



# **SOUTHWEST BORDER PROSECUTION INITIATIVE REIMBURSEMENTS**

U.S. Department of Justice  
Office of the Inspector General  
Audit Division

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# **SOUTHWEST BORDER PROSECUTION INITIATIVE REIMBURSEMENTS**

## **EXECUTIVE SUMMARY**

Many drug and other criminal cases occurring along the Southwest Border are initiated by federal law enforcement agencies or multi-jurisdictional federal task forces. In 1994, the U.S. Attorneys' Offices began to establish partnerships with state and county prosecutors through which states and local governments began prosecuting cases along the Southwest Border that had been federally initiated but declined for prosecution by U.S. Attorneys' offices. As the number of federally declined criminal cases prosecuted by state and local governments began to increase, the financial and resource burden on the states and localities also increased.

To address these concerns, Congress provided funding beginning in Fiscal Year (FY) 2001 to state, county, parish, tribal, and municipal governments in Southwest Border states to reimburse these entities for costs associated with the prosecution and pre-trial detention of federally initiated cases that are declined by the U.S. Attorneys' offices and referred to state and local jurisdictions. For FYs 2002 through 2007, OJP provided reimbursements totaling \$188 million to the four Southwest Border states of Arizona, California, New Mexico, and Texas.

In this audit, we assessed the results of the external audits of the Southwest Border Prosecution Initiative (SWBPI) reimbursements received by nine California counties potentially associated with a contractor that was submitting ineligible cases for SWBPI reimbursement.<sup>1</sup>

### **SWBPI Guidelines**

Since the inception of SWBPI, the program guidelines have been revised on several occasions, with the most recent revisions issued in July 2007 and again in February 2009. Because the majority of SWBPI reimbursements discussed in this audit occurred prior to July 2007, unless noted otherwise our discussion of SWBPI requirements is based on the

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<sup>1</sup> External audits are audits of Department of Justice (DOJ) funds received by state and local governments, contractors, and other non-DOJ agencies.

guidelines in place prior to July 2007. However, the basic eligibility requirements have not changed since the inception of the program.

### *Case Eligibility*

To be eligible for reimbursement under SWBPI, each case submitted must meet the following criteria:

- The case must be initiated by a federal law enforcement agency.
- The case must be declined for federal prosecution and referred to the local jurisdiction for prosecution.
- The case must be prosecuted by a state or local jurisdiction.
- The case must be disposed of during an eligible reporting period.

### *Reimbursement Amounts*

During the period included in our review, from FYs 2002 through 2007, each eligible case could receive the following maximum reimbursement, based upon length of disposition, availability of funds, and the provision of both prosecution services and pre-trial detention services, as shown in Table 1.

**TABLE 1  
MAXIMUM SWBPI REIMBURSEMENTS**

<b>LENGTH OF DISPOSITION</b>	<b>MAXIMUM REIMBURSEMENT</b>
1 to 15 Days	\$ 2,500
16 to 30 Days	5,000
31 to 90 Days	7,500
Over 90 Days	10,000

Source: OJP

To calculate the reimbursement amount for cases submitted for both prosecution and pre-trial detention services, the length of the prosecution took precedence in calculating the case disposition category. For prosecution only and pre-trial detention only cases, each eligible case could receive 50 percent of the maximum reimbursement.

## Prior Reports

In March 2008, the Office of the Inspector General (OIG), Audit Division, issued an audit report on the *Southwest Border Prosecution Initiative Reimbursement Program* (Report No. 08-22). In that report, we found that OJP did not adequately oversee the SWBPI program. Specifically, we found that:

- OJP did not require applicants to provide documentation supporting reimbursement requests.
- OJP did not review the applications for accuracy or monitor recipients to determine the eligibility of cases submitted for reimbursement.
- OJP did not link reimbursements to actual costs incurred by the jurisdictions to prosecute federally declined-referred criminal cases.<sup>2</sup>
- OJP had not taken action to identify potential duplicate funding between the SWBPI program and other federally funded prosecution and pre-trial detention programs.

In support of the prior SWBPI audit, we also conducted seven external audits of SWBPI recipients to determine if SWBPI reimbursements were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program.<sup>3</sup> The external audits identified unallowable and unsupported SWBPI reimbursements of \$15.57 million, of which \$5.41 million was related to San Francisco County.

