

ORANGE COUNTY

Audit Report

SEXUALLY VIOLENT PREDATORS PROGRAM

Chapter 762, Statutes of 1995; Chapter 763,
Statutes of 1995; and Chapter 4, Statutes of 1996

*July 1, 2003, through June 30, 2008,
excluding July 1, 2004, through June 30, 2005*



JOHN CHIANG
California State Controller

March 2011



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California State Controller

March 30, 2011

The Honorable Janet Nguyen
Chair-Orange County
Board of Supervisor
333 W. Santa Ana Boulevard
Santa Ana, CA 92701

Dear Ms. Nguyen:

The State Controller's Office audited the costs claimed by Orange County for the legislatively mandated Sexually Violent Predators Program (Chapter 762, Statutes of 1995; Chapter 763, Statutes of 1995; and Chapter 4, Statutes of 1996) for the period of July 1, 2003, through June 30, 2008, excluding July 1, 2004, through June 30, 2005.

The county claimed \$4,280,945 for the mandated program. Our audit disclosed that the entire amount is allowable. The State paid the county \$3,264,109. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,016,836, contingent upon available appropriations.

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/vb

cc: The Honorable David Sundstrom
Auditor-Controller
Orange County
Becky Juliano, Director of Administrative Services
Orange County Office of the Public Defender
Ana Roach, Manager
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Orange County for the legislatively mandated Sexually Violent Predators Program (Chapter 762, Statutes of 1995; Chapter 763, Statutes of 1995; and Chapter 4, Statutes of 1996) for the period of July 1, 2003, through June 30, 2008, excluding July 1, 2004, through June 30, 2005.

The county claimed \$4,280,945 for the mandated program. Our audit disclosed that the entire amount is allowable. The State paid the county \$3,264,109. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,016,836, contingent upon available appropriations.

Background

Welfare and Institutions Code sections 6250 and 6600 through 6608 (added by Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) establish new civil commitment procedures for the continued detention and treatment of sexually violent offenders following their completion of a prison term for certain sex-related offenses. Before detention and treatment are imposed, the county attorney is required to file a petition for civil commitment. A trial is then conducted to determine if the inmate is a sexually violent predator. If the inmate accused of being a sexually violent predator is indigent, the test claim legislation requires counties to provide the indigent with the assistance of counsel and experts necessary to prepare a defense.

On June 25, 1998, the Commission on State Mandates (CSM) determined that Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996, imposed a reimbursable state mandate under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on September 24, 1998. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Sexually Violent Predators Program for the period of July 1, 2003, through June 30, 2008.

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 this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the county's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and

conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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, Orange County claimed \$4,280,945 for costs of the Sexually Violent Predators Program. Our audit disclosed that the entire amount is allowable. The State paid the county \$3,264,109. The State will pay allowable costs claimed that exceed the amount paid, totaling \$1,016,836, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on December 10, 2010. David E. Sundstrom, Auditor-Controller, responded by letter dated January 12, 2010; the letter incorporates the Public Defender, Sheriff-Coroner, and Alternate Defense's responses (Attachment). The county agrees with the audit results, with the exception of Finding 3, relating to the Public Defender's Office, which the office stated it would not dispute. This final audit report includes the county's response.

Restricted Use

This report is solely for the information and use of Orange 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

