

# **KERN COUNTY**

Audit Report

## **COURT COSTS AND OTHER RELATED CHARGES PROGRAM**

Penal Code section 4750

*July 1, 2004, through June 30, 2007*



**JOHN CHIANG**  
California State Controller

August 2008



**JOHN CHIANG**  
California State Controller

August 29, 2008

The Honorable Michael J. Rubio  
Chairman  
Board of Supervisors  
Kern County  
1115 Truxtun Avenue  
Bakersfield, CA 93301-4639

Dear Supervisor Rubio:

The State Controller's Office audited the costs claimed by Kern County for the Court Costs and Other Related Charges Program (Penal Code section 4750) for the period of July 1, 2004, through June 30, 2007.

The county claimed \$1,251,809 for the program. Our audit disclosed that \$1,068,209 is allowable and \$183,600 is unallowable. The unallowable costs resulted because the county claimed: (1) non-reimbursable program costs; (2) costs exceeding the reimbursement period; and (3) overstated indirect costs. The State paid the county \$1,185,128. The amount paid exceeds allowable costs claimed by \$116,919.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/sk

cc: Elsa Martinez, Administrative Services Officer  
District Attorney's Office  
Kern County  
The Honorable Ann K. Barnett  
Auditor-Controller-County Clerk  
Kern County  
Todd Jerue, Program Budget Manager  
Corrections and General Government  
Department of Finance

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by Kern County for the legislatively mandated Court Costs and Other Related Charges Program (Penal Code section 4750) for the period of July 1, 2004, through June 30, 2007.

The county claimed \$1,251,809 for the program. Our audit disclosed that \$1,068,209 is allowable and \$183,600 is unallowable. The unallowable costs resulted because the county claimed: (1) non-reimbursable program costs; (2) costs exceeding the reimbursement period; and (3) overstated indirect costs. The State paid the county \$1,185,128. The amount paid exceeds allowable costs claimed by \$116,919.

## Background

Since 1941, the State has provided reimbursements to counties for the added expense and effort in handling State prison inmate proceedings for specific crimes. In 1974, the State began to include cities in the reimbursement process. Since then, other State statutes have expanded the reimbursement criteria to include direct and indirect costs.

Effective January 1, 1987, Statutes of 1986, Chapter 1310 added Penal Code section 4750. This legislation provides that cities and counties will be reimbursed for costs of investigating and prosecuting all crimes committed in state prisons.

## Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Court Costs and Other Related Charges Program for the period of July 1, 2004, through June 30, 2007.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of Government Code section 12410. We did not audit the county's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

**Conclusion**

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Kern County claimed \$1,251,809 for costs of the Court Costs and Other Related Charges Program. Our audit disclosed that \$1,068,209 is allowable and \$183,600 is unallowable.

For the fiscal year (FY) 2004-05 claim, the State paid the county \$358,613. Our audit disclosed that \$346,123 is allowable. The State will offset \$12,490 from program payments due the county. Alternatively, the county may remit this amount to the State.

For the FY 2005-06 claim, the State paid the county \$548,206. Our audit disclosed that \$588,538 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$40,332, contingent upon available appropriations.

For the FY 2006-07 claim, the State paid the county \$278,309. Our audit disclosed that \$133,548 is allowable. The State will offset \$144,761 from program payments due the county. Alternatively, the county may remit this amount to the State.

**Views of  
Responsible  
Official**

We issued a draft audit report on May 14, 2008. Edward Jagels, District Attorney, responded by letter dated July 17, 2008 (Attachment), agreeing with the audit results. This final audit report includes the county's response.

