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**STATE OF NEW MEXICO
PUBLIC DEFENDER
DEPARTMENT**

**FINANCIAL STATEMENTS
AND
INDEPENDENT AUDITORS'
REPORT**

JUNE 30, 2019

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT**

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**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT**

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

Administration

Bennett J. Baur, Chief Public Defender
Jennifer Birmingham, Deputy Chief Public Defender –District Offices
Cydni J. Sanchez, Deputy Chief Public Defender – Administration
Philip Larragoite, Deputy Chief Public Defender – Statewide Units
Randy Chavez, Deputy Chief Public Defender –Contract Counsel Legal Services
Adrienne Turner, General Counsel
Dorella Molina, Chief Financial Officer
Ronald Herrera, Human Resources Director
Matt Bevington, Information Technology Director
Patricia Anders, Training and Recruitment Director

District/ Regional Office Locations:

- 1) First and Eighth Judicial Districts – Santa Fe, Rio Arriba, Los Alamos Taos counties
 - a. Julie Ball, District Defender – First and Eighth Judicial Districts
 - b. Sydney West, Managing Attorney, Rio Arriba
 - c. Aleksandar Kostich, Managing Attorney – Eighth Judicial District Taos

- 2) Second Judicial District Office—Albuquerque, Bernalillo County
 - a. Jeff Rein, District Defender
 - b. Jennifer Barela, Felony Managing Attorney
 - c. Heather LeBlanc, Felony Managing Attorney
 - d. Christopher Knight, Felony Managing Attorney
 - e. Rose Osborn, Felony Managing Attorney
 - f. Jason Rael, Juvenile Managing Attorney
 - g. Tonie Abeyta, Metro Managing Attorney
 - h. Kelly Villanueva, Metro Managing Attorney

- 3) Third Judicial District –Las Cruces, Dona Ana County
 - a. Kristofer Knutson, District Defender
 - b. David Benatar, Managing Attorney
 - c. Lara Smalls, Managing Attorney

- 4) Fifth Judicial District Offices –Lea Chaves, and Eddy Counties
 - a. Deidre Ewing, District Defender
 - b. Nathaniel Banks, Managing Attorney –Carlsbad
 - c. Debra Lautenschlager, Managing Attorney –Roswell
 - d. Vacant, Managing Attorney –Hobbs

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
Official Roster (Continued)**

- 1) Ninth Judicial District Offices—Clovis, Curry, and Roosevelt Counties
 - a. Ibukun Adepoju, District Defender
 - b. Vacant, Managing Attorney –Clovis and Portales

- 2) Eleventh Judicial District Offices – San Juan and McKinley Counties
 - a. Matthew Cockman, District Defender
 - b. Alec Orenstein, Managing Attorney – Gallup
 - c. Sarah Field, Managing Attorney – Aztec

- 3) Twelfth Judicial District Offices – Lincoln and Otero Counties
 - a. Matthew Chavez, Acting District Defender
 - b. Michael Tighe, Managing Attorney – Alamogordo

- 4) Statewide Units
 - a. David Henderson, Appellate Defender
 - i. Kathleen Baldrige, Managing Attorney
 - b. Amanda Stephenson, Managing Attorney – Post-Conviction Unit
 - c. Craig Acorn, Major Crimes Defender
 - i. Raymond Conley, Managing Attorney
 - ii. Robert Work, Managing Attorney – Mental Health
 - d. Social Work Program
 - i. Louella Arellano, Social Worker Manager
 - ii. Megan Leschak, Social Worker Manager

Public Defender Commission

Thomas Joseph Clear III – Chairperson
Raymond Sanchez - Vice Chair
Daniel Banks - Secretary
Hon. Richard Bosson, Retired
Traci Neff
Naomi Salazar
Michael Sanchez
Melissa Sawyers
Michael Stout
Hon. Michael Vigil, Retired
Hon. Michael Vigil, Retired

FINANCIAL SECTION



1030 18th Street NW
Albuquerque, NM 87104
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Independent Auditors' Report

Bennett J. Baur, Chief Public Defender,
State of New Mexico Public Defender Department
and
Brian S. Colón, Esq
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, 2019, 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.

Auditors' 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 auditors' 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, 2019, and the respective changes in financial position 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, 2019, 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 9 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 introductory section and the schedules required by 2.2.2 NMAC and 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. The 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 listed as "Other Information" in the table of contents 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 15, 2019 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 15, 2019

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2019**

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, 2019. 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.

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2019**

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.
- 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 one type of fund:

- 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, the department's general fund, is used to account for the department's general operations, and activities in which the department receives payments from clients who have been determined by the department not to be indigent. All amounts collected from non-indigent clients are payable to the State General Fund. The department's general fund is a reverting fund. The department's second fund, the automation fund, 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.

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2019**

FINANCIAL ANALYSIS

The department's net position increased \$1,128,066 over the course of this fiscal year's operations. The following financial information is a comparison of the Statement of Net Position for 2019 and 2018.

	2019	2018	Variance
Current and other noncurrent assets	\$5,585,468	\$3,664,989	\$1,920,479
Capital assets, net	515,802	61,680	454,122
Total assets	<u>6,101,270</u>	<u>3,726,669</u>	<u>2,374,601</u>
Long-term liabilities	160,861	107,404	53,457
Other liabilities	5,629,422	4,436,344	1,193,078
Total liabilities	<u>5,790,283</u>	<u>4,543,748</u>	<u>1,246,535</u>
Net Position			
Net investment in capital assets	515,802	61,680	454,122
Restricted	1,311,252	551,989	759,263
Unrestricted	<u>(1,516,067)</u>	<u>(1,430,748)</u>	<u>(85,319)</u>
Total net	<u><u>\$310,987</u></u>	<u><u>(\$871,079)</u></u>	<u><u>\$1,128,066</u></u>

The total assets consist of cash, net receivables, 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 compensated absences payable.

