

STATE OF CONNECTICUT



*AUDITORS' REPORT
DIVISION OF PUBLIC DEFENDER SERVICES
FISCAL YEARS ENDED JUNE 30, 2020, AND 2021*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ CLARK J. CHAPIN

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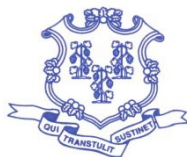
October 19, 2022

EXECUTIVE SUMMARY

In accordance with the provisions of Section 2-90 of the Connecticut General Statutes, we have audited certain operations of the Division of Public Defender Services for the fiscal years ended June 30, 2020 and 2021. Our audit identified internal control deficiencies, and instances of noncompliance with laws, regulations, and policies, that warrant the attention of management. The significant findings and recommendations are presented below:

<p><u>Page 6</u></p>	<p>Our review of public defender services applications identified multiple instances of missing or incomplete applications. The current process does not include a sufficient level of review to provide reasonable assurance that public defender services are only provided to eligible applicants. The Division of Public Defender Services should strengthen internal controls to ensure that clients properly complete applications and division employees follow eligibility guidelines. (Recommendation 1)</p>
<p><u>Page 7</u></p>	<p>The division failed to perform a physical inventory and a software inventory, and did not submit the required annual asset inventory report (CO-59) for the 2019-2020 fiscal year. For the 2020-2021 fiscal year, the division did not perform a software inventory, but performed its physical inventory three months late. In addition, the division software inventory did not comply with the State Comptroller’s requirements. The Division of Public Defender Services should comply with the Office of the Comptroller’s annual physical and software inventory policies and procedures. (Recommendation 2)</p>

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

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Hartford, Connecticut 06106-1559

JOHN C. GERAGOSIAN

CLARK J. CHAPIN

October 19, 2022

AUDITORS' REPORT DIVISION OF PUBLIC DEFENDER SERVICES FISCAL YEARS ENDED JUNE 30, 2020 AND 2021

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, 2020 and 2021. 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.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the division; and testing selected transactions. Our 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 Résumé of Operations is presented for informational purposes. This information was obtained from various available sources including, but not limited to, the division's management and the state's information systems, and was not subjected to the procedures applied in our audit of the division. For the areas audited, we:

1. Identified deficiencies in internal controls;
2. Identified apparent non-compliance with laws, regulations, contracts and grant agreements, policies, and procedures; and
3. Did not identify 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.

COMMENTS

FOREWORD

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 post-conviction matters, as well as child protection. The division is an autonomous body within the Judicial Department for fiscal and budgetary purposes only, maintaining its own business office for administrative purposes.

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.

Commission members as of June 30, 2021, were as follows:

Thomas J. Rechen, Esq. Chairperson
G. Kenneth Bernhard, Esq.
Honorable William R. Dyson
Aimee C. Golbert, LCSW
Ramona Mercado-Espinoza, Esq.
Honorable Hillary B. Strackbein
Honorable Elpedio N. Vitale

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 chief public defender on October 1, 2017 and continues to serve in that capacity.

Significant Legislation

- **Public Act 19-59**, effective July 1, 2019, required the state's chief public defender, within available appropriations, to establish a pilot program to provide representation to individuals at parole revocation hearings. The act also required the chief public defender to submit an annual report on cases served to the Secretary of the Office of Policy and Management.
- **Public Act 19-64**, effective July 1, 2019, required the Division of Public Defender Services and the Judicial Department to share the cost of counsel appointed in certain juvenile court proceedings.

RÉSUMÉ OF OPERATIONS

General Fund Receipts and Expenditures

General Fund receipts for the audited period, as compared to the preceding fiscal year, follow:

General Fund Receipts	Fiscal Year		
	2018 – 2019	2019 – 2020	2020 – 2021
Sale of Property	\$ 8,120	\$ 4,912	\$ -
Refunds of Expenditures-Prior Year	32,489	29,092	117,166
Other General Fund Receipts	-	-	1,829
Total	\$ 40,609	\$ 34,004	\$ 122,285

General Fund receipts primarily consisted of refunds of prior year expenditures and the sale of surplus property. General Fund receipts decreased by \$6,605 for the 2019-2020 fiscal year and increased by \$88,281 for the 2020-2021 fiscal year. The increase is due to refunds issued by several vendors that were unable to fulfill their obligations to the division.

