

STATE OF CONNECTICUT



*AUDITORS' REPORT
PUBLIC DEFENDER SERVICES COMMISSION
COMMISSION ON CHILD PROTECTION
FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2008*

AUDITORS OF PUBLIC ACCOUNTS

KEVIN P. JOHNSTON ❖ ROBERT G. JAEKLE

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April 28, 2011

**AUDITORS' REPORT
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COMMISSION ON CHILD PROTECTION
FOR THE FISCAL YEARS ENDED JUNE 30, 2007 and 2008**

We have made an examination of the financial records of the Public Defender Services Commission for the fiscal years ended June 30, 2007 and 2008, and the Commission on Child Protection for the fiscal year ended June 30, 2008. 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 and the Commission on Child Protection. 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.

PUBLIC DEFENDER SERVICES COMMISSION

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 Public Defender Services Commission is within the Judicial Department for administrative purposes only. It maintains 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 Commission.

PUBLIC DEFENDER SERVICES COMMISSION MEMBERS:

Members of the Public Defender Services Commission at June 30, 2008, were as follows:

	<u>Term Expires September 30,</u>
Attorney Carl D. Eisenmann, Chairman	2010
Honorable Paul Matasavage	2009
Honorable Susan S. Reynolds	2009
Attorney Thomas J. Rechen	2012
Attorney Ramona Mercado-Espinoza	2010
Rev. Monsignor William A. Genuario	2012
Aimee Golbert	2010

Section 51-290 of the General Statutes provides for the appointment of a Chief Public Defender by the Public Defender Services 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 served as Chief Public Defender until his retirement on September 1, 2006. Susan O. Storey was appointed Chief Public Defender on that date, and continued to serve in that capacity during the audited period.

SIGNIFICANT NEW LEGISLATION:

Public Act 08-51 sets minimum penalties for persistent dangerous felony offenders and, in some instances, increases the maximum penalties for these offenders. The Act also makes a number of appropriations to criminal justice agencies, including the Public Defender Services Commission, which was appropriated \$512,000 to enhance the legal defense of indigent defendants and handle increase prosecutions. This appropriation is for fiscal year 2009-2010.

RÉSUMÉ OF OPERATIONS-PUBLIC DEFENDER SERVICES COMMISSION:

General Fund:

General Fund receipts totaled \$23,717 and \$18,526 for the fiscal years ended June 30, 2007 and 2008, respectively. Not included in the above receipts is a \$25 fee that the Commission collects from clients as reimbursement of public defender services unless clients are indigent and cannot pay, under the "client reimbursement program". This fee, implemented during fiscal year 1992-1993, provides the Public Defender Services Commission with additional funds to augment the Agency's appropriation for public defender services, totaled \$99,470 and \$99,250 during fiscal years 2006-2007 and 2007-2008, respectively. These receipts were accounted for primarily as reductions in

personal services expenditures, and not as revenue to the General Fund, and represent approximately thirty percent of the gross amount billed each fiscal year. The remaining amounts not collected are written off as uncollectible, and in fiscal years 2006-2007 and 2007-2008, totaled \$226,354 and \$253,635, respectively.

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, 2006 totaled \$40,273,567. A summary of expenditures for the audited fiscal years are shown below:

	<u>Fiscal Year Ended June 30,</u>	
	<u>2007</u>	<u>2008</u>
Budgeted Accounts:		
Personal services	\$31,586,734	\$34,852,459
Other Expenses	1,441,861	1,677,948
Equipment	1,000	100
Special Public Defenders-Contractual	2,714,973	3,044,467
Special Public Defenders-Non-Contractual	4,733,605	5,878,345
Expert Witness Fees	1,714,964	1,865,646
Training and education	80,283	98,314
Child Protection	197,164	0
Contracted Attorneys for Civil Matters- Juvenile and Family	<u>9,191,718</u>	<u>0</u>
Total General Fund Expenditures	<u>\$51,662,302</u>	<u>\$47,417,279</u>

General Fund budgeted account expenditures increased by \$11,388,735 and decreased by \$4,245,023 during the fiscal years ended June 30, 2007 and 2008, respectively. “Personal services”, “Contractual Services for Special Public Defenders”, “Expert Witness Fees”, and “Contracted Attorneys for Civil Matters-Juvenile and Family”, accounted for the majority of increases in expenditures during the audited period. Note, however, that the expenditures for “Contracted Attorneys for Civil Matters Juvenile and Family” were made against a Public Defender Services Commission’s appropriation for only the one fiscal year, 2006-2007, after which it became an appropriation of the newly created Commission on Child Protection (see other section of this report). Prior to fiscal year ended June 30, 2007, this function was administered from a Judicial Department appropriation. Lastly, expenditures for “Special Public Defenders-Contractual” and “Special Public Defenders-Non-Contractual” represent payments made to private attorneys representing indigent clients when potential conflicts of interest prevent the appointment of a full-time public defender.

Increases in personal services expenditures were primarily attributable to an increase in total filled positions and general wage increases. As of June 30, 2008, the Public Defender Services Commission had 400 full-time employees, up 19 positions from the June 30, 2006 total of 381.

Special Revenue Fund – Federal and Other Restricted Accounts:

The Commission’s Federal and Other Restricted Accounts receipts totaled \$901,241 and \$245,310 for the fiscal years ended June 30, 2007 and 2008, respectively. For comparative purposes, Federal and other restricted receipts for the fiscal year ended June 30, 2006 totaled \$1,612,367.

