

**Summit County Prosecutor's Office**  
*Legal Division*  
**Performance Audit – General Report**

**Prepared for:**

**Prosecutor Sherri Bevan Walsh**  
**Audit Committee**

**Approved by Audit Committee**  
**March 24, 2016**



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**EXECUTIVE SUMMARY**

**Total Number of Issues –7**

**Policies and Procedures**

Section	# Issues	Issue Descriptions	Page Ref.
Policies and Procedures Manual	2	<ul style="list-style-type: none"> <li>Insufficient or no written policies and procedures for several areas.</li> <li>Policies with no effective date; no management approval within the last two years; names used in lieu of titles.</li> </ul>	8

**Internal Controls**

*Strong Internal Controls:*

Testing Section	# Issues	Issue Description	Page Ref.
Purchasing	0	N/A	9
Expenditures			9
Payroll			13
Grants			13
Fringe Benefits			13
Regulatory Compliance			13
Vehicle Log			14

*Weaknesses in Internal Controls:*

Testing Section	# Issues	Issue Descriptions	Page Ref.
Revenue	1	<ul style="list-style-type: none"> <li>Untimely deposits.</li> </ul>	9
Asset Inventory	1	<ul style="list-style-type: none"> <li>Inaccurate IT asset inventory listing.</li> </ul>	11
Evidence	2	<ul style="list-style-type: none"> <li>Signature not obtained on the Evidence Receipt, Inventory and Transfer Form.</li> <li>Evidence could not be located; evidence list not maintained.</li> </ul>	12
Personnel Files	1	<ul style="list-style-type: none"> <li>Incomplete personnel files.</li> </ul>	14

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**GENERAL BACKGROUND**

The Summit County Prosecuting Attorney's office has the responsibility and the authority to investigate and prosecute crimes in the County of Summit. The Prosecuting Attorney's office represents "The People of the State of Ohio." The office consists of the following divisions, along with administration (10 employees):

**Civil Division (10 employees; shared with the Tax Division)**

The Civil Division of the Summit County Prosecutor's Office is essentially the county's law firm. The attorneys in this division provide legal counsel to all county agencies and elected officials in state or federal courts, as well as a variety of administrative settings.

This division is also vested with the task of providing written legal opinions upon the request of any one of these clients. Additional representation both inside and outside the courtroom setting is performed in the areas of employment litigation, civil rights litigation, personal injury litigation, contract review and enforcement, tax recoupment, real property sale and/or purchase, and land use and zoning issues.

**Criminal Division (53 employees)**

The primary responsibility of the thirty-three (33) Assistant Prosecutors in the Criminal Division is to prosecute felony criminal cases through the judicial process and to work to ensure justice is served in every case.

Of the approximately 3,500 felony cases - such as murder, rape, felonious assault, drug trafficking and burglary - handled each year, ninety-five percent (95%) result in conviction (guilty at trial or pled guilty). Prosecutor Walsh's Criminal Division continues to be the state leader in obtaining life sentences against child rapists.

The Criminal Felony Division has special units of prosecutors who handle Violent Crimes, Domestic Violence and Child Homicide/Rape cases. These specialty units exist within the Criminal Division to gain the best results in the cases we handle. The Violent Crime Unit (VCU) handles the most serious cases from the grand jury phase through the trial phase and advises the police during the investigation of homicides, RICO and offenses involving the use of a firearm. The Domestic Violence Unit is supported by federal grant money from the Department of Justice Office on Violence Against Women. These funds are used to support the unit and to provide a Strategic At-risk Family Education - or SAFE Program - to assist Victims of domestic violence and their families. This grant also enables the Prosecutor's Office to collaborate with the Battered Women's Shelter, the Victim Assistance Program and other important agency partners in the battle against family violence. Finally, the Child Homicide/Rape Unit handles all cases involving the death or abuse of a child. These crimes are some of the most difficult, as they involve violence against the defenceless in our community, children. The Prosecutor's Office takes these crimes very seriously and has a strong record of putting these offenders in prison for life.

