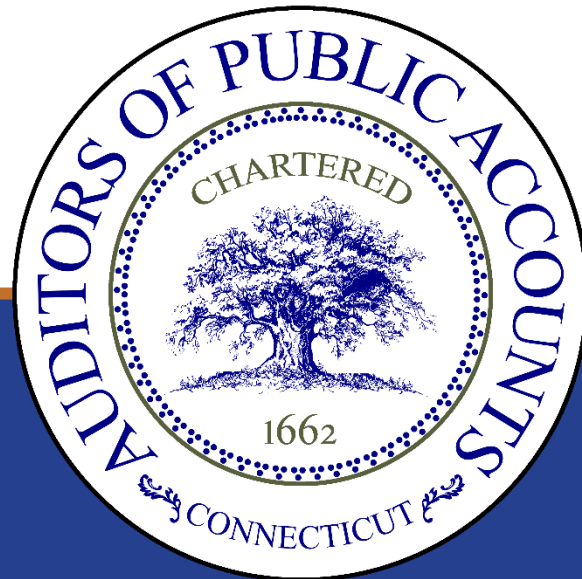


AUDITORS' REPORT

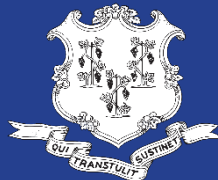
Division of Public Defender Services

FISCAL YEARS ENDED JUNE 30, 2022 AND 2023



STATE OF CONNECTICUT
Auditors of Public Accounts

JOHN C. GERAGOSIAN
State Auditor



CRAIG A. MINER
State Auditor

CONTENTS

INTRODUCTION.....	3
STATE AUDITORS' FINDINGS AND RECOMMENDATIONS.....	4
Misuse of State Funds	4
Incomplete Applications for Public Defender Services	5
Improper Promotion.....	6
Lack of Medical Certificates.....	7
Missing Dual Employment Forms	8
Inadequate Reporting	10
Lack of Internal Controls over Postage	11
STATUS OF PRIOR AUDIT RECOMMENDATIONS	13
OBJECTIVES, SCOPE, AND METHODOLOGY	14
ABOUT THE AGENCY	16

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

JOHN C. GERAGOSIAN

STATE CAPITOL
210 CAPITOL AVENUE
HARTFORD, CONNECTICUT 06106-1559

CRAIG A. MINER

October 30, 2024

INTRODUCTION

We are pleased to submit this audit of the Division of Public Defender Services (PDS) for the fiscal years ended June 30, 2022 and 2023 in accordance with the provisions of Section 2-90 of the Connecticut General Statutes. Our audit identified internal control deficiencies; instances of noncompliance with laws, regulations, or policies; and a need for improvement in practices and procedures that warrant management's attention.

The Auditors of Public Accounts wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Division of Public Defender Services during the course of our examination.

The Auditors of Public Accounts also would like to acknowledge the auditors who contributed to this report:

Mitchell Molleur
Niko Perdikakis
Erica Reed

A handwritten signature in black ink, appearing to read "Nikolaos Perdikakis".

Nikolaos Perdikakis
Principal Auditor

Approved:

A handwritten signature in black ink, appearing to read "John C. Geragosian".

John C. Geragosian
State Auditor

A handwritten signature in black ink, appearing to read "Craig A. Miner".

Craig A Miner
State Auditor

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of the Division of Public Defender Services disclosed the following seven recommendations, of which one was repeated from the previous audit.