We determined that San Francisco County hired a contractor, Public Resource Management Group (PRM), to manage its SWBPI reimbursement requests. In this audit, we determined that as a result of the contractor providing guidance that was materially inaccurate, San Francisco submitted and received reimbursement for locally initiated cases that were ineligible

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<sup>2</sup> Declined-referred is a term used in the SWBPI guidelines to refer to a point in time during a federal investigation when a U.S. Attorney or federal law enforcement official decides not to pursue federal criminal charges against a defendant (declination) and requests that a state or local jurisdiction prosecute the defendant for violating state or local criminal statutes (referral).

<sup>3</sup> The external SWBPI audits included in our prior review were conducted at the: (1) New Mexico Department of Public Safety; (2) Yuma County, Arizona; (3) Maricopa County, Arizona; (4) El Paso County Auditor's Office, Texas; (5) San Diego District Attorney's Office, California; (6) Brooks County, Texas; and (7) City and County of San Francisco, California.

under SWBPI guidelines. The contractor obtained the contract based on the contractor's professed expertise related to SWBPI. However the contractor's representative stated to us that he did not have any experience related to SWBPI and that he mistakenly used the State Criminal Alien Assistance Program (SCAAP) criteria in preparing the San Francisco County SWBPI reimbursement requests.<sup>4</sup>

Additionally, in an effort to ensure that SWBPI reimbursements were maintained at the same level each year, we determined that a San Francisco County official in conjunction with the contractor, had decided that all locally initiated drug related cases that were below the U.S. Attorney's prosecution thresholds should be included in the SWBPI reimbursement requests, even though the cases were not federally initiated.

The results of the OIG's audit of the SWBPI reimbursements received by San Francisco County were referred for investigation to the OIG Investigations Division and the U.S. Attorney's Office (USAO) for the Northern District of California. As a part of that investigation, the OIG determined that in addition to San Francisco County, eight other counties in California may have used the same contractor or used similar practices as San Francisco to manage their SWBPI reimbursements.

### **OIG Audit Approach**

Therefore, at the request of the USAO for the Northern District of California and the OIG Investigations Division, the OIG Audit Division conducted external audits of the SWBPI reimbursements received by eight counties potentially associated with the same contractor that managed San Francisco's SWBPI reimbursement requests. We also conducted a follow-up audit on the SWBPI reimbursements received by San Francisco County to review additional cases that the County had submitted for reimbursement. These nine audits of California SWBPI recipients determined if SWBPI reimbursements were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program.

This audit report summarizes the results of these nine audits. This audit report generally covered, but is not limited to, SWBPI reimbursements awarded from FYs 2002 through 2007.

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<sup>4</sup> SCAAP provides federal payments to states and localities that incur correctional officer salary costs for incarcerating undocumented criminal aliens.

## Results in Brief

The external audits of the SWBPI reimbursements received by the nine counties included in this report found that the counties received SWBPI reimbursements totaling \$14.43 million from FYs 2002 through 2007, of which we determined that \$12.23 million (85 percent) was unallowable or unsupported, as shown in Table 2.

**TABLE 2**  
**SWBPI REIMBURSEMENTS AUDITED FYs 2002 - 2007**

COUNTIES	REPORT NO.	TOTAL REIMBURSEMENTS	TOTAL QUESTIONED COSTS	PERCENTAGE OF REIMBURSEMENTS QUESTIONED
San Francisco	GR-60-08-001 GR-60-09-003	\$ 5,751,149	5,751,149	100%
San Mateo	GR-60-09-003	1,520,999	1,520,999	100%
Humboldt	GR-60-08-011	728,445	555,888	76%
Lake	GR-60-09-001	1,019,095	989,605	97%
San Benito	GR-60-09-002	397,984	397,984	100%
Siskiyou	GR-60-09-005	702,317	702,317	100%
Mendocino	GR-60-09-007	1,910,431	1,910,431	100%
Monterey	GR-60-09-008	192,930	76,804	40%
Santa Clara	GR-60-09-009	2,207,320	323,859	15%
<b>Totals</b>		<b>\$14,430,670</b>	<b>\$12,229,036</b>	<b>85%</b>

Source: Office of Justice Programs

We found that seven of the nine counties consistently submitted cases that were not federally initiated, accounting for \$11.83 million (97 percent) of the total questioned costs.

