



INTERNAL AUDIT DEPARTMENT



Internal Control Audit: Public Defender Revolving Funds

For the Year Ended August 31, 2020

Audit No. 2017
Report Date: June 29, 2021

Number of Recommendations

0

Critical Control
Weaknesses

0

Significant Control
Weaknesses

5

Control Findings

OC Board of Supervisors

CHAIRMAN ANDREW DO
1st DISTRICT

VICE CHAIRMAN DOUG CHAFFEE
4th DISTRICT

SUPERVISOR KATRINA FOLEY
2nd DISTRICT

SUPERVISOR DONALD P. WAGNER
3rd DISTRICT

SUPERVISOR LISA A. BARTLETT
5th DISTRICT



INTERNAL AUDIT DEPARTMENT

Internal Control Audit:
Public Defender Revolving Funds

June 29, 2021

AUDIT HIGHLIGHTS

SCOPE OF WORK	Perform an internal control audit of Public Defender revolving funds process for the year ended August 31, 2020.		
RESULTS	<ul style="list-style-type: none">• We concluded Public Defender's internal control over the revolving funds process was generally effective to ensure:<ul style="list-style-type: none">◦ Revolving fund transactions are complete (recorded/reported), accurate, valid (authorized), processed timely, and in compliance with County policy.◦ Duties are adequately segregated, and assets adequately safeguarded.• We concluded the revolving funds process is generally efficient.		
RISKS IDENTIFIED	<p>As a result of our findings, potential risks include:</p> <ul style="list-style-type: none">• Undetected errors, discrepancies, or irregularities.• Funds being misappropriated or tied up.• Potential appearance of conflict of interest.		
NUMBER OF RECOMMENDATIONS	<p>Opportunities for enhancing internal control include:</p> <ul style="list-style-type: none">• Ensuring outstanding checks are researched and resolved timely.• Obtaining access to and reviewing canceled checks.• Working with the Auditor-Controller to develop an alternative procedure for handling cash advance repayments and reimbursements.• Submitting timely Mileage & Other Expense claim forms.• Implementing a procedure to document the hiring of County employees for professional services.• Reviewing and adjusting the revolving fund balance to fit business needs.		
0	CRITICAL CONTROL WEAKNESSES		
0	SIGNIFICANT CONTROL WEAKNESSES		
5	CONTROL FINDINGS		

Report suspected fraud, or misuse of County resources by vendors, contractors, or County employees to 714.834.3608



INTERNAL AUDIT DEPARTMENT

Audit No. 2017

June 29, 2021

To: Martin Schwarz
Public Defender

From: Aggie Alonso, CPA, CIA, CRMA
Internal Audit Department Director

Subject: Internal Control Audit: Public Defender Revolving Funds

We have completed an internal control audit of Public Defender revolving funds process for the year ended August 31, 2020. Details of our results and recommendations immediately follow this letter. Additional information including background and our objectives, scope, and methodology are included in Appendix A.

Public Defender concurred with all our recommendations and the Internal Audit Department considers Public Defender's management response appropriate to the recommendations in this report.

We will include the results of this audit in a future status report submitted quarterly to the Audit Oversight Committee and the Board of Supervisors. In addition, we will request your department complete a Customer Survey of Audit Services, which you will receive shortly after the distribution of our final report.

We appreciate the courtesy extended to us by Public Defender's personnel during our audit. If you have any questions regarding our audit, please contact me at 714.834.5442 or Assistant Director Scott Suzuki at 714.834.5509.

