

STATE OF CONNECTICUT



*AUDITORS' REPORT
PUBLIC DEFENDER SERVICES COMMISSION
COMMISSION ON CHILD PROTECTION
FOR THE FISCAL YEARS ENDED JUNE 30, 2009, 2010 and 2011*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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AUDITORS OF PUBLIC ACCOUNTS

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October 1, 2012

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COMMISSION ON CHILD PROTECTION
FOR THE FISCAL YEARS ENDED JUNE 30, 2009, 2010 and 2011**

We have made an examination of the financial records of the Public Defender Services Commission and the Commission on Child Protection for the fiscal years ended June 30, 2009, 2010 and 2011. This report on that examination consists of the Comments, Recommendations and Certification that follow.

The financial statement presentation and auditing of the books and accounts of the State are done on a Statewide Single Audit basis to include all State agencies, including the Public Defender Services Commission. This audit examination has been limited to assessing compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating internal control policies and procedures established to ensure such compliance.

FOREWORD:

PUBLIC DEFENDER SERVICES COMMISSION:

The Public Defender Services Commission (PDSC) operates under the provisions of Title 51, Chapter 887 of the Connecticut General Statutes. This Chapter authorizes the Commission to provide for the legal representation of indigent defendants in the State's criminal courts and of indigent minors in delinquency cases heard in the State's juvenile courts. The PDSC is within the Judicial Department for administrative purposes only, maintaining its own business office for fiscal purposes. Commission members serve without compensation but are reimbursed for actual expenses incurred while engaged in the duties of the PDSC.

Members of the PDSC as of June 30, 2011, were as follows:

Attorney Thomas J. Rechen, Chairman
Honorable Carl D. Eisenmann
Honorable Julia DiCocco Dewey
Attorney Aimee Golbert
Attorney Ramona Mercado-Espinoza
Rev. Monsignor William A. Genuario
Honorable John W. Pickard

Section 51-290 of the General Statutes provides for the appointment of a chief public defender by the PDSC. The duties of a chief public defender include the supervision of all state public defenders, as well as, the administration, coordination and control of the operation of public defender services throughout the state. Susan O. Storey continued to serve as chief public defender during the audited period.

COMMISSION ON CHILD PROTECTION:

The Commission on Child Protection (COCP) operated under the provisions of Title 46b, Chapter 815t of the Connecticut General Statutes. The COCP was placed within the Public Defender Services Commission for administrative purposes only and overseen by an eleven-member Commission. The commission appointed a chief child protection attorney as its executive director, who was responsible for establishing and overseeing a system to provide legal services for indigent respondents in family contempt and paternity matters; and for legal services and court appointed guardians to children and indigent parents in proceedings before the superior court for juvenile matters, other than representation of children in delinquency matters. The chief child protection attorney would contract for such legal services, and was responsible for monitoring such services, including providing initial and in-service training to contractors as well as establishing training, practice and caseload standards. During the audited period, Carolyn Signorelli served as the chief child protection attorney.

Under Public Act 11-51, the COCP was eliminated effective July 1, 2011 with all of its functions, powers and duties transferred to the PDSC. The Act also eliminated the position of chief child protection attorney with the duties assumed by the chief public defender.

RÉSUMÉ OF OPERATIONS:

PUBLIC DEFENDER SERVICES COMMISSION:

General Fund:

General Fund receipts consist mainly of refunds of expenditures and totaled \$20,494, \$19,568 and \$8,050 for the fiscal years ended June 30, 2009, 2010 and 2011, respectively. Clients who are able to pay towards the cost of representation are assessed fees in accordance with a schedule of reasonable charges. Clients of geographical area offices, except those that are incarcerated, are billed a flat \$25 fee unless they demonstrate the ability to pay additional amounts. Agency receipts do not include the fees collected as reimbursement of public defender services. Fees are accounted for as a reduction in personal services expenditures, and not as revenue to the General Fund.

A summary of General Fund expenditures for the audited fiscal years follows:

	<u>2008-2009</u>	<u>2009-2010</u>	<u>2010-2011</u>
Personal Services and Employee Benefits:			
Salaries and Wages	\$36,523,877	\$35,139,392	\$36,288,559
All Other	<u>634,056</u>	<u>434,437</u>	<u>487,778</u>
Total Personal Services and Employee Benefits	<u>37,157,933</u>	<u>35,573,829</u>	<u>36,776,337</u>
Purchases and Contracted Services:			
Attorney Fees	7,807,216	8,726,551	9,037,336
Medical Services- for Profits	820,847	860,152	945,473
Management Consultant Services	256,554	458,947	601,476
Investigation Services	395,968	333,857	405,421
Automated Legal Research	209,822	264,794	293,944
Temporary Services	239,699	313,157	481,374
Premises and Property Expenses	262,572	262,586	273,932
All Other	<u>1,089,173</u>	<u>904,143</u>	<u>1,038,695</u>
Total Purchases and Contractual Services	<u>11,081,851</u>	<u>12,124,187</u>	<u>13,077,651</u>
Total Expenditures	<u>\$48,239,784</u>	<u>\$47,698,016</u>	<u>\$49,853,988</u>

