

**STATE OF FLORIDA  
AUDITOR GENERAL**



*OPERATIONAL AUDIT  
OF THE*

*OFFICE OF THE STATE ATTORNEY  
SIXTEENTH JUDICIAL CIRCUIT*

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

*STATE OF FLORIDA*

*AUDITOR GENERAL*

*OPERATIONAL AUDIT  
OF THE*

*OFFICE OF THE STATE ATTORNEY  
SIXTEENTH JUDICIAL CIRCUIT*

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

**OFFICE OF THE STATE ATTORNEY  
SIXTEENTH JUDICIAL CIRCUIT**

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STATE OF FLORIDA  
AUDITOR GENERAL  
TALLAHASSEE

CHARLES L. LESTER, CPA  
AUDITOR GENERAL

June 9, 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 STATE ATTORNEY,  
SIXTEENTH JUDICIAL CIRCUIT,***

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

The results of the audit of the Office of the State Attorney are presented herewith.

Respectfully submitted,

Charles L. Lester  
Auditor General

Audit supervised by:  
Agustin Silva

Audit made by:  
Frank P. Bravate

***OPERATIONAL AUDIT  
OF THE***

***OFFICE OF THE STATE ATTORNEY  
SIXTEENTH JUDICIAL CIRCUIT  
For the Period February 1, 1998, Through January 31, 1999***

***AUDIT REPORT SUMMARY***

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This audit report summary highlights the scope, objectives, methodology, and findings of audit report No. 13492. 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.

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***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 State Attorney, Sixteenth Judicial Circuit, focused primarily on assets, liabilities, fund equities, revenues and cash receipts, expenditures and disbursements, budgetary controls, management reporting, motor vehicle assignment and use, and Forfeiture and Investigative Support Trust (FIST) Fund activities. 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.

### *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*

A matter coming to our attention relating to noncompliance with various guidelines for those operations audited is as follows:

#### *Personnel Administration*

Employee performance evaluations were not always completed in accordance with the requirements of the *Classification and Pay Plan for the Employees of the Offices of the State Attorneys of the State of Florida*. When properly completed, performance evaluations can be effectively used to ensure that all Office employees are knowledgeable of the Office's work performance objectives applicable to them and are informed in writing of their progress toward meeting established objectives. (See paragraphs 21 through 24.)

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The State Attorney's written response to the audit findings and recommendations included in audit report No. 13492 is presented as Exhibit D.

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**OPERATIONAL AUDIT  
OF THE  
OFFICE OF THE STATE ATTORNEY  
SIXTEENTH JUDICIAL CIRCUIT  
For the Period February 1, 1998, Through January 31, 1999**

Par.  
No.

**BACKGROUND**

**Authority**

- (1) Section 27.01, Florida Statutes, provides that there shall be a State Attorney 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 State Attorney as prescribed by Chapter 27, Part II, Florida Statutes, include prosecuting or defending on behalf of the State in circuit and county courts all suits, applications, or motions, civil or criminal, in which the State is a party; attending the grand jury for the purpose of examining witnesses in their presence, giving legal advice in any matter before them, and preparing bills of indictment; summoning and examining witnesses required on behalf of the State; assisting the Attorney General in the preparation and presentation of all appeals to the Supreme Court, from the circuit court of the Sixteenth Judicial Circuit, of all cases, civil or criminal, in which the State is a party; and representing the State in all cases of habeas corpus arising in the Sixteenth Judicial Circuit and in cases of preliminary trials of persons charged with capital offenses.