General Fund expenditures for the audited period, as compared to the preceding fiscal year, follow:

General Fund Expenditures	Fiscal Year		
	2018 – 2019	2019 – 2020	2020 – 2021
Personal Services and Employee Benefits	\$ 39,442,177	\$ 40,784,488	\$ 42,825,846
Purchased and Contracted Services	25,909,837	24,212,038	19,023,879
Premises and Property Expenses	179,407	150,359	127,512
Motor Vehicle Costs	13,539	10,008	7,595
Information Technology	118,877	635,051	1,226,904
Communications	71,492	63,309	124,513
Purchases Commodities	170,750	241,104	407,509
Other Charges	4,000	5,000	-
Capital Outlays-Equipment	-	-	24,340
Total	\$ 65,910,079	\$ 66,101,357	\$ 63,768,098

Federal and Other Restricted Accounts Fund

Federal and other restricted receipts for the audited period, as compared to the preceding fiscal year, follow:

Federal and Other Restricted Receipts	Fiscal Year		
	2018 – 2019	2019 – 2020	2020 – 2021
Federal	\$ 2,572	\$ 108,789	\$ 70,185
Other Restricted Accounts Funds	85,681	58,815	514,246
Non-Federal Grants	200,000	-	-
Total	\$ 288,253	\$ 167,604	\$ 584,431

Federal and Other Restricted Funds receipts decreased by \$120,648 for the 2019-2020 fiscal year and increased by \$416,827 for the 2020-2021 fiscal year. The decrease for the 2019-2020 fiscal year is due to the ending of the Civil Gideon Pilot Program. The increase for the 2020-2021 fiscal year is due to the division receiving Coronavirus Emergency Supplemental Funds.

Federal and other restricted expenditures for the audited period, as compared to the preceding fiscal year, follow:

Federal and Other Restricted Expenditures	Fiscal Year		
	2018 – 2019	2019 – 2020	2020 – 2021
Personal Services and Employee Benefits	\$ 220,120	\$ 122,249	\$ 629,250
All Other Expenditures	10,798	88,536	48,113
Total	\$ 230,918	\$ 210,785	\$ 677,363

The total federal and other expenditures decreased by \$20,133 for the 2019-2020 fiscal year and increased by \$466,578 for the 2020-2021 fiscal year. Personal services and employee benefits decreased by \$97,871 for the 2019-2020 fiscal year and increased by \$466,578 for the 2020-2021 fiscal year. The decrease for the 2019-2020 fiscal year is due to the ending of the post-conviction DNA testing grant and the Civil Gideon Pilot Program. The increase for the 2020-2021 fiscal year

is due to the division hiring temporary workers to support its needs during the Coronavirus pandemic. The division eliminated three full-time and part-time positions at the beginning of the 2018-2019 fiscal year.

All other expenditures increased by \$77,758 for the 2019-2020 fiscal year and decreased by \$40,423 for the 2020-2021 fiscal year. The increases in other expenditures were due to additional spending for the division's Early Screening Intervention Program, which provided counselors in a number of judicial districts. The decrease in expenditures is due to the Early Screening Intervention program grant ending and the pandemic.

Capital Improvements and Other Purpose Fund

Capital Improvements and Other Purpose Fund expenditures totaled \$417,552 and \$406,979, during the fiscal years ended June 30, 2020, and 2021, respectively. The division used its IT Investment Fund to develop and implement the case management system. The project was completed in the 2019-2020 fiscal year. The expenditures in the 2020-2021 fiscal year were for consultant services and the operational support of the case management system.

Capital Equipment Fund

Capital Equipment Fund expenditures totaled \$255,324 and \$23,938, during the fiscal years ended June 30, 2020, and 2021, respectively. The decrease in expenditures was due to the division not purchasing minor equipment and vehicle equipment in fiscal year 2019-2020.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of Division of Public Defender Services disclosed the following two recommendations, of which one has been repeated from the previous audit:

Evaluating Defendant's Eligibility for Public Defenders

Criteria: Section 51-297(a) of the General Statutes 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 30 applications identified the following conditions:

- Nine applications were missing client signatures affirming the accuracy of their provided information.
- The employee authorized to administer oaths did not sign nine applicants.
- The division did not indicate its determination of client eligibility on 20 applications.
- Two applications were missing.
- The division used two different application templates.
- Two applications were not dated.
- Five applications' income and/or assets sections were not completed.

Context: During the audited period, there were approximately 40,000 new cases across the entire division. We selected 30 applications from July 1, 2019 through June 30, 2021, from the Bridgeport (GA), Hartford Geographic Area (GA14), Middletown (Juvenile (PD)), New Britain (GA15/JD PD), and Waterbury (GA 04 PD) courthouses.

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(a) of the General Statutes.

Cause: Although the division implemented new application processing guidelines, a standardized application form and an internal application audit policy in the 2019-2020 fiscal year, some courthouses did not follow the new guidelines.

Prior Audit Finding: This finding has been previously reported in the last two audit reports covering the fiscal years ended June 30, 2016 through 2019.

Recommendation: The Division of Public Defender Services should strengthen internal controls to ensure that clients properly complete applications and division employees follow eligibility guidelines. (See Recommendation 1.)

Agency Response: “The Division of Public Defender Services agrees with this finding and will continue to take steps to ensure compliance with eligibility application procedures. An internal audit process has been implemented that is similar to that used by the Auditor of Public Accounts. The Deputy Chief Public Defender has been designated to randomly gather applications and to review noncompliance with the office heads. In addition, staff will be retrained on the process and the importance of accurately completing the application will be emphasized.”