We also found that six counties relied on the same contractor, PRM, to identify allowable cases and manage their SWBPI reimbursements: (1) San Francisco County, (2) San Mateo County, (3) Humboldt County, (4) Lake County, (5) San Benito County, and (6) Siskiyou County. Generally, we found that the SWBPI reimbursements submitted for the six counties that used the contractor were not allowable because the cases were not federally initiated, that is, a federal law enforcement agency was not involved in the investigation or arrest. The contractor incorrectly advised these counties to submit locally initiated cases related to undocumented

aliens and locally initiated drug cases that fell below USAO prosecution thresholds.

In addition, we found that Mendocino County, although not associated with the contractor, also incorrectly submitted for SWBPI reimbursement locally initiated cases involving undocumented criminal aliens.

Although Monterey and Santa Clara Counties submitted some unallowable cases for SWBPI reimbursement, these two counties did not use the contractor and the majority of the cases submitted were allowable.

The results of our SWBPI audits were provided to OIG Investigations Division and to the USAOs for the Northern and Eastern Districts of California. The USAO for the Northern District of California determined that because PRM, the contractor, had dissolved and SWBPI funds were received by the counties rather than PRM, it would not seek charges or a civil recovery against the contractor or its employees. The USAOs decided to pursue civil recoveries on behalf of the United States for the unallowable SWBPI reimbursements received by seven counties: the six counties that used the contractor and Mendocino County.

As of February 2010, the USAOs had reached settlement agreements totaling \$11.03 million with the seven counties and those counties had remitted \$9.17 million in unallowable SWBPI reimbursements back to the United States, as shown in Table 3.

**TABLE 3  
SWBPI REIMBURSEMENTS RECOVERED AS OF FEBRUARY 2010**

CALIFORNIA COUNTIES	TOTAL OIG QUESTIONED COSTS	SETTLEMENT AMOUNT	AMOUNT RECOVERED AS OF FEBRUARY 2010
San Francisco	\$ 5,751,149	\$ 5,228,192	\$ 5,228,192
San Mateo	1,520,999	1,513,921	1,513,921
Humboldt	555,888	416,986	416,986
Lake	989,605	989,605	989,605
San Benito	397,984	397,984	397,984
Siskiyou	702,317	695,080	200,000
Mendocino	1,910,431	1,793,045	425,360
<b>Totals</b>	<b>\$11,828,373</b>	<b>\$11,034,813</b>	<b>\$9,172,048</b>

Source: The OIG Audit Division, USAOs for the Northern and Eastern Districts of California, and OJP.

As noted previously, a prior OIG report found that OJP did not adequately oversee the SWBPI program. In our judgment, the unallowable reimbursements totaling \$11.83 million related to the seven California counties included in this audit may have been avoided if, at the time the reimbursement applications were submitted, OJP required applicants to submit supporting documents. Additionally, at the time the reimbursement applications were submitted, OJP did not review SWBPI reimbursement applications for accuracy or conduct any monitoring activities of recipients to determine the eligibility of cases submitted for reimbursement.

Since our prior audit was issued in March 2008, OJP has implemented corrective actions for all 13 of our prior recommendations. Although OJP has made significant improvements related to its management and administration of SWBPI, in this audit we identified additional weaknesses in the SWBPI program. In our judgment, OJP should implement additional procedures to analyze SWBPI reimbursements to timely identify and follow up on anomalies that may indicate errors related to reimbursement requests for specific jurisdictions. For example, we noted that in the last quarter of FY 2006, San Francisco County, despite being located about 500 miles north of the Southwest Border, received the highest reimbursement of any SWBPI participant. This should have been a “red flag” issue that OJP identified and followed up on much earlier in the process to make sure that the reimbursements requested by and paid to San Francisco County were compliant with SWBPI guidelines.

### **Recommendation**

As a result of this review, we recommend that OJP: implement procedures to analyze SWBPI reimbursements to identify anomalies that may indicate unallowable or unsupported payments to specific jurisdictions.



**SOUTHWEST BORDER  
PROSECUTION INITIATIVE REIMBURSEMENTS**

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## INTRODUCTION

The Southwest Border Prosecution Initiative (SWBPI) provides funding to state, county, parish, tribal, and municipal governments in four Southwest Border states for costs associated with the prosecution and pre-trial detention of federally initiated criminal cases that are declined by the U.S. Attorneys offices and referred to state and local jurisdictions for prosecution.

