

AUDIT REPORT

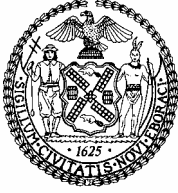


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Financial and Operating Practices of the Richmond County District Attorney's Office

FP04-056A

January 7, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93 of the New York City Charter, my office has examined the compliance of the Richmond County District Attorney's Office with payroll, personnel, timekeeping, purchasing, and inventory procedures, as set forth in the New York City Comptroller's Internal Control and Accountability Directives, Department of Citywide Administrative Services personnel rules and leave regulations, the Richmond County District Attorney Manual, Department of Investigation's Standards for Inventory Control and Management, and applicable Procurement Policy Board (PPB) rules.

The results of our audit, which are presented in this report, have been discussed with officials from the Richmond County District Attorney's Office, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that agencies follow City guidelines and use government dollars appropriately and in the best interest of the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/gr

Report: **FP04-056A**
Filed: **January 7, 2005**

Table of Contents

AUDIT REPORT IN BRIEF	1
INTRODUCTION	2
Background	2
Objective	3
Scope and Methodology	3
Scope Limitation	5
Discussion of Audit Results	6
FINDINGS AND RECOMMENDATIONS	6
Payroll and Timekeeping Issues	
Timekeeping Discrepancies	7
Recommendations	7
Lack of Time Records for the Managerial Employee	8
Recommendation	8
Leave Improperly Granted and Accruals Improperly Credited	8
Recommendations	8
Request Letters for Paid “Maternity Disability Leave” Not on File	9
Recommendations	9
Improper Early Departure Before Holidays And Time Off to Attend Graduations	9
Recommendation	10
Incorrect Payments to Employees Who Separated from Service	10
Recommendations	11
Employees Not Paid within the Salary Ranges of Their Titles	11
Recommendation	12
Employees Permitted to Carry Compensatory Time Beyond the 120 Day Limit	12
Recommendation	13
Sick Leave Regulations Not Enforced	13
Recommendation	13

Excess Annual Leave Balances	14
Recommendations	14
Procurement Weaknesses	15
Recommendations	15
Inventory Control Weaknesses	15
Recommendations	16
Other Issues	
One-Time Payments Issued to Employees Without Supporting Justification	16
Recommendation	16
Questionable Payment Made to Former District Attorney	17
Recommendations	17
ADDENDUM I – District Attorney’s Office Response Dated December 20, 2004	
ADDENDUM II – District Attorney’s Office Response Dated December 22, 2004	

*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on the
Financial and Operating Practices of the
Richmond County District Attorney's Office**

FP04-056A

AUDIT REPORT IN BRIEF

This audit determined whether the Richmond County District Attorney's Office (District Attorney's Office) is complying with certain payroll, personnel, timekeeping, purchasing, and inventory procedures, as set forth in the New York City Comptroller's Internal Control and Accountability Directives (Comptroller's Directives) 13, 24, and 25, Department of Citywide Administrative Services (DCAS) personnel rules and leave regulations, the Richmond County District Attorney Manual, and the Procurement Policy Board (PPB) rules.

Audit Findings and Conclusions

The audit found that the District Attorney's Office adhered to several aspects of Comptroller's Directives 13, 24, and 25. In addition, our examination of the District Attorney's Office's OTPS expenditures disclosed no instances in which moneys were improperly used. However, the District Attorney's Office did not comply with certain aspects of DCAS personnel and leave regulations, the Richmond County District Attorney Manual, and many aspects of Comptroller's Directives 13 and 24. Specifically, the District Attorney's Office did not always ensure that: timekeeping records were complete, accurate, and properly approved; employees exhausted their leave balances before they were approved for sick leave grants; separated employees were accurately paid; employees' salaries were within the salary ranges of their Career and Salary Plan titles; employees used compensatory time within the 120-day limit; City regulations for sick leave were enforced; employees' leave balances were within the amounts allowable under City Time and Leave Regulations; voucher packages were stamped "vouchered" as required by Comptroller's Directive 24; voucher packages were charged to correct object codes; and inventory records were complete and accurate. In addition, the District Attorney's Office issued one time payments to employees without supporting documentation justifying the payments, and made a questionable payment to the former District Attorney.

Audit Recommendations

To address these issues, we make 24 recommendations, including that the District Attorney's Office:

- Ensure that employee timekeeping transactions are carefully reviewed so that timekeeping errors are avoided.
- Ensure that its managerial employee submits timesheets that indicate arrival and departure times. These timesheets should be reviewed and approved by an appropriate agency official.
- Discontinue granting paid leave time to employees before their accumulated sick and annual leave balances have been exhausted.
- Attempt to recoup the separation pay that was overpaid to its employees.
- Transfer employees whose salaries currently are not within the ranges of their titles into other titles for which they qualify and that have salary ranges that encompass their current pay levels, or should appropriately adjust their salaries.
- Ensure that complete and accurate inventory records are maintained.
- Establish formal procedures for issuing one-time payments to its staff. The procedures should require that employee personnel files contain memos or other documentation justifying one-time payments.

