

FINANCIAL-COMPLIANCE AUDIT

Office of the State Public Defender

For the Two Fiscal Years Ended June 30, 2016

NOVEMBER 2016

16-28

REPORT SUMMARY

The Office of the State Public Defender provides legal defense services to low income Montanans. The office spent approximately \$35.3 million and \$32 million in fiscal years 2016 and 2015, respectively, to provide these services. As a result of our audit, we determined internal controls over the completeness and accuracy of public defender fee revenue can be improved.

## Context

The Office of the State Public Defender (office) is divided into four programs. The Public Defender program provides non-appellate representation to qualifying individuals, including criminal defense, child abuse or neglect, and involuntary commitment services. The Appellate Defender program provides appellate representation to qualifying individuals. The Conflict Coordinator program provides appellate and non-appellate representation to qualifying individuals in circumstances where a conflict of interest prohibits the other programs from representing the defendant. In fiscal year 2016, the Chief Administrator's Office was established to provide support to the Public Defender Commission and existing programs.

The office's operations are funded primarily by the state's General Fund, although the office also collects public defender fees in the state special revenue fund. Additionally, in fiscal year 2015, the office received an allocation of approximately \$4.5 million from the Governor's Operations Account established in the 2013 Legislative Session. Of the \$35.3 million spent in fiscal year 2016, approximately 99.1 percent was charged to the General Fund. Of the \$32 million spent in fiscal year 2015, approximately 84.3 percent was charged to the General Fund.

Accounts receivable resulting from public defender fee assessments has increased over the last four years. The year-end balance was \$1.6 million and \$2.4 million for fiscal years 2013 and 2014, respectively. The accounts receivable balance for fiscal year 2015 was \$3.1 million, and in fiscal year 2016, the balance had increased to \$3.9 million.

## Results

The report contains four recommendations to the office related to internal controls over revenues, internal controls over access to a claims processing system, compliance with state law regarding rule-making requirements over evaluation for contract attorneys, and timely communication of theft, whether actual or suspected.

Of the four recommendations from the prior audit for the two fiscal years ended June 30, 2014, the office fully implemented two recommendations and did not implement two recommendations. Recommendations not implemented included a recommendation that the office comply with state law and accounting policy by implementing procedures for the financial management of public defender fee accounts receivable. The other recommendation suggested the office work with the Judicial Branch and

courts to obtain detailed public defender fee assessment and payment information. This recommendation further suggested that the office account for public defender fee assessments and payments on an individual account basis, to facilitate compliance with state law and policy governing the financial management of accounts receivable and the annual reporting of assessment data.

Recommendation Concurrence	
Concur	3
Conditionally Concur	1
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

For a complete copy of the report (16-28) 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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