The United States' border with Mexico extends nearly 2,000 miles along the southern borders of California, Arizona, New Mexico, and Texas. In late 1994, the U.S. Attorneys and state and local prosecutors began establishing partnerships through which the federal government referred criminal drug cases involving the illegal importation of controlled substances at the Southwest Border to state and local governments. These cases are known as federally declined-referred criminal cases.<sup>5</sup>

Many U.S. Attorneys have developed prosecution guidelines which govern the most common violations of federal law. These prosecution guidelines are used by law enforcement agencies to determine whether to file a case in federal, state, or county court. As a result, many federally initiated cases occurring near the Southwest Border are subsequently referred to the state or county for prosecution.

As state and local governments began to prosecute a growing number of federally declined-referred criminal cases, they experienced an increased burden on their financial and personnel resources. As a result, in Fiscal Year (FY) 2001 Congress appropriated \$24 million ". . . to reimburse county and municipal governments [in the four Southwest Border states] only for Federal costs associated with the handling and processing of illegal immigration and drug and alien smuggling cases."<sup>6</sup> The reimbursement program was initially administered by the Executive Office for United States Attorneys (EOUSA).

In FY 2002, management of the SWBPI program was transferred to the Department of Justice (DOJ) Office of Justice Programs (OJP). Specifically, the 2002 Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (FY 2002 Appropriations

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<sup>5</sup> Declined-referred is a term used in the SWBPI guidelines to refer to a point in time during a federal investigation when a U.S. Attorney or federal law enforcement official decides not to pursue federal criminal charges against a defendant (declination) and requests that a state or local jurisdiction prosecute the defendant for violating state or local criminal statutes (referral).

<sup>6</sup> Pub. L. No. 106-246 (2000).

Act) authorized OJP to oversee the distribution of “\$50,000,000 for the Southwest Border Prosecutor Initiative . . . to reimburse state, county, parish, tribal, or municipal governments only for federal costs associated with the prosecution of criminal cases declined by local U.S. Attorneys Offices.”<sup>7</sup>

For FYs 2002 through 2007, OJP provided reimbursements totaling \$188 million to the four Southwest Border states, as shown in Table 1.

**TABLE 1**  
**SWBPI REIMBURSEMENTS (DOLLARS IN MILLIONS)<sup>8</sup>**

STATES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	TOTALS
Arizona	\$ 3.0	\$ 3.4	\$ 2.1	\$ 1.7	\$ 2.7	\$ 2.4	<b>\$ 15.3</b>
California	18.5	15.6	12.8	13.0	16.3	16.7	<b>92.9</b>
New Mexico	5.8	8.5	6.5	6.3	3.6	3.7	<b>34.4</b>
Texas	11.8	11.1	6.8	7.0	4.7	4.1	<b>45.5</b>
<b>SWBPI Totals</b>	<b>\$39.1</b>	<b>\$38.6</b>	<b>\$28.2</b>	<b>\$28.0</b>	<b>\$27.3</b>	<b>\$26.9</b>	<b>\$188.1</b>

Source: Office of Justice Programs

### SWBPI Guidelines

Since the inception of SWBPI, the program guidelines have been revised on several occasions. Most recently, new guidelines were issued in July 2007 and again in February 2009. The majority of SWBPI reimbursements included in our audit reports occurred prior to July 2007. As a result, unless noted otherwise, our discussion of SWBPI requirements is based on the guidelines in place prior to July 2007. However, the core requirements for SWBPI reimbursement, such as case eligibility, have remained the same throughout the life of the program.

Eligible SWBPI participants submit quarterly electronic applications for reimbursement through BJA’s SWBPI website. For FYs 2002 through 2007, SWBPI applicants were only required to list the total number of cases in each of three major categories based on the types of services provided: (1) prosecution only, (2) pre-trial detention only, and (3) both prosecution and pre-trial detention. The three major service categories were further

<sup>7</sup> Pub. L. No. 107-77 (2001).

<sup>8</sup> Throughout this report, differences in the total amounts are due to rounding.

broken down into four reimbursement categories based on the length of disposition: (1) 1 to 15 days, (2) 16 to 30 days, (3) 31 to 90 days, and (4) over 90 days.<sup>9</sup>

During FYs 2002 through 2007, BJA did not require SWBPI applicants to submit documentation supporting the number of cases claimed for reimbursement through the electronic application. However, jurisdictions that receive SWBPI funds were required during this time period to retain documentation supporting the reimbursement requests for 3 years from the date the application was approved.

