



# County of Riverside

## INTERNAL AUDITOR'S REPORT

### Office of the Public Defender

November 16, 2006

Office of  
**Robert E. Byrd, CGFM**  
County Auditor-Controller

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**COUNTY OF RIVERSIDE  
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November 16, 2006

Mr. Gary Windom  
Office of the Public Defender  
4200 Orange Street  
Riverside, CA 92501

Subject: Internal Auditor's Report #2006-011 – Office of the Public Defender

Dear Mr. Windom:

We have completed an audit of the Public Defender's Office. We conducted the audit during the period May 11, 2006 through August 15, 2006, for operations of July 1, 2003 through August 15, 2006.

Our purpose was to provide management and the Board of Supervisors with an independent assessment about the adequacy of internal controls over the department's processes and fiscal procedures.

We conducted our audit in accordance with the auditing standards established by the Institute of Internal Auditors. These standards require that we plan and perform the audit to provide sufficient, competent, and relevant evidence to achieve the audit objectives. We believe the audit provides a reasonable basis for our conclusions.

Based upon the results of our audit, we determined the department had an adequate system of internal controls over the acquisition, monitoring and disposal processes of capitalized and non-capitalized assets. Additionally, general controls were in place over the electronic and hard copy storage of data. We also determined the department's revenue received from the courts is in accordance with California Penal Code 987.

We thank the Office of the Public Defender's management and staff for their cooperation during the audit. Their assistance contributed significantly to the successful completion of the audit.

Robert E. Byrd, CGFM  
County Auditor-Controller

By: Michael G. Alexander, MBA, CIA  
Chief Internal Auditor

CC: Board of Supervisors  
County Counsel  
Kathryn Field, Executive Office  
Grand Jury

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## **Executive Summary**

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### **Overview**

The stated mission of the Law Offices of the Public Defender is to provide the highest quality of legal representation to any person unable to afford such representation in criminal, juvenile or certain civil proceedings, upon the request of the client or the appointment of the Court. In fulfilling this mission, the Public Defender's Office will: assure the rights and interests of clients and determine the course of action taken on their behalf; ensure clients are afforded complete and vigorous representation by a fully competent attorney; support clients as diligent and conscientious advocates; maintain the highest levels of professional integrity; exercise well informed professional judgments, represent clients with compassion; and serve, honor and protect the Constitutional rights of the people of the County of Riverside.

The County Public Defender's Office is responsible for administering a budget consisting of approximately \$32.4 million in expenditures and \$212,000 in revenue for fiscal year 2006/07.

### **Overall Objective**

Our primary audit objective was to determine the existence and adequacy of internal controls over the department's operational processes and fiscal procedures in the following areas:

- Acquisition, monitoring and disposal processes of capitalized and non-capitalized assets;
- Information Security; and,
- Revenue from Courts.

### **Overall Conclusion**

Based upon the results of our audit, we determined the department had an adequate system of internal controls over the acquisition, monitoring and disposal processes of capitalized and non-capitalized assets. Additionally, general controls were in place over the electronic and hard copy storage of data. We also determined the department's revenue received from the courts is in accordance with California Penal Code 987.

Details about our audit methodology, results, findings and recommendations are provided in the body of our report.

**Objectives**

To determine the existence and adequacy of internal controls over the following processes:

- capitalized assets;
- non-capitalized assets;
- information security; and,
- revenue from courts

**Methodology**

To accomplish our objectives, we:

- performed a financial analysis for the period July 1, 2003 through April 30, 2006;
- identified and reviewed applicable policies and procedures, Board ordinances, laws, codes and regulations;
- conducted interviews and performed walk-throughs with department personnel;
- completed narratives of various processes;
- performed a risk assessment of the Public Defender's Office;
- performed detailed testing of the department's acquisition, monitoring and disposal processes of capitalized and non-capitalized assets;
- performed detailed testing of the department's information security process; and,
- researched laws and regulations that serve the process of collecting Public Defender's fees from the courts.

**Results**

**Capitalized Assets**

Capitalized assets are tangible or intangible assets with significant value and a utility beyond one fiscal year. Capital assets include land, land improvements, easements, building, building improvements, vehicles, machinery, equipment and infrastructure. Vehicles, machinery and equipment with a cost over \$5,000 qualify as a capital asset, as described in the Auditor-Controller's Office Standard Practice Manual Section 913 issued on December 12, 2005.

Capitalized costs include the value paid for the asset, sales tax, interest, transportation charges, insurance while in transit and costs associated with preparing the asset for its intended use, such as, special foundations and installation costs. The cost of capital assets should be systematically expensed (depreciated) over its useful life. However, some assets are inexhaustible, such as land and land improvements, and are not depreciated since they retain their value.