INTRODUCTION

Background

Under the New York State Constitution, District Attorneys are constitutional officers elected every four years. Under New York State County Law, the City's five District Attorneys protect the public by investigating and prosecuting criminal conduct in their respective counties. The District Attorneys enforce the provisions of the penal law and other statutes. Their principal activities include preparing information and gathering resources for court hearings, and presenting trial and appeal cases in court.

During Fiscal Year 2003, Personal Service (PS) expenditures for the Richmond County District Attorney's Office (District Attorney's Office) amounted to \$5,636,916, and Other Than Personal Services (OTPS) expenditures amounted to \$715,124.

Objective

This audit was conducted to determine whether the District Attorney's Office is complying with certain payroll, personnel, timekeeping, purchasing, and inventory procedures, as set forth in the New York City Comptroller's Internal Control and Accountability Directives (Comptroller's Directives) 13, 24, and 25,¹ Department of Citywide Administrative Services (DCAS) personnel rules and leave regulations², the Richmond County District Attorney Manual,³ and the Procurement Policy Board (PPB) rules.

Scope and Methodology

This audit covered the period July 1, 2002, through June 30, 2003. We expanded our scope period to include December 2003 for our examination of payments to employees who separated from the District Attorney's Office. In addition, we expanded our scope to include the period July 1, 2003, through December 31, 2003, for our examination of medical documentation for sick leave use.

To obtain an understanding of the procedures and regulations with which the District Attorney's Office is required to comply, we reviewed relevant provisions of: Comptroller's Directives 13, 24, and 25; DCAS personnel rules and leave regulations; Richmond County District Attorney Manual; and applicable PPB rules. Since the District Attorney's Office has no inventory procedures, we used the New York City Department of Investigation's Standards for Inventory Control and Management as the criterion for assessing inventory controls. We interviewed staff at the District Attorney's Office to obtain an understanding of the payroll, personnel, timekeeping, and purchasing procedures in place and to determine how physical assets are safeguarded.

Tests of Compliance with Comptroller's Directive 13, DCAS Personnel and Leave Regulations, and the Richmond County District Attorney Manual

We reviewed attendance records of 31 employees—15 randomly selected Assistant District Attorneys (ADA), 15 randomly selected non-managerial employees, and the one managerial employee—for the month of June 2003, to determine whether the District Attorney's Office maintains reliable and accurate time records. These 31 employees were selected from the 102 employees (56 non-managerial employees, 45 ADAs, and one managerial employee) listed

¹ Comptroller's Directive 13, "Payroll Procedures"
Comptroller's Directive 24, "Purchasing Function—Internal Controls"
Comptroller's Directive 25, "Guidelines for the Use and Submission of Miscellaneous Vouchers"

²In this report we refer to DCAS Leave Regulations as City Time and Leave Regulations.

³ The Richmond County District Attorney Manual contains policies and procedures for Assistant District Attorneys that cover various administrative matters, including timekeeping, sick and annual leave, and maternity leave.

on the District Attorney's Office payroll records for the month ending June 30, 2003, so as to assess records at fiscal-year end. We examined the attendance records for completeness and evidence of supervisory review. We compared the attendance records to the City Payroll Management System (PMS) Employee Leave Details Report (PEILR721) to determine whether all reportable timekeeping transactions were accurately posted on PMS. We reviewed compensatory time transactions and annual leave use for evidence of proper approvals and posting. We reviewed the timekeeping records for the four employees who were granted paid maternity leave or extended⁴ paid sick leave.

For our tests of separation payments, we initially selected a sample of 10 of the 17 employees (six non-managerial employees and four ADAs) who separated from City service during Fiscal Year 2003. We determined whether separation payments to these individuals were properly calculated. Based on the problems noted during our tests of the initial sample, we expanded our testing to include all five employees who left the office in December 2003. In addition to reviewing separation payments for the 15 employees, we examined their leave accruals and use recorded on PMS for the period January 2002 to the dates they separated from City service. We also checked whether all 15 employees were appropriately removed from the City payroll.

To determine whether District Attorney's Office employees were receiving salaries that were within the salary ranges of their civil service titles, we compared the salaries of all individuals listed on PMS as employees (excluding Assistant District Attorneys since there are no established salary ranges for them) to the minimum and maximum salary amounts of their civil service titles specified in the City Career and Salary Plan. We reviewed the Paycheck Distribution Control Report (form 319) for the pay periods ending June 6 and June 20, 2003, to ascertain whether employees signed for their paychecks. In addition, for a random sample of 25 employees listed on the payroll register for the March 23, 2004 payroll we performed a floor check, observing employees and inspecting their photo identification cards to assess their status as bona fide employees.

We determined whether compensatory time that was carried beyond the 120-day limit for its use was transferred to sick leave. If such compensatory was not transferred to sick leave, we determined whether the employee's personnel file contained documentation authorizing that the time be carried over. We also determined whether medical documentation, when required by City Time and Leave regulations, appropriately supported sick-leave use. Finally, we determined whether approved carryover authorizations were present in employees' personnel files for those employees who had excess annual leave balances (more than the amount that each employee earns in a two-year period) to their credit.

