

**STATE OF FLORIDA
AUDITOR GENERAL**



*OPERATIONAL AUDIT
OF THE*

*OFFICE OF THE STATE ATTORNEY
NINTH JUDICIAL CIRCUIT*

For the Period January 1, 1998, Through December 31, 1998

STATE OF FLORIDA

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OF THE***

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NINTH JUDICIAL CIRCUIT***

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NINTH JUDICIAL CIRCUIT**

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CHARLES L. LESTER, CPA
AUDITOR GENERAL

**STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE**

June 21, 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,
NINTH JUDICIAL CIRCUIT,***

For the Period January 1, 1998, Through December 31, 1998.

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

Respectfully submitted,

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

Charles L. Lester
Auditor General

Audit supervised by:
Brenda C. Racis

Audit made by:
Kathryn A. Mitchell

***OPERATIONAL AUDIT
OF THE***

***OFFICE OF THE STATE ATTORNEY
NINTH JUDICIAL CIRCUIT
For the Period January 1, 1998, Through December 31, 1998***

AUDIT REPORT SUMMARY

This audit report summary highlights the scope, objectives, methodology, and findings of audit report No. 13499. 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 State Attorney, Ninth 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 Fund (FIST) activities. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period January 1, 1998, through December 31, 1998.

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 and related deficiencies in the design or operation of the internal control for those operations audited is as follows:

Motor Vehicle Assignment and Use

Vehicle usage records maintained by the Office of the State Attorney did not always contain adequate information to demonstrate that usage was primarily for an authorized public purpose. While many aspects of the operations of the Office of the State Attorney are confidential in nature, vehicle usage records should, consistent with such requirements, be accurately maintained in sufficient detail to adequately document the authorized public purposes of all vehicle use. (See paragraphs 22 through 25.)

The State Attorney's written response to the audit findings and recommendations included in audit report No. 13499 is presented as Exhibit D.

**OPERATIONAL AUDIT
OF THE
OFFICE OF THE STATE ATTORNEY
NINTH JUDICIAL CIRCUIT
For the Period January 1, 1998, Through December 31, 1998**

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 Ninth 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 Ninth Judicial Circuit and in cases of preliminary trials of persons charged with capital offenses.

Organizational Structure

- (2) Lawson L. Lamar is the State Attorney of the Ninth Judicial Circuit. The State Attorney of the Ninth Judicial Circuit is responsible for performing the duties described above, as provided by law, in Orange and Osceola Counties. Offices are maintained at Orlando in Orange County and Kissimmee in Osceola County. At June 30, 1998, the Office of the State Attorney employed 255 people in 269 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, Ninth 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:

Appropriation Category	Amount Released
Salaries and Benefits	\$ 11,931,069
Other Personal Services	86,080
Expenses	315,540
Data Processing Services	34,505
Operating Capital Outlay	29,674
Special Category:	
Risk Management Insurance	33,594
Salary Incentive Payments	19,795
State Attorneys - Law Library	50,586
Transfer to State Employees' Health Insurance Trust Fund	<u>120,873</u>
Total	<u>\$ 12,621,716</u>

- (4) As required by Section 27.34(2), Florida Statutes, the counties which compose the Ninth Judicial Circuit 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 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 was included in the scope of that audit. A similar audit of Federal awards administered by 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

June 10, 1999

REPORT ON COMPLIANCE AND INTERNAL CONTROL

- (12) Office of the State Attorney, Ninth 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 Fund (FIST) activities. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period January 1, 1998, through December 31, 1998.
- (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. 13039).
- (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) We noted a matter involving the design and operation of the Office's internal control that we consider to be a reportable condition. 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. The matter coming to our attention for the operating units, programs, activities, functions, and classes of transactions within the scope of audit is noted in the ***FINDINGS AND RECOMMENDATIONS*** section of this report.

- (19) 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 the reportable condition described in the *FINDINGS AND RECOMMENDATIONS* section of this report is not a material weakness.
- (20) 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,



Charles L. Lester, CPA
Auditor General

FINDINGS AND RECOMMENDATIONS

- (21) 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*, 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 as well as related deficiencies in the design or operation of the system of internal control for those operations audited is presented below.