Net position is comprised of net investment in capital assets, restricted and unrestricted amounts. The restricted amount of \$1,311,252 includes the amount restricted for the purchase and maintenance of automation systems of \$559,658. It also includes two Special Appropriations that may be expended in Fiscal Year's 2019 and 2020 in the amount of \$730,000 (remaining balance of \$635,589) for Information Technology expenses and \$157,000 (remaining balance of \$116,004) to improve representation in rural communities.

The variances consist of:

- Total assets – The \$2,374,601 variance increase in total assets is largely attributable to an increase in cash (investment in state general fund investment pool) at June 30, 2019, due to multi-year appropriations and the purchase of IT capital assets.
- Total liabilities – The \$1,246,535 variance increase is primarily due to an increase in accounts payable at June 30, 2019. The increase in liabilities at June 30, 2019 was also impacted by increases in compensated absences payable and decreases in amounts due to the State general fund.
- Total net position – The net position for the department increased from 2018 by \$1,128,066.

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2019**

The following financial information is a comparison of the Statement of Activities for 2019 and 2018:

	2019	2018	Variance
Revenues:			
Program revenues:			
Charges for services	\$168,602	\$172,821	(\$4,219)
Operating grants	269,175	261,923	7,252
General revenues	53,683,227	48,424,580	5,258,647
Total revenues	<u>54,121,004</u>	<u>48,859,324</u>	<u>5,261,680</u>
Expenses:			
General government:	52,992,938	48,795,428	4,197,510
Loss on capital asset disposition	-	-	-
Increase (decrease) in net position	<u>1,128,066</u>	<u>63,896</u>	<u>1,064,168</u>
Net position, beginning	(817,079)	(880,975)	63,896
Net position, ending	<u>\$310,987</u>	<u>(\$817,079)</u>	<u>\$1,128,066</u>

Total Revenues \$54,121,004: Revenue received is comprised mostly of appropriations from the state's general fund, but also includes inter-agency transfers and applications fees. In fiscal year 2019 the department collected \$4,219 less in application fees; this explains the variance in the Charges for Services category above. Funding from various courts increased by \$7,252; this is reflected above as Operating Grants. The increase in general revenues is attributable to increased funding in the appropriation process.

Total Expenses \$52,992,938: Expenses consist of employee salaries and benefits, contractual services, operational costs and reversions. The increase in expenditures is largely attributable to increased spending on employee salaries and benefits related to the 6.5% increase in employee salaries granted to all State Agencies.

Change in Net position \$1,128,066: The department's total revenue increased from \$48,859,324 to \$54,121,004. The department's total expenses increased from \$48,795,428 to \$52,992,938.

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 total governmental fund balance of \$1,157,806. This total fund balance represents the net of a positive fund balance in the general fund (\$598,147) and a positive fund balance in the automation fund (\$559,659).

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 \$1,000, the restricted fund balance

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2019**

amount was \$751,593, and the unassigned fund balance was a deficit amount of (\$154,446), which together comprise the total positive fund balance of \$598,147. The fund balance in the department's general fund increased in 2019 due to remaining multi-year appropriations which can be expended until the end of Fiscal Year 2020.

The special revenue fund titled the Automation Fund has a total fund balance of \$559,659, 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 \$7,670. This is attributable to revenue exceeding expenditures.

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.

With these adjustments, actual general fund expenditures were \$28,039 below the final budgeted amount. Factoring in an FY18 overstated expenditure in liabilities of \$5,434 and unbudgeted miscellaneous revenue of \$1,496, the general fund budget balance is adjusted by \$34,969 and reverted to the general fund. The reversion of \$34,969 is approximately 0.06% of the department's total general fund appropriation.

CAPITAL ASSET AND DEBT ADMINISTRATION

Capital Assets

At the end of fiscal year 2019, the department had a net investment of \$515,802 in capital assets, mostly consisting of IT equipment, furniture and fixtures. This amount represents a net increase (including additions and deductions) of \$454,122 over last fiscal year.

Long- term debt

At the end of the fiscal year, the department had \$1,362,621 in compensated absences payable, an increase of \$85,319 over last fiscal year. More information about the department's debt is presented in note 9 of this report.

**STATE OF NEW MEXICO PUBLIC DEFENDER DEPARTMENT
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2019**

NEXT YEARS' BUDGETS

The total approved recurring general fund operating budget for fiscal year 2020 is \$55,463,000 which is approximately a 6% percent increase compared to fiscal year 2019's approved recurring general operating budget. The overall increase included targeted salary compensation packages for all state employees of 4%.

The department submitted a 11.8% percent general fund increase in the fiscal year 2021 budget request. If approved, the department will hire 30 new attorney positions and 15 support staff to improve client services statewide and reduce recidivism. Additionally, LOPD will invest in recruitment and retention in underserved communities by investing in personnel. In the contractual budget, LOPD will address the increase in filing of complex cases which also affects expert witness costs. Additional funding will also be allocated to professional services for our data sharing initiative. Other expenses include escalating rent, additional office space, and vehicles for the department.

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.