The results of the above tests, covering the sample of 31 employees, while not projectable to all employees, provided a reasonable basis to assess the compliance of the District Attorney's Office with Comptroller's Directive 13, DCAS personnel rules and leave regulations and the Richmond County District Attorney Manual.

⁴ Extended leave includes paid time granted beyond employee leave balances.

Tests of Compliance with Comptroller's Directives 24 and 25

The District Attorney's Office issued a total of 935 payment vouchers (452 purchase vouchers and 483 miscellaneous vouchers) in Fiscal Year 2003 totaling \$748,567. Of the 935 vouchers, we selected all 77 vouchers (39 purchase vouchers and 38 miscellaneous vouchers) totaling \$56,463 issued by the District Attorney's Office during June and July 2003 so as to assess internal controls at fiscal year-end. We examined each voucher for the requisite approvals and authorizations, and for evidence that the transactions were for proper business purposes and were supported by adequate documentation. For the 39 purchase vouchers, we also determined whether: each voucher was properly coded; an authorized purchase order was on file; sales and excise taxes were properly excluded from payments; and bids were obtained when required by PPB rules. With regard to the 38 miscellaneous vouchers, we determined whether the vouchers were issued for only allowable purposes.

The results of the above tests, while not projectable to all payment vouchers processed during the audit period, provided a reasonable basis to assess the District Attorney's compliance with Comptroller's Directive 24 and 25.

Tests of Inventory Records

We randomly selected 100 of the 653 major equipment items (including computers, printers, monitors, fax machines, and televisions) listed on the District Attorney's Office inventory records as of August 29, 2003, and determined whether they were on hand at the District Attorney's Office. We also determined whether 20 other pieces of equipment that were on hand in the District Attorney's Office were listed on the inventory records. In addition, we determined whether the two pieces of equipment purchased in June and July 2003 were on hand and properly recorded on the inventory records. Finally, we determined whether all items examined were properly tagged as property of the District Attorney's Office. The results of the above tests, while not projectable to all major equipment items, provided a reasonable basis to assess the District Attorney's Office controls over inventory as specified in the New York City Department of Investigation *Standards for Inventory Control and Management*.

Scope Limitation

The District Attorney's Office states that it uses funds in its "Special Expenditures" account to pay for confidential expenditures, such as protection of witnesses, paid informants, and surveillance operations. It expended \$182,908 for this account in Fiscal Year 2003. We accepted the assertion of the District Attorney's Office that our audit of "confidential" expenditures might jeopardize current or future investigations and related criminal justice activities. Accordingly, transactions posted to this account were not reviewed during the audit.

* * * *

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with District Attorney's Office officials during and at the conclusion of this audit. A preliminary draft report was sent to the District Attorney's Office and was discussed at an exit conference held on August 11, 2004. On December 8, 2004, we submitted a draft report to the District Attorney's Office with a request for comments.

We received written responses from the District Attorney's Office on December 20 and December 22, 2004, in which it generally agreed with the audit recommendations and described the specific steps that it has taken to address the exceptions noted in the report. The full text of the comments from the District Attorney's Office is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

The Richmond County District Attorney's Office adhered to several aspects of Comptroller's Directives 13, 24, and 25. In this regard, we found:

- Employees signed for their paychecks;
- Sampled employees were bona fide and had proper identification;
- Items purchased were necessary for District Attorney's Office operations;
- Miscellaneous vouchers were generally used in accordance with Directive 25;
- Sampled vouchers and corresponding purchase orders were properly approved and the amounts paid to vendors were accurately calculated; and
- Appropriate documentation to support payment was maintained for the sampled vouchers.

In addition, our examination of the District Attorney's Office's OTPS expenditures disclosed no instances in which moneys were improperly used. However, the District Attorney's Office did not comply with DCAS personnel and leave regulations, the Richmond County District Attorney Manual, and many aspects of Comptroller's Directives 13 and 24. These instances of noncompliance, as well as the issues related to inventory controls, are discussed in detail in the following sections of this report.

Payroll and Timekeeping Issues

Timekeeping Discrepancies

Our review of the timekeeping records disclosed the following exceptions:

- 28 discrepancies between the time clock records of 16 employees and the daily logbook;
- 26 instances of compensatory time earned that was posted to the wrong dates on PMS;
- 16 timesheets of six employees that were not approved by a supervisor;
- Ten instances in which leave balances of seven employees were not charged a total of 164 hours for leave use; and
- Ten instances in which the leave balance of one employee was not charged a total of 7 hours and 28 minutes for being late.

Recommendations

The District Attorney's Office should:

1. Make appropriate adjustments to employee leave balances based on the audit findings.
2. Ensure that compensatory time transactions are posted to the correct dates on PMS.
3. Ensure that employee timekeeping transactions are carefully reviewed so that timekeeping errors are avoided.
4. Ensure that all timesheets are approved by a supervisor.

District Attorney's Office Response: "In April 2004, legal staff (Assistant District Attorneys) began using timesheets while the administrative staff started in May 2004. The timesheets replaced the time clock and log books that were previously being used. All sheets require the sign-off of the supervisor in each Bureau. An additional staff employee was added to the Human Resources Division in order to separate the functions of payroll and timekeeping. This will ensure a system of checks and balances and prevent any future errors from occurring. Additionally, a further review will take place to determine the feasibility of adjusting employee's leave balances based upon the findings in the audit."