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The following is a comparison of receipts for the fiscal years audited:

	<u>Fiscal Year Ended June 30,</u>	
	<u>2007</u>	<u>2008</u>
Federal restricted accounts	\$ 811,116	\$ 198,279
Other-than-Federal restricted accounts	<u>90,125</u>	<u>47,031</u>
Total Federal and Other Restricted Accounts Receipts	<u>\$ 901,241</u>	<u>\$ 245,310</u>

Federal and Other Restricted Accounts receipts of the Commission consisted primarily of Federal aid and State matching contributions. Receipts decreased by \$711,126 (44 percent) and \$637,405 (71 percent) during the fiscal years ended June 30, 2007 and 2008, respectively, and were primarily due to reductions in Federal grant funding levels. Federal receipts during the audited period are shown below:

	<u>Fiscal Year Ended June 30,</u>	
	<u>2007</u>	<u>2008</u>
Public Defender Conference	0	\$198,279
Juvenile Justice and Delinquency Prevention Act	<u>811,116</u>	<u>0</u>
Total Federal Receipts	<u>\$ 811,116</u>	<u>\$ 198,279</u>

The Juvenile Justice and Delinquency Prevention Act grant funds were used for the expansion of juvenile public defender offices, including the hiring of additional attorneys and social workers associated with the increases in juvenile cases.

Federal and Other Restricted Accounts expenditures totaled \$882,546 and \$206,871 for the fiscal years ended June 30, 2007 and 2008, respectively. Expenditures primarily consisted of personal services, related fringe benefits, and miscellaneous costs for the various Federal and State programs.

Capital Equipment Purchases Fund:

Expenditures from the Capital Equipment Purchases Fund totaled \$221,947 and \$449,324 during fiscal years ended June 30 2007 and 2008, respectively. These expenditures were made primarily for IT hardware, data processing, and office equipment.

CONDITION OF RECORDS

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

Special Public Defenders' Expenditures:

Criteria: The Division of Public Defender Services Administrative Policies and Procedures Manual states "all requests for expert services must be in writing and submitted on a form prescribed by the Office of Chief Public Defender. Customary and usual expenses (i.e. transcripts, forensic and investigative services, competency evaluations, drug dependency evaluations, copying and photography processing) in excess of \$500 must be authorized by the Chief or Deputy Chief Public Defender prior to incurring such expense."

Per emails dated 11/14/07 and 11/21/2007 from the Deputy Chief Public Defender, all authorization and invoices for expert expenses from special public defenders should be sent directly to the Central Office for approval, to preserve client confidentiality in conflict cases.

Section 4-98 of the Connecticut General Statutes states "no budgeted agency ...shall incur any obligation, by order, contract or otherwise, except by the issue of a purchase order or any other documentation approved by the Comptroller".

The State Accounting Manual (SAM) states "an agency employee must certify the accuracy and completeness of expenditure documents; determine that the payment has a receipt document and purchase order/contract..."

Condition: Our review of the Division of Public Defender expenditures for expert services revealed the following deficiencies:

1. In six out of eight applicable vouchers, the initial and/or the supplemental authorizations to incur expense were approved by the Chief or Deputy Chief Public Defender approximately three days to two months after the service was rendered. The six vouchers totaled \$7,325.

2. In one out of eight applicable vouchers, the authorizations to incur expenditures estimated at \$2,500 (actual cost \$1,440) were not obtained from the Chief or the Deputy Chief Public Defender. The expenditures were instead approved by the Administrative Assistant to the Deputy Chief Public Defender.

3. In two out of five applicable vouchers, the authorizations to incur expenditures were not approved by the Public Defender/Supervising Assistant Public Defender. These vouchers were prepared prior to a

November 14, 2007 policy change which omitted this approval to preserve client confidentiality in conflict cases.

4. In four out of six applicable vouchers, valid commitment documents (purchase orders) were not on file prior to the receipt of the goods or services, totaling \$26,665.

5. We found that approximately one half of the invoices submitted for the month of August 2007 to various office locations were not stamped and/or signed confirming that the goods or services had been received.

Cause: A lack of administrative oversight appears to be the cause.

Effect: Expenditures made were not properly supported by a valid authorization and/or commitment documents. This could result in the funds not being available for payment. In addition, the agency was not in compliance with established policies.

Recommendation: The Public Defender Services Commission should strengthen internal controls over the purchasing, receiving, and expenditure function. (See Recommendation 1).

Agency Response: “1. Authorizations signed after expense incurred. Memorandum sent (and will be re-sent) reiterating that all expenses must be approved by this office prior to the expense being incurred; If policy set forth in (a) is not followed, the attorney must submit a detailed explanation as to why (a copy of the letter requiring the explanation is attached); and, if violations persist, the Special Public Defender may be removed from the approved list.

2. Approvals signed by the Administrative Assistant to the Deputy Chief Public Defender. This practice has ceased.

3. Office heads did not approve expenditures by Special Public Defenders. Due to a change in procedure office heads no longer approve expenditure requests by Special Public Defenders, so this is no longer an issue.”

Special Public Defenders’ Agreements:

Criteria: The three types of authorization documents utilized to assign caseloads to a Special Public Defender include an Annual Agreement, an Amendment of Agreement, and/or a Notice of Appointment. The Annual Agreement stipulates “In the JD/GA, the attorney will accept no more than (a set number) cases during the term of this agreement.” The Chief Public Defender is authorized to contract with the Attorney/Firm for additional cases through an Amendment of Agreement which states that during the period of the Agreement no more than (a set number) cases will be accepted by the firm or paid by the Commission. Finally, a Notice of Appointment is utilized for

all out-of-contract cases assigned to a Special Public Defender (effective with fiscal year 2007-2008, this is needed for all SPD assignments).

The Annual Agreement between the Public Defender Services Commission and the Special Public Defender stipulates “during the term of this agreement, the Attorney shall also complete six (6) hours of professional education or training ... and certify in writing to the Director of Special Public Defenders that such education or training has been completed”.

