



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

*Office of the State Public  
Defender*

*For the Two Fiscal Years Ended  
June 30, 2010*

SEPTEMBER 2010

LEGISLATIVE AUDIT  
DIVISION

10-28

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# LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor  
Monica Huyg, Legal Counsel



Deputy Legislative Auditors  
James Gillett  
Angie Grove

September 2010

The Legislative Audit Committee  
of the Montana State Legislature:

This is our financial-compliance audit report on the Office of the State Public Defender for the two fiscal years ended June 30, 2010. This report includes a discussion on a partially implemented recommendation concerning witness fees, a disclosure issue concerning noncriminal public defense representation, and a disclosure issue concerning a transfer of appropriation authority.

We thank the Chief Public Defender and office staff for their assistance and cooperation during the audit.

Respectfully submitted,

*/s/ Tori Hunthausen*

Tori Hunthausen, CPA  
Legislative Auditor



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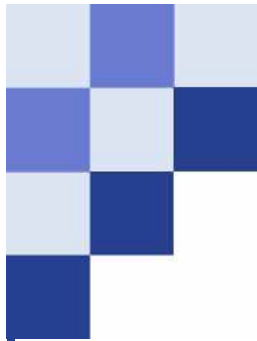
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## APPOINTED AND ADMINISTRATIVE OFFICIALS

		<u>Term Expires July 1</u>
<b>Public Defender Commission</b>	Richard "Fritz" Gillespie, Chair	2013
	Kenneth R. Olson, Vice-Chair	2011
	Caroline Fleming	2011
	Jennifer Hensley	2011
	Terry Jessee	2012
	Raymond Kuntz	2013
	Margaret Novak	2013
	Charles Petaja	2012
	Majel Russell	2012
	William Snell	2013
	James Park Taylor	2011
<b>Office of the State Public Defender</b>	Randi M. Hood, Chief Public Defender	
	Joslyn Hunt, Chief Appellate Defender	
	Harry Freebourn, Administrative Director	

For additional information concerning the Office of State Public Defender, contact:

Harry Freebourn, Administrative Director  
 Office of the State Public Defender  
 44 West Park Street  
 Butte, MT 59701  
 (406) 496-6080  
 e-mail: hfreebourn@mt.gov



FINANCIAL-COMPLIANCE AUDIT

Office of the State Public Defender

For the Two Fiscal Years Ended June 30, 2010

SEPTEMBER 2010

#10-28

REPORT SUMMARY

The 59<sup>th</sup> Legislature created the State Public Defender Commission, which supervises Montana’s statewide public defender system. The Chief Public Defender, appointed by the Commission, administers the system through two programs, the Public Defender Program and the Appellate Defender Program.

Context

The Office of the State Public Defender provides legal representation primarily to indigent clients. The office’s Public Defender Program is organized into 11 regions, with a deputy regional public defender supervising each region. The Appellate Defender Program is located in Helena and represents indigent clients during post conviction relief.

The office is authorized 200.5 full-time equivalent employee positions. The regional offices employ and/or contract with attorneys to provide legal representation. The office spent approximately \$40.9 million during the two fiscal years ended June 30, 2010, of which, approximately \$13 million was for Other Services (primarily contracted services). The office’s personal services costs were approximately \$24 million for the same period.

Results

This audit report has no recommendations. The prior audit report contained three recommendations, two of which were fully implemented. The third recommendation was partially implemented and is discussed on page 2 of the report.

The report does contain two disclosure issues. The first discusses transfers of appropriation authority. The second discusses fees for noncriminal public defense representation.

Recommendation Concurrence	
Concur	0
Partially Concur	0
Do Not Concur	0

Source: Agency audit response included in final report.

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# Chapter I – Introduction

## Introduction

We performed a financial-compliance audit of the Office of the State Public Defender for the two fiscal years ended June 30, 2010. The objectives of the audit were to:

1. Obtain an understanding of the office's control systems to the extent necessary to support our audit of the office's financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the office.
2. Determine if the office complied with selected laws and regulations.
3. Determine if the financial schedules present fairly the results of operations of the office for each of the fiscal years ended June 30, 2010, and June 30, 2009.
4. Determine the implementation status of prior audit recommendations.