General Fund budgeted account expenditures increased by \$822,505, then decreased by \$541,768 and increased by \$2,155,972 during the fiscal years ended June 30, 2009, 2010 and 2011, respectively. Personal Services and Attorney Fees accounted for the majority of increases and decreases in expenditures during the audited period. Variances in personal services expenditures were primarily attributable to changes in total filled positions and general wage increases. As of June 30, 2011, the Public Defender Services Commission had 391 full-time employees, an increase of 22 positions from the June 30, 2009 total of 369. Over the audited period, we note that the public defender caseload increased from 90,707 to 92,144 and 92,587 for fiscal years 2009, 2010 and 2011.

Special Revenue Fund – Federal and Other Restricted Accounts:

The Commission’s Special Revenue Fund receipts totaled \$110,000, \$372,150 and \$896,699 for the fiscal years ended June 30, 2009, 2010 and 2011, respectively. The receipts consisted mainly of federal aid and state matching contributions. Special Revenue Fund expenditures totaled \$191,463, \$1,209,764 and \$478,660 for the fiscal years ended June 30, 2009, 2010 and 2011, respectively. The expenditures primarily consisted of personal services, related fringe benefits, and miscellaneous costs for the various federal and state programs.

The significant increase for both 2009-2010 fiscal year expenditures and 2010-2011 receipts was related to a federally funded DNA testing program. Award funds totaling approximately \$850,000 were transferred from the PDSC to two other participating state agencies, the Department of Criminal Justice and the Department of Public Safety during the 2009-2010 fiscal year. During the 2010-2011 fiscal year, approximately the same amount was received by the PDSC as reimbursement from the federal government.

Capital Equipment Purchase Fund:

Expenditures from the Capital Equipment Purchase Fund totaled \$81,020, \$205,109 and \$150,989 during fiscal years ended June 30, 2009, 2010 and 2011, respectively. These expenditures were made primarily for computer hardware, data processing, and office equipment.

COMMISSION ON CHILD PROTECTION:

A summary of the Commission on Child Protection expenditures for the audited period is presented below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2008-2009</u>	<u>2009-2010</u>	<u>2010-2011</u>
Personal Services and Employee Benefits:			
Salaries and Wages	\$602,223	\$631,469	\$634,532
All other	<u>99,415</u>	<u>68,557</u>	<u>87,771</u>
Total Personal Services and Employee Benefits	<u>701,638</u>	<u>700,026</u>	<u>722,303</u>
Purchases and Contracted Services			
Juvenile Contract Attorneys	8,100,086	8,902,300	11,506,541
Other Payments – Legal Services	553,307	611,289	586,564
Attorney Contracts Over 30 Hours	857,091	321,291	19,349
Court Appointed Attorneys	428,875	163,727	7,500
Juvenile Standby Attorneys	686,242	314,679	232,996
All Other	<u>549,558</u>	<u>581,162</u>	<u>616,297</u>
Total Purchases and Contracted Services	<u>11,175,159</u>	<u>10,894,448</u>	<u>12,969,247</u>
Total General Fund Expenditures	<u>\$11,876,797</u>	<u>\$11,594,474</u>	<u>\$13,691,550</u>

As noted above, the COCP was consolidated with PDSC effective July 1, 2011. The increase in the Juvenile Contract Attorneys account over the audited period can be attributed to two significant changes occurring during the 2009-2010 fiscal year. Accounting for payments to appointed Guardian Ad Litem (GAL) changed from the Court Appointed Attorneys category to the Other Payments - Legal Services account. Also, in 2009 attorneys were paid either a flat fee of \$500 or an hourly rate of \$40. Attorneys working on a flat rate basis would be paid hourly for work in excess of 30 hours which were charged to the Attorney Contracts Over 30 Hours account. In 2010, the hourly rate increased to \$75 and the flat rate was eliminated along with the Attorney Contracts over 30 hours account. After the consolidation, PDSC reverted back to paying all attorneys a flat rate of \$500.

As of June 30, 2011, the COCP had nine full-time employees. There were no receipts during the three-year audited period.

CONDITION OF RECORDS

Our review of the Public Defender Services Commission's records revealed the following areas that require improvement.

Payroll / Personnel:

Criteria:

1. Compensatory time - The PDSC Administrative Policies and Procedures Manual states that approval must be obtained prior to requiring an employee to perform work in excess of their normal schedule when possible. If prior approval is not possible, the chief or deputy chief public defender must be notified on the next business day of the circumstances. The manual also provides guidance as to what situations permit the earning of compensatory time and states that time earned will lapse unless it is taken not later than during the sixth month next succeeding the month in which it was accrued unless otherwise addressed in a collective bargaining agreement.