Finding 1

Misuse of State Funds

Criteria	State agency spending for employee events should primarily utilize those funds for work-related purposes.
Condition	The Division of Public Defender Services paid \$22,561 for its 2023 annual meeting at an offsite recreational facility attended by its employees and their families. The meeting's six-hour agenda only included 45 minutes of work-related training. Attendees spent the remaining time participating in recreational activities (e.g., airbrush tattoo station, pony rides, basketball and cornhole tournaments, family kickball, rowboats, and pickle ball). The division paid approximately \$12,000 for non-state employees to attend this meeting.
Context	There were 340 people registered to attend the annual meeting. They included 142 PDS employees and 198 spouses, partners, or children.
Effect	PDS incurred an unnecessary expenditure that appears to represent abuse of state funds.
Cause	PDS management thought this expenditure was allowable.
Prior Audit Finding	This finding has not been previously reported.
Recommendation	The Division of Public Defender Services should ensure that expenditures are for a valid and reasonable work-related purpose.

Agency Response

"The Division agrees with this finding. The Annual meeting in fiscal year 2024 reverted back to a day of training on various pertinent topics held at a central location for only Division employees."

Finding 2**Incomplete Applications for Public Defender Services****Criteria**

Section 51-297(a) of the General Statutes requires all public defenders to investigate the financial status of each person the court has appointed them to represent or who has requested representation based on indigency, as necessary. The statute requires defendants to complete and sign applications under oath setting forth their liabilities, assets, sources of income, and any other applicable information. Section 1-24(15) of the General Statutes permits certain public defender employees to administer oaths. These employees must sign the applications and indicate whether the defendant is eligible for public defender services based on the information provided.

Condition

Our review of 25 applications for public defender services disclosed the following:

- Two applicants were ineligible to receive services because their gross income exceeded the income guidelines.
- The division did not indicate its determination of client eligibility on 11 applications.
- Three applications lacked required financial information.
- Two applications lacked client signatures affirming the accuracy of their information.
- The employee authorized to administer oaths did not sign three applications.

Context

During the audited period, there were 63,925 applications for public defender services. We judgmentally selected five court locations not reviewed during the prior audit: Danbury Judicial District (JD), Hartford Juvenile, Manchester Geographical Area (GA) 12, New Haven GA 23, and New London JD. There were 18,804 applications

at these locations. We judgmentally selected five applications from each of these courts to review.

Effect	There is an increased risk that ineligible individuals will receive public defender services. If ineligible individuals received such services without signing their applications, they may not be subject to penalty of false statement charges under Section 51-297(b) of the General Statutes.
Cause	A lack of adherence to application processing guidelines and managerial oversight contributed to this condition.
Prior Audit Finding	This finding has previously been reported in the last three audit reports covering the fiscal years 2016 through 2021.
Recommendation	The Division of Public Defender Services should strengthen internal controls to ensure that clients properly complete applications and division employees follow eligibility guidelines.
Agency Response	“The Division agrees with the finding that numerous audited applications had missing information, and/or were not complete. In previous fiscal years, the Deputy Chief Public Defender would conduct audits of applications from randomly selected field offices. As fiscal year 2025 begins, this practice will begin again. In addition, a virtual training has been scheduled by our Legal Counsel for August 22nd. This will provide training to all agency staff on assessing the financial eligibility of individuals seeking public defender services. Lastly, ensuring applications are filled out accurately will be a point of emphasis to supervisors in the supervisor trainings scheduled for July 11th and July 12th.”

Finding 3

Improper Promotion

Criteria	Section 301 of the Public Defender Services Administrative Policy and Procedures Manual provides that proposed new or revised job descriptions must be prepared by the human resources unit and submitted to the Public Defender Services Commission for approval.
Condition	Our review disclosed that PDS changed a job description in June 2022 without obtaining the commission’s approval. The employee promoted to the position was not qualified based on the previous job description. PDS incorrectly entered this promotion in Core-CT as a pay rate adjustment rather than a promotion.

