

# **Legal Defender's Office of Summit County Performance Audit General Report**

**Prepared for:**

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Audit Committee**

**Approved by Audit Committee  
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**EXECUTIVE SUMMARY**

**Total Number of Issues – 22**

**Policies and Procedures**

| Section                        | # Issues | Issue Descriptions   | Page Ref. |
|--------------------------------|----------|--|-----------|
| Policies and Procedures Manual | 2        | <ul style="list-style-type: none"> <li>• No formal policies and procedures manual. No requirement to sign-off on new policies.</li> <li>• No policies over records retention.</li> </ul> | 7         |

**Internal Controls**

*Strong Internal Controls:*

| Testing Section | # Issues | Issue Description | Page Ref. |
|-----------------|----------|-------------------|-----------|
| Contracts       | 0        | N/A               | 14        |

*Weaknesses in Internal Controls:*

| Testing Section           | # Issues | Issue Descriptions  | Page Ref. |
|---------------------------|----------|---|-----------|
| Revenue                   | 6        | <ul style="list-style-type: none"> <li>• No policies over the revenue function.</li> <li>• Improper segregation of duties over collecting &amp; depositing functions. No process over the timeframe to deposit revenue received.</li> <li>• The same employee prepares and sends invoices and makes adjustments to invoices without management review. No policy over this process.</li> <li>• No process for forwarding outstanding checks to unclaimed funds.</li> <li>• One (1) instance where a check listed as outstanding should have been voided.</li> <li>• Instances where the affidavit of indigency and financial disclosure forms were not maintained. No standardized process to invoice municipalities for indigent cases.</li> </ul> | 8         |
| Purchasing & Expenditures | 2        | <ul style="list-style-type: none"> <li>• No policies over the purchasing &amp; expenditures function.</li> <li>• Packing slips are not maintained; therefore, IAD could not confirm if proper segregation of duties exist over ordering &amp; receiving functions.</li> </ul>   | 11        |
| Personnel Files           | 4        | <ul style="list-style-type: none"> <li>• No policies over the maintenance of personnel files.</li> <li>• Checklist not maintained of required documents to be maintained in employee personnel files. Confidential information not maintained separately in employee personnel files.</li> <li>• Formal job descriptions do not exist.</li> <li>• No policy over performance evaluations; therefore, testing could not be performed.</li> </ul>   | 12        |
| Asset Inventory           | 1        | <ul style="list-style-type: none"> <li>• Asset inventory listing not maintained. In addition, no policy in place.</li> </ul>  | 14        |

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|                    |   |   |    |
|--------------------|---|---|----|
| Payroll            | 4 | <ul style="list-style-type: none"> <li>• No policies over the payroll function.</li> <li>• Improper segregation of duties over the payroll process.</li> <li>• No formal pay structure; therefore, testing could not be performed to ensure the accuracy of payments made to employees. Additionally, pay increases are not documented or formally approved.</li> <li>• Employee paychecks are approved prior to hours being worked.</li> </ul> | 15 |
| Fringe Benefits    | 1 | <ul style="list-style-type: none"> <li>• No policies over fringe benefits.</li> </ul>   | 17 |
| ORC/OAC Compliance | 2 | <ul style="list-style-type: none"> <li>• Instances where the Legal Defender's Office is not reporting monthly to the County Public Defender Commission.</li> <li>• Instance where the prior chair of the Public Defender's Commission served longer than two (2) year term in accordance with ORC and instance where a quarterly meeting of the Public Defender's Commission was not held in accordance with ORC.</li> </ul>                    | 18 |

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**GENERAL BACKGROUND**

The Ohio Revised Code (ORC) Section §120 requires the County Public Defender Commission to either contract with a state public defender or non-profit organization to provide all of the services that the county public defender is required to perform with regards to ORC §120. The Legal Defender Office of Summit County Ohio, Inc. (Legal Defender’s Office) is a non-profit organization that contracts with the County of Summit to provide legal representation for adults and juveniles charged with a crime who cannot afford to hire an attorney. The Legal Defender’s Office handles misdemeanors and does not handle felony or post-conviction cases. The Legal Defender’s Office has separate contracts with each municipality in Summit County (e.g., Akron Municipal Court, Barberton Municipal Court, Juvenile Court, etc.) to outline the fee per indigent case represented in their jurisdiction.