**BASIC FINANCIAL STATEMENTS –
GOVERNMENT WIDE FINANCIAL STATEMENTS**

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
STATEMENT OF NET POSITION (DEFICIT)
June 30, 2019**

	<u>Governmental Activities</u>
ASSETS	
Current	
Interest in state general fund investment pool	\$ 5,330,668
Cash in authorized bank account	1,900
Petty cash	1,000
Due from employees, net	13,525
Due from local governments	137,329
Accounts receivable, net	99,446
Other receivables	1,600
Total current assets	<u>5,585,468</u>
Noncurrent assets:	
Capital assets, net of depreciation	<u>515,802</u>
Total assets	<u><u>\$ 6,101,270</u></u>
LIABILITIES	
Current	
Accounts payable	\$ 3,011,934
Accrued payroll and taxes	1,314,357
Due to state general fund	101,371
Compensated absences payable	<u>1,201,760</u>
Total current liabilities	<u>5,629,422</u>
Long-term liabilities	
Compensated absences payable	<u>160,861</u>
Total liabilities	<u>5,790,283</u>
NET POSITION (DEFICIT)	
Net investment in capital assets	515,802
Restricted:	
Special appropriations	751,593
Automation systems	559,659
Unrestricted	<u>(1,516,067)</u>
Total net position (deficit)	<u><u>\$ 310,987</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
Year ended June 30, 2019**

	<u>Governmental Activities</u>
EXPENSES	
General government	
Current	
Personal services and employee benefits	\$ 32,635,482
Contractual services	14,858,070
Other	5,477,861
Depreciation expense	<u>21,525</u>
Total expenses	<u>52,992,938</u>
REVENUES	
Program Revenues	
Charges for services	<u>437,777</u>
Total program revenues	<u>437,777</u>
Net program (expense) revenues	<u>(52,555,161)</u>
General Revenues	
General Fund appropriations	52,019,000
General Fund appropriations, supplemental	1,697,700
Other revenue	1,496
Reversion to state general fund - FY19	<u>(34,969)</u>
Total general revenues	<u>53,683,227</u>
Change in net position	1,128,066
Net position, beginning of year	<u>(817,079)</u>
Net position (deficit), ending	<u><u>\$ 310,987</u></u>

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

FUND FINANCIAL STATEMENTS

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
BALANCE SHEETS – GOVERNMENTAL FUNDS
June 30, 2019**

	General Fund (SHARE 17510 AND 75310)	Automation Special Revenue Fund (SHARE 75910)	Total Governmental Funds
Assets			
Interests in SGFIP	\$ 4,772,216	558,452	\$ 5,330,668
Cash in authorized bank account	-	1,900	1,900
Petty cash	1,000	-	1,000
Due from employees, net	13,525	-	13,525
Due from local governments	137,329	-	137,329
Accounts receivable, net	99,446	-	99,446
Other receivables	1,600	-	1,600
	<u>4,772,216</u>	<u>558,452</u>	<u>5,330,668</u>
Total assets	\$ 5,025,116	560,352	\$ 5,585,468
Liabilities			
Accounts payable	\$ 3,011,241	693	\$ 3,011,934
Accrued payroll and taxes	1,314,357	-	1,314,357
Due to state general fund	101,371	-	101,371
	<u>3,011,241</u>	<u>693</u>	<u>3,011,934</u>
Total liabilities	4,426,969	693	4,427,662
Fund Balances			
Fund balances :			
Nonspendable	1,000	-	1,000
Restricted:			
Special appropriations	751,593	-	751,593
Purchase and maintenance of automation systems	-	559,659	559,659
Unassigned (Deficit)	(154,446)	-	(154,446)
	<u>1,000</u>	<u>559,659</u>	<u>1,000</u>
Total fund balances (Deficit)	598,147	559,659	1,157,806
Total liabilities and fund balances	\$ 5,025,116	560,352	\$ 5,585,468

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 SHEETS
TO THE GOVERNMENT-WIDE STATEMENT OF NET POSITION (DEFICIT)
June 30, 2019**

Total fund balance - Governmental funds \$ 1,157,806

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:

Property, plant and equipment	\$	890,648	
Accumulated depreciation		<u>(374,846)</u>	515,802

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>(1,362,621)</u>	
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Net position of governmental activities	\$	<u>310,987</u>	
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The Notes to the Financial Statements are an integral part of this statement.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES (DEFICIT) – GOVERNMENTAL FUNDS
Year ended June 30, 2019**

	General Fund (SHARE 17510 AND 75310)	Automation Special Revenue Fund (SHARE 75910)	Total Governmental Funds
Revenues			
Application fees	\$ -	168,602	\$ 168,602
Other state funds - legal services	269,175	-	269,175
Total revenues	<u>\$ 269,175</u>	<u>168,602</u>	<u>\$ 437,777</u>
Expenditures			
General government:			
Current:			
Personal services and employee benefits	\$ 32,550,163	-	\$ 32,550,163
Contractual services	14,804,259	53,811	14,858,070
Other	5,370,740	107,121	5,477,861
Capital outlay	475,647	-	475,647
Total expenditures	<u>53,200,809</u>	<u>160,932</u>	<u>53,361,741</u>
Excess (deficiency) of revenues over expenditures	<u>(52,931,634)</u>	<u>7,670</u>	<u>(52,923,964)</u>
Other financing sources (uses):			
General Fund appropriations	52,019,000	-	52,019,000
General Fund appropriations, supplemental	1,697,700	-	1,697,700
Other revenue	1,496	-	1,496
Reversions	(34,969)	-	(34,969)
Total other financing sources (uses)	<u>53,683,227</u>	<u>-</u>	<u>53,683,227</u>
Net Change in Fund Balances	751,593	7,670	759,263
Fund balance (deficit), beginning of year,	<u>(153,446)</u>	<u>551,989</u>	<u>398,543</u>
Fund balance, end of year	<u>\$ 598,147</u>	<u>559,659</u>	<u>\$ 1,157,806</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, 2019**