**Juvenile Division – Delinquency and Dependency/Neglect (14 employees)**

The purpose of the Delinquency Division is to prosecute all minors who are charged with criminal, traffic or status offenses that occur in Summit County, Ohio. The Delinquency Division also initiates and handles transfer proceedings in all cases in which the State requests a youth be tried as an adult. Lastly, the Delinquency Division prosecutes adults who are charged with offenses under the jurisdiction of Juvenile Court, such as Failure to Send and Contributing to the Delinquency/Unruliness of a Minor.

The Dependency/Neglect Division is comprised of six (6) attorneys who handle all Juvenile Court involved proceedings on behalf of Summit County Children Services. The Dependency/Neglect Prosecutors are in trial daily and handle motions for custody, complaints of child abuse, neglect and dependency, motions regarding visitation as well as emergency hearings to address crisis events affecting the safety of children in the community.

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**Tax Division (10 employees; shared with the Civil Division)**

The Tax Division of the Prosecutor's Office provides legal representation for the Summit County Fiscal Office and the Board of Revision. It also handles tax appeals and delinquent tax collection, as well as the following types of cases:

- Tax Foreclosures: Fiscal Office requests for a foreclosure action for delinquent real estate taxes or for tax certificates.
- Board of Revision Appeal Cases: Individual taxpayer's appealing the assessed value of their real property.
- Personal Property: Collection action initiated by the Summit County Fiscal Officer to recover delinquent personal property taxes.
- Bankruptcy: The Tax Division files proofs of claim on behalf of the Summit County Fiscal Officer for real estate, personal property and mobile home taxes. We also file claims in cases for restitution and county mortgages. In addition to filing the claims, our division monitors the Chapter 13 payments and instructs the Summit County Fiscal Office on how to apply these payments.
- Adversary Proceedings: Sale of property through District Court in Bankruptcy actions.
- Mortgage Foreclosures: Mortgage Company foreclosing on a defaulted mortgage loan.
- Probate Appropriations: Government entity appropriating property for highway easements and/or public use.

**Appellant Division (3 employees)**

The Appellate Division handles cases after the defendants have been convicted of a crime in Summit County Common Pleas Court. The prosecutor also represents the county before the Ninth District Court of Appeals, the Ohio Supreme Court and the United States Supreme Court.

Every person convicted of a crime is entitled to at least one appeal, as a matter of right, to the Ninth District Court of Appeals.

**Victim Services Division (8 employees)**

The Victim Services Division ensures that all victims are notified at each level of the criminal justice system including: arraignment, pre-trials, status hearings, pleas, sentencing, motion hearings and judicial release. The program is designed to provide information and support to victims of crime as their case proceeds through the criminal justice system.

The Victim Service Division provides the following services:

- Accompanying Victims to court.
- Informing Victims of the status of their case.
- Advocating on behalf of Victims.
- Providing emergency transportation to court.
- Informing Victims of their rights.
- Connecting Victims to the Ohio Victims of Crime Compensation Program.
- Discussing Victim safety.
- Providing referrals.
- Speaking to community groups, block clubs, and schools on specific crime issues.
- Providing Internet access to their case.
- Coordinate with the Ohio Department of Rehabilitation and Correction to halt unwanted contact from a prisoner.

The Prosecutor's Office consists of ninety-eight (98) employees (2% of Summit County employment) comprising of the Prosecutor, Chief Counsel, Assistant Prosecutors, Investigators, Direct Indictment Officers, Victim Advocates and

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support staff. The Prosecutor's Office 2013 and 2014 actual expenditures totalled \$5,420,373 and \$5,425,124, respectively (19% of the 2013 and 2014 County's actual General Fund expenditures).<sup>1</sup>

IAD compared the Prosecutor's Office 2014 actual expenditures and current staffing levels to the Prosecutor's Office from comparably populated counties – Montgomery and Lucas. The comparisons are represented in the graphs below:



**AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY**

The primary focus of this review was to provide the Prosecutor's Office with reasonable assurance, based on the testing performed, on the adequacy of the system of management control currently in effect for the audit areas.

