

**STATE OF NEW
MEXICO
PUBLIC DEFENDER
DEPARTMENT**

**FINANCIAL
STATEMENTS**

JUNE 30, 2017

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT**

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**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT**

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INTRODUCTORY SECTION

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Official Roster**

| <u>Name</u> | <u>Title</u> |
|----------------------|--|
| Bennett J. Baur | Chief Public Defender |
| Chandler Blair | Deputy Chief Public Defender – District Offices |
| Philip Larragoite | Deputy Chief Public Defender – Statewide Units |
| Erich Martell | General Counsel |
| Cydni J. Sanchez | Administrative Services / Deputy General Counsel |
| Shelley Espinoza | Chief Financial Officer |
| Barbara Auten | Human Resource Director |
| Randy Chavez | Contract Counsel Legal Services |
| Patricia Anders | Training and Recruitment Manager |
| Morgan Wood | District Public Defender – 1 st Judicial District – Santa Fe |
| Richard Pugh | District Public Defender – 2 nd Judicial District – Albuquerque |
| Jason Rael | Managing Attorney - Juvenile Division |
| Tonie Abeyta | Managing Attorney – Metro Division |
| Kelly Villanueva | Managing Attorney – Metro Division |
| Sophie Cooper | Managing Attorney – Felony Division |
| Chris Knight | Managing Attorney – Felony Division |
| Jennifer Birmingham | District Public Defender – 3 rd Judicial District – Dona Ana |
| Nathanael Banks | Managing Attorney – 5 th Judicial District – Carlsbad |
| Julie Ball | Managing Attorney – 5 th Judicial District – Hobbs |
| Debra Lautenschlager | Managing Attorney – 5 th District – Roswell |
| Aleksandar Kotish | Managing Attorney – 8 th Judicial District – Taos |
| David James | Managing Attorney – Clovis & Portales |
| Matthew Cockman | District Public Defender – 11 th Judicial District – Aztec |
| Steve Seeger | Managing Attorney – 11 th Judicial District – Gallup |
| Mariano Torrez | District Public Defender – 12 th Judicial District – Alamogordo |
| Matthew Chavez | Supervising Attorney – 12 th Judicial District – Ruidoso |
| Louella Arellano | Social Worker |
| David Henderson | Appellate Defender |
| Brian Tucker | Managing Attorney – Post Conviction |
| Robert Work | Managing Attorney - Mental Health |
| Jeff Rein | Managing Attorney – Capital Crimes |

PUBLIC DEFENDER COMMISSION

| | |
|-------------------------------------|----------------------|
| Michael Stout – Chairperson | Molly Schmidt-Nowara |
| Raymond Sanchez - Vice Chair | Naomi Salazar |
| Thomas Joseph Clear III – Secretary | Jennifer Romero |
| Ahmad Assed | Leo Romero |
| Daniel Banks | Michael Vigil |
| Hugh Dangler | |

FINANCIAL SECTION

Independent Auditor's Report

Bennett J. Baur, Chief Public Defender,
State of New Mexico Public Defender Department, and
Mr. Timothy Keller, New Mexico State Auditor

Report on Financial Statements

We have audited the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information and the respective budgetary comparisons for the General Fund and the Major Special Revenue Fund of the Public Defender Department (Department) as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to in the first paragraph present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, the aggregate remaining fund information, and the budgetary comparisons for the general fund and major special revenue fund of the Department as of June 30, 2017, and the respective changes in financial position thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 2, the financial statements of the Public Defender Department are intended to present the financial position, and the changes in financial position of only that portion of the governmental activities, each major fund, the aggregate remaining information and the respective budgetary comparisons for the General Fund and the Major Special Revenue Fund that are attributable to the transactions of the Department. They do not purport to, and do not, present fairly the financial position of the State of New Mexico as of June 30, 2017, and the changes in its financial position and its cash flows, where applicable, for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 4 through 8 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Department's basic financial statements. The Schedule of Revenues and Expenditures Budget and Actual by P-Code, the Schedule of Changes in Assets and Liabilities — Agency Fund, and the Schedule of Memoranda of Understanding listed as "Supplementary Information" in the table of contents are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

The schedule of performance measure results has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 20, 2017 on our consideration of the Department's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.

Ricci & Company, LLC

Albuquerque, New Mexico
October 20, 2017

STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2017

The following is a discussion and analysis of the department's financial performance, providing an overview of the activities for the fiscal year ended June 30, 2017. Please read it in conjunction with the department's financial statements, which follow this section.

OVERVIEW OF THE FINANCIAL STATEMENTS

This annual report consists of three parts – management's discussion and analysis (this section), the basic financial statements, and required supplementary information. The basic financial statements include two kinds of statements that present different views of the department:

- Government-wide financial statements that provide both long-term and short-term information about the department's overall financial status.
- Fund financial statements that focus on individual parts of the department, reporting the department's operations in more detail than the government-wide statements. The governmental funds statements tell how general government services (the primary functions of the department) were financed in the short term as well as what remains for future spending.

The financial statements also include notes that explain some of the information in the financial statements and provide more detailed data. The statements are followed by a section of required supplementary information that further explains and supports the information in the financial statements.

Government-Wide Statements

The government-wide statements report information about the department as a whole using accounting methods similar to those used by private-sector companies. The statement of net position includes all of the government's assets and liabilities. All of the current year's revenues and expenses are accounted for in the statement of activities regardless of when cash is received or paid.

The two government-wide statements report the department's net position and how it has changed. Net position – the difference between the department's assets and liabilities – is one way to measure the department's financial health or position.

- Over time, increases or decreases in the department's net position is an indicator of whether its financial health is improving or deteriorating, respectively.
- To assess the overall health of the department, the reader is encouraged to consider additional non-financial factors such as changes in the department's grant funding or the addition of new programs.

All of the department's basic services are included in government-wide financial statements, such as district office operations and contract counsel legal services. State appropriations, other reimbursements and fees finance most of these activities.

Fund Financial Statements

The fund financial statements provide more detailed information about the department's most significant funds –not the department as a whole. Funds are accounting devices that the department uses to keep track of specific sources of funding and spending for particular purposes.

- Some funds are required by State law.

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2017**

- The State Legislature established other funds to control and manage money for particular purposes or to show that it is properly using certain grants.

The department has two types of funds:

- **Governmental funds**—Most of the department's basic services are included in governmental funds which focus on (1) how cash and other financial assets that can readily be converted to cash flow in and out and (2) the balances left at year-end that are available for spending. Consequently, the governmental fund statements provide a detailed short-term view that helps determine whether there are more or fewer financial resources that can be spent in the near future to finance the department's programs.

The department has two governmental funds. The first is used to account for the department's general operations and is a reverting fund. The second is a statutorily created fund used to account for proceeds from the indigent representation application fee (\$10 fee). The use of those fees is legally restricted for the department's automation needs.

- **Fiduciary funds**—The department is the trustee, or fiduciary, for certain moneys, it is responsible for those assets that—because of a trust arrangement—can be used only for the trust beneficiaries. The department is responsible for ensuring that the assets reported in these funds are used for their intended purposes. All of the department's fiduciary activities are reported in a separate statement of fiduciary net positions and a statement of changes in fiduciary net positions. We exclude these activities from the department's government-wide financial statements because the department cannot use these assets to finance its operations. The department has one fiduciary fund used to account for activities in which the department is acting in agent capacity for the state general fund. Funds are received from clients who are determined by the department not to be indigent. All amounts charged to clients and all amounts collected from these clients are payable to the state general fund.

FINANCIAL ANALYSIS

The department's net position increase \$197,993 over the course of this fiscal year's operations. The following financial information is a comparison of the Statement of Net Position for 2017 and 2016.

| | 2017 | 2016 | Variance |
|-------------------------------------|-------------|---------------|-----------------|
| Current and other noncurrent assets | \$4,019,231 | \$3,587,954 | \$431,277 |
| Capital assets, net | 54,050 | 61,234 | (7,184) |
| Total assets | \$4,073,281 | 3,649,188 | 424,093 |
| Long-term liabilities | 166,812 | 257,621 | (90,809) |
| Other liabilities | 4,787,444 | 4,470,535 | 316,909 |
| Total liabilities | 4,954,256 | 4,728,156 | 226,100 |
| Net position: | | | |
| Net investment in capital assets | 54,050 | 61,234 | (7,184) |
| Restricted | 432,623 | 245,823 | 186,800 |
| Unrestricted | (1,367,648) | (1,386,025) | 18,377 |
| Total net position | (880,975) | \$(1,078,968) | \$197,993 |

STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2017

The total assets consist of cash, net receivables, prepaid expenses, and capital assets (net of accumulated depreciation). Total liabilities consist of accounts payable, accrued salaries and employee benefits payable, amounts due to the state's general fund and other agencies, and compensated absences payable.

