

AUDIT SUMMARY

Our audit of the Public Defender Commission for the period of July 1, 1996 through December 31, 1998, found:

- proper recording and reporting of transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- an internal control matter that we consider a reportable condition relating to the accurate completion of timesheets by the Public Defenders; however, we do not consider this condition to be a material weakness; and
- no issues of noncompliance that are required to be reported under Government Auditing Standards.

April 23, 1999

The Honorable James S. Gilmore, III
Governor of Virginia
State Capitol
Richmond, Virginia

The Honorable Richard J. Holland
Chairman, Joint Legislative Audit and
Review Commission
General Assembly Building
Richmond, Virginia

OVERVIEW OF THE OPERATIONS OF THE PUBLIC DEFENDER COMMISSION

The **Public Defender Commission** has offices in 20 locations serving 47 localities throughout the Commonwealth. The Commission's purpose is to provide defense counsel to indigent persons charged with jailable offenses. A nine-member commission consisting of three judges, three lawyers, and three public members, each appointed for a three-year term directs its activities.

During fiscal year 1998, Public Defenders represented 75,963 defendants on 130,331 charges, including 38 capital charges. During fiscal year 1997, Public Defenders represented 66,432 defendants on 123,000 charges, including 33 capital charges.

The Commission has increased from 26 employees at four locations in 1985 to 277 full-time equivalent employees, including 176 attorneys, at 20 locations in 1998. Each office has at least one Investigator, and some offices have Sentencing Advocates who prepare plans for alternatives to incarceration for selected defendants and assemble mitigating evidence in capital cases.

In November 1996, increasing demands upon the Public Defenders caused the Commission to establish an appellate section in the administrative office. An Appellate Defender and Appellate Counsel assist the Public Defender offices with filing and arguing appeals in the Virginia Court of Appeals and the Virginia Supreme Court.

REVENUE AND EXPENDITURES

	<u>Fiscal Year 1997</u>	<u>Fiscal Year 1998</u>	<u>July 1 to December 31, 1998</u>
Revenues:			
Appropriations	\$14,384,243	\$14,388,907	\$15,638,528
Other	<u>7,392</u>	<u>17,354</u>	<u>4,396</u>
Total	<u>\$14,391,635</u>	<u>\$14,406,261</u>	<u>\$15,642,924</u>
Expenses:			
Salaries and benefits	\$11,424,901	\$12,822,018	\$ 7,250,833
Office rentals	795,780	834,442	384,028
Travel, equipment, and other	<u>1,268,372</u>	<u>1,230,693</u>	<u>485,559</u>
Total	<u>\$13,489,053</u>	<u>\$14,887,153</u>	<u>\$ 8,120,420</u>

INTERNAL CONTROL FINDING AND RECOMMENDATION

Report All Time Spent on Cases

Public Defender attorneys sometime submit timesheets showing only minimal time spent on individual cases, without explanation. Without documentation, this may give the appearance that the Public Defender attorney is under-reporting time spent on a particular case. Courts use these timesheets to assess costs against convicted defendants to attempt to recover the employees' compensation and expenses. When the Public Defender attorneys do not file accurate timesheets, the court cannot assess the proper costs. We recommend that management review the process for creating timesheets and have those listing only minimal amounts include an explanation.

INDEPENDENT AUDITOR'S REPORT

We have audited the financial records and operations of the Public Defender Commission for the period of July 1, 1996 through December 31, 1998. We conducted our audit according to the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Audit Objectives, Scope, and Methodology

Our audit's primary objectives were to review the adequacy of the Commission's internal control structure; test compliance with applicable laws and regulations; and evaluate the accuracy of recording financial transactions on the Commonwealth Accounting and Reporting System.

Our audit procedures included inquiries of appropriate personnel, inspection of documents and records, and observation of the Commission's operations. We also tested transactions and performed such other auditing procedures, as we considered necessary to achieve our objectives. We reviewed the overall internal accounting controls, including controls for administering compliance with applicable laws and regulations. Our review encompassed controls over expenses and revenues, which are the significant cycles, classes of transactions, and account balances.

We obtained an understanding of the relevant policies and procedures for these internal accounting controls. We considered materiality and control risk in determining the nature and extent of our audit procedures. We performed audit tests to determine whether the Commission's policies and procedures 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.

The Commission's management is responsible for establishing and maintaining an internal control structure and complying with applicable laws and regulations. The objectives of an internal control structure are to provide reasonable, but not absolute, assurance that assets are safeguarded and that transactions are processed according to management's authorization, properly recorded, and comply with applicable laws and regulations.

Our audit was more limited than would be necessary to provide an opinion on the internal control structure or on overall compliance with laws and regulations. Because of inherent limitations in any internal control structure, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of the internal control structure to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

Audit 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 generally accepted accounting principles. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted a matter involving the internal control structure and its operation that we consider a reportable condition for the Commission. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the agency's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial records. This reportable condition is discussed in the section entitled "Internal Control Finding and Recommendation." However, we believe this reportable condition is not a material weakness. Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses. A material weakness is a condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material to financial operations may occur and not be detected promptly by employees in the normal course of performing their duties.

The results of our tests of compliance with applicable laws and regulations found no instances of noncompliance that we are required to report herein under Government Auditing Standards.

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

EXIT CONFERENCE

We discussed this report with the Public Defender Commission and management on June 4, 1999.

AUDITOR OF PUBLIC ACCOUNTS

JHS:aom
aom:28