March 30, 2011

**Schedule 1—
Summary of Program Costs
July 1, 2003, through June 30, 2008,
excluding July 1, 2004, through June 30, 2005**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
District Attorney:				
Salaries	\$ 121,077	\$ 121,077	\$ —	
Benefits	45,539	45,539	—	
Services and supplies	14,889	11,757	(3,132)	Finding 3
Total direct costs	181,505	178,373	(3,132)	
Indirect costs	42,702	42,702	—	
Subtotal, District Attorney	224,207	221,075	(3,132)	
Direct costs:				
Public Defender:				
Salaries	369,450	370,691	1,241	Finding 1
Benefits	109,341	109,688	347	Finding 1
Services and supplies	42,151	34,870	(7,281)	Finding 3
Travel and training	12,716	12,716	—	
Total direct costs	533,658	527,965	(5,693)	Finding 1
Indirect costs	93,319	93,628	309	Finding 1
Subtotal, Public Defender	626,977	621,593	(5,384)	
Direct costs:				
Sheriff:				
Salaries	5,419	—	(5,419)	Finding 1
Benefits	3,766	—	(3,766)	Finding 1
Travel and training	2,040	—	(2,040)	Finding 2
Services and supplies	151,911	196,268	44,357	Finding 3
Total direct costs	163,136	196,268	33,132	
Indirect costs	2,516	—	(2,516)	Finding 1
Subtotal, Sheriff	165,652	196,268	30,616	
Total direct and indirect costs	1,016,836	1,038,936	22,100	
Less allowable costs that exceed costs claimed ²	—	(22,100)	(22,100)	
Total program costs	<u>\$ 1,016,836</u>	1,016,836	<u>\$ —</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,016,836</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2005, through June 30, 2006</u>				
Direct costs:				
District Attorney:				
Salaries	\$ 224,668	\$ 224,668	\$ —	
Benefits	92,955	92,955	—	
Total direct costs	317,623	317,623	—	
Indirect costs	88,330	84,869	(3,461)	Finding 4
Subtotal, District Attorney	405,953	402,492	(3,461)	
Direct costs:				
Public Defender:				
Salaries	332,534	332,534	—	
Benefits	116,678	116,678	—	
Services and supplies	29,407	29,407	—	
Travel and training	15,103	15,103	—	
Total direct costs	493,722	493,722	—	
Indirect costs	103,951	103,951	—	
Subtotal, Public Defender	597,673	597,673	—	
Direct costs:				
Alternate Defense:				
Services and supplies	48,254	47,029	(1,225)	Finding 3
Subtotal, Alternate Defense	48,254	47,029	(1,225)	
Direct costs:				
Sheriff:				
Salaries	3,249	3,249	—	
Benefits	1,077	2,029	952	Finding 1
Travel and training	1,174	1,174	—	
Services and supplies	82,222	121,539	39,317	Finding 3
Total direct costs	87,722	127,991	40,269	
Indirect costs	1,336	1,630	294	Finding 1
Subtotal, Sheriff	89,058	129,621	40,563	
Total direct and indirect costs	1,140,938	1,176,815	35,877	
Less allowable costs that exceed costs claimed ²	—	(35,877)	(35,877)	
Total program costs	<u>\$ 1,140,938</u>	1,140,938	<u>\$ —</u>	
Less amount paid by the State		(1,140,938)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2006, through June 30, 2007</u>				
Direct costs:				
District Attorney:				
Salaries	\$ 150,624	\$ 150,624	\$ —	
Benefits	71,247	71,247	—	
Total direct costs	221,871	221,871	—	
Indirect costs	54,507	54,507	—	
Subtotal, District Attorney	276,378	276,378	—	
Direct costs:				
Public Defender:				
Salaries	309,649	309,649	—	
Benefits	126,305	126,305	—	
Services and supplies	46,962	46,962	—	
Travel and training	11,787	11,787	—	
Total direct costs	494,703	494,703	—	
Indirect costs	93,121	93,121	—	
Subtotal, Public Defender	587,824	587,824	—	
Direct costs:				
Alternate Defense:				
Services and supplies	33,265	33,265	—	
Subtotal, Alternate Defense	33,265	33,265	—	
Direct costs:				
Sheriff:				
Salaries	2,502	2,502	—	
Benefits	1,536	1,536	—	
Services and supplies	68,510	81,091	12,581	Finding 3
Travel and training	797	797	—	
Total direct costs	73,345	85,926	12,581	
Indirect costs	1,335	1,335	—	
Subtotal, Sheriff	74,680	87,261	12,581	
Total direct and indirect costs	972,147	984,728	12,581	
Less allowable costs that exceed costs claimed ²	—	(12,581)	(12,581)	
Total program costs	\$ 972,147	972,147	\$ —	
Less amount paid by the State		(972,147)		
Allowable costs claimed in excess of (less than) amount paid		\$ —		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2007, through June 30, 2008</u>				
Direct costs:				
District Attorney:				
Salaries	\$ 183,031	\$ 183,031	\$ —	
Benefits	89,430	89,430	—	
Services and supplies	<u>65,174</u>	<u>62,195</u>	<u>(2,979)</u>	Finding 3
Total direct costs	337,635	334,656	(2,979)	
Indirect costs	<u>64,415</u>	<u>64,415</u>	<u>—</u>	
Subtotal, District Attorney	<u>402,050</u>	<u>399,071</u>	<u>(2,979)</u>	
Direct costs:				
Public Defender:				
Salaries	328,986	332,476	3,490	Finding 1
Benefits	127,832	129,200	1,368	Finding 1
Travel and training	9,329	9,329	—	
Services and supplies	<u>45,372</u>	<u>42,949</u>	<u>(2,423)</u>	Finding 3
Total direct costs	511,519	513,954	2,435	
Indirect costs	<u>84,237</u>	<u>85,133</u>	<u>896</u>	Finding 1
Subtotal, Public Defender	<u>595,756</u>	<u>599,087</u>	<u>3,331</u>	
Direct costs:				
Alternate Defense:				
Services and supplies	<u>10,163</u>	<u>10,163</u>	<u>—</u>	
Subtotal, Alternate Defense	<u>10,163</u>	<u>10,163</u>	<u>—</u>	
Direct costs:				
Sheriff:				
Salaries	1,743	1,743	—	
Benefits	1,080	1,080	—	
Travel and training	738	738	—	
Services and supplies	<u>138,597</u>	<u>207,474</u>	<u>68,877</u>	Finding 3
Total direct costs	142,158	211,035	68,877	
Indirect costs	<u>897</u>	<u>897</u>	<u>—</u>	
Subtotal, Sheriff	<u>143,055</u>	<u>211,932</u>	<u>68,877</u>	
Total direct and indirect costs	1,151,024	1,220,253	69,229	
Less allowable costs that exceed costs claimed ²	<u>—</u>	<u>(69,229)</u>	<u>(69,229)</u>	
Total program costs	<u>\$ 1,151,024</u>	1,515,024	<u>\$ —</u>	
Less amount paid by the State		<u>(1,151,024)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary: July 1, 2003, through June 30, 2008</u>				
Direct costs:				
District Attorney:				
Salaries	\$ 679,400	\$ 679,400	\$ —	
Benefits	299,171	299,171	—	
Services and supplies	80,063	73,952	(6,111)	
Total direct costs	1,058,634	1,052,523	(6,111)	
Indirect costs	249,954	246,493	(3,461)	
Subtotal, District Attorney	1,308,588	1,299,016	(9,572)	
Direct costs:				
Public Defender:				
Salaries	1,340,619	1,345,350	4,731	
Benefits	480,156	481,871	1,715	
Travel and training	48,935	48,935	—	
Services and supplies	163,892	154,188	(9,704)	
Total direct costs				
Indirect costs	374,628	375,833	1,205	
Subtotal, Public Defender	2,408,230	2,406,177	(2,053)	
Direct costs:				
Alternate Defense:				
Services and supplies	91,682	90,457	(1,225)	
Subtotal, Alternate Defense	91,682	90,457	(1,225)	
Direct costs:				
Sheriff:				
Salaries	12,913	7,494	(5,419)	
Benefits	7,459	4,645	(2,814)	
Travel and training	4,749	2,709	(2,040)	
Services and supplies	441,240	606,372	165,132	
Total direct costs				
Indirect costs	6,084	3,862	(2,222)	
Subtotal, Sheriff	472,445	625,082	152,637	
Total direct and indirect costs	4,280,945	4,420,732	139,787	
Less allowable costs that exceed costs claimed ²	—	(139,787)	(139,787)	
Total program costs	\$ 4,280,945	4,280,945	\$ —	
Less amount paid by the State		(3,264,109)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,016,836</u>		

¹ See the Findings and Recommendations section.

² Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. That deadline has expired for all fiscal years of the audit period.

Findings and Recommendations

FINDING 1— Misstated salaries, benefits, and related indirect costs

The county overstated salaries and benefits by the net amount of \$1,787 during the audit period (overstated Sheriff's Department costs of \$9,185, understated Sheriff's Department costs of \$952, and understated Public Defender's Office costs of \$6,446). The overstated salaries and benefits occurred because costs were claimed for unallowable activities, costs were overstated for time spent performing mandated activities, productive hourly rates were overstated, and mathematical errors were made in the county's claims. The county understated salaries and benefits because not all hours spent performing reimbursable activities were claimed for fiscal year (FY) 2003-04 and FY 2007-08, productive hourly rates (PHRs) were understated, and an incorrect employee benefit rate was used for FY 2005-06. The related overstated indirect costs totaled \$1,017.

The following table summarizes the unallowable costs by department and fiscal year:

	Fiscal Year				Total
	2003-04	2005-06	2006-07	2007-08	
Salaries and benefits:					
Public Defender	\$ 1,588	\$ —	\$ —	\$ 4,858	\$ 6,446
Sheriff	(9,185)	952	—	—	(8,233)
Subtotal	(7,597)	952	—	4,858	(1,787)
Related indirect costs:					
Public Defender	309	—	—	896	1,205
Sheriff	(2,516)	294	—	—	(2,222)
Subtotal	(2,207)	294	—	896	(1,017)
Total audit adjustment	\$ (9,804)	\$ 1,246	\$ —	\$ 5,754	\$ (2,804)

The narrative below presents the audit finding by individual county department.

Public Defender's Office

The Public Defender's Office understated salaries and benefits by the net amount of \$6,446 during the audit period (overstated by \$43,757 and understated by \$50,203). Costs were understated because the office did not claim all employee hours spent performing reimbursable activities, did not claim any time for one Sexually Violent Predator (SVP) case for FY 2007-08, and understated the productive hourly rate for one employee for FY 2003-04. Costs were overstated because the office's case logs did not support time claimed for certain SVP cases, costs were claimed for unallowable activities, a transposition error was made in the county's FY 2007-08 claim, and the productive hourly rate was overstated for one employee for FY 2007-08.

The following table presents the various audit adjustment amounts by fiscal year for the Public Defender's Office:

	Fiscal Year				Total
	2003-04	2005-06	2006-07	2007-08	
Misstated PHR	\$ 3,789	\$ —	\$ —	\$ (31,130)	\$ (27,341)
Overstated hours	(3,482)	—	—	(215)	(3,697)
Transposition error	—	—	—	(1,373)	(1,373)
Unallowable activities	—	—	—	(3,502)	(3,502)
Claim rounding errors	3	—	—	(34)	(31)
Understated hours	1,278	—	—	33,083	34,361
Unclaimed case	—	—	—	8,029	8,029
Audit adjustment – salaries and benefits	1,588	—	—	4,858	6,446
Related indirect costs	309	—	—	896	1,205
Total audit adjustment	\$ 1,897	\$ —	\$ —	\$ 5,754	\$ 7,651

Misstated Productive Hourly Rate

For FY 2003-04, the productive hourly rate for one Public Defender's Office attorney was understated by \$1.75. The understatement occurred because an incorrect annual salary amount was used in the productive hourly rate calculation for that year. As a result, salaries and benefits were understated by \$3,789.

For FY 2007-08, the productive hourly rate for one Public Defender's Office attorney was overstated by \$12.51. The overstatement occurred because the total hours worked by the employee during the year were not used in the productive hourly rate calculation. County representatives explained that it seemed inappropriate to claim time spent by salaried employees beyond 40 hours per week. As a result, the 2,023.5 hours spent by one attorney on SVP cases was artificially reduced by 231.5 hours, to 1,792 hours, in the county's claim. The county then adjusted the employee's base salary rate upwards by 25% to adjust for the reduction in hours worked.

For the purposes of mandated cost claims, all hours spent by employees on reimbursable activities should be included in the county's claims. For those employees who work unpaid overtime hours, the productive hourly rate should be adjusted as appropriate to account for the total hours worked. To determine the audit adjustment, we added the 231.5 hours back in to the county's claim and adjusted the productive hourly rate for this employee downward to account for actual hours worked. As a result, we determined that salaries and benefits were overstated by \$31,130 due to application of the overstated PHR to the 1,792 hours included in the county's claim.

Overstated Hours

We compared the hours included in the county's claim forms to the time recorded on the department's case logs. We determined that hours claimed were overstated for certain SVP cases in FY 2003-04 and FY 2007-08. As a result, salaries and benefits were overstated by \$3,697 during the audit period.

Transposition Error

For FY 2007-08, the hours worked by two employees on case M-10842 were transposed on the county's claim form. As a result, salaries and benefits were overstated by \$1,373.

Unallowable Activities

For FY 2007-08, salaries and benefits costs totaling \$3,502 were claimed for case M-9642 for the activities of organizing, packing, moving, unpacking, and "clothing room." We determined that the first four activities were related to time spent by an employee to relocate to a new office location. The "clothing room" activity was related to finding suitable clothing for a defendant to wear during court proceedings. None of these activities are reimbursable under the mandated program and are unallowable.

Rounding Errors

Minor rounding errors were made by the county when adding up costs from the supporting pages of its claim forms. As a result, costs were overstated by \$31.

Understated Hours

Salaries and benefits were understated by \$34,361 during the audit period due to understated hours in the county's claim forms. Most of the understated costs occurred in FY 2007-08 for case M-8475 (221.5 understated hours totaling \$17,802) and case M-9738 (114.25 hours totaling \$14,352). The remaining \$2,207 was the result of differences between hours included in the county's claim forms and time recorded on case logs for certain SVP cases.

Unclaimed Case

During our review of the county's case logs, we noted that no costs were claimed for case M-11728 for FY 2007-08. As a result, salaries and benefits were understated by \$8,029.

Sheriff's Department

The Sheriff's Department claimed salaries and benefits costs totaling \$9,185 for FY 2003-04. We determined that the entire amount is unallowable because the department applied average mileage costs for transporting SVP defendants. The methodology used to develop the average could not be verified by the county. Therefore, all salaries and benefits claimed for correctional deputies to transport defendants were unallowable. In addition, we determined that SVP defendants were transported with other non-SVP defendants in the same vehicles, at the same times, and with the same deputies who provided security during FY 2003-04. Therefore, the county did not incur any increased costs for

the transportation of SVP defendants. We noted that the Sheriff's Department established new procedures applicable to FY 2005-06 through FY 2007-08 and SVP defendants were transported separately for those years. The related unallowable indirect costs totaled \$2,516.

We also determined that the Sheriff's Department understated benefit costs claimed for FY 2005-06 by a total of \$952. The understated costs occurred because the department applied the wrong salary base in computing the department-wide benefit rate. The department claimed 33.13% as the department-wide benefit rate; the actual allowable rate is 62.43%. The error occurred because total benefit costs were divided into total salaries and benefits to determine the 33.13% rate. We divided total benefit costs into total salaries and wages to determine the allowable rate of 62.43%. The related understated related indirect costs totaled \$294.

The parameters and guidelines (section V.A.1, Claim Preparation and Submission–Direct Costs–Salaries and Benefits) state that the claims should “identify the employee(s), and /or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, productive hourly rate and related fringe benefits.”

The parameters and guidelines (section VI, Supporting Data) state that “For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program.”

Government Code section 17514 states, “Costs mandated by the state’ means any increased costs which a local agency or school district is *required* [emphasis added] to incur. . . .” To the extent that the county transported SVP prisoners with other non-SVP prisoners in the same vehicle, at the same time, and with the same correctional officers for security, the county was not required to incur any increased costs.

Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County's Response

Public Defender's Response

The Public Defender's Office concurs with the finding and has established and implemented procedures to ensure errors are avoided in preparing future claims.

Sheriff-Coroner's Response

The department concurs with the finding. As noted in the audit findings, the department has implemented new procedures as of FY 2005-06 to include only eligible costs when the defendants are transported separately.

**FINDING 2—
Overstated travel
costs**

The Sheriff's Department claimed \$4,749 in travel costs during the audit period. We determined that \$2,709 is allowable and \$2,040 is unallowable. The costs are unallowable because the county applied average transportation costs to defendants transported for court appearances during FY 2003-04. The department could not validate the source/methodology of the average costs applied to transportation. We also noted that the Sheriff's Department established new procedures in FY 2004-05 and no longer uses the average transportation cost methodology.

The parameters and guidelines (section IV.B.7, Reimbursable Activities—Transportation and Housing Costs) state that reimbursable activities include “transportation and housing costs for each potentially sexually violent predator at a secured facility while the individual awaits trial on the issue of whether he or she is a sexually violent predator.”

Government Code section 17514 states that, “‘Costs mandated by the state’ means any increased costs which a local agency or school district is *required* [emphasis added] to incur. . . .” To the extent that the county transported SVP defendants with other non-SVP defendants in the same vehicle, at the same time, and with the same correctional officers for security, the county was not required to incur any increased costs.

Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported. We noted that the county implemented new procedures in FY 2004-05 to eliminate mandated costs claimed for transporting SVP defendants with non-SVP defendants and ceased using the average transportation cost methodology.

County's Response**Sheriff-Coroner's Response**

The department concurs with the finding. As noted in the audit finding, new procedures have been established and implemented as of FY 2004-05 to eliminate the use of the average transportation cost methodology. The department will only claim actual transportation costs where the SVP defendants are transported separately.

**FINDING 3—
Misstated services
and supplies costs**

The county understated services and supplies costs by the net amount of \$148,092 during the audit period (overstated by \$17,040 and understated by \$165,132). Overstated costs were claimed for the District Attorney's Office (\$6,111), Public Defender's Office (\$9,704), and Alternate Defense Department (\$1,225). The county understated defendant housing costs totaling \$165,132 incurred by the Sheriff's Department during the audit period.

The following table summarizes the unallowable costs by department and fiscal year:

Departments	Fiscal Year				Total
	2003-04	2005-06	2006-07	2007-08	
Services and supplies:					
District Attorney	\$ (3,132)	\$ —	\$ —	\$ (2,979)	\$ (6,111)
Public Defender	(7,281)	—	—	(2,423)	(9,704)
Alternate Defense	—	(1,225)	—	—	(1,225)
Sheriff	44,357	39,317	12,581	68,877	165,132
Audit adjustment	\$ 33,944	\$ 38,092	\$ 12,581	\$ 63,475	\$ 148,092

District Attorney's Office

The District Attorney's Office claimed \$6,111 for transcriptions during the audit period. The costs were unallowable because the parameters and guidelines contain no language stating that transcription costs are reimbursable under the mandated program.

Public Defender's Office

The Public Defender's Office claimed \$9,704 for transcriptions during the audit period. The costs were unallowable because costs for transcriptions are not reimbursable under the mandated program.

Alternate Defense Department

The county's Alternate Defense Department claimed \$91,682 in services and supplies costs for the fiscal years of the audit period. For FY 2005-06, costs claimed included \$1,225 for transcriptions. The costs were unallowable because costs for transcriptions are not reimbursable under the mandated program.

Sheriff's Department

The Sheriff's Department understated services and supplies costs by \$165,132 during the audit period. The department claimed \$441,240 for defendant housing costs; we determined that allowable housing costs are \$606,372. The costs were understated because the department used the capped daily jail rates approved for the county by the California Department of Corrections and Rehabilitation (CDCR). However, for the purposes of claiming mandated costs, counties can use daily jail rates based on actual costs incurred and actual prisoner population statistics for each fiscal year. We used the actual expenditure amounts and jail population statistics to determine the actual daily jail rates for each year of the audit period. This information is also available in the approved

daily jail rate documentation provided by CDCR. For example, the actual cost information for FY 2006-07 was contained in the information that the county submitted to CDCR for FY 2008-09.

The parameters and guidelines (section V.A.2, Claim Preparation and Submission–Direct Costs–Materials and Supplies) state that “only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purpose of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant.”

The parameters and guidelines (section VI, Supporting Data) state that “For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, and declarations) that show evidence of the validity of such costs and their relationship to the state mandated program.”

Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County’s Response

District Attorney’s Response

The department concurs with the finding and has revised its procedures to exclude transcription costs from the mandated program claims.

Public Defender’s Response

The department does not concur, but will not dispute the findings. The department’s view is that transcription costs should be allowable for reimbursement as they form part of the deputies’ preparation in the defense of indigent clients, along with secretarial, paralegal, and investigator services.

Alternate Defense’s Response

The department concurs with the findings and has revised its procedures to exclude transcription costs from the mandated program claims.