**Organizational Structure**

- (2) Kirk C. Zuelch is the State Attorney of the Sixteenth Judicial Circuit. The State Attorney of the Sixteenth Judicial Circuit is responsible for performing the duties described above, as provided by law, in Monroe County. Offices are maintained at Key West, Marathon, and Plantation Key in Monroe County. At June 30, 1998, the Office of the State Attorney employed 67 people in 66 full-time equivalent positions to perform the duties of the Office. An organizational chart of the Office of the State Attorney is presented as Exhibit C.
- (3) The Office of the State Attorney, Sixteenth Judicial Circuit, was funded primarily 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:

<u>Appropriation Category</u>	<u>Amount Released</u>
Salaries and Benefits	\$ 2,508,356.31
Other Personal Services	15,706.76
Expenses	178,129.72
Operating Capital Outlay	7,926.76
Special Category:	
Risk Management Insurance	21,979.00
Salary Incentive Payments	8,542.17
State Attorneys - Law Library	1,508.28
Transfer to State Employees' Health Insurance Trust Fund	<u>24,411.00</u>
Total	<u>\$ 2,766,560.00</u>

- (4) As required by Section 27.34(2), Florida Statutes, Monroe County provided facilities and services to the Office of the State Attorney. These facilities and services included office space, utilities, telephone service, and other support as itemized in Section 27.34(2), Florida Statutes.
- (5) The State Attorney's salary was governed by Section 27.35, Florida Statutes, and applicable General Appropriations Acts of the Legislature. Section 27.181(4), Florida Statutes, provides that the salary for each assistant state attorney shall be set by the State Attorney at an amount not to exceed 100 percent of the State Attorney's salary. The *Classification and Pay Plan for the Employees of the Offices of the State Attorneys of the State of Florida*, promulgated by the Florida Prosecuting Attorney's Association, Inc., as required by Section 27.25(1), Florida Statutes, was used to set the salary ranges for the several classes of employees.
- (6) A comparison of the Office of the State Attorney'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 State Attorney. 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 State Attorney 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. Office management has indicated that the Office's computer hardware and software are Year 2000 compliant.
- (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 State Attorney'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 State Attorney is an integral part of the reporting entity of the State of Florida. The financial information relative to the Office of the State Attorney 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.

- (11) Our audit did not extend to an examination of Federal awards administered by the Office of the State Attorney under contract and grant agreements to finance specific programs and projects. On June 3, 1999, this Office issued audit report No. 13490, presenting the results of our Statewide audit of Federal awards administered by the State of Florida for the fiscal year ended June 30, 1998. Federal awards administered by the Office of the State Attorney were included in the scope of that audit. A similar audit of the Federal awards administered by the State of Florida for the fiscal year ending June 30, 1999, will be the subject of a separate audit report.



CHARLES L. LESTER, CPA  
AUDITOR GENERAL

STATE OF FLORIDA  
AUDITOR GENERAL  
TALLAHASSEE

June 1, 1999

***REPORT ON COMPLIANCE AND INTERNAL CONTROL***

- (12) Office of the State Attorney, Sixteenth 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.
- (13) The scope of this audit focused primarily on assets, liabilities, fund equities, revenues and cash receipts, expenditures and disbursements, budgetary controls, management reporting, motor vehicle assignment and use, and Forfeiture and Investigative Support Trust (FIST) Fund activities. 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.
- (14) 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. 13216).
- (15) 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.
- (16) 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. A matter coming to our attention relating to noncompliance with various guidelines for those operations audited is noted in the ***FINDINGS AND RECOMMENDATIONS*** section of this report.
- (17) 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.
- (18) 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.

- (19) 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.

Respectfully submitted,

A handwritten signature in black ink that reads "Charles L. Lester". The signature is written in a cursive style with a large, prominent "C" and "L".

Charles L. Lester, CPA  
Auditor General

## ***FINDINGS AND RECOMMENDATIONS***

- (20) Chapter 27, Part II, Florida Statutes, provides general authority for the financial administration of the Office of the State Attorney. In addition, the Florida Prosecuting Attorney's Association, Inc., has provided guidance for the financial administration of the Office of the State Attorney. Such guidance includes the adoption of the *Classification and Pay Plan for the Employees of the Offices of the State Attorneys of the State of Florida (Classification and Pay Plan)*, pursuant to the provisions of Section 27.25(1), Florida Statutes, and the adoption of the *State Attorney Purchasing Rules*, as required by Chapter 82-215, Laws of Florida. Our detailed finding and recommendation concerning noncompliance with governing laws, administrative rules, and other guidelines for those operations audited is presented below.

