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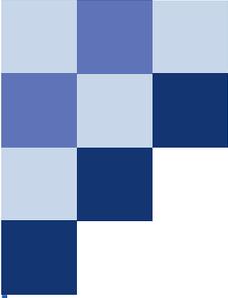


## Chapter IV – Corrections and Public Safety

### **Disclosure Issues**

In addition to the recommendations included in audit reports for state agencies, audit reports may also include disclosure issues. Disclosure issues are items of which the Legislative Auditor believes the legislature should, but may not be, aware. They include situations where the law may not directly address the issue, where spending by state agencies might be inconsistent with what appears to be the intent of the legislature or where amounts on the state's accounting records might not be accurate. The disclosure issues listed below are included in reports for the agencies addressed in this section.

There were no disclosure issues for agencies included in this section.



# MONTANA LEGISLATIVE AUDIT DIVISION

## FINANCIAL-COMPLIANCE AUDIT

### Department of Corrections

For the Two Fiscal Years Ended June 30, 2012

OCTOBER 2012

12-15

REPORT SUMMARY

The Department of Corrections (department) manages adult male and female offenders through secure-care facilities, prerelease centers, probation and parole activities, and treatment programs. The Youth Services Division holds juvenile offenders accountable for their actions through custody, supervision, restitution, and life skills development. Total expenditures in fiscal year 2012 were \$189.7 million. Approximately 90 percent of this amount is funded by General Fund appropriations.

### Context

The department promotes public safety and trust by holding adult and juvenile offenders, referred by the courts, accountable for their actions against victims through custody, supervision, treatment, work, restitution, and skill development. Skill development includes various programs at the prisons such as carpentry, print and sign shop, dog training program, ranching, dairy operations, lumber processing, fire fighting, motor vehicle maintenance, and cooking. The department supervises offenders through five prisons, three youth facilities, seven treatment programs, three assessment and sanction centers, and six prerelease centers.

### Results

The audit resulted in three recommendations to the department. Those recommendations relate to maintaining fees commensurate with costs in the license plate Internal Service Fund, deposits to the inmate welfare account, and documenting and testing internal controls.

Recommendation Concurrence	
Concur	3
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

For a complete copy of the report (12-15) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to [lad@mt.gov](mailto:lad@mt.gov); or check the web site at <http://leg.mt.gov/audit>  
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FINANCIAL-COMPLIANCE AUDIT  
Judicial Branch

For the Two Fiscal Years Ended June 30, 2012

DECEMBER 2012

12-27

REPORT SUMMARY

The Judicial Branch’s (branch) main operations consist of the Supreme Court and district courts. The Supreme Court has general supervisory control over all other courts in the state. The branch can improve internal controls to comply with federal regulations and properly record all revenues and expenditures on the state’s accounting records.

**Context**

The judicial power of the state is vested in the Supreme Court; district courts in the 22 judicial districts; the Workers’ Compensation Court; the Water Court; courts of limited jurisdiction; and any other courts established by law. Branch operations only include the Supreme Court, clerk of the Supreme Court, the Water Court, district courts, the state law library, and the computer technology of all courts of limited jurisdiction. District Court operations account for 70 percent of the branch’s activity. Of the branch’s 410 full-time equivalent staff, 311.5 work in the 22 judicial districts.

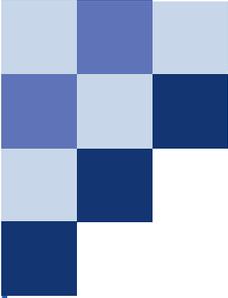
The 2005 legislature passed the Drug Offender Accountability and Treatment Act recognizing that district courts and courts of limited jurisdiction have a jurisdictional basis to implement drug treatment courts, in an effort to reduce recidivism and restore drug offenders to being productive law abiding and taxpaying citizens. During the audit period 18 of the 25 state drug treatment courts resided in district courts.

**Results**

This report contains five recommendations on improving compliance with state and federal laws and regulations. Additionally, the branch did not record all revenues and expenditures associated with drug treatment court fees on its accounting records, and misclassified over \$400,000 of activity expenditures on its financial schedules each fiscal year.

