

# Audit Highlights



## Office of State Public Defender

### Department of Health and Human Services

Highlights of Legislative Auditor report on the Office of State Public Defender, issued on November 5, 2009. Report # LA10-06.

#### **Background**

The mission of the Office of State Public Defender (OSPD) is to provide quality criminal and juvenile legal defense services to rural indigent clients through a cost effective, independent, responsible, and efficient public defender system. OSPD provides equal protection under the law in accordance with the Nevada and United States Constitutions by representing indigent adults and juveniles accused of committing crimes in certain rural areas of Nevada or in one of Nevada's prisons.

OSPD is established within the Department of Health and Human Services. The State Public Defender is appointed by the Governor. Nevada counties with a population less than 100,000 have the option to use the services of OSPD or to obtain services from other sources. During calendar year 2008, OSPD provided services to Carson City, Storey, White Pine, Eureka, and Lincoln Counties. OSPD currently has offices in Carson City and Ely. In fiscal year 2008 OSPD had 16 authorized positions and incurred expenditures of \$2.3 million.

#### **Purpose of Audit**

The purpose of this audit was to determine if OSPD's financial, administrative, and reporting activities were carried out in accordance with applicable state laws, regulations, policies, and procedures. This audit included a review of OSPD's financial, administrative and reporting activities for the 12-month period from January 1, 2008, through December 31, 2008; and includes activities from July 1, 2007, for certain issues.

#### **Audit Recommendations**

This audit report contains eight recommendations to improve OSPD's financial, administrative, and reporting activities. Recommendations include policies and procedures over the submission, preparation, and accuracy of annual reports. Other recommendations were made to properly record trial expenditures in the budget, improve the security of the information technology function, and ensure administrative requirements over personnel are met. Finally, we made recommendations for improved controls over cash receipts and property and equipment.

The Office accepted the eight audit recommendations.

#### **Status of Recommendations**

The Office's 60-day plan for corrective action is due on February 5, 2010. In addition, the six-month report on the status of audit recommendations is due on August 5, 2010.

#### **Results in Brief**

The Office of State Public Defender substantially complied with state laws, regulations, policies, and procedures significant to its reporting, administrative, and financial practices. However, improvements are needed in some areas. OSPD should develop controls over the preparation and submission of annual reports to ensure all reports are issued in accordance with requirements, include accurate, complete and reliable data, and are error free. In addition, certain trial expenditures should be processed directly by OSPD and not participating counties. Furthermore, improved controls will help ensure OSPD's sensitive data and data systems are properly protected and OSPD complies with laws and regulations regarding personnel and property and equipment.

#### **Principal Findings**

OSPD is required by statute to submit three reports at various intervals; however, OSPD did not prepare and submit some reports. Biennial reports disclosing the total proposed budget and projected cases for each participating county for the upcoming biennium were not prepared. In addition, the report submitted to the Legislative Commission was the same report submitted to the Governor and participating counties even though it was not prepared under the correct time frame and did not contain all information required by legislative regulation.

Underlying data used to compile required reports was not accurate, complete, or reliable. Our analysis of staff hours found all hours were not accounted for and hours were charged to the wrong entity. In addition, case logs, used to compile reports did not always agree to supporting files or to amounts stated on reports. Furthermore, errors were made during report preparation because the process is cumbersome and not adequately reviewed. Without accurate, complete, and reliable data, annual reports will not correctly reflect OSPD operations and calculations used to determine each county's proportional share of costs will be incorrect.

Expenditures, such as investigative costs, expert witness fees, and independent lab costs, were not recorded in OSPD's budget. We identified approximately \$86,000 of expenditures in fiscal year 2008 which were not reflected in OSPD's budget. These expenditures were paid directly from the treasuries of participating counties or from the Reserve for Statutory Contingency Account. By not processing trial expenditures through OSPD's budget, a complete accounting of costs needed to adequately defend indigent citizens is not available to government officials and the general public.

OSPD has not developed internal procedures to ensure state information technology standards are met. Network maintenance necessary to protect against outside threats has not been updated and steps have not been taken to protect sensitive information. Furthermore, adequate plans for the recovery of information and the ability to support critical business functions after a system failure or disaster have not been developed.

OSPD did not comply with performance evaluation and work performance standard requirements. All four classified employees did not receive evaluations or have work performance standards as required by statute.

Controls over certain financial activities can be strengthened. Specifically, the cash receipting function and the property and equipment function should be adequately segregated. In addition, OSPD lacks controls necessary to ensure appropriate records of asset disposals are created. Good control systems provide reasonable assurance that an agency's objectives are achieved by ensuring the efficiency and effectiveness of operations, reliability of financial information, and compliance with laws and regulations.