### **Personnel Administration**

- (21) Employee performance evaluations were not always completed in accordance with the requirements of the *Classification and Pay Plan*.
- (22) Chapter 4 of the *Classification and Pay Plan* requires that, for employees other than assistant state attorneys and senior management personnel, written employee performance evaluations be prepared prior to completion of the employee's six-month probationary period and on an annual basis thereafter. Employees are given probationary status upon original appointment, reinstatement, promotion, demotion, or reassignment to a position in a different class.
- (23) Office of the State Attorney management informed us that the Office's policy is to prepare written employee performance evaluations only if the employee's supervisor wishes to note exceptional or unsatisfactory performance. Under the Office's policy, an evaluation is not prepared if an employee's performance is considered to have been satisfactory. Our audit tests disclosed that employee personnel files generally did not contain written performance evaluations. Similar findings were noted in prior audits, most recently audit report No. 13216, paragraphs 20 through 23.
- (24) In explaining the basis for the policy, Office management made reference to Section 4.03(9) of the *Classification and Pay Plan*, which provides that if an employee fails to receive an evaluation by the end of the required evaluation period, the employee's performance for that period shall be considered satisfactory. While the Office's interpretation can be derived from

the language of Section 4.03(9) of the *Classification and Pay Plan*, we believe that the interpretation is, to an extent, inconsistent with the overall objective of the evaluation process, with that being to document the communication of the strong and weak points and the improvements expected in the performance of each employee, not just those employees judged to be performing at an exceptional or unsatisfactory level. Consequently, to ensure that all Office employees are knowledgeable of the Office's work performance objectives applicable to them and are informed in writing of their progress toward meeting established objectives, we again recommend that the Office of the State Attorney complete written performance evaluations in accordance with the guidelines outlined in Chapter 4 of the *Classification and Pay Plan*.

**Prior Audit Findings**

- (25) For those operating units, programs, activities, functions, and classes of transactions within the scope of this audit, the Office of the State Attorney has substantially corrected the deficiencies noted in audit report No. 13216, except as noted in the preceding paragraphs of this report.

**STATEMENT FROM AUDITED OFFICIAL**

- (26) 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 State Attorney, Sixteenth Judicial Circuit. The State Attorney's written response to the audit findings and recommendations included in this report is shown as Exhibit D.

