

# STATE OF CONNECTICUT

**AUDITORS' REPORT  
PUBLIC DEFENDER SERVICES COMMISSION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2003 and 2004**

**AUDITORS OF PUBLIC ACCOUNTS  
KEVIN P. JOHNSTON ♦ ROBERT G. JAEKLE**

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April 13, 2005

**AUDITORS' REPORT  
PUBLIC DEFENDER SERVICES COMMISSION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2003 and 2004**

We have made an examination of the financial records of the Public Defender Services Commission for the fiscal years ended June 30, 2003 and 2004. 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.

**COMMENTS**

**FOREWORD:**

The Public Defender Services Commission 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 Agency is within the Judicial Department for administrative purposes only. It maintains its own business office for fiscal purposes.

## ***Auditors of Public Accounts***

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Membership of the Commission at June 30, 2004, was as follows:

	<b><u>Term Expires</u></b> <b><u>September 30,</u></b>
Attorney Carl D. Eisenmann, Chairman	2007
Honorable Paul Matasavage	2006
Honorable Susan S. Reynolds	2006
Attorney Vincent Roach	2007
Attorney Ramona Mercado-Espinoza	2007
Rev. Monsignor William A. Genuario	2005
Aimee Golbert	2007

In addition to the members listed above, Michele L. Melley also served on the Commission during the audited period.

Section 51-290 of the General Statutes provides for the appointment of a Chief Public Defender by the Commission. 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. Gerard A. Smyth continued to serve as Chief Public Defender during the audited period.

### **RÉSUMÉ OF OPERATIONS:**

#### **General Fund Receipts:**

General Fund receipts totaled \$2,241,704 and \$2,055,412 for the fiscal years ended June 30, 2003 and 2004, respectively. For comparative purposes, General Fund receipts for the fiscal year ended June 30, 2002 totaled \$1,853,578. The following is a comparison of receipts for the fiscal years audited:

	<b><u>Fiscal Year Ended June 30,</u></b>	
	<b><u>2003</u></b>	<b><u>2004</u></b>
Restricted contributions, Federal	\$ 1,680,635	\$ 1,483,474
Restricted contributions, other than Federal	428,120	314,383
Refunds of current year expenditures	119,789	251,164
All other receipts	<u>13,160</u>	<u>6,391</u>
<b>Total General Fund Receipts</b>	<b><u>\$ 2,241,704</u></b>	<b><u>\$ 2,055,412</u></b>

General Fund receipts of the Commission consisted primarily of Federal aid, State matching contributions, and refunds of current year expenditures. General Fund receipts increased \$388,126 (21 percent) and decreased \$186,292 (eight percent) during the fiscal years ended June 30, 2003 and 2004, respectively. These changes were primarily due to changes in Federal grant funding levels that were partially offset, in the 2003-2004 fiscal year, by increases in refunds of current year expenditures.

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Increases in refunds of current year expenditures included an accounting change in the recording

of transfer invoices as receipts rather than as expenditure reductions. This accounting change resulted from the implementation of the State of Connecticut's new accounting system, CORE-CT.

Federal restricted contributions during the audited period were as follows:

	<b><u>Fiscal Year Ended June 30,</u></b>	
	<b><u>2003</u></b>	<b><u>2004</u></b>
Drug Control and System Improvement – Formula Grant	\$1,086,215	\$ 672,988
Juvenile Justice and Delinquency Prevention Act	<u>594,420</u>	<u>810,486</u>
<b>Total Federal Receipts</b>	<b><u>\$ 1,680,635</u></b>	<b><u>\$ 1,483,474</u></b>

The Drug Control and System Improvement – Formula Grant is a pass-through grant administered by the State Office of Policy and Management and received from the U.S. Department of Justice. These grant funds were used primarily for the personal services and fringe benefits of additional attorneys and social workers that specialize in cases involving drug-related crimes or drug-dependent clients. The Juvenile Justice and Delinquency Prevention Act grant funds were used for the expansion of juvenile public defender offices, including personal services and employee fringe benefits for additional attorneys and social workers associated with the increases in juvenile cases.