Context	During fiscal years 2022 and 2023, PDS hired 71 employees and promoted 29 employees. We judgmentally selected 20 employees; ten hires and ten promotions.
Effect	There is less assurance that PDS promoted the most qualified candidates.
Cause	The condition resulted from a lack of management oversight.
Prior Audit Finding	This finding has not been previously reported.
Recommendation	The Division of Public Defender Services should strengthen internal controls over promotions and obtain proper approval from the Public Defender Services Commission prior to changing a job description.
Agency Response	"The Division disagrees with this finding. The employee's movement to Acting HR Director was not a promotion, but rather was a temporary service in a higher classification."
Auditors' Concluding Comments	Department of Administrative Services General Letter No. 29 establishes procedures for temporary service in a higher classification. It provides that employees must qualify for the higher classification at the time of the appointment which cannot exceed one year. The employee in question was not qualified for the position at the time of appointment and has served in that capacity for over a year. In addition, during the prior chief public defender's recent disciplinary hearing, the commission cited her for changing the job description without notifying the commission.

Finding 4

Lack of Medical Certificates

Criteria	<p>Section 5-247-11 of the Regulations of Connecticut State Agencies requires employees to substantiate a request for sick leave for five or more consecutive working days with an acceptable medical certificate, which must be on a form prescribed by the Department of Administrative Services (DAS) and signed by a licensed physician or other practitioner whose method of healing is recognized by the state.</p> <p>DAS General Letter No. 39 specifies the statewide family and medical leave entitlement policies and required agency and employee forms.</p>
-----------------	--

Condition	Our review of 15 medical leaves disclosed ten instances in which PDS did not obtain required medical leave forms or they were incomplete or late.
Context	During fiscal years 2022 and 2023, 44 employees took more than five consecutive days of medical leave, totaling 5,786 hours. We judgmentally selected 15 employees' medical leaves for review, totaling 4,030 hours.
Effect	PDS increases the risk of sick leave abuse when it does not obtain required medical documents.
Cause	The condition resulted from a lack of management oversight.
Prior Audit Finding	This finding has not been previously reported.
Recommendation	The Division of Public Defender Services should improve its monitoring of medical leave to ensure its employees promptly submit complete and accurate documentation.
Agency Response	"The Division agrees with this finding, as the employees mentioned in these cases were on intermittent leave. As such, the Division will follow the auditor's recommendation."

Finding 5

Missing Dual Employment Forms

Criteria	Section 5-208a of the General Statutes provides that no state employee can be compensated for services rendered to more than one state agency during a biweekly pay period unless the appointing authority of each agency or such authority's designee certifies that the duties performed are outside the responsibility of the agency of principal employment, that the hours worked at each agency are documented and reviewed to preclude duplicate payment, and that no conflicts of interest exist between services performed.
Condition	Our review of six dual employment arrangements disclosed PDS could not locate three forms, one form was incomplete, and one form expired a year before the employee stopped working at the secondary agency.

Context	There were 13 dually employed PDS employees during the audited period. We judgmentally selected six employees that received the largest payments to review.
Effect	PDS has reduced assurance that there are no conflicts between the employees' primary and secondary positions.
Cause	The PDS internal controls were not adequate to ensure the preauthorization of dual employment agreements.
Prior Audit Finding	This finding has not been previously reported.
Recommendation	The Division of Public Defender Services should strengthen internal controls over dual employment to ensure compliance with Section 5-208a of the General Statutes.
Agency Response	"The Division agrees with this finding in part. In two of the instance's records had Human Resources (HR) unit oversights. The HR unit has put parameters in place to avoid this in the future. The newly hired HR Director will implement policies and controls for collecting and maintaining proper paperwork for dual and outside employment requests. In addition, the newly hired HR Director will send routine emails to office supervisors reminding them that any outside or dual employment needs to follow the approved process with appropriate paperwork. However, in one instance the employee was no longer employed with the Division, as she became a judge in May 2022. Also, one employee was no longer employed by Southern Connecticut State University (SCSU) as of April 2022. Additionally, secondary agencies and the employee are responsible for submitting the dual employment request to the primary agency."
Auditors' Concluding Comments	The employee that became a judge did not file the proper dual employment forms with PDS covering September 24 through December 30 of 2021, and February 10 through May 20, of 2022. The employee that worked at SCSU did not file the proper forms with PDS covering September 23 through October 7 of 2022. We agree that the secondary agency and employee are responsible for submitting the dual employment request to the primary agency. However, the division should educate its staff to report dual employment to management.