Net position is comprised of net investment in capital assets, restricted and unrestricted amounts. The restricted amount of \$432,623 represents the amount restricted for the purchase and maintenance of automation systems.

The variances consist of:

- Total assets – The \$424,093 variance increased in total assets is largely attributable to an increase in cash (investment in state general fund investment pool), at June 30, 2017.
- Total liabilities – The \$226,100 variance increase is due to an increase in accounts payable of: \$151,330 and an increase in compensated absences of \$72,433, and net of other smaller amounts.
- Total net position – The net position for the department increased from 2016 by \$197,993.

The following financial information is a comparison of the Statement of Activities for 2017 and 2016:

| | 2017 | 2016 | Variance |
|-------------------------------------|--------------------|----------------------|------------------|
| Revenues: | | | |
| Program revenues: | | | |
| Charges for services | \$186,800 | \$209,077 | (\$22,277) |
| Operating state grants | 236,923 | 308,168 | (72,245) |
| General revenues | 47,001,234 | 48,020,659 | (1,019,425) |
| Total revenues | 47,424,957 | 48,537,854 | (1,113,947) |
| Expenses: | | | |
| General government: | 47,226,964 | 48,567,713 | (1,340,749) |
| Loss on capital asset disposition | 0 | 0 | 0 |
| Increase (decrease) in net position | 197,993 | (29,809) | 168,184 |
| Net position, beginning | (1,078,968) | (1,049,159) | 29,809 |
| Net position, ending | (\$880,975) | (\$1,078,968) | \$197,993 |

Total Revenues \$47,424,957: Revenue received is comprised mostly by appropriations from the state's general fund, but also includes inter-agency transfers and applications fees. In fiscal year 2017 the department collected \$22,277 less in application fees; this explains the variance in the Charges for Services category above. Funding from various courts decreased by \$71,245; this is reflected above as Operating State Grants. The decrease in general revenues is attributable to decreased funding in the appropriation process.

It should be noted that the department's general fund appropriation was reduced by \$1,465,700 during the 2017 Legislative Session. The net of the original appropriation and budget reduction is \$47,001,234 and is reflected above as General Revenue.

STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2017

Total Expenses \$47,226,964: Expenses consists of employee salaries and benefits, contractual services, operational costs and reversions. The decrease in expenditures is attributable to decreased appropriations in general fund (mentioned above).

Change in Net position \$197,993: The department's total revenue decreased from \$48,537,854 to 47,424,957. The department's total expenses decreased from \$48,567,713 to \$47,226,967.

ANALYSIS OF THE DEPARTMENT'S OVERALL FINANCIAL POSITION AND RESULTS OF OPERATIONS

As of the close of the fiscal year, the department reported an ending fund balance of \$279,177. The fund balance is the net difference of a negative fund balance in for general fund, charges for services revenue and operating state grants and a positive fund balance of the automation fund. This is largely due to the unassigned deficit fund balance, under the General Fund and unexpended revenue in the automation fund.

The general fund is the primary operating fund for the department. At the end of the current fiscal year, the non-spendable fund balance of the general fund was \$30,963 and the unassigned fund amount was (\$184,409) which comprised the total negative fund balance of (\$153,446). The fund balance in the department's general fund was unchanged during the current fiscal year.

The special revenue fund titled the Automation Fund has a total fund balance of \$432,623, all of which is restricted for the purchase and maintenance of automation systems. The net increase in fund balance during the current year in this special revenue fund was \$186,800. This is attributable to revenue exceeding expenditures.

The department's total fund balance increased by \$186,800, indicating that the department as improved its' financial position.

General Fund Budgetary Highlights

The State Legislature makes annual appropriations to the department. Adjustments to the budget require approval by the State Budget Division of the Department of Finance and Administration.

Over the course of the year, the department revised its budget. These budget adjustments are captured in four categories.

- Adjustments for supplemental or special appropriations to either budget new or continuing supplemental or special appropriations, or to adjust the estimated amount to reflect the actual appropriation amount.
- Increases to the budget to reflect funding that was not secured at the time the operating budget was prepared. This includes funding from various governmental units in exchange for the department's service to their programs.
- Changes made between categories to ensure that the budget reflects the most accurate budget allocation, based on expenditure projections.
- Increases to the budget from fund balance to prevent budget overruns.

With these adjustments, actual general fund expenditures were \$386,190 below the final budgeted amount. Factoring in an FY16 overstated expenditure in liabilities of \$2,476, the general fund budget balance is adjusted to \$388,666 and reverted to the general fund.

STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2017

CAPITAL ASSET AND DEBT ADMINISTRATION

Capital Assets

At the end of fiscal year 2017, the department had a net investment of \$54,050 in capital assets, including machinery, equipment, furniture and fixtures. This amount represents a net decrease (including additions and deductions) of \$7,184 over last fiscal year.

Long- term debt

At the end of the fiscal year, the department had \$1,214,202 in compensated absences payable, a decrease over last fiscal year. The decrease is attributable to a higher than normal rate of employees leaving the department and the department paid out leave, therefore reducing the liability. More information about the department's debt is presented in note 10 of this report.

NEXT YEARS' BUDGETS

The total approved recurring general fund operating budget for fiscal year 2018 is \$48,574,700 which is approximately a 2.5% percent increase compared to fiscal year 2017's approved recurring general operating budget, less the statewide reduction of \$1,465,700.

The department submitted a 12.5 percent general fund increase in the fiscal year 2019 budget request. If approved, 10 percent of the funding will be directed towards program expansions. The remaining 2.5 percent will be used to cover increased base/operational costs.

CONTACTING THE DEPARTMENT'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, taxpayers, customers, investors and creditors with a general overview of the department's finances and to demonstrate the department's accountability for the money it receives. If you have any questions about this report or need additional financial information, contact the department's Chief Financial Officer.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
STATEMENT OF NET POSITION
June 30, 2017**

| | <u>Governmental Activities</u> |
|--|------------------------------------|
| ASSETS | |
| Current | |
| Interest in state general fund investment pool (note3) | \$ 3,917,521 |
| Cash in authorized bank account | 60 |
| Petty cash | 1,100 |
| Due from employees, net (note 4) | 15,692 |
| Due from local governments (note 4) | 53,569 |
| Other receivables | 326 |
| Prepaid expenses | <u>30,963</u> |
| Total current assets | 4,019,231 |
| Noncurrent assets: | |
| Capital assets, net of depreciation (note 5) | <u>54,050</u> |
| Total assets | <u><u>\$ 4,073,281</u></u> |
| LIABILITIES | |
| Current | |
| Accounts payable | \$ 2,627,024 |
| Accrued payroll and taxes | 1,113,030 |
| Compensated absences payable (note 10) | 1,047,390 |
| Long-term liabilities | |
| Compensated absences payable (note 10) | <u>166,812</u> |
| Total liabilities | <u>4,954,256</u> |
| NET POSITION (DEFICIT) | |
| Net investment in capital assets | 54,050 |
| Restricted for automation systems | 432,623 |
| Unrestricted | <u>(1,367,648)</u> |
| Total net position (deficit) | <u><u>\$ (880,975)</u></u> |

The Notes to the Financial Statements are an integral part of this statement.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
STATEMENT OF ACTIVITIES
June 30, 2017**

| | <u>Governmental Activities</u> |
|---|------------------------------------|
| EXPENSES | |
| General government: | |
| Current: | |
| Personal services and employee benefits | \$ 28,336,648 |
| Contractual services | 13,052,757 |
| Other | 5,804,992 |
| Depreciation expense | <u>32,536</u> |
| Total expenses | <u>47,226,933</u> |
| REVENUES | |
| Program Revenues | |
| Charges for services | 186,800 |
| Operating state grants | <u>236,923</u> |
| Total program revenues | <u>423,723</u> |
| Net program expense | <u>46,803,210</u> |
| General Revenues | |
| General Fund appropriations (note 16) | 47,389,900 |
| Transfers to other state agencies | (31) |
| Reversions (note 6) | <u>(388,666)</u> |
| Total general revenues | <u>47,001,203</u> |
| Change in net position | 197,993 |
| Net position, beginning | <u>(1,078,968)</u> |
| Net position, ending | <u><u>\$ (880,975)</u></u> |