Recommendation Concurrence	
Concur	4
Partially Concur	0
Do Not Concur	1
<b>Source: Agency audit response included in final report.</b>	

For a complete copy of the report (12-27) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to [lad@mt.gov](mailto:lad@mt.gov); or check the web site at <http://leg.mt.gov/audit>  
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# MONTANA LEGISLATIVE AUDIT DIVISION

## FINANCIAL-COMPLIANCE AUDIT

### Department of Justice

For the Two Fiscal Years Ended June 30, 2012

NOVEMBER 2012

12-18

REPORT SUMMARY

The Department of Justice (department) provides a diverse set of services to the state of Montana. One of those services is management of the settlement funds for reclamation of the Upper Clark Fork River. Our audit identified errors in the liability recorded for this project.

### Context

The Attorney General is an elected official that heads the department, whose operations include the Montana Highway Patrol, the Montana Law Enforcement Academy, the State Forensic Lab, driver and vehicle licensing and registration, and oversight of gambling within the state. The department is primarily funded by the General Fund (approximately 25 percent) and the State Special Revenue Fund (approximately 60 percent). The largest sources of revenue generated through the department are from motor vehicle licenses and permits and gambling taxes, which provided approximately \$185 million in revenues to the General and State Special Revenue Funds for each fiscal year.

The Montana Board of Crime Control, Natural Resource Damage Program, and Public Safety Officer Standards and Training Council (POST) are administratively attached to the department. The Board of Crime Control administers federal grants dedicated to preventing and addressing crime statewide. The Natural Resource Damage Program conducts natural resource damage assessments and lawsuits, and develops restoration plans and projects. POST is responsible for establishing basic and advanced qualification and training standards for employment of Montana's public safety officers.

### Results

There are four recommendations in this report. We identified a control deficiency related to pollution remediation liabilities, which led to an overstatement of \$43.3 million and an understatement of \$35.2 million in these liabilities for fiscal years 2011 and 2012, respectively. We also identified accounting errors in recording agency fund activity and equipment and intangible assets.

Fees and charges for services are not commensurate with costs within the Agency Legal Services Bureau Internal Service Fund. During the audit period, the fees and charges did not cover the cost of bureau operations.

We identified noncompliance with state laws related to the registration of motor vehicles, grants to chronically and critically ill children, and reporting requirements for licensed amateur radio operators.

Recommendation Concurrence	
Concur	4
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

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## INFORMATION SYSTEMS AUDIT

# Improving Controls Over Security of Laptop Data

Department of Justice, Department of Labor and Industry, Department of Public Health and Human Services, Department of Revenue

JANUARY 2012

11DP-12

REPORT SUMMARY

Laptops comprise almost 25 percent of all computers used in Montana state government. Laptops provide for added mobility, but they also present an increased risk to data security. Current controls do not ensure an adequate level of security for all data within the departments reviewed.

### Context

During recent years, use of laptop computers within state government has steadily increased. The 2011 Biennial IT Report states laptops make up 23 percent of all computers compared with 14.6 percent for the previous biennium. Overall, the State Information Technology Services Division reports 3,431 laptops in service throughout state government, excluding the university system. Reasons for the rise in laptop use are their portability and ability to connect remotely to the state network. This provides laptop users the flexibility to travel for work and maintain communication with their offices.

While laptops allow for added mobility and flexibility, they also present added data security risks. Because they are portable, laptop computers are often outside the physical security of state offices and at risk of loss or theft. This becomes critical when laptops are used to service and store confidential data, increasing the need for added physical and data security. Because of the heightened security risk, we conducted an audit to identify and test laptop security controls to verify security

of sensitive data. To achieve our objective, we developed testing protocol based on statute, best practices, and state policy and tested a sample of 100 laptops at four different agencies.

### Results

Overall, we identified laptops throughout all four agencies that are vulnerable to potential security breaches. We issued recommendations for agencies to improve security controls, including periodic monitoring of laptop security settings, improving user awareness of security policies and procedures, ensuring encryption of sensitive laptop data, and limiting the use of laptops.