Lack of Time Records for the Managerial Employee

The one managerial employee of the District Attorney's Office does not maintain any record of her work hours, as required by Section 11.1 of the DCAS Leave Regulations for Management Employees, which states, "Weekly time sheets shall be maintained . . . showing the actual hours worked by each employee." Instead, this manager places her initials in a logbook (maintained for recording work hours of other District Attorney's Office employees) when she arrives at work. However, she does not record her arrival and departure times, making it impossible to determine whether she worked a full seven-hour workday. We also noted that there were nine instances over a two-month period in which this manager's leave balance was not charged for nine days on which she did not initial the logbook.

Recommendation

5. The District Attorney's Office should ensure that its managerial employee submits timesheets that indicate arrival and departure times. These timesheets should be reviewed and approved by an appropriate agency official.

District Attorney's Office Response: "As of January 4, 2004 the managerial employee (who returned from a leave of absence on January 4, 2004) began completing timesheets which continue to be approved by the Chief of the Administration Bureau."

Leave Improperly Granted and Accruals Improperly Credited

The District Attorney's Office improperly granted its managerial employee three months of sick leave, even though she had unused annual leave time available for her use. According to the Department of Citywide Administrative Services, an employee may not be granted sick leave until the employee's accumulated annual and sick leave balances have been exhausted. This managerial employee had 290 hours of unused annual leave when she began using the three months of granted sick leave.

In addition, the District Attorney's Office improperly credited this managerial employee with 47:15 hours of annual leave and 21 hours of sick leave while she was using the granted sick leave time. According to the Department of Citywide Administrative Services, no annual leave or sick leave is accrued while an employee is absent under a sick leave grant.

Recommendations

The District attorney's Office should:

6. Discontinue granting paid leave time to employees before their accumulated sick and annual leave balances have been exhausted.
7. Reduce as appropriate the annual leave and sick leave balances of the managerial employee who was permitted to accrue time while absent on a sick leave grant.

District Attorney's Office Response: "With reference to the managerial employee, as of January 1, 2004, the policy was discontinued which granted paid leave time to employees before their accumulated sick and annual leave balances are exhausted. Additionally, a further review will take place to determine the feasibility of adjusting the leave balances of the managerial employee cited in the audit. This will be considered when the employee reaches a sufficient level of leave balances to be reduced. On January 1, 2005, this policy will be extended to include all of the legal staff (Assistant District Attorneys) as well."

Request Letters for Paid "Maternity Disability Leave" Not on File

There were no request letters on file for two District Attorney's Office employees who were on paid maternity leave without charge to their accrued leave balances during the audit period. According to the Richmond County District Attorney Manual, "An eligible Assistant District Attorney who desires to take paid maternity disability leave must submit a letter to the District Attorney requesting such leave at least one month prior to the anticipated starting date."

We also noted that there were no memos in the files indicating the amount of maternity leave approved and the period covered by the grant. Although such documentation is not required by the District Attorney's Office procedures, it is necessary to ensure that individuals are only getting paid for maternity disability leave that has been approved.

Recommendations

The District Attorney's Office should:

8. Ensure that request letters for paid maternity leave are kept on file.
9. Require written authorizations for paid maternity disability leave granted to employees. The authorizations should indicate the number of days approved as well as the period covered by the grant.

District Attorney's Office Response: "As of January 1, 2004 the policy of the office has been to ensure that all employees request a child care leave in writing and written authorization letters are done and given to the affected employee."

Improper Early Departure Before Holidays And Time Off to Attend Graduations

The District Attorney's Office allows its non-ADA employees to leave work early the day before major holidays (including Christmas Eve, New Years Eve, and Thanksgiving Eve) without charging their accrued annual leave. In fact, on December 24, 2003, we observed that employees working that day were allowed to leave the office at 2:00 PM without charging their leave balances. In addition, the District Attorney's Office allows non-ADA employees to attend school graduations of family members without charging their accrued time.

We question these practices, since the DCAS Personnel Rules and Leave Regulations do not provide for pre-holiday early departure or attendance at school graduations without charging employees' leave balances.

Recommendation

10. The District Attorney's Office should immediately cease its practice of allowing employees early departure before holidays and attending graduations without charging their annual leave balances.

District Attorney's Office Response: "As of January 1, 2004, the policy of the office has been to charge employees annual leave or compensatory time if they wish to leave early on the day preceding a holiday or to attend a graduation."

Incorrect Payments to Employees Who Separated from Service

Our review disclosed errors in payments made to employees who separated from the District Attorney's Office. Specifically, 14 of 15 departed employees sampled received incorrect payments—12 employees received overpayments of \$33,616, and two employees were underpaid by \$1,030, as shown in Table I.