Auditing standards require us to communicate, in writing, control deficiencies we identified as a result of audit objective #1 above and considered to be significant or material. A control deficiency exists when the design or operation of a control does not allow management or employees to prevent or detect misstatements on a timely basis. A significant deficiency is one or more control deficiencies that affect management's ability to accurately process transactions. A material weakness is one or more significant deficiencies that adversely affect management's ability to fairly present its financial schedules.

This report contains no recommendations to the office. Areas of concern deemed not to have a significant effect on the successful operations of the office are not specifically included in the report, but have been discussed with management.

## Background

The 59th Legislature created the Public Defender Commission. The commission is comprised of 11 members who are appointed by the Governor and serve 3-year staggered terms. The commission supervises the statewide public defender system and appoints a Chief Public Defender to administer the system. The Chief Public Defender hires staff to perform the functions of the office. The office is headquartered in Butte. The statewide public defender system is comprised of two programs as described below.

**Public Defender Program (191.50 authorized FTE)** – The program is organized into 11 regions with a deputy regional public defender supervising each region. The headquarter office in Butte oversees and supervises all regions. The regional offices employ and/or contract with attorneys to provide legal representation as needed. The regional offices are located in Kalispell, Missoula, Great Falls, Helena, Butte, Havre, Lewistown, Bozeman, Billings, Glendive, and Miles City.

**Appellate Defender Program (9 authorized FTE)** – The program provides appellate representation to clients of the statewide public defender system and is located in Helena. The appellate program assists in the representation of indigent clients who qualify for an appointed attorney under state statutes governing post conviction relief.

### **Prior Audit Recommendations**

The prior audit for the two fiscal years ended June 30, 2008, contained three recommendations to the office. The office implemented two recommendations and partially implemented one recommendation.

The recommendation partially implemented pertains to witness fees. We recommended the office pay witness fees and mileage in accordance with state law. Section 26-2-501, MCA, states, in part, “...witness fees are as follows: (a) for attending in any civil or criminal action or proceeding before any court of record, referee, or officer authorized to take depositions or commissioners to assess damages or otherwise, for each day, \$10; (b) for mileage..., each way... a mileage allowance as provided in 2-18-503.” In response to the recommendation, the office developed an internal policy addressing witness fees, mileage, and other travel expenses incurred by witnesses.

During our audit, we found that not all witnesses are informed they are entitled to the witness fee and reimbursement for their travel costs. Some regional offices provide claim forms to witnesses only if the witnesses request them. We also found that calculations of travel reimbursements were not always done in accordance with state travel policy as required by the office’s internal policy. The office needs to enforce its policy to ensure compliance with state law. We make no further recommendation at this time: however, this matter is subject to review during the next audit.

## Chapter II – Disclosure Issues

### **Appropriation Authority Transfers**

Office personnel stated that fiscal year 2009-10 expenditure projections exceeded available appropriation authority even as the fiscal year began. Office management implemented cost-cutting measures throughout the fiscal year, such as creating a Major Crimes Unit and retaining more cases in-house rather than sending them to contract defense attorneys. Near the end of the fiscal year, management estimated it would need \$400,000 of additional appropriation authority to complete the fiscal year for the Public Defender program. Under the provisions of §17-7-301, MCA, the office requested a transfer of appropriation authority from fiscal year 2010-11 to fiscal year 2009-10. The Governor's Office of Budget and Program Planning (OBPP) reviewed and approved the request.

Approximately one week later, office management determined it would not require that much more authority and submitted a request to OBPP to transfer \$110,000 of authority back to fiscal year 2010-11. This request was also reviewed and approved by OBPP, with the net result being a transfer of appropriation authority from the second year to the first year of the biennium in the amount of \$290,000 for the Public Defender program.

According to §17-7-139(1), MCA, if "money appropriated for a fiscal year is transferred to another fiscal year, the money may not be retransferred, except that money remaining from projected costs for spring fires estimated in the last quarter of the first year of a biennium may be retransferred." The language of this statute indicates the Legislature does not want transfers of appropriation authority backward followed by transfers forward. The \$110,000 transfer of appropriation authority back to fiscal year 2010-11 is a violation of this statute.