The collective bargaining agreement with the Union of Professional Judicial Employees requires that compensatory time earned will lapse unless it is taken not later than during the third month next succeeding the month in which it was accrued.

2. Medical certificates – According to the collective bargaining agreements with the Judicial Employees AFSCME union and the Connecticut Association of Prosecutors, medical certificates may be required for any period of absence consisting of more than five consecutive working days.

3. Rehired retirees – PDSC procedures require that when retirees are rehired they must complete an “employment of temporary personnel” form which is signed by the employee, supervisor and the chief public defender. Employees are then required to submit biweekly salary invoices documenting the number of hours worked and the hourly salary and signed by the employee and their supervisor.

4. Recruitment review - Complete documentation of the hiring/recruitment process should be maintained to ensure that the best candidate was chosen in a fair and open process.

5. Evaluations - Employees of the Division of Public Defender Services are governed by various bargaining unit contracts and administrative policies. All dictate that annual service ratings shall be completed approximately three but no less than two months prior to

the employee's annual increase date. Employees receiving unsatisfactory ratings shall not receive an annual increment.

Condition:

1. Compensatory time - We reviewed 14 instances of compensatory time earned for nine employees and noted the following:

a) Compensatory time earned was not preapproved in six out of 14 instances reviewed. Two of the instances were approvals for time earned several months before the requests were submitted; time was granted retroactively. We were also unable to determine if an additional six were approved timely due to the supervisor's signature not being dated.

b) Compensatory time earned did not lapse in accordance with agency policies or bargaining unit agreements for six out of 14 instances reviewed.

c) Documentation to support the earning of compensatory time was lacking in 11 out of 14 instances including two missing request/approval forms, three instances where documentation to support time earned out of state was not available and six instances where the reason for the time earned was not noted on the request form.

d) One employee earned time and half compensatory time regularly in quarter hour increments.

2. Medical certificates - Documentation to support absences in excess of five business days was not on file for two out of nine employees. Also, documentation on file for an additional two out of nine employees did not fully support the employee's absence.

3. Rehired retirees - From our sample of eight rehired retirees we noted that personnel authorization forms documenting approval of the rehire were not on file for any of the employees reviewed. There was no documentation supporting the terms of employment including salary, reason for rehire, or duration of employment.

In addition, several salary invoices were not signed by either the employee or the supervisor or chief public defender.

4. Recruitment - We noted questionable hiring practices in three out of the ten employees reviewed.

a) One employee was hired as a temporary clerk in August 2009, received a full time position as an administrative assistant in

December 2010, and was reclassified to financial assistant in November 2011. The employee interviewed for the administrative assistant position along with six other applicants who had experience working for the PDSC which ranged from six months to 24 years in administrative or secretarial positions. The employee promoted had no prior experience in the field of law/law clerk, having worked in an unrelated private industry occupation. We also noted that the employee's direct relative was a fiscal director until August 2011.

b) An employee was hired as the finance director during August 2011. The job posting required a bachelor's degree and at least seven years of professional experience in financial management as well as at least two years of supervisory experience. The employee's prior experience included three years in the area of budget, none of which appear to have involved managerial duties. The four other applicants had extensive work and managerial experience.

c) An employee was hired in a managerial capacity during August 2009. The only documentation on file was the employee's resume and cover letter; there was no job application on file. In addition, there was no copy of the job posting and no list of applicants with their resumes on file.

5. Evaluations - Evaluations covering the audit period were not on file for 25 out of 30 employees reviewed. We also noted that satisfactory evaluations were not completed prior to annual increases for 19 out of 30 employees.

Cause:

1. Compensatory time - There was no explanation for why compensatory time was not approved on a timely basis or why time did not lapse. The compensatory time plan enrollment in Core-CT for all employees was not set to expire. Additional documentation to support travel was not required to be submitted. Reasons for time earned should be indicated on the requests; it is unclear as to why it was not.

2. Medical certificates - The five day absence rule requiring a medical certificate was not enforced until recently. Other instances of noncompliance were due to a lack of oversight.

3. Rehired retirees - The practices in place at the time of our review for rehiring retirees were not enforced.

4. Recruitment - One individual is responsible for interviewing applicants and selecting the candidate who advances. Notes to document each applicant's performance during the interview are not

maintained. Also, the agency discards documentation for those not offered a position after two years in accordance with the state record retention schedule. We note that this procedure prevents the implementation of Section 2-90(g) of the General Statutes which requires that all records be available for audit by the Auditors of Public Accounts upon demand.

5. Evaluations - There was no explanation for why evaluations were not completed for the employees reviewed.

Effect:

1. Compensatory time - Compensatory time earned is not earned in accordance with administrative polices and bargaining unit agreements and employees may receive time they are not entitled to.

2. Medical certificates - Adequate documentation was not on file to support employee absences or the ability to return to work after an illness.