As of June 30, 2006, the Public Defender's Office had 13 capitalized assets totaling approximately \$600,000 and categorized as follow:

<b>Asset Category</b>	<b>Cost (In Thousands)</b>	<b>Percentage of Total Assets</b>
Leased Assets (Capital Lease)	\$267	44.5%
Office Equipment	172	28.7%
Software	161	26.8%
<b>Total Public Defender's Assets</b>	<b>\$600</b>	<b>100%</b>

Due to the small number of capitalized assets owned by the department, we tested and verified the acquisition, monitoring and disposal processes for all capitalized assets acquired by the department as of June 30, 2006.

During our review of the department's capitalized assets, we identified that the current occupied building, which was purchased in November, 2005, for \$5.7 million was not listed on the capitalized asset listing. Upon the review of the building acquisition process, along with the Board of Supervisor's agenda approving the purchase, we determined the building was purchased by the Riverside County Facilities Management Department. As a result, the building should be included as a capitalized asset in the PeopleSoft Asset Management Module for the Facilities Management Department.

Based upon the results of our testing, we determined no significant issues existed over the Public Defender's processes over acquisition, monitoring and disposal of capitalized assets.

**Results**

**Non-Capitalized Assets**

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Non-capitalized assets are similar to capital assets but cost less than \$5,000. Walk-away items are portable non-capitalized assets having a street value or fair market value of at least \$200. Examples include firearms, video equipment, two-way radios, cameras, GPS units, cellular phones, and power tools.

The department purchased non-capitalized assets, such as, office and computer equipment, totaling \$435,000 during fiscal year 2005/06. To evaluate the adequacy of internal controls over non-capitalized assets, we analyzed a representative sample of purchases for the fiscal year 2005/06 and compared asset listings from the last three fiscal years to ensure proper controls were in place over the acquisition, monitoring and disposal processes of non-capitalized assets.

Based upon the results of our audit, we determined the department had an adequate system of internal controls over the acquisition, monitoring and disposal processes over non-capitalized assets.

## Results

### Information Security

Information systems have long been at some risk from malicious actions, inadvertent user errors, and from natural and man-made disasters. In recent years, systems have become more susceptible to these threats because computers have become more interconnected and, thus, more interdependent and accessible to a larger number of individuals. In addition, the number of individuals with computer skills is increasing, and intrusion, or “hacking” techniques are becoming more widely known via the Internet and other media. As a result, managing the security of information associated with our government’s growing reliance on information technology is a continuing challenge.

The Public Defender’s Office receives the following type of information:

1. Personal information pertaining to client’s cases from the courts, which is stored in a Case Management System. However, it is the department’s policy to omit social security numbers and the date of birth of clients in the Case Management System.
2. Memos, reports and e-mails written by attorneys and witnesses.
3. Direct communication from the courts, such as subpoenas.

To ensure adequate general controls were in place over data security and the department’s backup and recovery plan, we inquired and physically observed the general controls in place to mitigate the risk related to physical security over data as well as the methods used to develop backups and the ability to restore them.

Based upon the results of our inquiries and observations we determined the department has adequate general controls over the physical security and backup of data.

**Results**

**Revenue from Courts**

The Office of the Public Defender earned \$465,000 in revenue during fiscal year 2005/06. Revenue earned was categorized as follows:

<b>Revenue Category</b>	<b>Funds Earned</b>	<b>Percentage of Total Category</b>
State Revenue	\$254,980.00	54.9%
Charges for Current Services	165,431.98	35.6%
Miscellaneous Revenue	44,367.11	9.5%
<b>Fiscal Year 2005/2006 Total Department Revenue</b>	<b>\$464,779.09</b>	<b>100%</b>

A concern was brought to our attention in regards to the measurement of the Public Defender's fees received from the courts. We inquired, researched and reviewed laws and regulations, specifically California Penal Code 987, which governs the courts' processes of appointing public defenders to represent defendants and determining and paying the public defender's fees. A summary of the general process includes:

- The initial assessment of the defendant's ability to pay is made by the judge at the time of arraignment. The judge has poverty guidelines that he/she uses to make this determination. Depending on the defendant's poverty level, he/she may pay the public defender's full hourly rate (currently \$90 per hour), half hourly rate or not at all.
- The Public Defender's fees are imposed at the conclusion of the case, when the judge asks the attorney of record how much time is spent on the case, or the judge will base the fee upon the number of appearances before disposition is reached.
- The attorney of record provides the judge with an estimate of time spent on the case.
- The amount received by the court is disbursed to various agencies and departments based on a tier level. The Public Defender's Office is in the fourth tier level.

Based upon the results of our inquiries and research, we determined the process in place between the Courts and Public Defender is based primarily on the above procedures.