Finding 6

Inadequate Reporting

Criteria	Section 51-291(2) of the General Statutes provides that prior to December 31 st , the chief public defender shall submit to the commission, a report which shall include all pertinent data on the operation of the division, the costs, projected needs, and recommendations for statutory changes and changes in court rules. Prior to February 1 st , the Public Defender Services Commission shall submit the report along with such recommendations, comments, conclusions, or other pertinent information, to the Chief Justice of the Supreme Court, the Governor, and the members of the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary.
Condition	Our review disclosed that although PDS completed its annual chief public defender reports for the fiscal years 2022 and 2023, it did not submit them to the Chief Justice, Governor, and members of the Judiciary Committee of the General Assembly.
Context	PDS had four statutory reporting requirements during the audited period. We reviewed all four reports.
Effect	Intended recipients could not promptly evaluate required information.
Cause	The commission approved the report and PDS posted it to its website but did not submit it to the statutorily required parties due to a lack of administrative oversight.
Prior Audit Finding	This finding has not been previously reported.
Recommendation	The Division of Public Defender Services should strengthen internal controls to ensure it promptly submits all reports in accordance with Section 51-291(2) of the General Statutes.
Agency Response	"The Division agrees that the fiscal years 2022 and 2023, Annual Reports were not submitted to the Chief Justice, General Assembly or the Governor on time. However, these reports were completed and were submitted to the Commission for approval. Once they were approved, the Annual Reports were posted on the Public Defender state website for anyone with computer access to view. In addition, our Legal Counsel recently did submit the reports, albeit late, to the Governor and Legislature (on 6/27/24) and the Chief Justice (on 6/28/24). Lastly, the Public Defender Services Commission has appointed an executive assistant for the Public

Defender Services Commission, who will send the Annual Report to the statutorily required parties once approved by the Commission.”

Finding 7



Lack of Internal Controls over Postage

Criteria	<p>Section 106 of the Public Defender Services Administrative Policy and Procedures Manual strictly prohibits using state time, personnel, or materials (i.e., telephones, computers, e-mail systems, fax machines, copy machines, state vehicles), and any other state systems or supplies for a personal business or for other personal, non-state purpose. This use is considered a financial benefit to the employee.</p> <p>Agencies should promptly address identified internal control deficiencies.</p>
Condition	<p>In August 2022, PDS investigated an incident in which an employee used the division’s postage meter for personal use. PDS determined that the employee inappropriately used \$62 of postage and as a result, terminated the employee. The division did not take any steps to strengthen internal controls over the postage meter after this incident.</p>
Context	<p>The division spent \$170,616 in postage during the audited period.</p>
Effect	<p>PDS has less assurance that it safeguarded its assets and resources. In addition, there is increased risk that employees may utilize state resources for personal use.</p>
Cause	<p>The lack of new controls after the investigation appears to be the result of a lack of management oversight.</p>
Prior Audit Finding	<p>This finding has not been previously reported.</p>
Recommendation	<p>The Division of Public Defenders Services should strengthen internal controls over the personal use of its equipment.</p>
Agency Response	<p>“The Division agrees that updated controls were not put in place after the complaint was received and investigated regarding improper usage of the postage meter. The Division would point out that it remains the responsibility of the supervisor of each office to manage and maintain the machines, including the postage meter, in their office. In addition, once the Division received the complaint, it</p>

was fully and properly investigated, and the complaint was resolved. Going forward, in order to strengthen controls for postage meter usage the Division will begin the process of implementing a log sheet, where employees will write down their name, date, amount of postage used and address of where the mail is going. Lastly, ensuring proper supervision of postage meters will be another point of emphasis to supervisors in the supervisor trainings scheduled for July 11th and July 12th.”