Management controls include the processes for planning, organizing, directing, and controlling program operations, including systems for measuring, reporting, and monitoring performance. Management is responsible for establishing and maintaining effective controls that, in general, include the plan of organization, as well as methods and procedures to ensure that goals are met. Specific audit objectives include evaluating the policies, procedures, and internal controls related to the Prosecutor's Office.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Based on the results of our review, we prepared specific issues and recommendations for improvement that were discussed with management. These recommendations, as well as management's unaltered written response, can be found in the following sections of this report.

<sup>1</sup> <https://fiscaloffice.summitoh.net/index.php/documents-a-forms/viewcategory/8-comprehensive-annual-financial-reports>

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**Objectives:**

- To obtain and review the current policies and procedures.
- To review the internal control structure through employee interviews and observations.
- To perform a general overview of the physical environment and security of the facilities, data, records and departmental personnel.

**Scope:**

An overview and evaluation of the existing policies, processes, procedures, contracts and internal control structure utilized by the Prosecutor's Office from September 1, 2014 through August 31, 2015.

The following were the major audit steps performed:

**OBJECTIVE 1 – POLICY AND PROCEDURES REVIEW**

1. Obtain and review the current policies and procedures.
2. Meet with the appropriate personnel to obtain an understanding of the current department processes and procedures. Compare those existing processes to the policies and procedures manual for consistency, noting all exceptions.
3. Obtain and review the document retention policy and determine if policies and procedures are currently in place and being followed.
4. Test procedures for mandatory compliance where applicable.
5. Identify audit issues and make recommendations where appropriate.

**OBJECTIVE 2 – REVIEW OF INTERNAL CONTROLS**

6. Meet with the appropriate personnel to obtain an understanding of the control environment.
7. Document the existing control procedures in narratives and/or flowcharts.
8. Compare existing processes to the policies and procedures manual for consistency.
9. Test procedures for compliance where applicable, noting all exceptions.
10. Investigate discrepancies and summarize results.
11. Make recommendations where appropriate.

**OBJECTIVE 3 – REVIEW OF SECURITY (covered in a separate report in compliance with ORC §149.433).**

1. Perform a general overview of the physical environment and security of the department/agency being audited.
2. Interview various personnel to determine that confidential information is secure and processed only by appropriate parties.
3. Test security issues where appropriate.
4. Analyze current policies and make recommendations.

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**DETAILED COMMENTS**

Interviews:

To gain an understanding of the Prosecutor's Office, IAD performed interviews with the following positions:

- Chief Counsel
- Chief Administrator
- Chief Assistant Prosecuting Attorney
- Assistant Prosecuting Attorney
- Assistant County Prosecutor 3
- Chief Investigator
- Victim Services Director
- Director of Communications
- Direct Indictment Officer 2
- Personnel Admin 1
- Fiscal Officer 3

Any issues noted are addressed in the respective sections of this report.

**I. Policy and Procedures:**

Prosecutor's Office policies and procedures were reviewed for each of the following applicable testing sections within the audit for accuracy and completeness and compared to current processes for consistency. The Prosecutor's Office Records Retention Schedule was also reviewed for completeness and compared to processes throughout the audit to ensure that the schedule contained all relevant documents.

The following issues were noted:

1. Issue:

Upon review of policies and procedures, IAD noted insufficient policies and procedures in the following areas:

- Direct Indictment Program (DIP) payment process.
- Requiring an HR or Management employee to be present when an individual is reviewing an employee file.

Recommendation:

IAD recommends that the Prosecutor's Office create/update, approve, and disseminate written policies and procedures for all functional areas within the agency. This will help to ensure that proper procedures are in place and consistently followed within the department.

Corrective Action Taken Prior to the End of Fieldwork:

On 11/4/15, IAD obtained a new policy surrounding the DIP payment process and an updated public records policy with an amendment requiring an HR or Management employee to be present when an individual is reviewing an employee file.



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Management Action Plan:

The Prosecutor's Office will continue to monitor and update these policies as needed.