IAD compared the Legal Defender’s Office current number of attorneys, 2019 juvenile cases and 2019 misdemeanor cases to Montgomery County – a comparably populated county. The comparisons are represented in the graphs below:



\* - Current number of attorneys for Montgomery County only included attorneys assisting with juvenile and misdemeanor cases (felony attorneys were not included).

**AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY**

The primary focus of this review was to provide the Legal Defender’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 Legal Defender’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.

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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.

**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 Legal Defender's Office from March 1, 2020 through February 28, 2021.

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**

1. Meet with the appropriate personnel to obtain an understanding of the control environment.
2. Document the existing control procedures in narratives and/or flowcharts.
3. Compare existing processes to the policies and procedures manual for consistency.
4. Test procedures for compliance where applicable, noting all exceptions.
5. Investigate discrepancies and summarize results.
6. 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 Legal Defender's Office, IAD performed interviews with the following positions:

- Executive Director
- Deputy Director
- Attorney Manager – Operations
- Staff Attorney (7)
- Office Manager
- Case Manager
- Administrative Support
- Administrative Assistant

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

**I. Policy and Procedures Review:**

Legal Defender'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 following issues were noted:

1. Issue:

Upon discussion, IAD noted the Legal Defender's Office does not have a formal policy and procedure manual. In addition, IAD noted the department does not require employees to sign-off on new or updated policies.

Recommendation:

IAD recommends that policy and procedures be created, formally approved, and disseminated/acknowledged for all functional areas within the department. 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:

IAD obtained a draft employee handbook for the Legal Defender's Office.

Management Action Plan:

LDO will finish editing and finalize the current draft policy and procedure manual (Employee Handbook) and approve a final version. This final version will be disseminated to LDO staff who will sign off on the manual and the sign off sheet will be placed in individual employee files. The employees will be asked to review and sign off on changes annually.

Target Date: January 1, 2022 approval; February 1, 2022 staff sign off.

2. Issue:

Upon discussion, IAD noted there are no policies over records retention for the Legal Defender's Office.

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Recommendation:

IAD recommends that the Legal Defender's Office create a records retention schedule to include all pertinent records and documents. This will help to ensure record retention is complete and accurate.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a draft record retention policy.

Management Action Plan:

LDO will finalize and approve the current draft policy.

Target Date: November 1, 2021

**II. Internal Control Testing:**

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

- Revenue
- Purchasing & Expenditures
- Personnel Files
- Asset Inventory
- Contracts
- Payroll
- Fringe Benefits
- ORC/OAC Compliance

REVENUE

Interviews were conducted with Legal Defender's Office personnel, applicable ORC sections were reviewed and flowcharts were created and approved to gain an understanding of the revenue collection and billing processes.

A sample of local municipalities' invoices billed by the Legal Defender's Office was selected and detail testing was performed to ensure the correct amount was billed in accordance with the municipalities contract, the case billed was included on the municipality court case record search, the case billed was assigned to a public defender, and an affidavit of indigency form was completed in accordance with ORC §120.15.

Bank reconciliations for the Legal Defender's bank account were obtained and reviewed to ensure a bank reconciliation was completed for each month of the audit period. Additionally, IAD selected one (1) month during the audit period and performed detail testing to ensure completeness and accuracy of the bank reconciliation.

The following issues were noted:

3. Issue:

Upon discussion, IAD noted no policies exist over the revenue function, including but not limited to:

- Process of receiving payments in the mail
- Accounts receivable aging process
- Deposit protocol



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Recommendation:

IAD recommends that policies and procedures be created, approved and disseminated over the revenue function. This will help ensure proper procedures are in place and consistently followed within the department.

Management Action Plan:

LDO will draft and approve policy for revenue function with the assistance of a certified accountant and train support staff on new procedures.

Target Date: December 1, 2021

4. Issue:

Upon discussion, IAD noted an improper segregation of duties over the collecting and depositing functions. Additionally, IAD noted a process/policy does not exist over the timeframe to deposit revenue received.