### *Case Eligibility*

To be eligible for reimbursement under the SWBPI program, each case submitted must meet the following criteria.

- **The case must be federally initiated.** A federally initiated case results from a criminal investigation or an arrest involving federal law enforcement authorities for a violation of federal criminal law. This may include investigations resulting from multi-jurisdictional task forces.
- **The case must be federally declined and referred.** This occurs when a U.S. Attorney or federal law enforcement official decides not to pursue federal criminal charges against a defendant (declination) and requests that a state or local jurisdiction prosecute the defendant for violating state or local criminal statutes (referral). Referred cases are eligible for SWBPI reimbursement regardless of whether the case was formally declined and referred by a U.S. Attorney, through a blanket declination-referral policy, through an "accepted federal law enforcement practice," or by federal prosecutorial discretion.<sup>10</sup>

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<sup>9</sup> Case disposition is the length of time between a suspect's arrest and the resolution (e.g., dismissal, plea, conviction) of the criminal charges through a county or state judicial process.

<sup>10</sup> An accepted federal law enforcement practice is an understanding between the federal law enforcement agencies and the USAO. Declination-referrals through an accepted federal law enforcement practice result from the fact that, through communication with the USAO, federal law enforcement agencies obtain an understanding of which cases the USAO will or will not prosecute. Through this understanding, those cases that federal law enforcement agencies know the USAO will not prosecute are referred directly to the state or local jurisdiction without obtaining a declination from the USAO.

- **The case must be prosecuted by a state or local jurisdiction.** If the state or local jurisdiction reviews the case but decides not to prosecute, then the case is not eligible for reimbursement.
- **The case must be disposed of during an eligible reporting period.** The eligible reporting period is the quarter in which the case was disposed and case disposition refers to the time between a suspect's arrest and the resolution of the criminal charges by a dismissal, plea or conviction, through a county or state judicial or prosecutorial process. Disposition does not include incarceration time for sentenced offenders or time spent by prosecutors on judicial appeals.

For cases with multiple defendants, each defendant should be claimed as a separate case. However, one defendant charged in multiple cases should be claimed as only one case to the extent that the defendant's cases are being investigated or prosecuted during concurrent periods of time.

The following cases are ineligible for SWBPI reimbursements:

- federally referred cases declined and not prosecuted by state or county prosecutors,
- probation or parole violation or revocation hearings,<sup>11</sup>
- extradition cases, and
- cases not accepted by state or county prosecutors.

### *Reimbursement Amounts*

During the period included in our audit, each eligible case could receive the following maximum reimbursement, based upon length of disposition, availability of funds, and the provision of both prosecution services and pre-trial detention services.

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<sup>11</sup> A new charge not independently prosecuted, but used as a basis for a probation or parole revocation hearing, is ineligible for reimbursement.

**TABLE 2  
MAXIMUM SWBPI REIMBURSEMENTS**

LENGTH OF DISPOSITION	MAXIMUM REIMBURSEMENT
1 to 15 Days	\$ 2,500
16 to 30 Days	5,000
31 to 90 Days	7,500
Over 90 Days	10,000

Source: OJP

In calculating the reimbursement amount for cases submitted for both prosecution and pre-trial detention services, the length of the prosecution took precedence in determining a case's disposition category.

For prosecution only cases, each eligible case received up to 50 percent of the maximum reimbursement. To be eligible for 50 percent of the maximum per case reimbursement for prosecution only, an eligible jurisdiction was required to provide one or more of the following for each case: (1) judicial services, (2) prosecution services, or (3) defense services.

For pre-trial detention only cases, each eligible case received up to 50 percent of the maximum reimbursement. To be eligible for pre-trial detention reimbursement, prior to July 2007, the SWBPI guidelines required that "an eligible jurisdiction must have held the case defendant overnight for 1 or more days in a secure facility." In other words, the defendant must be detained from one calendar day to the next to be eligible for the pre-trial detention reimbursement prior to July 2007.<sup>12</sup>

The first five SWBPI application periods (from October 1, 2001, to March 31, 2004) were reimbursed at 100 percent of the maximum amount requested. However, OJP did not make any reimbursements for the 4th quarter of FY 2004 because all of the SWBPI funds appropriated for the fiscal year had already been disbursed. As a result, beginning in FY 2005 OJP officials divided the funds across each quarter with each jurisdiction receiving an equal percentage of the amount determined available for each

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<sup>12</sup> The July 2007 and subsequent revisions to the SWBPI guidelines require that "an eligible jurisdiction must have held the case defendant in a secure facility for 24 hours or more" to be eligible for the pre-trial detention reimbursement. Pre-trial detention services do not include incarceration time for sentenced offenders.

quarter. The percentage reimbursements for each quarter during FYs 2002 through 2007 are shown in Table 3.