The Notes to the Financial Statements are an integral part of this statement.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Balance Sheet - Governmental Funds
June 30, 2017**

| | General Fund (SHARE 17510) | Automation Special Revenue Fund (SHARE 75910) | Total Governmental Funds |
|--|----------------------------------|--|--------------------------------|
| Assets | | | |
| Interests in SGF investment pool (note 3) | \$ 3,483,630 | \$ 433,891 | \$ 3,917,521 |
| Cash in authorized bank account | - | 60 | 60 |
| Petty cash | 1,100 | - | 1,100 |
| Due from employees, net (note 4) | 15,692 | - | 15,692 |
| Due from local governments (note 4) | 53,569 | - | 53,569 |
| Other receivables | 326 | - | 326 |
| Prepaid expenses | 30,963 | - | 30,963 |
| Total assets | \$ 3,585,280 | \$ 433,951 | \$ 4,019,231 |
| Liabilities | | | |
| Accounts payable | \$ 2,625,696 | \$ 1,328 | \$ 2,627,024 |
| Accrued payroll and taxes | 1,113,030 | - | 1,113,030 |
| Due to state general fund (note 6) | - | - | - |
| Total liabilities | 3,738,726 | 1,328 | 3,740,054 |
| Fund Balances | | | |
| Fund balances : | | | |
| Nonspendable: | | | |
| Prepaid expenses | 30,963 | - | 30,963 |
| Restricted for the purchase and maintenance of automation systems | - | 432,623 | 432,623 |
| Unassigned | (184,409) | - | (184,409) |
| Total fund balances | (153,446) | 432,623 | 279,177 |
| Total liabilities and fund balances | \$ 3,585,280 | \$ 433,951 | \$ 4,019,231 |

The Notes to the Financial Statements are an integral part of this statement.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Reconciliation of the Governmental Funds Balance Sheet
to the Government-Wide Statement of Net Position
June 30, 2017**

| | | |
|---|----|---------|
| Total fund balance - Governmental funds | \$ | 279,177 |
|---|----|---------|

Amounts reported for governmental activities in the Statement of Net Position are different because:

Capital assets used in governmental activities are not current financial resources and, therefore, are not reported in the Governmental Funds Balance Sheet.

These assets consist of:

| | | | |
|---------------------------|----|------------------|--------|
| Furniture and fixtures | \$ | 37,290 | |
| Machinery and equipment | | 131,750 | |
| Data processing equipment | | 327,937 | |
| Accumulated depreciation | | <u>(442,927)</u> | 54,050 |

Other long-term assets are not available to pay for current period expenditures and, therefore, are reported as unavailable revenue in the funds

Some liabilities are not due and payable in the current period and, therefore, are not reported in the Governmental Funds Balance Sheet.

These liabilities consist of:

| | |
|------------------------------|--------------------|
| Compensated absences payable | <u>(1,214,202)</u> |
|------------------------------|--------------------|

| | |
|---|----------------------------|
| Net position of governmental activities | <u><u>\$ (880,975)</u></u> |
|---|----------------------------|

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Statement of Revenues, Expenditures and Changes in
Fund Balances - Governmental Funds
Year Ended June 30, 2017

| | General Fund (SHARE 17510) | Automation Special Revenue Fund (SHARE 75910) | Total Governmental Funds |
|---|----------------------------------|--|--------------------------------|
| Revenues | | | |
| Application fees | \$ - | \$ 186,800 | \$ 186,800 |
| Other state funds | 236,923 | - | 236,923 |
| Total revenues | <u>\$ 236,923</u> | <u>\$ 186,800</u> | <u>\$ 423,723</u> |
| Expenditures | | | |
| General government: | | | |
| Current: | | | |
| Personal services and employee benefits | \$ 28,355,025 | \$ - | \$ 28,355,025 |
| Contractual services | 13,052,757 | - | 13,052,757 |
| Other | 5,804,992 | - | 5,804,992 |
| Capital outlay | 25,352 | - | 25,352 |
| Total expenditures | <u>47,238,126</u> | <u>-</u> | <u>47,238,126</u> |
| Excess (deficiency) of revenues over expenditures | <u>(47,001,203)</u> | <u>186,800</u> | <u>(46,814,403)</u> |
| Other financing sources (uses): | | | |
| General Fund appropriations (note 16) | 47,389,900 | - | 47,389,900 |
| Transfers to other state agencies | (31) | - | (31) |
| Reversions (note 6) | (388,666) | - | (388,666) |
| Total other financing sources (uses) | <u>47,001,203</u> | <u>-</u> | <u>47,001,203</u> |
| Net Change in Fund Balances | <u>-</u> | <u>186,800</u> | <u>186,800</u> |
| Fund balance, beginning | <u>(153,446)</u> | <u>245,823</u> | <u>92,377</u> |
| Fund balance, ending | <u>\$ (153,446)</u> | <u>\$ 432,623</u> | <u>\$ 279,177</u> |

The Notes to the Financial Statements are an integral part of this statement.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Reconciliation of the Statement of Revenues, Expenditures
and Changes in Fund Balances of Governmental Funds
to the Government-Wide Statement of Activities
Year Ended June 30, 2017**

Net change in fund balance - Governmental Funds \$ 186,800

Amounts reported for governmental activities in the
Statement of Activities are different because:

Capital outlays are reported as expenditures in
governmental funds. However, in the Statement of
Activities, the cost of capital assets is allocated over
their estimated useful lives as depreciation expense.

In the current period, these amounts are:

| | |
|----------------------|----------|
| Depreciation expense | (32,536) |
| Capital outlay | 25,352 |

Some items reported in the Statement of activities
do not require the use of current financial resources
and, therefore, are not reported as expenditures in
governmental funds. These activities consist of:

| | |
|--|--------|
| Increase in compensated absences payable | 18,377 |
|--|--------|

| | |
|---|------------|
| Change in net position of governmental activities | \$ 198,024 |
|---|------------|

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Statement of Revenues and Expenditures
Budget and Actual
Year Ended June 30, 2017

| | General Fund - 17510 | | | |
|---|---|--------------------------------------|---|---|
| | Original Approved Budget | Final Approved Budget | Actual (Budgetary Basis) | Variance with Final Budget Positive (Negative) |
| REVENUES AND OTHER | | | | |
| FINANCING SOURCES | | | | |
| General fund appropriations | \$ 48,855,600 | \$ 47,389,900 | \$ 47,389,900 | \$ - |
| Statewide budget reduction | (1,465,700) | - | - | - |
| Other revenues | - | 236,923 | 236,923 | - |
| Total revenues and other financing sources | 47,389,900 | 47,626,823 | 47,626,823 | - |
| EXPENDITURES AND OTHER | | | | |
| FINANCING USES | | | | |
| Personal services and employee benefits | \$ 29,737,700 | \$ 28,367,623 | \$ 28,355,025 | \$ 12,598 |
| Contractual services | 12,259,900 | 13,333,900 | 13,052,757 | 281,143 |
| Other | 5,392,300 | 5,925,300 | 5,830,344 | 94,956 |
| Other financing uses | - | - | - | - |
| Total expenditures and other financing uses | \$ 47,389,900 | \$ 47,626,823 | \$ 47,238,126 | \$ 388,697 |
| EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER FINANCING SOURCES (USES) | | | 388,697 | |
| Reconciliation to GAAP basis | | | | |
| Reversions to state general fund | | | (388,666) | |
| NET CHANGE IN FUND BALANCE | | | \$ 31 | |

The Notes to the Financial Statements are an integral part of this statement.

STATE OF NEW MEXICO
 PUBLIC DEFENDER DEPARTMENT
 Statement of Revenues and Expenditures
 Budget and Actual
 Year Ended June 30, 2017

| Automation Special Revenue Fund - 75910 | | | | |
|---|---|--------------------------------------|---|---|
| | Original Approved Budget | Final Approved Budget | Actual (Budgetary Basis) | Variance with Final Budget Positive (Negative) |
| REVENUES AND OTHER FINANCING SOURCES | | | | |
| Other revenue | \$ 250,000 | \$ 250,000 | \$ 186,800 | \$ (63,200) |
| Budgeted fund balance | - | 175,000 | 175,000 | - |
| Total revenues and other financing sources | 250,000 | 425,000 | 361,800 | (63,200) |
| EXPENDITURES AND OTHER FINANCING USES | | | | |
| Contractual services | \$ 50,000 | \$ 100,000 | \$ - | \$ 100,000 |
| Other | 200,000 | 325,000 | - | 325,000 |
| Other financing uses | - | - | - | - |
| Total expenditures and other financing uses | \$ 250,000 | \$ 425,000 | \$ - | \$ 425,000 |
| EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER FINANCING SOURCES (USES) | | | \$ 361,800 | |

STATE OF NEW MEXICO
 PUBLIC DEFENDER DEPARTMENT
 Statement of Fiduciary Assets and Liabilities - Agency Fund
 June 30, 2017

| | <u>Agency Fund</u> |
|--|---------------------------------|
| <u>Assets</u> | |
| Interest in state general fund investment pool | \$ 1,100 |
| Accounts receivable, net | <u>391,240</u> |
| Total assets | <u><u>\$ 392,340</u></u> |
| <u>Liabilities</u> | |
| Due to state general fund (note 6) | \$ 392,340 |
| Due to others | <u>-</u> |
| Total liabilities | <u><u>\$ 392,340</u></u> |

The Notes to the Financial Statements are an integral part of this statement.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 1. HISTORY AND ORGANIZATION

The Public Defender Department (Department) was created by Chapter 31, Article 15, NMSA, 1978 Compilation. The Chief Public Defender is the administrative head of the Department who is appointed by the Public Defender Commission, which was created pursuant to Article 6, Section 39 of the constitution of New Mexico and consists of eleven members. Article 6 established the term and qualification requirements for both the Chief Public Defender and the members of the Public Defender Commission and established the manner in which the members of the commission would be appointed. The Commission is administratively attached to the Department and appoints a Chief Public Defender for term of four years by approval of two-thirds of its members. The Commission may reappoint a chief for subsequent terms.