Recommendation Concurrence	
Concur	3
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

For a complete copy of the report (11DP-12) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to [lad@mt.gov](mailto:lad@mt.gov); or check the web site at <http://leg.mt.gov/audit>  
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# INFORMATION SYSTEMS AUDIT

## Sexual or Violent Offender Registry

Department of Justice

JUNE 2011

11DP-08

REPORT SUMMARY

The Sexual or Violent Offender Registry (SVOR) system plays a key role in the tracking and management of sexual and violent offenders in Montana. Given its important role in public safety and informing law enforcement and the public on the whereabouts of offenders, data integrity is critical. We determined nearly 26 percent of the total registered active offender addresses are not verified and not flagged in the system.

### Context

The registry is the primary database which houses all offender registration information in Montana. As of April 2011 there were nearly 5,000 registered sexual or violent offenders in the registry. The registry is used by the public to identify the location of registered offenders and by law enforcement for queries of criminal history and offender information. There were over 120,000 public searches and 100,000 law enforcement queries during November 2010.

### Results

Overall, SVOR has controls in place in the areas we tested. However, we identified areas where controls over the SVOR system can be strengthened including: user access, change management, and data integrity.

The Department of Administration hosts two components of the SVOR system. DOA users have excessive access to SVOR systems. The Department of Justice (DOJ) was not aware of DOA access to offender photographs, the website program code, or the website database. Additionally, they did not participate in, or review, determination of DOA user access.

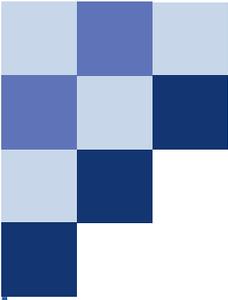
We reviewed change management documentation for evidence the department's change management processes were being followed. Our review of these records identified weaknesses in the documentation process including: lack of management approval, no indication of user acceptance testing, and inconsistent indication of reasons for changes. Lack of an effective change management process can lead to unauthorized changes to the system or the inability to quickly identify and correct programming errors.

According to §46-23-507, MCA, offenders who fail to register, verify registration, or keep registration current are subject to potential incarceration, a fine, or both. However, offenders who fail to submit their annual verification letter within 15 days are not automatically flagged in SVOR in such a way that makes their overdue status available to law enforcement or the public. We determined nearly 26 percent of the total registered active offender population are

overdue and not flagged. As a result, when members of the public access the website or law enforcement queries data, they will not be aware of the offender's failure to verify their registration.

Recommendation Concurrence	
Concur	5
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

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PERFORMANCE AUDIT  
Motor Vehicle Title and Registration  
Process  
Department of Justice

MAY 2012

11P-07

REPORT SUMMARY

The State of Montana titles and registers over a million vehicles and collects over \$100 million in fees annually using the new Montana Enhanced Registration and Licensing Information Network (MERLIN) system; the Department could strengthen controls to ensure motor vehicle records and fees are accurate and should improve its communications with county offices using the system.

## Context

The Department of Justice (Department) titles and registers over one million vehicles each year and in 2011 collected over \$100 million in fees. The Department's Motor Vehicle Division operates MERLIN, which is used to manage various activities, including titling and registering of vehicles, driver examinations and licensing, and regulating of motoring activities in Montana.

In 2009, the Department implemented MERLIN replacing its previous information system. MERLIN was designed to offer additional functionality. While citizens can conduct transactions online or in county offices, MERLIN records, processes, and generates fees for all transactions. County offices send revenue collected from title and registration transactions to the Department each month. The amount sent to the Department includes fees collected from title and registration transactions, excluding the county's portion of revenue collected. The Department then records revenues on the state's accounting records. For online transactions, the Department's contractor sends both state and county portions of revenue to the Department.

## Results

Audit work determined MERLIN accurately records and processes transactions, including title and registration fees. However, the Department could strengthen controls to ensure vehicle ownership records in MERLIN are accurate, duplicate plates do not exist, and fee adjustments are accurate. Additionally, since county offices are responsible for conducting front-end title and registration transactions, the Department could improve its communication structure with county offices to promote a more accurate and efficient motor vehicle title and registration process.