As the transfers of appropriation authority were reviewed and approved by OBPP, this issue is presented here for disclosure purposes only, and we make no recommendation to the office. This issue has been referred to the Governor's Office audit for further review.

### **Noncriminal Public Defense Representation**

Office attorneys are sometimes appointed by courts to represent individuals in noncriminal advocacy cases. The office believes it has no access to financial resources of the individual that they are appointed to represent in these cases. There are no fee collections from these individuals regardless of the resources they have as state law is silent in this regard. There is no indigence determination provision that could allow for assessment of fees.

Section 72-5-315(2), MCA, states, “Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity. The allegedly incapacitated person may have counsel of the person’s own choice or the court may, in the interest of justice, appoint an appropriate official or order the office of state public defender, provided for in 47-1-201, to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, to represent the person in the proceeding.”

The cost of this representation is paid from the General Fund when there could be resources to pay for guardianship appointment costs incurred by the office. According to office personnel, as the Public Defender Act was drafted and moved through the legislative process, several other advocacy groups came forward requesting their constituents also be afforded legal representation at public expense. Among those were the developmentally disabled, involuntary commitments, dependent neglect, and guardianships. According to management personnel, the office handled 244 guardianship cases during fiscal year 2008-09 at a cost of approximately \$165,000.

We present this issue as a public policy decision where the legislature may continue to provide this service at taxpayer expense or authorize the office to access the clients’ assets, if any, to cover costs incurred at the public defender’s hourly rate. The legislature could make the office responsible for the determination of ability to pay in these cases. The office currently has a system in place for indigence determination in criminal cases, but it does not have express authority to apply this system to individuals represented in noncriminal cases.

We present this issue for disclosure purposes only and make no recommendation at this time.

# Independent Auditor's Report and Office Financial Schedules



## LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor  
Monica Huyg, Legal Counsel



Deputy Legislative Auditors  
James Gillett  
Angie Grove

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee  
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Office of the State Public Defender for each of the fiscal years ended June 30, 2010, and 2009. The information contained in these financial schedules is the responsibility of the office's management. Our responsibility is to express opinions on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinions.

As described in note 1, these financial schedules are prepared on the basis of Montana state accounting policy, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the office's assets and liabilities.

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances of the Office of the State Public Defender for each of the fiscal years ended June 30, 2010, and 2009, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

*/s/ James Gillett*

James Gillett, CPA  
Deputy Legislative Auditor

August 17, 2010





PUBLIC DEFENDER  
SCHEDULE OF CHANGES IN FUND BALANCES  
FOR THE FISCAL YEAR ENDED JUNE 30, 2010

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Federal Special Revenue Fund</u>
FUND BALANCE: July 1, 2009	\$ <u>(2,044,365)</u>	\$ <u>2,975</u>	\$ <u>0</u>
ADDITIONS			
Budgeted Revenues & Transfers-In	35	61,030	45,659
Nonbudgeted Revenues & Transfers-In	2,377		
Direct Entries to Fund Balance	<u>20,917,740</u>		
Total Additions	<u>20,920,152</u>	<u>61,030</u>	<u>45,659</u>
REDUCTIONS			
Budgeted Expenditures & Transfers-Out	20,325,063	43,418	26,185
Nonbudgeted Expenditures & Transfers-Out	(2,097)		
Prior Year Expenditures & Transfers-Out Adjustments	<u>(9,064)</u>		
Total Reductions	<u>20,313,902</u>	<u>43,418</u>	<u>26,185</u>
FUND BALANCE: June 30, 2010	\$ <u><u>(1,438,115)</u></u>	\$ <u><u>20,587</u></u>	\$ <u><u>19,474</u></u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC DEFENDER  
SCHEDULE OF CHANGES IN FUND BALANCES  
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund
FUND BALANCE: July 1, 2008	\$ <u>(1,467,933)</u>	\$ <u>66,891</u>	\$ <u>0</u>
ADDITIONS			
Budgeted Revenues & Transfers-In	80	25,644	4,475
Nonbudgeted Revenues & Transfers-In	2,024		
Prior Year Revenues & Transfers-In Adjustments		(59,560)	
Direct Entries to Fund Balance	<u>19,910,923</u>		
Total Additions	<u>19,913,027</u>	<u>(33,916)</u>	<u>4,475</u>
REDUCTIONS			
Budgeted Expenditures & Transfers-Out	20,493,591	30,000	4,475
Nonbudgeted Expenditures & Transfers-Out	(52)		
Prior Year Expenditures & Transfers-Out Adjustments	<u>(4,080)</u>		
Total Reductions	<u>20,489,459</u>	<u>30,000</u>	<u>4,475</u>
FUND BALANCE: June 30, 2009	\$ <u><u>(2,044,365)</u></u>	\$ <u><u>2,975</u></u>	\$ <u><u>0</u></u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC DEFENDER  
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN  
FOR THE FISCAL YEAR ENDED JUNE 30, 2010