Table I

Separated Employees Who Received Incorrect Payments

Employee	Employee Title	Amount Paid After Last Workday	Amount Due	Amount Overpaid (Underpaid)
1	Principal Administrative Associate	\$47,103	\$31,918	\$15,185
2	Assistant District Attorney	\$15,187	\$11,082	\$4,105
3	Paralegal Aide	\$3,938	\$ 0	\$3,938
4	Special Assistant to District Attorney	\$5,467	\$2,584	\$2,883
5	Assistant District Attorney	\$17,172	\$14,916	\$2,256
6	Assistant District Attorney	\$6,663	\$4,911	\$1,752
7	Assistant District Attorney	\$69,711	\$68,613	\$1,098
8	Executive Assistant to District Attorney	\$47,126	\$46,269	\$857
9	Assistant District Attorney	\$7,223	\$6,628	\$595
10	Community Coordinator	\$1,659	\$1,237	\$422
11	Secretary	\$2,676	\$2,376	\$300
12	Community Associate	\$1,680	\$1,455	\$225
13	Assistant District Attorney	\$5,846	\$6,201	(\$355)
14	Assistant District Attorney	\$9,435	\$10,110	(\$675)

It should be noted that most of these incorrect payments were attributable to: inaccurate leave balances due to timekeeping errors; failure to remove employees from the payroll upon separation from City service; and payments for excess annual leave for which there were no letters authorizing the carryover of this time.

Recommendations

The District Attorney’s Office should:

- 11. Attempt to recoup the separation pay that was overpaid to the employees.
- 12. Provide training to employees responsible for calculating separation payments.

District Attorney’s Office Response: “Twelve letters have been sent to the employees who received an overpayment due to inaccurate leave balances, timekeeping errors, failure to remove employees from the payroll upon separation or excess annual leave. To date, three reimbursement checks have been received and have been forwarded to the Office of Payroll Administration for processing. Two employees who were underpaid will receive a check for the proper amount owed to them. Additionally, training has been provided to employees responsible for calculating separation payments.”

Employees Not Paid within the Salary Ranges of Their Titles

The annual salaries of 28 of the 50 full-time employees were not within the salary range of their Career and Salary Plan titles, as required by DCAS personnel rules.⁵ The salaries of 22 employees exceeded the maximum pay rates for their titles, and the salaries of six employees were less than the minimum pay rates for their titles. Table II, following, lists the top five employees who exceeded the maximum pay rates for their titles.

Table II

Top Five Employees Paid in Excess of the Salary Ranges of Their Titles

Employee	Title	Current Salary	Salary Range of Title	Difference
1	Community Service Aide	\$40,560	\$22,674-\$23,683	\$16,877
2	Community Associate	\$58,157	\$29,602-\$42,839	\$15,318
3	Secretary	\$53,017	\$28,103-\$39,588	\$13,429
4	Media Service Tech	\$57,188	\$38,857-\$44,524	\$12,664
5	Community Service Aide	\$35,664	\$22,674-\$23,683	\$11,981

⁵ The 50 employees reviewed do not include Assistant District Attorneys, since they are not covered under the City Career and Salary Plan.

The City Career and Salary Plan contains minimum and maximum pay rates for each job title. According to the Career and Salary Plan, “The purpose of this resolution is to provide fair and comparable pay for comparable work.” Thus, the minimum and maximum pay rates are an integral part of the Plan.

Recommendation

- 13. The District Attorney’s Office should transfer employees whose salaries currently are not within the ranges of their titles into other titles for which they qualify and that have salary ranges that encompass their current pay levels, or should appropriately adjust their salaries.

District Attorney’s Office Response: “An in-depth review was conducted of every administrative support position in the office. Where applicable, titles were changed for employees to more accurately fit their job duties. All employees are now being paid within their title salary range. This was completed prior to the release of the audit.”

Employees Permitted to Carry Compensatory Time Beyond the 120 Day Limit

As of December 31, 2003, 23 of the 56 employees with titles covered by City Time and Leave Regulations had a combined total of 573 hours of compensatory time that was not used within 120 days.⁶ According to City Time and Leave Regulations, employees must use compensatory time within four months of its being earned. Any such time not used should be added to the employees’ sick leave balances, unless the agency authorizes employees in writing to carry it over. However, no such authorizations were on file for the 23 employees.

Table III, following, lists the five employees who had the largest compensatory time balances not used within 120 days.

Table III

Top Five Employees With Compensatory Time Not Used Within 120 Days

Employee	Employee Title	Compensatory Time Balance as of 12/31/03	Compensatory Time Not Used Within 120 Days
1	Senior Detective Investigator	145:30	145:30
2	Principal Administrative Associate	156:14	74:59
3	Principal Administrative Associate	52:00	52:00
4	Senior Detective Investigator	62:00	50:00
5	Paralegal Aide	56:51	41:36

⁶ We did not include Assistant District Attorneys in this analysis, since they are not covered by the City Time and Leave regulations.

Recommendation

14. The District Attorney's Office should adhere to City Time and Leave Regulations requiring employees to use compensatory time within 120 days after it is earned. If an employee does not adhere to this requirement, the compensatory time should be converted and incorporated into the employees' sick leave balance. If an employee cannot use compensatory time within 120 days of its being earned, appropriate authorization should be maintained allowing the carryover of this time past the 120-day limit.