The Chief Public Defender shall establish within the Department an Appellate Division to provide representation before the court of appeals and Supreme Court in appellate, review and post-conviction proceedings involving persons represented under the Public Defender Act (31-15-1 to 31-15-12, NMSA 1978). The Chief Public Defender shall also appoint a district public defender, in each district, who shall administer the operations of the district and serve at the pleasure of the chief.

The purpose of the Department is to confer with and represent any person charged with any crime that carries a possible sentence of imprisonment and who appears in court without counsel. If the person is financially unable to obtain counsel, he/she is to be represented by the District Public Defender of the appropriate jurisdiction at all stages of the proceeding against him/her, including any appeal.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Department have been prepared in conformity with accounting principles generally accepted (US GAAP) in the United States of America as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The GASB periodically updates its codification of the existing governmental Accounting and Financial Reporting Standards, which, along with subsequent GASB pronouncements (Statements and Interpretations), constitutes US GAAP for governmental units. The more significant of the Department's accounting policies are described below.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

A. Financial Reporting Entity

In evaluating how to define the government, for financial reporting purposes, management has considered all potential component units. The decision to include a potential component unit in the reporting entity was made by applying the criteria set forth in US GAAP. The basic-but not the only-criterion for including a potential component unit within the reporting entity is the governing body's ability to exercise oversight responsibility. The most significant manifestation of this ability is financial interdependency. Other manifestations of the ability to exercise oversight responsibility include, but are not limited to, the selection of governing authority, the designation of management, the ability to significantly influence operations, and accountability for fiscal matters. A second criterion used in evaluating potential component units is the scope of public service.

Application of this criterion involves considering whether the activity benefits the government and/or its citizens, or whether the activity is conducted within the geographic boundaries of the government and is generally available to its citizens.

A third criterion used to evaluation potential component units for inclusion or exclusion from the reporting entity is the existence of special financing relationships, regardless, of whether the government is able to exercise oversight responsibilities.

The Department is legally separate and fiscally independent of other state agencies. The Chief Public Defender has decision-making authority, the power to manage operations of the Department, exercise authority over and provide general supervision of employees and primary accountability for fiscal matters. The Public Defender Department is part of the primary government of the State of New Mexico, and its financial data should be included with the financial data of the State.

Presently, the State of New Mexico issues an audited Comprehensive Annual Financial Report inclusive of all agencies of the primary government. Included within the reporting entity is the Public Defender Department as described above. There are no component units. Other Executive Branch entities of government are excluded because they are established separately by statutes.

B. Basis of Presentation

The basic financial statements include both government-wide statements and fund financial statements. The government-wide statements focus on the Department as a whole, while the fund financial statements focus on the major funds. Both the government-wide and fund financial statements categorize primary activities as either governmental or business type activities. The Department has only governmental type activities.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

B. Basis of Presentation (Continued)

Government-wide statement provide information about the primary government (the Department). The statements include a statement of net position and a statement of activities. These statements report the overall Department's financial activities, except for fiduciary activities. Governmental activities generally are financed intergovernmental revenues.

The government-wide statement of activities presents a comparison between direct expenses and program revenues for each function of the Department's governmental activities. Direct expenses are those that are specifically associated with a program or function and, therefore, are clearly identifiable to a particular function. The Department includes only one function (general government). The Department does not allocate indirect expenses to programs or functions. Program revenues include charges for services (indigent client non-refundable application fees) and state operating grants mainly associated with various Judicial District Juvenile and Adult Drug Courts. Revenues that are not classified as program revenues are reported as general revenues. This government-wide focus is more on the sustainability of the Public Defender Department as an entity and the change in aggregate financial position resulting from the activities of the fiscal period.

Generally the effect of interfund activity is eliminated from the government-wide financial statements to minimize the double-counting of internal activities. The Department had no interfund activity for elimination.

Fund financial statements provide information about the Department's funds. The emphasis of fund financial statements is on major governmental funds, each displayed in a separate column. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, deferred outflows of resources, liabilities, deferred inflows of resources, fund balance, revenues, expenditures and other financing sources or uses. Government resources are allocated to, and accounted for, in individual funds based upon the purpose for which they are to be spent and the means by which spending activities are controlled. Fund accounting is designed to (a) demonstrate legal compliance, (b) demonstrate the source and use of liquid resources, and (c) demonstrate how the Department's actual experience conforms to the budget or fiscal plan.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

B. Basis of Presentation (Continued)

All remaining governmental and enterprise funds are aggregated and reported as nonmajor funds. Fiduciary funds are aggregated and reported by fund type.

Governmental funds are reported as major funds in the accompanying financial statements in accordance with GASB Statement No. 34 which sets forth minimum criteria for the determination of major funds. The general fund is always considered a major fund. The Department reports the following major governmental funds:

General Fund - the General Fund (SHARE Fund #17510-reverting) is the general operating fund of the Department. It is used to account for all financial resources except those required to be accounted for in another fund. Regular general and compensation appropriations accounted for in this fund are reverting.

Automation Special Revenue Fund (SHARE Fund #75910 - nonreverting – Section 31-15-5 1B) Used to account for those proceeds of specific revenue sources that are legally restricted to expenditures for specified purposes. The legal restrictions on expenditures and the authority for the creation of the Automation Special Revenue Fund is a result of Senate Bill 222 of the 41st Legislature of the State of New Mexico, which amended Section 31-15-12, NMSA, 1978 Compilation and created the fund. This fund is also considered a major fund under GASB 34 criteria.

The Department also reports the following fiduciary fund type:

Agency Fund – The Agency Fund (SHARE Fund #75310-reverting) is used to account for the reimbursement from each person who has received legal representation or another benefit under the Public Defender Act after a determination is made that the person was not indigent according to the standard for indigence adopted by the Department. Any amounts recovered revert, less collection agent fees, to the State General Fund. The authority for creation of this fund is a result of the Laws of 1987, Chapter 20, NMSA, 1978 Compilation, amending Sections 31-15-7, 32-1-56, 34-6-46, 34-8A-11 and 35-5-8.

C. Basis of Accounting

Basis of accounting refers to the point at which revenues or expenditures or expenses are recognized in the accounts and reported in the financial statements. It relates to the timing of the measurements made, regardless of the measurement focus applied.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

C. Basis of Accounting (Continued)

The government-wide and the fiduciary financial statements are presented using the economic resources measurement focus and the accrual basis of accounting. The agency funds are custodial in nature and do not have a measurement focus but utilize the accrual basis of accounting for reporting assets and liabilities. Revenues are recorded when earned, and expenses are recorded at the time liabilities are incurred, regardless of when the related cash flows take place. Grants are recognized as revenue as soon as all eligibility requirements the provider imposed have been met.

Governmental funds in the fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under this method, revenues are recognized when they become both measurable and available. The Department considers all revenues reported in the governmental funds to be available if the revenues are collected within sixty days after year-end. Expenditures are recorded when the related fund liability is incurred, except for principal and interest on general long-term debt and compensated absences, which are recognized as expenditures to the extent they are due and payable. General capital asset acquisitions are reported as expenditures in governmental funds. Issuances of general long-term debt and acquisitions under capital lease agreements are reported as other financing sources.

Nonexchange transactions, in which the Department receives value without directly giving equal value in return, includes grants. Revenue from grants is recognized in the year in which all eligibility requirements have been satisfied. Eligibility requirements include timing requirements, which specify the year when the resources are required to be used or the year when use is first permitted, matching requirements, in which the Department must provide state resources to be used for specified purpose; and expenditure requirements, in which the resources are provided to the Department on a reimbursement basis. Under the modified accrual basis of accounting, revenue from a nonexchange transaction must also be available before it is recognized.

Because the governmental fund statements are presented on a different measurement focus and basis of accounting than the government-wide statements' governmental column, a reconciliation is presented on the page following each statement, which briefly explains the adjustment necessary to transform the fund-based financial statements into the governmental column on the government-wide presentation.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Budgets and Budgetary Accounting

The New Mexico State Legislature makes annual appropriations to the Department. Legal compliance is monitored by the establishment of a budget and a financial control system that permits a budget to actual expenditure comparison. The budget is adopted on the modified accrual basis of accounting with the exception of accounts payable accrued at the end of the fiscal year that do not get paid by the statutory deadline per Section 6-10-4 NMSA 1978. Those accounts payable that do not get paid timely must be paid out of the next year's budget. Expenditures may not legally exceed appropriations for each budget at the appropriation program level.