Net change in fund balance - Governmental Funds	\$ 759,263
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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	(21,525)
Capital outlay	475,647

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	<u>(85,319)</u>
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Change in net position of governmental activities	<u><u>\$ 1,128,066</u></u>
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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 (BUDGETARY BASIS) – GENERAL FUND
Year ended June 30, 2019**

	General Fund-17510 (P850, ZD6011, ZD5026, ZD9374, ZD5025)			
	Original Approved Budget	Final Approved Budget	Actual (Budgetary Basis)	Variance with Final Budget Positive (Negative)
REVENUES AND OTHER FINANCING SOURCES				
General fund appropriation	\$ 50,432,000	50,432,000	50,432,000	\$ -
General Fund appropriations, supplemental	2,397,700	2,397,700	2,397,700	-
General fund appropriations, multi-year	887,000	887,000	887,000	-
Other state funds - legal services	-	291,954	269,175	(22,779)
Total revenues and other financing sources	\$ 53,716,700	54,008,654	53,985,875	\$ (22,779)
EXPENDITURES AND OTHER FINANCING USES				
Personal services and employee benefits	\$ 33,022,200	32,556,200	32,550,163	\$ 6,037
Contractual services	14,672,200	14,964,154	14,804,259	159,895
Other	6,022,300	6,488,300	5,846,387	641,913
Total expenditures and other financing uses	\$ 53,716,700	54,008,654	53,200,809	\$ 807,845
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES			785,066	
Reconciliation to GAAP basis				
Reversions to state general fund			(34,969)	
Other revenues not budgeted			1,496	
NET CHANGE IN FUND BALANCE			\$ 751,593	

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 (BUDGETARY BASIS) –
AUTOMATION SPECIAL REVENUE FUND (75910)
Year ended June 30, 2019**

<u>Automation Special Revenue Fund - 75910 (P-850)</u>				
	<u>Original Approved Budget</u>	<u>Final Approved Budget</u>	<u>Actual (Budgetary Basis)</u>	<u>Variance with Final Budget Positive (Negative)</u>
REVENUES AND OTHER FINANCING SOURCES				
Application fees	\$ 275,000	275,000	168,602	\$ (106,398)
Total revenues and other financing sources	<u>\$ 275,000</u>	<u>275,000</u>	<u>168,602</u>	<u>(106,398)</u>
EXPENDITURES AND OTHER FINANCING USES				
Contractual services	\$ 75,000	75,000	53,811	\$ 21,189
Other	200,000	200,000	107,121	92,879
Total expenditures and other financing uses	<u>\$ 275,000</u>	<u>275,000</u>	<u>160,932</u>	<u>\$ 114,068</u>
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES			<u>\$ 7,670</u>	

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

NOTES TO FINANCIAL STATEMENTS

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

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.

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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Financial Reporting Entity (Continued)

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 evaluate 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 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. The Public Defender Department has no component units. Other Executive Branch entities of government are excluded because they are established separately by statutes.

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.

Government-wide statements 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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Basis of Presentation (Continued)

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.

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 and SHARE Fund #75310-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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Basis of Presentation (Continued)

General Fund (Continued)

This fund is also 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 has been 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, and are therefore not considered revenues of the Department. These activities were previously presented in a separate, fiduciary agency-type fund (Agency Fund, SHARE Fund #75310-reverting). In fiscal year 2018, the Department implemented the New Mexico Department of Finance and Administration's Accounting Policy Statement Four – Custodial Funds. Accounting Policy Statement Four prescribes statewide changes in accounting policy that required the reclassification of the Department's SHARE Fund #75310 from a separate fiduciary, agency-type fund to a subdivision of the General Fund. The title of SHARE Fund #75310 has been changed to Public Defender Client Payment Fund. A combining schedule showing detail of the activities accounted for in SHARE Fund #17510-reverting (General Fund) and SHARE Fund #75310-reverting (Public Defender Client Payment Fund) is presented on pages 37-38.

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.

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.

The government-wide and the fiduciary financial statements are presented using the economic resources measurement focus and the accrual basis of accounting. 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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Basis of Accounting (Continued)

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.

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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Budgets and Budgetary Accounting (Continued)

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

1. By September 1st, the 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 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 program (P-Code) level of the Department as a whole and changes are approved by DFA.
7. The Department's budget for the fiscal year ending June 30, 2018 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.
9. The budgets for the General and Special Revenue Funds are adopted on a modified accrual basis per the General Appropriation Act, Laws of 2018. For the year ended June 30, 2019, 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.

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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Encumbrances/Contract Attorney Contracts (Continued)

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, 2019, there were no multi-year encumbrances. However, the Department's contract attorney contract 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.

Multi-Year Budget

Each year the Legislature approves multiple year appropriations, which the State considers as continuing appropriations. The Legislature authorizes these appropriations for two to five years; however, it does not identify the authorized amount by fiscal year. Consequently, the appropriation is budgeted in its entirety the first year the Legislature authorizes it. The unexpended portion of the budget is carried forward as the next year's beginning budget balance until either the project period has expired or the appropriation has been fully expended. The budget presentations in these financial statements are consistent with this budgeting methodology.

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.

Receivables

All receivables are reported at their gross value and where appropriate, are reduced by the estimated portion that is expected to be uncollectible.

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 and Section 2.2.2.10.W NMAC, the Department capitalizes assets with a cost of \$5,000 or greater. Assets capitalized under previous lower thresholds were fully depreciated and have been removed from the capital asset listing. 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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Capital Assets (Continued)

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

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 compensatory 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, 2019, the dollar value of compensatory time owed to employees was \$27,346 and is included in compensated absences payable reported on the statement of net position.