District Attorney's Office Response: "Beginning November 1, 2004, the office has started a policy which will require all employees to use compensatory time within 120 days after it has been earned. If it is not used, the unused compensatory time will be converted to sick leave."

Sick Leave Regulations Not Enforced

Fifteen employees of the District Attorney's Office had more than five instances of undocumented sick leave within a "sick leave period," but were not placed on sick leave restriction as required by City Time and Leave Regulations. These regulations require that an employee who uses undocumented sick leave more than five times during a six-month period—either January to June or July to December—be placed on "sick leave restriction."

Had the 15 employees been placed on sick leave restriction, they would have been required to provide medical documentation for each subsequent sick leave occurrence. This requirement would remain in effect until the employee worked a complete sick leave period without being on sick leave more than two times. The employees pay should be docked if he/she failed to bring documentation for sick leave used while under sick leave restriction. It should be noted that in calendar year 2003, these employees had 109 instances of undocumented sick leave totaling 877 hours that would have been subject to these requirements.

Recommendation

15. The District Attorney's Office should require that its employees provide medical documentation for sick leave used, in accordance with City Time and Leave Regulations. Employees should be placed on sick leave restriction after five or more instances of undocumented sick leave within a "sick leave period."

District Attorney's Office Response: "Effective July 1, 2004, all administrative staff in the office have been required to provide medical documentation in accordance with City Time and Leave regulations. Beginning January 1, 2005, all legal staff (Assistant District Attorneys) will be subject to the same policy."

Excess Annual Leave Balances

We found that 17 employees had annual leave balances exceeding the maximum amounts allowable under City Time and Leave Regulations. As of April 30, 2003, the leave balances of these employees collectively exceeded the allowable amounts by a total of 5,256 hours, or 751 days.

Section 2.4 of the City Time and Leave Regulations states that “an employee’s [annual] leave balance must be reduced by May 1 in any given year to the amount accruable in the preceding two years.” The leave regulations also provide for the transfer of an employee’s excess annual leave balance to the employee’s sick leave balance. City Time and Leave Regulations also state that “in the event . . . that any agency head authorizes in writing an employee to forego vacation . . . that portion . . . shall be carried over as annual leave, even though . . . [it] exceeds the [maximum] limit.” However, no such authorizations were on file for the 17 employees with excess annual leave balances.

Had these employees decided to separate from City service immediately and had to be paid for their annual leave balances, the cost to the City would have been approximately \$142,661. However, had the District Attorney’s Office conformed to City guidelines regarding the conversion of excess annual leave balances to sick leave, then the City’s potential monetary liability would have been reduced to \$69,502.

Recommendations

The District Attorney’s Office should:

16. Ensure that all employees are made aware of City guidelines regarding the maximum annual leave balance restriction. In this regard, the District Attorney’s Office should implement a periodic review and written notification process, informing employees when their annual leave balances are approaching their maximum allowable limits.
17. Provide appropriate written authorizations to employees who are requested to forego their use of annual leave. A copy of the authorization should be placed in the employee’s personnel files. In the event that an authorization is not obtained, an employee’s excess annual leave should be converted to sick leave, in accordance with City Time and Leave Regulations.

District Attorney’s Office Response: “The office informed all employees of the City guidelines regarding the maximum leave balance restriction. Additionally, written waivers were granted to those employees who requested to forego their use of excess annual leave.”

Procurement Weaknesses

Our review of 77 payment vouchers and their supporting purchase documents revealed some minor weaknesses in the District Attorney's Office procurement practices, as follows:

- None of the voucher packages reviewed were stamped "vouchered" on each page, as required by Comptroller's Directive 24. Stamping vouchers helps prevent duplicate payments.
- Twenty-six vouchers were not charged to the correct object codes.
- One miscellaneous voucher was improperly used to pay for database services. Directive 25 states that miscellaneous vouchers are to be used only when estimated or actual future liability is not determinable and an Advice of Award, purchase order, or agency encumbrance is not required or applicable. .

Recommendations

The District Attorney's Office should:

18. Ensure that all purchase documents are stamped "vouchered" and all purchases are charged to correct object codes.
19. Ensure that miscellaneous vouchers are used in accordance with Directive 25.

District Attorney's Office Response: "Although no longer required, all appropriate documents are stamped "vouchered" where applicable. Orders have been charged to the correct object codes. Additionally, miscellaneous vouchers are only used in the event that there are no other means of payment to a vendor."

Inventory Control Weaknesses

The District Attorney's Office did not maintain complete and accurate inventory records for all equipment. Specifically:

- Four items on the inventory list—two monitors, a VCR, and a television—could not be found;
- 17 items were found in places other than those indicated on the inventory list;
- Three items were listed with incorrect serial numbers;
- Three items did not have affixed identification tags; and

- Three items—a VCR, a fax machine, and a printer—were not included on the inventory list.

After discussing these issues with the Manager of Information Systems, appropriate adjustments were made to the inventory records, and identification tags were affixed to the three untagged items.

Recommendations

The District Attorney's Office should:

20. Ensure that complete and accurate inventory records are maintained.
21. Attempt to find the items that were not found during the audit.