Budgeted appropriation unit amounts may be amended upon approval from the Budget Division of the State of New Mexico Department of Finance and Administration within the limitations as specified in the General Appropriation Act. The budget amounts shown in the financial statements are both the original appropriation and the final authorized amounts as legally revised during the year.

The Public Defender Department follows these procedures in establishing the budgetary data reflected in the financial statements:

1. By September 1st, the Public Defender Department prepares a budget request by appropriation unit to be presented to the next legislature.
2. The appropriation request is submitted to the Department of Finance and Administration's Budget Division (DFA) and to the Legislative Finance Committee (LFC).
3. DFA makes recommendations and adjustments to the appropriation request which become the Governor's proposal to the Legislature.
4. LFC holds hearings on the appropriation request, also submitting recommendations and adjustments before presentation to the Legislature.
5. Both the DFA's and LFC's recommended appropriation proposals are presented to the Legislature for approval of the final budget plan.
6. Budgetary control is exercised at the appropriation unit level of the Public Defender Department as a whole and changes are approved by the DFA.
7. The Public Defender Department's budget for the fiscal year ending June 30, 2017 was amended in a legally permissible manner by increasing or reallocating appropriation unit totals as the need arose during the fiscal year. Individual amendments were not material in relation to the original budget.
8. Appropriations lapse at the end of the year except for those amounts related to goods and services received by June 30th which are reflected as accounts payable in the financial statements.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

E. Budgets and Budgetary Accounting (Continued)

9. The budgets for the General and Special Revenue Funds are adopted on a modified accrual basis per the General Appropriation Act, Laws of 2016. For the year ended June 30, 2017, the Department had no requested approvals to pay prior-year payables that did not get paid or accrued timely. If any existed, the cash to pay those obligations would be reverted to the State General Fund causing a negative fund balance. Although reflected as current year expenditures, those payables would be paid out of the next year's budget.

Per the requirements of Section 2.2.2.10, A(2)(b) of 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Agencies and the allowance made by GASB 34, footnote 53, the budgetary comparison statements have been included as a part of the basic financial statements.

F. Encumbrances/Contract Attorney Contracts

Encumbrances represent commitments related to unperformed contracts for goods and services. Encumbrance accounting, under which purchase orders, contracts, and other commitments for expenditures are recorded in order to reserve that portion of the applicable appropriation, is employed as an extension of formal budget integration during the year in the governmental funds. So long as the appropriation period has not lapsed and budget exists, an encumbrance can be charged against the budget. However, when the appropriation period lapses, the budget authority is non-existent and the encumbrance can no longer be charged to that budget.

Legislation sets the appropriation period, which can be single or multi-year periods. At June 30, 2017, there were no multi-year encumbrances. However, for contract attorney contracts this is not true because the contract specifically states that the "Department shall not be bound by any numerical estimates of compensation." There is not a commitment by the Department to pay any amount at the time of contracting. The commitment (on a per case basis) arises when the contractor has had at least one documented direct contact with the client or has made one documented court appearance on the client's behalf. Contract attorney expenditures are charged to the budget fiscal year where the commitment exists.

G. Interest in State General Fund Investment Pool

The Department has defined cash and cash equivalents to include the Interest in State General fund Investment Pool with the State Treasurer.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

H. Receivables

Receivables consist of various accounts receivable including amounts due from current or former employees for payroll overpayments and PERA/RHC contributions not withheld, and amounts due from other state agencies and local governments. An allowance for doubtful accounts in the amount of \$1,178 has been established for those former employee receivables deemed uncollectible. See Note 4 below for details.

Agency fund accounts receivable consist of amounts due from persons who have received legal representation or another benefit under the Public Defender Act after a determination is made that the person is not indigent according to the standard for indigence adopted by the Department. An allowance for uncollectible accounts has been established in the amount of \$35,389,098, representing all outstanding amounts due from clients that are greater than six months old.

I. Capital Assets

Capital assets are tangible assets that are used in operations and that have initial useful lives that extend beyond a single reporting period. In accordance with Section 12-6-10 NMSA 1978, the Department capitalized assets with a cost of \$5,000 or greater. Assets capitalized under previous lower thresholds, have not been removed from the capital asset listing and will continue to be depreciated until they are disposed. Capital assets are reported in the Statement of Net Position at historical cost or estimated fair value, if donated. Capital assets are depreciated using zero salvage value and the straight-line method over their estimated useful lives. Repairs and maintenance expenses are charged to operations when incurred and major betterments and replacements are capitalized. There is no debt related to capital assets.

The major classifications of capital assets and their related depreciable lives are as follows:

| | |
|--|-------------|
| Machinery and equipment | 4-20 years |
| Data processing equipment (including software) | 4-5 years |
| Furniture and fixtures | 10-20 years |

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

J. Accrued Compensated Absences

Employees are entitled to accumulate annual leave at a rate based on appointment date and length of continuous service. A maximum of 240 hours of annual leave may be carried forward after the pay period beginning in December and ending in January. When employees terminate, they are compensated at their current hourly rate for accumulated unpaid annual leave as of the date of termination, up to a maximum of 240 hours. Employees are entitled to accumulate sick leave at a rate of 3.69 hours per pay period. There is no limit to the amount of sick leave that an employee may accumulate.

State agencies are allowed to pay fifty (50) percent of each employee's hourly rate for accumulated sick leave over 600 hours up to 120 hours. Payment may be made only once per fiscal year at a specified pay period in either January or July. Nonexempt employees accumulate compensation time for hours worked in excess of forty hours per week, based on their regular hourly rate. Such overtime must be pre-approved by management. Payment of this liability can be made by compensated leave time or cash payment. At June 30, 2017, there was no compensation time owed to any employee.

The compensated absences liability is presented in two parts, a current portion and long-term portion, in the government-wide financial statements. The current portion is the amount expected to be expended during the subsequent fiscal year and is an estimate management determined by the last fiscal year's usage. In accordance with GASB 16, accrued compensated absences consist of accumulated annual leave and related salary payments (employers' matching FICA and Medicare payroll taxes).

K. Deferred outflows and inflows of resources

The statement of net position and balance sheet include separate sections for deferred outflows of resources and deferred inflows of resources. Deferred outflows of resources represent a consumption of net position that applies to future periods that will be recognized as an expense or expenditure in future periods. Deferred inflows of resources represent an acquisition of net position or fund balance that applies to future periods and will be recognized as a revenue in future periods. The Department had no deferred outflows or inflows.

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

L. Reversions

Reverting funds are all funds that are not identified by law as non-reverting. Unexpended or unencumbered balances of the State General Fund appropriation and compensation appropriation to the Department shall revert to the State General Fund. Accordingly, reversions are normally recorded in the current year for unexpended General Fund appropriations. Also, unexpended balances of special appropriations are reverted when required by law.

M. Fund Balance Classifications

The governmental funds' fund balances are reported separately within classifications based on a hierarchy of the constraints placed on those resources' use. In the governmental fund financial statements, fund balances are classified as follows:

Nonspendable: Consists of amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact.

Restricted: Consists of amounts that are restricted to specific purposes as a result of a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or b) imposed by law through constitutional provisions or enabling legislation.

Committed: Consist of amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority. Those committed amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of action (for example, legislation, resolution, ordinance) it employed to previously commit those amounts. The Department's highest level of decision-making authority is the New Mexico Public Defender Commission.

Assigned: Consist of amounts that are constrained by the government's *intent* to be used for specific purposes, but are neither restricted nor committed. Intent should be expressed by (a) the governing body itself or (b) a body (a budget or finance committee, for example) or official to which the governing body has delegated the authority to assign amounts to be used for specific purposes.

Unassigned: Represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the General Fund.

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

M. Fund Balance Classifications (Continued)

Senate Bill 222 of the 41st legislature of the State of New Mexico amended Section 31-15-12, NMSA, 1978, and created the Special Revenue Automation Fund. Revenues of the fund are generated by assessing each person who applies for Public Defender representation a non-refundable \$10 fee. There are provisions for waiver of the fee. The law further provides that application fee revenue shall be used for the purchase and maintenance of automation systems. Based on the criteria outlined above, the fund balance in the Automation Special Revenue Fund (75910) is considered restricted at year end. The government-wide statement of net position reports \$432,623 as restricted, all of which is restricted by enabling legislation.

