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Audit of State's Probation Program Reveals

Extraordinary Spike in Costs and Clear Opportunities for Taxpayer Savings

State Auditor Mike Foley released a report today addressing his office's recent audit of the State's Administrative Office of Probation (AOP), which operates under the auspices of the Nebraska State Supreme Court. That report documents extraordinary increases – occasioned in part, at least, by inadequate oversight – in the cost of supervising the well over 16,000 Nebraska convicted lawbreakers sentenced to probation, approximately 5,500 of whom are receiving specific court-ordered services.

For calendar year 2024, administration of the probation program, including numerous court-ordered services for probationers, cost over \$62 million – **an increase of some \$19.5 million** from only two years earlier. Despite comprising approximately 20% of all probationers, **juveniles account for 88%** (more than \$55 million) of the cost of all of probation services provided in Nebraska.

The number of juveniles in the probation program has increased only slightly over the past two years. Nevertheless, a review of the financial data indicates that the \$19.5 million cost explosion during that short time is due primarily to the dramatic increase of court-ordered services – including psychiatric, family support, substance abuse, community youth coaching, transportation, etc. – for juvenile convicted lawbreakers sentenced to probation.

State law permits a judge to require probationers – or, in the case of juveniles, their families – with sufficient financial resources to help pay for the cost of court-ordered services. The AOP is responsible for, among other things, gathering and presenting financial information about an offender that a sentencing court needs to assign monetary responsibility for any probation services ordered. According to Foley's audit report, however, the AOP lacked procedures for performing that duty appropriately, resulting in ongoing judicial failure to require payments for probationer services. In an audit sample of 48 service costs, **probationers were not required to pay even a single dollar** – despite evidence that many of them or their families had the monetary means to cover some, if not all, of those expenses.

Similar findings were noted during the State Auditor's previous audit of the AOP for calendar year 2015, **nine years ago**. As Foley's recent audit report makes clear, however, some of those ongoing issues have remained unresolved for almost a decade.

"The costs of rehabilitative services for offenders, adults and juveniles alike, who have the financial wherewithal to pay for them," Foley stated, "should not be borne by honest, hard-working Nebraskans – decent citizens who not only, in some cases, **have been victimized by these individuals but**

also are taxed already to be protected from them.” Foley concluded, “That’s both common sense and what the law requires.”

Other key findings of the audit include the following:

- ✓ In addition to directing adult probationers to pay both enrollment and supervision fees, State statute authorizes the AOP to establish costs for such other requirements as monthly drug testing and daily electronic surveillance. However, only 38% of such amounts charged during calendar year 2024 were collected. The courts waived 37% of those fees and charges, totaling over \$980,000, and another approximately \$650,000 remains outstanding.
- ✓ Particularly troubling is the AOP’s failure to verify the accuracy of the financial information obtained from convicted lawbreakers or their households, much less implement a formal policy outlining their financial responsibility. To determine the ability of probationers to pay for court-ordered services, the AOP relies heavily upon financial information contained in disclosure statements required from those individuals. For juveniles in particular, Foley’s audit team found much of the financial information provided by probationers’ households to be highly questionable, if not blatantly false. “Relying on financial data without confirmation is inadequate and, as demonstrated by the audit findings, increases astronomically the risk for loss of State funds,” Foley said.

The audit report details the following:

- In 13 cases, the audit team accessed financial data on file with the Department of Labor and/or the Department of Health & Human Services to conclude that available family financial resources exceeded what was disclosed by the probationers’ households.
 - Six probationer households claimed to have no income. In one case, the auditors identified over \$12,000 in monthly family income. In a similar case, Foley’s team identified monthly family income of nearly \$4,000.
 - In another example, a probationer’s household reported family income of \$3,100 per month, but the audit team identified family income in excess of \$10,500 per month. In a number of other cases, the audit team found income sources more than twice the amounts reported by the probationers’ households.
 - In two other cases tested, the adult probationers failed to even complete the necessary financial disclosure statement.
 - The AOP’s administrative regulations require the financial needs of probationers to be updated at least every six months, but that had not been occurring in about half of the cases reviewed.
- ✓ The AOP lacks authority to require juvenile offenders or their families to pay for court-ordered services. Such prerogative rests solely with the court, whose determinations should be based upon financial data submitted by the AOP. Unfortunately, the AOP’s failure to produce that vital information and to make attendant recommendations to the court has forestalled the issuance of such judicial directives.

- ✓ The audit report discusses the probability that the AOP has paid millions of dollars for juvenile services that might have been covered instead by Medicaid or private insurance. Specific examples are offered of juvenile probationers who had private insurance coverage or were Medicaid eligible, but the AOP paid the full costs of their court-ordered services nonetheless.
- ✓ Although AOP guidelines preclude paying the costs of court-ordered services for adult probationers who have private insurance or are covered under either Medicaid or Medicare, probation officers can prepare a “Special Eligibility Request” to override that prohibition. The audit team identified instances of the AOP paying for covered services without submission of the requisite override request, however.
- ✓ Foley’s audit team found that the AOP had improperly paid for services exceeding those ordered by the court. Also noted were erroneous duplicate payments for probationer services.
- ✓ On multiple occasions, the AOP paid for probationer services never rendered. For example, the audit team identified a case in which the AOP spent almost \$800 for a juvenile offender’s care in a group home during a period when the youth had run away and obviously was not residing at that facility.
- ✓ The audit report notes that the AOP has failed to enter into an agreement with the Department of Health and Human Services for the use of available Federal funds to cover costs associated with juveniles who require out-of-home placement and may be eligible for Title IV-E Federal dollars. Although a State law was passed over 10 years ago to compel their use, the AOP has neglected to take the steps necessary to obtain those Federal monies.
- ✓ Additionally, the audit revealed four instances of probationers who were wards of the State, meaning that the costs of their court-ordered services, totaling nearly \$225,000, may have been required to be paid by the Department of Health and Human Services – which likely could have used Federal funds to do so.
- ✓ Yet another example of wasteful spending described in Foley’s audit report was a court-ordered probationer service that, per the AOP’s policies, could be provided for a maximum of 45 days. Nevertheless, the AOP paid for 118 days without the court’s authorization, squandering thousands of dollars as a result.

“Administering this State’s probation program is unquestionably a difficult and often thankless task,” Foley observed. “All the same, my office’s latest audit work shows much room for improvement – as there has been for many years – when it comes to efficient fiscal management. Hopefully, this report will spur the AOP to take immediate corrective action that will help to save untold sums of taxpayer dollars.”

The full report is available at: www.auditors.nebraska.gov

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