3. Rehired retirees - There was no documentation to support the terms of employment including rate of pay, need, or duration of employment.

4. Recruitment - The documentation on file does not adequately support the selection and hiring process. Without proper documentation the agency is unable to provide evidence that the hiring process was fair and impartial and that the best candidate was selected.

5. Evaluations - The agency is not in compliance with bargaining contracts and agency policies. Employees received increases in pay without recent evaluations on file.

Recommendation:

The Public Defender Services Commission should improve oversight over the enforcement of certain payroll and personnel procedures and practices and develop formal hiring procedures to ensure the process is conducted in a fair and unbiased manner. (Recommendation 1.)

Agency Response:

“Adherence to compensatory time policies will be monitored more closely to ensure compliance. Recently, a reminder regarding the guidelines for comp and over-time were issued to managers whose units have situations that have been sighted in the audit report. Employee profiles in CORE will also include comp time expiration dates as required to help ensure compliance with Division policy and contract provisions.

Adherence to the requirement for medical certificates where required has been more widely communicated and monitored, and will continue to be on an ongoing basis.

In the future, if any retiree is rehired into a temporary position the current process in place for hiring temporary employees will be adhered to.

Applicants for the position of Finance Director were carefully screened and considered in the process. While other applicants had more experience, they were not viewed as an appropriate fit for the position due to a number of factors. Although the incumbent's experience did not include specific managerial experience, it did include significant project management experience in an environment where working across groups and at all levels was key to his demonstrated success in the role. He also brings a graduate (Master of Public Administration) degree, and very specific legislative experience that was viewed as key to the agency and the role. It is also noteworthy the incumbent's salary group and pay level were adjusted to appropriately align with the experience level.

The records retention schedule published by the Office of Public Records under the authority granted it by CGS § 11-8 and § 11-8a states the retention period for "records that document the application process for applicants that were not hired—including but not limited to: applications, cover letters, references and resumes" as "2 years from the date the position was filled or closed". The subject managerial position was filled and the incumbent started in August of 2009—the 2 year retention period, per records retention guidelines, was until 8/2011.

Employment Applications were not used by the Division at this point in time but were implemented in 2010."

*Auditors' Concluding
Comment:*

Although the PDSC complies with the records retention schedule which provides for disposal of job application records after two years for those not hired, disposal of such records prior to audit conflicts with Section 2-90(g) of the General Statutes.

Expenditures:

Criteria:

1. Lack of bidding - According to Section 4a-57(a) of the Connecticut General Statutes, all purchases of, and contracts for, supplies, materials, equipment, and contractual services shall be based, when possible, on competitive bids or competitive negotiation.

2. Safeguarding documents - When procuring services from outside vendors, precautionary measures should be taken to ensure confidential information relating to the representation of clients is not illicitly disclosed.

3. Lack of purchase orders and prior approvals - In accordance with Section 4-98 of the Connecticut General Statutes, except for such emergency purchases, no state agency shall incur any obligation except by the issuance of a purchase order or any other documentation approved by the State Comptroller.

Chapter 4 of the agency's administrative policies and procedures manual requires attorneys representing public defender clients to receive prior approval to hire experts and incur case related expenses. Depending on the estimated cost and type of service requested, prior approval is to be obtained from the supervising attorney in charge of an office, the chief or deputy chief public defender, or from the public defender services commission.

4. Lack of timely vendor billing - Sound internal controls dictate that vendor invoices be obtained and reviewed in a timely manner to ensure that errors are promptly noted and corrected and to ensure that goods and services are properly received.

Condition:

1. Lack of bidding - Five transactions totaling \$25,867 were not in compliance with the competitive procurement requirements set forth in Section 4a-57(a) of the Connecticut General Statutes. The recurring purchase of printing services from two vendors was not based on competitive bids or competitive negotiation. We reviewed four transactions to one vendor and noted that 2,898 payments totaling \$250,734 were made to the vendor during the audited period. We reviewed one transaction to the second vendor and noted that 118 payments totaling \$78,071 were made to the vendor during the audited period.

2. Safeguarding documents - In reviewing expenditures for printing and photo development services, we noted that the agency does not have any agreements in place with outside vendors safeguarding

information related to the representation of clients. The agency informed us that while they have agreements with vendors providing archiving services, they do not have agreements with vendors providing printing services. Upon our inquiry, the agency discontinued all printing transactions until agreements could be drawn with vendors.

3. Lack of purchase orders and prior approvals - Five transactions totaling \$3,533 were not supported by valid purchase orders. Purchase orders were not issued for three of the transactions and purchase orders were issued nine and 11 days after obligations were incurred for two of the transactions.

Three transactions for case related expenses totaling \$705 were not supported by proper prior approvals; approvals were obtained between 11 days and two months after obligations were incurred.