Condition: We found several issues relating to Special Public Defender contracts:

1. One Special Public Defender (SPD) in the Danielson GA location was assigned two more cases than the contract allowed.
2. One SPD’s professional education training certification was received ten days before the starting date of the contract period.
3. Three out of 13 Notice of Appointments were not on file for cases assigned to a SPD in the Rockville GA location.
4. One SPD overpayment for the fiscal year 2007-2008 contract for the Norwich GA was mathematically incorrect. We noted a discrepancy of \$243.75.
5. The Public Defender Services Commission does not have a formal policy documenting the selection of SPDs for out-of-contract cases.
6. The Public Defender Services Commission does not have a formal policy defining when a contracted attorney has fulfilled his contractual obligation and thus is entitled to payment.”

Effect: Inadequate policy and lack of controls can result in inconsistency of operation which can lead to inefficiencies and State funding not being effectively utilized.

Cause: It appears administrative oversight is the cause of these exceptions.

Recommendation: The Public Defender Services Commission should establish formal policies and procedures governing Special Public Defender operations. Monitoring efforts for Special Public Defender caseload assignments should be improved. (See Recommendation 2).

Agency Response: “1. The new Agreements specify the circumstances upon which a Special Public Defender (SPD) can receive case assignments beyond the contract amount. This is accomplished by assigning all cases beyond the contract case allotment as hourly assignments only. The contract language is as follows:

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The Contractor hereby agrees to accept cases assigned in accordance with Section 4A and accept flat rate payment in accordance with Section 3A(1) of this Agreement. Each Contractor agreeing to take case assignments at a flat rate will be awarded a total number of cases for each individual venue for the entire fiscal year. The contract period case assignment totals shall establish the maximum number of cases to be assigned from that particular public defender office, however shall not be considered a guarantee of cases to be assigned. Cases will be assigned dependent on the needs of the particular public defender office and the number of ethical conflicts that arise during the period of this Agreement. If the need arises to assign cases beyond the total number of this Agreement and the local public defender office has cases available to assign, the Contractor may accept additional cases in accordance with Sections 3A(2) and 4A(2) of this Agreement at the applicable hourly rate.

2. The new agreements include language requiring that SPDs attend 6 hours of training during the course of the fiscal year. The SPD must complete this requirement each year in order to renew his/her contract.

3. In FY 2010-2011 there will be staff dedicated to monitoring and recording the Notice of Appointment forms for each SPD assignment.

4. Closer scrutiny of mathematical calculations of payments is currently in place. In addition, there will no longer be any partial case payments beginning in fiscal year 2010-2011.

5. All SPDs must sign a written agreement including those only taking out-of-contract (hourly) assignments. These agreements specifically address all aspects of hourly case assignments and payment.

6. The new agreements have language that requires a SPD to have performed at least 10 hours of documented work on a file or he/she will not receive credit for, and therefore not be paid for, the case.”

Property Control Issues:

Criteria: The State Comptroller’s Property Control Manual provides policies and procedures for physical and reporting controls over capital assets.

Condition: Our review of equipment inventory and reporting disclosed the following deficiencies:

1. We found the annual Asset Management Inventory Report (CO-59) contained several exceptions: inclusion of equipment items purchased for less than \$1,000, inclusion of equipment owned by another agency, exclusion of capitalized equipment, omission of deleted equipment, the utilization of capital equipment reported as disposed, lack of approval before disposing

equipment, inappropriate usage of the Capital Purchase Equipment Fund, loss or damage to State-owned property not reported on Form CO-853, and the equipment ending balances were not supported. Additionally, PDSC did not report 22 owned vehicles to the State Comptroller's Office on Form CO-648b in a timely manner.

2. Our review of the annual physical inventory conducted by PDSC revealed that the June 30 inventory date reported on the CO-59 for each audited year was inaccurate. Apparently, physical inventory was conducted at the Hartford Central Office (OCPD) on or after 10/24/2007. A physical inventory for fiscal year 2008-2009 was not conducted as of 7/21/09.

3. From a sample of 20 equipment items selected from the inventory records, one was not located, one did not contain the name of the agency, and a group of office furniture was not tagged. Additionally, two desks (not included in our sample) found at the Hartford Central Office (OCPD) were not tagged.

4. From a sample of ten equipment items identified by a random inspection of various office locations, one equipment item found was not reported in the Core-CT Asset Management Module.

Effect: The conditions noted above weaken internal control over equipment inventory and reporting.

Cause: The deficiencies noted between Core-CT and the CO-59 Inventory Report ending balances were partly due to several assets not loaded into Core-CT. Additionally, as a result of agency personnel's misinterpretation of Comptroller's Memorandum No. 2001-61, equipment items with a unit price of less than \$1,000, purchased with the Capital Equipment Purchase Fund, were capitalized. A lack of administrative oversight appears to be the cause for the other deficiencies noted.

Recommendation: The Public Defender Services Commission should improve controls over State property as required by the State Comptroller's Property Control Manual. Additionally, the Public Defender Services Commission should transfer all equipment purchased for the Commission on Child Protection to that agency. (See Recommendation 3).

Agency Response: "1. The Office of Chief Public Defender is committed to maintaining an accurate accounting and property control system.
2. Audit findings have been reconciled in the Core-CT Asset Management Module.
3. We have re-categorized personal property that has a value less than \$1,000.
4. OCPD has transferred equipment owned by another agency to that agency.
5. The Agency has retired disposed assets and capitalized assets over \$1,000.
6. The Agency has accounted for and reported agency-owned vehicles and submitted revised CO-59 to accurately reflect agency owned assets.

7. During the physical audit conducted for FY08-09, the Agency labeled furniture that was found to have missing tags. Going forward, this Agency will conduct a timely physical inventory of Agency owned assets to ensure that State property is accounted for more accurately.”

Payroll / Personnel Matters - INS Form I-9, Evaluations, Timesheets:

Criteria:

1 - The “Immigration Reform and Control Act of 1986” requires employers to complete the U.S. Department of Justice INS Form I-9. The form is now known as the U.S. Department of Homeland Security CIS Form I-9, and is required for any employee hired after November 6, 1986.