Recommendation:

IAD recommends the collecting and depositing functions be assigned to different personnel. Additionally, IAD recommends a process be implemented to ensure revenue is deposited timely and a policy be created, approved and disseminated regarding this process. This will help to ensure proper segregation of duties and timeliness of deposits.

Management Action Plan:

LDO will reassign duties for collecting and depositing functions among current LDO support staff and management in line with new revenue policy.

Target Date: December 1, 2021

5. Issue:

Upon discussion, IAD noted the same employee prepares and sends invoices and makes adjustments to the invoices, when applicable, without management or supervisory review. In addition, IAD noted a policy does not exist over this process.

Recommendation:

IAD recommends someone other than the person preparing the invoices review the invoices prior to them being sent and all adjustments to invoices be reviewed by management. In addition, IAD recommends a policy be created, approved and disseminated regarding this process. This will help to ensure accuracy over Legal Defender's Office invoices.

Management Action Plan:

LDO will develop a policy detailing the process for preparing, sending and adjusting invoices that will include support staff preparing and sending invoices with all adjustments to invoices to be approved by LDO management, either Director or Deputy Director.

Target Date: December 1, 2021

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6. Issue:

Upon review of the March 2021 bank reconciliation, IAD noted outstanding checks from 2006 to 2020, totaling \$12,810.15. In addition, upon discussion with personnel IAD noted there is no process for forwarding outstanding checks to unclaimed funds in accordance with ORC §169.03.

Recommendation:

IAD recommends a policy be created, approved and disseminated over the unclaimed funds process. In addition, IAD recommends all outstanding checks be forwarded to unclaimed funds in accordance with ORC § 169.03. This will help to ensure compliance with rules and regulations.

Management Action Plan:

LDO Support Staff will forward all outstanding checks to unclaimed funds in accordance with state law and LDO policy.

Target Date: December 1, 2021

7. Issue:

Upon review of the March 2021 bank reconciliation, IAD noted one (1) check totaling \$32.00 on the outstanding check listing that should have been voided; however, the system was not updated to reflect the void.

Recommendation:

IAD recommends the accounting system be updated to reflect all accurate payments. This will help to ensure accountability and accuracy of financial data.

Management Action Plan:

LDO support staff will void check and Management will confirm

Target Date: October 1, 2021

8. Issue:

Upon detail testing of municipal invoices, IAD noted that the Legal Defender's Office did not consistently maintain the affidavit of indigency and financial disclosure forms in the client's case files.

Additionally, IAD noted that a standardized process was not developed to invoice municipalities for their indigent cases.

Recommendation:

IAD recommends the Legal Defender's Office ensure an affidavit of indigency and financial disclosure form is completed and maintained for all cases represented by the department. Additionally, IAD recommends that a method to invoice municipalities be developed and documented in a policy, approved and disseminated to applicable employees. This will help to ensure compliance with ORC §120.15(D) and the completeness and accuracy of the municipal invoices.

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Management Action Plan:

LDO Support Staff and Attorneys will ensure affidavit is in case files and uploaded to OPD online (LDO document retention location) according to LDO policy. LDO will create a policy to standardize the process regarding invoicing municipalities for indigent cases to ensure that the billings are consistent.

Target Date: February 1, 2022

PURCHASING & EXPENDITURES

Interviews were conducted with Legal Defender's Office personnel, and flowcharts were created and approved to gain an understanding of the purchasing and expenditure process. IAD reviewed the ordering and receiving process. Samples of checks issued during the audit period were haphazardly selected and detail testing was performed to test for proper approvals, the invoice amount and vendor agreed to the check, and the expenditure appeared reasonable.

The following issues were noted:

9. Issue:

Upon discussion, IAD noted no policies exist over the purchasing and expenditures function, including but not limited to:

- List of required check signers
- Process to initiate a purchase
- Approval process over purchasing
- Process to pay an invoice

Recommendation

IAD recommends that policies and procedures be created, approved and disseminated over the purchasing & expenditures function. This will help ensure proper procedures are in place and consistently followed within the department.