2. Issue:

Upon review of policies and procedures for completeness and accuracy, IAD noted the following:

- Five (5) out of thirty-seven (37) instances where the policy did not have an Effective Date or Date of Revision.
- Thirty-two (32) out of thirty-seven (37) instances where the last revision of the policy was not within two (2) years.
- Twenty-eight (28) out of thirty-seven (37) instances where the policy was not formally approved (signed) by management.
- Two (2) out of thirty-seven (37) instances where names, rather than titles, were used in the policy.

Recommendation:

IAD recommends that all policies and procedures be updated/reviewed and approved by management at least every two (2) years, include an Effective Date or Date of Revision, and include titles, rather than names. This will help to ensure that approved policies and procedures are accurate and consistently followed by employees.

Corrective Action Taken Prior to the End of Fieldwork:

On 12/10/15, IAD obtained the Prosecutor's Office updated Policy and Procedure Manual and noted the policies contained effective dates, were reviewed and formally approved by management. Additionally, IAD noted one (1) of the two (2) instances where names rather than titles were used was corrected.

Management Action Plan:

The Prosecutor's Office has already corrected the second instance where names rather than titles were used. Additionally, the Prosecutor's Office will continue to monitor and update all policies as needed and will monitor to ensure formal approval and appropriate effective dates.

**II. Internal Control Testing:**

Risk-based internal control testing and/or observations were performed in the following areas:

- Revenue
- Purchasing
- Expenditures
- Asset Inventory
- Evidence
- Payroll
- Grants
- Fringe Benefits
- Regulatory Compliance
- Personnel Files
- Vehicle Log

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**REVENUE**

Prosecutor's Office policies and procedures and applicable ORC sections were reviewed to gain an understanding of the Direct Indictment Program (DIP) payment process and internal controls in place.

IAD selected all DIP payments received from the local municipalities and performed detail testing to ensure the correct amount was remitted per contractual terms and the funds were deposited timely in accordance with ORC §9.38.

The following issue was noted:

3. Issue:

Upon detail testing of Direct Indictment Program (DIP) payments, IAD noted thirty-three (33) out of fifty-three (53) instances where the receipts were deposited; however, they were not timely deposited in accordance with ORC §9.38.

Recommendation:

IAD recommends that all funds received by the Prosecutor's Office be deposited by the next business day or a policy be written to allow up to three (3) business days for deposits less than \$1,000. This will help to ensure compliance with ORC §9.38.

Management Action Plan:

The Prosecutor's Office created a policy to ensure timely deposits of Direct Indictment Program reimbursements and will continue to monitor to ensure compliance. It is important to note that while the deposits were not timely per the ORC, the Prosecutor's Office instituted an internal audit recommendation for segregation of duties following a prior audit in order to ensure that the same person documenting the receipt of the payment was not the same person preparing the deposit. This segregation of duties regularly caused delay in deposits.

**PURCHASING**

Prosecutor's Office policies and procedures were reviewed, interviews were conducted, and flowcharts were created and approved to gain an understanding of the purchasing process. Samples of purchase order requisitions, purchase orders and purchase order change orders were judgmentally selected and detail testing was performed to test for proper documentation and approvals.

Additionally, banner purchasing and procurement user access levels were reviewed for reasonableness.

No issues were noted.

**EXPENDITURES**

Prosecutor's Office policies and procedures and applicable ORC sections were reviewed, staff interviews were conducted, and flowcharts were created and approved to gain an understanding of the expenditure cycle, the laws and regulations that govern it, and internal controls in place. A sample of expenditures was randomly selected and detail expenditure testing was performed to verify that funds do not remain encumbered for prior year purchase

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orders, confirm proper approval, proper authorizations, funds were encumbered prior to incurring the expense, and that the appropriate vendor and amount were paid.

Banner user and Banner Class Form reports were obtained and reviewed to gain an understanding of Prosecutor's Office employee Banner roles and to test for a proper segregation of duties.