## ***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 STATE ATTORNEY**  
**SIXTEENTH 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)
<b>GENERAL REVENUE FUND</b>					
Current:					
Salaries and Benefits	\$2,508,356.31	\$2,508,356.31	\$ -	\$2,508,356.31	\$ -
Other Personal Services	15,706.76	15,706.76	-	15,706.76	-
Expenses	178,129.72	178,129.72	-	178,129.72	-
Operating Capital Outlay	7,926.76	7,926.76	-	7,926.76	-
Special Category:					
Risk Management Insurance	21,979.00	21,979.00	-	21,979.00	-
Salary Incentive Payments	8,542.17	8,542.17	-	8,542.17	-
State Attorneys - Law Library	1,508.28	1,508.28	-	1,508.28	-
Transfer to State Employees' Health Insurance Trust Fund	<u>24,411.00</u>	<u>24,411.00</u>	<u>-</u>	<u>24,411.00</u>	<u>-</u>
<b>TOTAL GENERAL REVENUE FUND</b>	<u>2,766,560.00</u>	<u>2,766,560.00</u>	<u>-</u>	<u>2,766,560.00</u>	<u>-</u>
<b>TRUST FUNDS</b>					
<b>Grants and Donations Trust Fund</b>					
Current:					
Salaries and Benefits	713,005.00	675,248.47	-	675,248.47	37,756.53
Other Personal Services	136,396.00	16,100.26	-	16,100.26	120,295.74
Expenses	40,725.00	12,400.41	276.84	12,677.25	28,047.75
Operating Capital Outlay	131,706.00	99,329.15	-	99,329.15	32,376.85
Special Category:					
Transfer to State Employees' Health Insurance Trust Fund	<u>3,822.00</u>	<u>3,822.00</u>	<u>-</u>	<u>3,822.00</u>	<u>-</u>
<b>Total Grants and Donations Trust Fund</b>	<u>1,025,654.00</u>	<u>806,900.29</u>	<u>276.84</u>	<u>807,177.13</u>	<u>218,476.87</u>
<b>Forfeiture and Investigative Support Trust Fund</b>					
Operating Capital Outlay	35,000.00	30,436.89	-	30,436.89	4,563.11
Acquisition of Motor Vehicles	<u>32,600.00</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>32,600.00</u>
<b>Total Forfeiture and Investigative Support Trust Fund</b>	<u>67,600.00</u>	<u>30,436.89</u>	<u>-</u>	<u>30,436.89</u>	<u>37,163.11</u>
<b>TOTAL TRUST FUNDS</b>	<u>1,093,254.00</u>	<u>837,337.18</u>	<u>276.84</u>	<u>837,614.02</u>	<u>255,639.98</u>
<b>TOTAL FUNDS</b>	<u>\$3,859,814.00</u>	<u>\$3,603,897.18</u>	<u>\$ 276.84</u>	<u>\$3,604,174.02</u>	<u>\$ 255,639.98</u>

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

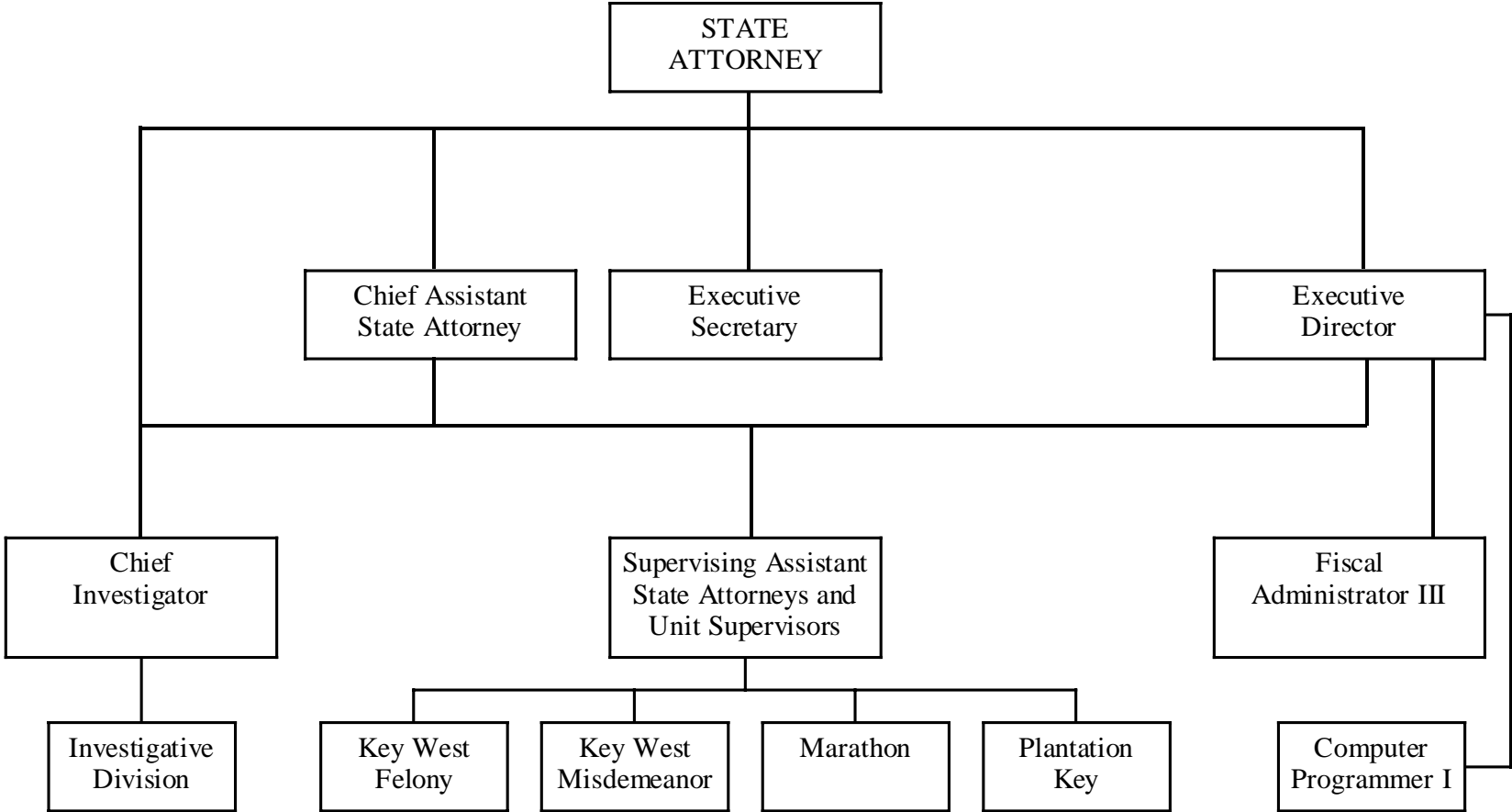
**EXHIBIT – B**  
**OFFICE OF THE STATE ATTORNEY**  
**SIXTEENTH JUDICIAL CIRCUIT**  
**NOTES TO COMPARISON OF BUDGETED WITH ACTUAL**  
**EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE**  
**For the Fiscal Year Ended June 30, 1998**