Refunds of current year expenditures included transfer invoices processed for shared cost reimbursements, mostly for court reporter expenses, from the Division of Criminal Justice. Such refunds amounted to \$109,890 during the 2003-2004 fiscal year. As noted above, in prior years these receipts had been coded directly as reductions in expenditures. In addition, the Commission collects a \$25 fee from clients, as reimbursement of public defender services unless clients are indigent and cannot pay such a fee. These reimbursement collections amounted to \$94,077 and \$97,819 during the respective audited years.

**General Fund Expenditures:**

Expenditures of the Public Defender Services Commission are paid through General Fund appropriations. For comparative purposes, General Fund expenditures for the fiscal year ended June 30, 2002 totaled \$34,619,245. A summary of expenditures for the audited fiscal years follows:

	<b><u>Fiscal Year Ended June 30,</u></b>	
	<b><u>2003</u></b>	<b><u>2004</u></b>
Budgeted Accounts:		
Personal services	\$25,248,479	\$24,830,005
Contractual services	6,954,841	7,693,626
Commodities	224,644	220,167
Equipment	<u>69,755</u>	<u>1,000</u>
Total Budgeted Accounts	<u>32,497,719</u>	<u>32,744,798</u>
Restricted Accounts:		
Federal accounts	1,638,048	1,560,606
Other than Federal Accounts	<u>414,485</u>	<u>301,968</u>
Total Restricted Accounts	<u>2,052,533</u>	<u>1,862,574</u>
<b>Total General Fund Expenditures</b>	<b><u>\$34,550,252</u></b>	<b><u>\$34,607,372</u></b>

Expenditures during the audited period were relatively stable with only nominal fluctuations. Decreases in personal services during the audited period were the result of budgetary constraints including a hiring freeze, layoffs, and an early retirement incentive for employees, which were offset by annual salary increases. Increases in contractual services were due to increases in (1) nonprofessional services for the hiring of temporary workers to assist with daily operations due to decreases in permanent staff, and (2) professional services for forensic testing and evaluations needed due to increases in capital defense cases.

In addition to General Fund expenditures, the Agency purchased equipment through the Capital Equipment Purchases Fund totaling \$163,254 and \$109,042 for the fiscal years ended June 30, 2003 and 2004, respectively. The funds were used primarily to purchase new computers and software to enhance the case tracking system and upgrade other automated resources.

## CONDITION OF RECORDS

Our review of the Public Defender Services Commission's records revealed the following area that requires improvement:

### **Late Commission Report Filing:**

*Criteria:* Section 51-291, subsection (2), of the General Statutes requires that the Chief Public Defender submit to the Commission a report that includes pertinent operating data such as costs, projected needs, and recommendations for statutory changes. The Chief Public Defender is to submit this report to the Commission between August 15<sup>th</sup> and September 15<sup>th</sup> of each year; and, the Commission, prior to October 15<sup>th</sup>, is required to submit the report with other pertinent information to the Chief Justice, the Governor, and members of the Judiciary Committee of the General Assembly.

*Condition:* As noted in the previous and current audited periods, the annual report is not given to the Commission until December following the end of the fiscal year. The formal reports for the fiscal years ended June 30, 2003 and 2004 containing costs, resources, caseloads, and statistics were issued by the Commission on January 1, 2004 and 2005, respectively. A separate summary of legislative proposals for statutory changes for each new calendar year is included with the reports.

*Effect:* The reports were filed after the due date required by the statute. However, the report and legislative proposals appear to have met the needs of its users and did not adversely affect the effectiveness of the information when issued in January.

*Cause:* The annual report was not completed within statutory guidelines due to certain information not being available until a later date.

*Recommendation:* The Chief Public Defender and the Commission should comply with the reporting dates established by the Statutes for submitting its annual report. (Recommendation 1.)