“All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. On the form, the employer must verify the employment eligibility and identity documents presented by the employee and record the document information on the Form I-9.”

“Form I-9 must be kept by the employer either for three years after the date of hire or for one year after employment is terminated, whichever is later. The form must be available for inspection by authorized U.S. Government officials (e.g., Department of Homeland Security, Department of Labor, Office of Special Counsel).”

2 - The Division of Public Defender Services’ (DPDS’) Administrative Policies and Procedures Manual outlines guidelines to be followed for annual performance evaluations and the awarding of annual increments.

The policy states, “No employee shall receive an annual salary increase if a service rating indicating unsatisfactory performance has been filed with the Office of Chief Public Defender by the employee’s supervisor.”

The policy further states, “Pursuant to the collective bargaining contracts covering certain employees and the policy of the Public Defender Services Commission, the performance of all Division employees is reviewed by the employee and his / her supervisor at least once a year.”

“All Public Defenders, Executive Assistant Public Defenders, Supervisory Assistant Public Defenders, Senior Assistant Public Defenders, Assistant Public Defenders and Deputy Assistant Public Defenders shall be evaluated annually as to their performance in accordance with the following requirements: Supervisory attorneys shall complete a written evaluation of each attorney under their supervision in accordance with criteria established by the Chief Public Defender. Supervisory attorneys shall meet with each attorney to discuss the attorney’s performance and review the written report...”

“Supervisory attorneys shall be evaluated annually by the Chief Public Defender or Deputy Chief Public Defender, or their designee in accordance with the same procedures as set forth...” above.

1, 2 - General Statutes Section 11-8 - Records management program, and General Statutes Section 11-8b - Transfer or disposal of public records outline the record retention requirements.

3 - Sound business practices and proper internal control provide assurances that employees are only compensated for hours worked. Proper internal control also provides for verification, approval, and custody of employees’ timesheets.

Sound business practices also suggest individual “positive type” timesheets be prepared and signed by each employee and approved by their supervisor to indicate hours worked and leave taken. These approved timesheets should then be used to prepare the payroll, and for posting to the attendance and leave records.

OMB Circular A-87 specifies that personnel activity reports or equivalent documentation must be completed for employees. To meet the requirements, they must reflect an after-the-fact distribution of the actual activity of each employee, account for the total activity for which each employee is compensated, coincide with one or more pay periods, and be signed by the employee.

Condition:

1, 2 - Exceptions were noted for 16 of 18 employees’ personnel files reviewed.

1 - The U.S. Department of Justice INS I-9 Forms were incomplete, incorrectly filled out, or not on file for 10 of the 14 sampled employees who were hired after November 6, 1986. I-9 Forms were not on file for six of the 14, three of the eight I-9 Forms on file were incomplete, and one of the eight on file was incorrectly filled out. Four of the 18 employees did not require I-9 Forms.

2 - We found that evaluations were not on file or had not been prepared for many years for most employees in our sample, and there was one instance where the most recent evaluation was for 2002 despite the fact that they were required by policy. Annual increases were awarded despite the fact that there were no evaluations on file.

Evaluations covering the audit period were not on file for 10 of the 15 sampled employees where evaluations were required. Three of the 18 sampled employees did not require evaluations during the audit period.

No evaluations were on file for three of the 17 sampled employees for the

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entire period of their employment, despite them being required at some point during their employment. Each of these employees has over 20 years of service.

3 - We found that DPDS does not use individual “positive type” timesheets prepared and signed by each employee. The agency uses a biweekly attendance form, prepared in duplicate, that contains all of the employees on one or two pages. It is prepared by an attendance clerk and sometimes only shows leave taken. The original copy is approved by the supervisor. The original that is approved by the supervisor is sent to the Chief Public Defender’s Office, but it lacks the employees’ initials. The original is used to prepare the payroll and post to Core-CT. The duplicate copies are initialed but not signed by the employees, and are retained at the local office.

Effect:

1, 2, 3 - The agency is in violation of the above requirements. Personnel records are incomplete.

1 - “An individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.”

2 - Annual increases have been awarded that were not supported by the required evaluations. Based on the lack of required evaluations in the personnel files, it is impossible to determine how the employees who received annual increases would have been rated. However, with such weak controls and poor oversight in this area, the possibility exists that employees may receive annual increases despite the fact that they could have been rated as unsatisfactory if the evaluation process was followed, and would therefore be ineligible.

The lack of evaluations, and the failure of managers to meet with their subordinates does not comply with DPDS’ Administrative Policies and Procedures Manual, and results in the loss of an effective management tool.

3 - Internal control over this area is weakened. There was noncompliance with OMB Circular A-87.

Cause:

1, 2 - DPDS’ failure to maintain their personnel files in accordance with State and Federal requirements.

2 - DPDS’ failure to follow their Administrative Policies and Procedures Manual.

3 - DPDS’ failure to implement and follow sound business practices and proper internal control procedures.

Recommendation: 1, 2 - The Division of Public Defender Services should ensure that personnel

files are complete for all current employees, including having INS Form I-9s and employees' performance evaluations on file. DPDS should also follow the records retention requirements.

2 - Evaluations should be prepared on a timely basis, and in accordance with Division policy and sound business practices.

3 - 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 Circular A-87. These signed timesheets should be used to prepare the payroll and to post the time and attendance in Core-CT. (See Recommendation 4).

Agency Response:

"1. I-9 Forms (Immigration Reform and Control Act of 1986—requiring a completed form to be on file for all employees hired after November 6, 1986).