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).

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

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.

Reversions

Reverting funds are all funds that are not identified 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.

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 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

Consists 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.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Fund Balance Classifications (Continued)

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.

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) of \$559,659 is considered restricted at year end, all of which is restricted by enabling legislation.

The general fund reports nonspendable fund balance for petty cash totaling \$1,000. The unexpended portion of multi-year special appropriations received in the year ended June 30, 2019 totaling \$751,593 are restricted by enabling legislation, and thus are reported as restricted. The general fund also reports an unassigned deficit fund balance in the amount of (\$154,446). 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

Net Position

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

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Net Position (Continued)

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.

Use of Estimates

The preparation of financial statements in conformity with US GAAP requires management to make estimates 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

As provided for in Chapter 8 Article 6 of the New Mexico Statutes Annotated 1978, the State Treasurer shall receive and keep all monies of the state, except when otherwise provided, and shall disburse the public money upon lawful warrants. The State Treasurer's Office (STO) acts as the state's bank. Agency cash receipts are deposited with STO and pooled in a statewide investment fund, when amounts are greater than immediate needs they are placed into short-term investments. When agencies make payments to vendors and employees they are made from this pool and their claims on the pool reduced.

The comprehensive cash reconciliation model which compares aggregated agency claims on the State General Fund Investment Pool to the associated resources held by the State Treasurer's Office is performed monthly. This process has been reviewed multiple times by the IPAs performing audits of the State General Fund, the Department of Finance and Administration and the State of New Mexico's Comprehensive Annual Financial Report. The reviews have deemed the process to be sound and the Department is fully compliant with the requirements of the monthly process.

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, 2019, review the State Treasurer's Investment Policy at <http://www.nmsto.gov/> reports-

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 3. INTEREST IN STATE GENERAL FUND INVESTMENT POOL (CONTINUED)

and-resources 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 two individual special revenue fund checking account balances did not exceed \$250,000, they are fully insured by the Federal Deposit Insurance Corporation (FDIC) and pledged collateral is not required. Accounts of the Department at June 30, 2019 are as follows:

	<u>Fund No.</u>	<u>Account Type</u>	<u>Balance per Depository</u>	<u>Outstanding Checks</u>	<u>Balance per Financial Statements</u>
State Treasurer					
Operating - General	280-175	SGFIP	\$ 4,770,291	-	\$ 4,770,291
PD Client payment - General	280-753	SGFIP	1,925	-	1,925
Automation - Special Revenue	280-759	SGFIP	558,452	-	558,452
Centinel Bank of Taos -					
Special Revenue	N/A	Checking	540	-	540
Citizens Bank in Aztec -					
Special Revenue	N/A	Checking	1,360	-	1,360
Petty Cash			1,000	-	1,000
Total cash on deposit and petty cash			<u>\$ 5,333,568</u>	<u>-</u>	<u>\$ 5,333,568</u>

NOTE 4. RECEIVABLES

Accounts receivable, net (75310 - Public Defender Client Payment Fund)

Section 31-15-7 NMSA 1978 requires the Chief Public Defender to "provide for the collection of 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 indigency adopted by the department." The law further requires that any amounts recovered shall be paid to the State Treasurer for credit to the State General Fund. Effective April 1, 2018, the Chief Public Defender enacted the "Chief's Policy Regarding Departmental Representation of Non-Indigent Defendants by Contract". The policy raised the income threshold used to determine indigency and discontinued the historical practice of entering into reimbursement contracts with non-indigent clients.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 4. RECEIVABLES (CONTINUED)

The Public Defender Client Payment Fund accounts receivable, net consists 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. Management has established an allowance for uncollectible accounts. Management's estimate of the uncollectible accounts is based on the total value of outstanding amounts due from clients that made no payments in the last four months (120 days) of the fiscal year. Management's policy is to refer accounts that have no payments for 120 days to an outside collection agency and concurrently establish an allowance for uncollectible accounts.

Accounts receivable, net consists of the following:

Fund 75310 (Public Defender Client Payment Fund - reverting)

Accounts receivable	\$ 35,799,542
Less: Allowance for uncollectable receivables	<u>(35,700,096)</u>
Accounts receivable, net	<u><u>\$ 99,446</u></u>

Due from employees, net

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 \$14,704), that were not initially withheld from employees' paychecks. Only the former employee payroll overpayments, (\$1,179) are considered uncollectible. The net amount receivable is \$13,525.

Due from local governments

This represents \$137,329 due from Bernalillo County for services provided by the Department related to an intergovernmental agreement between the County of Bernalillo and the Department.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 5. CHANGES IN CAPITAL ASSETS

A summary of changes in capital assets is as follows:

	Balance			Balance
	July 1, 2018	Additions	Deletions	June 30, 2019
Machinery and equipment	\$ 110,423	-	-	\$ 110,423
Accumulated depreciation	(110,423)	-	-	(110,423)
Data processing equipment	284,578	475,647	-	760,225
Accumulated depreciation	(232,732)	(19,525)	-	(252,257)
Furniture and fixtures	20,000	-	-	20,000
Accumulated depreciation	(10,166)	(2,000)	-	(12,166)
Totals	\$ 61,680	454,122		\$ 515,802

There is no debt related to capital assets. Depreciation expense for the year was \$21,525.