**Restricted Use**

This report is solely for the information and use of Kern County, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

August 29, 2008

**Schedule 1—  
Summary of Program Costs  
July 1, 2004, through June 30, 2007**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>	Reference <sup>2</sup>
<u>July 1, 2004, through June 30, 2005</u>				
Direct costs:				
Salaries	\$ 243,142	\$ 203,330	\$ (39,812)	Finding 1,2
Benefits	101,103	88,584	(12,519)	Finding 1,2
Other direct charges	4,949	1,818	(3,131)	Finding 1
Total direct costs	349,194	293,732	(55,462)	
Indirect costs	65,782	52,391	(13,391)	Finding 1,2
Total program costs	<u>\$ 414,976</u>	346,123	<u>\$ (68,853)</u>	
Less amount paid by the State		(358,613)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (12,490)</u>		
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs:				
Salaries	\$ 349,598	\$ 339,168	\$ (10,430)	Finding 1
Benefits	170,030	162,807	(7,223)	Finding 1
Other direct charges	7,595	6,462	(1,133)	Finding 1
Total direct costs	527,223	508,437	(18,786)	
Indirect costs	118,924	80,101	(38,823)	Finding 1,3
Total program costs	<u>\$ 646,147</u>	588,538	<u>\$ (57,609)</u>	
Less amount paid by the State		(548,206)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 40,332</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs:				
Salaries	\$ 97,997	\$ 75,602	\$ (22,395)	Finding 1,2
Benefits	53,212	40,524	(12,688)	Finding 1,2
Other direct charges	3,235	2,222	(1,013)	Finding 1,2
Total direct costs	154,444	118,348	(36,096)	
Indirect costs	36,242	15,200	(21,042)	Finding 1,2,3
Total program costs	<u>\$ 190,686</u>	133,548	<u>\$ (57,138)</u>	
Less amount paid by the State		(278,309)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (144,761)</u>		

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>	Reference <sup>2</sup>
<u>Summary: July 1, 2004, through June 30, 2007</u>				
Direct costs:				
Salaries	\$ 690,737	\$ 618,100	\$ (72,637)	
Benefits	324,345	291,915	(32,430)	
Other direct charges	<u>15,779</u>	<u>10,502</u>	<u>(5,277)</u>	
Total direct costs	1,030,861	920,517	(110,344)	
Indirect costs	<u>220,948</u>	<u>147,692</u>	<u>(73,256)</u>	
Total program costs	<u>\$ 1,251,809</u>	1,068,209	<u>\$ (183,600)</u>	
Less amount paid by the State		<u>(1,185,128)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (116,919)</u>		

<sup>1</sup> The total audit adjustment of \$183,600 includes the \$66,681 adjusted by the SCO's Division of Accounting and Reporting during its desk review process. The desk review adjustment represents non-reimbursable costs and claimed costs that exceeded the filing reimbursement period as follows:

	Fiscal Year		
	2004-05	2006-07	Total
Finding 1: Non-reimbursable Superior Court costs	\$ 32,779	\$ —	\$ 32,779
Non-reimbursable incidences	3,170	—	3,170
Finding 2: Costs exceeding filing reimbursement period	20,414	10,318	30,732
Total	<u>\$ 56,363</u>	<u>\$ 10,318</u>	<u>\$ 66,681</u>

<sup>2</sup> See the Findings and Recommendations section.

# Findings and Recommendations

## FINDING 1— Unallowable program costs

The county claimed unallowable salaries, benefits, and other direct charges totaling \$63,730 for the audit period. Related indirect costs totaled \$17,773. The costs were unallowable because the county claimed costs that were not identified in the program's guidelines as reimbursable. In addition, the county claimed costs for the Probation Department that were based on estimates and were not supported by actual time records.

The following table summarizes the audit adjustments:

	Salaries	Benefits	Other Direct Charges	Indirect Costs	Total
<u>FY 2004-05</u>					
District Attorney's Office:					
Unsupported costs	\$ —	\$ —	\$ (1,936)	\$ —	\$ (1,936)
Non-reimbursable incidences	(327)	(149)	—	(84)	(560)
Probation Department:					
Estimated costs	(3,531)	(1,476)	(75)	(2,452)	(7,534)
Non-reimbursable incidences	(303)	(127)	—	(211)	(641)
Sheriff's Office:					
Non-reimbursable incidences	(31)	(26)	(766)	(7)	(830)
Superior Court:					
Ineligible costs	(24,069)	(5,178)	(341)	(7,524)	(37,112)
Non-reimbursable incidences	(719)	(119)	(13)	(288)	(1,139)
Total, FY 2004-05	<u>\$ (28,980)</u>	<u>\$ (7,075)</u>	<u>\$ (3,131)</u>	<u>\$ (10,566)</u>	<u>\$ (49,752)</u>
<u>FY 2005-06</u>					
Probation Department:					
Estimated costs	<u>\$ (10,430)</u>	<u>\$ (7,223)</u>	<u>\$ (1,133)</u>	<u>\$ (5,611)</u>	<u>\$ (24,397)</u>
Total, FY 2005-06	<u>\$ (10,430)</u>	<u>\$ (7,223)</u>	<u>\$ (1,133)</u>	<u>\$ (5,611)</u>	<u>\$ (24,397)</u>
<u>FY 2006-07</u>					
Probation Department:					
Estimated costs	<u>\$ (3,006)</u>	<u>\$ (2,339)</u>	<u>\$ (413)</u>	<u>\$ (1,596)</u>	<u>\$ (7,354)</u>
Total, FY 2006-07	<u>\$ (3,006)</u>	<u>\$ (2,339)</u>	<u>\$ (413)</u>	<u>\$ (1,596)</u>	<u>\$ (7,354)</u>
<u>Total</u>					
District Attorney's Office:					
Unsupported costs	\$ —	\$ —	\$ (1,936)	\$ —	\$ (1,936)
Non-reimbursable incidences	(327)	(149)	—	(84)	(560)
Probation Department:					
Estimated costs	(16,967)	(11,038)	(1,621)	(9,659)	(39,285)
Non-reimbursable incidences	(303)	(127)	—	(211)	(641)
Sheriff's Office:					
Non-reimbursable incidences	(31)	(26)	(766)	(7)	(830)
Superior Court:					
Ineligible costs	(24,069)	(5,178)	(341)	(7,524)	(37,112)
Non-reimbursable incidences	(719)	(119)	(13)	(288)	(1,139)
Total	<u>\$ (42,416)</u>	<u>\$ (16,637)</u>	<u>\$ (4,677)</u>	<u>\$ (17,773)</u>	<u>\$ (81,503)</u>

**Unsupported Probation Department Costs**

For the audit period, the Probation Department did not adequately support \$39,285 in salaries, benefits, and related indirect costs for the audit period because claimed costs were based entirely on estimates. During our fieldwork, department staff stated that the claims were based on estimated costs. The department used estimated time to determine its reimbursable costs. Thus, the county was unable to provide any documentation to support the time spent on reimbursable activities.

**Non-reimbursable Superior Court Costs**

For FY 2004-05, the county claimed \$37,112 in court costs that are not reimbursable by the SCO. The county claimed non-reimbursable costs relating to the time spent by judges, deputy court clerks, courtroom clerks, legal researchers, and clerk typists.

**Unsupported District Attorney's Office Costs**

Our review of the District Attorney's Office costs for FY 2004-05 found \$1,936 in unsupported costs. The office provided no documentation to verify that the costs were incurred under this program. Further, we were unable to identify the cost components involved (e.g., direct costs, indirect costs).

**Non-reimbursable Incidences Claimed**

The county claimed non-reimbursable incidences totaling \$3,170 for FY 2004-05.

The Court Costs and Other Related Charges Program allows reimbursement of actual increased costs incurred as a direct result of Penal Code sections 4750 and 6005.

Senate Bill 1102 (Chapter 227, Statutes of 2004), a trailer bill to the Budget Act, authorized the Judicial Council to reimburse superior courts for costs associated with prisoner hearings under Penal Code sections 4750 through 4755 and 6005, which became effective on July 1, 2004. Thus, the county should have filed its statement of costs with the Judicial Council for approval and reimbursement.

**Recommendation**

We recommend that the county ensure that costs claimed are eligible for reimbursement and are properly supported.

