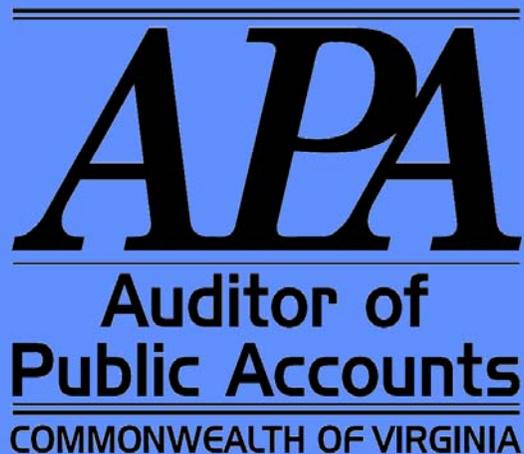


**OFFICE OF THE ATTORNEY GENERAL
AND
THE DEPARTMENT OF LAW**

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2009**



AUDIT SUMMARY

Our audit of the Office of the Attorney General and the Department of Law and the Division of Debt Collection found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- no matters involving internal control and its operations necessary to bring to management's attention; and
- no instances of noncompliance with applicable laws and regulations or other matters that are required to be reported.

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AGENCY HIGHLIGHTS

The Attorney General is the chief executive officer of the Commonwealth of Virginia's Department of Law. The Attorney General and Department of Law, "Office of the Attorney General," acts as the Commonwealth's law firm. The Attorney General and his staff represent the Commonwealth's interests in all civil cases naming the Commonwealth, or any of its agencies or officials, as a party, and in criminal cases on appeal to the Court of Appeals of Virginia and the Supreme Court of Virginia. In cases involving federal law, the Attorney General represents the Commonwealth's interests in federal court. The Office also enforces consumer protection laws and investigates Medicaid fraud.

The Attorney General is also the legal advisor to the Governor and more than 200 state agencies, boards, commissions, and institutions. The Attorney General renders official opinions on the application of the law upon written request of the Governor, members of the General Assembly, members of the judiciary, state officials, or local constitutional officers. The Office handles criminal convictions on appeal, and defends the state when prisoners sue concerning their incarceration. In addition, the Office defends legal challenges of the constitutionality of state laws, and supervises the appointment and payment of private attorneys hired by other state agencies for various matters. The Office also administers grants to help reduce crimes involving gangs, drugs, and sex predators.

The Office's organizational structure is similar to a private law firm, with divisions devoted to legal specialties. The Office has six legal divisions with offices in Abingdon, Fairfax, Norfolk, Richmond, and Roanoke. A Deputy Attorney General heads each division and reports directly to the Chief Deputy Attorney General. The Administration Division provides finance, human resources, information systems, and operations support to the legal divisions. The following are the legal divisions.

- Civil Litigation Division
- Financial Law and Government Support Division
- Public Safety and Enforcement Division (includes the Medicaid Fraud Control Unit)
- Health, Education, and Social Services Division
- Technology, Real Estate, Environment, and Transportation Division
- Sexual Predators, Tobacco, Alcohol, and Gaming Division and Division of Debt Collections

The Division of Debt Collection is a separate agency within the Office. It provides legal services and advice related to the collection of funds owed to the Commonwealth. The following financial information presents separate information on the Office of the Attorney General and the Division of Debt Collection.

Attorney General's Office

The Office receives the majority of its funding from the General Fund with the remaining funding coming almost equally from special revenue and federal funds. The special revenue funds are primarily from fees charged to agencies and universities for legal services provided by the Office. State law permits the Attorney General to bill agencies for the legal services if the agency receives all or a part of its funding from non-general funds. The Office also receives federal grants supporting Medicaid fraud control activities and programs to suppress gang activity.

The Office's activities are budgeted in three programs, the largest of which is the Legal Advice program. Attorneys in the Legal Advice program provide legal services to state agencies. The following schedule compares the Office's original and final budgets by program with actual expenses for fiscal year 2009.