Management Action Plan:

LDO will finalize and approve purchasing policy as part of financial policy and procedure development and communicate the process to all LDO Staff.

Target Date: January 1, 2022

10. Issue:

Upon discussion, IAD noted packing slips are not maintained by the Legal Defender's Office; therefore, IAD could not confirm segregation of duties exist over the purchasing and receiving process (e.g., same person not ordering and receiving). In addition, IAD noted no policies and procedures exist over the ordering and receiving functions.

Recommendation

IAD recommends that an employee independent of the employee who placed the order, reconcile the items received to the packing slip and initial the slip. Additionally, IAD recommends a policy be created, approved and disseminated over the ordering and receiving functions. This will help to ensure a proper segregation of duties and that proper procedures are in place and consistently followed.

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Management Action Plan:

LDO Support Staff will submit invoices and associated packing slips to Management for monthly review and maintain a file of invoices according to purchasing policy. Additionally, purchasing policy will provide for segregation of duties for purchasing and receiving.

Target Date: January 1, 2022

PERSONNEL FILES

An interview was conducted to gain an understanding of the process regarding personnel files, job descriptions, employee professional licenses, etc. Current procedures were reviewed and compared to best practices. Detail testing was performed to ensure all attorneys are active with the Ohio Supreme Court.

The following general recommendation and issues were noted:

General Recommendation

IAD recommends the Legal Defender's Office implement a process to receive notifications regarding updates to laws and regulations related to human resource functions. This will help to ensure department compliance with human resource laws and regulations.

11. Issue:

Upon discussion, IAD noted no policies over the maintenance of personnel files, including but not limited to:

- Overall human resource function.
- Personnel files and personnel file checklist of items to be included in the file.
- Management employee present when an employee requests to review their personnel file.

Recommendation:

IAD recommends that policies and procedures be created, approved and disseminated over the maintenance of personnel files. This will help ensure proper procedures are in place and consistently followed within the department.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a draft employee handbook for the Legal Defender's Office and noted it included policies over the maintenance of personnel files.

Management Action Plan:

LDO includes a policy on personnel file access in the draft employee handbook and will finalize the policy when handbook finalized. HR function will be divided between Support Staff and Management with clear paths for execution and responsibility. LDO has an employee file checklist derived from SHRM resources.

Target Date: January 1, 2021

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12. Issue:

Upon discussion with personnel, IAD noted the Legal Defender's Office does not maintain a checklist of required documents to be maintained in employee personnel files; therefore, detail testing could not be performed to ensure completeness of employee personnel files. In addition, IAD noted confidential information (medical forms, form I-9, etc.) is not maintained separately in the employee personnel files.

Recommendation:

IAD recommends the Legal Defender's Office create a checklist of required documentation to be maintained in employee personnel files and review each personnel file to ensure the required documentation is included. In addition, IAD recommends confidential information be maintained separately in employee personnel files. This will help to ensure completeness of employee personnel files and confidential information is secure.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a draft employee file checklist to maintain in the employee's personnel files.

Management Action Plan:

LDO has created a checklist for required documents and confidential information will be remove from personnel files and either shredded or stored separately following the LDO policy.

Target Date: January 1, 2022

13. Issue:

Upon discussion with personnel, IAD noted the Legal Defender's Office does not have formal job descriptions for positions within the department.

Recommendation:

IAD recommends the Legal Defender's Office create formal job descriptions for each position within the department. This will help to ensure job duties are accurately defined for each Legal Defender's Office position.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained draft employee job descriptions for the all Legal Defender's Office positions.

Management Action Plan:

LDO has drafted job descriptions and these will be included in the Employee Handbooks for review.

Target Date: January 1, 2022

14. Issue:

Upon discussion with personnel, IAD noted a performance evaluation policy has not been created by the Legal Defender's Office; therefore, detail testing of performance evaluations could not be performed.

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Recommendation:

IAD recommends that policies and procedures be created, approved and disseminated regarding formal employee performance evaluations. This will help ensure proper procedures are in place and consistently followed regarding performance evaluations.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a draft employee handbook for the Legal Defender's Office and noted it included policies over the maintenance of performance evaluations.

