



Secretary of State Audit Report

Oregon Judicial Department: Indigent Defense Eligibility and Fee Determinations

Summary

PURPOSE

This audit report focuses on the Oregon Judicial Department's role in administering the state's indigent defense program. Our audit objectives were to determine:

- Whether people who received court-appointed counsel met financial eligibility requirements;
- Whether verification specialists recommended application and contribution fees consistent with department guidelines;
- The extent to which judges' decisions regarding appointing counsel and assessing application and contribution fees differed from verification specialists' recommendations and the general reasons for these differences; and
- Judges' recoupment practices for defendants who receive court-appointed counsel.

In order to answer these audit objectives, we reviewed a sample of 203 adult felony and misdemeanor cases in which defendants received court-appointed counsel during October through December 2004.

BACKGROUND

The Oregon Judicial Department (department) is responsible for determining whether applicants for court-appointed counsel meet financial eligibility requirements. Department staff called verification specialists does this by reviewing information applicants provide about their income, assets, and expenses. Verification specialists also determine whether those found eligible for court-appointed counsel are able to pay an application fee and contribute an amount toward the cost of their defense. Judges have the final say as to eligibility, application fees, and contribution amounts. Judges are also responsible for considering, at the end of a case, whether a defendant's financial circumstances have changed such that an additional amount can be recouped to further offset defense costs.

RESULTS IN BRIEF

Eligibility

Applicants who received court-appointed counsel did not always meet financial eligibility requirements. Based on our analysis, defendants were ineligible for these services in about 10 percent of the cases we reviewed. In 5.5 percent of cases, defendants' available resources exceeded eligibility guidelines. In most of these cases, verification specialists incorrectly determined defendants' household income, liquid assets and/or allowable expenses when screening them for eligibility. Our review of wage data showed that in an additional 4.5 percent of cases, defendants earned more than they declared when applying for court-appointed counsel. We estimate that the total net cost to the state of providing indigent defense to ineligible defendants ranged from about \$307,000 to \$608,000 during the last quarter of 2004. Assuming this was an average quarter, and if no changes were made to the program, annual net costs would range from \$1.2 million to \$2.4 million in a year, depending on the department's collection results.

Application and Contribution

We also found that verification specialists did not consistently follow department guidelines when recommending application and contribution fees. They deviated from the application fee guidelines in about 7 percent of the cases we reviewed. In half of these cases, verification specialists recommended that defendants without sufficient resources pay the \$20 application fee. In the other half, they failed to recommend that defendants with ample resources pay the fee.

Verification specialists deviated from contribution guidelines in about 9 percent of the cases we reviewed. In 2 percent of cases, they recommended amounts exceeding the defendant's ability to pay, while in about 7 percent they should have recommended greater amounts.

We estimate the net effect of not following the guidelines was about \$214,000 in contribution amounts that could have been recommended during the last quarter of 2004.

By using wage data, we identified an additional 1 percent of cases in which defendants could have paid the application fee and an additional 1.5 percent in which they could have contributed to defense costs. These additional cases represent about \$69,000 in application fees and contribution amounts defendants could have paid during the last quarter of 2004.

Our estimate of the combined annual total of forgone contribution amounts and application fees is about \$885,000.

Judges and Verification Specialists' Recommendations

Judges' decisions regarding appointing counsel and assessing application and contribution fees rarely differed from verification specialists' recommendations. Specifically, judges' decisions differed from verification specialists' recommendations in about 1 percent of our sample cases.

Recoupment

We also found that most judges imposed recoupment. Specifically, we surveyed 16 judges from various judicial districts in Oregon and found that 14 of them consistently imposed recoupment.

RECOMMENDATIONS

We recommend the department take the following actions:

- Ensure that verification specialists understand and follow guidelines in the areas of determining defendants' income, assets, allowable expenses and household size. Periodic training and monitoring compliance with guidelines should help in this regard.
- Consider increasing the use of the eligibility worksheet. Also, consider automating the screening process. For example, verification specialists could interview defendants and complete the Affidavit of Eligibility electronically. They could then print a copy and provide it to defendants for review and signature, as we noticed verification specialists do in Lane County for out-of-custody defendants. The affidavit could be linked to the eligibility worksheet so that information is automatically entered into the worksheet and processed to determine a defendant's eligibility and ability to pay the application fee and a contribution amount. This has the potential to improve the accuracy of recommendations and reduce processing time.
- Determine whether it would be cost effective to verify income for additional defendants using the most recent wage data available. If so, and these data indicate a defendant may be ineligible, use additional sources of information to confirm income. This has the potential to improve the accuracy of verification specialists' recommendations regarding eligibility, application fees, and contribution amounts.

AGENCY'S RESPONSE

The Oregon Judicial Department generally agrees with the recommendations. The department's complete response begins on page 7.

Background

According to the United States Constitution, the Oregon Constitution, and Oregon statutes, indigent defendants are entitled to adequate legal representation in a court of law at state expense. In Oregon, a person is financially eligible for court-appointed counsel if he or she is "... unable to retain adequate counsel without substantial hardship in providing basic economic necessities to the person or the person's dependant family..." (ORS 151.485)

Two state agencies administer Oregon's indigent defense program: the Office of Public Defense Services (OPDS) and the Oregon Judicial Department (department). OPDS oversees the contracts that provide legal

representation to indigent defendants and processes requests for payments of non-contract fees and expenses. In addition, OPDS staff attorneys represent indigent defendants in the majority of appellate court cases. The department is responsible for administering the Eligibility Verification Program, the Application and Contribution Program (ACP), and recoupment of attorney fees.

Established in 1989, the Eligibility Verification Program was meant to ensure that ineligible people did not receive counsel at state expense. Today, the program consists of verification specialists who review information applicants provide about income, assets, debts, expenses and dependants on a document called the Affidavit of

Eligibility. This process is known as "screening." In addition, verification specialists use their professional judgment to select some defendants for whom they further evaluate eligibility for court-appointed counsel. In order to accomplish this, they check the accuracy of the information defendants provide on the Affidavit of Eligibility by accessing various sources of information, such as bank statements, county property records, income information, casino and lottery winnings, etc. This process is known as "verification." According to data in our audit sample, verification specialists verified about 3 percent of all cases in which defendant received court-appointed counsel during the last quarter of 2004.

Using information collected through screening and verification, verification specialists make recommendations to judges regarding applicants' eligibility for court-appointed counsel.

Verification specialists are also responsible for implementing the Application and Contribution Program. This program was established as early as 1997 in some Oregon counties, but was not implemented statewide until the 2003-2005 biennium. Under the program, verification specialists determine if applicants eligible for court-appointed counsel have the ability to pay a \$20 application fee and contribute some amount toward defense costs. Funds generated through the program, along with some general-fund money, support the Eligibility Verification Program. According to the department, funds collected through the program reached \$1.8 million during the 2003-05 biennium.

In order to assist with eligibility determinations, the OPDS formulated guidelines and created forms, which are contained in a verification manual. The guidelines address how to determine a person's income, liquid assets, household size, and allowable expenses. In determining eligibility, verification specialists are to subtract allowable expenses from household income and liquid assets, and compare the result to the cost of hiring private defense as listed on a privately hired attorney fee schedule. If available resources exceed the cost of private defense, they are to recommend against appointing counsel. However, if available resources are less than the cost of private defense, the verification specialist should recommend appointing counsel and should determine if the defendant can pay a \$20 application fee and some contribution amount. The department also developed an eligibility worksheet, which guides

verification specialists through the calculations involved in determining eligibility, application fees and contribution amounts.

Recoupment of attorney fees complements the ACP by allowing judges to examine court costs and a defendant's most recent financial circumstances at the end of the case. If court costs exceed contribution amounts previously imposed, and the defendant has the financial ability, judges may order a defendant to pay an additional amount toward defense costs. The funds collected through recoupment become part of the Criminal Fines and Assessment Account and are distributed to public safety programs.

Audit Results

Some Defendants Did Not Meet Financial Eligibility Requirements

In about 10 percent of cases we reviewed, defendants who received court-appointed counsel did not meet financial eligibility requirements. Specifically, these defendants' available resources exceeded department guidelines. We estimate the state incurred net costs ranging from about \$307,000, to nearly \$608,000 to defend these people during the last quarter of 2004. This range reflects about \$300,000 of contribution and recoupment amounts imposed for these ineligible defendants.¹ The true net cost incurred by the state depends on the portion of this amount the department actually collects. According to department officials, the collection rate is lower than 100 percent. If this was an average quarter, and if no changes

¹ The recoupment amounts used in our calculations were current as of 10/31/2005. At that time, several cases had not been decided. If judges impose recoupment in those cases, the net cost of providing indigent defense will be lower.

were made to the program, net costs would range from \$1.2 million to \$2.4 million in a year, depending on collection results.

Using department guidelines, we screened defendants in our sample to determine whether they were eligible for court-appointed counsel, based on information they provided on their Affidavits of Eligibility. In 5.5 percent of cases we reviewed, defendants did not meet eligibility requirements because their available resources were sufficient to hire private defense. Most eligibility errors we found occurred when verification specialists calculated available assets and allowable expenses. For example, in one case, a defendant declared a net monthly income of \$3,800 and total expenses of \$4,225. The verification specialist used the declared expense amount and recommended the defendant receive court-appointed counsel. However, according to the guidelines, the verification specialist should have used a set expense amount corresponding to the defendant's household size and added certain additional allowable expenses, such as medical, childcare, child support, and court-ordered fees and fines. Had the verification specialist followed guidelines, the allowable expense amount would have been \$1,871 and the available resources would have been more than enough to cover the \$850 specified in the privately hired attorney fee schedule for the charge in this case.

Not filling out the eligibility worksheet, which is meant to assist verification specialists with calculations, may have been another cause of inaccurate eligibility determinations. In 57 percent of the cases in which defendants were ineligible for court-appointed counsel, we could not find a completed eligibility worksheet. Verification specialists cited lack of time as a factor in not filling out the worksheets.

We identified the remaining 4.5 percent of cases in which defendants did not meet eligibility requirements by verifying the income listed on the Affidavits of Eligibility. To do so, we used actual wage data for the last quarter of 2004, the quarter in which defendants applied for court-appointed counsel. We found that in all of these cases, wages were more than sufficient to cover the defendant's allowable monthly expenses and the cost of private defense. Verification specialists have access to these wage data, but not for the most recent quarter. Therefore, we also looked at wage data they could have accessed at the time of application for court-appointed counsel. In general, this comparison revealed that eligibility determinations made using data available to verification specialists did not differ from those based on data current at the time defendants applied for court-appointed counsel.

While our verification work allowed us to identify these additional ineligible clients, department officials noted that the department does not have adequate resources to verify as many cases as we did and therefore may not be able to identify as many ineligible defendants.

Application and Contribution Fee Recommendations Not Always Appropriate

We found that verification specialists' application fee recommendations were not appropriate in about 7 percent of cases we reviewed. For half of these cases, verification specialists failed to charge the fee to defendants who, according to guidelines, showed sufficient resources to pay it. For the other half, they recommended that defendants without sufficient resources pay the fee.

Consequently, the net effect of these deviations from guidelines was zero.

We also found verification specialists did not follow contribution amount guidelines in about 9 percent of the cases we reviewed. A little less than a quarter of these involved contribution recommendations exceeding a defendant's ability to pay. In the remaining cases, verification specialists should have recommended a greater contribution amount. All told, had verification specialists followed the guidelines in these cases, they could have recommended about \$214,000 of additional estimated contribution amounts during the last quarter in 2004. If this was an average quarter, and if no changes were made to the program, the effect of not following guidelines would be \$855,000 of contribution amounts not recommended per year.

Building on the eligibility verification work we performed, we found an additional 1 percent of cases in which defendants could have paid the \$20 application fee and an additional 1.5 percent of cases in which they could have paid an average \$184 contribution amount. Projected to the audit population, we estimate that in the last quarter of 2004, defendants could have paid about \$69,000 in additional application fees and contribution amounts. Assuming this was a typical quarter, we estimate that verification specialists could have recommended an additional \$275,000 per year if they verified income for all the defendants they screened. However, as noted above, department officials told us the department does not have the resources to identify through verification as many additional application and contribution amounts as we did.

Our estimate of the combined annual total of forgone contribution amounts and application fees is about \$885,000.² However, as noted above, the department does not collect 100 percent of amounts assessed.

The most frequent deviation from guidelines occurred when determining an applicant's available assets and household size. For example, some verification specialists used net income declared by defendants without confirming it by calculating it based on hourly wages and weekly work schedule. Other verification specialists approximated monthly income by multiplying weekly wages by four weeks. However, this method underestimates a defendant's net pay, as 52 weeks in a year divided by 12 months equals 4.33 weeks per month. In other situations, verification specialists did not include public assistance or financial help from family and friends in the asset calculation. Determining household size was an additional problem. For example, some verification specialists counted a roommate as a dependant, which increased a defendant's expenses, or forgot to include children in the calculation, which lowered expenses.

We noted other potential reasons why verification specialists made incorrect application fee and contribution amount recommendations. As with eligibility determinations, not completing the eligibility worksheet could have been a cause. In 86 percent of cases with inaccurate application fee recommendations, and in 53 percent of cases with inaccurate contribution amount recommendations, verification

² This figure excludes the estimated cost of contribution errors, projected to our audit population, for three defendants that we found to be ineligible through our verification work.

specialists did not fill out eligibility worksheets. In addition, we found that in some counties verification specialists operated under informal local policies, such as charging the application fee in all cases unless defendants were homeless or showed significant economic hardship. In another county, verification specialists exercised their own judgment to determine if defendants could pay the application fee and contribute to defense costs, rather than relying on the calculations set forth in the guidelines.

We recommend the department take the following actions:

- Ensure that verification specialists understand and follow guidelines in the areas of determining defendants' income, assets, allowable expenses and household size. Periodic training and monitoring compliance with guidelines should help in this regard.
- Consider increasing the use of the eligibility worksheet. Also consider automating the screening process. For example, verification specialists could interview defendants and complete the Affidavit of Eligibility electronically. They could then print a copy and provide it to defendants for review and signature, as we noticed verification specialists do in Lane County for out-of-custody defendants. The affidavit could be linked to the eligibility worksheet so that information is automatically entered into the worksheet and processed to determine a defendant's eligibility and ability to pay the application fee and a contribution amount. This has the potential to improve the accuracy of recommendations and reduce processing time.
- Determine whether it would be cost effective to verify income for additional defendants using

the most recent wage data available. If so, and these data indicate a defendant may be ineligible, use additional sources of information to confirm income. This has the potential to improve the accuracy of verification specialists' recommendations regarding eligibility, application fees, and contribution amounts.

Judges Follow Verification Specialist Recommendations

Judges' decisions regarding appointing counsel and assessing application fees and contribution amounts differed from verification specialists' recommendations in only 1 percent of our sample cases. Based on our survey of 16 judges, we identified several general reasons judges might disagree with a verification specialist. For example, some judges may not follow the recommendation if a defendant reveals new information in court that was not included on the affidavit of eligibility. Other judges said they tend to appoint counsel if defendants are marginally ineligible and face serious charges that carry long-term prison sentences. Several judges mentioned that appointing counsel could save money by speeding the judicial process. For example, if a marginally ineligible defendant who is unfamiliar with the judicial process refuses to hire a private attorney and opts instead to represent himself, the court may spend significantly more time on the case than if he received court-appointed counsel. Finally, some judges were concerned about denying counsel based on assets a defendant might share with a victim in the same case. For example, if a defendant commits an act against a family member with whom he or she shares assets, and these assets marginally exceed eligibility guidelines, not appointing counsel could result in

the victim paying for part of the defendant's court costs.

Judges Recoup Attorney Fees

Our work indicates that most judges impose recoupment. Specifically, we found 14 of the 16 judges we surveyed consistently imposed recoupment. Judges noted that the likelihood of imposing recoupment and the amount ordered depended on the total attorney fees for the case and amounts previously imposed, such as the contribution amount. Judges also consider such factors as a defendant's ability to pay, the seriousness of the charge and potential for lengthy incarceration, restitution and other court fines and fees, and the defendant's mental condition.

Two of the judges we surveyed did not consistently impose recoupment. One was under the impression that the department preferred judges only collect fees through the ACP because it is more cost effective to do so. The other judge said it was difficult to recoup attorney fees because he worked with attorneys from several neighboring counties whose compensation varied. In addition, he thought recoupment was not a priority for the department. Therefore, he opted to impose larger contribution amounts to compensate for not ordering recoupment.

Agency Accomplishments

In response to legislative direction, the department took actions designed to improve the ACP and verification programs. These included scheduling two training sessions and providing opportunities for peers to exchange best practices. Department staff also started revising the verification manual and translated forms into Spanish. Finally, the department sent periodic memos updating

verification specialists and supervisors on program changes and progress, such as the implementation of the ACP for juvenile defendants.

Agency's Response:

The department generally agrees with the audit recommendations. The department's complete response begins on page 7.

Objectives, Scope and Methodology

Our audit objectives were to determine the following:

- Whether people who received court-appointed counsel met financial eligibility requirements;
- Whether verification specialists recommended application and contribution fees consistent with department guidelines;
- The extent to which judges' decisions regarding appointing or denying counsel and assessing application and contribution fees differed from verification specialists' recommendations and the general reasons for these differences; and
- Judges' recoupment practices for defendants who receive court-appointed counsel.

In order to determine if people who received court-appointed counsel met financial eligibility requirements and if verification specialists recommended application and contribution fees consistent with department guidelines, we selected a random sample of 203 cases. We chose these from the population of 23,495 adult felony and misdemeanor cases in which defendants received court-appointed counsel between October 1 and December 31, 2004. The department provided us with information about these cases from its Oregon Judicial Information Network database. Our data

reliability testing showed these data were sufficiently reliable to select a representative audit sample.

We reviewed the following court documents for the cases in our sample:

- Affidavits of Eligibility,
- Eligibility Worksheets,
- Orders to Appoint or Deny Counsel and Order Fees,
- Judgments, and
- Verification documents.

We collected relevant information from these documents and screened defendant applications following department guidelines. Thus, we independently determined each defendant's financial eligibility for court-appointed counsel and calculated the appropriate application fee and contribution amounts. We also obtained wage data from the Oregon Employment Department, which we used to verify eligibility and application fee and contribution amount recommendations. We also obtained information about the cost of defending ineligible defendants from the Office of Public Defense Services.

Using our sample error rates, average error amounts, and case cost information, we projected the sample findings to the audit population using a 95 percent confidence level. This allowed us to estimate the cost to the state of representing ineligible defendants and not recommending appropriate application and contribution amounts. Using the 95 percent confidence level, we developed the dollar effect ranges and means listed below. These figures correspond to the fourth quarter of 2004.

- Eligibility range: \$179,457 to \$435,248; estimated mean: \$307,353.

- Application-fee range: \$2,452 to \$6,807; estimated mean: \$4,630.
- Contribution amount range: \$123,933 to \$309,470; estimated mean: \$216,701.³

Using the eligibility range as an example, we are 95 percent confident that the actual value of eligibility errors in the audit population is between \$179,457 and \$435,248. The means, which we used in the results section above, represent our point estimate of the actual value of the errors.

In order to determine the extent to which judges do not follow verification specialists' recommendations, we used the sample of 203 cases and compared the verification specialists' recommendations to judges' orders appointing counsel and imposing application and contribution amounts. We also surveyed 16 judges in 15 counties to determine general reasons why judges disagree with verification specialists' recommendations, as well as their recoupment practices. We chose these counties to be geographically representative of the state as a whole and to cover varying volumes of indigent defense caseloads.

We conducted our audit in accordance with generally accepted government auditing standards.

³ This range excludes the estimated cost of contribution errors, projected to our audit population, for three defendants that we found to be ineligible through our verification work.

Oregon Judicial Department Response to the Secretary of State Audit of the Application and Contribution Program February 22, 2006

The Oregon Judicial Department (OJD) appreciates the opportunity to respond to the Secretary of State's (SOS) audit of the Application and Contribution Program (ACP). The department also appreciates the manner in which the SOS staff conducted the audit and worked together with OJD staff to keep disruption for the trial courts to a minimum.

The department offered SOS staff some technical change suggestions as well as some overall clarifications upon receipt of the draft report. We appreciate that the audit team addressed some of our concerns prior to finalizing and disseminating the final report. The department appreciates the recommendations made by SOS staff and will engage in planning in a timely manner to implement those that are possible.

Audit Environment

In a budget note, the 2003 Legislative Assembly directed OJD to implement ACP statewide. At that same time, the department was recovering from an unprecedented crisis resulting from the budget reductions and staff reductions and layoffs the previous biennium. Verification positions in the trial courts were hit hard during the budget crisis. New staff needed to be hired and trained.

On July 1, 2003, Indigent Defense Services Division (IDSD) staff and functions transferred to the Public Defense Services Commission (PDSC). At that time, the Court Programs and Services Division of the Office of the State Court Administrator was designated to take over statewide coordination of the ACP and verification programs. Upon receipt of the legislative directive to implement the program statewide, the department reviewed and clarified policies and procedures that had been developed by IDSD when they piloted this program. CPSD provided statewide and regional training and local technical assistance as new courts implemented the ACP program. It is important to note that these activities took place prior to the implementation of the SOS audit.

The department reported in an October 25, 2004, memorandum to the State Emergency Board that 32 of the 36 counties had begun implementation of ACP. The remaining four counties were expected to implement the program by March 2005. The SOS audit team drew a sample of cases in which defendants received court-appointed counsel during the last quarter of 2004. Some counties were very new to ACP and others had not yet started the program. Although we were concerned with the timing of the audit due to the recent transition of ACP from pilot programs to a statewide program, the department welcomed the opportunity for the statewide audit to assess the current status of the ACP and recommend improvements to be made.

Audit Limitations

Given the level at which the department is sourced to implement the ACP and verification programs, court staff verified only 6 of the 203 cases in the sample pulled and verified by SOS. Therefore, the amounts the auditors conclude could have been imposed would not likely have occurred with our current level of staffing. Policies adopted by PDSC instruct that verifiers are not intended to audit every case. Current anecdotal information suggests they are able to verify approximately 3 percent of the cases. Within that level, only those cases in which the verifiers have time and an indication that additional information will assist them in making a recommendation should be verified. The audit did not include a cost benefit analysis to determine whether staffing the department at a level to verify all cases would avoid the types of issues found in the report. The legislature would be placed in the position of deciding whether a significant investment to fully fund the program is worth the potential additional contributions that could be assessed.

Currently, the verification and ACP programs are staffed by a total of 29.63 FTE statewide. These staff are responsible for screening applications for court-appointed counsel, interviewing defendants, determining if defendants have the resources to pay the \$20 application fee and a contribution amount, processing' paperwork to make recommendations to the court, and verifying income. 16.51 FTE are paid from the amounts generated through the ACP program, and 13.12 FTE are paid with General Fund dollars. In 2005, there were 104,214 new felony and misdemeanor cases filed in Oregon circuit courts; additionally, there were approximately 25,000 probation violation filings. A conservative estimate is that 85 percent of these cases (approximately 109,832 cases) have defendants who apply for court-appointed counsel.

The department estimates that it takes, on average, a verifier 20 minutes per case for screening applications for court-appointed counsel, interviewing defendants, determining if defendants have the resources to pay the \$20 application fee and a contribution amount, and processing paperwork to make recommendations to the court. Depending on the resources used to verify an applicant's financial information, it is estimated that verifiers spend, on average, 30 minutes per case to verify three sources. (The verification policies suggest that three sources be checked if a verifier identifies a need to gather clarifying information on an applicant's available resources.) The department estimates that approximately 36 new verification FTE would be needed to fully verify all applications for court-appointed counsel.

The department estimates the annual additional cost for only staff to be approximately \$1.9 million annually or \$3.8 million a biennium. There would also be a significant increase in verification expenses. For example, the department pays, on average, \$3.50 for every credit report generated in the verification process, at least \$100,000 a year (\$200,000 a biennium) would be needed for increased credit bureau checks.

Audit Conclusions

The broad-based conclusion that the auditors reach that OJD could have collected all additional funds contained in the projections is of concern. While these amounts could have been imposed in some cases, there is no basis, based on the normal collection rate and timing for criminal cases, that these amounts, even if assessed, could be collected in each quarter or biennium.

It also should be noted that the Application Fee and Contribution Amount are assessed at the beginning of the case as a Limited or Supplemental Judgment. Money collected prior to the conclusion of the case goes into the subaccount in the Public Defense Services Account (See ORS 151.225(3)). If the defendant does not pay the ACP fees prior to the conclusion of the case, the court has the option to convert the unpaid ACP amounts to recoupment. ORS 137.295 deals with crediting moneys received at the conclusion of a case. Money ordered at the end of a case (recoupment) goes into the Criminal Fine and Assessment Account (CFAA).

When a defendant makes a payment on monetary obligations, amounts paid are distributed per ORS 137.295. Compensatory fines are satisfied first, then any payments received are split 50-50 between restitution and state obligations. ACP and recoupment amounts would not be paid until compensatory fines are satisfied.

As to the recommendations, the department agrees that continued training and monitoring of the verifiers' work will assist in determining if appropriate recommendations are being made. The Office of the State Court Administrator provides central program oversight and support to the trial courts but does not directly supervise any trial court verification staff. Therefore, CPSD will work with presiding judges and trial court administrators to develop a plan for training and monitoring.

The department agrees that automating the verification worksheet will streamline the process. The department has received and reviewed a copy of the electronic worksheet being used in several counties. CPSD staff are in the process of correcting several formulas contained in the electronic worksheet and will distribute it to several additional courts for testing. Although some verifiers do not have access to a laptop or computer when interviewing and reviewing applications, the department will explore whether this can be done with current resources. The department is interested in determining if it would be cost effective to verify all reported income for additional defendants.

Conclusion

The Judicial Department appreciates the scope of work done by the Secretary of State's office in conducting this audit. The Office of the State Court Administrator will work closely with the presiding judges and trial court administrators to ensure compliance with ACP policies. The department will also implement recommendations of the auditors as outlined above.



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and staff of the Oregon Judicial Department were
commendable and much appreciated.*

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