**County's Response**

The county concurs with the finding.

**FINDING 2—  
Claimed costs that  
exceeded the filing  
reimbursement period**

For FY 2004-05 and FY 2006-07, the county claimed costs totaling \$65,112 that exceeded the six-month filing reimbursement period.

The following table summarizes the audit adjustments:

	Salaries	Benefits	Other Direct Charges	Indirect Costs	Total
<u>FY 2004-05</u>					
District Attorney	\$ (9,690)	\$ (5,098)	\$ —	\$ (2,487)	\$(17,275)
Probation	(623)	(258)	—	(432)	(1,313)
Public Defender	(1,059)	(322)	—	(312)	(1,693)
Superior Court	(39)	(4)	—	(16)	(59)
Sheriff	(44)	(20)	—	(10)	(74)
Subtotal	(11,455)	(5,702)	—	(3,257)	(20,414)
Less adjustments included in Finding 1	623	258	—	432	1,313
Audit adjustment, FY 2004-05	<u>\$(10,832)</u>	<u>\$ (5,444)</u>	<u>\$ —</u>	<u>\$ (2,825)</u>	<u>\$(19,101)</u>
<u>FY 2006-07</u>					
District Attorney	\$ (17,771)	\$ (9,108)	\$ (600)	\$ (6,204)	\$(33,683)
Probation	(3,006)	(2,339)	(413)	(1,596)	(7,354)
Public Defender	(1,565)	(1,144)	—	(773)	(3,482)
Superior Court	—	—	—	—	—
Sheriff	(53)	(97)	—	(29)	(179)
Subtotal	(22,395)	(12,688)	(1,013)	(8,602)	(44,698)
Less adjustments included in Finding 1	3,006	2,339	413	1,596	7,354
Audit adjustment, FY 2006-07	<u>\$(19,389)</u>	<u>\$(10,349)</u>	<u>\$ (600)</u>	<u>\$ (7,006)</u>	<u>\$(37,344)</u>
<u>Total</u>					
District Attorney	\$ (27,461)	\$ (14,206)	\$ (600)	\$ (8,691)	\$(50,958)
Probation	(3,629)	(2,597)	(413)	(2,028)	(8,667)
Public Defender	(2,624)	(1,466)	—	(1,085)	(5,175)
Superior Court	(39)	(4)	—	(16)	(59)
Sheriff	(97)	(117)	—	(39)	(253)
Subtotal	(33,850)	(18,390)	(1,013)	(11,859)	(65,112)
Less adjustments included in Finding 1	3,629	2,597	413	2,028	8,667
Total audit adjustment	<u>\$(30,221)</u>	<u>\$(15,793)</u>	<u>\$ (600)</u>	<u>\$ (9,831)</u>	<u>\$(56,445)</u>

The deadline for filing claims under this program is set in the Budget Act, Chapter 38, Statutes of 2005, Item 5225-101-0001, For Local Assistance, Department of Corrections and Rehabilitation, Provisions (1)(c):

To pay county charges, payable under Sections 4700.1, 4750 to 4755, inclusive, and 6005 of the Penal Code, claims shall be filed by local jurisdictions within six months after the end of the month in which:

- A service is performed by the coroner;
- A hearing is held on the return of a writ of habeas corpus;
- The district attorney declines to prosecute a case referred by the Department of Corrections and Rehabilitation;
- A judgment is rendered for a court hearing or trial;

- An appeal ruling is rendered for the trial judgment; or
- An activity is performed as permitted by these sections.

Expenditures shall be charged to either the fiscal year in which the claim is received by the Controller, or the fiscal year in which the warrant is issued by the Controller. Claims filed by local jurisdictions directly with the Controller may be paid by the Controller.

Claims filed after six months as specified above cannot be accepted by the SCO or the California Youth Authority.

Recommendation

We recommend that the county ensure that claims are reported properly and are submitted for reimbursement in a timely manner. The county may batch cases and submit them on a monthly, bi-monthly, or quarterly basis. We recommend that the county file claims on a quarterly basis.