Management Action Plan:

LDO will convene an employee committee to draft employee evaluations in line with OPD recommendations and practice. That committee will assist management in drafting a policy, including timelines, performance markers and process, for performance evaluations. LDO intends to begin employee reviews in January, 2022.

Target Date: November 1, 2021 committee begins; January 4, 2022 evaluations begin

ASSET INVENTORY

An interview with personnel was conducted to gain an understanding of the asset inventory process.

The following issue was noted:

15. Issue:

Upon discussion with personnel, IAD noted the Legal Defender's Office does not maintain an asset inventory listing; therefore, detail testing could not be performed to ensure proper asset tracking. In addition, IAD noted a policy is not in place regarding the tracking, maintenance and disposal of assets.

Recommendation:

IAD recommends that a policy be created, approved and disseminated regarding asset tracking. This will help to ensure accountability and safeguarding of Legal Defender's Office assets.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained an asset inventory listing.

Management Action Plan:

LDO has conducted an asset inventory which will be maintained. LDO will contract with a tech support company to assist with the maintenance and disposal of assets and develop a policy regarding the asset inventory process. LDO will separately develop a policy regarding the asset inventory process for non-tech assets.

Target Date: November 1, 2021

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CONTRACTS

The contract between the Legal Defender's Office and Summit County was obtained and reviewed to gain an understanding of the obligations of the Legal Defender's Office. Detail testing was performed to ensure the following contractual obligations have been satisfied by the Legal Defender's Office:

- Ensure three (3) full time attorneys and one (1) part time attorney is located at the Juvenile Court.
- Ensure six (6) full time attorneys are located at the Akron Municipal Court.
- Ensure one (1) part time attorney is located at Barberton Municipal Court.
- Ensure one (1) full time attorney is located at Stow Municipal Court.
- Ensure contracts exist between the Legal Defender's Office and the following cities: Akron, Barberton, Cuyahoga Falls, Fairlawn, Green, Hudson, Macedonia, Munroe Falls, New Franklin, Norton, Stow, Tallmadge, Twinsburg, Boston Heights, Lakemore, Mogadore, Northfield, Peninsula, Reminderville, Richfield and Silver Lake.
- Ensure the Legal Defender's Office has malpractice insurance covering its employees in an amount not less than one million dollars.
- Ensure the Legal Defender's Office maintains Worker's Compensations coverage.
- Ensure attorneys are licensed with the Ohio Supreme Court, in good standing, and complaint with all continuing legal education requirements.
- Ensure attorneys are prohibited from maintaining a private practice outside of employment of the Legal Defender's Office.
- Ensure interns have obtained the necessary legal intern certificate from the Ohio Supreme Court.
- Ensure the Legal Defender's Office collects all sums due from the municipalities and pays those sums to the County of Summit.
- Ensure all records are maintained related to this agreement in paper form or any other media which includes but is not limited to, digital documents, discs, CD's, and other forms that are accepted forms of retaining records for at least five (5) years.

No issues were noted.

PAYROLL

An interview was conducted and a flowchart was created and approved to gain an understanding of the payroll process. Employee pay stubs were obtained and reviewed to determine if proper segregation of duties was maintained. Overtime and/or compensatory time was reviewed to ensure compliance with the Fair Labor Standards Act (FLSA).

The following issues were noted:

16. Issue:

Upon discussion, IAD noted no policies over the payroll process including but not limited to:

- Process over timekeeping (e.g., tracking hourly workers time, approval of employee time cards)
- Vacation/sick time/personal time accrual policies and tracking of employee time off
- Time off approval process
- Paid holidays
- Fair Labor Standards Act (FLSA)

Recommendation:

IAD recommends that policies and procedures be created, approved and disseminated over the payroll function. This will help ensure proper procedures are in place and consistently followed within the department.

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Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a draft employee handbook for the Legal Defender's Office and noted it included policies over the payroll process.

Management Action Plan:

LDO has instituted time sheets for all employees to be submitted every two weeks by email. LDO is also working with Paychex to implement time keeping within the Paychex products online. LDO policy handbook (Employee Manual) includes policies for sick and vacation time accrual.

LDO will continue to refine the call off and coverage procedures currently handled by email.

Target Date: January 1, 2022 for Paychex implementation of time tracking and finalization of policies in employee handbook.

17. Issue:

Upon discussion, IAD noted improper approval over the payroll process (e.g. employee approving their own time with no additional review, the same employee is entering and approving employee time with no additional review), creating an improper segregation of duties.

Recommendation:

IAD recommends that all payroll be reviewed by an additional party other than the person entering & approving. This will help ensure a proper segregation of duties exists and ensure the accuracy and accountability of payroll records.

Management Action Plan:

As part of the Paychex implementation LDO will add an approval step by Management and a separate Support Staff member will submit payroll.

Target Date: December 1, 2021

18. Issue:

Upon discussion and review of payroll documentation, IAD noted there is no formal pay structure (i.e. salaries, hourly rates) that has been implemented or formally approved for employees within the department; therefore, detail testing could not be performed to ensure the accuracy of the payments made to employees. In addition, IAD noted employee pay increases are not documented and formally approved.

Recommendation:

IAD recommends that a formal pay structure for employees be created and approved by the Director of the Legal Defender's Office of Summit County. In addition, IAD recommends that all pay increases be documented and approved by the Director. This will help ensure accuracy of employee pay and completeness of payroll records.

Management Action Plan:

LDO will review and approve the current salary structure for attorney and staff. Documentation of raises will be noted in Paychex. Any future raises will be formally tracked with letters placed in employee files. Additionally,



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performance evaluation committee will draft policy for performance-based raises and LDO will implement cost of living raises annually.

Target Date: February 1, 2022

19. Issue:

Upon discussion and review of biweekly employee payroll, IAD noted employee paychecks are approved prior to hours being worked (i.e. payroll is approved biweekly on Tuesday before the pay period has ended. Employee hours are estimated through Friday of the week payroll is approved).

Recommendation:

IAD recommends that payroll be approved after the pay period has ended and employee hours have been worked. This will help ensure payroll records are accurate.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a current Legal Defender's Office paystub and noted the process has been corrected and the paycheck date did not occur prior to hours being worked.

Management Action Plan:

LDO revised the pay schedule and this is documented in Paychex. Employees are now paid the Friday after the workweek ends.

Target Date: September 1, 2021

FRINGE BENEFITS

An interview was conducted and a flowchart was created and approved to gain an understanding of the fringe benefit and employee reimbursement process. Detail testing of the following areas was performed, if applicable, to confirm that the Legal Defender'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,
- 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,
- Simplified Employee Pension Plan (SEP).

The following general recommendation and issue was noted:

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General Recommendation:

Upon discussion with personnel, IAD noted a conflict regarding the Legal Defender's Office interpretation of the Simplified Employee Pension (SEP) plan rules which could cause potential compliance issues with the IRS SEP rules and regulations. IAD recommends that the Legal Defender's Office consult with a pension plan advisor to ensure all applicable IRS requirements are met.

20. Issue:

Upon discussion, IAD noted no policies regarding fringe benefits, including but not limited to:

- Reimbursements of employee expenses (mileage reimbursement, supply/miscellaneous expense reimbursement, travel reimbursements, continuing legal education (CLE) reimbursements, etc.)
- Personal usage for department provided laptops
- Employee eligibility and contribution amounts to Simplified Employee Pension (SEP) plans

Recommendation:

IAD recommends that policies and procedures be created, approved and disseminated regarding fringe benefits received by employees. This will help ensure proper procedures are in place and consistently followed within the department.

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained a draft employee handbook for the Legal Defender's Office and noted it included policies over reimbursements of employee expenses and the SEP plan.

Management Action Plan:

LDO will address these issues in the policy and procedures document (Employee Handbook). LDO is actively reviewing retirement options with local financial planners to rectify the SEP issues and select a new product for LDO employees.

Target Date: January 1, 2022 for Handbooks and BYOD policies; SEP/retirement plan with financial planner January 1, 2022.

OHIO REVISED CODE (ORC) & OHIO ADMINISTRATIVE CODE (OAC) COMPLIANCE

ORC §120 and OAC §120 were reviewed and attributes were developed to ensure compliance with the following applicable rules and regulations:

- The county public defender shall be appointed by the county public defender commission for a term not to exceed four years. He shall be an attorney with a minimum of two years' experience in the practice of law and be admitted to the practice of law in Ohio at least one year prior to his appointment.
- Maintain an office, approved by the commission, provided with a library of adequate size, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment;
- Keep and maintain financial records of all cases handled and develop records for use in the calculation of direct and indirect costs in the operation of the office and report monthly pursuant to the rules of the Ohio public defender commission to the county public defender commission and to the Ohio public defender commission on all relevant data on the operations of the office, costs, projected needs, and recommendations for legislation or amendments to court rules, as may be appropriate to improve the criminal justice system;
- Collect all moneys due from contracts with municipal corporations or for reimbursement for legal services under this chapter and institute such actions in court for the collection of such sums as he considers advisable.

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All moneys collected or received by the public defender shall be paid into the county treasury to the credit of the general revenue fund.

- Appoint assistant county public defenders and all other personnel necessary to the functioning of the county public defender's office, subject to the authority of the county public defender commission to determine the size and qualifications of the staff pursuant to division (B) of section 120.14 of the Revised Code. All assistant county public defenders shall be admitted to the practice of law in Ohio, and may be appointed on a full or part-time basis.
- The county public defender shall determine indigency of persons, subject to review by the court, in the same manner as provided in section 120.05 of the Revised Code. Each monthly report submitted to the board of county commissioners and the state public defender shall include a certification by the county public defender that all persons provided representation by the county public defender's office during the month covered by the report were indigent under the standards of the Ohio public defender commission.
- The office of the county public defender or joint county public defender shall be based in a location convenient for clients and readily accessible to the courts and other necessary services.
- Each attorney shall have adequate office space to assure privacy in consultation with clients and efficiency in operations.
- The budget of a county public defender should provide for: Training for attorneys and support staff in subject matter areas relevant to their job duties.
- County public defenders shall submit to the Ohio public defender caseload reports within sixty days of the end of the calendar month in which the cases were disposed.
- The commission shall have five members, three of whom shall be appointed by the board of county commissioners, and two by the judge, or the presiding judge if there is one, of the court of common pleas of the county. At least one member appointed by each of these appointing bodies shall be an attorney admitted to the practice of law in this state.
- Terms of office shall be for four years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first.
- The members of the commission shall choose as chairperson one of the commission members, who shall serve as chairperson for two years. Meetings shall be held at least quarterly and at such other times as called by the chairperson or by request of the county public defender.

The following issues were noted:

21. Issue:

Upon discussion with Legal Defender's Office personnel, IAD noted the Legal Defender's Office is not reporting monthly to the County Public Defender Commission on the operations of the office, costs, projected needs, and recommendations for legislation or amendments to court rules, in accordance with ORC §120.15 (B)(2).

Recommendation:

IAD recommends that the Legal Defender's Office report monthly to the County Public Defender Commission. This will help ensure compliance with the ORC §120.15 (B)(2).

Corrective Action Taken Prior to the End of Fieldwork:

IAD obtained the May and June monthly reports and noted that they were sent to the County Public Defender Commission, in compliance with ORC §120.15(B)(2).

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Management Action Plan:

LDO now sends and will continue to send monthly reports in a timely fashion in compliance with ORC.

Target Date: September 1, 2021

22. Issue:

Upon detail testing of Summit County Public Defender's Commission requirements, IAD noted the following:

- One (1) instance where the prior chair of the Public Defender's Commission served longer than two (2) year term in accordance with ORC §120.13(D).
- One (1) instance where a quarterly meeting of the Public Defender's Commission was not held in accordance with ORC §120.13(D).

Recommendation:

IAD recommends that Board members of the Public Defender's Commission serve as chair for a term no longer than two (2) years. In addition, IAD recommends the Public Defender's Commission hold meetings quarterly. This will help ensure compliance with the ORC §120.13(D).

Management Action Plan:

LDO will review the terms of all chairs and comply with ORC. LDO will hold required meetings.

Target Date: September 1, 2021

**II. Security:**

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