Based on audit work, we conclude MERLIN accurately captures and records transactions at the county level and generates transactions for all vehicle registration changes. However, the Department could improve the accuracy of vehicle and ownership records in MERLIN. Recommendations related to this area include establishing controls to ensure vehicle ownership records are accurate, identifying and correcting inaccurate security

interest or lien information, and correcting records affected by plate reassignment errors. Additionally, audit work determined duplicate license plates exist, meaning two or more citizens may be driving vehicles with the same plate number. Therefore, we recommend the Department remove duplicate license plates from circulation and issue new license plates to affected citizens.

Audit work also determined MERLIN accurately records and processes title and registration fees. However, 50 percent of counties responding to our survey indicated some type of inaccuracy with fees generated in MERLIN. Based on our review we identified variances in fees exist, due to fee amounts being adjusted during transactions. Since certain fees can be waived, counties need to be able to conduct fee adjustments. However, in some cases, we could not identify why adjustments were made. Therefore, to ensure fees charged are accurate, we recommend the Department strengthen its controls over fee adjustments.

County offices have an important role in the recording and processing of vehicle title and registration transactions. Audit work determined the Department could make improvements to its communications with county offices. Recommendations for improvement include, establishing a formal training plan for county offices, developing a formal communication structure with county offices, and following-up with county offices on inventory issues.

Recommendation Concurrence	
Concur	1
Partially Concur	7
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

For a complete copy of the report (11P-07#) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to [lad@mt.gov](mailto:lad@mt.gov); or check the web site at <http://leg.mt.gov/audit>

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**FINANCIAL-COMPLIANCE AUDIT**  
**Office of the State Public Defender**  
**For the Two Fiscal Years Ended June 30, 2012**

OCTOBER 2012

12-28

REPORT SUMMARY

The Office of the State Public Defender (office) is the state’s newest executive branch agency, created in 2005. The agency provides criminal defense services to low income Montanans, employing over 100 attorneys and contracting with about 200 Montana attorneys.

**Context**

The office is organized into two programs: the Office of the State Public Defender and the Office of the State Appellate Defender. The Office of the State Public Defender provides criminal defense services as well as representation on child abuse or neglect and involuntary commitment proceedings. It is organized into 11 regions with a regional deputy public defender supervising each region. The Office of the State Appellate Defender is located in Helena and represents indigent clients during requests for appeals and post-conviction relief.

The office receives its funding almost entirely through the General Fund. In both fiscal years 2011-12, and 2010-11, over 99 percent of expenditures were General Fund expenditures. Increased demand for services in the audited period drove up costs, reflected by an 8.5 percent increase in personal and contracted services expenditures in fiscal year 2011-12. In addition, the office implemented changes in operations including a requirement that the Chief Appellate Defender report directly to the Public Defender Commission rather than the Chief Public Defender and revised procedures for collection of court assessed fees. During the audited period, the Public

Defender Commission appointed a new Chief Public Defender and Chief Appellate Defender.

**Results**

This report contains the audited financial schedules for the two fiscal years ended June 30, 2012. We identified an error in the June 30, 2011, General Fund, fund balance of a material amount. The report contains four recommendations to implement internal controls over financial reporting and safeguard office assets as well as to comply with state policies.

Recommendation Concurrence	
Concur	4
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

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## PERFORMANCE AUDIT

## Improving Statewide Consistency of Key Processes for the Office of the State Public Defender

MAY 2012

11P-03

REPORT SUMMARY

The Office of the State Public Defender should strengthen both its attorney contracting and indigency determination processes to improve the consistency of its activities and ensure compliance with statutory requirements.

**Context**

The Sixth Amendment to the United States Constitution and Article II, §24 of the Montana Constitution provide that a person accused of a crime has the right to assistance of counsel for his defense. The right extends to those individuals who cannot afford to provide their own counsel and so may be entitled to an attorney provided at the public's expense. The 2005 Legislature enacted Title 47 of the Montana Code Annotated, also known as the "Montana Public Defender Act," to create a statewide system to provide public defender services for eligible clients, beginning July 1, 2006.