County’s Response

The county concurs with the finding.

**FINDING 3—  
Overstated indirect costs**

For FY 2005-06 and FY 2006-07, the county overstated its indirect costs by \$59,865. In developing the indirect cost rate proposals (ICRP) for the District Attorney’s Office, the county included appropriated funds rather than actual expenditures in its calculation of the indirect cost rates. The county later modified its ICRPs using actual expenditures, but the adjusted rates were not reflected in the claims. We reviewed the county’s modified ICRPs and concurred with the county’s calculation and application of its indirect cost rates.

The following table summarizes the audit adjustments:

Cost Category	Fiscal Year		Total
	2005-06	2006-07	
Indirect costs	\$ (38,823)	\$ (21,042)	\$ (59,865)
Less audit adjustments included in Finding 1	5,611	—	5,611
Less audit adjustments included in Finding 2	—	8,602	8,602
Total audit adjustments	<u>\$ (33,212)</u>	<u>\$ (12,440)</u>	<u>\$ (45,652)</u>

The Court Costs and Other Related Charges Program allows reimbursement of actual increased costs incurred as a direct result of Penal Code sections 4750 and 6005.

Indirect costs are defined as costs that are incurred for a common or joint purpose, benefiting more than one program, and that are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs are eligible for reimbursement via the procedure described in Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments.

Recommendation

We recommend that the county prepare its ICRPs in a manner that is consistent with the program and the methodology outlined in OMB Circular A-87.

County's Response

The county concurs with the finding.

**FINDING 4—  
Failure to comply with  
the program's  
requirement regarding  
the certification of  
claimed costs**

During the audit period, the county failed to meet the program's requirement regarding the certification of claimed costs. In the early 1980s, the county's Board of Supervisors designated the District Attorney's Office as the lead agency for billing prison cases. Since then, the District Attorney's Office has prepared Kern County's statement of costs and submitted the claims directly to the SCO for reimbursement.

Penal Code section 4753 states, ". . . a city or county shall designate an officer or agency to prepare a statement of costs that shall be reimbursed under this chapter."

SCO claiming instructions further state, ". . . claimants must send the statement of costs to the county auditor-controller who will submit the claims to the SCO for approval. . . ."

Recommendation

We recommend that the county submit its statement of costs to the Auditor-Controller's Office, which will submit the claims to the SCO for approval and reimbursement.

County's Response

The county concurs with the finding.

**Attachment—  
County’s Response to  
Draft Audit Report**

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OFFICE OF THE DISTRICT ATTORNEY  
**COUNTY OF KERN**

**CRIMINAL DIVISION**

CIVIC CENTER JUSTICE BUILDING  
1215 TRUXTUN AVENUE, 4<sup>TH</sup> FLOOR  
BAKERSFIELD, CALIFORNIA 93301  
(661) 868-2340, FAX: (661) 868-2700

**THOMAS D. SPARKS**  
ASSISTANT DISTRICT ATTORNEY

**J. MICHAEL SALEEN**  
CHIEF DEPUTY DISTRICT ATTORNEY

**EDWARD R. JAGELS**  
DISTRICT ATTORNEY

July 17, 2008

Jim L. Spano, Chief  
Mandated Cost Audits Bureau  
Division of Audits  
California State Controller's Office  
P.O. Box 942850  
Sacramento, CA 94250-5874

RE: Kern County Audit Report for Court Costs and Other Related Charges pursuant to Penal Code Section 4750 for the period July 1, 2004 through June 30, 2007

The Kern County District Attorney's Office concurs with the findings and recommendations stated in the draft audit report dated May 14, 2008. We would like to take the opportunity to thank your staff for their professionalism during the course of the audit.

If you have any questions, please contact Mrs. Martinez at (661) 868-2703.

Sincerely,

EDWARD R. JAGELS  
District Attorney

By: Elsa T. Martinez  
Administrative Services Officer

cc: Auditor-Controller-County Clerk  
File

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
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