**TABLE 3  
PRO-RATA REIMBURSEMENT BASIS FOR FYs 2002 - 2007**

REPORTING PERIOD	START DATE	END DATE	PERCENTAGE REIMBURSED
FY02 All Quarters through FY03 1 <sup>st</sup> and 2 <sup>nd</sup> Quarters	10/01/01	09/30/02	100.00%
FY03 3 <sup>rd</sup> Quarter	04/01/03	06/30/03	100.00%
FY03 4 <sup>th</sup> Quarter	07/01/03	09/30/03	100.00%
FY04 1 <sup>st</sup> Quarter	10/01/03	12/31/03	100.00%
FY04 2 <sup>nd</sup> Quarter	01/01/04	03/31/04	100.00%
FY04 3 <sup>rd</sup> Quarter	04/01/04	06/30/04	81.00%
FY04 4 <sup>th</sup> Quarter	N/A	N/A	N/A
FY05 1 <sup>st</sup> Quarter	10/01/04	12/31/04	49.29%
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	44.08%
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	47.40%
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	50.16%
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	53.18%
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	47.61%
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	43.09%
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	44.05%
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	52.34%
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	52.45%
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	49.03%
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	57.26%

Source: Office of Justice Programs

### Prior OIG Reports

In March 2008, the Office of the Inspector General (OIG), Audit Division, issued an audit report on the *Southwest Border Prosecution Initiative Reimbursement Program* (Report No. 08-22), to:

- evaluate OJP's administration and management of SWBPI reimbursements;
- identify additional federal programs with overlapping objectives; and
- determine if SWBPI reimbursement requests submitted by eligible jurisdictions are allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program.



We found that OJP did not adequately oversee the SWBPI program. Specifically, we found that:

- OJP did not require applicants to provide documentation supporting reimbursement requests.
- OJP did not review the applications for accuracy or monitor recipients to determine the eligibility of cases submitted for reimbursement.
- OJP did not link reimbursements to actual costs incurred by the jurisdictions to prosecute federally declined-referred criminal cases.
- OJP had not taken action to identify potential duplicate funding between the SWBPI program and other federally funded prosecution and pre-trial detention programs.

The findings identified above have since been remedied by OJP and the prior report was closed in March 2009.

In support of the prior SWBPI audit, we also conducted seven external audits of SWBPI recipients to determine if SWBPI reimbursements were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program. The external audits were conducted at the following selected SWBPI recipients: (1) New Mexico Department of Public Safety; (2) Yuma County; (3) Maricopa County; (4) El Paso County Auditor's Office, Texas; (5) San Diego District Attorney's Office, California; (6) Brooks County, Texas; and (7) City and County of San Francisco, California (San Francisco County).

Our audits covered SWBPI reimbursements totaling \$55.11 million and identified unallowable and unsupported SWBPI reimbursements of \$15.57 million. Of the \$15.57 million unallowable and unsupported SWBPI reimbursements, \$5.41 million was related to San Francisco County. Specifically, we found that San Francisco County received unallowable reimbursements for 2,241 cases that were not federally initiated.

We found that San Francisco County hired a contractor, Public Resource Management Group (PRM), to manage its SWBPI reimbursement requests. Our audit found that San Francisco County, due to the inaccurate guidance it received from the contractor and due to errors by its own employees, incorrectly submitted locally initiated cases for reimbursement under SWBPI. We found that all of the cases for which San Francisco had received SWBPI funds were ineligible for reimbursement. When we questioned the contractor's representative as to why cases that did not meet

SWBPI criteria for reimbursement were submitted, the contractor's representative stated that he may have been confused about the difference between the criteria for reimbursement under SWBPI and the criteria for reimbursement under another federal reimbursement program he administered for San Francisco called SCAAP.