Attachments

Other recipients of this report:

- Members, Board of Supervisors
- Members, Audit Oversight Committee
- CEO Distribution
- Public Defender Distribution
- Foreperson, Grand Jury
- Robin Stieler, Clerk of the Board of Supervisors
- Eide Bailly LLP, County External Auditor

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RESULTS

BUSINESS PROCESS & INTERNAL CONTROL STRENGTHS

Business process and internal control strengths noted during our audit include:

- ✓ Documented internal policy and procedures regarding the special revenue fund, petty cash, and travel cash advances are established.
- ✓ Independent surprise cash counts are performed periodically.
- ✓ Expenditures include voucher support and authorization prior to disbursement of funds.
- ✓ Revolving fund check stock and cash are secured in a locked file cabinet, and documentation of combination and keyholders is maintained.
- ✓ Timely transfer of accountability due to change in fund officer.

FINDING NO. 1

Reconciliations

We observed outstanding stale-dated (over one-year) checks and canceled checks were not reviewed as part of the revolving fund reconciliation process.

During our review of select reconciliations, we noted the following:

- There were 17 long-outstanding checks totaling approximately \$2,000. As of the end of the audit period, the checks were outstanding for an average of over one-year.
- Three checks were issued over a year ago, but Public Defender has not submitted them to the Auditor-Controller as part of a revolving cash fund replenishment request.
- Public Defender does not have access to canceled check images and does not perform a review of canceled checks.

Following our audit, Public Defender management has reviewed prior reconciliations and made progress towards clearing outstanding checks. In addition, the department has contacted the Treasurer-Tax Collector to request access to canceled check images.

CATEGORY

Control Finding

RISK

Errors, discrepancies, or irregularities may not be detected in a timely manner. Long-outstanding checks can also tie up funds.



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RECOMMENDATION	<p>Public Defender management:</p> <p>A. Ensure long-outstanding reconciling items are researched and resolved timely.</p> <p>B. Obtain access to, and include a review of, canceled checks as part of the reconciliation process, and/or consider implementing positive pay.</p>
MANAGEMENT RESPONSE	<p>Concur. We concur with your Control Finding and the Recommendation has been implemented. We have been actively working to clear the long-standing reconciling items. It has been a challenge because many businesses were temporarily closed due to the COVID-19 pandemic. However, we have made vast improvements on this front, including clearing-up many outstanding items, obtaining access to the Wells Fargo Bank online portal to perform a review of canceled checks, and implementing a process to ensure future items are researched and resolved timely.</p>

FINDING NO. 2	<p>Cash Advance Repayments & Reimbursements</p> <p>Cash advances were returned to the County in the form of cash and residual travel balances due to employees were also paid in cash.</p> <p>We noted 18 instances of cash exchanges in the FY 2019-20 cash log:</p> <ul style="list-style-type: none">• The fund custodian accepted nominal cash repayments from employees for their unused portion of travel advances.• Employees were reimbursed with cash for valid expenses in excess of the initial travel advance. <p>County policy prohibits the practice of receiving or issuing cash to close out cash advances.</p>
CATEGORY	Control Finding
RISK	Increased risk of misappropriation of County assets.
RECOMMENDATION	Public Defender management ensure an appropriate procedure is developed for handling cash advance repayments and reimbursements.



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MANAGEMENT RESPONSE	<p>Concur. We agree with your Control Finding and the Recommendation has been implemented as feasible. Public Defender acknowledges the Auditor-Controller's 2002 policy (C-1: Cash Advances-Revolving Funds) against employee cash advance repayments or reimbursements with cash. In situations where the cash advance repayment or reimbursement amounts are minimal, for example under \$10, for reasons of practicality and efficiency, Public Defender has deemed it acceptable in practice to receive or issue cash, in lieu of a petty cash check or filing a mileage claim for reimbursement. In keeping with the Auditor-Controller's 2002 policy, Public Defender's practice is backed by proper checks and balances in place, including: (a) maintaining a cash-on-hand balance of no more than \$150 at any given time for the settlement of minimal cash advance repayments or reimbursements; and (b) reconciling this nominal cash balance monthly and at each replenishment to ensure there is no misappropriation of County assets.</p>
FINDING NO. 3	<p>Mileage & Other Expenses Claim Form Submittal</p> <p>Mileage & Other Expense (MOE) claim forms were not properly submitted within the required timeframes.</p> <p>Employees submit MOEs to substantiate expenses from travel cash advances issued from the revolving fund. These forms are then submitted to Auditor-Controller as support documentation for fund replenishment requests.</p> <p>We noted six out of 10 (60%) MOE claim forms were not submitted to Public Defender within five working days after the completion of the event for which the advance was made. On average, MOE claim forms were submitted 45 business days late. In addition, one of the six late submissions included an instance where the associated repayment of unused funds was 71 business days late.</p>
CATEGORY	Control Finding
RISK	Untimely submission of claim forms ties up funds and increases the risk of undetected errors and/or irregularities.
RECOMMENDATION	Public Defender management ensure Mileage & Other Expenses claim forms and applicable repayments are submitted to the fund custodian within five working days after the completion of the event for which a cash advance was made.