In late 2009 we reviewed and revised our process to improve the accuracy, uniformity and appropriate retention of related documents, according to federal and state requirements. All new employees of the Division are required to meet with Human Resources at OCPD within the first three days of their employment to provide required documents and to complete necessary forms. A member of the Human Resources staff is responsible for reviewing and copying documentation provided, as well as completing and signing the form on behalf of the employer. Forms are then filed accordingly. The Act requires the I-9 forms be completed within the first 3 days of employment. In the rare event a new employee is unable to make it to the Hartford office within the first three days of employment, the office supervisor is required to complete the process on behalf of the employer and send the supporting documentation to the OCPD for appropriate filing. Federal guidelines require that we address issues once identified - e.g. acquire I-9s from employees still employed but no form on file and correct those with incomplete information.

#2. Performance Evaluations/Annual Increments.

In order to improve compliance with the completion and delivery of performance evaluations, efforts will continue by providing reminders and support for supervisors and employees in the process. Manager training was recently conducted for all supervisors/office heads. Performance Management and the evaluation process was a component of the training. Additionally, reminders are sent to all supervisors to ensure they are aware of annual increment dates for all of their staff and the timeframes required for completing and delivering evaluations.

#3. Proper internal controls for verification, approval and custody of employees' timesheets.

In order to strengthen the Agency's process for verification, approval and custody of employees' timesheets, we plan to transition to individual "positive type" timesheets prepared and signed by employees and approved by their supervisor. Approved timesheets will be used to post to attendance and leave records and for preparation of the payroll."

COMMISSON ON CHILD PROTECTION

COMMENTS

FOREWORD:

The Commission on Child Protection operates under the provisions of Title 46b, Chapter 815t of the Connecticut General Statutes. The Commission on Child Protection (COCP) was created pursuant to Public Act 05-03 of the June Special Session of the 2007 General Assembly, effective October 1, 2005, and placed within the Public Defender Services Commission for administrative purposes only. The eleven-member Commission appoints a Chief Child Protection Attorney as its executive director, who is 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 may contract for such legal services, and is responsible for monitoring such services, including providing initial and in-service training to contractors as well as establishing training, practice and caseload standards.

Public Act 07-159 modified a number of laws governing the Commission on Child Protection and the Chief Child Protection Attorney. Effective July 1, 2007, the COCP became an independent agency, with a separate appropriation; however, the PDSC still provides certain administrative services to the Commission.

The Office of the Chief Child Protection Attorney is comprised of the Administrative Program, the Financial Programs, the Juvenile Matters Contract Attorneys, the Family Matters Contempt and Paternity Attorneys, and the Family Matters AMC/GAL Attorneys units.

Carolyn Signorelli was appointed as the Chief Child Protection Attorney on April 1, 2006 and continues to serve in that capacity.

COMMISSION ON CHILD PROTECTION MEMBERS:

The members of the Commission on Child Protection are appointed as follows: two superior court judges appointed by the Chief Justice of the Supreme Court, one member appointed each by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the majority leaders of the Senate and the House of Representatives, and the minority leaders of the Senate and the House of Representatives, and three members appointed by the Governor, one of whom shall serve as chairperson. As of June 30, 2008, the members of the Commission were as follows:

Anthony Lazzaro, Chairman
Monique Ferraro
Shelley Geballe
Tom Foley
Gregory Stokes, Sr.
Anthony Candido

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Paul Chill
Ann P. Dandrow
Judge Michael Mack
Judge John Turner

According to Section 46b-123c, subsection (d), of the General Statutes, members shall serve without compensation, but shall be reimbursed for actual expenditures incurred while engaged in the duties of the Commission.

RÉSUMÉ OF OPERATIONS-COMMISSION ON CHILD PROTECTION:

General Fund:

General Fund receipts totaled \$1,503 during fiscal year 2007-2008 and represented, primarily, refunds of current year expenditures.

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

	<u>Fiscal Year Ended June 30,</u>	
	<u>2007</u>	<u>2008</u>
Budgeted Accounts:		
Personal services	\$0	\$573,768
Other expenses	0	181,835
Training for Contracted Attorneys	0	193,000
Contracted Attorneys for Civil Matters- Juvenile and Family	0	10,828,655
Contracted Attorneys Related Expenses	0	150,435
Equipment	<u>0</u>	<u>3,226</u>
Total General Fund Expenditures	<u>\$ 0</u>	<u>\$11,930,919</u>

As noted above, the COCP became an independent agency effective July 1, 2007. Expenditures for the COCP for the fiscal year 2006-2007 were made out of the Public Defender Services Commission's budgeted appropriations. The budgeted account, "Contracted Attorneys for Civil Matters-Juvenile and Family," comprised 91 percent of the Commission's total expenditures during the fiscal year 2007-2008. As described previously, this budgeted account was transferred from the Judicial Department to the Public Defender Services Commission in fiscal year 2006-2007, and then to the Commission on Child Protection starting in fiscal year 2007-2008. Expenditures for this account increased eighteen percent over the fiscal year 2006-2007 level of \$9,191,718 (see expenditures for PDSC earlier).

According to the Commission's Annual Report, during fiscal year 2007-2008, the COCP contracted with over 250 licensed attorneys and several general practice firms and non-profit legal service organizations, which together represented nearly 17,000 clients. During this fiscal year some contracted attorneys were paid a flat fee of \$500 per case to represent clients up to 30 hours per client, and other contracted attorneys were paid on an hourly basis, at \$40 per hour. Attorneys who become "certified child protection attorneys" received \$75 per hour.

During fiscal year 2007-2008, as part of a pilot program, the COCP issued a “Request for Proposal” for non-profit legal service organizations to provide a “multidisciplinary” approach to child representation in two juvenile courts. The multidisciplinary approach, according to the contract, is “intended to provide holistic representation of the child client consistent with his or her wishes and/or the best interest in relation to but not limited to advancing the appropriate adjudication and disposition of the underlying petition; securing the appropriate residential and educational placement; formulating and executing a permanency plan; ensuring visitation, when appropriate with parents, guardians, siblings and other visiting resources; and assisting with transition planning if the child client will still be in care upon turning 18 years of age, including helping to secure a life long permanent family resource.” As a result of the RFP process, contracts were awarded to two non-profit legal service entities to represent clients in the New Haven and Waterford Juvenile Courts. This program area is discussed further in the “Condition of Records” section of this report.