Motor Vehicle Assignment and Use

- (22) Vehicle usage records maintained by the Office of the State Attorney did not always contain adequate information to demonstrate that usage was primarily for an authorized public purpose.
- (23) As of February 17, 1999, the Office of the State Attorney operated 17 State-owned vehicles and 18 county-owned vehicles. Twelve of these vehicles (6 State-owned and 6 county-owned) were assigned as pool vehicles or to various departments. The remaining 23 vehicles (11 State-owned and 12 county-owned) were assigned to designated individuals on a full-time (24-hour) basis and were used for home-to-office transportation. With respect to the vehicles assigned on a full-time basis to individuals, the Attorney General, in Opinions Nos. 074-295 and 074-384, has taken the position that the personal use of a public vehicle for home-to-office transportation, at times when an employee is on call, is permitted as such use is considered merely incidental to the primary public purpose served by the availability of the vehicle for immediate use by the employee. The Attorney General concluded, however, that if personal use is to be permitted, an authorized and primary public purpose must first exist and personal use of the vehicle must be merely incidental to the primary authorized public purpose.
- (24) To demonstrate that vehicles are used for authorized public purposes, the Office's *Policies and Procedures Manual*, Procedure No. 730.2(e), requires that the operators of all vehicles complete a vehicle usage report that documents, among other things, vehicle mileage and

purpose of travel. As a part of our audit, we reviewed the 192 vehicle usage reports prepared during the period January 1, 1998, through December 31, 1998, for the 17 State-owned vehicles. Our review disclosed the following:

- Twenty-seven of the 120 vehicle usage reports prepared for the 11 State-owned vehicles assigned to individuals did not document the official purpose of travel for each use of the vehicles.
- Thirty of the 72 vehicle usage reports prepared for the 6 State-owned vehicles assigned as pool vehicles, or to a department within the Office, did not document the official purpose of travel for each use of the vehicles.

In these instances, Office records did not provide sufficient information to demonstrate that the vehicles were used primarily for authorized public purposes. Similar findings have been included in previous audit reports, most recently in report No. 13039, paragraphs 23 through 27.

- (25) While many aspects of the operations of the Office of the State Attorney are confidential in nature, vehicle usage records should, consistent with such requirements, be accurately prepared in sufficient detail to adequately document the primary authorized public purposes of all vehicle use. We again recommend that the Office of the State Attorney take steps to ensure that motor vehicle usage logs are accurately and completely prepared.

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, Ninth 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
NINTH 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					
Current:					
Salaries and Benefits	\$ 11,931,069.00	\$ 11,927,430.51	\$ -	\$ 11,927,430.51	\$ 3,638.49
Other Personal Services	86,080.00	85,763.38	-	85,763.38	316.62
Expenses	315,540.00	297,298.69	18,241.31	315,540.00	-
Data Processing Services	34,505.00	31,255.17	3,249.83	34,505.00	-
Operating Capital Outlay	29,674.00	20,443.97	9,230.03	29,674.00	-
Special Category:					
Risk Management Insurance	33,594.00	33,594.00	-	33,594.00	-
Salary Incentive Payments	19,795.00	19,794.41	-	19,794.41	0.59
State Attorneys - Law Library	50,586.00	50,486.00	100.00	50,586.00	-
Transfer to State Employees' Health Insurance Trust Fund	<u>120,873.00</u>	<u>120,873.00</u>	<u>-</u>	<u>120,873.00</u>	<u>-</u>
TOTAL GENERAL REVENUE FUND	<u>12,621,716.00</u>	<u>12,586,939.13</u>	<u>30,821.17</u>	<u>12,617,760.30</u>	<u>3,955.70</u>
TRUST FUNDS					
Current:					
Salaries and Benefits	220,329.00	154,503.94	-	154,503.94	65,825.06
Other Personal Services	106,680.00	20,389.00	-	20,389.00	86,291.00
Expenses	58,337.00	691.50	-	691.50	57,645.50
Operating Capital Outlay	31,152.00	59.99	2,897.36	2,957.35	28,194.65
Special Category:					
Acquisition of Motor Vehicles	65,200.00	61,575.00	-	61,575.00	3,625.00
State Attorneys - Law Library	6,000.00	-	-	-	6,000.00
Transfer to State Employees' Health Insurance Trust Fund	<u>797.00</u>	<u>797.00</u>	<u>-</u>	<u>797.00</u>	<u>-</u>
TOTAL TRUST FUNDS	<u>488,495.00</u>	<u>238,016.43</u>	<u>2,897.36</u>	<u>240,913.79</u>	<u>247,581.21</u>
TOTAL FUNDS	<u>\$ 13,110,211.00</u>	<u>\$ 12,824,955.56</u>	<u>\$ 33,718.53</u>	<u>\$ 12,858,674.09</u>	<u>\$ 251,536.91</u>

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

EXHIBIT – B
OFFICE OF THE STATE ATTORNEY
NINTH 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	\$ 12,310,121	\$ 394,816
Changes Authorized by the Executive Office of the Governor	<u>311,595</u>	<u>93,679</u>
Total Final Operating Budget, Exhibit A	<u>\$ 12,621,716</u>	<u>\$ 488,495</u>