The following general recommendation was noted:

General Recommendation:

Upon testing of Banner permissions, IAD noted two (2) employees with the ability to create and approve purchase order requisitions and one (1) employee with the ability to create and approve invoices in Banner. This provides an opportunity for a user to approve a purchase order requisition or invoice that he/she entered in Banner, creating an improper segregation of duties. During detail testing, it was noted that this is occurring; however, approval is obtained prior to entering/approving in Banner. IAD recommends that Banner permissions be reviewed for reasonableness and revised as deemed necessary.

No issues were noted.

ASSET INVENTORY

Policies and procedures were reviewed and staff interviews were conducted to gain an understanding of the asset and IT inventory processes and internal controls in place. A sample of IT assets was judgmentally selected and detail testing was performed to verify the existence of the assets and accuracy of the asset tracking system.

All expenditures were reviewed for the prior five (5) years to ensure capital assets purchased during the period were included on the Prosecutor's Office capital asset listing. Additionally, IAD reconciled the Prosecutor's Office capital asset listing to the capital asset statistic section of the Summit County Comprehensive Annual Financial Report (CAFR) to ensure completeness and accuracy of capital asset reporting.

The following issue was noted:

4. Issue:

During detail testing, IAD noted two (2) out of thirteen (13) instances where the asset selected at the Prosecutor's Office was not maintained on the IT asset inventory listing.

Recommendation:

IAD recommends that the Prosecutor's Office periodically review and update their inventory listing to ensure it is up to date and accurate.

Corrective Action Taken Prior to the End of Fieldwork:

On 12/2/15, IAD obtained an updated IT Asset Inventory listing and noted two (2) of the two (2) missing assets were included on the updated IT listing.

Management Action Plan:

The Prosecutor's Office will continue to periodically review the IT asset inventory and will add all new equipment as needed as well as remove properly disposed equipment.

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**EVIDENCE**

Policies and procedures were reviewed, staff interviews were conducted, and flowcharts were created and approved to gain an understanding of the evidence inventory processes and internal controls in place. A sample of evidence returned to local arresting agencies was haphazardly selected and detail testing was performed to ensure proper chain of custody and compliance with Prosecutor's Office policies and procedures. Additionally, a sample of evidence maintained at the Prosecutor's Office was haphazardly selected to ensure existence of the evidence and completeness and accuracy of the evidence inventory list.

The following issues were noted:

5. **Issue:**

Upon detail testing and discussion with the Investigators, IAD noted that Investigators sign the arresting agency's evidence log book noting receipt of the evidence; however, IAD noted ten (10) out of ten (10) instances where a signature was not obtained on the Evidence Receipt, Inventory and Transfer Form noting the receipt of the returned evidence by the Prosecutor's Office to the appropriate law enforcement agency, according to the Evidence Policy and Procedure.

**Recommendation:**

IAD recommends that Property Officers obtain a signature from the local arresting agency on the Evidence Receipt, Inventory and Transfer Form when returning evidence. This will help to ensure the accountability and compliance with the Prosecutor's Office policies and procedures.

**Management Action Plan:**

The Prosecutor's Office routinely returns evidence admitted in trial from the courtroom to the arresting agency. Signatures from the arresting agency were not obtained on the Evidence Receipt, Inventory and Transfer Form since the investigators signed the arresting agency's log book noting return of evidence. The Prosecutor's Office has reiterated to investigators that they must also obtain signatures from the arresting agency to document that evidence has indeed been returned to them as stated in our policy. Investigators/Property Officers were advised that their interpretation of our policy was incorrect when returning evidence from the courtroom to the arresting agency. The Prosecutor's Office will continue to monitor this policy for compliance.

6. **Issue:**

Upon detail testing of the evidence maintained in the evidence vault, IAD noted two (2) instances out of twenty-six (26) cases (containing multiple items) where evidence documented on the evidence list could not be located and one (1) instance out of twenty-six (26) cases containing multiple items, where the evidence list was not maintained; therefore, completeness of evidence could not be verified.

**Recommendation:**

IAD recommends that the Property Officers reconcile all inventory lists to the evidence maintained. In addition, IAD recommends that the Prosecutor's Office determine the evidence that can be returned to the local arresting agencies. This will help to ensure the accountability and accuracy of the evidence maintained by the Prosecutor's Office.