As of June 30, 2008, the Commission on Child Protection had nine full-time employees.

Capital Equipment Purchases Fund:

Expenditures from the Capital Equipment Purchases Fund totaled \$80,000 during the 2007-2008 fiscal year. These funds were used to acquire “Kidvoice,” an attorney data base and billing system.

Other Matters:

During our 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 thirty dates, for which this attorney billed both States, determined that the total number of hours billed ranged from 16 and 23.05 hours a day, an average of about 20 hours per day. At the time of our fieldwork, the other State was conducting an audit of the attorney’s billings to that State, the findings of which will be provided to the Commission on Child Protection for its review and possible action.

Subsequent to the end of our fieldwork, we were informed that the other State in question completed its investigation into this matter and recommended certain sanctions be imposed, including the repayment of nearly \$90,000, representing 50 percent of the amounts paid to the attorney by that State. Based on this, it is our understanding that the Commission on Child Protection will now refer this case to the Office of the Attorney General.

CONDITION OF RECORDS

Our review of the Commission on Child Protection records revealed the following areas that require improvement.

Personal Services Agreements with Not-For-Profit Legal Service Agencies:

Background:

During fiscal year 2007-2008, the Commission on Child Protection issued a “Request for Proposal” for the establishment of one or more pilot programs for a “Model Child Welfare Office” in one or more of the Juvenile Courts located in the State. A total of four proposals were submitted; however, one proposal was disqualified because it did not conform to requirements, according to the Commission. The three remaining proposals were evaluated by a screening committee which ranked the New Haven Legal Assistance Association, Inc. (NHLAA, Inc.) first, the LCA Village for Families (LCA-VFF) second, and Southeastern Connecticut Center for Juvenile Justice, Inc. (SECCJJ, Inc.) third. The LCA-VFF was not selected because of a cost item issue in the proposal, according to the Commission. As a result, the SECCJJ, Inc. was selected. The Chief Child Protection Attorney awarded contracts, in the form of a personal services agreement, to the NHLAA, Inc. in the amount of \$1,581,921, and to the SECCJJ, Inc. for \$1,249,250. Each contract period runs from May 1, 2009 through August 31, 2010, a period of 28 months, with a provision for an extension of this initial term. During this contract period the NHLAA, Inc. and the SECCJJ, Inc. agreed to accept 600 and 900 cases, respectively. The total contract amounts were paid in three payments as follows: for NHLAA, Inc.: \$836,686 on May 9, 2008, \$115,000 on June 19, 2008, and \$630,235 on March 23, 2009; for the SECCJJ, Inc.: \$674,750 on May 1, 2008, \$115,000 on June 19, 2008, and \$459,500 on March 23, 2009.

Criteria:

Section 46b-123d of the General Statutes states: “(a) The Chief Child Protection Attorney appointed under Section 46b-123c shall: (1) Establish a system to provide (A) legal services and guardians ad litem to children, youths and indigent respondents in family relations matters in which the state has been ordered to pay the cost of such legal services and guardians ad litem, provided legal services shall be provided to indigent respondents pursuant to this subparagraph only in paternity proceedings and contempt proceedings, and (B) legal services and guardians ad litem to children, youths and indigent legal parties in proceedings before the superior court for juvenile matters, other than legal services for children in delinquency matters. To carry out the requirements of this section, the Chief Child Protection Attorney may contract with (i) appropriate not-for-profit legal services agencies, and (ii) individual lawyers for the delivery of legal services to represent children and indigent legal parties in such proceedings.”

Section 3-117 of the Connecticut General Statutes states: “(a) Except as provided in subsection (b) of this section, upon the settlement of any claim against the State, the Comptroller shall draw an order on the Treasurer for its payment; but each such claim shall be submitted directly to the agency which ordered or received the articles or service for which such claim was made. The agency shall certify that such articles or services have been received or performed or, if not yet received or performed, are covered (1) by contracts properly drawn and executed, or (2) under procedures adopted by the Comptroller. Each claim against the state shall be supported by vouchers or receipts for the payment of any money exceeding twenty-five dollars at any one time, and an accurate account, showing the items of such claim, and a detailed account of expenses, when expenses constitute a portion of it, specifying the day when and purpose for which they were incurred.”

Condition:

Our review of these contracts found several questionable provisions, practices and contractual deviations that appear to be in violation of Section 3-117 of the General Statutes, which requires services to be received or performed prior to payment unless they are covered by contracts “properly drawn and executed”:

- There is no provision in the contracts for repayment of advanced payments in the event that the contractor fails to complete its required number of cases during the contract period.
- Contract payment expenditures were made without original vendor invoices having been submitted.
- The contracts allow the contractors to use any interest earned on the advanced funds for the Model Office operations.
- The SECCJJ, Inc. contract did not contain a detailed schedule of costs.
- The contract payments were made several days to several weeks before the latest contractually due dates, resulting in a loss of interest income to the State.
- There is no provision in the contracts pertaining to the ownership of equipment purchased with these funds.

Effect:

The statutory requirement of Section 3-117 of the General Statutes that requires contracts to be “properly drawn and executed” was not met. Additionally, State funds were not adequately protected from possible loss in the event of contractor nonperformance, and were not effectively utilized from a cash management perspective.

Cause:

The cause appears to be the Commission’s lack of experience in contracting with not-for-profit legal organizations.

Recommendation:

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

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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. (See Recommendation 1).