The general fund has a nonspendable fund balance for prepaid expenses totaling \$30,964 to represent disbursements made that cannot be reported as expenditures in the current period for GAAP purposes. The general fund also reports an unassigned deficit fund balance in the amount of (\$153,446). The allowance for uncollectible receivables and unresolved ongoing issues with payroll tax, payroll benefits and other payroll liabilities impact the general fund negative fund balance.

When an expenditure is incurred that can be paid from either restricted or unrestricted fund balances, it is the Department's policy to use restricted fund balance first. It is the Department's policy to use committed amounts first when disbursing unrestricted fund balances, followed by assigned amounts, and lastly unassigned amounts

N. Net Position

The government-wide financial statements utilize a net position presentation. Net position is categorized as follows:

Net Investment in Capital Assets – portion of net position which is associated with non-liquid capital asset less outstanding capital asset related debt.

Restricted – liquid assets which have third-party (statutory, bond covenant or granting agency) limitation on their use.

Unrestricted – all other net position that do not meet the definition of restricted or net investment in capital assets.

When expenses are incurred for purposes for which both unrestricted and restricted funds are available, it is the policy of the Department to first apply restricted resources.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

O. Use of Estimates

The preparation of financial statements in conformity with US GAAP requires management to make estimated and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

NOTE 3. INTEREST IN STATE GENERAL FUND INVESTMENT POOL

Section 8-6-3 NMSA 1978 NMSA, requires that all money of the state except when otherwise specially provided, be kept by the State Treasurer. Cash of the Department is maintained on deposit with State Treasurer in the State General Fund Investment Pool (SGFIP) The State Treasurer, with the advice and consent of the state board of finance, may invest money held in demand deposits and not immediately needed for operations, in securities in accordance with Sections 6-10-10 I through O, NMSA 1978 as amended.

For additional disclosure information regarding the investment in the State Treasurer’s SGFIP, the reader should see the separate audit report for the State Treasurer’s Office for the fiscal year ended June 30, 2017, review the State Treasurer’s Investment Policy at http://www.nmsto.gov/investment_policy_1 and review Sections 2.60.4.1 through 2.60.4.15 of the New Mexico Administrative Code, regarding Investment of Deposits of Public Funds Depository Bank Requirements, Collateral Level Requirements, and Custodial Bank Requirements.

Because the one individual special revenue fund checking account balance did not exceed \$250,000, it is fully insured by the Federal Deposit Insurance Corporation (FDIC) and pledged collateral is not required. Accounts of the Department at June 30, 2017 are as follows:

| Account Name | Fund No. | Account Type | Balance per Depository | Outstanding Checks | Balance Financial Statements |
|---------------------------------------|-----------------|---------------------|-------------------------------|---------------------------|-------------------------------------|
| State Treasurer: | | | | | |
| Operating - General | 280-175 | SGFIP | \$ 3,483,630 | \$ - | \$3,483,630 |
| Automation – Special Revenue | 280-759 | SGFIP | 433,891 | - | 433,891 |
| Centinel Bank Taos - Special Revenue | N/A | Checking | 25 | - | 25 |
| Citizens Bank Aztec – Special Revenue | | | 35 | - | 35 |
| Petty Cash | | | 1,100 | - | 1,100 |
| Subtotal Governmental Funds | | | 3,918,681 | - | 3,918,681 |
| State Treasurer: | | | | | |
| Client Reimbursements – Agency | 280-753 | SGFIP | 1,100 | - | 1,100 |
| Total cash on deposit and petty cash | | | <u>\$ 3,919,781</u> | <u>\$ -</u> | <u>\$3,919,781</u> |

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017

NOTE 4. RECEIVABLES

Due from employees - this represents amounts due from current or former employees for payroll overpayments and for amounts associated with Public Employees' Retirement and Retiree Health Care contributions (combined total \$16,871), that were not initially withheld from employees' paychecks. Only the former employee payroll overpayments, (\$1,179) are considered uncollectible. The net amount receivable is \$15,692.

Due from local governments - this represents \$53,569 due and received after June 30, 2017 from various statewide judicial district juvenile and adult drug courts.

Accounts receivable (Agency Fund) - Laws of 1987, Chapter 20, require the Chief Public Defender to "provide for collection reimbursement from each person who has received legal representation or another benefit under the Public Defender Act after a determination is made that the person is not indigent according to the standard for indigence adopted by the Department." The maximum charge per defendant may be as much as \$27,500. The law further requires that "any amounts recovered shall be paid to the State Treasurer for credit to the State General Fund."

NOTE 5. CHANGES IN CAPITAL ASSETS

A summary of changes in capital assets is as follows:

| | <u>Balance</u> <u>July 1, 2016</u> | <u>Additions</u> | <u>Deletions</u> | <u>Balance</u> <u>June 30, 2017</u> |
|---------------------------|---------------------------------------|-------------------|------------------|--|
| Machinery and equipment | \$ 131,750 | \$ - | \$ - | \$ 131,750 |
| Accumulated depreciation | (131,750) | - | - | (131,750) |
| Data processing equipment | 311,475 | 25,352 | (8,890) | 327,937 |
| Accumulated depreciation | (264,075) | (30,536) | 8,890 | (285,721) |
| Furniture and fixtures | 37,290 | - | - | 37,290 |
| Accumulated depreciation | (23,456) | (2,000) | - | (25,456) |
| Totals | <u>\$ 61,234</u> | <u>\$ (7,184)</u> | <u>\$ -</u> | <u>\$ 54,050</u> |

There is no debt related to capital assets. Depreciation expense for the year was \$32,536.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 6. DUE TO STATE GENERAL FUND

Section 6-5-10 NMSA 1978 requires all unreserved, undesignated fund balances in reverting funds and accounts revert to the State General Fund by September 30 of each year. An agency may adjust the reversion within forty-five days of release of the audit report. The current year reversion and amounts due to the State General Fund from the Department general fund are as follows:

| | |
|--|--------------------|
| Fiscal year general appropriation reversion (budget basis surplus) | |
| FY 2017 unexpended balance, Org P850 | \$ 386,190 |
| FY 2016 overstated expenditures in liability | 2,476 |
| Reversions submitted by September 30, 2017 | <u>(388,666)</u> |
| Total Due to State General Fund | <u>\$ -</u> |

The amount due to the State General Fund from the Agency Fund is composed of the following:

| | |
|----------------------------------|--------------------------|
| Accounts receivable, net | \$ 391,240 |
| Interest in SGF Investment Pool | 1,100 |
| Amounts due from other funds | <u>-</u> |
| Due to State General Fund | <u>\$ 392,340</u> |

NOTE 7. UNION BACK PAY SETTLEMENT ISSUE

At June 30, 2014, the Department of Finance and Administration (DFA) was in the process of settling back pay to eligible union employees as required by the arbitration awards confirmed in various District Court actions challenging the state's implementation of the compensation appropriation made in the General Appropriations Act of 2008, Section 8 (A) (5) as well as the employer's share of applicable taxes and retirement benefits associated with such back pay.

The DFA estimated the union settlement back pay would cost the State of New Mexico an overall amount of \$23.9 million. According to the amount of anticipated full-time equivalent employees (FTE) the Department has (approximately 250 FTE covered by the union) compared to all estimated state employees covered by the union (approximately 10,729 FTE), the Department's potential liability was originally estimated at 2.33% or \$654,650 in FY 2014.

In FY 2015, four payments totaling \$413,154 were made. In FY2016, one payment totaling \$5,313 was made leaving the Department's estimated liability at \$236,183. However, HB311, Laws of 2016, Chapter 12, Section 2, Subsection B mandates a reversion of \$225,100 from the PDD, leaving a balance of \$11,083. This amount is included in accounts payable at June 30, 2017.

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017

NOTE 8. OTHER PAYROLL LIABILITIES

This represents amounts due for payroll related liabilities from current or former employees for underpayments with Public Employees' Retirement and Retiree Health Care contributions in the amount of \$5,767.

NOTE 9. LEASES

The Department leases office space in various locations throughout the State and meeting/training room space, as needed. All leases have an early termination clause. Accordingly, there are no future minimum rentals. The Department also leases several postage meters and copying machines considered operating leases. All leases may be canceled at the end of any fiscal year with no penalty. Total office space and equipment rent expense for the year ended June 30, 2017 were \$2,694,355 and \$175,702, respectively. The Department also leases multiple vehicles on a month-to-month basis and other short-term vehicles as needed. Total vehicle lease expense was \$136,693.

