be the subject of a separate audit report.



CHARLES L. LESTER, CPA
AUDITOR GENERAL

STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE

April 28, 1999

REPORT ON COMPLIANCE AND INTERNAL CONTROL

- (11) Office of the Public Defender, Eleventh 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.
- (12) 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 February 1, 1998, through January 31, 1999.
- (13) 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.

- (14) 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, and accordingly, we do not express such an opinion.
- (15) 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.
- (16) 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.
- (17) Our consideration of internal control would not necessarily disclose all matters in the Office's internal control that might be material weaknesses. 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. We noted no matters involving the system of internal control and its operation that we consider to be material weaknesses.

- (18) This report is intended for the information of the Legislature 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.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles L. Lester". The signature is written in a cursive style with a large initial "C".

Charles L. Lester, CPA
Auditor General

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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
ELEVENTH JUDICIAL CIRCUIT
COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1998

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					
Trial Division					
Current:					
Salaries and Benefits	\$14,550,974.67	\$14,550,464.67	\$ -	\$14,550,464.67	\$ 510.00
Other Personal Services	82,542.68	82,542.68	-	82,542.68	-
Expenses	665,406.48	644,900.95	20,505.53	665,406.48	-
Operating Capital Outlay	283,969.01	256,968.85	27,000.16	283,969.01	-
Special Category:					
Public Defenders - Law Library	97,412.16	97,412.16	-	97,412.16	-
Risk Management Insurance	26,990.00	26,990.00	-	26,990.00	-
Transfer to State Employees' Health Insurance Trust Fund	<u>150,052.00</u>	<u>150,052.00</u>	<u>-</u>	<u>150,052.00</u>	<u>-</u>
Total Trial Division	<u>15,857,347.00</u>	<u>15,809,331.31</u>	<u>47,505.69</u>	<u>15,856,837.00</u>	<u>510.00</u>
Appellate Division					
Current:					
Salaries and Benefits	1,458,706.76	1,458,706.76	-	1,458,706.76	-
Other Personal Services	8,687.52	8,687.52	-	8,687.52	-
Expenses	85,785.12	85,785.12	-	85,785.12	-
Operating Capital Outlay	6,775.93	6,775.93	-	6,775.93	-
Special Category:					
Public Defenders - Law Library	1,026.67	1,026.67	-	1,026.67	-
Transfer to State Employees' Health Insurance Trust Fund	<u>10,525.00</u>	<u>10,525.00</u>	<u>-</u>	<u>10,525.00</u>	<u>-</u>
Total Appellate Division	<u>1,571,507.00</u>	<u>1,571,507.00</u>	<u>-</u>	<u>1,571,507.00</u>	<u>-</u>
TOTAL GENERAL REVENUE FUND	<u>17,428,854.00</u>	<u>17,380,838.31</u>	<u>47,505.69</u>	<u>17,428,344.00</u>	<u>510.00</u>
TRUST FUNDS					
Grants & Donations Trust Fund					
Current:					
Salaries and Benefits	1,803,942.00	1,458,857.61	-	1,458,857.61	345,084.39
Special Category:					
Transfer to State Employees' Health Insurance Trust Fund	<u>12,727.00</u>	<u>12,727.00</u>	<u>-</u>	<u>12,727.00</u>	<u>-</u>
Total Grants & Donations Trust Funds	<u>1,816,669.00</u>	<u>1,471,584.61</u>	<u>-</u>	<u>1,471,584.61</u>	<u>345,084.39</u>
Other Trust Funds					
Current:					
Other Personal Services	<u>50,000.00</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>50,000.00</u>
Total Other Trust Funds	<u>50,000.00</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>50,000.00</u>
TOTAL TRUST FUNDS	<u>1,866,669.00</u>	<u>1,471,584.61</u>	<u>-</u>	<u>1,471,584.61</u>	<u>395,084.39</u>
TOTAL FUNDS	<u>\$ 19,295,523.00</u>	<u>\$ 18,852,422.92</u>	<u>\$ 47,505.69</u>	<u>\$ 18,899,928.61</u>	<u>\$ 395,594.39</u>

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

EXHIBIT – B
OFFICE OF THE PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1998

- (1) The following procedures are used in adopting, amending, and reporting budgets and budgetary data:
- Section 216.011(1)(mm), 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 1997-98 fiscal year appropriations have been shown in the “Actual Expenditures of Current Appropriations” column. Additionally, encumbrances at June 30, 1998, which were approved for certification forward to be paid in the 1998-99 fiscal year are shown in the “Other Commitments of Budgeted Resources” column.

(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		Trust Funds
	Trial Division	Appellate Division	
Appropriated by Chapter 97-152, Laws of Florida	\$ 15,480,804	\$ 1,532,253	\$ 1,776,410
Changes Authorized by the Executive Office of the Governor	386,543	29,254	90,259
Transfers Made Pursuant to Section 27.60, Florida Statutes	<u>(10,000)</u>	<u>10,000</u>	<u>-</u>
Total Final Operating Budget, Exhibit A	<u>\$ 15,857,347</u>	<u>\$ 1,571,507</u>	<u>\$ 1,866,669</u>

EXHIBIT – C
OFFICE OF THE PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT
ORGANIZATIONAL CHART
As of January 31, 1999