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Federal Special Revenue Fund</u>	<u>Total</u>
<b>TOTAL REVENUES &amp; TRANSFERS-IN BY CLASS</b>				
Taxes	\$ 2,377			\$ 2,377
Charges for Services		\$ 60,674		60,674
Grants, Contracts, and Donations		356		356
Transfers-in			\$ 45,659	45,659
Miscellaneous	35			35
Total Revenues & Transfers-In	<u>2,412</u>	<u>61,030</u>	<u>45,659</u>	<u>109,101</u>
Less: Nonbudgeted Revenues & Transfers-In	<u>2,377</u>			<u>2,377</u>
Actual Budgeted Revenues & Transfers-In	35	61,030	45,659	106,724
Estimated Revenues & Transfers-In	517	44,209	62,360	107,086
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (482)</u>	<u>\$ 16,821</u>	<u>\$ (16,701)</u>	<u>\$ (362)</u>
<b>BUDGETED REVENUES &amp; TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS</b>				
Taxes	\$ (417)			\$ (417)
Charges for Services		\$ 17,215		17,215
Grants, Contracts, and Donations		(394)		(394)
Transfers-in			\$ (16,701)	(16,701)
Miscellaneous	(65)			(65)
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (482)</u>	<u>\$ 16,821</u>	<u>\$ (16,701)</u>	<u>\$ (362)</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC DEFENDER  
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN  
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Federal Special Revenue Fund</u>	<u>Total</u>
<b>TOTAL REVENUES &amp; TRANSFERS-IN BY CLASS</b>				
Taxes	\$ 2,024			\$ 2,024
Charges for Services		\$ (34,116)		(34,116)
Grants, Contracts, and Donations		200		200
Transfers-in			\$ 4,475	4,475
Miscellaneous	80			80
Total Revenues & Transfers-In	<u>2,104</u>	<u>(33,916)</u>	<u>4,475</u>	<u>(27,337)</u>
Less: Nonbudgeted Revenues & Transfers-In	2,024			2,024
Prior Year Revenues & Transfers-In Adjustments		(59,560)		(59,560)
Actual Budgeted Revenues & Transfers-In	<u>80</u>	<u>25,644</u>	<u>4,475</u>	<u>30,199</u>
Estimated Revenues & Transfers-In	617	121,000	4,475	126,092
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (537)</u>	<u>\$ (95,356)</u>	<u>\$ 0</u>	<u>\$ (95,893)</u>
<b>BUDGETED REVENUES &amp; TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS</b>				
Taxes	\$ (417)			\$ (417)
Charges for Services		\$ (19,556)		(19,556)
Grants, Contracts, and Donations		(800)		(800)
Miscellaneous	(120)	(75,000)		(75,120)
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (537)</u>	<u>\$ (95,356)</u>	<u>\$ 0</u>	<u>\$ (95,893)</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC DEFENDER  
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT  
FOR THE FISCAL YEAR ENDED JUNE 30, 2010