NOTE 10. COMPENSATED ABSENCES PAYABLE

A summary of changes in compensated absences payable is as follows:

| | Balance | | | Balance | Due Within |
|------------------------------|--------------|-----------|-------------|---------------|------------|
| | July 1, 2016 | Additions | Reductions | June 30, 2017 | One Year |
| Compensated Absences Payable | \$ 1,232,578 | 1,029,013 | (1,047,389) | 1,214,202 | 1,047,390 |

The liability at June 30, 2017 of \$1,214,202 has been recorded in the government-wide financial statements and represents the Department's commitment to fund out of the General Fund the accrued vacation, sick leave, and comp time costs from future operations

NOTE 11. PERA PENSION PLAN

Plan Description. Substantially all of the State of New Mexico, Public Defender Department's full time employees participate in a public employee retirement system authorized under the Public Employees' Retirement Act (Chapter 10, Article 11, NMSA 1978). The Public Employees' Retirement Association (PERA) is the administrator of the plan, which is a cost-sharing multiple-employer defined benefit retirement plan. The plan provides for retirement benefits, disability benefits, survivor benefits and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information for the plan. That report may be obtained by writing to PERA, P. O. Box 2123, Santa Fe, New Mexico 87504-2123. The report is also available on PERA's website at www.pera.state.nm.us.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 11. PERA PENSION PLAN (CONTINUED)

Funding Policy. Plan members are required to contribute from 6.28% to 18.15% depending upon the plan - i.e., state general, state hazardous duty, state police and adult correctional officers, municipal general, municipal police, municipal fire, municipal detention officer of their gross salary. The Public Defender Department is required to contribute 16.99% of the gross covered salary. The contribution requirements of plan members and the Public Defender Department are established in State statute under Chapter 10, Article 11, NMSA 1978. The requirements may be amended by acts of the legislature. The Department's contributions to PERA for the fiscal years ended June 30, 2017, 2016 and 2015 were \$3,391,491, \$3,503,422, and \$3,276,426, respectively, which equal the amount of the required contributions for each fiscal year.

The Department, as a part of the primary government of the State of New Mexico, is a contributing employer to a cost-sharing multiple employer defined benefit pension plan administered by the Public Employees Retirement Association (PERA). Disclosure requirements for governmental funds apply to the primary government as a whole, and as such, this information will be presented in the Component Appropriation Funds Annual Financial Report (General Fund) and the Comprehensive Annual Financial Report (CAFR) of the State of New Mexico.

Information concerning the net pension liability, pension expense, and pension-related deferred inflows and outflows of resources of the primary government will be contained in the General Fund and the CAFR and will be available, when issued, from the Office of State Controller, Room 166, Bataan Memorial Building, 407 Galisteo Street, Santa Fe, New Mexico, 87501.

NOTE 12. POST-EMPLOYMENT BENEFITS –STATE RETIREE HEALTH CARE PLAN

Plan Description. The State of New Mexico, Public Defender Department contributes to the New Mexico Retiree Health Care Fund, a cost-sharing multiple-employer defined benefit post-employment healthcare plan administered by the New Mexico Retiree Health Care Authority (RHCA). The RHCA provides health care insurance and prescription drug benefits to retired employees of participating New Mexico government agencies, their spouses, dependents, and surviving spouses and dependents. The RHCA Board was established by the Retiree Health Care Act (Chapter 10, Article 7C, NMSA 1978). The Board is responsible for establishing and amending benefit provisions of the healthcare plan and is also authorized to designate optional and/or voluntary benefits like dental, vision, supplemental life insurance, and long-term care policies.

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017

NOTE 12. POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE PLAN (CONTINUED)

Eligible retirees are: 1) retirees who make contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the RHCA plan on the person's behalf, unless that person retires before the employer's NMRHCA effective date, in which event the time period required for employee and employer contributions shall become the period of time between the employer's effective date and the date of retirement; 2) retirees defined by the Act who retired prior to July 1, 1990; 3) former legislators who served at least two years; and 4) former governing authority members who served at least four years.

The RHCA issues a publicly available stand-alone financial report that includes financial statements and required supplementary information for the post-employment healthcare plan. That report and further information can be obtained by writing to the Retiree Health Care Authority at 4308 Carlisle Blvd., NE, Suite 104, Albuquerque, New Mexico 87107.

Funding Policy. The Retiree Health Care Act (Section 10-7C-13 NMSA 1978) authorizes the RHCA Board to establish the monthly premium contributions that retirees are required to pay for healthcare benefits. Each participating retiree pays a monthly premium according to a service based subsidy rate schedule for medical plus basic life plan and an additional participation fee of five dollars if the eligible participant retired prior to the employer's RHCA effective date or is a former legislator or former governing authority member. Former legislators and governing authority members are required to pay 100% of the insurance premium to cover their claims and the administrative expenses of the plan. The monthly premium rate schedule can be obtained from the RHCA or viewed on their website at www.nmrhca.state.nm.us.

The employer, employee and retiree contributions are required to be remitted to the RHCA on a monthly basis. The statutory requirements for the employer and employee contributions can be changed by the New Mexico State Legislature. Employers that choose to become participating employers after January 1, 1998, are required to make contributions to the RHCA fund in the amount determined to be appropriate by the board.

The Retiree Health Care Act (Section 10-7C-15 NMSA 1978) is the statutory authority that establishes the required contributions of participating employers and their employees. For employees that were members of an enhanced retirement plan (state police and adult correctional officer member coverage plan 1; municipal police member coverage plans 3, 4 or 5; municipal fire member coverage plan 3, 4 or 5; municipal detention officer member coverage plan 1; and members pursuant to the Judicial Retirement Act) during the fiscal year ended June 30, 2017, the statute required each participating employer to contribute 2.5% of each participating employees annual salary; and each participating employee was required to contribute 1.25% of their salary.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 12. POST-EMPLOYMENT BENEFITSS – STATE RETIREE HEALTH CARE PLAN (CONTINUED)

For employees that were not members of an enhanced retirement plan during the fiscal year ended June 30, 2017, the statute required each participating employer to contribute 2.0% of each participating employee's annual salary; each participating employee was required to contribute 1.0% of their salary. In addition, pursuant to Section 10-7C-15(G) NMSA 1978, at the first session of the Legislature following July 1, 2014, the legislature shall review and adjust the distributions pursuant to Section 7-1-6.1 NMSA 1978 and the employer and employee contributions to the authority in order to ensure the actuarial soundness of the benefits provided under the Retiree Health Care Act.

The Department's contributions to RHCA for the fiscal years ended June 30, 2017, 2016 and 2015 were \$398,533, \$412,198 and \$385,821, respectively, which equal the required contributions for each fiscal year.

NOTE 13. RISK MANAGEMENT AND LITIGATION

The Public Defender Department is exposed to various risks of losses related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. Section 15-7-2 NMSA 1978 requires the General Services Department, Risk Management Division (RMD) to be responsible for the acquisition and administration of all insurance purchased by the state. Since 1977, various state statutes have been passed which allow RMD to insure, self-insure or use a combination of both. For the past several years, the RMD has elected to self-insure and has not obtained liability coverage from commercial insurance companies. The RMD has effectively managed risk through various employee education and prevention programs. Risk management expenditures for the Department are accounted for in the general fund. Any claims are processed through RMD. There are no pending or known threatened legal proceedings involving material matters to which the Department is a party.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 14. OPERATING TRANSFERS

The Department receives and makes operating transfers for various reasons as described below:

| | Transfer From | Transfer To |
|---|------------------|----------------|
| Department of Finance & Administration (Agency No. 34100, Fund 85300) | \$ 47,389,900 | |
| Department's General Fund (Agency No. 28000, Fund 17500) Purpose: General Fund appropriation FY 2017 | | \$ 47,389,900 |
| Department's General Fund (Agency No. 28000, Fund 17500) | \$ 388,666 | |
| Department of Finance & Administration (Agency No. 34100, Fund 85300) Purpose: General Fund reversion | | \$ 388,666 |
| Department's General Fund (Agency No. 28000, Fund 17500) | \$ 31 | |
| Department of Public Safety (Agency No. 79000, Fund 12805) Purpose: Fees paid for records request | | \$ 31 |
| Department's General Fund (Agency No. 28000, Fund 17500) | \$ 225,100 | |
| Department of Finance & Administration (Agency No. 34100, Fund 85300) Purpose: Union back pay (included in FY 2016 accounts payable – paid in FY 2017) | | \$ 225,100 |

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2017**

NOTE 15. NEW ACCOUNTING STANDARDS

The Department did not adopt any new accounting standards in the year ended June 30, 2017. The following standards have been issued but have future implementation dates.

GASBS No. 75 - Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions. Establishes new accounting and financial reporting requirements for governments whose employees are provided with OPEB. This statement applies to government employers who provide OPEB plans to their employees and basically parallels GASB Statement 68 and replaces GASB Statement 45. The scope of this Statement addresses accounting and financial reporting for OPEB that is provided to the employees of state and local governmental employers. This Statement establishes standards for recognizing and measuring liabilities, deferred outflows of resources, deferred inflows of resources, and expense/expenditures. GASB 75 is effective for fiscal years beginning after June 15, 2017 (FY18). Management has not yet fully determined the impact of GASB 75.