Agency Response: “When we chose the three payment dates for the Non-Profit law firms, it was in an effort to assist these new firms in start up costs. Payments were made without invoices; however the contract stated quarterly reports needed to be provided, which they were. They are required to enter all of their activities in the KIDS database, therefore we can monitor their case assignments to ensure they are meeting the contract guidelines and we can see the daily activity. The interest earned was noted in the actual budget reports and the new contracts were reduced, including the interest. The interest was not used for the non-profit operations. The budget forms containing the detailed schedule of costs were included in the RFP. It was listed in the RFP that all equipment purchased with State funds will remain State property. The cause listed is correct; this was our first issuance of contracts using the RFP method. However, the new contracts which went out in June 2010 covered all of these issues and language was provided before the contracts were signed.”

Attendance at the Commission on Child Protection Meetings:

Criteria: Section 46b-123c of the Connecticut General Statutes established the Commission on Child Protection, which is comprised of 11 members. Subsection (e) states the Commission may adopt such rules as it deems necessary for the conduct of its internal affairs.

The Commission adopted by-laws in accordance with Section 46b-123c, subsection (e), of the General Statutes. Article II, Section 1 (c) of the Commission’s by-laws states: “Attendance at all meetings is expected. The Chairperson shall review attendance and shall consult on an ongoing basis with Commission members who have had three absences. Incidences of protracted absences by a member shall be brought to the attention of the Commission for discussion. Upon a two-thirds vote by the Commission that such members should not continue as a member, such a vote shall be presented to the appointing authority for whatever action said appointing authority may see fit to take. Prior to the presentation of such vote to the appointing authority, said Commission member shall have the opportunity to show cause to the Commission why such a course of action should not be taken by the Commission.” Article III, Section 4 states: “At any meeting of the members of the Commission, a quorum will consist of the majority of the appointed members.”

<i>Condition:</i>	Since the establishment of the Commission in early 2006, a total of 18 meetings have been held (as of December 2009). No quorum was met on eight of those meetings. Overall, Commissioners' attendance has averaged just slightly over 50 percent. Some Commissioners have not been in compliance with Article II, Section 1 (c) of the Commission's by-laws; however, their continued membership has not been discussed and voted on by the Commission.
<i>Effect:</i>	Poor attendance may affect the Commission's ability to provide effective advice and oversight over the operations of the agency.
<i>Cause:</i>	The cause was not determined.
<i>Recommendation:</i>	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. (See Recommendation 2.)
<i>Agency Response:</i>	"In relation to the Commission's attendance record and oversight activities, it is our understanding that the Chair, Anthony Lazzaro, has been in communication with appointing authorities about non-attending Commission members in an effort to obtain new appointees who will hopefully be more interested and involved. Also, pursuant to a proposal of the Chief Child Protection Attorney, by-laws were adopted that include provisions for telephone participation and voting in writing when necessary in order to facilitate Commission members' participation."

RECOMMENDATIONS

Our prior report on the Public Defender Services Commission contained three recommendations. Two are being repeated in revised form, and one has been resolved. Two new recommendations are being presented as a result of our current examination.

Status of Prior Audit Recommendation:

Public Defender Services Commission:

- *The Public Defender Services Commission should improve controls over payroll by requiring employees to sign timesheets.* This recommendation is being repeated in revised form (See Recommendation 4).
- *The Public Defender Services Commission should comply with the State of Connecticut's Property Control Manual by maintaining accurate annual inventory reports and conducting a physical inventory of equipment on an annual basis.* This recommendation is being repeated in revised form. (See Recommendation 3).
- *The Public Defender Services Commission should remind public defenders to comply with their new policy and procedures for restitution monies collected.* We reported in our previous audit report that management brought to our attention that a special public defender had handled restitution funds in a manner contrary to policy by accepting funds from clients for restitution but not forwarding those funds to the victims. Subsequently, the former special public defender retired from State service, effective December 1, 2006, plead "no contest" in November 2007 to one count of larceny in the second degree, received a suspended sentence of five years in jail, and three years of probation. He also resigned from the Connecticut bar, and agreed to stop practicing law. In January 2007, the Public Defender Services Commission issued new procedures regarding restitution funds, designed to provide better internal control over the receipt and disbursement of restitution monies. Accordingly, this recommendation is not being repeated.

Commission on Child Protection:

There were no prior audit recommendations pertaining to the Commission on Child Protection. Two new recommendations are being presented as a result of our current examination.

Current Audit Recommendations:

Public Defender Services Commission:

- 1. The Public Defender Services Commission should strengthen internal controls over the purchasing, receiving, and expenditure function.**

Comment:

Our review of the Division of Public Defender non-personal expenditures revealed the following deficiencies: In six out of eight applicable vouchers, the initial and/or the supplemental authorizations to incur expense were approved by the Chief or Deputy Chief Public Defender approximately three days to two months after the service was rendered. The six vouchers totaled \$7,325. In one out of eight applicable vouchers, the authorizations to incur expenditures estimated at \$2,500 (actual cost \$1,440) were not obtained from the Chief or the Deputy Chief Pubic Defender. The expenditures were instead approved by the Administrative Assistant to the Deputy Chief Public Defender. In two out of five applicable vouchers, the authorizations to incur expenditures were not approved by the Public Defender/Supervising Assistant Public Defender. These vouchers were prepared prior to a November 14, 2007 policy change, which omitted this approval to preserve client confidentiality in conflict cases. In four out of six applicable vouchers, valid commitment documents (purchase orders) were not on file prior to the receipt of the goods or services, totaling \$26,665. We found that approximately one half of the invoices submitted for the month of August 2007 to various office locations were not stamped and/or signed confirming that the goods or services had been received.