4. Lack of timely vendor billing - In reviewing one transaction for \$97, we noted that invoices for investigative services provided by a vendor were continuously submitted to the administrative division in an untimely manner. Of the 299 payments made to the vendor during the audited period, 129, or 43%, of the invoices were submitted to the administrative division between three and 42 months after services were rendered. The untimely submittal of invoices resulted in payments being processed by the administrative division between three and 45 months after services were rendered. Payments to the vendor totaled \$90,267 during the audited period.

Effect:

1. Lack of bidding - When competitive procurement is not practiced by State agencies, it is uncertain as to whether the State is receiving the best prices obtainable.

2. Safeguarding documents - Without agreements in place with outside vendors, there is an increased risk that confidential information may be illicitly disclosed.

3. Lack of purchase orders and prior approvals - Assurance that funds will be available for payment is lessened when purchase orders are not properly issued. The lack of prior approval increases the risk for improper or unauthorized case related expenses.

4. Lack of timely billings- Untimely payment of obligations could result in the agency incurring additional unforeseen costs.

Cause:

1. Lack of bidding - The agency informed us that the two vendors providing printing services were selected because of their competitive

prices, their proximity to the field offices, and their ability to pick up and drop off documents, saving on transportation costs and personnel resources.

2. Safeguarding documents - The agency informed us that an agreement had been drawn with a vendor providing printing services. Neither the agency nor the vendor could locate a copy of the agreement. The agency's legal counsel is currently in the process of drawing new agreements.

3. Lack of purchase orders and prior approvals - The lack of proper purchase orders appears to be an oversight by management.

Prior approvals for case related expenses were not properly obtained due to the occurrence of unexpected events, including overbilling by vendors, delays in invoice submittals, and unforeseen needs of public defenders.

4. Lack of timely billings - The untimely payments were due to budgetary limitations.

Recommendation: The Public Defender Services Commission should strengthen internal controls over the purchasing and accounts payable functions. (See Recommendation 2.)

Agency Response: "Going forward the agency will obtain multiple bids from vendors for printing services in order to guarantee we are receiving the most competitive price.

The agency is in the process of drafting new agreements with printing vendors regarding the safeguarding of documents.

Our agency will make every effort going forward to ensure proper approvals and time frames are followed for purchase orders.

Untimely payments were the result of the exhaustion of funds in various budgeted accounts. When lapses occur in the future, our agency will request approval from the Finance Advisory Committee to transfer funds into the appropriate accounts in order to avoid untimely payments. However, the agency is limited in its ability to transfer funds by the availability of lapses."

Special Public Defender Expenditures:

Background:

In cases where the agency is unable to represent an accused because of a conflict of interest, the court may appoint a special public defender whose expenses and compensation are paid from the agency's budget in accordance with rates of compensation approved by the PDSC. Contracted special public defenders are hired to handle a specified number of cases each year and are prepaid in installments. At year end, caseload reports and notices of appointment are reviewed to verify special public defenders met their contracted caseloads. For those who did not, refunds are requested or adjustments are made to payments and assignments for the following year.

Criteria:

1. Accurate and complete documentation should be maintained to support payments to contracted special public defenders. Documentation should provide adequate evidence that payments were proper, in compliance with agency policies and procedures, and for services actually rendered.

2. The agency's policies and procedures manual requires attorneys to submit applications/renewal applications and be approved by the Standing Committee on Special Public Defenders before contracts may be awarded. The application stipulates attorneys declare whether they have ever been disciplined or cited for breach of ethics.

3. Provisions of the special public defender contract require attorneys to certify that they have completed six hours of professional education and training.

Condition:

1. Standardized recordkeeping – The agency does not have formal policies defining what records should be maintained for each contracted attorney. Without standards and uniform files, we were unable to determine whether the attorneys' files were complete and, thus, whether payments to attorneys were accurate. It appears the documents that need to be standardized and kept on file for each attorney are:

a) Monthly and year-end caseload reports supporting the total cases assigned to each attorney during the contract period;

b) Notices of appointment supporting individual cases assigned to each attorney during the contract period; and

c) A year-end reconciliation of the attorneys' caseloads and

documentation supporting the consequential adjustments.

2. Applications & Disciplinary Certifications – Of the nine attorneys’ contracts in our test check, four of the attorneys’ renewal applications were not on file, three of which also contained the attorneys’ disciplinary certifications.

3. Education Certifications – Three of nine attorneys’ contracts reviewed were not supported by proper education certifications; two certifications were not on file and one certification was received approximately two and a half months after the end of the contract period.

Effect:

We could not verify payments to contracted attorneys; payments tested totaled \$156,800 and payments to contracted attorneys during the audited period totaled \$8,719,521. Without standardized records, we were unable to determine whether attorneys fulfilled their contracted caseloads and whether the agency was properly reimbursed for unfulfilled caseloads. As a result, there is an increased risk for erroneous payments to attorneys.

The lack of renewal applications, disciplinary certifications, and education certifications hinders the agency’s ability to ensure that experienced, qualified attorneys are selected to represent defendants in conflict cases.