2009 Budgeted and Actual Expenses

<u>Program</u>	<u>Original Budget</u>	<u>Final Budget</u>	<u>Expenses</u>
Legal advice	\$29,868,459	\$29,102,965	\$26,753,527
Medicaid program services	4,418,047	5,694,557	4,946,164
Regulation of business practices	<u>2,241,681</u>	<u>2,262,357</u>	<u>2,240,058</u>
Total	<u>\$36,528,187</u>	<u>\$37,059,879</u>	<u>\$33,939,749</u>

Source: Commonwealth Accounting and Reporting System

The following schedule includes detail relating to adjustments to appropriations during fiscal year 2009.

Budget Analysis for Fiscal year 2009

Original appropriations per Chapter 879	<u>\$36,528,187</u>
Adjustments:	
Budget reductions in accordance with fiscal year 2009 reduction plans	(2,131,536)
Miscellaneous reductions	(24,561)
Increase in Non-General fund appropriation to offset General Fund reductions	225,000
Discretionary reappropriation of the prior year General Fund balance	227,803
Transfer from Central Appropriations for compensation, fees, and expenses of counsel appointed by the Office related to courthouse renovations	134,861
Increase in appropriation of Purdue OxyContin Settlement funds for use by the MFCU	514,394
Increase in Federal Fund appropriation to maintain the Federal and State split required by the Federal government for MFCU funding	762,116
Increase in appropriation for additional Non-General funds received during the year	821,081
Transfer from the Department of General Services for real estate surcharge rates	<u>2,534</u>
Total adjusted appropriations	<u>\$37,059,879</u>

During fiscal year 2009, the Office took appropriate action to modify its internal policies and procedures for employee vehicle usage to address an employee’s misuse of a vehicle in the Office’s fleet.

Medicaid Fraud Control Unit

The Virginia Medicaid Fraud Control Unit (MFCU) investigates and prosecutes health care provider insurance fraud against the federally funded Medicaid program. Federal regulations require the Office establish the MFCU as a separate and distinct entity from the Department of Medical Assistance Services, the state agency that administers the Medicaid program. The U.S. Department of Health and Human Services has certified the MFCU and it is one of 50 similar state units in the United States. Federal law has expanded the scope of the MFCU to include any state and federal healthcare programs including Medicare, CHAMPUS, and others, in addition to Medicaid. MFCU has a criminal and a civil unit.

Federal grants fund the MFCU operations and requires a 25 percent match of General Funds; however, in fiscal year 2008, the MFCU recovered \$39.8 million in the Purdue OxyContin criminal case and will use these funds indefinitely to provide the 25 percent Commonwealth share of the budget, as prescribed in the court order. The MFCU employs a professional staff of approximately 56 criminal investigators, auditors, and several Assistant Attorneys General who are experienced in commercial and financial investigations. The MFCU hired additional staff in fiscal year 2009 utilizing funds it received in the Purdue OxyContin settlement.

The table below shows the total amount of MFCU recoveries as ordered by the courts (fines, penalties, or restitutions). Because the Virginia Medicaid program is 50 percent federally funded and 50 percent state-funded, Virginia receives half of Medicaid recoveries. All recoveries go into the Virginia Health Care Fund established by the General Assembly in 2004 and must support health care services.

MFCU Recoveries by Year

<u>Fiscal Year</u>	<u>Total Recoveries</u>
2005	10,578,111
2006	9,071,737
2007	117,704,812
2008	541,099,617
2009	27,607,670

Source: Medicaid Fraud Case Tracking System

There was a large increase in recoveries in fiscal year 2007 and 2008 due to a significant settlement in the Purdue Oxycontin criminal case. The total recoveries from all the defendants in the case were \$634,500,000, which several states shared. The Commonwealth’s recovery was \$105 million of the \$634.5 million, which went to several state agencies and the settlement restricts how the agencies may use these funds. The following agencies received funds under this settlement:

Virginia State Police	\$44 million
MFCU	\$39.8 million
Department of Health Professions	\$20 million
Department of Medical Assistance Services	\$1.2 million

Division of Debt Collection

The Division of Debt Collection (Division) is a separate agency within the Office. It collects delinquent accounts for state agencies, state-supported institutions of higher education, and their hospitals. The Division receives delinquent accounts from state agencies and takes appropriate action, including litigation, to collect them.

The 2004 General Assembly passed legislation requiring agencies to forward past due accounts over \$3,000 and 60 days old to the Division. This 2004 legislation also mandated the allocation of collections among the creditor agency, the General Fund, and an amount to fund the Division’s operations. The General Assembly removed the General Fund Allocation in 2008, and the current allocation of collections is between the creditor agency and the Division.

Division Operating Statistics for 2005-2009

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Maximum employment level	23	23	24	24	24
Division budget	\$1,516,385	\$1,578,689	\$1,665,104	\$1,663,972	\$1,820,469
Number of accounts	11,140	9,689	10,397	10,774	11,286
Active accounts (\$ in millions)	\$159	\$157	\$132	\$141	\$157
Gross collections (\$ in millions)	\$10	\$12.5	\$11.5	\$9.7	\$11.8
General Fund Allocation (\$ in millions)	\$1.4	\$1.1	\$0.5	\$ -	\$ -

Source: Commonwealth Accounting and Reporting System and the Division of Debt Collection

The Division funds operations with a portion of fees retained from their collections. The Appropriation Act allows the Division to keep \$400,000 as operating capital and requires the transfer of any excess collections to the General Fund by September 1 of each year. The Division can request to keep more of the balance, but the Department of Planning and Budget must approve this request. At the end of fiscal year 2009, the Division had a cash balance of over \$1 million. The Division did not request to keep any funds in addition to the \$400,000 in working capital and in August 2009 transferred \$624,919 to the General Fund. The following table details the Division's operating revenues and expenses for the last five fiscal years.

Revenues and Expenses – Fiscal Years 2005 – 2009

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Beginning balance	\$2,278,366	\$2,689,193	\$2,715,317	\$3,251,192	\$1,849,860
Collection fee revenue	1,705,269	1,555,865	2,152,384	1,899,192	2,095,270
Expenses	(1,285,932)	(1,521,073)	(1,616,509)	(1,699,332)	(1,820,351)
Transfers	<u>(8,510)</u>	<u>(8,668)</u>	<u>-</u>	<u>(1,601,192)</u>	<u>(1,099,860)</u>
Ending balance	<u>\$2,689,193</u>	<u>\$2,715,317</u>	<u>\$3,251,192</u>	<u>\$1,849,860</u>	<u>\$1,024,919</u>

Source: Commonwealth Accounting and Reporting System



Commonwealth of Virginia

Walter J. Kucharski, Auditor

Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218

September 16, 2009

The Honorable Timothy M. Kaine
Governor of Virginia
State Capital
Richmond, Virginia

The Honorable M. Kirkland Cox
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have audited the financial records and operations of the **Office of the Attorney General and Department of Law and Division of Debt Collection** for the year ended June 30, 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions in the Commonwealth Accounting and Reporting System, review the adequacy of the Office's internal controls, and test compliance with applicable laws and regulations.

Audit Scope and Methodology

The Office of the Attorney General and Department of Law and the Division of Debt Collection's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered significance and risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

Expenses, including payroll
Revenue collections and distributions
Appropriations

We performed audit tests to determine whether the Office of the Attorney General and Department of Law and the Division of Debt Collection's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel; inspection of documents and records including vouchers, reconciliations, deposit certificates, billings, creditor agency collections and distributions, receipts from recoveries, and contracts; and observation of the Office of the Attorney General and Department of Law and the Division of Debt Collection's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that the Office of the Attorney General and Department of Law and the Division of Debt Collection properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System. The Office of the Attorney General and Department of Law and the Division of Debt Collection records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted no matters involving internal control and its operation that we consider necessary to be reported to management. The results of our tests of compliance with applicable laws and regulations disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

Exit Conference and Report Distribution

We discussed this report with management on September 28, 2009.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

SAH/clj

OFFICE OF THE ATTORNEY GENERAL

As of June 30, 2009

William C. Mims
Attorney General

Martin L. Kent
Chief Deputy Attorney General

J. Jasen Eige
Chief of Staff and Counsel

Thomas A. Gelozin
Director of Finance