

**STATE OF FLORIDA
AUDITOR GENERAL**



*OPERATIONAL AUDIT
OF THE*

*OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT*

For the Period April 1, 1998, Through March 31, 1999

STATE OF FLORIDA

AUDITOR GENERAL

***OPERATIONAL AUDIT
OF THE***

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TWELFTH JUDICIAL CIRCUIT**

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CHARLES L. LESTER, CPA
AUDITOR GENERAL

**STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE**

June 24, 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,
TWELFTH JUDICIAL CIRCUIT,***

For the Period April 1, 1998, Through March 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 made by:
Robert D. Jones

***OPERATIONAL AUDIT
OF THE***

***OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
For the Period April 1, 1998, Through March 31, 1999***

AUDIT REPORT SUMMARY

This audit report summary highlights the scope, objectives, methodology, and findings of audit report No. 13505. 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, Twelfth Judicial Circuit, focused primarily on assets, liabilities, fund equities, expenditures and disbursements, budgetary controls, and management reporting. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period April 1, 1998, through March 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

Office of the Public Defender management indicated that the annual review of compensation policies required by Section 27.5302, Florida Statutes, had been conducted; however, Office records did not include documentation of the review process and the results thereof. Consequently, the Office could not fully demonstrate compliance with Section 27.5302, Florida Statutes. (See paragraphs 21 through 23.)

The Public Defender's written response to the audit findings and recommendations included in audit report No. 13505 is presented as Exhibit D.

**OPERATIONAL AUDIT
OF THE
OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
For the Period April 1, 1998, Through March 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) Elliott C. Metcalfe, Jr., is the Public Defender of the Twelfth Judicial Circuit. The Public Defender of the Twelfth Judicial Circuit is responsible for performing the duties described above, as provided by law, in Sarasota, Manatee, and DeSoto Counties. Offices are maintained at Sarasota and Venice in Sarasota County, at Bradenton in Manatee County, and at Arcadia in DeSoto County. At June 30, 1998, the Office of the Public Defender employed 83 people in 80.9 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, Twelfth 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 appropriations by appropriation category for the 1997-98 fiscal year:

<u>Appropriation Category</u>	<u>Amount Released</u>
Salaries and Benefits	\$ 3,715,619.43
Other Personal Services	46,439.80
Expenses	294,811.00
Operating Capital Outlay	4,354.77
Special Category:	
Public Defenders - Law Library	66,381.00
Risk Management Insurance	58,419.00
Transfer to State Employees' Health Insurance Trust Fund	<u>39,969.00</u>
Total	<u>\$ 4,225,994.00</u>

- (4) As required by Section 27.54, Florida Statutes, the counties which compose the Twelfth Judicial Circuit provided facilities and services to the Office of the Public Defender. These facilities and services included office space, utilities, telephone service, and other support as itemized in Section 27.54(3), Florida Statutes.
- (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 capable of successfully processing year-date data beyond the year 1999.
- (9) In response to our inquiry, the Office of the Public Defender indicated that it is making progress toward achieving Year 2000 compliance in its information technology resources. The Office reported that it has identified and prioritized all components of the Office's computing platforms that will require changes to become Year 2000 compliant. The Office further indicated that it has reviewed all applications to determine whether each is Year 2000 compliant and that those applications found not to be compliant are being replaced or upgraded. The Office has prepared a work plan and established a target date of August 1, 1999, to achieve Year 2000 compliance.
- (10) 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

- (11) 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

June 14, 1999

REPORT ON COMPLIANCE AND INTERNAL CONTROL

- (12) Office of the Public Defender, Twelfth Judicial Circuit, management is responsible for administering numerous operating units, programs, activities, functions, and classes of transactions in accordance with governing provisions of laws, administrative rules, and other guidelines. Additionally, the proper administration of public funds requires that management establish and maintain a system of internal control to provide reasonable assurance that specific entity objectives will be achieved. The Auditor General, as part of the Legislature's oversight responsibility for operations of State agencies, makes operational audits to determine the extent to which management has fulfilled those responsibilities.
- (13) The scope of this audit focused primarily on assets, liabilities, fund equities, expenditures and disbursements, budgetary controls, and management reporting. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period April 1, 1998, through March 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.

- (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, flowing style.