*Agency Response:* "The statutory dates for submission of a report annually by the Chief Public Defender to the Public Defender Services Commission and by the Commission to the Governor, Chief Justice and Judiciary Committee of the General Assembly were established by statute in 1974 at the time of the creation of the Division of Public Defender Services. Since that time experience has revealed that the information required for preparation of the report, including caseload data for the previous fiscal year and budgetary information for the prior and current year, is not complete and available in sufficient time to prepare the report in accordance with the statutory dates. Accordingly, it has been the practice to submit the report

at a later date when a useful, complete and effective report can be provided. This is done annually to coincide with the start of the legislative session. Following the issuance of this finding as part of the previous audit, the Chief Public Defender included a recommendation in the 2003 Annual Report for a statutory change and requested the General Assembly to amend the statutory dates in accordance with the schedule that is used in actual practice. Since no action was taken on this request in the 2004 session, a similar recommendation for statutory change was included in the 2004 Annual Report and the Office of Chief Public Defender is currently working to have this change implemented in the 2005 session of the General Assembly.”

## RECOMMENDATIONS

Our prior report on the Public Defender Services Commission contained four recommendations. The Agency has taken action to resolve three of the recommendations and the other one is being repeated as the result of our current examination. The status of the prior recommendations is presented below:

### *Status of Prior Audit Recommendations:*

- *Receipts should be deposited and reported in a timely manner to ensure compliance with Section 4-32 of the General Statutes.* The Agency appears to be depositing and reporting its receipts in a timely manner; therefore, this recommendation is not being repeated.
- *Improvements need to be made to the Agency's expenditure payment process to comply with established guidelines and regulations.* The Agency has improved its expenditure payment process to include the correct recording of receipt and document dates; therefore, this recommendation is not being repeated.
- *The Agency should comply with software inventory and reporting requirements.* The Agency has improved its software inventory and reporting requirements by preparing an annual software inventory report and updating its software database with specific identification numbers and acquisition details. As a result, this recommendation is not being repeated.
- *The Chief Public Defender and the Commission should comply with the reporting dates established by the Statutes for submitting its annual report.* Even though the Chief Public Defender has initiated a statutory change to file its annual report to appropriate officials from the current date of October 15<sup>th</sup> to January 31<sup>st</sup>, the change has not been approved. Therefore, the recommendation will be repeated. (See Recommendation 1.)

### *Current Audit Recommendations:*

- 1. The Chief Public Defender and the Commission should comply with the reporting dates established by the Statutes for submitting its annual report.**

#### Comment:

Statutes require that pertinent information be submitted by the Chief Public Defender to the Public Defender Services Commission by September 15<sup>th</sup> and that the Commission issue its annual report prior to October 15<sup>th</sup>. The annual reports for the fiscal years ended June 30, 2003 and 2004 were not issued until the following January 1<sup>st</sup>.

## 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 for the fiscal years ended June 30, 2003 and 2004. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations and contracts, and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts, and grants applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Public Defender Services Commission for the fiscal years ended June 30, 2003 and 2004, are included as 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 complied in all material or significant respects with the provisions of certain laws, regulations and contracts and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

### **Compliance:**

Compliance with the requirements of laws, regulations, contracts, and grants applicable to the Public Defender Services Commission is the responsibility of the Public Defender Services Commission's management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, contracts, and grants, 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 Agency's financial operations for the fiscal years ended June 30, 2003 and 2004, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants. However, providing an opinion on compliance with these 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 that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial or less than significant instances of noncompliance that are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

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

The management of the Public Defender Services Commission is responsible for establishing and maintaining effective internal control over its financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts, and grants applicable of the Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Public Defender Services Commission's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts, and grants and not to provide assurance on the internal control over those control objectives.

Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be material or significant weaknesses. A material or significant 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 noncompliance with certain provisions of laws, regulations, contracts, and grants or failure to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency 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 internal control that we consider to be material or significant weaknesses.

This report is intended for the information of 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 Office of Chief Public Defender during this examination.

William T. Zinn  
Associate Auditor

Approved:

Kevin P. Johnston  
Auditor of Public Accounts

Robert G. Jaekle  
Auditor of Public Accounts