

TRANSPARENCY REPORT: SPECIAL AUDIT OF THE CRIMINAL JUSTICE SYSTEM



BACKGROUND

In May 2018, under the direction of former State Auditor Wayne Johnson, the Office of the State Auditor (OSA) designated seven agencies for a comprehensive special audit of the Second Judicial District Criminal Justice System (“System Review”) to provide an “independent audit by trained professionals whose specialty is the review of the policies and analysis of systems [as it relates to the efficiencies of the criminal justice system in Bernalillo County].” Pursuant to the Audit Act and Audit Rule, a designation of engagements by the Office of the State Auditor (OSA) is entirely within its scope and constitutional authority to examine fraud, waste, and abuse through its execution of financial audits, special audits, attestation agreements, performance audits, and forensic audits of governmental agencies in the State of New Mexico.

The seven agencies designated for engagement under the System Review include:

- Second Judicial District Court
- Bernalillo County Metropolitan Court
- Bernalillo County: Sheriff’s Office
- Metropolitan Detention Center
- Second Judicial District Attorney’s Office
- The Law Offices of the Public Defender
- City of Albuquerque Police Department

In June 2018, upon receiving notice of the special designation, a written request was submitted to the New Mexico Office of the Attorney General (NMOAG) seeking an opinion as to whether the scope of the System Review exceeds the power and authority of the OSA to designate the agencies for this engagement.

Contemporaneous with the OSA’s designation of the System Review, the Legislative Finance Committee (LFC) was in the process of completing its own Program Evaluation of the Criminal Justice System in Bernalillo County, a review known to the OSA administration. The LFC report, produced by its Program Evaluation Unit was released on July 19, 2018.

EXECUTIVE SUMMARY

Upon taking office in January 2019, State Auditor Brian S. Colón made a commitment to conduct a comprehensive review of all pending matters, including designations, by his predecessor; the System Review was among the matters that required immediate and thorough review. As of the issuance of this report the following designated engagements are complete and the reports are available for review:

- Second Judicial District Court
- Bernalillo County Metropolitan Court
- Bernalillo County: Sheriff’s Office and Metropolitan Detention Center*
- Second Judicial District Attorney’s Office

*Bernalillo County Sheriff’s Office and Metropolitan Detention Center engaged a single IPA to prepare a joint report.

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EXECUTIVE SUMMARY (CON'T)

The Office of the Bernalillo County Public Defender and the City of Albuquerque Police Department did not enter into a contract for the engagement, opting to defer compliance with special designation until such time the NMOAG issues an opinion on whether the OSA exceeded its power and authority concerning the scope and designation of the System Review. To date the NMOAG has not issued a legal opinion concerning this request and the two agencies have not initiated a contract with an Independent Public Accountant (IPA) to complete its engagement as part of the System Review.

APPROACH

The OSA may designate any agency for special audit, attestation engagement, performance audit, or forensic audit, pursuant to Section 12-6.3 NMSA 1978. For the purposes of the System Review, the OSA acted in accordance with this statute, which includes, without limitation, engagements that address financial fraud, waste, or abuse in government and the OSA, by and through the State Auditor shall inform the agency of the designation and may specify the audit subject matter, the scope and any procedures required commensurate with the American Institute of Certified Public Accountants (AICPA) professional standards.

Special designations play an important role in governmental auditing and are within the OSA's constitutional scope of authority and shall be performed in accordance with New Mexico's audit rules and regulations as defined in the Audit Act and promulgated through its Audit Rule.

CONCLUSION & RECOMMENDATION

It is the interpretation of this administration that the OSA's audit practice be objective and contribute to government accountability in a necessary and responsible manner through audits and examinations performed with professional competence, due professional care, and conclusions drawn should be based on sufficient and relevant facts and data.

Upon review of the scope of the System Review designation by the OSA by and through former State Auditor Johnson, State Auditor Brian S. Colón has determined that while the designation was proper under the constitutional authority granted to the OSA, in light of the contemporaneous evaluation of the Bernalillo County Criminal Justice System by the LFC — which was inclusive of the seven agencies subject to the System Review — the System Review was duplicative and the designation was not made in the best interests of the OSA's mission to address financial fraud, waste, and abuse.

Therefore, the OSA, through and at the direction of State Auditor Brian S. Colón, is releasing the final reports of the engagements conducted, will not enforce the designation of the final two engagements as the information and data presented in the LFC report is comprehensive, and is concluding the Criminal Justice Audit.

The OSA recommends the criminal justice system in Bernalillo County engage with the Administrative Office of the Courts and the New Mexico State Legislature to address the recommendations, considerations, and key notations documented in the four completed engagements from the System Review, and take steps to implement the key recommendations presented in the LFC's Program Evaluation: Review of the Criminal Justice System in Bernalillo County.