GASBS No. 84 – Fiduciary Activities. The objective of this Statement is to improve guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported. GASB 84 is effective for fiscal years beginning after December 15, 2018 (FY2020). Management has not yet fully determined the impact of GASB 84.

GASBS No. 87 – Leases. The objective of this Statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. This Statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources, thereby enhancing the relevance and consistency of information about governments' leasing activities. GASB 87 is effective for fiscal years beginning after December 15, 2019 (FY21). Management has not yet fully determined the impact of GASB 87.

NOTE 16. SUBSEQUENT EVENTS

The Department has evaluated subsequent events through October 20, 2017, which is the date the financial statements were available to be issued and concluded that no additional disclosures are required.

STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Statement of Revenues and Expenditures
Budget and Actual P850
Year Ended June 30, 2017

| | P-850 | | | |
|---|--------------------------------|-----------------------------|--------------------------------|---|
| | Original Approved Budget | Final Approved Budget | Actual (Budgetary Basis) | Variance with Final Budget Positive (Negative) |
| REVENUES AND OTHER FINANCING SOURCES | | | | |
| General fund appropriations | \$ 48,855,600 | \$ 47,389,900 | \$ 47,389,900 | \$ - |
| Statewide budget reduction | (1,465,700) | - | - | - |
| Other revenues | - | 486,923 | 423,723 | (63,200) |
| Total revenues and other financing sources | <u>47,389,900</u> | <u>47,876,823</u> | <u>47,813,623</u> | <u>(63,200)</u> |
| EXPENDITURES AND OTHER FINANCING USES | | | | |
| Personal services and employee benefits | \$ 29,737,700 | \$ 28,367,623 | \$ 28,336,648 | \$ 30,975 |
| Contractual services | 12,259,900 | 13,433,900 | 13,052,757 | 381,143 |
| Other | 5,392,300 | 6,250,300 | 5,805,023 | 445,277 |
| Other financing uses | - | - | - | - |
| Total expenditures and other financing uses | <u>\$ 47,389,900</u> | <u>\$ 48,051,823</u> | <u>\$ 47,194,428</u> | <u>\$ 857,395</u> |
| EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER FINANCING SOURCES (USES) | | | 619,195 | |
| Reconciliation to GAAP basis | | | | |
| Reversions to state general fund | | | (388,666) | |
| Unbudgeted depreciation expense | | | (32,536) | |
| NET CHANGE IN FUND BALANCE | | | <u>\$ 197,993</u> | |

SUPPLEMENTARY INFORMATION

STATE OF NEW MEXICO
 PUBLIC DEFENDER DEPARTMENT
 Schedule of Changes in Assets and Liabilities
 Agency Fund
 Year Ended June 30, 2017

| | <u>Balance</u> <u>July 1, 2016</u> | <u>Additions</u> | <u>Deletions</u> | <u>Balance</u> <u>June 30, 2017</u> |
|---------------------------------------|---------------------------------------|-------------------|---------------------|--|
| ASSETS | | | | |
| Interest in SGF investment pool | \$ 1,750 | \$ 176,988 | \$ (177,638) | \$ 1,100 |
| Accounts receivable | 35,521,355 | 292,435 | (33,452) | 35,780,338 |
| Less: Allowance for doubtful accounts | <u>(35,013,037)</u> | <u>(376,061)</u> | <u>-</u> | <u>(35,389,098)</u> |
| Total assets | <u>\$ 510,068</u> | <u>\$ 93,362</u> | <u>\$ (211,090)</u> | <u>\$ 392,340</u> |
| LIABILITIES | | | | |
| Due to state general fund | \$ 510,068 | \$ 476,793 | \$ (594,521) | \$ 392,340 |
| Due to litigants | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Total liabilities | <u>\$ 510,068</u> | <u>\$ 476,793</u> | <u>\$ (594,521)</u> | <u>\$ 392,340</u> |

See Independent Auditor's Report.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Schedule of Intergovernmental Agreement
Year Ended June 30, 2017**

Participants:

Public Defender Department and the County of Bernalillo

Party responsible for operations:

Public Defender Department

Description:

Public Defender Department will dedicate two senior trial attorneys to work on Probation Violation (PV) cases that the Second Judicial District Attorney's office offers to present a plea for disposition at the weekly PV pilot, known as the Rocket Docket.

Term:

July 1, 2016 to June 30, 2017

Total amount of project:

\$ 236,923

Amount applicable to the Public Defender Department:

\$ 236,923

Amount contributed by the Public Defender Department:

\$ -

Fiscal agent:

N/A

Name of government agency where revenues and expenditures are reported:

Revenues are reported by the Public Defender Department and expenditures are reported by the County of Bernalillo.

OTHER INFORMATION

**DFA Performance Based Budgeting Data System
Annual Performance Report**

| Type | Measure | FY17 Target | FY17 Result | Met Target | Year-End Results Narrative |
|---|---|----------------|----------------|-------------------------------------|---|
| Agency: 28000 Law Offices of the Public Defender | | | | | |
| Program: P850 Public Defender Department | | | | | |
| The purpose of the criminal legal services program is to provide effective legal representation and advocacy for eligible clients so their liberty and constitutional rights are protected and to serve the community as a partner in assuring a fair and efficient criminal justice system that sustains New Mexico's statutory and constitutional mandate to adequately fund a statewide indigent defense system. | | | | | |
| Efficiency | Percent of cases in which application fees were collected | 45% | 30.5% | <input type="checkbox"/> | LOPD, if funded, will implement an eligibility program to standardize the eligibility process which includes application fee collection. |
| Quality | Percent of felony cases resulting in a reduction of original formally filed charges | 55% | 71% | <input checked="" type="checkbox"/> | Target Met |
| Quality | Percent of misdemeanor cases resulting in a reduction of the original formally filed charges | 75% | 82% | <input checked="" type="checkbox"/> | Target Met |
| Quality | Percent of juvenile cases resulting in a reduction of the original formally filed charges | 70% | 69% | <input type="checkbox"/> | LOPD requires additional funding to be able to provide effective assistance of counsel to meet our targets. |
| Output | Number of alternative sentencing treatment placements in felony, misdemeanor and juvenile cases | 2,400 | 8,760 | <input checked="" type="checkbox"/> | Target Met |
| Output | Number of alternative sentencing treatment placements in felony, misdemeanor and juvenile cases for clients of contract attorneys | 1,000 | 515 | <input type="checkbox"/> | Data from cases handled by contract attorneys may not reflect the actual amount of alternative treatment placements. LOPD will focus efforts on improving data on collection in contract attorney cases. This measure continues to FY2018, but is not included in FY2019. |
| Explanatory | Percent of cases with non-indigent clients in which reimbursement is collected | 33% | 40.8% | <input checked="" type="checkbox"/> | Target Met |
| Explanatory | Percent of total cases taken by contract attorneys reported by county | 33% | 37% | <input checked="" type="checkbox"/> | |
| Outcome | Percent of cases that go to trial with clients defended by contract attorneys | 5% | not tracked | <input type="checkbox"/> | Data was not tracked in FY2017. This measure does not continue. |

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COMPLIANCE



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**Report on Internal Control Over
Financial Reporting and on Compliance and Other Matters
Based on an Audit of Financial Statements Performed in
Accordance with *Governmental Auditing Standards***

Independent Auditor's Report

Bennett J. Baur, Chief Public Defender
Public Defender Department, and
Mr. Timothy Keller
New Mexico State Auditor
Santa Fe, New Mexico

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, the financial statements of the governmental activities, each major fund, the aggregate remaining fund information and the respective budgetary comparisons for the General Fund and the Major Special Revenue Fund of the State of New Mexico, Public Defender Department (Department) as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements, and have issued our report thereon dated October 20, 2017.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Department's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Department's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters which are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Albuquerque, New Mexico
October 20, 2017

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Year Ended June 30, 2017**

A. SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS

2016-001 Performance Appraisals (Other Non-Compliance) Resolved

B. FINDINGS AND RESPONSES

None

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Year Ended June 30, 2017**

EXIT CONFERENCE

An exit conference was held on October 24, 2017, to discuss the annual financial report. Attending were the following:

Representing the Public Defender Department:

Bennett J. Baur, Chief Public Defender
Shelley Espinoza, CFO
Barbara Auten, Human Resource Director
Ronald Herrera, Human Resource Deputy Director
Cyndi J. Sanchez, Administrative Services Director
Philip Larragoite, Deputy Chief Public Defender

Representing Ricci & Company LLP:

Wayne Brown, CPA, Partner
Dock Livingston, CPA, Manager

A. PREPARATION OF FINANCIAL STATEMENTS

The financial statements were prepared with the assistance of Ricci & Company LLP from the books and records of the State of New Mexico Public Defender Department. The financial statements and related footnotes remain the responsibility of management.