- (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, State Attorneys 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 27.38, Florida Statutes, limited transfers of expenditure authority may be made by the State Attorney.
  - 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
Appropriated by Chapter 97-152, Laws of Florida	\$ 2,702,890	\$ 737,809
Changes Authorized by the Executive Office of the Governor	<u>63,670</u>	<u>355,445</u>
Total Final Operating Budget, Exhibit A	<u>\$ 2,766,560</u>	<u>\$ 1,093,254</u>

*EXHIBIT - C*  
*OFFICE OF THE STATE ATTORNEY*  
*SIXTEENTH JUDICIAL CIRCUIT*  
*ORGANIZATIONAL CHART*  
*As of January 31, 1999*



**EXHIBIT - D**  
**OFFICE OF THE STATE ATTORNEY**  
**SIXTEENTH JUDICIAL CIRCUIT**  
**STATEMENT FROM AUDITED OFFICIAL**  
*For the Period February 1, 1998, Through January 31, 1999*

**STATE ATTORNEY**  
SIXTEENTH JUDICIAL CIRCUIT OF FLORIDA  
530 WHITEHEAD STREET  
KEY WEST, FL 33040

KIRK C. ZUELCH  
STATE ATTORNEY

TELEPHONE  
(305) 292-3400

June 1, 1999

Mr. Charles L. Lester  
Auditor General  
111 West Madison Street  
P. O. Box 1735  
Tallahassee, FL 32302-1735


Dear Mr. Lester:

I have received your list of preliminary and tentative audit findings and have considered your recommendations. Please accept this letter as my statement of explanation concerning those findings.

Personnel Administration.

A section of the State Attorney Classification and Pay Plan states that in the absence of a written evaluation, the employee's performance is understood to be "satisfactory." Informal reviews are given many times during the year, and no formal evaluations are needed in such a small office when the employees' performances are satisfactory or better. However, I will review this policy again in the coming year and reconsider your recommendations.

Sincerely,

  
Kirk C. Zuelch  
State Attorney

Audit  
Report  
Par. No.  
  
(21-24)

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