Cause:

The incomplete files and missing documentation appear to be the result of a lack of policies governing recordkeeping as well as an overall managerial oversight.

Recommendation:

The Public Defender Services Commission should establish formal policies and improve internal controls to ensure adequate documentation is on file to support special public defender contracts and payments. (See Recommendation 3.)

Agency Response:

“Over the past few years there have been many policy changes regarding the record keeping and compensation of contracted attorneys doing business with the Office of Chief Public Defender.

Current policy will not allow for payment of an attorney unless there is a signed agreement on file.

The annual agreement requires that the attorney certifies 6 hours of relevant legal education annually.

Each renewal or initial application contains a section requiring that the attorney provide information regarding disciplinary history. In addition, the agreement contains a requirement that the attorney notify the Director of Assigned Counsel and Legal Counsel of the Office of the Chief Public Defender of any disciplinary action that occurs during the contract year.

Attorneys are only paid for cases which have been verified as assigned to the attorney. The attorneys will be required to invoice this office for all flat rate case assignments and the invoice will be screened against the list of Notice of Appointments before payment is approved. All of this data will be stored electronically after July 1, 2012.

Attorneys no longer receive annual caseloads. Payments will be made at the time the case is assigned based upon the receipt of a matching "Notice of Appointment".

All billing received by the attorneys are done through the use of electronic excel based invoices. All of the computations are programmed, eliminating any concerns of mathematical errors. Beginning in July 2012 all notice of appointments will be electronic."

Property Control:

Criteria:

The State Property Control Manual requires the agency to report all capitalized and depreciated property on the annual inventory report (form CO 59) and conduct an annual physical inventory of the software library. The annual report should also include the total cost information for licensed software purchased since 2005.

The manual also requires that state property shall not be abandoned or destroyed by a state agency unless it is certified by a duly authorized representative of the State Property Distribution Center.

Condition:

1. Annual inventory report – We noted that in the annual inventory report (form CO 59) for June 30, 2010, licensed software additions of \$4,835 included \$1,280 which should not have been capitalized. The amount was for ten network licenses. The report for June 30, 2011 overstated equipment additions by \$32,985 due to the inclusion of computers that did not meet the capitalization threshold of \$1,000. The agency included 32 computers on the report with an individual cost of \$942.

2. Software Inventory – We noted the following discrepancies during our review of the agency’s software inventory:

a) Three of 12 instances where the software cost on Core-CT did not correspond to that included on the inventory. In two of the instances, the inventory included shipping costs which were not paid by the agency. In the third, the inventory did not reflect the shipping costs paid.

b) Five out of 12 software purchases reviewed were not included on the agency’s inventory.

c) During our review of 12 judgmentally selected software programs, license certificates were missing for three of the 12 software programs selected for review.

d) The software inventory appears incomplete. There were missing serial numbers, costs, license information and purchase details.

e) The agency does not conduct an annual physical inventory of software. A visual audit of the server is performed; however, a comparison between the inventory and items physically on hand is not conducted.

3. Surplus property- In reviewing one transaction totaling \$623 we noted that the agency failed to obtain approval from the State Property Distribution Center for the disposal of agency property, including 12 filing cabinets, a desk, chairs, and a bookcase. The agency informed us that the property sustained water damage due to a roof leak.

Effect:

1. Annual inventory report - The licensed software additions category for 2010 is overstated by \$1,280 and equipment additions for 2011 are overstated by \$32,985.

2. Software inventory - The software inventory appears incomplete and inaccurate. The clerical errors and omissions resulted in the software inventory being understated by \$44,308. Also, the agency is not in compliance with Comptroller procedures regarding annual inventory of software.

3. Surplus property - When property is disposed of without approval from the State Property Distribution Center, it is uncertain as to whether the State is achieving the best possible utilization of its property.

- Cause:*
1. Annual inventory report - It appears that software amounts included in the CO-59 documentation were not verified against the software inventory. The inclusion of the computers as additions for 2011 was an oversight.
 2. Software inventory - Many of the software issues appear to be clerical in nature. Software licenses were difficult to find due to a lack of organization.
 3. Surplus property - It appears there was a misunderstanding as to the types of property that needed approval from the State Property Distribution Center prior to being scrapped.

Recommendation: The Public Defender Services Commission should improve its compliance with the State Property Control Manual. (See Recommendation 4.)

Agency Response: “We have adjusted the fiscal year 2010 software category value to reflect the network licenses erroneously capitalized and reported to the State Comptroller. We have also re-categorized the computers from equipment to controllable. Our CO-59 submission for fiscal year 2012 will reflect the software cost adjustment and re-categorization of the computers.

We will strengthen our internal controls by conducting annual audits of our software inventory and keeping a thorough record of the Agency’s software inventory.

Due to personnel changes/moves, we hired movers to help move furniture in our Hamden Legal Services Unit. Instead of hiring another vendor and in an effort to save money, the same vendor was used to remove the furniture that had been water damaged and was unusable.”