- 2. The Public Defender Services Commission should establish formal policies and procedures governing Special Public Defender operations. Monitoring efforts for Special Public Defender caseload assignments should be improved.**

Comment:

We noted the following issues relating to Special Public Defender contracts: One Special Public Defender (SPD) in the Danielson GA location was assigned two more cases than the contract allowed. One SPD's professional education training certification was received ten days before the starting date of the contract period. Three out of 13 Notice of Appointment was not on file for cases assigned to a SPD in the Rockville GA location. One SPD overpayment for the fiscal year 2007-2008 contract for the Norwich GA was mathematically incorrect. We noted a discrepancy of \$243.75. The Public Defender Services Commission does not have a formal policy documenting the selection of SPD for out-of-contract cases. The Public Defender Services Commission does not have a formal policy defining when a contracted attorney has fulfilled his contractual obligation and thus is entitled to payment.

- 3. The Public Defender Services Commission should improve controls over State property as required by the State Comptroller's Property Control Manual. Additionally, the Public Defender Services Commission should transfer all equipment purchased for the Commission on Child Protection to that agency.**

Comment:

Our review of equipment inventory and reporting disclosed the following deficiencies: We found the annual Asset Management Inventory Report (CO-59) contained several exceptions including the inclusion of equipment items purchased for less than \$1,000, inclusion of equipment owned by another agency, exclusion of capitalized equipment, omission of deleted equipment, the utilization of capital equipment reported as disposed, lack

of approval before disposing equipment, inappropriate usage of the Capital Purchase Equipment Fund, loss or damage to State-owned property not reported on Form CO-853, and the equipment ending balances were not supported. Additionally, PDSC did not report 22 owned vehicles to the State Comptroller's Office on Form CO-648b in a timely manner. Our review of the annual physical inventory conducted by PDSC revealed that the June 30 inventory date reported on the CO-59 for each audited year was inaccurate. Apparently, a physical inventory was conducted at the Hartford Central Office (OCPD) on or after 10/24/2007. A physical inventory for fiscal year 2008-2009 was not conducted as of 7/21/09. From a sample of 20 equipment items selected from the inventory records, one was not located, one did not contain the name of the agency, and a group of office furniture was not tagged. Additionally, two desks (not included in our sample) found at the Hartford Central Office (OCPD) were not tagged. From a sample of ten equipment items identified by a random inspection of various office locations, one equipment item found was not reported in the Core-CT Asset Management Module.

4. **The Division of Public Defender Services should ensure that personnel files are complete for all current employees, including having INS Form I-9s 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 Circular A-87. These signed timesheets should be used to prepare the payroll and to post the time and attendance data in Core-CT.**

Comment:

Exceptions were noted for 16 of 18 employees' personnel files reviewed. The U.S. Department of Justice INS I-9 forms were incomplete, incorrectly filled out, or not on file for 10 of the 14 sampled employees who were hired after November 6, 1986. I-9 forms were not on file for six of the 14, three of the eight I-9 forms on file were incomplete, and one of the eight on file was incorrectly filled out. We found that evaluations were not on file or had not been prepared for many years for most employees in our sample, and there was one instance where the most recent evaluation was for 2002 despite the fact that they were required by policy. Annual increases were awarded despite the fact that there were no evaluations on file. Evaluations covering the audit period were not on file for 10 of the 15 sampled employees where evaluations were required. No evaluations were on file for three of the 17 sampled employees for the entire period of their employment, despite them being required at some point during their employment. We found that DPDS does not use individual "positive type" timesheets prepared and signed by each employee.

Commission on Child Protection:

- 1. 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.**

Comment:

Our review of these contracts found several questionable provisions, practices and contractual deviations that appear to be in violation of Section 3-117 of the General Statutes.

- 2. 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.**

Comment:

Since the establishment of the Commission in early 2006, a total of 18 meetings have been held (as of December 2009). No quorum was met on eight of those meetings. Overall, Commissioners’ attendance has averaged just slightly over 50 percent. Some Commissioners have not been in compliance with Article II, Section 1 (c) of the by-laws; however, their continued membership has not been discussed and voted on by the Commission.

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, 2007 and 2008, and the Commission on Child Protection for the fiscal year ended June 30, 2008. This audit was primarily limited to performing tests of the Agencies' compliance with certain provisions of laws, regulations, contracts and grant agreements 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 grant agreements applicable to the Agencies are complied with, (2) the financial transactions of the Agencies are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the Agencies are safeguarded against loss or unauthorized use. The financial statement audits of the Public Defender Services Commission for the fiscal years ended June 30, 2007 and 2008, and the Commission on Child Protection for the fiscal year ended June 30, 2008, 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 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:

In planning and performing our audit, we considered the Public Defender Services Commission's and the Commission on Child Protection's 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 Agencies' financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the Agencies' internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance requirements was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be significant deficiencies.

A *control deficiency* 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 on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of

any asset or resource. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the Agency's ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by the Agencies' internal control. We consider the deficiencies described in the accompanying "Condition of Records" and "Recommendations" sections of this report to be significant deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements: PDSC: Recommendation 1: Internal Control over the purchasing, receiving and expenditure function. Recommendation 3: Controls over State Property. COCP: Recommendation 1: Contracts for Legal Services with Non-Profit Legal Organizations.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements, was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that none of the significant deficiencies described above is a material weakness.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Public Defender Services Commission 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 Agency's 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 Agency management in the accompanying "Condition of Records" (and "Recommendations") section(s) of this report.

The Public Defender Services Commission's and the Commission on Child Protection's response to the findings identified in our audit are described in the accompanying "Condition of Records" sections of this report. We did not audit the Public Defender Services Commission's and the

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Commission on Child Protection's responses and, accordingly, we express no opinion on it.

This report is intended for the information and use of Agency 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 Office of Chief Public Defender, and the Commission on Child Protection during this examination.

Gary P. Kriscenski
Principal Auditor

Approved:

John C. Geragosian
Auditor of Public Accounts

Robert M. Ward
Auditor of Public Accounts