STATUS OF PRIOR AUDIT RECOMMENDATIONS

Our [prior audit report](#) on the Division of Public Defender Services contained two recommendations. One has been implemented or otherwise resolved and one has been repeated or restated with modifications during the current audit.

Prior Recommendation	Current Status
The Division of Public Defender Services should strengthen internal controls to ensure that clients properly complete applications and division employees follow eligibility guidelines.	 Recommendation 2
The Division of Public Defender Services should comply with the Office of the Comptroller's annual physical and software inventory policies and procedures.	

OBJECTIVES, SCOPE, AND METHODOLOGY

We have audited certain operations of the Division of Public Defender Services in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the fiscal years ended June 30, 2022 and 2023. The objectives of our audit were to evaluate the:

1. Division's internal controls over significant management and financial functions;
2. Division's compliance with policies and procedures internal to the division or promulgated by other state agencies, as well as certain legal provisions; and
3. Effectiveness, economy, and efficiency of certain management practices and operations, including certain financial transactions.

In planning and conducting our audit, we focused on areas of operations based on assessments of risk and significance. We considered the significant internal controls, compliance requirements, or management practices that in our professional judgment would be important to report users. The areas addressed by the audit included payroll and personnel, purchasing and expenditures, eligibility for public defender services, asset management, reporting systems, and information technology. We also determined the status of the findings and recommendations in our prior audit report.

Our methodology included reviewing written policies and procedures, financial records, meeting minutes, and other pertinent documents. We interviewed various personnel of the division and certain external parties. We also tested selected transactions. This testing was not designed to project to a population unless specifically stated. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

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.

The accompanying financial information is presented for informational purposes. We obtained this information from various available sources including the division's management and state information systems. It was not subject to our audit procedures. For the areas audited, we identified

1. Deficiencies in internal controls;
2. Apparent noncompliance with laws, regulations, contracts and grant agreements, policies, or procedures; and

3. A need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations section of this report presents findings arising from our audit of the Division of Public Defender Services.

ABOUT THE AGENCY

Overview

The [Division of Public Defender Services](#) operates, generally, under the provisions of Title 51, Chapter 887 of the General Statutes. The division provides legal representation to indigent clients in adult and juvenile misdemeanor and felony cases, including appeals and other postconviction matters, as well as child protection. The division is an autonomous body within the Judicial Branch for fiscal and budgetary purposes only, maintaining its own business office for administrative purposes.

Organizational Structure

The division is made up of three components: a seven-member [commission](#) responsible for policymaking, appointment of all personnel, and compensation matters; an Office of the Chief Public Defender charged with statewide administration of the public defender system and the provision of specialized legal representation; and the individual public defender offices providing legal services throughout the state to indigent persons accused of crimes as required by the United States and Connecticut constitutions.

Section 51-290 of the General Statutes provides for the commission to appoint a chief public defender. The chief public defender's duties include the supervision of all state public defender staff as well as the administration, coordination, and control of the operation of public defender services throughout the state. Christine P. Rapillo was appointed as chief public defender in October 2017 and served in that capacity until April 2022.

Section 51-290(a) states when the chief public defender position is vacated the deputy chief public defender becomes the acting chief public defender until the appointment of a new chief public defender. Tashun Bowden-Lewis was appointed as chief public defender in June 2022 and served in that capacity throughout the audited period until June 4, 2024. John Day is currently serving as acting chief public defender.

Significant Legislative Changes

Notable legislative changes that took effect during the audited period are presented below:

- **Public Act 21-97 (Section 6)**, effective October 1, 2022, required the chief public defender, within available appropriations, to establish a pilot program to provide representation to persons at parole revocation hearings. The act required the chief public defender, not later than January 1, 2021, and annually thereafter, to submit a report to the secretary of the Office of Policy and Management on cases served as part of such program during the prior calendar year. This report should aggregate information, including, the number of public defenders funded through the pilot program, the number of preliminary hearings and final parole revocation hearings served by such public defenders, and the associated outcomes of such hearings.
- **Public Act 22-118 (Section 61)**, effective July 1, 2022, required the Department of Children and Families and Division of Public Defender Services to jointly develop a plan to achieve federal reimbursement of legal representation in child protection proceedings and the enhancement of such representation. The plan should include any recommendations for an interagency

agreement and legislation as may be necessary, a projected budget, and a schedule for implementation.

