



# AUDITOR GENERAL

William O. Monroe, CPA



*STATE ATTORNEYS AND PUBLIC DEFENDERS  
SALARY RATE MANAGEMENT  
AND  
OTHER SALARY-RELATED MANAGEMENT CONTROLS  
JULY 1, 1999 THROUGH FEBRUARY 28, 2001*

## SUMMARY

**Finding No. 1** – At June 30, 2000, the actual salary rates at several state attorney and public defender offices, as reported by the Justice Administrative Commission (JAC), exceeded the approved salary rates by amounts ranging from \$41 to \$354,193.

**Finding No. 2** – The method used by the JAC differed from the method used by the Executive Office of the Governor (EOG) to compute the actual salary rate for vacant assistant public defender positions resulting in varying determinations as to whether some public defender offices were over or under their approved salary rate.

**Finding No. 3** – An inappropriate method of reporting three overlap positions in one public defender office

at June 30, 2000, resulted in the reporting of an inaccurate salary rate.

**Finding No. 4** – One public defender office contracted with two attorneys to perform the duties of assistant public defenders (i.e., Other Personnel Services) and allowed these individuals to earn annual and sick leave. We are unaware of any legal authority to allow OPS employees to earn annual and sick leave.

**Finding No. 5** – We noted that assistant state attorneys and senior management positions within the state attorney offices were, in many instances, not receiving written performance evaluations and that written performance evaluations in the public defender offices were being done at the discretion of the individual public defenders.

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**BACKGROUND**

Chapter 27, Florida Statutes, provides for a state attorney and public defender in each of 20 judicial circuits in Florida. The state attorneys are responsible for, among other duties, prosecuting or defending on behalf of the State in circuit and county courts, applications or motions (civil or criminal) to which the State is a party. The public defenders are responsible for representing, without additional compensation, any individual who is determined by the court to be indigent. State attorneys and public defenders are elected officials and are authorized to appoint assistant state attorneys and assistant public defenders to assist in carrying out their responsibilities. Compensation to be paid the state attorneys and public defenders is governed by specific provisions of Chapter 27, Florida Statutes. For the 1999-2000 fiscal year, salary expenditures for the state attorneys and public defenders represented approximately 90 percent of total expenditures of these offices.

Section 216.181(8), Florida Statutes, requires that the Executive Office of the Governor (EOG) furnish to each State agency an approved annual salary rate consistent with the General Appropriations Act or special appropriation acts. Section 216.181(9)(b), Florida Statutes, provides that no agency or the judicial branch may exceed its maximum approved annual salary rate for a fiscal year.

The Florida Justice Administrative Commission (JAC), which was created by

Section 43.16(1), Florida Statutes, to provide administrative services and assistance to the various state attorneys and public defenders, has established procedures for distributing monthly rate reports to the state attorneys and public defenders, comparing the approved and actual salary rates. The reports are intended to assist the state attorneys and public defenders in complying with the salary rate limitations of Section 216.181, Florida Statutes.

The Executive Office of the Governor (EOG), pursuant to Section 216.181, Florida Statutes, has been assigned the responsibility for establishing, controlling, and monitoring an approved annual salary rate for the budget entities of most agencies of State government, including each of the state attorney and public defender offices. The mechanism used by the EOG for tracking the approved annual salary rate is the Position and Rate Ledger produced by the Legislative Appropriation System/Planning and Budgeting Subsystem (LAS/PBS). Additionally, those state attorney and public defender offices that have exceeded their approved annual salary rate as of June 30 are required to submit corrective actions plans to the EOG detailing the actions planned to bring the actual rate into compliance with the approved rate. The information maintained by the EOG relative to the approved annual salary rate for each state attorney and public defender is also a critical component in establishing the salaries and benefits appropriations for each respective office. Pursuant to Chapter 2001-56, Laws of Florida (Section 216.181(10)(a), Florida Statutes),

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effective July 1, 2001, certain adjustments to approved salary rates must be approved by the Legislative Budget Commission.

**SCOPE AND METHODOLOGY**

The objectives of this audit were: (1) to document our understanding of relevant management controls; (2) to evaluate management's performance in administering its assigned responsibilities in accordance with applicable laws and rules; (3) to determine the extent to which the management controls promoted and encouraged the achievement of management's objectives with regard to compliance with such requirements; economic and efficient operations; reliability of records and reports, and safeguarding of assets; and (4) to identify recommended statutory changes in substantive law and policy.

We performed appropriate audit tests and procedures at selected state attorney and public defender offices, as well as other State agencies, to evaluate the adequacy of processes in place to assure compliance with salary rate management and other salary-related requirements. We tested for adequate documentation of these processes and for compliance with controlling laws, rules, and policies and procedures.

**FINDINGS AND RECOMMENDATIONS**

**SALARY RATE MANAGEMENT**

**Finding No. 1 - Excessive Salary Rates**

Our review of the June 30, 2000, actual salary rates included on the Justice Administrative Commission (JAC) Rate Reports and the Executive Office of the Governor (EOG) Position and Rate Reports for the state attorney offices and public defender offices disclosed instances in which the offices' actual salary rates as determined by the JAC and/or the EOG exceeded the approved salary rates, as shown in the following tabulation:

STATE ATTORNEYS						
CIRCUIT	APPROVED RATE	RATE PER JAC		RATE PER EOG		DIFFERENCE BETWEEN JAC & EOG
		ACTUAL	OVER (UNDER)	ACTUAL	OVER (UNDER)	
1	7,199,289	7,093,856	(105,433)	7,093,856	(105,433)	0
2	4,378,844	4,306,186	(72,658)	4,306,186	(72,658)	0
3	2,434,780	2,434,780	0	2,434,780	0	0
4	12,638,318	12,426,048	(212,270)	12,426,048	(212,270)	0
5	7,213,225	7,216,873	3,648	7,216,873	3,648	0
6	16,586,036	16,585,794	(242)	16,585,794	(242)	0
7	8,125,237	8,125,086	(151)	8,125,086	(151)	0
8	5,269,768	5,269,063	(705)	5,257,322	(12,446)	11,741
9	11,016,839	11,022,537	5,698	11,022,537	5,698	0
10	6,898,136	6,897,571	(565)	6,897,571	(565)	0
11	40,948,948	40,939,884	(9,064)	40,939,884	(9,064)	0
12	6,494,339	6,494,515	176	6,494,515	176	0
13	12,120,216	12,120,152	(64)	12,120,152	(64)	0
14	3,564,093	3,563,669	(424)	3,563,669	(424)	0
15	12,600,307	12,600,291	(16)	12,600,291	(16)	0
16	2,619,406	2,619,568	162	2,619,568	162	0
17	16,849,576	16,849,576	0	16,849,576	0	0
18	9,717,011	9,716,796	(215)	9,716,796	(215)	0
19	5,235,703	5,235,840	137	5,235,840	137	0
20	8,531,660	8,531,756	96	8,531,756	96	0

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PUBLIC DEFENDERS						
CIRCUIT	APPROVED RATE	RATE PER JAC		RATE PER EOG		DIFFERENCE BETWEEN JAC & EOG
		ACTUAL	OVER (UNDER)	ACTUAL	OVER (UNDER)	
1	4,051,422	3,984,783	(66,639)	3,983,978	(67,444)	805
2	2,865,466	2,866,320	854	2,866,320	854	0
2A	1,482,520	1,531,054	48,534	1,530,954	48,434	100
3	1,302,607	1,294,897	(7,710)	1,316,450	13,843	21,553
4	5,732,446	5,708,013	(24,433)	5,708,013	(24,433)	0
5	2,850,645	2,850,645	0	2,850,391	(254)	254
6	7,477,817	7,477,858	41	7,477,356	(461)	502
7	4,037,944	4,037,924	(20)	4,041,138	3,194	3,214
7A	1,349,748	1,349,714	(34)	1,349,714	(34)	0
8	2,531,182	2,535,305	4,123	2,530,535	(647)	4,770
9	4,808,769	4,926,944	118,175	4,925,452	116,683	1,492
10	3,763,083	3,829,427	66,344	3,784,045	20,962	45,382
10A	2,054,737	2,134,025	79,288	2,134,026	79,289	1
11	14,749,045	14,748,877	(168)	14,749,107	62	230
11A	1,303,149	1,303,070	(79)	1,303,077	(72)	7
12	3,296,232	3,296,229	(3)	3,296,229	(3)	0
13	6,830,082	6,748,818	(81,264)	6,800,230	(29,852)	51,412
14	1,968,784	1,969,709	925	1,967,739	(1,045)	1,970
15	6,655,723	6,751,139	95,416	6,747,327	91,604	3,812
15A	2,124,167	2,185,420	61,253	2,185,430	61,263	10
16	1,461,864	1,461,349	(515)	1,461,369	(495)	20
17	7,918,099	8,272,292	354,193	8,271,228	353,129	1,064
18	3,367,354	3,371,966	4,612	3,366,931	(423)	5,035
19	2,454,993	2,478,638	23,645	2,446,953	(8,040)	31,685
20	3,102,590	3,102,880	290	3,102,880	290	0

As indicated in the above tabulations, the actual salary rates and the overrate/underrate amounts calculated by JAC often differed from the amounts calculated by the EOG. While most of the differences were minor, there were some instances where a particular office was reported as underrate per the JAC Rate Report, but was reported as overrate on the EOG report (3<sup>rd</sup>, 7<sup>th</sup>, and 11<sup>th</sup> Circuit Public Defenders) and other instances where a particular office was shown as overrate on the JAC Rate Report but reported as underrate on the EOG report (6<sup>th</sup>, 8<sup>th</sup>, 14<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup>

Circuit Public Defenders). The differences are discussed further in Finding No. 2.

At June 30, 2000, the actual salary rates as determined by the JAC for 6 State Attorneys, 11 Public Defender Trial Divisions, and 3 Public Defender Appellate Divisions, exceeded the approved salary rates established pursuant to Section 216.181, Florida Statutes, by amounts ranging from \$41 to \$354,193. Similarly, the actual salary rates as determined by the EOG for 6 State Attorneys, 9 Public Defender Trial Divisions, and 3 Public Defender Appellate Divisions exceeded the approved salary rates by amounts ranging from \$62 to \$353,129.

Similar instances of excess salary rates were also noted in our audit report No. 12867, dated December 16, 1996.

Although the excess salary rates at June 30, 2000, did not lead to significant overexpenditures of the amounts budgeted in the 1999-2000 fiscal year salaries and benefits, a continuation of the practices which had led to the salary rate overages could eventually lead to salary obligations in excess of available expenditure authority.

**We recommend that all offices maintain their actual salary rates within the approved salary rate limits established pursuant to Section 216.181, Florida Statutes.**

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***Finding No. 2 –Method of Computing Actual Salary Rate for Vacant Positions***

To establish a salary rate that includes all authorized positions, it is necessary to assign salary rates for vacant positions. Consistent with the provisions of Section 216.011(1)(a), Florida Statutes, the JAC Rate Reports included in the actual salary rates the minimum salary of the pay grade for all vacant positions, other than assistant state attorney and assistant public defenders. Because the classification and pay plans do not provide a minimum salary for assistant state attorneys and assistant public defender positions, the reported actual salary rates for such vacant positions were the average salaries of filled assistant state attorney and assistant public defender positions, respectively. Based on discussions with JAC and EOG personnel, this method was based on an understanding between the JAC and EOG.

For the 1999-2000 fiscal year, the JAC and EOG used different methods for computing the average salaries for vacant assistant public defender positions. In prior years, the average assistant public defender rate was derived by computing the average for both of the two assistant public defender class codes together, resulting in one average rate for all positions. The method used by the EOG at June 30, 2000, calculated the average for each assistant public defender class code, resulting in a separate average for each assistant public defender class code rather than one overall average for all positions. This difference in methodology was

responsible, at least in part, for the differences between the JAC and EOG over/underrate calculations shown in the tabulation in Finding No. 1.

**We recommend that the JAC consult with the EOG on a methodology for computing salary rates and make their computations accordingly. Any differences in the results should be identified and resolved by agreement between the EOG and the JAC.**

***Finding No. 3 - Overlap Positions***

Section 2.10 of the *Classification and Pay Procedures for the Employees of the Public Defender Offices of the State of Florida* requires overlaps in positions to be handled in accordance with the provisions of Department of Management Services Rules, Chapter 60L-7, Florida Administrative Code. Department of Management Services Rule 60L-7.004, Florida Administrative Code, authorizes the overlapping of positions for three reasons: (1) for the purpose of training one officer or employee to take over the duties of another officer or employee; (2) for the purpose of performing the duties of an officer or employee who has been placed on leave with pay due to the employee's personal illness, injury, or disability; or (3) for the purpose of performing the duties of an officer or employee who has been placed on educational leave with pay. Typically, for overlapping of positions for training purposes, at the close of the training period, the employee receiving the training would fill the overlapped position and

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the person providing the training would be transferred or terminate employment.

In the 18<sup>th</sup> Circuit Public Defender's office, we noted three overlapped positions at June 30, 2000, that were for the purpose of training new assistant public defenders. At the close of the training period, the assistant public defenders who were training the new assistant public defenders remained in the overlapped positions while the new assistant public defenders were moved into previously vacated positions. Under these circumstances, it appears that this office should not have overlapped positions, but should have assigned these new employees directly to their intended positions to more appropriately present the office's actual salary rate at June 30, 2000. Had this approach been used, the effect on this office's actual salary rate at June 30, 2000, would have been to eliminate the actual rate overage initially reported.

While the extent of inappropriately overlapped positions appears to have improved since our previous audit report (No. 12867), it does illustrate a continuing problem. **To ensure the reliability of the fiscal year-end actual salary rate measures and to insure the proper application of the overlap position requirements provided for in DMS Rule 60L-7.004, Florida Administrative Code, we recommend that the individual state attorney and public defender offices, in consultation with the JAC and EOG, implement guidelines which will ensure the proper application of the DMS rule and provide for**

**reliable fiscal year-end actual salary rate information.**

**OTHER SALARY MATTERS**

***Finding No. 4 -Earning of Annual and Sick Leave by OPS Employees***

The 1<sup>st</sup> Circuit Public Defender contracted with two attorneys to perform the duties of assistant public defenders (i.e., Other Personal Services, or OPS) during the audit period. The terms of the contracts specified that the agreed upon rate of pay was higher than the Public Defender normally paid as a starting salary because each of these employees had agreed to work as contract attorneys as opposed to a regular State of Florida employee. The contracts further provided that the length of the contract was one year, and that these employees would be on the OPS payroll. The contract also provided that while on OPS status there would be no benefits available including health insurance and retirement. However, the contracts did state that "I will allow you to accrue and use annual and sick leave in the same manner as other employees, however, your OPS service will not count as creditable service for the accrual of higher annual leave credits nor will any balance carry forward should you convert to a regular salaried employee."

During the audit period, one of these employees earned 96.25 hours of both annual and sick leave, but did not take any leave. The other employee earned 166.25 hours of both annual and sick leave, and used 64 hours of sick leave and 28 hours of annual leave.

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We are unaware of any legal authority for a Public Defender to allow OPS employees to earn annual and sick leave.

**In the absence of authority for providing leave benefits to contract OPS employees, the 1<sup>st</sup> Circuit Public Defender should discontinue the practice.**

***Finding No. 5 - Performance Evaluations***

The *Classification and Pay Plan for the Employees of the Offices of the State Attorneys of the State of Florida*, in Chapter 4 – EMPLOYEES PERFORMANCE EVALUATIONS, states that evaluations are not required for assistant state attorneys or senior management employees. However, it does provide that all other employees who have completed six months of satisfactory service in a class shall be evaluated prior to the employee's anniversary date and at least annually thereafter. It also provides that if these employees fail to receive an evaluation by the end of the required evaluation period, the employee's performance for that period shall be considered satisfactory.

The *Classification and Pay Procedures for the Employees of the Public Defender Offices of the State of Florida*, in Chapter 2, states that written performance evaluations are not required, but may be done at the discretion of the Public Defender.

Our review of the provisions in these pay plans, as well as additional policies and procedures in place in the various state attorney and public defender offices, revealed that assistant state attorneys and senior management positions

within the state attorney offices were, in many instances, not receiving performance evaluations, and that performance evaluations were being done at the discretion of the public defenders in the public defender offices throughout the State.

Our review of policies and procedures relative to performance evaluations in effect in other state agencies disclosed, for example, that the Department of Legal Affairs, whose Selected Exempt Service (SES) employees represent and advise State of Florida agencies and officials on legal matters and assist in the administration of program offices within the Department of Legal Affairs, is required by Department of Management Services (DMS) Rule 60M-1.007, Florida Administrative Code, to appraise employee performance at least once each calendar year.


While we are aware that these policies were adopted pursuant to Chapter 27, Florida Statutes, and have been in effect for several years, the use of performance evaluations can be a useful management tool. Performance evaluations can provide a structured process for assessing and documenting how well employees are carrying out their assigned duties and responsibilities, which may serve as a basis for awarding pay increases, promotions, making changes in assigned duties and responsibilities, assessing training needs, and other actions. Performance evaluations can also provide the employees valuable information concerning their strengths and weaknesses which may aid them in planning how to improve job performance and career development.

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**We recommend that the state attorneys and public defenders, in consultation with the JAC and their respective associations, revisit the issue of performance evaluations, particularly as they relate to assistant state attorneys, assistant public defenders, and senior management positions, and consider requiring periodic written performance evaluations for these positions.**

**AUTHORITY**

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

  
William O. Monroe, CPA  
Auditor General

**AUDITEES RESPONSES**

Responses to the findings in this audit report were received from the Justice Administrative Commission (JAC), the Florida Prosecuting Attorneys Association, Inc., the Florida Public Defender Association, Inc., and most of the offices of the state attorney and public defender for most judicial circuits. The JAC, in its response to this report acknowledged certain errors in the computations of the annual salary rates for two of the state attorney offices and one public defender office. Accordingly, we have adjusted the annual salary rates disclosed in Finding No. 1. With regard to Finding No. 5, the Florida Public Defender Association, Inc., and several of the state attorneys and public defenders questioned the effectiveness of written employee performance evaluations as a management tool and expressed concerns regarding increased workload associated with such written evaluations. The entire responses may be viewed on the Auditor General's Web site.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable *Government Auditing Standards* issued by the Comptroller General of the United States. This audit was conducted by Hardee Ratliff, CPA. Please address inquiries regarding this report to Jim Dwyer, CPA, Audit Manager, via E-mail at [jimdwyer@aud.state.fl.us](mailto:jimdwyer@aud.state.fl.us) or by telephone at (850) 487-9031.

This report, as well as other audit reports prepared by the Auditor General, can be obtained on our Web site at <http://www.state.fl.us/audgen>; by telephone at (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.





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September 13, 2001

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Dear Mr. Monroe:

Thank you for your letter dated August 17, 2001 and the attached preliminary and tentative audit findings and recommendations relative to your audit of the State Attorney and Public Defender salary rate management and other salary-related management controls for the period July 1, 1999 through February 28, 2001.

It is my understanding that, where appropriate, the State Attorneys and Public Defenders will respond either individually or as an association to those comments pertaining to salary rate, employee overlaps, employee leave, and employee performance evaluations (findings 1, 3-5).

**Finding No. 2 – Method of Computing Actual Salary Rate for Vacant Positions:** The Justice Administrative Commission (JAC) provides individual rate reports to the State Attorneys and Public Defenders for over 8,000 FTE each month. We agree that most (31.62 FTE) of the EOG and JAC over/under rate calculation differences can be attributed to the new method used by the EOG to compute rate for vacant Assistant Public Defender positions on June 30, 2000. In addition, the JAC provided EOG incorrect rate for three State Attorney positions. Rather than (10,727) under rate, State Attorney 20<sup>th</sup> was actually 96 over rate, due to a coding error for 0.25 FTE. Also, State Attorney 10<sup>th</sup> was actually (565) under rate rather than 14,935 over rate, due to an end of year processing oversight for 2.00 FTE.

As recommended, the Justice Administrative Commission will consult with the EOG on a methodology for computing salary rate to avoid calculation differences, and to assist the Public Defenders and State Attorneys with classification and pay plan matters.

We wish to thank the members of your staff for the professional manner in which they conducted this audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Farrell".

E. Frank Farrell



## Florida Public Defender Association, Inc.

P.O. Box 11057 · Tallahassee, Florida 32302 South Calhoun Street, Suite 204 · Tallahassee, FL 32301

September 14, 2001

Mr. William O. Monroe  
Auditor General, State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

On behalf of the Florida Public Defender Association, I am providing this response to your preliminary and tentative audit findings and recommendations dated August 17, 2001.

**Finding No. 1- Excessive Salary Rate:** Specifically, the actual salary rates in Public Defender offices exceeded the approved salary rates as of June 30, 2000. For the purpose of responding to this finding, we will be referring to the actual rate as calculated by the Justice Administrative Commission. A total of 14 public defender budget entities exceeded their approved salary rates as of June 30, 2000. Please note, however, that the actual salary rates exceeded what was approved by a low of .0005% to a high of 4.47%. Section 216.181, Florida Statutes, specifically authorizes an agency to exceed its approved rate for all budget entities by no more than 5%, as long as actions are taken by June 30<sup>th</sup> to bring the agency within its approved rate limit. It appears the real issue here may be that these budget entities did not take the appropriate steps to bring their rate within the approved limit.

As elected constitutional officers, all twenty Public Defenders are aware of their duty to operate their offices within the parameters of the appropriations authorized by the Legislature. During the 1999/2000 fiscal year, no Public Defender office exceeded its authorized appropriation and no Public Defender office sought deficit funding from the Executive Office of the Governor. I have been authorized by the specific offices to assure you that every effort will be made in the future to take appropriate steps to bring the actual salary rate into compliance with the approved salary rate as of June 30<sup>th</sup>.

As an aside, there is a great deal of support for the proposition that the existing rate is unrealistically low to recruit and retain the competent legal staff necessary to deal with the ever-increasing complexity of our Constitutionally mandated duty. This is evidenced by the higher than usual turnover rates experienced in the last several years by all of the 20 Public Defender Circuits.

**Finding No. 2 – Method of Computing Actual Salary Rate for Vacant Positions:** The Justice Administrative Commission (JAC) provides individual salary rate reports to the State Attorneys and Public Defenders for over 8,000 FTE each month. We agree that most (31.62) of the EOG and JAC over/under rate calculation differences can be attributed to the new method used by the EOG to compute rate for the vacant Assistant Public Defender positions on June 30, 2000. In addition, the JAC provided EOG incorrect rate for three State Attorney positions. Rather than (10,727) under rate, State Attorney 20<sup>th</sup> was actually 96 over rate, due to a coding error for 0.25 FTE. Also, State Attorney 10<sup>th</sup> was actually (565) under rate rather than 14,935 over rate, due to an end of year processing oversight for 2.00 FTE.

As recommended, the Justice Administrative Commission will consult with the EOG on a methodology for computing salary rate to avoid calculation differences, and to assist the Public Defenders and State Attorneys with classification and pay plan matters.

**Finding No. 3 – Overlap positions:** The Office of the Public Defender, 18<sup>th</sup> Judicial Circuit, acknowledges the findings of the Auditor General concerning the procedure used to overlap FTE positions. While he believes his use of the overlap procedures was proper, the Public Defender will make every effort to comply with the procedure recommended by the Auditor General. The Public Defender Association has alerted its members of the auditor's observations and will consult with JAC and the office of the Governor in the possible implementation of guidelines to ensure the proper application of the DMS rule and provide for reliable fiscal year-end actual salary rate information.

**Finding No. 4 – Earning of Annual and Sick Leave by OPS Employees:** Beginning July 1, 1999, the 1<sup>st</sup> Circuit Public Defender received trust fund authority from the Legislature to pay two attorneys out of the OPS category and this authority continued for two years. The trust fund authority was limited and it would have been difficult to hire and retain someone who would lose pay any time they took a day off. These attorneys are members of the Florida Bar and are presently permanent staff members on regular payroll. At the time of hiring these attorneys, a written agreement was made with them that they would have the ability to take time off without loss of pay. However, their ability to take time off would be limited to the amount of annual or sick leave they would have earned had they been a state positioned attorney on regular payroll. It was also understood that when the OPS funding ended, none of this "leave" would carry over upon their placement on regular payroll. Due to their large caseload, neither of the attorneys in question had the ability to take off much time and, in fact, often worked in excess of 40 hours per week. This was a recruitment and retention issue and use of the terms "sick" and "annual" leave was simply a method of controlling and tracking the attorneys' time off in a manner similar to that of other attorneys. However, based on the recommendation of the Auditor General's Office, this practice will be discontinued. We have alerted all Elected Public Defenders of this auditor observation.

**Finding No. 5 – Performance Evaluations:** Annual Performance Evaluations have not proven to be an effective management tool for our Agencies. Because of this fact, the Public Defender's Classification and Pay Procedures currently states that written performance evaluations *are not required*, but may be done at the *discretion* of the Public Defender.

Areas of concern and areas of recognition for excellent performance are best addressed as they occur. When deficient performance is observed, the 8<sup>th</sup> Judicial Circuit's Public Defender, for instance, counsels the employee and documents their responding performance until the employee improves or is dismissed. Good performance may be verbally recognized and may include written acknowledgement to the individual's personnel file. Good performance is also recognized by promotions and raises when openings and salary funds are available. Many Circuits use similar procedures as allowed by the Pay and Classification Plan, while some Circuits continue to use the annual written performance evaluation method.

The artificial scenario of most evaluation reports leaves most employees dissatisfied. Tom Coes, a labor and employment law attorney and co-author of the book "Abolishing Performance Appraisals: Why They Backfire and What To Do Instead", argues that "overall unintended effects are so damaging, that they really offset any gain that's made." (See attached opinion article).

Our approach is one of immediacy. We handle problem areas and recognize desired performance when they become apparent. We intend, however, per the Auditor General's recommendation, to revisit the issue of performance evaluations, particularly as they relate to Assistant Public Defenders and senior management positions, and will consider changing our pay and classification manual to require periodic written performance evaluations for these positions.

Sincerely,



HOWARD H. BABB, JR.  
President

HHBJr/at  
Enclosure

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*Weyer*  
Fax Number - Felony  
(850) 595-4722  
Suncom: 695-4722

Fax Number - Misdemeanor  
(850) 595-4713  
Suncom: 695-4713

August 20, 2001

Mr. William O. Monroe  
Office of the Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

I am writing in response to an audit finding regarding my authority to provide annual and sick leave to an attorney paid from OPS funds.

Beginning July 1, 1999, my office received trust fund authority from the Legislature to pay two attorneys out of the OPS category and this authority continued for two years. The trust fund authority was limited and it would have been difficult to hire and retain someone who would lose pay anytime they took a day off. These attorneys are members of the Florida Bar and are presently permanent staff members on regular payroll. At the time of hiring these attorneys, I made a written agreement with them that they would have the ability to take time off without loss of pay, however, their ability to take time off would be limited to the amount of annual or sick leave they would have earned had they been an attorney on regular payroll. It was also understood that when the OPS funding ended, none of this "leave" would carry over upon their placement on regular payroll. Due to their large caseload, neither had the ability to take off much time and, in fact, often worked in excess of 40 hours per week. This was a recruitment and retention issue and use of the terms "sick" and "annual" leave was simply a method of controlling and tracking the attorney's time off in a manner similar to that of other attorneys. However, based on the recommendation of the Auditor General's Office, I will discontinue this practice.

Very truly yours,

  
Jack Behr  
Public Defender

JB/cj

**MAIN OFFICE**  
Columbia County Courthouse  
P. O. Drawer 1209  
Lake City, Florida 32056-1209  
(386) 758-0540  
FAX (386) 758-0497

**DIVISION CHIEFS**  
Herbert W. Ellis  
Lee I. Peters, Jr.  
William F. Williams, III

Donald R. Kennedy  
Administrative Director

Wayne H. Nash  
Chief Investigator



Office of

## C. Dennis Roberts Public Defender

THIRD JUDICIAL CIRCUIT

Serving the counties of: Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor

September 14, 2001

**BRANCH OFFICES:**  
106 Dr. M. L. King, Jr.  
South Ohio Avenue  
Live Oak, Florida 32060  
(386) 362-7235

Taylor County Courthouse  
P.O. Box 2013  
Perry, Florida 32347  
(850) 838-2830

P. O. Box 292  
Madison, Florida 32341  
(850) 973-4258

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

RE: State Attorneys and Public Defenders Salary Rate Management and  
other Salary-Related Management Controls, July 1, 1999 through  
February 28, 2001

Dear Mr. Monroe:

I am in receipt of the preliminary and tentative audit findings and  
recommendations from the above stated audit.

As noted in your report and from the response of the Florida Public Defender  
Association, we agree with your recommendation specifically regarding Finding No. 2 -  
Method of Completing Actual Salary-Rate for Vacant Positions.

Once again, our office appreciates the courteous, efficient and professional  
manner in which your office performed this audit.

Sincerely,

C. Dennis Roberts  
Public Defender  
Third Judicial Circuit

CDR/bh  
xc Robert L. Kiutert, C.P.A.



**BOB DILLINGER**  
**PUBLIC DEFENDER**  
SIXTH JUDICIAL CIRCUIT OF FLORIDA

September 17, 2001

William O. Monroe  
Auditor General  
State of Florida  
C74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

I have reviewed our list of preliminary and tentative audit findings and recommendations and offer the following in response to those findings that relate to our office.

**Finding No. 1 – Excessive Salary Rates**

Our office was \$41 over our “approved rate” of \$7,477,817 at June 30, 2000, a variance of approximately .0005%. We feel, in reality, that salary rate at any given point in any given year in no way reflects how well or how poorly an agency is doing in salary administration, but more how adept the budget administrator is at manipulating numbers, and how much time they spend on this exercise. This is evidenced by the fact that, in your audit specifically, while some agencies were “over rate” in excess of \$300,000 at June 30, this did not lead to significant overexpenditures of the amounts budgeted in the 1999-2000 fiscal year salaries and benefits. As a matter of fact, in our own budget situation at June 30, by simply reclassifying positions, our salary rate could have fluctuated \$300,000, *up or down*. I feel, and my budget administration staff agree, that a concept that will allow this amount of manipulation is ultimately useless, yet every year, as a combined agency, we spend countless hours to attain a target figure that is scrutinized as a means to ascertain whether or not our staff is doing a good job, and whether or not our funding will last through the year.

---

**PUBLIC DEFENDER OFFICES**

**Office of the Public Defender**  
14250 - 49<sup>th</sup> Street North  
Clearwater, FL 33762  
Telephone: (727) 464-6516  
Fax: (727) 464-6119

**Office of the Public Defender**  
38053 Live Oak Avenue  
Dade City, FL 33523  
Telephone: (352) 521-4388  
Fax: (352) 521-4394

**Office of the Public Defender**  
7530 Little Road  
New Port Richey, FL 34654  
Telephone: (727) 847-8155  
Fax: (727) 847-8025

The “salary rate” concept may have been a more valuable tool in the past, when attrition was not such a pressing problem and turnover, leave liability and competitive pay rates so important in retaining employees, but in today’s economy with our present very mobile workforce, in order to succeed at budget administration, we find it mandatory to do frequent budget projections and rely heavily on close supervision of spending on a monthly basis to remain within budget.

In keeping with the Governor’s concept of streamlining our state workforce, we would hope that a reevaluation of the entire “salary rate” concept be considered to ascertain whether this exercise can indeed be eliminated, thereby freeing our budget administration staff to more closely focus on other tasks.

**Finding No. 2 – Method of Computing Actual Salary Rate for Vacant Positions**

While this finding does not directly relate to our office, except as regards whether or not we are “at rate”, this finding will support our belief that entirely too much time and effort is being expended on a concept whose value is questionable in today’s budget administration.

**Finding No. 5 – Performance Evaluations**


Pursuant to our Pay Plan, I have made the decision not to complete written performance evaluations for several reasons. It has been our experience that many, if not most, supervisors working closely with employees find it difficult, if not impossible, to give a negative evaluation. Therefore, in many cases the standard written performance evaluation will present an adequately performing employee, when such might not be the case. Should the employee later need to be disciplined or terminated for cause, we feel the state could be placed in a liability situation by a disgruntled employee claiming improper termination for other reasons than performance.

Additionally, due to staffing limitations, our management is working management; i.e. our senior attorneys carry caseloads, our support staff supervisors work beside those they are supervising, and our administrative staff handles personnel, budget and financial matters. I feel it is more appropriate for staff evaluation to be an ongoing job responsibility of management and ask that performance issues be reported to me so that appropriate training, corrective action or discipline can be instituted. Management is encouraged to document both successes of the staff members they work with, as well as problem areas that need improvement. I personally monitor assistant public defenders while in court and have

monthly meetings with senior attorney staff. Senior management staff report directly to me. While this is less structured, I believe it is more conducive to our working environment.

Should you desire further information on any of the topics addressed in this letter, please let me know. Your auditors were professional, knowledgeable and efficient, and we sincerely appreciated the courtesies they extended to us during their visit.

Very truly yours,



Bob Dillinger



**C. RICHARD PARKER**

PUBLIC DEFENDER  
Eighth Judicial Circuit



35 North Main Street  
P.O. Box 2820  
Gainesville, Florida 32602-2820  
(352) 338-7370

Serving Alachua County

Bradford County Courthouse  
P.O. Box 1059  
Starke, Florida 32091-1059  
(904) 966-6273

Serving Baker, Bradford,  
and Union Counties

353 South Court Street  
P.O. Box 1119  
Bronson, Florida 32621-1119  
(352) 486-5350

Serving Levy and  
Gilchrist Counties

Reply to: Gainesville Office

September 17, 2001

Mr. William O. Monroe, C.P.A.  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

Enclosed are this agency's responses for your preliminary and tentative findings and recommendations which may be included in a report prepared on your audit of the:

State Attorneys and Public Defenders  
Salary Rate Management and Other Salary-Related Management  
Controls For the Period July 1, 1999 through February 28, 2001

Finding No. 1 - Excessive Salary Rates

Though in excess of rate on June 30, 2000 per JAC and under rate per EOG, this agency is \$9,012 under rate as of this date, and will continue to strive to maintain rate.

Finding No. 2 - Method of Computing Actual Salary for Vacant Positions

Response initiated by Justice Administrative Commission.

Finding No. 3 - Overlap Positions

No adverse findings for this agency.

Finding No. 4 - Earning of Annual and Sick Leave by OPS Employees

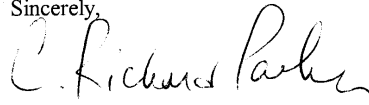
No adverse findings for this agency.

Finding No.5 - Performance Evaluations

Responded by Hon. H. "Skip" Babb, Jr., President, Florida Public Defender Association, Inc.

If you have further questions, please do not hesitate to contact me at the above address or phone.

Sincerely,

A handwritten signature in cursive script that reads "C. Richard Parker". The signature is written in black ink and is positioned above the typed name.

C. Richard Parker  
Public Defender,  
Eighth Judicial Circuit



OFFICE OF  
**PUBLIC DEFENDER**  
NINTH JUDICIAL CIRCUIT  
POST OFFICE BOX 4935  
435 NORTH ORANGE AVENUE  
ORLANDO, FLORIDA 32802-4935

**ROBERT WESLEY**  
PUBLIC DEFENDER

TELEPHONE (407) 836-4806  
FAX (407) 836-4819  
E-MAIL: WESLEY@CIRCUIT9.ORG

August 24, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Re: State Attorneys and Public Defenders Salary Rate Management  
And Other Salary-Related Management Controls for the Period  
July 1, 1999, through February 28, 2001

Dear Mr. Monroe:

Pursuant to Section 11.45(4)(d), Florida Statutes, the Office of the Public Defender, Ninth Judicial Circuit, is responding to the above named audit. There are five summary findings listed in this audit. Of these, two findings are applicable to this office.

Finding number One relates to salary rate as of June 30, 2000. This office was among those listed as being over rate for the audit period. Salary rate has since been brought into compliance through restructuring and attrition. A copy of the required response to the Office of Planning and Budgeting has been included. In addition to this response it should be noted that this current fiscal year would be the first time that a minimum salary rate has been assigned to the position of Assistant Public Defender. Without a minimum salary rate the Executive Office of the Governor elected to use the average of all employees in this class, within the circuit, as the rate for a vacant position. This creates a unique situation that is, for the most part, outside the control of this office. As an example, consider that most attorney turn over occurs within the first two years. These are entry-level attorneys being paid approximately \$32,000. When they leave, rate for the vacant position goes to the average salary of all attorneys, which was approximately \$43,000. This leads to erroneous, over rate, reports.

ROBERT WESLEY  
PUBLIC DEFENDER

Mr. William O. Monroe  
August 24, 2001  
Page Two

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Findings number Two, Three, and Four do not pertain to this office.

Finding number Five is a recommendation that State Attorney and Public Defender Offices provide written performance evaluations to the attorneys and other senior management positions. This office accepts the recommendation for written performance evaluations and is currently reviewing our policies and procedures for all employee evaluations.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Wesley", written in a cursive style.

Robert Wesley

RW/jdv



LAW OFFICES OF THE  
**PUBLIC DEFENDER**  
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA  
1320 NW 14<sup>TH</sup> STREET  
MIAMI, FLORIDA 33125

**BENNETT H. BRUMMER**  
PUBLIC DEFENDER

(305) 545-1600

September 13, 2001

Ms. Ida Marie Westbrook, CPA  
Audit Section Supervisor - Ft. Pierce  
3220 South US Highway 1, Suite #4  
Ft. Pierce, Florida 34982

Dear Ms. Westbrook:

As per your request, I am enclosing the legal and management representation letters signed by Bennett H. Brummer. As I had previously mentioned the preliminary and tentative audit findings and recommendations do not include any items which require a response from our office. The only item where our office was mentioned was in the rate calculation discrepancy between the Justice Administrative Commission ("JAC") and the Executive Office of the Governor. The difference in rate calculation resulted in our being over rate by \$62 in our Trials budget entity and was explained within the report (Findings 1 and 2).

As I had also mentioned, Hardee Ratliff, Audit Supervisor had indicated to Frank Farrell, JAC's Executive Director, that responses were not required from every office and that a consolidated response from the Florida Public Defender Association was acceptable.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Esther M. Lew".

Esther M. Lew, CPA  
Finance and Accounting Director  
Public Defender, 11<sup>th</sup> Judicial Circuit



**HERMAN D. LARAMORE**

PUBLIC DEFENDER  
FOURTEENTH JUDICIAL CIRCUIT  
ROOM 212, JACKSON CO. COURTHOUSE  
POST OFFICE BOX 636  
MARIANNA, FLORIDA 32447-0636  
TELEPHONE 850-482-9366 SUNCOM 789-9366  
FAX 850-482-9388 SUNCOM 789-9388

WALTER B. SMITH  
DEPUTY PUBLIC DEFENDER

H. GUY GREEN  
CHIEF ASSISTANT

September 17, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

RE: State Attorneys and Public Defenders  
Salary Rate Management and Other  
Salary-Related Management Controls  
For the Period July 1, 1999 through February 28, 2001

Dear Mr. Monroe:

In response to the list of preliminary and tentative audit findings and recommendations of the above-captioned audit I would like to reiterate it is always our primary goal to be in compliance with all applicable laws and administrative rules governing Public Defender operations. Every effort will be made in the future to take appropriate steps to keep our actual salary rate in compliance with the approved salary rate as of June 30<sup>th</sup> and I will revisit the issue of performance evaluations as they relate to assistant public defenders and senior management positions.

I appreciate the efficient and professional manner in which your staff performed this audit. They typify the high standards of your office.

Respectfully yours,

Herman D. Laramore  
Public Defender  
Fourteenth Judicial Circuit

HDL:jg

xc: Gregory L. Centers, CPA  
Section Audit Supervisor

Office of  
**Robert R. Jacobs II**  
**Public Defender**  
Twentieth Judicial Circuit  
1700 Monroe Street  
Post Office Drawer 1980  
Fort Myers, FL 33902-1980  
Facsimile: (941) 338-3220  
SUNCOM 726-2911  
(941) 335-2911



Please  
Reply to:

- Charlotte County** (941) 637-2181  
Fax: (941) 505-4702 / SUNCOM 737-2181  
Charlotte County Justice Center  
350 E. Marion Avenue, Suite A-1099  
Post Office Box 510304  
Punta Gorda, FL 33951-0304
- Collier County** (941) 774-8397  
Fax: (941) 774-1792 / SUNCOM 751-8397  
Collier County Courthouse  
3301 Tamiami Trail E, Building L  
Naples, FL 34112-4902
- Glades County** (863) 946-9118 or (863) 675-5263  
Glades County Courthouse  
Highway 27  
Moore Haven, FL 33471-0010
- Henry County** (863) 675-5263  
Fax: (863) 675-5372 / SUNCOM 735-5263  
Henry County Courthouse  
25 East Hickpochee Avenue  
Post Office Box 1345  
LaBelle, FL 33935-1345
- Lee County**  
Address and phone at left

September 11, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

We are in receipt of your preliminary and tentative audit findings and recommendation dated August 17, 2001.

I reviewing Finding No. 1, Excessive Salary Rates, we are of the opinion that the over rate position of \$8,053 shown by J.A.C. is incorrect for the following reasons:

1. The 20<sup>th</sup> Circuit has used a minimum salary for starting Assistant Public Defenders which is adjusted from time to time depending on the supply and demand. At June 20, 2000, the rate was \$31,000.
2. Using the annual rate of the employees on the payroll at June 21, 2000 for the Class Code 5900, Assistant Public Defender, the average was \$35,328 not the \$39,572 shown by J.A.C.
3. The 20<sup>th</sup> Circuit had one overlap position at June 30, 2000 to cover a Class Code position 5022, Communication Assistant II. This overlap was necessary to cover the retirement of the position holder on July 5, 2000 who was at a salary of \$22,449 and who used annual leave starting at about June 24, 2000 to date of retirement. The position was fully covered by the new employee at June 30, 2000 at a salary of \$20,400 and we used this amount in our rate control, which we believe to be proper.

4. At June 30, 2000, there was one vacant position for class code 5900, Assistant Public Defender, and in the Rate Report. As of June 21, 2000 is shown at annual rate of \$39,572.
5. The total of the rate report at June 21, 2000 was \$3,109,173, including the \$39,572 for the 5900 position and \$22,449 for the 5022 position.

In our rate control procedure we used the following:

Total Per Rate Report		\$3,109,173
Less:		
Class Code 5900 from report	\$39,572	
Class Code 5022 from report	22,449	62,021
Add:		
Average of Class Code 5900	35,328	
New employee in Class Code 5022	20,400	<u>55,728</u>
TOTAL:		3,102,880
99-00 Approved Rate		<u>3,102,590</u>
Adjusted over rate		\$ <u>290</u>
The above represents		.00934%

We can assure you that this circuit follows the rate requirement calculation monthly. If we had used \$31,000 minimum, rather than \$35,328 for the open position we would have been \$30,710 under rate.

Sincerely,



Harold E. Williams  
Finance & Accounting Director

cc: Reginald C. McNeill, CPA, Audit Section Supervisor



DUVAL COUNTY  
25 NORTH MARKET STREET, SUITE 200  
JACKSONVILLE, FLORIDA 32202-2802  
(904) 630-1500

CLAY COUNTY  
CLAY COUNTY COURTHOUSE  
POST OFFICE BOX 386  
GREEN COVE SPRINGS, FLORIDA 32043  
(904) 284-6318

NASSAU COUNTY  
11 NORTH 14th STREET, ROOM 110  
BOX 10  
FERNANDINA BEACH, FLORIDA 32034  
(904) 321-5740



## Office Of The Public Defender

LOUIS O. FROST, JR.  
PUBLIC DEFENDER

PLEASE REPLY TO:

Duval County

August 24, 2001

Honorable William O. Monroe  
Auditor General  
Office of the Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

I have received and reviewed the preliminary and tentative audit findings for the following audit:

State Attorneys and Public Defenders  
Salary Rate Management and Other  
Salary-Related Management Controls  
For the Period July 1, 1999, through February 28, 2001

I was pleased to note that my office was not one of the offices directly addressed by any of the five audit findings. Specifically, I offer the following:

- Finding #1 - My office was within our approved salary rate under either JAC's or EOG's calculations.
- Finding #2 - Our office would recommend that the methodology used to determine the average rate for Assistant Public Defenders be a single combined average of all 5900 series class codes for each circuit.
- Finding #3 - This office did not overlap any positions during the review period.
- Finding #4 - This finding does not apply to this office. OPS employees employed by this office do not earn annual or sick leave credits.

Finding #5 - This finding does not apply to this office. This office administers annual performance reviews on all personnel.

I would like to express my appreciation for the thorough and impartial review of the financial management of this office. I am especially pleased that this audit and review has provided me with the assurance that my administrative staff continues to demonstrate hard work, integrity, and honesty in fulfilling their daily duties and responsibilities.

I would like to personally thank and compliment the entire audit team led by Mr. David Ward, under the direction of Audit Supervisor John Duffy, for the professional and courteous manner in which this audit was conducted. The entire team was well organized, highly professional, and very courteous and pleasant to work with. The exit interview with Mr. Duffy and Mr. Ward was especially helpful in providing us with advice and counsel concerning ways in which we may continue to improve our overall operation and efficiency.

We welcome your continued review and recommendations; and if we can be of further assistance, please do not hesitate to contact me personally.

With kind personal regards, I am

Sincerely yours,



Louis O. Frost, Jr.  
Public Defender

LOF,jr/bh  
cc: John Duffy, Section Audit Supervisor  
David Ward, Local Audit Team Leader

**FLORIDA PROSECUTING ATTORNEYS ASSOCIATION, INC.**

**PRESIDENT**  
JERRY BLAIR  
Third Circuit  
100 S.E. Court St.  
P. O. Drawer 1546  
Live Oak, FL 32060

**VICE PRESIDENT**  
WILLIE MEGGS  
Second Circuit  
Leon County Courthouse  
301 South Monroe Street  
Tallahassee, FL 32399-2550

**SECRETARY**  
BRUCE COLTON  
Nineteenth Circuit  
411 South Second St.  
Ft. Pierce, FL 34950

**TREASURER**  
KATHERINE  
FERNANDEZ-RUNDLE  
Eleventh Circuit  
E.R. Graham Building  
1350 N.W. 12 Avenue  
Miami, FL 33136

**STATE ATTORNEYS**  
Curtis Golden  
First Circuit

Harry Shorstein  
Fourth Circuit

Brad King  
Fifth Circuit

Bernie McCabe  
Sixth Circuit

John Tanner  
Seventh Circuit

William Cervone  
Eighth Circuit

Lawson Lamar  
Ninth Circuit

Jerry Hill  
Tenth Circuit

Earl Moreland  
Twelfth Circuit

Mark Ober  
Thirteenth Circuit

Jim Appleman  
Fourteenth Circuit

Barry Krischer  
Fifteenth Circuit

Mark Kohl  
Sixteenth Circuit

Michael Satz  
Seventeenth Circuit

Norman Wolfinger  
Eighteenth Circuit

Joseph P. D'Alessandro  
Twentieth Circuit

**GENERAL COUNSEL**  
Arthur I. Jacobs  
401 Centre Street  
Post Office Building  
2<sup>nd</sup> Floor  
Fernandina Beach, FL 32034  
Tel: 904/261-3693  
Fax: 904/261-7879

**EXECUTIVE DIRECTOR**  
Steve Urse  
107 W. Gaines St., Suite 119  
Tallahassee, FL 32399-1050  
Tel: 850/488-3070  
Fax: 850/922-0467



September 5, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

I am in receipt of a copy of the list of preliminary and tentative audit findings and recommendations prepared in connection with your audit of the State Attorneys for the period July 1, 1999 through February 28, 2001, which was furnished to Frank Farrell, Executive Director, Justice Administrative Commission.

On behalf of Florida's State Attorneys, thank you for the professional manner in which this audit was performed. Pursuant to F. S. 11.45(4)(d), Frank Farrell has or will be providing a written explanation concerning **Finding No. 2**. The individual State Attorneys will be responding where appropriate to **Finding No. 1** and **Finding No. 5**. The remaining two Findings are not applicable to the State Attorneys.

Please advise if any additional information is required.

Sincerely yours,

JERRY M. BLAIR  
PRESIDENT, FPAA

XC: Frank Farrell, Executive Director, JAC  
All State Attorneys  
Buddy Jacobs, General Counsel, FPAA

**WILLIAM N. MEGGS**  
STATE ATTORNEY



LEON COUNTY COURTHOUSE  
301 S. MONROE STREET  
**TALLAHASSEE, FLORIDA 32399-2550**  
TELEPHONE (850) 488-6701

OFFICE OF  
**STATE ATTORNEY**  
SECOND JUDICIAL CIRCUIT OF FLORIDA

August 21, 2001


Mr. William O. Monroe  
Auditor General  
Post Office Box 1735  
Tallahassee, FL 32302

Dear Mr. Monroe:

This letter is submitted in response to the preliminary and tentative audit findings for the period July 1, 1999 through February 28, 2001. Our response is limited to the findings that pertain to the Second Judicial Circuit.

Finding 5 - Performance Evaluations - Based on your recommendation, we will revisit the issue of using performance evaluations, particularly as they relate to assistant state attorneys.

Sincerely,

  
WILLIAM N. MEGGS  
State Attorney

WNM/nm



HARRY L. SHORSTEIN  
STATE ATTORNEY

**STATE ATTORNEY**  
Fourth Judicial Circuit of Florida  
Duval County Courthouse  
Jacksonville, Florida 32202-2982  
Tel: (904) 630-2400  
Fax: (904) 630-1848

A. JAY PLOTKIN  
CHIEF ASSISTANT

September 17, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450


Dear Mr. Monroe:

I am in receipt of your letter dated August 17, 2001 and the attached preliminary and tentative audit findings and recommendations relative to your audit of the State Attorneys for the period July 1, 1999 through February 28, 2001, which was furnished to us by John P. Duffy, Section Audit Supervisor.

There were no adverse findings that were applicable to our particular office.

On behalf this office, I would like to express our appreciation for the professional manner in which the audit was conducted by your staff. Please advise if any additional information is required.

Very truly yours,

  
Harry L. Shorstein

# OFFICE OF THE STATE ATTORNEY

SEVENTH JUDICIAL CIRCUIT OF FLORIDA  
VOLUSIA, FLAGLER, PUTNAM & ST. JOHNS COUNTIES

JOHN TANNER  
STATE ATTORNEY



251 North Ridgewood Avenue  
Daytona Beach, FL 32114-7505  
Phone (904) 239-7710  
SUNCOM 377-7710  
Fax (904) 239-7716

September 17, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

We have received the Preliminary and Tentative Findings concerning the operational audit of our office. I wish to commend the professional and courteous manner in which your representatives conducted their audit.

Our internal records keeping and the results of your audit reflect that we are in accordance with the responsibilities and duties set forth in applicable statutes, rules and/or other guidelines. We have in place management controls to promote and encourage the effective, efficient and economic operation of this office, as permitted by the availability of funding and/or personnel.

We have made available all of the material requested by your agency during the audit. State assets have been inventoried in accordance with appropriate guidelines and we have a clean title for all applicable assets. There are no pending or threatened claims or litigation that could have a significant operational and/or financial effect against this office. Since the completion of your audit there have been no change in circumstances that would require any additional disclosures.

Thank you once again for your efforts on our behalf, and please advise if we may be of any further assistance.

Sincerely,

DAVID R. SMITH  
First Assistant State Attorney

DRS:ko



William C. Vose  
Chief Assistant State Attorney

Lawson Lamar  
**State Attorney**  
Ninth Judicial Circuit of Florida  
415 North Orange Avenue  
Post Office Box 1673  
Orlando, Florida 32802  
407-836-2400  
August 20, 2001

Randy J. Means  
Director of Investigations  
and Administration

Honorable William O. Monroe  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

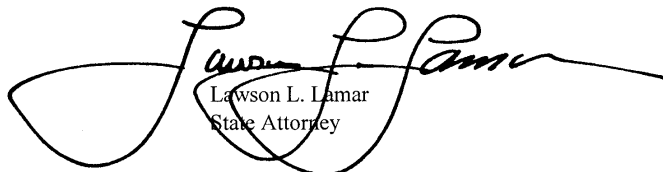
Pursuant to the provisions of Section 11.45 (4)(d), Florida Statutes, submitted herein is our written statement of explanation concerning the audit findings of excessive salary rate.

**Excessive Salary Rate**

Getchen Lindquest terminated employment on June 30, 2000. When the PAR was processed she was automatically terminated for the June 30<sup>th</sup> BOMS rate report. There was a disparity of \$4,144.00. Erica Johnson terminated on June 19<sup>th</sup>. This position in COPES reflected the amount of \$21,977.00 instead of the vacant rate of \$20,177. The difference being \$1,800.00. Jane Thigpen was hired on June 26<sup>th</sup>. Position reflected as vacant in COPES and we hired her at \$18,000.00. The difference is \$220.00. Because of clerical errors by our Human Resources Department and Justice Administrative Commission, we reflected being over rate \$5,724.00.

Through careful management of salary levels, we maintain an actual rate level generally below the approved rate and will continue to do so in the future. However, it must be recognized that it is near impossible to have a perfect situation at year's end as long as personnel have the freedom to end their employment during that time. We will bring our actual rate into compliance with the approved rate.

Very truly yours,

  
Lawson L. Lamar  
State Attorney

OFFICE OF THE STATE ATTORNEY  
FOURTEENTH JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR BAY, CALHOUN, GULF, HOLMES, JACKSON AND WASHINGTON COUNTIES



JIM APPLEMAN  
STATE ATTORNEY

IN REPLY REFER TO:

September 14, 2001

(850) 872-4473  
SunCom 777-4473  
FAX  
(850) 872-4680  
SunCom 777-468

State Attorney  
P. O. Box 1040  
Panama City, Florida  
32402

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 342399-1450

Dear Mr. Monroe,

I am in receipt of a copy of the list of preliminary and tentative audit findings and recommendations prepared in connection with your audit of the State Attorneys for the period July 1, 1999, through February 28, 2001, which was furnished to Frank Farrell, Executive Director, Justice Administrative Commission.

As indicated in his reply on behalf of all State Attorney's, Mr. Jerry Blair, President of the Florida Prosecuting Attorney's Association, Frank Farrell has or will be providing a written explanation concerning Finding No. 2.

Finding No. 1, No. 3, and No. 4 do not have application to the State Attorney 14<sup>th</sup> Judicial Circuit.

I would like to respond to Finding No. 5 relating to the statutory exception for written performance evaluations for assistant state attorneys. In the Fourteenth Circuit, performance evaluations, not written, for assistant state attorneys is a daily, continuing process. I have 28 assistant state attorneys. I am personally involved in the processing of many cases for prosecution and have direct, first hand knowledge of the strengths and weaknesses of each attorney employed by this office. Additionally, I have five assistant state attorneys who, in addition to carrying a full case load, have been assigned supervisory responsibilities. Training and professional guidance is given to beginning attorneys at a rather intensive level. Monitoring of professional development and assignment of increasingly complex criminal prosecutions is made as attorneys are deemed ready.



Mr. William O. Monroe, CPA  
Audit Response

September 14, 2001

I am confident that the review of assistant state attorney performance in place in this circuit meets the need for an effective management tool as outlined in your commentary on page 6 on the Preliminary and Tentative Findings.

To require the written form of documentation would simply add an additional paperwork burden that we are not funded nor staffed to meet. I will engage in the discussions of this issue in the context of the Florida Prosecuting Attorney's Association agenda as the body with the authority and discretion to change the provisions of the State Attorneys Classification and Pay Plan in which this exception is written as provided in Chapter 27, Florida Statutes. I will comply with the provisions of the Classification and Pay Plan to provide this documentation should they be changed by action of the FPAA.

Thank you for the year round support your deputy auditors provide our staff when questions arise. They provide valuable assistance to my staff and myself in resolving questions before they become problems.

Sincerely,



Jim Appleman  
State Attorney



OFFICE OF THE  
**STATE ATTORNEY**  
FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR PALM BEACH COUNTY

**BARRY E. KRISCHER**  
STATE ATTORNEY

August 29, 2001

Mr. William O. Monroe  
Auditor General  
Post Office Box 1735  
Tallahassee, Florida 32302

RE: AUDIT FINDINGS

Dear Mr. Monroe:

We have received and reviewed the preliminary and tentative audit findings for the period July 1, 1999 through February 28, 2001. Our response is limited to the findings that apply to the Fifteenth Judicial Circuit, Finding 5 - Performance Evaluations. We appreciate your recommendation, and based on your findings, we will re-examine our position on performance evaluations, particularly for assistant state attorneys.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry E. Krischer", written over a horizontal line.

Barry E. Krischer  
State Attorney

BEK:cjh

401 North Dixie Highway • West Palm Beach, FL 33401-4209  
(561)-355-7100

*"There is no excuse for child abuse"*



**STATE ATTORNEY**  
SIXTEENTH JUDICIAL CIRCUIT OF FLORIDA  
530 WHITEHEAD STREET  
KEY WEST, FL 33040

**MARK E. KOHL**  
State Attorney

Telephone  
(305) 292-3400

September 13, 2001

Mr. William O. Monroe, CPA  
Auditor General  
G-74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

Thank you for your letter dated August 17, 2001, and the attached preliminary and tentative audit findings and recommendations relative to your audit of the State Attorney and Public Defender salary rate management and other salary-related management controls for the period July 1, 1999, through February 28, 2001.

The State Attorney's Office is provided with monthly rate reports from the Justice Administrative Commission. My office personnel go over these reports monthly to make sure that the office is within its rate limits. On June 30, 2000, this office was over rate by \$162. The office had been under rate for June until the new average for a vacant Assistant State Attorney was used; the new average was higher; the office had a vacant Assistant State Attorney position; therefore, the office went over rate by a small amount.

I have read your comments and recommendations concerning Performance Evaluations, and I will consider those issues in the near future.

It was a pleasure to work with your Auditors, Frank Bravate and Jim Bell, and I would like to commend you and your staff for the professional manner in which the audit was conducted.

Sincerely,

Mark E. Kohl  
State Attorney

OFFICE OF THE STATE ATTORNEY  
EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA  
BREVARD AND SEMINOLE COUNTIES

NORMAN R. WOLFINGER  
STATE ATTORNEY

Viera Office  
2725 Judge Fran Jamieson Way  
Bldg. D  
Viera, FL 32940  
(321) 617-7510



Seminole Office  
100 East First Street  
Sanford, FL 32771  
(407) 665-6000

Reply To:

Viera

September 13, 2001

Mr. William O. Monroe  
Auditor General, State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

My office is in receipt of your letter and preliminary audit findings and recommendations and the following is offered in response to your audit of the State Attorney, Eighteenth Judicial Circuit completed in conjunction with the operational audit of the State Attorneys and Public Defenders for the period July 1, 1999 through February 28, 2001.

Findings Number 1, 3, and 4 are not applicable to this office. Finding Number 2 was addressed by the Justice Administrative Commission, however, this too was not applicable to this office.

As noted in Finding Number 5 the Florida Prosecuting Attorney's Classification and Pay Plan allows for the discretion of each State Attorney in setting the standard for evaluation of Assistant State Attorney and Senior Management. This office currently evaluates all Assistant State Attorneys and Senior Management positions. This office will evaluate documenting those few positions where the evaluation is done orally into a written format.

I wish to thank you for the courtesies extended by your staff. Their suggestions and recommendations in the preliminary audit will be beneficial toward ensuring continued sound fiscal management. If you are in need of any further information, please feel free to contact me.

Sincerely,

NORMAN R. WOLFINGER



Bruce H. Colton  
State Attorney

OFFICE OF THE  
**State Attorney**  
NINETEENTH JUDICIAL CIRCUIT OF FLORIDA  
SERVING  
INDIAN RIVER, MARTIN, OKEECHOBEE  
AND ST. LUCIE COUNTIES

411 South Second Street  
Fort Pierce, Florida 34950  
(561) 465-3000  
Fax (561) 462-1214

27 August 2001

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

In accordance with the provisions of Section 11.45(4)(d) Florida Statutes, I am writing in response to the preliminary and tentative findings for the period July 1, 1999, through February 28, 2001.

Salary Rate Management

This agency's June 30, 2000 actual salary rate exceeded our approved salary rate by \$137.00. Pursuant Section 218.181, Florida Statutes, this agency prepared a corrective action plan, that was submitted to the Executive Office of the Governor (EOG) in a timely manner.

If you should have any questions or desire additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Colton".

BRUCE H. COLTON  
State Attorney

BHC/gm

*Joseph P. D'Alessandro*  
State Attorney



OFFICE OF THE STATE ATTORNEY

Twentieth Judicial Circuit of Florida

PLEASE REPLY TO: P.O. BOX 399

FT. MYERS, FL 33902-0399

Telephone 941-335-2735

FAX Number 941-461-5620

*Dennis M. Pearlman*  
Executive Director  
E-Mail: [pearlman@sao.cjis20.org](mailto:pearlman@sao.cjis20.org)

September 7, 2001

Mr. William O. Monroe, CPA  
Audit General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear William,

On behalf of the State Attorney, Joseph D'Alessandro, and our administrative staff, I would like to thank you and your staff for the professional and courteous manner in which our recent audit was performed.

Mr. Jack Allen represented the Auditor General in a fine fashion and was extremely pleasant during the audit fieldwork.

As for matters relating to the preliminary and tentative audit findings, please reference to Executive Director, Frank Farrell's response from the Justice Administrative Commission (JAC). I would hope that the spreadsheet information relating to Salary Rate Management would be corrected for the 20<sup>th</sup> Judicial Circuit to accurately reflect our rate status (detailed on page 3 of 6 on your findings), as an obvious input error was made on our behalf by JAC should not be reflected in these findings.

Again, thank you, and if you should have any questions, please do not hesitate to contact me at (941) 335-2735.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis M. Pearlman".

Dennis M. Pearlman  
Executive Director

DMP/clis

Representing the Following Counties:

LEE COLLIER CHARLOTTE HENDRY GLADES

*Not printed at Government Expense*