Charles L. Lester, CPA
Auditor General

FINDINGS AND RECOMMENDATIONS

- (20) 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*, 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 finding and recommendation concerning noncompliance with governing laws, administrative rules, and other guidelines for those operations audited is presented below.

Personnel Administration

- (21) Office of the Public Defender management indicated that the annual review of compensation policies required by Section 27.5302, Florida Statutes, had been conducted; however, Office records did not include documentation of the review process and the results thereof. Consequently, the Office could not fully demonstrate compliance with Section 27.5302, Florida Statutes.
- (22) 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 and, within the context of comparable skills, experience, and responsibility, any inequities found to exist on the basis of gender or race shall be eliminated. Office management indicated that a review of all compensation to employees and a review of work changes and responsibilities of each employee was completed. However, Office records did not include documentation of the review process or the steps taken to identify and correct pay inequities should they have been found to exist. Absent such documentation, the Office could not fully demonstrate compliance with the requirements of Section 27.5302, Florida Statutes.
- (23) 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.

STATEMENT FROM AUDITED OFFICIAL

- (24) 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, Twelfth Judicial Circuit. The Public Defender'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 PUBLIC DEFENDER
TWELFTH 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	\$ 3,715,619.43	\$ 3,714,796.52	\$ -	\$ 3,714,796.52	\$ 822.91
Other Personal Services	46,439.80	44,573.25	-	44,573.25	1,866.55
Expenses	294,811.00	271,564.67	22,266.80	293,831.47	979.53
Operating Capital Outlay	4,354.77	3,754.87	599.90	4,354.77	-
Special Category:					
Public Defenders - Law Library	66,381.00	61,098.65	602.20	61,700.85	4,680.15
Risk Management Insurance	58,419.00	58,419.00	-	58,419.00	-
Transfer to State Employees' Health Insurance Trust Fund	<u>39,969.00</u>	<u>39,969.00</u>	<u>-</u>	<u>39,969.00</u>	<u>-</u>
TOTAL GENERAL REVENUE FUND	<u>\$ 4,225,994.00</u>	<u>\$ 4,194,175.96</u>	<u>\$ 23,468.90</u>	<u>\$ 4,217,644.86</u>	<u>\$ 8,349.14</u>

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

EXHIBIT – B
OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 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
Appropriated by Chapter 97-152, Laws of Florida	\$ 4,113,785
Changes Authorized by the Executive Office of the Governor	149,709
Transfers Made Pursuant to Section 27.60, Florida Statutes	<u>(37,500)</u>
Total Final Operating Budget, Exhibit A	<u>\$ 4,225,994</u>

