



Findings in the audit of the Missouri State Public Defender

Background	The Missouri State Public Defender (MSPD) was created by statute in 1972 to provide legal services to eligible persons. The MSPD has three legal services divisions: the Trial Division responsive to the trial courts, the Capital Division responsible for death penalty trial representation, and the Appellate/Post-Conviction Relief Division responsible for appellate and post-conviction litigation.
Caseload and Resources	The MSPD is unable to accurately determine the resources needed to manage caseloads. The MSPD does not track staff time spent by case type, so the MSPD lacks detailed information to estimate staff hours per caseload. Audit staff reviewed the caseload protocol calculation procedures and noted significant concerns with the methodology and data used to calculate key components and the final calculation as to whether maximum caseload has been exceeded. The MSPD lacks support or basis for many components of the caseload protocol calculation, and there is a lack of assurance various components are comparable. The MSPD determines the number of needed attorney hours based upon converted national standards with the assumption of each attorney working on cases 2,080 hours per year, but calculates the number of available attorney hours based upon each attorney working on cases an average of 1,536 hours per year. In addition, the MSPD lacks adequate procedures to measure the need for additional support staff.
Indigence Determinations	The MSPD lacks sufficient policies and procedures for determining indigence to ensure public defender services are provided to only eligible applicants. Some opened cases reviewed lacked sufficient documentation to support the indigence determination; and sufficient information is frequently not entered in the Case Management System, which prevents the MSPD from monitoring indigence determinations and court appointments on a state-wide basis.
Liens and Promissory Notes	Under state law the MSPD is required to file a lien with the circuit court for the reasonable value of services rendered to each defendant, and the court must rule on whether to allow all or any part of the lien. The MSPD does not always properly charge applicable costs to defendants and did not file liens or prepare promissory notes for some cases tested. The amount of liens filed and promissory notes prepared were often insufficient, and the MSPD had no documentation to support the lien and promissory note fee schedule.
Collection Procedures	Some circuit courts frequently deny liens filed, making it impossible for the MSPD to recover costs associated with services provided, and some courts do not attempt to collect MSPD liens. The MSPD does not monitor court collection efforts or encourage the courts to collect liens. Currently, the MSPD collects payments on liens and promissory notes through tax and lottery intercepts, collections by some courts, and direct payments from defendants, but other collection methods may be available which the MSPD has not considered or evaluated. As of June 30, 2010, the MSPD had approximately \$70.1 million in unpaid liens and promissory notes.

Conflict Cases	Under MSPD guidelines and a Supreme Court rule, an attorney cannot provide representation in cases that present a conflict of interest, but the MSPD does not always adequately document conflict cases. The MSPD policy requiring automatic transfer of conflict cases to another district office or contract attorney may unnecessarily increase costs and decreases attorney time available to represent cases.
Contract Attorneys	The MSPD contracts with private attorneys to provide representation for certain cases, but the MSPD does not track or monitor the disposition of cases handled by the contract attorneys and does not maintain documentation of the selection process.
Professional Consultants	MSPD attorneys did not always solicit bids or use state contracts for court reporting services and did not always maintain documentation supporting the selection of other professional consultants. The MSPD does not adequately monitor payments to professional consultants. Agreed-upon terms are not always documented in retention letters and/or encumbrance requests, and the expert database lacks sufficient data needed to ensure payments to consultants are reasonable.
Transcripts on Appeal	A state law requiring the MSPD to pay for transcripts on cases under appeal may cause excessive and unnecessary costs to the state. Court reporters were paid a total of \$600,000, \$515,000, and \$350,000, for transcripts on appeal in addition to their state salaries during the years ended June 30, 2010, 2009, and 2008, respectively.
Employee Travel Costs	The MSPD spends approximately \$1.7 million per year on employee travel and has not performed a comprehensive analysis to identify ways to reduce travel costs and increase employee productivity. MSPD travel policies and procedures do not minimize mileage and lodging costs.

In the areas audited, the overall performance of this entity was **Fair**.*

American Recovery and Reinvestment Act (Federal Stimulus)	During the year ended June 30, 2010, the MSPD spent \$499,890 from the Federal Budget Stabilization - Medicaid Reimbursement Fund for contract attorneys for caseload relief.
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*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

Excellent: The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

Good: The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

Fair: The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

Poor: The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.