Agency Receipts:

- Criteria:*
1. Section 4-32 of the Connecticut General Statutes requires state agencies to deposit and account for the funds within 24 hours of receipt if the total of the sums received amounts to five hundred dollars or more. Total daily receipts of less than five hundred dollars may be held until the total receipts to date amount to five hundred dollars, but not for a period of more than seven calendar days.

2. The Office of the State Treasurer is authorized to approve waivers to deposit limitations once a written waiver request is received from an agency head stating the reasons that make compliance impractical. PDSC client reimbursement procedures require field offices to submit copies of money orders, the cash receipts journal, and the deposit receipt to the central office to support funds received.

Condition:

1. Lack of documentation - There were nine instances from a sample of 30 deposits where adequate documentation was not on file to support funds received totaling \$1,475. Copies of checks or money orders were missing for seven deposits, bank receipts were missing for one deposit and both check copies and bank receipts were missing for three deposits. There was also one instance where we were unable to determine the form of payment received and whether check copies were necessary.

2. Late deposits - We noted four instances in a sample of 30 deposits where funds were not deposited in accordance with CGS 4-32 ranging from one to 28 days late. We were unable to determine whether funds were deposited timely for one transaction due to a lack of deposit receipt. It appears as though funds were deposited late considering when funds were received by the agency and when entered in Core-CT.

3. The agency did not have a current deposit waiver on file to authorize delays in deposits. The Treasurer approved a two day waiver in October 2003 which expired with the armored car service contract the agency had through Judicial which expired in July 2007.

Effect:

Funds were not deposited timely in accordance with general statutes. Also, the agency is not in compliance with established policies regarding deposit documentation.

Cause:

The various field offices receiving funds did not deposit funds timely and did not submit required documentation to the central office.

Recommendation:

The Public Defender Services Commission should deposit funds on a timely basis in accordance with Section 4-32 of the General Statutes and maintain adequate documentation for receipts.

Agency Response:

“The Public Defender Services Commission will continue to encourage staff at the field offices to make appropriate copies of checks, money orders and bank receipts.

We will continue to encourage staff at the field offices to make timely deposits. In addition, the Financial Department will begin the process for securing the proper waiver for when delayed deposits will occur.”

Other Matters:

During the prior audit, the Commission on Child Protection informed us of a potential billing overpayment involving one of its contract attorneys, who also had a contract to provide similar services to another state. Based on a preliminary comparison of records from both states, it appears that billing irregularities likely occurred. The Commission's initial analysis of 30 dates, for which this attorney billed both states, determined that the total number of hours billed ranged from 16 and 25.5 hours a day, an average of about 20 hours per day. The other state continues to conduct an audit of the attorney's billings, the findings of which will be provided to the Commission on Child Protection for its review and possible action.

RECOMMENDATIONS

Our prior report on the Public Defender Services Commission and the Commission on Child Protection contained six recommendations; four for PDSC and two for COCP. Four are being repeated in revised form, and two have been resolved. One new recommendation is being presented as a result of our current examination.

Status of Prior Audit Recommendations:

Public Defender Services Commission:

- The Public Defender Services Commission should strengthen internal controls over the purchasing, receiving, and expenditure function. Our current review identified continued issues with expenditures; therefore this recommendation will be repeated. (See Recommendation 2)
- The Public Defenders Services Commission should establish formal policies and procedures governing Special Public Defender operations. Monitoring efforts for Special Public Defender caseload assignments should be improved. Due to the findings with our current review, this recommendation will be restated to reflect the current issues. (See Recommendation 3)
- The Public Defenders Services Commission should improve controls over State property as required by the State Comptroller's Property Control Manual. Additionally, the Public Defenders Services Commission should transfer all equipment purchased for the Commission on Child Protection to that agency. We continued to note inaccuracies in the area of Property Control. Therefore, this recommendation will be restated to reflect the current issues. (See Recommendation 4)
- The Public Defender Services Commission should ensure that personnel files are complete for all current employees, including having INS Form I-9's and employees' performance evaluations on file. DPDS should also follow the records retention requirements. Evaluations should be prepared on a timely basis, and in accordance with Division policy and sound business practices. DPDS should use individual "positive type" timesheets prepared and signed by each employee and approved by their supervisor, that also follow the requirements of OMB A-87. These signed timesheets should be used to prepare the payroll and to post the time and attendance in CORE-CT. We did not note any exceptions during our current review of INS I-9 forms. The agency also implemented a positive type timesheet effective April 22, 2011, therefore the recommendation related to these areas will not be repeated. We did find that evaluations were not completed timely for the employees reviewed. Therefore, this portion of the recommendation will be repeated. (See Recommendation 1)

Commission on Child Protection:

- The Commission on Child Protection should consider structuring future contracts for legal services with not-for-profit legal organizations on a straight fee for services rendered. If the Commission continues to enter into contracts that involve advanced payment for services, it should fully comply with Section 3-117 of the General Statutes by entering into contracts that are “properly drawn and executed.” This would include minimizing the amounts advanced to reduce potential risk of loss of funds in the event of contractor non-performance; making payments as close to the contractual due date as possible to avoid loss of interest income to the State, provide for a detailed schedule of costs, and clarification of ownership of any equipment purchased with these funds. The issues noted previously were addressed for the current contract period; therefore this recommendation will not be repeated.
- The Commission on Child Protection should invoke the provisions of Article II, Section 1 (c) of its by-laws when necessary to consider recommending removal of Commissioners whose absences violate said Article, and take steps to improve attendance at its scheduled meetings. The Commission on Child Protection was dissolved with the consolidation of the agency with the Public Defenders Services Commission. Therefore, although we found issues regarding attendance, the recommendation is no longer relevant.

Current Audit Recommendations:

- 1. The Public Defender Services Commission should improve oversight over the enforcement of certain payroll and personnel procedures and practices and develop formal hiring procedures to ensure the process is conducted in a fair and unbiased manner.**

Comment:

During our current review we found the agency did not adhere to established procedures regarding earning and lapsing of compensatory time. Also, there was an overall lack of supporting documentation regarding our review of medical certificates, rehired retirees and annual evaluations. We also noted a lack of formal procedures regarding the hiring process.

- 2. The Public Defender Services Commission should strengthen internal controls over the purchasing and accounts payable functions.**

Comment:

We found numerous instances of non-compliance including a lack of purchase orders, prior approvals, and approval for disposing of state property. We also found the agency did not competitively bid services routinely used and did not secure agreements with vendors safeguarding information related to the representation of clients. We noted delays in the

submission of invoices by vendors as well as untimely payment of vendor invoices by PDSC.

3. **The Public Defender Services Commission should establish formal policies and improve internal controls to ensure adequate documentation is on file to support special public defender contracts and payments.**

Comment:

During our review we noted a lack of formal policies regarding the records to be maintained for contract attorneys. We also found that files reviewed were missing required elements such as applications, disciplinary certifications and education certifications.

4. **The Public Defender Services Commission should improve its compliance with the State Property Control Manual.**

Comment:

We found errors in amounts reported on the CO-59 annual inventory reports for fiscal years 2010 and 2011. We also noted numerous discrepancies regarding software inventory and the disposal of surplus property without approval.

5. **The Public Defender Services Commission should deposit funds in on a timely basis in accordance with Section 4-32 of the General Statutes and maintain adequate documentation for receipts.**

Comment:

We found numerous instances where adequate documentation was not on file to support amounts received. We also found evidence where funds were not deposited in accordance with CGS 4-32.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Public Defender Services Commission and the Commission on Child Protection for the fiscal years ended June 30, 2009, 2010 and 2011. This audit was primarily limited to performing tests of the Department's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the Commissions' internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the Commissions are complied with, (2) the financial transactions of Commissions are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the Commissions are safeguarded against loss or unauthorized use. The financial statement audits of the Public Defender Services Commission and the Commission on Child Protection for the fiscal years ended June 30, 2009, 2010 and 2011, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Public Defender Services Commission and the Commission on Child Protection complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

Management of the Public Defender Services Commission and the Commission on Child Protection is responsible for establishing and maintaining effective internal control over financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts, and grants. In planning and performing our audit, we considered the Commissions' internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Commissions' financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of expressing an opinion on the effectiveness of the Commissions' internal control over those control objectives. Accordingly, we do not express an opinion on the effectiveness of the Commissions' internal control over those control objectives.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions to prevent, or detect and correct on a timely basis, unauthorized, illegal or irregular transactions, or breakdowns in the safekeeping of any asset or resource. *A material weakness* is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that non compliance which could result in significant unauthorized, illegal, irregular or unsafe transactions and/or material

noncompliance with certain provisions of laws, regulations, contracts, and grant agreements that would be material in relation to the Commissions' financial operations will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance with requirements was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over the Commissions' financial operations, safeguarding of assets, or compliance with requirements that we consider to be material weaknesses, as defined above. However, we consider the following deficiencies, described in detail in the accompanying Condition of Records and Recommendations sections of this report, to be significant deficiencies: Recommendations 1-Payroll / Personnel, 2-Expenditures, and 3-Special Public Defender contracts. A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Commissions' complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Commissioners' financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. 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.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters which we reported to Commissions' management in the accompanying Condition of Records and Recommendations sections of this report.

The Public Defender Services Commission's and the Commission on Child Protection's response to the findings identified in our audit is described in the accompanying Condition of Records section of this report. We did not audit the Commissions' response and, accordingly, we express no opinion on it.

The report is intended for the information and use of the Commissions' management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by the officials and staff of the Public Defender Services Commission and the Commission on Child Protection during this examination.



Rebecca M. Balkun
Associate Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts