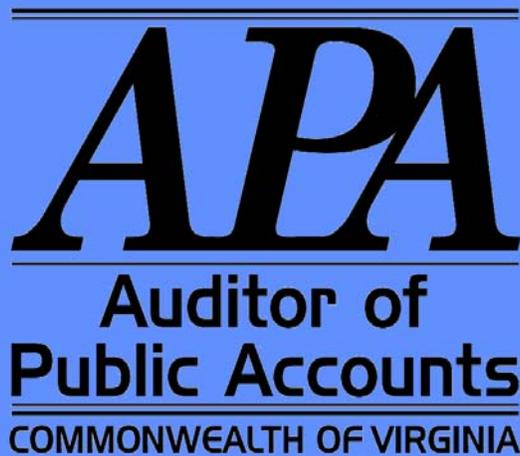


**INDIGENT DEFENSE COMMISSION**

**REPORT ON AUDIT  
FOR THE PERIOD  
JULY 1, 2006 THROUGH JUNE 30, 2007**



## **AUDIT SUMMARY**

Our audit of the Indigent Defense Commission for the period July 1, 2006, through June 30, 2007, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- certain matters involving internal control and the Commission's operations necessary to bring to management's attention; and
- instances of noncompliance with applicable laws and regulations or other matters that are required to be reported.

In response to our prior recommendation to evaluate its organizational model, the Indigent Defense Commission (Commission) is currently making significant organizational changes. Commission management requested the Department of Planning and Budget's Best Management Practices Division to perform a detailed evaluation of the Commission's structure and management. In February 2008, the Best Management Practices Division released a comprehensive report for the Commission, which included 23 specific recommendations to improve the Commission's operations. One recommendation suggested that the Commission eliminate the Fiscal Director position and create an upgraded and expanded position to allow the Commission to better analyze the long-term direction of the agency. Commission management intends to evaluate, prioritize, and implement the remaining recommendations within budgetary allowances.

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## REVIEW OF THE COMMISSION'S ORGANIZATION

In response to our prior recommendation to evaluate its organizational model, the Indigent Defense Commission (Commission) is currently making significant organizational changes. Commission management requested the Department of Planning and Budget's Best Management Practices Division to perform a detailed evaluation of the Commission's structure and management. In February 2008, the Best Management Practices Division released a comprehensive report for the Commission, which included 23 specific recommendations to improve the Commission's operations. One recommendation suggested that the Commission eliminate the Fiscal Director position and create an upgraded and expanded position to allow the Commission to better analyze the long-term direction of the agency. Commission management intends to evaluate, prioritize, and implement the remaining recommendations within budgetary allowances.

## AUDIT FINDINGS AND RECOMMENDATIONS

### Properly Complete Employment Eligibility Verification Forms

The Commission is not properly completing Employment Eligibility Verification (I-9) forms in accordance with guidance issued by the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security. This guidance requires the employee to complete, sign, and date Section 1 of the I-9 form on the first day of employment. Additionally, the employer or designated representative must complete, sign, and date Section 2 of the I-9 form within three days of employment to show that they verified the employee's identity and employment eligibility at the point of hiring. We found that the Commission incorrectly completed 22 of 26 I-9 forms reviewed. Specifically, we found that the Commission did not:

- Properly indicate the required information regarding the verification documents it reviewed for 12 employees.
- Ensure employees were properly completing the Employee Information and Verification Section of the form. Two employees did not correctly date the form.
- Include the first day of actual employment in the Certification section on four forms.
- Indicate the business organization name in the Certification section on one form.
- Verify the name change of one employee in section 3.
- Provide a complete I-9 form for nine employees, which includes a listing of acceptable identification documentation.

The exceptions noted represent noncompliance with the guidelines issued by the U.S. Citizenship and Immigration Services. Failure to comply with these guidelines can result in significant penalties to both the employee and employer. Because of the potential sanctions, we recommend that the Commission ensure their employees receive adequate training on the guidelines for completing I-9 forms. In addition, we recommend the Commission develop and follow policies and procedures for complying with these guidelines. The lack of documented policies and procedures increases the risk of noncompliance and the likelihood that errors will occur.

### Comply with the Commonwealth's Security Standards

As noted in the prior year, the Commission does not have a formal information systems security program, and therefore, has not minimized the risk of poor data integrity, potential data breach, and the lack of availability of its sensitive and mission critical information. We recommend that the Commission address the following information security areas to comply with the Commonwealth's security standards:

- Establish a Security Awareness Training Program
- Perform a Risk Assessment
- Complete a Business Impact Analysis
- Prepare Continuity of Operations and Disaster Recovery Plans
- Develop formally approved security policies and procedures as required by the Commonwealth's security standard, including policies for the physical and logical safeguarding of assets

A comprehensive information security program provides the essential framework to protect the data on the information systems and the data handled by employees. The lack of a comprehensive information security program prevents the Commission's management from assessing the current or potential risks to their data, and enabling them to adequately prevent or minimize those risks. The Commission should allocate the time and resources necessary to complete a comprehensive information security program that will meet industry best practices. Management should consider obtaining guidance from the Department of Accounts' new statewide Information Security Officers, while developing this program to comply with Commonwealth standards.

#### Establish Sufficient System Access Policies and Ensure Appropriate System Access

The Commission does not have sufficient policies governing system access. Current policies do not include a documented process for adding, modifying, or timely deleting accounts or periodic management review of access. During our review, we found inappropriate access to the Commonwealth's statewide systems. Four employees have multiple access user accounts to the Commonwealth Accounting and Reporting System, including one employee who has two separate accounts, which together permit both data entry and approval.

Policies and procedures for system access are essential to ensure that only appropriate access is given and that the Commission deletes user access when the user no longer needs the access to perform an individual's job duties. Users that have inappropriate access or access after their separation date pose a data security risk to the Commission. By providing multiple access user accounts to a single employee, the Commission increases the likelihood of inappropriate or fraudulent transactions.

The Commission should establish and follow detailed, written policies and procedures governing system access. The Commission should manage current system access by reviewing and modifying access as necessary to ensure appropriate access.

AGENCY HIGHLIGHTS

The Commission provides attorneys for indigent people charged with felonies or juvenile offenses. The Commission consists of 14 members, five of whom must be attorneys. The Commission hires the Executive Director and authorizes the Executive Director to appoint a public or capital defender as the head of each public defender office. Currently, there are 25 public defender offices, one appellate office, four capital defender offices, and one administration office. In fiscal year 2007, the General Assembly approved an additional 32 salaried positions for the Commission, raising the total authorized salaried positions from 482 to 514. These employees include attorneys, investigators, sentencing advocates, and administrative staff.

General Fund appropriations are the Commission's primary funding source. As shown in the following Budget to Actual Expenses for Fiscal Year 2007 table, the Commission spent \$33 million. Payroll costs, including fringe benefits, accounted for 87 percent, or \$29 million, of the Commission's total expenses. During fiscal year 2007, the Commission spent \$1.9 million, or five percent, on rent and other continuous charges and an additional \$1.8 million, or five percent, on contractual services. The fiscal year 2007 original budget decreased by approximately \$3 million because the General Assembly anticipated a large cash balance on June 30, 2007, resulting from turnover and vacancies.

Budget to Actual Expenses for Fiscal Year 2007

<u>Fund</u>	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Expenses</u>
General Fund appropriations	\$36,152,445	\$33,396,957	\$33,387,179
Special Revenue	10,000	20,470	16,289
Federal Grants	-	60,453	26,587
Total	<u>\$36,162,445</u>	<u>\$33,477,880</u>	<u>\$33,430,055</u>



# Commonwealth of Virginia

**Walter J. Kucharski, Auditor**

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

April 21, 2008

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 **Indigent Defense Commission** (Commission) for the year ended June 30, 2007. We conducted this performance audit in accordance with generally accepted Government Auditing Standards, issued by the Comptroller General of the United States. 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 on the Commonwealth Accounting and Reporting System, review the adequacy of the Commission's internal controls, test compliance with applicable laws and regulations, and review corrective actions of audit findings from prior year reports.

## Audit Scope and Methodology

The Commission'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 materiality and control risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant activities, classes of transactions, and account balances:

- Payroll expenses
- Operating expenses
- Appropriations
- Systems security

We performed audit tests to determine whether the Commission'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, records, and contracts, and observation of the Commission's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

### Conclusions

We found that the Commission properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System. The Commission 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 certain matters involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. These matters are described in the section entitled "Audit Findings and Recommendations."

The Commission has not taken adequate corrective action with respect to the prior year audit finding entitled "Comply with the Commonwealth's Security Standards." The Commission has not completed corrective action with respect to the previously reported finding "Review of the Commission's Organization." Accordingly, we have provided an update on the Commission's progress in addressing this finding. The Commission has taken adequate corrective action with respect to the audit finding reported in the prior year not repeated in this report.

### Exit Conference and Report Distribution

We discussed this report with management on April 28, 2008. Management's response has been included at the end of this report.

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

# VIRGINIA INDIGENT DEFENSE COMMISSION

## COMMISSION MEMBERS

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Judge Alan E. Rosenblatt, vice-Chair  
Delegate David B. Albo  
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Steven D. Benjamin  
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Jo-Ann Wallace  
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**DAVID J. JOHNSON**  
Executive Director

**DJ GEIGER**

Deputy Director

**CARLOS L. HOPKINS**

Training & Attorney Certification Director

**EDWARD ERNOUF, III**

Information Systems Director

May 8, 2008

Mr. Walt Kucharski  
Auditor of Public Accounts  
101 North 14<sup>th</sup> Street  
PO Box 1295  
Richmond, VA 23218

Dear Mr. Kucharski:

I have received and reviewed the APA's Audit Findings and Recommendations for the Virginia Indigent Defense Commission. My response is as follows:

### 1. Employment Eligibility Verification Forms

In order to address the issues identified with respect to Employment Eligibility Verification (I-9) forms we have hired a qualified temporary employee to audit all employee I-9 forms and bring them into compliance with the guidelines issued by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.

Additionally, employee training has been developed to ensure proper completion of future I-9 forms. This training will be provided to all office managers and other affected agency employees.

Written policies and procedures for compliance with the guidelines will also be developed and distributed.

### 2. Compliance with the Commonwealth's Security Standards

The VIDC continues to work towards compliance with the Commonwealth's Security Standards. Over the past year, the Commission designated an agency Information Security Officer (ISO) who has attended VITA'S Information Security Orientation program as well as monthly ISOAG meetings. Since February, Commission management has been meeting weekly to review IT security topics and their impact on

Ms. Walt Kucharski

May 8, 2008

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agency operations and personnel. The Commission is working on the establishment of a Knowledge Center portal to facilitate and track the Security Awareness training of its employees. A Business Impact Survey has been completed by all Commission field offices and COOP and DR plans are being developed for all individual office locations.

Once the Commission's formal security policies and procedures are completed in compliance with the Commonwealth's IT Security Policy SEC500-02 and the Commonwealth's IT Security Standard SEC501-01, Commission management will continue to monitor agency operations and practices to ensure IT security compliance is maintained.

3. Establish Sufficient System Access Policies and Ensure Appropriate System Access

As part of the Commission's User Account Management Policy which is being developed pursuant to SEC500-02 and SEC501-01, the deficiencies noted related to system access will be corrected.

However, it should be noted with respect to the four users with multiple accounts that one account for each individual provides inquiry only access and the other provides update access. DOA acknowledges in section 70220 of the CAPP Manual that "it may be necessary for a user to have more than one logon ID to access CARS." The dual ID's (one data entry and one inquiry) are set up in accordance with DOA's requirements.

We appreciate the recommendations made by the APA and your continued interest in our progress.

Sincerely,



David J. Johnson  
Executive Director

INDIGENT DEFENSE COMMISSION

COMMISSION MEMBERS

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Karl R. Hade	David D. Walker
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Maria D. Jankowski

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DJ Geiger  
Deputy Director