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Management Action Plan:

The Prosecutor's Office maintains evidence lists on all cases wherein we have received evidence from an arresting agency or other source. In the two instances noted wherein the evidence could not be located, these were items of public record, including a coroner's report, that were mistakenly logged as evidence when they were NOT evidence and should have only been included in the criminal case file. The Prosecutor's Office will continue to follow the Evidence Policy and monitor for compliance.

PAYROLL

An interview was conducted to gain an understanding of the payroll process. A payroll approval report was generated and reviewed to determine appropriate authorizations and to confirm a proper segregation of duties.

No issues were noted.

GRANTS

An interview was conducted and grant documents were reviewed to gain an understanding of the grants process. The Domestic Violence grant was obtained and the following detail testing was performed to ensure:

- All grant expenditures were used for the purpose noted in the Prosecutor's Office application.
- Semiannual progress reports were generated and sent within the allotted timeframes.

No issues were noted.

FRINGE BENEFITS

Detail testing of the following areas was performed, if applicable, to confirm that the Prosecutor's Office is properly processing fringe benefits in accordance with IRS tax code:

- Travel and meals reimbursement,
- Cash incentives, awards, gift awards and/or bonuses,
- County paid life insurance policies over \$50,000,
- Uniforms and clothing allowances,
- Employment contracts,
- Agency vehicle usage,
- Allowances for firearms or tasers and/or any other non-lethal weapon,
- Tuition assistance and reimbursement,
- Subcontracted employees,
- Domestic Partnership health insurance benefits.

No issues were noted.

REGULATORY COMPLIANCE

Ohio Revised Code (ORC) §309 was reviewed and detail testing was performed to ensure the prosecuting attorney made a certified statement to County Council regarding case statistics within the established deadline in accordance with ORC.

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ORC §321.261 was reviewed, attributes were developed, and detail testing was performed to ensure the following:

- Funding received from delinquent tax and assessment collection was expended on approved expenditures.
- A report was submitted to County Council regarding the use of the moneys appropriated from the delinquent tax and assessment collection funds by the established deadline.

No issues were noted.

**PERSONNEL FILES**

Policies and procedures were reviewed and an interview was conducted to gain an understanding of the personnel files process. A sample of personnel files was selected and reviewed to confirm completeness of records and confidential information is maintained separately.

An interview was conducted and policies and procedures were reviewed to gain an understanding of the Prosecutor's Office employee training requirements. A sample of Prosecuting Attorneys was haphazardly selected and detail testing was performed to ensure they are able to practice law in the State of Ohio and their license was active. Additionally, IAD performed detail testing to ensure all investigators are commissioned as Special Deputies by the Summit County Sheriff's Office.

The following issue was noted:

7. **Issue:**

Upon detail testing of personnel files, IAD noted six (6) out of ten (10) files appeared to be incomplete, per the Employee Checklist. Additionally, IAD noted that confidential information was not maintained separately from the employee's personnel file (e.g., social security information, Form I-9s).

**Recommendation:**

IAD recommends that the Legal Division review employee personnel files to ensure files contain the relevant documents. Additionally, IAD recommends that all confidential information be separately maintained. This will help to ensure completeness and accuracy of personnel files and security of confidential information.

**Corrective Action Taken Prior to the End of Fieldwork:**

On 12/10/15, IAD verified that the incomplete personnel files were corrected and that all confidential information was maintained separately.

**Management Action Plan:**

The Prosecutor's Office will continue to maintain confidential information separately and monitor to ensure that all personnel files are complete per the Employee Checklist.

**VEHICLE LOG**

Vehicle logs were obtained and reviewed to determine employees operating a County vehicle, and compared to the SambaSafety report (showing employees authorized to operate a County vehicle) to ensure that employees had been properly authorized, in accordance with Codified Ordinance §169.25(i)(3).

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No issues were noted.

**II. Security:**

Security issues noted during fieldwork are addressed under separate cover in the accompanying report in compliance with ORC §149.433.