INTERNAL AUDIT DEPARTMENT

MANAGEMENT RESPONSE	Concur. We agree with your Control Finding and the Recommendation has been implemented as feasible. The Auditor-Controller's 2002 policy requiring submittal of claims within five working days for travel cash advances issued from the revolving fund is very difficult to enforce. Public Defender lacks sufficient administrative resources to consistently meet the five day timeframe. However, Public Defender will do its best to follow up with employees who do not meet the cash advance claim filing requirement within five working days of travel completion. This practice will ensure that revolving fund amounts are not tied up by reimbursable amounts or repayments.
FINDING NO. 4	Professional Services Provided by County Employees Public Defender does not have a policy for the hiring of County employees to provide professional services. Two County employees from another department were hired to provide specialized professional services and were paid from the special purpose revolving fund. We observed payment of 11 invoices totaling \$29,500. While hiring County employees is not expressly prohibited, Public Defender does not have a formal, documented procedure to ensure transparency. In this case, all 11 invoices included a certification stating work was not conducted on County business time, which provided some transparency that a County employee was hired.
CATEGORY	Control Finding
RISK	Lack of full transparency may give the appearance of a conflict of interest.
RECOMMENDATION	Public Defender management implement a policy and procedures to properly document when a County employee is hired to provide professional services to ensure that there is no conflict of interest.
MANAGEMENT RESPONSE	Concur. We concur with your Control Finding. The Recommendation has been implemented. Even though Public Defender at the time of the audit did not have a written policy and procedure for the hiring of County employees who provide professional services to the Department, as you correctly noted in your audit finding, the audited services were paid through invoices that included a certification that the work was not conducted on County business time, ensuring transparency with proper checks and balances that County employees were hired. However, per your recommendation, Public Defender has implemented a written policy and procedure specifying the steps for full transparency, which is available for your review upon request.



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FINDING NO. 5	Revolving Fund Balance <p>Public Defender maintains a \$50,000 revolving fund account utilized for petty cash and cash advances. Of this amount, \$40,000 is allocated for use by the Public Defender and \$10,000 is allocated for use by the Alternate Defender. We analyzed transactions from the audit period and noted these revolving fund balances are set higher than appears necessary based on spending trends.</p> <ul style="list-style-type: none"> For the \$40,000 authorized fund amount, total expenditures for the 12-month audit period were approximately \$52,000, with a monthly average of \$4,333. For the \$10,000 authorized fund amount, total expenditures for the 12-month audit period were approximately \$1,000, with a monthly average of \$83.
CATEGORY	Control Finding
RISK	Maintaining a revolving fund balance higher than necessary increases the exposure risk of the fund to errors and/or irregularities.
RECOMMENDATION	Public Defender management review the revolving fund balance for the petty cash and cash advance funds and adjust the balance to align with business needs.
MANAGEMENT RESPONSE	Concur. We concur with your Control Finding and the Recommendation has been implemented. The Public Defender's Office established the \$50,000 Revolving Fund based on its business needs, of which \$40,000 was allocated to the Public Defender's Petty Cash Account and \$10,000 was allocated to the Alternate Defender's Petty Cash Account. During Calendar Year 2020, travel and other related transactions were considerably lower than usual, because of the Court closures caused by the COVID-19 Pandemic. This may have given the false impression that these accounts balances are higher than necessary. The Public Defender's Office will closely monitor the future transactions of both of these accounts to determine if their balances should be lowered.

AUDIT TEAM	Scott Suzuki, CPA, CIA, CISA, CFE Michael Dean, CPA, CIA, CISA Gianne Morgan, CIA Stephany Pantigoso Gabriela Cabrera Mari Elias, DPA	Assistant Director Senior Audit Manager Audit Manager Senior Auditor Senior Auditor Administrative Services Manager
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INTERNAL AUDIT DEPARTMENT

APPENDIX A: ADDITIONAL INFORMATION

OBJECTIVES	<p>Our audit objectives were to:</p> <ol style="list-style-type: none">1. Evaluate the effectiveness of internal control over the revolving funds process to ensure:<ol style="list-style-type: none">a. Revolving fund transactions are complete (recorded/reported), accurate, valid (authorized), processed timely, and in compliance with County policy.b. Duties are adequately segregated, and assets are adequately safeguarded.2. Review the revolving funds process for efficiency.
SCOPE & METHODOLOGY	<p>Our audit scope was limited to internal control over Public Defender's revolving funds process for the year ended August 31, 2020. Our methodology included inquiry, observation, and examination of documentation.</p>
EXCLUSIONS	<p>Our audit scope did not include a review of the Alternative Defender Revolving Fund.</p>
PRIOR AUDIT COVERAGE	<p>An audit with similar scope, Internal Control Audit: Public Defender – Revolving Funds Process, Audit No. 1053, was issued on June 16, 2011.</p>
BACKGROUND	<p>The Orange County Public Defender provides representation to clients who lack the resources to hire an attorney. The Public Defender Financial/Administrative Unit is responsible for oversight of the revolving funds process.</p> <p>The department has the following two revolving funds with a total authorized amount of \$300,000:</p> <ul style="list-style-type: none">• \$50,000 revolving cash fund used for employee travel cash advances and departmental petty cash. Of this amount, \$40,000 is allocated for use by the Public Defender and \$10,000 is allocated for use by the Alternate Defender.• \$250,000 special purpose revolving fund authorized by Government Code Section 29321 and Board Resolution 09-050, solely used to disburse payments for investigation and defense to the Public Defender's clients. <p>During the audit period, total revolving fund expenditure reimbursements for the two funds were approximately \$2,301,900, of which \$43,700 (1.9%) were for travel cash advances, \$9,700 (0.4%) for petty cash transactions, and \$2,248,500 (97.7%) for special purpose revolving fund expenditures.</p>



INTERNAL AUDIT DEPARTMENT

PURPOSE & AUTHORITY	We performed this audit in accordance with the Annual Risk Assessment & Audit Plan for FY 2020-21 approved by the Audit Oversight Committee (AOC) and Board of Supervisors (Board).
PROFESSIONAL STANDARDS	Our audit was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing issued by the International Internal Audit Standards Board.
FOLLOW-UP PROCESS	<p>In accordance with professional standards, the Internal Audit Department has a process to follow-up on its recommendations. A first follow-up audit will generally begin six months after release of the initial report.</p> <p>The AOC and Board expect that audit recommendations will typically be implemented within six months or sooner for significant and higher risk issues. A second follow-up audit will generally begin six months after release of the first follow-up audit report, by which time all audit recommendations are expected to be implemented. Any audit recommendations not implemented after the second follow-up audit will be brought to the attention of the AOC at its next scheduled meeting.</p> <p>A Follow-Up Audit Report Form is attached and is required to be returned to the Internal Audit Department approximately six months from the date of this report in order to facilitate the follow-up audit process.</p>
MANAGEMENT'S RESPONSIBILITY FOR INTERNAL CONTROL	In accordance with the Auditor-Controller's County Accounting Manual Section S-2 Internal Control Systems: "All County departments/agencies shall maintain effective internal control systems as an integral part of their management practices. This is because management has primary responsibility for establishing and maintaining the internal control system. All levels of management must be involved in assessing and strengthening internal controls." Control systems shall be continuously evaluated by Management and weaknesses, when detected, must be promptly corrected. The criteria for evaluating internal controls is the Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control – Integrated Framework. Our Internal Control Audit enhances and complements, but does not substitute for department management's continuing emphasis on control activities and monitoring of control risks.
INTERNAL CONTROL LIMITATIONS	Because of inherent limitations in any system of internal control, errors or irregularities may nevertheless occur and not be detected. Specific examples of limitations include, but are not limited to: resource constraints, unintentional errors, management override, circumvention by collusion, and poor judgment. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or the degree of compliance with the procedures may deteriorate. Accordingly, our audit would not necessarily disclose all weaknesses in the department's operating procedures, accounting practices, and compliance with County policy.



APPENDIX B: FINDING TYPE CLASSIFICATION

Critical Control Weakness	Significant Control Weakness	Control Finding
These are audit findings or a combination of audit findings that represent critical exceptions to the audit objective(s) and/or business goals. Such conditions may involve either actual or potential large dollar errors or be of such a nature as to compromise the department's or County's reputation for integrity. Management is expected to address Critical Control Weaknesses brought to its attention immediately.	These are audit findings or a combination of audit findings that represent a significant deficiency in the design or operation of internal controls. Significant Control Weaknesses require prompt corrective actions.	These are audit findings concerning the effectiveness of internal control, compliance issues, or efficiency issues that require management's corrective action to implement or enhance processes and internal control. Control Findings are expected to be addressed within our follow-up process of six months, but no later than twelve months.

APPENDIX C: PUBLIC DEFENDER MANAGEMENT RESPONSE

MARTIN F. SCHWARZ
PUBLIC DEFENDER

MARK S. BROWN
CHIEF DEPUTY PUBLIC DEFENDER

LAW OFFICES
ORANGE COUNTY PUBLIC DEFENDER



801 Civic Center Drive West, Suite 400
SANTA ANA, CA 92701-4026
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www.pubdef.ocgov.com

FRANK F. BITTAR
SENIOR ASSISTANT PUBLIC DEFENDER

LAURA J. JOSE
SENIOR ASSISTANT PUBLIC DEFENDER

TRACY R. LESAGE
SENIOR ASSISTANT PUBLIC DEFENDER

June 24, 2021

To: Aggie Alonso, CPA, CIA, CRMA
Internal Audit Department Director

Subject: *Internal Control Audit: Public Defender Revolving Funds, Audit No. 2017*

This is the Public Defender's response to the Internal Control Audit of the Public Defender Revolving Funds process for the year-ended August 31, 2020.

I want to express my appreciation for the professionalism and support provided to us by your audit team during this audit.

FINDING NO. 1

Reconciliations

RECOMMENDATION: Public Defender management:

- A. Ensure long-outstanding reconciling items are researched and resolved timely.
- B. Obtain access to, and include a review of canceled checks as part of the reconciliation process, and/or consider implementing positive pay.

Response: We concur with your Control Finding and the Recommendation has been implemented. We have been actively working to clear the long-standing reconciling items. It has been a challenge because many businesses were temporarily closed due to the COVID-19 pandemic. However, we have made vast improvements on this front, including clearing-up many outstanding items, obtaining access to the Wells Fargo Bank online portal to perform a review of canceled checks, and implementing a process to ensure future items are researched and resolved timely.

CENTRAL OFFICE 801 Civic Center Drive West, Suite 300 Santa Ana, CA 92701 (657) 251-6460	HARBOR OFFICE 4601 Jamboree Rd. Suite 101 Newport Beach, CA 92660 (657) 251-6553	JUVENILE OFFICE 341 City Drive S. Suite 307 Orange, CA 92868 (657) 251-6718	MENTAL HEALTH 200 W. Santa Ana Blvd. Suite 970 Santa Ana, CA 92701 (657) 251-6414	NORTH OFFICE 1440 N. Harbor Blvd. 4th Floor Fullerton, CA 92835 (657) 251-6472	WEST OFFICE 14120 Beach Blvd. Suite 200 Westminster, CA 92683 (657) 251-6562
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FINDING NO. 2

Cash Advance Repayments & Reimbursements

RECOMMENDATION: Public Defender management ensure an appropriate procedure is developed for handling cash advance repayments and reimbursements.

Response: We agree with your Control Finding and the Recommendation has been implemented as feasible. Public Defender acknowledges the Auditor-Controller's 2002 policy (C-1: Cash Advances-Revolving Funds) against employee cash advance repayments or reimbursements with cash. In situations where the cash advance repayment or reimbursement amounts are minimal, for example under \$10, for reasons of practicality and efficiency, Public Defender has deemed it acceptable in practice to receive or issue cash, in lieu of a petty cash check or filing a mileage claim for reimbursement. In keeping with the Auditor-Controller's 2002 policy, Public Defender's practice is backed by proper checks and balances in place, including: (a) maintaining a cash-on-hand balance of no more than \$150 at any given time for the settlement of minimal cash advance repayments or reimbursements; and (b) reconciling this nominal cash balance monthly and at each replenishment to ensure there is no misappropriation of County assets.

FINDING NO. 3

Mileage & Other Expenses Claim Form Submittal

RECOMMENDATION: Public Defender management ensure Mileage & Other Expenses claim forms and applicable repayments are submitted to the fund custodian within five working days after the completion of the event for which a cash advance was made.

Response: We agree with your Control Finding and the Recommendation has been implemented as feasible. The Auditor-Controller's 2002 policy requiring submittal of claims within five working days for travel cash advances issued from the revolving fund is very difficult to enforce. Public Defender lacks sufficient administrative resources to consistently meet the five day timeframe. However, public Defender will do its best to follow up with employees who do not meet the cash advance claim filing requirement within five working days of travel completion. This practice will ensure that revolving fund amounts are not tied up by reimbursable amounts or repayments.

FINDING NO. 4

Professional Services Provided by County Employees

RECOMMENDATION: Public Defender management implement a policy and procedure to properly document when a County employee is hired to provide professional services to ensure that there is no conflict of interest.

Response: We concur with your Control Finding. The Recommendation has been implemented. Even though Public Defender at the time of the audit did not have a written policy and procedure for the hiring of County employees who provide professional services to the Department, as you correctly noted in your audit finding, the audited services were paid through invoices that included a certification that the work was not conducted on County business time, ensuring transparency with proper checks and balances that County employees were hired. However, per your recommendation, Public Defender has implemented a written policy and procedure specifying the steps for full transparency, which is available for your review upon request.

FINDING NO. 5

Revolving Fund Balance

RECOMMENDATION: Public Defender management review the revolving fund balance for the petty cash and cash advance funds and adjust the balance to align with business needs.

Response: We concur with your Control Finding and the Recommendation has been implemented. The Public Defender's Office established the \$50,000 Revolving Fund based on its business needs, of which \$40,000 was allocated to the Public Defender's Petty Cash Account and \$10,000 was allocated to the Alternate Defender's Petty Cash Account. During Calendar Year 2020, travel and other related transactions were considerably lower than usual, because of the Court closures caused by the COVID-19 Pandemic. This may have given the false impression that these accounts balances are higher than necessary. The Public Defender's Office will closely monitor the future transactions of both of these accounts to determine if their balances should be lowered.

Respectfully Submitted,



Martin F. Schwarz
Public Defender