EXHIBIT – C
OFFICE OF THE STATE ATTORNEY
NINTH JUDICIAL CIRCUIT
ORGANIZATIONAL CHART
As of December 31, 1998

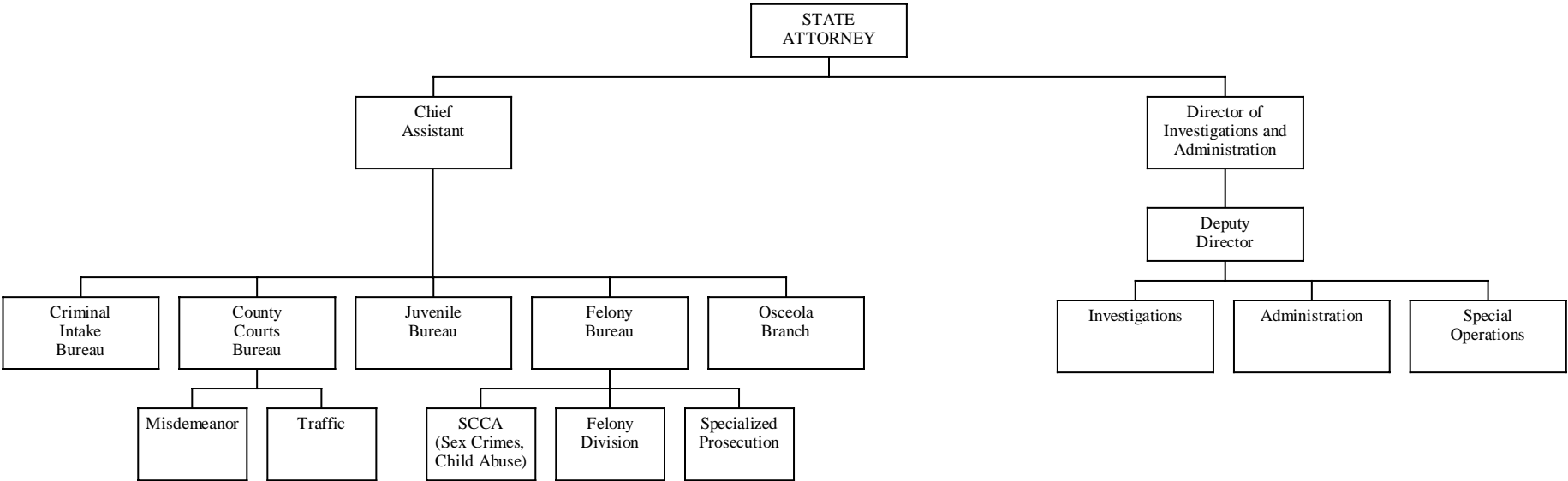


EXHIBIT - D
OFFICE OF THE STATE ATTORNEY
NINTH JUDICIAL CIRCUIT
STATEMENT FROM AUDITED OFFICIAL
For the Period January 1, 1998, Through December 31, 1998



William C. Vose
Chief Assistant State Attorney

Lawson Lamar
State Attorney
Ninth Judicial Circuit of Florida
415 North Orange Avenue
Post Office Box 1673
Orlando, Florida 32802
407-836-2400
June 10, 1999

Dr. Mel Jones
Director of Investigations
and Administration

Audit
Report
Par. No.

Honorable Charles L. Lester, C.P.A.
Auditor General
Office of the Auditor General
Post Office Box 1735
Tallahassee, Florida 32302-1735

Dear Mr. Lester:

(22-25)

↓

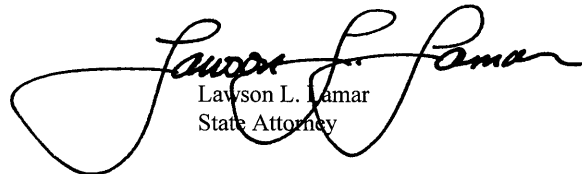
Pursuant to the provisions of Section 11.45 (7) (d), Florida Statutes, submitted herein is our written statement of explanation concerning the audit findings, as well as our actual and proposed corrective action.

MOTOR VEHICLE ASSIGNMENT AND USE

We will intensify our training and monitoring requirements at both the individual and supervisor levels to ensure that all vehicle logs are properly completed.

We congratulate your audit team of Kathy Mitchell and Keith Wolfe for the professional manner in which this audit was conducted. Their suggestions and recommendations in the preliminary audit findings have been put into place.

Sincerely,


Lawson L. Lamar
State Attorney

LLL:MEJ:gv