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	<u>OFFICE OF APPELLATE DEFENDER</u>	<u>OFFICE OF PUBLIC DEFENDER</u>	<u>Total</u>
Personal Services			
Salaries	\$ 439,600	\$ 8,896,369	\$ 9,335,969
Employee Benefits	134,001	2,846,085	2,980,086
Total	<u>573,601</u>	<u>11,742,454</u>	<u>12,316,055</u>
Operating Expenses			
Other Services	322,549	5,711,654	6,034,203
Supplies & Materials	6,467	267,184	273,651
Communications	23,348	401,068	424,416
Travel	715	136,347	137,062
Rent	44,639	1,006,140	1,050,779
Utilities		1,145	1,145
Repair & Maintenance	2,858	70,613	73,471
Other Expenses	360	51,245	51,605
Total	<u>400,936</u>	<u>7,645,396</u>	<u>8,046,332</u>
Equipment & Intangible Assets			
Equipment		21,118	21,118
Total		<u>21,118</u>	<u>21,118</u>
Total Expenditures & Transfers-Out	<u>\$ 974,537</u>	<u>\$ 19,408,968</u>	<u>\$ 20,383,505</u>
<b>EXPENDITURES &amp; TRANSFERS-OUT BY FUND</b>			
General Fund	\$ 974,537	\$ 19,339,365	\$ 20,313,902
State Special Revenue Fund		43,418	43,418
Federal Special Revenue Fund		26,185	26,185
Total Expenditures & Transfers-Out	<u>974,537</u>	<u>19,408,968</u>	<u>20,383,505</u>
Less: Nonbudgeted Expenditures & Transfers-Out		(2,097)	(2,097)
Prior Year Expenditures & Transfers-Out Adjustments	<u>(1,659)</u>	<u>(7,405)</u>	<u>(9,064)</u>
Actual Budgeted Expenditures & Transfers-Out	976,196	19,418,470	20,394,666
Budget Authority	977,076	19,496,976	20,474,052
Unspent Budget Authority	<u>\$ 880</u>	<u>\$ 78,506</u>	<u>\$ 79,386</u>
<b>UNSPENT BUDGET AUTHORITY BY FUND</b>			
General Fund	\$ 880	\$ 42,293	\$ 43,173
State Special Revenue Fund		38	38
Federal Special Revenue Fund		36,175	36,175
Unspent Budget Authority	<u>\$ 880</u>	<u>\$ 78,506</u>	<u>\$ 79,386</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PUBLIC DEFENDER  
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT  
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	OFFICE OF APPELLATE DEFENDER	OFFICE OF PUBLIC DEFENDER	Total
Personal Services			
Salaries	\$ 438,136	\$ 8,391,383	\$ 8,829,519
Employee Benefits	138,844	2,718,538	2,857,382
Total	<u>576,980</u>	<u>11,109,921</u>	<u>11,686,901</u>
Operating Expenses			
Other Services	257,417	6,705,608	6,963,025
Supplies & Materials	2,884	283,409	286,293
Communications	18,833	280,034	298,867
Travel	2,278	130,808	133,086
Rent	38,538	937,802	976,340
Utilities		1,331	1,331
Repair & Maintenance	1,678	44,932	46,610
Other Expenses	775	60,594	61,369
Total	<u>322,403</u>	<u>8,444,518</u>	<u>8,766,921</u>
Equipment & Intangible Assets			
Equipment		35,112	35,112
Intangible Assets		35,000	35,000
Total		<u>70,112</u>	<u>70,112</u>
Total Expenditures & Transfers-Out	<u>\$ 899,383</u>	<u>\$ 19,624,551</u>	<u>\$ 20,523,934</u>
EXPENDITURES & TRANSFERS-OUT BY FUND			
General Fund	\$ 899,383	\$ 19,590,076	\$ 20,489,459
State Special Revenue Fund		30,000	30,000
Federal Special Revenue Fund		4,475	4,475
Total Expenditures & Transfers-Out	<u>899,383</u>	<u>19,624,551</u>	<u>20,523,934</u>
Less: Nonbudgeted Expenditures & Transfers-Out		(52)	(52)
Prior Year Expenditures & Transfers-Out Adjustments		<u>(4,080)</u>	<u>(4,080)</u>
Actual Budgeted Expenditures & Transfers-Out	899,383	19,628,683	20,528,066
Budget Authority	900,622	19,681,335	20,581,957
Unspent Budget Authority	<u>\$ 1,239</u>	<u>\$ 52,652</u>	<u>\$ 53,891</u>
UNSPENT BUDGET AUTHORITY BY FUND			
General Fund	\$ 1,239	\$ 7,652	\$ 8,891
State Special Revenue Fund		45,000	45,000
Unspent Budget Authority	<u>\$ 1,239</u>	<u>\$ 52,652</u>	<u>\$ 53,891</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