The Public Defender Commission, composed of eleven members appointed by the governor, directs and oversees the statewide public defender system, which includes the Office of the State Public Defender (OPD). OPD, which is administratively attached to the Department of Administration, was appropriated approximately \$42 million for the 2013 biennium. In total, the agency has 199.5 FTE for fiscal year 2012. The agency's staff, along with contracted attorneys, is responsible for handling the more than 27,500 new cases to which the agency is appointed each year.

Our audit focused on two main topics: contracting for attorney services and determination of client eligibility.

In addition to staff, OPD uses contracted attorneys to provide public defender services. The agency has approximately 200 attorneys in its contract attorney pool. The number of available contractors varies by region and in two regions, contract attorneys handle nearly all cases that come to OPD. In some instances, contractors take cases in multiple counties. In fiscal year 2011, the agency assigned approximately 26 percent of its new cases to contract attorneys and paid contractors over \$5 million.

Per §§46-8-101 and 47-1-111, MCA, OPD is responsible for determining client eligibility for services upon appointment to a case by the court. OPD uses two methods, which are defined in statute, to determine if an individual is indigent, thus meeting the criteria to receive public defender services. The first method is an income test; the second method is a hardship test. Statute requires the process for determining client eligibility be fair and consistent statewide.

Our audit sought to determine if there are controls in place within the agency over contracting and determination of client indigence.

## Results

As a result of this audit, we determined the agency’s management has not clearly defined agency-wide expectations for many of its activities related to contract management and determination of client indigency. For those expectations which have been formalized, the agency does not monitor regional compliance. This has led to inconsistencies within the public defender system.

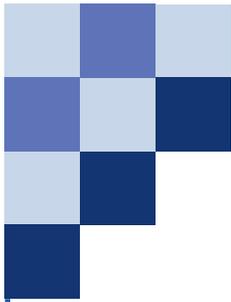
During our review, we noted inconsistencies related to:

- ◆ Monitoring of contractor caseloads.
- ◆ Tracking of contractor compliance with continuing legal education requirements.
- ◆ Evaluation of contractor performance.
- ◆ Frequency and methods for verifying client-reported financial information.
- ◆ Determination of indigence of “repeat” clients.
- ◆ Agency oversight of the indigency determination process.

To address these concerns and others, we make nine recommendations to the agency to improve operations related to contract management and the determination of client eligibility for services.

Recommendation Concurrence	
Concur	7
Partially Concur	2
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

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**FINANCIAL-COMPLIANCE AUDIT**  
**Department of Public Service Regulation**  
**For the Two Fiscal Years Ended June 30, 2012**

DECEMBER 2012

12-26

REPORT SUMMARY

The Department of Public Service Regulation (department) is responsible for assuring the public receives safe, adequate, and economical utility and transportation services at just and reasonable rates under the direction of the Public Service Commission.

**Context**

In addition to assuring safe, adequate, and economical utility and transportation services, the department regulates certain public utilities, motor carriers, railroads, and pipelines within the state, and performs safety inspections of regulated activities under the direction of the Public Service Commission. The department’s operating activity is subject to state regulation and grants received are subject to federal regulation.

The department is comprised of the Regulatory Division, Centralized Services Division, and Legal and Consumer Division. The department has 43 full-time equivalent (FTE) positions that include the five Commissioners and a Communications and Research Director. Commissioners are elected by district to serve four-year terms.

Most department funding comes from a tax on the gross operating revenue of regulated companies collected by the Department of Revenue. In fiscal year 2011 and 2012, this tax brought in \$4.2 million and \$3.5 million in revenue, respectively. The department also received federal grant funding of \$240,661 and \$184,888 in fiscal years 2011 and 2012, respectively.

**Results**

We audited the fiscal years 2010-11 and 2011-12 financial schedules and tested compliance with state laws and federal regulations. No findings resulted from our audit, and we make no recommendations to the department. The previous two audits also resulted in no recommendations to the department.

Recommendation Concurrence	
Concur	0
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

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