Property Control and Software Inventory

Criteria: The State Property Control Manual requires a complete physical inventory of all property to be taken by the end of each fiscal year to ensure that property control records accurately reflect the actual inventory on hand within the current fiscal year. Agencies are required to transmit an annual Asset Management Report (CO-59) to the Office of the State Comptroller, which provides a detailed inventory of all real or personal property owned by the state in custody of an agency.

The manual also requires state agencies to maintain a software inventory of all licensed, owned, and agency-developed software media and licenses, and to produce an annual software inventory report. A physical inventory of software libraries must be performed at the end of each fiscal year and compared to the annual software inventory report. Agencies should retain the physical inventory for audit purposes.

The Copyright Act, U.S. Code - Title 17, protects software. The Office of the State Comptroller requires all agencies to comply with all provisions of the law. The agency may use the inventory/library source documentation to verify it complies with the Copyright Act, United States (U.S.) Code - Title 17. The State of Connecticut is responsible for ensuring compliance with software manufacturers' licensing requirements.

Condition: Our review of inventory disclosed that the division failed to perform a physical inventory and a software inventory, and did not submit the required annual asset inventory report (CO-59) for the 2019-2020 fiscal year. Also, the division did not perform a software inventory, and

performed a physical inventory three months late for the 2020-2021 fiscal year.

The division used the Core-CT Inventory Module to track its software inventory for the audited period. However, the division's software inventory did not comply with the State Comptroller's requirements.

Context: The division reported inventory of \$2,324,537 for the 2020-2021 fiscal year.

Effect: The lack of proper accountability increases the risk that inventory may be lost, stolen, or improperly used. The state may also be at a higher risk of litigation from software companies for violation of licensing and copyright agreements.

Cause: There appears to be a lack of management oversight.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Division of Public Defender Services should comply with the Office of the Comptroller's annual physical and software inventory policies and procedures. (See Recommendation 2.)

Agency Response: "The Division of Public Defender Services agrees with the finding. The Division did not complete form CO-59 for the 2019-2020 fiscal year. Inventory of all required equipment was impossible due to the closure of multiple courthouses. Our staff was unable to enter the buildings to account for the equipment. The administrative services staff notified the Office of the State Comptroller and sought but did not receive guidance on how to proceed.

The Division of Public Defender Services agrees with the finding that the software inventory is not fully compliant with OSC policies. In the future, the Division will track the software separately to comply with the [Comptroller's] requirements."

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Division of Public Defender Services contained five recommendations. Four have been implemented or otherwise resolved and one has been repeated or restated with modifications during the current audit.

- The Division of Public Defender Services should strengthen internal controls over the procurement process to ensure that fully executed contracts with clearly defined deliverables and payment terms are in place for large purchases prior to the start of a project. The division should also develop a policy addressing system privileges in accordance with the Network Security Policy and Procedures established by the Office of Policy and Management, and update privilege sets that reflect appropriate employee roles within the system. **This recommendation has been resolved.**
- The Division of Public Defender Services should strengthen internal controls by restricting access to employees designated to approve authorization requests. The division should also analyze prior approvals to determine whether any unauthorized transactions occurred. **This recommendation has been resolved.**
- The Division of Public Defender Services should strengthen internal controls to ensure that clients properly complete applications and division employees follow eligibility guidelines. **This recommendation is being repeated.**
- The Division of Public Defender Services should attempt to recover all vendor overpayments and should document its efforts to recover them. If the division cannot recover these funds, it should document the reason. **This recommendation has been resolved.**
- The Division of Public Defender Services should review the status of all commission members and consider formally contacting appointing authorities to determine whether there should be a reappointment. **This recommendation has been resolved.**

Current Audit Recommendations:

- 1. The Division of Public Defender Services should strengthen internal controls to ensure that clients properly complete applications and division employees follow eligibility guidelines.**

Comment:

Our review of public defender services applications identified multiple instances of missing or incomplete applications. The current process does not include a sufficient level of review to provide reasonable assurance that public defender services are only provided to eligible applicants.

- 2. The Division of Public Defender Services should comply with the Office of the Comptroller's annual physical and software inventory policies and procedures.**

Comment:

The division did not perform a physical or a software inventory nor submit a CO-59 for the 2019-2020 fiscal year. Also, the division did not perform a software inventory, and performed its physical inventory three months late for the 2020-2021 fiscal year. In addition, the division's software inventory did not comply with the State Comptroller's requirements.

ACKNOWLEDGMENTS

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:

Sophia Chen
Kathrien E. Williams

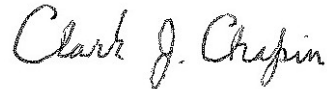


Kathrien E. Williams
Principal Auditor

Approved:



John C. Geragosian
State Auditor



Clark J. Chapin
State Auditor