District Attorney's Office Response: "The facilities manager has re-done the office inventory and will continue to maintain it. Attempts have been made to locate the items listed as not being found. It is believed that these items were salvaged during the office relocation from 36 Richmond Terrace to 130 Stuyvesant Place without the proper paperwork being processed. All current and future items slated for salvage will be done pursuant to DCAS regulations."

Other Issues

One-Time Payments Issued to Employees Without Supporting Justification

The District Attorney's Office issued "one-time" payments to its employees for Fiscal Years 2002 and 2003 without maintaining documentation justifying the payments. These payments totaled \$217,500 in Fiscal Year 2002 and \$286,800 in Fiscal Year 2003. The individual payments ranged from \$500 to \$7,000.

We believe that the District Attorney's Office should maintain documentation justifying these payments as the payments are in excess of the employees' regular approved salaries.

Recommendation

The District Attorney's Office should:

22. Establish formal procedures for issuing one-time payments to its staff. The procedures should require that employee personnel files contain memos or other documentation justifying one-time payments.

District Attorney's Office Response: "Beginning January 1, 2005, the office will undertake a formal performance evaluation process for the entire staff. Funding permitted, any future one time payments will be based on the employee's performance rating."

Questionable Payment Made to Former District Attorney

We found that the District Attorney's Office made a \$20,082 payment to the former District Attorney upon his separation from City service. When we questioned the District Attorney's Office about this payment, we were given a memorandum written by the former District Attorney certifying that he was owed the money for seven weeks of unused annual leave that he accrued while serving as Chief Assistant District Attorney of Richmond County between January 1, 1976, and December 31, 1982. However, the District Attorney's Office provided no records of the former District Attorney's leave accruals and leave use to substantiate the payment.

Recommendations

The District Attorney's Office should:

23. Ensure that all payments to separating employees for unused leave are supported by complete and accurate time records.
24. Seek guidance from DCAS and the Law Department on whether the payment to the former District Attorney was appropriate and whether restitution for a portion or the entire amount paid should be sought.

District Attorney's Office Response: "The General Counsel at the Department of Citywide Administrative Services (DCAS) was contacted to ask his opinion concerning the payment made to former District Attorney William L. Murphy. The General Counsel will look into the situation, check with the Law Department and get back to my staff with an opinion."



OFFICE OF THE DISTRICT ATTORNEY
RICHMOND COUNTY

DANIEL M. DONOVAN, JR.
DISTRICT ATTORNEY

130 STUYVESANT PLACE
STATEN ISLAND, NEW YORK 10301
TELEPHONE (718) 876-6300

OFFICE OF THE DISTRICT ATTORNEY
CITY HALL, RICHMOND COUNTY
'04 DEC 21 11:38
RECEIVED

December 20, 2004

Mr. Greg Brooks
NYC Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

**Re: Audit Report of the Financial and Operating Practices
of the Richmond County District Attorney's Office
FP04-056A**

Dear Mr. Brooks:

This is in response to the recommendations which were set forth in the audit of the *Financial and Operating Practices of the Richmond County District Attorney's Office*. As was stated, this audit covered the period July 1, 2002 through December 31, 2003. I took office as the District Attorney of Richmond County on January 1, 2004. I have read these recommendations and have directed my staff to address them. In the majority of the instances, corrective action has already taken place prior to the audit being released.

Listed below is the status of the following issues:

- **TIMEKEEPING DISCREPANCIES** – In April 2004, legal staff (Assistant District Attorneys) began using timesheets while the administrative staff started in May 2004. The timesheets replaced the time clock and log books that were previously being used. All sheets require the sign-off of the supervisor in each Bureau. An additional staff employee was added to the Human Resources Division in order to separate the functions of payroll and timekeeping. This will ensure a system of checks and balances and prevent any future errors from occurring. Additionally, a further review will take place to determine the feasibility of adjusting employee's leave balances based upon the findings in the audit.
- **LACK OF TIME RECORDS FOR THE MANAGERIAL EMPLOYEE** – As of January 4, 2004 the managerial employee (who returned from a leave of absence on January 4, 2004) began completing timesheets which continue to be approved by the Chief of the Administration Bureau.