NOTE 6. REVERSION AND DUE TO/FROM 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 2019 unexpected balance, Org P850	\$ 28,039
FY 2019 miscellaneous revenue	1,496
FY 2018 accounts payable no longer available to pay against FY18	5,434
Reversions submitted by September 30, 2019	<u>(34,969)</u>
Total Due to (from) State General Fund	<u><u>\$ -</u></u>

The amount due to the State General Fund (Agency 34101, Fund 85300) from the Public Defender Client Payment Fund is composed of the following:

Accounts receivable, net	\$ 99,446
Interest in SGFIP	<u>1,925</u>
Due to State General Fund	<u><u>\$ 101,371</u></u>

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 7. UNION BACK PAY SETTLEMENT ISSUE

As of June 30, 2014, the Department of Finance and Administration (DFA) had begun 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.

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 10,700 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 FY 2016, 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 mandated a reversion of \$225,100 from the Department, leaving a balance of \$11,083. This amount was included in accounts payable at June 30, 2018.

On September 15, 2018, DFA processed the Department's final union settlement back pay payments totaling \$71,268. The \$11,083 amount included in accounts payable at June 30, 2018 was relieved, and the remaining \$60,184 was charged to FY19 payroll expense.

NOTE 8. 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, 2019 were \$2,835,521 and \$135,921, respectively. The Department also leases multiple vehicles on a semi-annual or annual basis and other short-term vehicles as needed. Total vehicle lease expense was \$123,430.

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 9. COMPENSATED ABSENCES PAYABLE

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

	Balance July 1, 2018	Additions	Reductions	Balance June 30, 2019	Due Within One Year
Compensated Absences Payable	\$ 1,277,302	1,287,080	(1,201,761)	1,362,621	\$ 1,201,760

The liability at June 30, 2019 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 10. 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. The report is available on PERA's website at www.pera.state.nm.us.

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, 2019, 2018 and 2017 were \$3,882,118, \$3,592,383, and \$3,391,491, 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

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 10. PERA PENSION PLAN

Funding Policy (Continued)

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 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 11. POST-EMPLOYMENT BENEFITS –STATE RETIREE HEALTH CARE PLAN

Plan Description

The 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.

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

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

**NOTE 11. POST-EMPLOYMENT BENEFITS –STATE RETIREE HEALTH CARE PLAN
(CONTINUED)**

Funding Policy (Continued)

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 www.nmrhca.org.

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, 2015, 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.

For employees that were not members of an enhanced retirement plan during the fiscal year ended June 30, 2018, 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, 2013, 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, 2019, 2018 and 2017 were \$456,935, \$423,005 and \$398,533, respectively, which equal the required contributions for each fiscal year.

The Public Defender Department, as part of the primary government of the State of New Mexico, is a contributing employer to a cost-sharing multiple-employer defined benefit postemployment health care plan that provides comprehensive group health insurance for persons who have retired from certain public service positions in New Mexico. The other postemployment benefits (OPEB)

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

**NOTE 11. POST-EMPLOYMENT BENEFITS –STATE RETIREE HEALTH CARE PLAN
(CONTINUED)**

Funding Policy (Continued)

Plan is administered by the Retiree Health Care Authority of the State of New Mexico. Overall, total OPEB liability exceeds OPEB Plan net position resulting in a net OPEB liability. The State has determined the State's share of the net OPEB liability to be a liability of the State as a whole, rather than any agency or department of the State and the liability will not be reported in the department or agency level financial statements of the State. All required disclosures will be presented in the Comprehensive Annual Financial Report (CAFR) of the State of New Mexico.

Information concerning the net liability, benefit expense, and benefit-related deferred inflows and deferred outflows of resources of the primary government will be contained in the State of New Mexico Comprehensive Annual Financial Report (CAFR) for the year ended June 30, 2019 and will be available, when issued, from the Office of the State Controller, Room 166, Bataan Memorial Building, 407 Galisteo Street, Santa Fe, New Mexico, 87501.

NOTE 12. 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, 2019**

NOTE 13. INTERAGENCY TRANSFERS

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

	Transfer From	Transfer To
State General Fund (Agency No. 34101, Fund 85300)	\$ 52,019,000	
Department's General Fund (Agency No. 28000, Fund 17510) Purpose: General Fund appropriation FY 2019		\$ 52,019,000
State General Fund (Agency No. 34100, Fund 62000)	\$ 1,697,700	
Department's General Fund (Agency No. 28000, Fund 17510) Purpose: General Fund compensation package		\$ 1,697,700
Department's General Fund		

NOTE 14. OTHER REQUIRED INDIVIDUAL FUND DISCLOSURES

Generally accepted accounting principles require disclosures as part of the Combined Statements of certain information concerning individual funds including:

Deficit fund balance of individual funds. The following funds reported a deficit fund balance at June 30, 2019:

<u>Fund No.</u>	<u>Fund Description</u>	<u>Deficit Amount</u>
17510	General Fund	\$ (154,446)

NOTE 15. SUBSEQUENT EVENTS

The Department has evaluated subsequent events through October 15, 2019, 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
NOTES TO FINANCIAL STATEMENTS
June 30, 2019**

NOTE 16. RECENT ACCOUNTING PRONOUNCEMENTS

The Department evaluated the following Governmental Accounting Standards Board Statements (GASBS) which became effective in the year ended June 30, 2019:

In November 2016, the GASB issued Statement No. 83, *Certain Asset Retirement Obligations*. The requirements of this Statement are effective for reporting periods beginning after June 15, 2018 (FY 2019). Earlier application is encouraged. This statement is not applicable to the Department.

In March 2018, the GASB issued Statement No. 88, *Certain Disclosures Related to Debt, including Direct Borrowings and Direct Placements*. The requirements of this Statement are effective for reporting periods beginning after June 15, 2018 (FY 2019). Earlier application is encouraged. This Statement applies to notes to financial statements of all periods presented. This statement is not applicable to the Department.

The following standards have been issued but have future implementation dates:

In January 2017, the GASB issued Statement No. 84, *Fiduciary Activities*. The requirements of this Statement are effective for reporting periods beginning after December 15, 2018 (FY 2020). Earlier application is encouraged. This statement is not applicable to the Department.

In June 2017, the GASB issued Statement No. 87, *Leases*. The provisions of this Statement are effective for reporting periods beginning after December 15, 2019 (FY 2021). Earlier application is encouraged. This statement is applicable to the Department and will be implemented in a subsequent period.

In June 2018, the GASB issued Statement No. 89, *Accounting for Interest Cost Incurred before the End of a Construction Period*. The requirements of this Statement are effective for reporting periods beginning after December 15, 2019 (FY 2021). Earlier application is encouraged. This statement is not applicable to the Department.

In August 2018, the GASB issued Statement No. 90, *Majority Interests in an amendment of GASB Statements No. 14 and No. 6*. The requirements of this statement are effective for periods beginning after December 15, 2018 (FY 2020). Earlier application is encouraged. This statement is not applicable to the Department.

SUPPLEMENTARY INFORMATION

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
SCHEDULE OF GENERAL FUND COMPONENTS
BALANCE SHEET - GENERAL FUND
June 30, 2019**

	General Fund (SHARE 17510)	Public Defender Client Payment Fund (SHARE 75310)	Total General Fund
Assets			
Interests in SGFIP	\$ 4,770,291	1,925	\$ 4,772,216
Petty cash	1,000	-	1,000
Due from employees, net	13,525	-	13,525
Due from local governments	137,329	-	137,329
Accounts receivable, net	-	99,446	99,446
Other receivables	1,600	-	1,600
	<u>4,923,745</u>	<u>101,371</u>	<u>\$ 5,025,116</u>
Total assets	<u>\$ 4,923,745</u>	<u>101,371</u>	<u>\$ 5,025,116</u>
Liabilities			
Accounts payable	\$ 3,011,241	-	\$ 3,011,241
Accrued payroll and taxes	1,314,357	-	1,314,357
Due to state general fund	-	101,371	101,371
	<u>4,325,598</u>	<u>101,371</u>	<u>4,426,969</u>
Total liabilities	<u>4,325,598</u>	<u>101,371</u>	<u>4,426,969</u>
Fund Balances			
Fund balances :			
Nonspendable	1,000	-	1,000
Restricted - special appropriations	751,593	-	751,593
Unassigned (deficit)	(154,446)	-	(154,446)
	<u>598,147</u>	<u>-</u>	<u>598,147</u>
Total fund balances (deficit)	<u>598,147</u>	<u>-</u>	<u>598,147</u>
Total liabilities and fund balances (deficit)	<u>\$ 4,923,745</u>	<u>101,371</u>	<u>\$ 5,025,116</u>

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
SCHEDULE OF GENERAL FUND COMPONENTS
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES - GENERAL FUND
Year ended June 30, 2019**

	General Fund (SHARE 17510)	Public Defender Client Payment Fund (SHARE 75310)	Total General Fund
Revenues			
Other state funds - legal services	\$ 269,175	-	\$ 269,175
Total revenues	<u>\$ 269,175</u>	<u>-</u>	<u>\$ 269,175</u>
Expenditures			
General government:			
Current:			
Personal services and employee benefits	\$ 32,550,163	-	\$ 32,550,163
Contractual services	14,804,259	-	14,804,259
Other	5,370,740	-	5,370,740
Capital outlay	475,647	-	475,647
Total expenditures	<u>53,200,809</u>	<u>-</u>	<u>53,200,809</u>
Excess (deficiency) of revenues over expenditures	<u>(52,931,634)</u>	<u>-</u>	<u>(52,931,634)</u>
Other financing sources (uses):			
General Fund appropriations	52,019,000	-	52,019,000
General Fund appropriations, supplemental	1,697,700	-	1,697,700
Other revenue	1,496	-	1,496
Reversions	(34,969)	-	(34,969)
Total other financing sources (uses)	<u>53,683,227</u>	<u>-</u>	<u>53,683,227</u>
Net Change in Fund Balances (deficit)	751,593	-	751,593
Fund balance, beginning of year,	<u>(153,446)</u>	<u>-</u>	<u>(153,446)</u>
Fund balance, ending (deficit)	<u>\$ 598,147</u>	<u>-</u>	<u>\$ 598,147</u>

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
STATEMENT OF REVENUES, EXPENDITURES – BUDGET AND
ACTUAL (BUDGETARY BASIS) BY PROGRAM P850
Year ended June 30, 2019**

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	\$ 50,432,000	50,432,000	50,432,000	\$ -
General Fund appropriations, supplemental	1,697,700	1,697,700	1,697,700	-
Application fees	275,000	275,000	168,602	(106,398)
Other state funds - legal services	-	291,954	269,175	(22,779)
Total revenues and other financing sources	\$ 52,404,700	52,696,654	52,567,477	\$ (129,177)
EXPENDITURES OTHER FINANCING USES				
Personal services and employee benefits	\$ 33,022,200	32,556,200	32,550,163	\$ 6,037
Contractual services	13,890,200	14,182,154	14,117,074	65,080
Other	5,492,300	5,958,300	5,859,097	99,203
Total expenditures and other financing uses	\$ 52,404,700	52,696,654	52,526,334	\$ 170,320
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES			41,143	
Reconciliation to GAAP basis				
Reversions to state general fund			(34,969)	
Other revenues not budgeted			1,496	
NET CHANGE IN FUND BALANCE			\$ 7,670	

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
STATEMENT OF REVENUES AND EXPENDITURES
BUDGET AND ACTUAL (BUDGETARY BASIS) GENERAL FUND
BY APPROPRIATION
Year ended June 30, 2019**

	<u>Original Approved Budget</u>	<u>Final Approved Budget</u>	<u>Actual (Budgetary Basis)</u>	<u>Variance with Final Budget Positive (Negative)</u>
ZD5026				
REVENUES				
General fund appropriations,				
multi-year	\$ 730,000	730,000	730,000	\$ -
Total revenues	<u>\$ 730,000</u>	<u>730,000</u>	<u>730,000</u>	<u>\$ -</u>
EXPENDITURES				
Contractual services	\$ 730,000	730,000	94,411	\$ 635,589
Total expenditures	<u>\$ 730,000</u>	<u>730,000</u>	<u>94,411</u>	<u>\$ 635,589</u>
ZD6011				
REVENUES				
General fund appropriations,				
supplemental	\$ 700,000	700,000	700,000	\$ -
Total revenues	<u>\$ 700,000</u>	<u>700,000</u>	<u>700,000</u>	<u>\$ -</u>
EXPENDITURES				
Contractual services	\$ 700,000	700,000	700,000	\$ -
Total expenditures	<u>\$ 700,000</u>	<u>700,000</u>	<u>700,000</u>	<u>\$ -</u>
ZD9374				
REVENUES				
General fund appropriations,				
multi-year	\$ 157,000	157,000	157,000	\$ -
Total revenues	<u>\$ 157,000</u>	<u>157,000</u>	<u>157,000</u>	<u>\$ -</u>
EXPENDITURES				
Contractual services	\$ 157,000	157,000	40,996	\$ 116,004
Total expenditures	<u>\$ 157,000</u>	<u>157,000</u>	<u>40,996</u>	<u>\$ 116,004</u>
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES			<u>\$ 751,593</u>	

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
SCHEDULE OF SPECIAL APPROPRIATIONS
June 30, 2019**

Department	Appropriation Amount	2019 Budget	2019 Expenses	from Inception to June 30, 2019	2019 Reversion Amount	Balance as of June 30, 2019	Expiration Date
ZD5026	\$ 730,000	730,000	94,411	94,411	-	\$ 635,589	6/30/2020
ZD6011	700,000	700,000	700,000	700,000	-	-	6/30/2019
ZD9374	157,000	157,000	40,996	40,996	-	116,004	6/30/2020
	<u>\$ 1,587,000</u>	<u>1,587,000</u>	<u>835,407</u>	<u>835,407</u>	<u>-</u>	<u>\$ 751,593</u>	

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
SCHEDULE OF INTERGOVERNMENTAL AGREEMENT
Year ended June 30, 2019**

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, 2018 to June 30, 2019

Total amount of project:

\$ 269,175

Amount applicable to the Public Defender Department:

\$ 269,175

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.

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

Type	Measure	FY19 Target	FY19 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.					
Output	Number of alternative sentencing treatment placements for felony, misdemeanor and juvenile clients	5,000	13990	<input checked="" type="checkbox"/>	Target Met
Quality	Percent of felony cases resulting in a reduction of original formally filed charges	70%	80%	<input checked="" type="checkbox"/>	Target met
Quality	Percent of misdemeanor cases resulting in a reduction of the original formally filed charges	80%	88%	<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 reduce caseloads and provide effective assistance of counsel to meet targets.
Output	Number of alternative sentencing treatment placements in felony, misdemeanor and juvenile cases	5,000	12,821	<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	1,169	<input checked="" type="checkbox"/>	Target Met
Explanatory	Percent of cases with non-indigent clients in which reimbursement is collected			<input type="checkbox"/>	
Explanatory	Percent of total cases taken by contract attorneys reported by county			<input type="checkbox"/>	
Output	Average cases assigned to attorneys yearly	330	226	<input checked="" type="checkbox"/>	The goal is to keep caseloads down and because we have improved retention, and standardized data entry, LOPD has successfully kept caseloads under the target.
Output	Average time to case disposition, in months	6	6	<input checked="" type="checkbox"/>	Target Met

COMPLIANCE SECTION



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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 Auditors' Report

Bennett J. Baur, Chief Public Defender,
State of New Mexico Public Defender Department
and
Brian S. Colón, Esq
New Mexico State Auditor

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, 2019, 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 15, 2019.

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.

Ricci & Company, LLC

Albuquerque, New Mexico
October 15, 2019

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
SUMMARY SCHEDULE OF FINDINGS AND RESPONSES
Year ended June 30, 2019**

SECTION 1 – SUMMARY OF AUDITOR RESULTS

Type of report issued:	Unmodified
Internal Controls over Financial Reporting:	
Material weaknesses reported?	No
Significant deficiencies reported?	No
Noncompliance material to the financial statements noted?	No

SECTION 2 - SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS

None

SECTION 3 - CURRENT YEAR FINDINGS AND RESPONSES

None

**STATE OF NEW MEXICO
PUBLIC DEFENDER DEPARTMENT
EXIT CONFERENCE
Year ended June 30, 2019**

EXIT CONFERENCE

An exit conference was held on October 15, 2019, to discuss the annual financial report.

Attending were the following:

Representing the Public Defender Department:

Bennett J. Baur, Chief Public Defender
Cyndi J. Sanchez, Deputy Chief Public Defender for Administration
Dorella Molina, CFO
Kelley Koehler, Accountant / Auditor

Representing Ricci & Company LLP:

Mark Santiago, CPA, Senior Audit Manager

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.