Financial Information

General Fund Receipts

A summary of General Fund receipts during the audited period as compared to the preceding fiscal year follows:

	Fiscal Year Ended June 30,		
	2021	2022	2023
Sale of Property	\$ 3,290	\$ -	\$ 1,521
Refunds of Expenditures -Prior Year	117,166	9,652	13,852
Other General Fund Receipts	1,829	12,222	811
Total	\$ 122,285	\$ 21,874	\$ 16,184

Receipts decreased during fiscal year 2022 primarily due to the refunding of contract funds for family support magistrates during fiscal year 2021.

General Fund Expenditures

A summary of General Fund expenditures during the audited period as compared to the preceding fiscal year follows:

	Fiscal Year Ended June 30,		
	2021	2022	2023
Personal Services and Employee Benefits	\$ 42,825,796	\$ 45,718,975	\$ 48,329,990
Purchased and Contracted Services	19,023,879	22,253,293	22,659,825
Premises and Property Expenses	127,512	61,628	87,896
Motor Vehicle Costs	7,595	17,795	17,732
Information Technology	1,226,904	563,009	466,243
Communications	124,513	129,125	89,402
Purchased Commodities	407,509	298,392	1,382,679
Capital Outlays-Equipment	24,340	-	8,318
Total	\$ 63,768,048	\$ 69,042,217	\$ 73,042,085

The increase in personal services and employee benefits was due to 2.5 percent wage increases during fiscal years 2022 and 2023. Purchased and contracted services were lower in fiscal year 2021 due to the backlog of cases during the Covid-19 pandemic, which resulted in PDS using less purchased and contracted services. In fiscal year 2022 and 2023, the backlog gradually cleared, and cases returned to normal levels. Information technology expenditures were higher during fiscal year 2021 due to the purchase of Microsoft 365 licenses. Purchased commodities increased during fiscal year 2023 due to the purchase of translation devices for field offices.

Federal and Other Restricted Accounts Fund

A summary of Federal and Other Restricted Accounts Fund receipts during the audited period as compared to the preceding fiscal year follows:

	Fiscal Year Ended June 30,		
	2021	2022	2023
Federal Aid Restricted	\$ 70,185	\$ 617,677	\$ -
Federal Grant Transfers	514,246	39,150	40,165
Total	\$ 584,431	\$ 656,827	\$ 40,165

Federal receipts were higher during fiscal years 2021 and 2022 because the division received Coronavirus Relief and Coronavirus Emergency Supplemental Funding to hire temporary attorneys to reduce the additional pandemic caseload.

A summary of Federal and Other Restricted Accounts Fund expenditures during the audited period as compared to the preceding fiscal year follows:

	Fiscal Year Ended June 30,		
	2021	2022	2023
Personal Services and Employee Benefits	\$ 629,250	\$ 632,754	\$ 1,010,197
All Other Expenditures	48,113	30,000	29,000
Total	\$ 677,363	\$ 662,754	\$ 1,039,197

Personal services and employee benefits increased due to the hiring of temporary attorneys to address the backlog of cases due to the pandemic. Other expenditures were higher during fiscal year 2021 due to a one-time purchase of plexiglass barriers at the courthouses.

Capital Equipment Purchase and Capital Improvement and Other Purpose Funds

Capital expenditures totaled \$430,948, \$81,275, and \$519,573 during the fiscal years 2021, 2022 and 2023, respectively. The increase in fiscal year 2023 is due to the purchase of new laptops, soundbars, and monitors.