- **LEAVE IMPROPERLY GRANTED AND ACCRUALS IMPROPERLY CREDITED** – With reference to the managerial employee, as of January 1, 2004, the policy was discontinued which granted paid leave time to employees before their accumulated sick and annual leave balances are exhausted. Additionally, a further review will take place to determine the feasibility of adjusting the leave balances of the managerial employee cited in the audit. This will be considered when the employee reaches a sufficient level of leave balances to be reduced. On January 1, 2005, this policy will be extended to include all of the legal staff (Assistant District Attorneys) as well.
- **REQUEST LETTERS FOR PAID “MATERNITY DISABILITY LEAVE” NOT ON FILE** – As of January 1, 2004 the policy of the office has been to ensure that all employees request a child care leave in writing and written authorization letters are done and given to the affected employee.
- **IMPROPER EARLY DEPARTURE BEFORE HOLIDAYS AND TIME OFF TO ATTEND GRADUATIONS** - As of January 1, 2004, the policy of the office has been to charge employees annual leave or compensatory time if they wish to leave early on the day preceding a holiday or to attend a graduation.
- **INCORRECT PAYMENTS TO EMPLOYEES WHO SEPARATED FROM SERVICE** – Twelve letters have been sent to the employees who received an overpayment due to inaccurate leave balances, timekeeping errors, failure to remove employees from the payroll upon separation or excess annual leave. To date, three reimbursement checks have been received and have been forwarded to the Office of Payroll Administration for processing. Two employees who were underpaid will receive a check for the proper amount owed to them. Additionally, training has been provided to employees responsible for calculating separation payments.
- **EMPLOYEES NOT PAID WITHIN THE SALARY RANGES OF THEIR TITLES** – An in-depth review was conducted of every administrative support position in the office. Where applicable, titles were changed for employees to more accurately fit their job duties. All employees are now being paid within their title salary range. This was completed prior to the release of the audit.
- **EMPLOYEES PERMITTED TO CARRY COMPENSATORY TIME BEYOND THE 120 DAY TIME LIMIT** – Beginning November 1, 2004, the office has started a policy which will require all employees to use compensatory time within 120 days after it has been earned. If it is not used, the unused compensatory time will be converted to sick leave.
- **EXCESS ANNUAL LEAVE BALANCES** – The office informed all employees of the City guidelines regarding the maximum leave balance restriction. Additionally, written waivers were granted to those employees who requested to forego their use of excess annual leave.

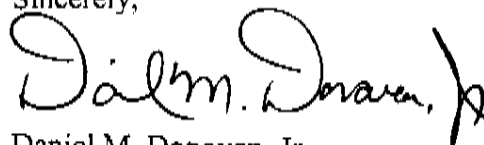
Greg Brooks
Page 3

- **PROCUREMENT WEAKNESSES** – Although no longer required, all appropriate documents are stamped “*vouchered*” where applicable. Orders have been charged to the correct object codes. Additionally, miscellaneous vouchers are only used in the event that there are no other means of payment to a vendor.
- **INVENTORY CONTROL WEAKNESSES** – The facilities manager has re-done the office inventory and will continue to maintain it. Attempts have been made to locate the items listed as not being found. It is believed that these items were salvaged during the office relocation from 36 Richmond Terrace to 130 Stuyvesant Place without the proper paperwork being processed. All current and future items slated for salvage will be done pursuant to DCAS regulations.
- **QUESTIONABLE PAYMENT MADE TO FORMER DISTRICT ATTORNEY** – The General Counsel at the Department of Citywide Administrative Services (DCAS) was contacted to ask his opinion concerning the payment made to former District Attorney William L. Murphy. The General Counsel will look into the situation, check with the Law Department and get back to my staff with an opinion.

Please be assured that my staff intends to carry out all of these recommendations to ensure that we are complying with payroll, personnel, timekeeping, purchasing, and inventory procedures, as set forth in the New York City Comptroller’s Internal Control and Accountability Directives 13, 24 and 25, Department of Citywide Administrative Services’ personnel rules and leave regulations, the Richmond County District Attorney Manual and the Procurement Policy Board (PPB) rules.

My staff is available to sit with you and discuss any of our responses to your recommendations as well as provide any back-up documentation, as needed. Please feel free to contact Ronald Carara, Chief of the Bureau of Administration at (718) 556-7070 if you wish to schedule a meeting.

Sincerely,



Daniel M. Donovan, Jr.
District Attorney

DMD:rc



OFFICE OF THE DISTRICT ATTORNEY
RICHMOND COUNTY

DANIEL M. DONOVAN, JR.
DISTRICT ATTORNEY

130 STUYVESANT PLACE
STATEN ISLAND, NEW YORK 10301
TELEPHONE (718) 876-6300

December 22, 2004

Mr. Greg Brooks
NYC Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

**Re: Audit Report of the Financial and Operating Practices
of the Richmond County District Attorney's Office
FP04-056A**

Dear Mr. Brooks:

The following is an addendum to my responses which was sent to you on December 20, 2004 related to your recommendations which were set forth in the audit of the *Financial and Operating Practices of the Richmond County District Attorney's Office*.

Listed below is the status of the two additional responses:

- **UNDOCUMENTED SICK LEAVE** – Effective July 1, 2004, all administrative staff in the office have been required to provide medical documentation in accordance with City Time and Leave regulations. Beginning January 1, 2005, all legal staff (Assistant District Attorneys) will be subject to the same policy.
- **ONE TIME PAYMENTS** – Beginning January 1, 2005, the office will undertake a formal performance evaluation process for the entire staff. Funding permitted, any future one time payments will be based on the employee's performance rating.

I apologize for inadvertently omitting these two issues in my initial response. As stated in my December 20, 2004 response, my staff is available to sit with you and discuss any of our responses to your recommendations, as well as provide any back-up documentation, as needed. Please feel free to call Ronald Carara, Chief of the Administration Bureau at (718) 556-7070 if you wish to schedule a meeting.

Sincerely,

A handwritten signature in black ink that reads "Daniel M. Donovan, Jr." in a cursive style.

Daniel M. Donovan, Jr.
District Attorney

DMD:rc