# Office of the State Public Defender

## Notes to the Financial Schedules

### For the Two Fiscal Years Ended June 30, 2010

## 1. Summary of Significant Accounting Policies

### **Basis of Accounting**

The office uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (General, State Special Revenue, Federal Special Revenue). In applying the modified accrual basis, the board records:

- ♦ Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- ♦ Expenditures for valid obligations when the office incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the office to record the cost of employees' annual and sick leave when used or paid.

Expenditures may include: entire budgeted service contracts even though the office receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

### **Basis of Presentation**

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The office uses the following funds:

### **Governmental Fund Category**

- ♦ **General Fund** – to account for all financial resources except those required to be accounted for in another fund.
- ♦ **State Special Revenue Fund** – to account for proceeds of specific revenue sources that are legally restricted to expenditures for specific state program purposes. Office State Special Revenue Funds include collections of public defender fees charged as part of a sentence or because the defendant was determined ineligible for indigent services.
- ♦ **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Office Federal Special Revenue Funds include moneys subgranted from the Montana Board of Crime Control. The fiscal year 2009-10 subgrant includes American Recovery and Reinvestment Act funds.

## **2. General Fund Balance**

The negative fund balance in the General Fund does not indicate overspent appropriation authority. The office has authority to pay obligations from the statewide General Fund within its appropriation limits. The office expends cash or other assets from the statewide fund when it pays General Fund obligations. The office's outstanding liabilities exceed the assets it has placed in the fund, resulting in negative ending General Fund balances for each of the fiscal years ended June 30, 2010, and June 30, 2009.

## **3. Direct Entries to Fund Balance**

Direct entries to fund balance in the General fund include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

## **4. Related Party Transactions**

Office space for one of the regional public defender offices is provided at no charge to the office. The space is owned by the deputy public defender for that region. Therefore, the Schedules of Expenditures and Transfers-Out for fiscal years 2008-09 and 2009-10 do not include rent expenditures for that region. The value of this office space is estimated at \$12,400 per year.



OFFICE OF THE STATE  
PUBLIC DEFENDER

OFFICE RESPONSE



# OFFICE OF THE STATE PUBLIC DEFENDER

B-1

BRIAN SCHWEITZER  
GOVERNOR

RANDI HOOD  
CHIEF PUBLIC DEFENDER



## STATE OF MONTANA

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BUTTE, MONTANA 59701

RECEIVED

SEP 07 2010

LEGISLATIVE AUDIT DIV.

September 3, 2010

Ms. Tori Hunthausen  
Legislative Auditor  
Legislative Audit Division  
P.O. Box 201705  
Helena, MT 59620-1705

RE: Office of the State Public Defender FY 2009 – FY 2010 Legislative Financial Audit

Dear Ms. Hunthausen:

The management and staff of the Office of the State Public Defender would like to extend our sincere appreciation to you and your staff for the efficient audit of our agency's financial information for the 2009 and 2010 fiscal years. We applaud the efforts of your staff to get through all of the audit steps necessary to do a very thorough job. We would especially like to thank your Audit Manager Vickie Rauser and her associates John Fine and Mark Alldredge for taking the time to understand our agency's mission and always conducting themselves in a polite and professional manner.

Sincerely,

A handwritten signature in black ink that reads "Randi M. Hood".

Randi M. Hood  
Chief Public Defender

cc: Richard (Fritz) Gillespie, Chair, Montana Public Defender Commission  
Harry Freebourn, Administrative Director, Office of the State Public Defender