

Progress Report



April 2002

Report No. 02-24

Legal Affairs Adopts Most OPPAGA Recommendations to Improve Accountability

at a glance

The Department of Legal Affairs has implemented several of our May 2000 report recommendations for improving legal services. The department has

- developed supplemental measures for each major program unit to assess performance;
- ensured that client survey responses are anonymous; and
- conducted internal audits.

The department has not implemented our recommendation to assess its costs and use this rate to charge agencies for the legal work they receive.

Purpose

In accordance with state law, this progress report informs the Legislature of actions taken by the Department of Legal Affairs in response to the findings and recommendations of our 2000 justification review.^{1, 2}

¹ Section 11.45(7)(f), *Florida Statutes*.

² *Legal Affairs Provides Valuable Legal Services, but Accountability Needs to be Strengthened*. OPPAGA Report No. 99-53, May 2000.

Background

The Department of Legal Affairs, also known as the Office of the Attorney General, divides its activities into three performance-based budgeting programs.

- The **Office of the Attorney General**, which includes executive direction and support services, provides the majority of the department's legal services. Attorneys litigate on behalf of the state and investigate and prosecute antitrust, Medicaid fraud, and consumer fraud cases. Attorneys also defend the state on issues involving state employment, eminent domain, civil rights, torts, inmate lawsuits, and disputes over financial matters; provide legal advice to regulatory boards; and represent the state in appellate cases.³

The Office of the Attorney General also provides Victim Services. The department uses grant monies from the state's Crime Victims Compensation Trust Fund and the federal Victims of Crime Act to provide financial assistance to victims of violent crime and to the service providers who help victims cope with the effects of crime.

³ Tort cases are those in which the state has been accused of a wrongful act that has resulted in the injury of another.

This program also provides training, refers victims to local service providers, and employs victim advocates statewide.

- The **Office of Statewide Prosecution** works with local, state, and federal law enforcement agencies to prosecute organized criminal activity that extends over two or more judicial circuits.⁴ Crimes prosecuted include kidnapping, narcotics, racketeering, and identity theft.
- The **Florida Elections Commission** reviews all complaints of election fraud filed pursuant to Chs. 104, 105, and 106, *Florida Statutes*, for legal sufficiency. Staff investigates all legally sufficient complaints and makes a recommendation to the commission on whether there is probable cause for a violation of Florida's election laws. The commission determines whether a violation of the election laws occurred.

In Fiscal Year 2001-02, the Legislature appropriated \$135.2 million and 1,253 full-time equivalent (FTE) positions.

Prior Findings —————

In our prior review, we identified several improvements the Department of Legal Affairs could make.

The department had not developed a comprehensive internal performance measurement system, did not meet the majority of its performance-based program budgeting standards, and its performance measures did not assess agency effectiveness.

- We recommended that the department develop supplemental performance measures for each major program unit to assess performance.

OPPAGA suggested that the department's results from client satisfaction surveys lacked validity because agencies were reluctant to respond candidly due to a lack of anonymity.

- We recommended that the department make the survey responses anonymous.

The Office of the Inspector General had not conducted financial, performance, and electronic data processing audits over the last three years. Instead, in response to agency leadership's priorities, the office investigated internal complaints related to personnel issues. This is a long-standing problem; our findings were consistent with a 1997 Auditor General report that this office did not maintain an appropriate balance of work.⁵

- We recommended that the inspector general conduct financial, performance, and electronic data processing audits of the department as required by law.

Department billing practices obscured the true costs of its legal services. The department did not bill certain agencies for legal services. When it did bill agencies for legal services, it did not charge the full cost.

- We recommended that the department assess the actual per-hour costs of its legal staff when establishing billing fees and charge state agencies for the actual cost for services.

Current Status —————

Recommendations implemented. The Legislature and department have implemented most of our earlier recommendations.

- Performance measures recently adopted should provide the Legislature with comprehensive information about the program's activities. For example, the

⁴ At the request of the Legislature, OPPAGA recently evaluated the Office of Statewide Prosecution in *The Office of Statewide Prosecution Is Effective and Economically Viable*, [Report No. 02-03](#), January 2002.

⁵ *Quality Control Review of the Office of the Inspector General/Internal Audit Function of the Florida Department of Legal Affairs for the Period of January 1, 1996, Through December 31, 1996*. Auditor General Report No. 13018, June 17, 1997.

Legislature adopted additional performance measures for the Civil Representation and Legal Services Program. The department now reports the number of active cases and the ratio of active cases to the number of attorneys in antitrust, economic crime, Medicaid fraud, Children's Legal Services, ethics, child support enforcement, civil rights, capital criminal, noncapital, eminent domain, tax, civil appellate, inmate, state employment, and tort cases as well as sexual predator commitment appeals. The number of cases provides information on workload and is consistent with measures for state attorneys and public defenders.

The program also adopted supplemental performance measures for Victim Services. For example, the program reports the number of victim compensation claims and sexual battery examination claims paid.

Finally, the Legislature adopted additional performance measures for the Office of Statewide Prosecution, including annual attorney turnover rates and total number of active cases. The office continues to track and report performance on its supplemental performance measures in its annual report.

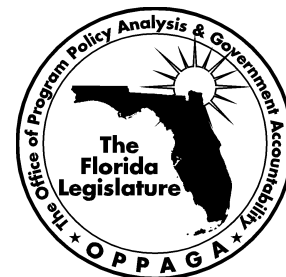
- The department now allows anonymous responses to its client satisfaction survey. The new survey is Internet-based to allow clients the option of submitting the form anonymously. However, when the department changed the survey from paper to electronic format, the response rate dropped dramatically. In 1999, at the time of our review, the department had a 54% response rate for its survey. In 2001, the department electronically requested surveys from the 124 clients that had received legal services, but only 31 clients

(25%) responded, 5 of whom did so anonymously. This response rate is too low to determine agency opinions about the quality of the department's civil litigation services. To increase the response rate, the department may wish to return to a paper format; however, it should continue to allow agencies to respond anonymously.

- The Office of the Inspector General has implemented an annual and long-range audit plan, which includes audit, investigative, and other accountability activities, as required by law. The office has released one audit since our last review, a review of the department's motor vehicle management and utilization which was required by law of all state agencies. The office is presently working on a review of the procurement card program. The office now also prepares quarterly reports on the department's performance for its legislative accountability measures.

Recommendation not implemented. Although the department reports that it has "performed informal calculations" on its actual attorney rates, the department has not settled on a fixed hourly billing protocol. Although the agency may fully recover its attorney costs from some state agencies who pay for the attorney position (rather than by the billable hour), the true costs of the department's provision of legal services is still unknown. This limits the Legislature's basis for comparing the department's costs with rates charged by other law firms when considering outsourcing legal services. We recommend that the department report to the Legislature annually the actual cost of providing legal services to all entities, which would provide a more accurate accounting of the costs of its services.

The Florida Legislature Office of Program Policy Analysis and Government Accountability



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- [Florida Government Accountability Report \(FGAR\)](#) is an Internet encyclopedia of Florida state government. FGAR offers concise information about state programs, policy issues, and performance. Check out the ratings of the accountability systems of 13 state programs.
- [Best Financial Management Practices Reviews of Florida school districts](#). In accordance with the *Sharpening the Pencil Act*, OPPAGA and the Auditor General jointly conduct reviews to determine if a school district is using best financial management practices to help school districts meet the challenge of educating their students in a cost-efficient manner.

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