Sheriff-Coroner’s Response

The department concurs with the findings. As of FY 2004-05, all claims are prepared based on actual costs.

**FINDING 4—
Overstated indirect
costs**

The county's District Attorney's Office overstated indirect costs by \$3,462 for FY 2005-06. The costs were overstated because the county incorrectly applied a rate of 27.81% as the indirect cost rate in the county's claim. The department's Indirect Cost Rate Proposal (ICRP) shows that the correct indirect cost rate is 26.72%, a variance of 1.09%. County representatives stated that the indirect cost rate claimed for FY 2005-06 was caused by a clerical error.

The parameters and guidelines (section V.B, Indirect Costs) state that:

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an ICRP for the department if the indirect cost rate exceeds 10%.

The parameters and guidelines (section VI, Supporting Data) state that "For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, and declarations) that show evidence of the validity of such costs and their relationship to the state mandated program."

Recommendation

We recommend that the county ensure that the indirect cost rates claimed are consistent with the department's Indirect Cost Rate Proposal.

County's Response

District Attorney's Response

The department concurs with the finding.

**OTHER ISSUE—
Allowable costs
exceeding claimed costs**

Because the Sheriff's Department underclaimed prisoner housing costs for the audit period, as noted in the audit findings, allowable costs per the audit exceeded claimed costs by \$139,787 (see Schedule 1 for fiscal year amounts). Government Code section 17568 stipulates that the State will not reimburse any claim more than one year after the filing deadline specified in the SCO's claiming instructions. That deadline has expired for all years of the audit period.

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



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January 21, 2011

Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
California State Controller's Office
P.O. Box 942850
Sacramento, CA 94250-58744

Subject: Sexually Violent Predator Program(SVP) Draft Audit Report Response

We have examined the draft audit report regarding the claim filed by Orange County for the legislatively mandated Sexually Violent Predator Program (Chapter 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for the period of July 1, 2003 through June 30, 2008, excluding July 1, 2004, through June 30, 2005. Our comments on the findings are as follows:

Finding 1 – Misstated salaries, benefits and indirect costs

Recommendation: We recommend that the County establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

Public Defender's Response

The Public Defender's Office concurs with the finding and has established and implemented procedures to ensure errors are avoided in preparing future claims.

Sheriff-Coroner's Response

The department concurs with the finding. As noted in the audit findings, the department has implemented new procedures as of FY 2005-06 to include only eligible costs when the defendants are transported separately.

Finding 2 – Overstated travel costs

Recommendation: We recommend that the County establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported. We noted that the County implemented new procedures in FY 2004-05 to eliminate mandated costs claimed for transporting SVP defendants with non-SVP defendants and ceased using the average transportation cost methodology.

Sheriff-Coroner's Response

The department concurs with the finding. As noted in the audit findings, new procedures have been established and implemented as of FY 2004-05 to eliminate the use of the average transportation cost methodology. The department will only claim actual transportation costs where the SVP defendants are transported separately.

Finding 3 – Misstated services and supplies costs

Recommendation: We recommend that the County establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

District Attorney's Response

The department concurs with the finding and has revised its procedures to exclude transcription costs from the mandated program claims.

Public Defender's Response

The department does not concur, but will not dispute the findings. The department's view is that transcription costs should be allowable for reimbursement as they form part of the deputies' preparation in the defense of indigent clients, along with secretarial, paralegal, and investigator services.

Alternate Defense's Response

The department concurs with the findings and has revised its procedures to exclude transcription costs from the mandated program claims.

Sheriff-Coroner's Response

The department concurs with the findings. As of FY 2004-05, all claims are prepared based on actual costs.

Finding 4 – Overstated indirect costs

Recommendation: We recommend that the County ensure that the indirect cost rates claimed are consistent with the department's Indirect Cost Rate Proposal.

District Attorney's Response

The department concurs with the finding.

Should you have any questions regarding this response, please contact Claire Moynihan, Financial Reporting and Mandated Costs Manager, at (714) 834-7480.



David E. Sundstrom, CPA
Auditor-Controller

Jim Spano, State Controller's Office
SVP Draft Audit Report Response
January 21, 2011
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