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

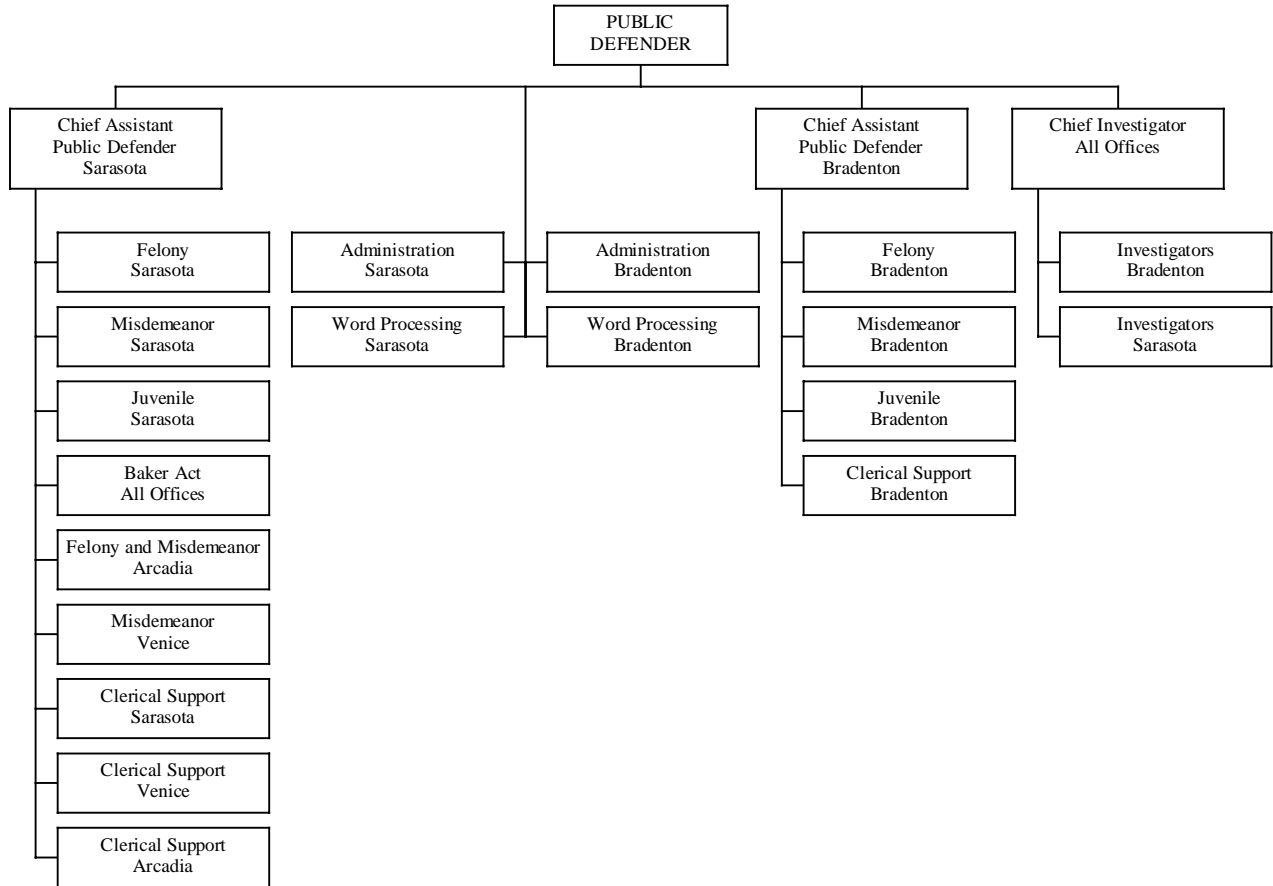


EXHIBIT – D
OFFICE OF THE PUBLIC DEFENDER
TWELFTH JUDICIAL CIRCUIT
STATEMENT FROM AUDITED OFFICIAL
For the Period April 1, 1998, Through March 31, 1999



ELLIOTT C. METCALFE, JR.
Public Defender

Public Defender
Twelfth Judicial Circuit
State of Florida
2071 Ringling Boulevard
Sarasota Justice Center - Fifth Floor
Sarasota, Florida 34237
(941) 951-5500
TDD: (941) 951-5505

DESOTO COUNTY:
DeSoto County Courthouse
115 East Oak Street
Room 205
Arcadia, Florida 34266
Phone: 941-993-4891

MAMATEE COUNTY:
920 Manatee Avenue West
Suite 50
Bradenton, Florida 34205
Phone: 941-747-6436
TDD: 941-741-3840

SARASOTA COUNTY:
Venice
4000 South Tamiami Trail
Room 221
Venice, Florida 34293
Phone: 941-492-3140

Please Reply To:

June 14, 1999

Mr. Charles L. Lester, CPA
Auditor General
111 West Madison Street
Post Office Box 1735
Tallahassee, Florida 32302

Audit
Report
Par. No.

Dear Mr. Lester:

(21-23)
↓

This letter is in response to the preliminary and tentative audit findings.

I annually review compensation policies for the position of Assistant Public Defender. The review is done in compliance with Florida Statute 27.5302 looking at comparable skills, experience, and responsibility for each of the Assistant Public Defenders. More importantly, a thorough review is made to make sure that there are no inequities found to exist on the basis of race or gender. This review takes a significant period of time and is an on-going process. I can assure the Auditor General that there are no inequities existing on the basis of gender or race in the Office of the Public Defender of the Twelfth Judicial Circuit. We were unaware that Florida Statute 27.5302 requires written documentation of this review process.

The office will provide written documentation of the review process and the results thereof in the future.

I want to personally thank the members of your staff who participated in our audit. They were exceptionally professional, courteous, and thorough in their work. As always, we appreciate the assistance provided by your office.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Metcalfe, Jr.", written over a horizontal line.

Elliott C. Metcalfe, Jr.
Public Defender
Twelfth Judicial Circuit

ECM/lb