We referred the results of our audit of the SWBPI reimbursements received by San Francisco County to the OIG Investigations Division and the U.S. Attorney's Office (USAO) for the Northern District of California.

### **Audit Approach**

At the request of the USAO for the Northern District of California and the OIG Investigations Division, we conducted external audits of the SWBPI reimbursements received by the eight counties potentially associated with the contractor. Additionally, we conducted a follow-up audit on the SWBPI reimbursements received by San Francisco County.

Our audits generally covered, but were not limited to, SWBPI reimbursements awarded from FYs 2002 through 2007. Our audits of the selected nine California SWBPI recipients assessed whether their SWBPI reimbursements were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program.

Additional information related to the audit objective, scope, and methodology is contained in Appendix I.

## FINDING AND RECOMMENDATION

### ALLOWABILITY OF SWBPI REIMBURSEMENTS

Our audits of nine SWBPI recipients determined that \$12.23 million (85 percent) of the \$14.43 million in SWBPI reimbursements received by the nine counties during FYs 2002 through 2007 was unallowable or unsupported. Seven of the nine counties consistently submitted cases that were not federally initiated, accounting for \$11.83 million (97 percent) of the total questioned costs. We found that six of these seven counties relied on the same contractor, PRM, to identify SWBPI cases and manage their SWBPI reimbursements. The contractor provided inaccurate guidance to these six counties, and one other county followed the same inaccurate guidance. Based on our audit work, the USAOs for the Northern and Eastern Districts of California, with the assistance of the OIG Investigations Division, sought reimbursement from the seven counties to remedy the questioned costs associated with cases that were not eligible for SWBPI reimbursement. As of December 2009, the USAOs had reached settlement agreements totaling \$11.03 million with all seven counties.

Pursuant to the SWBPI guidelines, an eligible case is any criminal case that: (1) was initiated by a federal law enforcement agency or federal multi-jurisdictional task force, (2) was declined by the U.S. Attorney and referred to the state or local government for prosecution, (3) was prosecuted by the state or local government, and (4) was disposed of during an eligible reporting period. To be eligible for reimbursement, all four elements of the SWBPI criteria must be met.

The SWBPI guidelines define "federally initiated" as a case resulting from a criminal investigation or an arrest involving federal law enforcement authorities for a potential violation of federal criminal law. This may include investigations resulting from multi-jurisdictional task forces such as HIDTA and OCDETF. The SWBPI guidelines further state that "referred cases are eligible regardless of whether the case was formally declined and referred by a U.S. Attorney, or through a blanket federal declination-referral policy, an accepted federal law enforcement practice, or by federal prosecutorial discretion." Federally referred cases that are declined or not prosecuted by the state or local government are ineligible for reimbursement.

The nine California counties included in our external audits, listed in the table below, received SWBPI reimbursements totaling \$14.43 million

from FYs 2002 through 2007, of which we determined that \$12.23 million (85 percent) was unallowable or unsupported, as shown in Table 4.

**TABLE 4**  
**SWBPI REIMBURSEMENTS AUDITED FYs 2002 - 2007<sup>13</sup>**

COUNTIES	REPORT NO.	TOTAL REIMBURSEMENTS	TOTAL QUESTIONED COSTS	PERCENTAGE OF REIMBURSEMENTS QUESTIONED
San Francisco	GR-60-08-001 GR-60-09-003	\$ 5,751,149	5,751,149	100%
San Mateo	GR-60-08-010	1,520,999	1,520,999	100%
Humboldt	GR-60-08-011	728,445	555,888	76%
Lake	GR-60-09-001	1,019,095	989,605	97%
San Benito	GR-60-09-002	397,984	397,984	100%
Siskiyou	GR-60-09-005	702,317	702,317	100%
Mendocino	GR-60-09-007	1,910,431	1,910,431	100%
Monterey	GR-60-09-008	192,930	76,804	40%
Santa Clara	GR-60-09-009	2,207,320	323,859	15%
<b>Totals</b>		<b>\$14,430,670</b>	<b>\$12,229,036</b>	<b>85%</b>

Source: OIG

We also found that seven of the nine counties, consistently submitted cases that were ineligible for SWBPI because they were initiated by state or local law enforcement agencies rather than by federal law enforcement agencies. These locally initiated cases accounted for \$11.83 million (97 percent) of the total questioned costs. As a result, our audit focused on those seven counties.

We found that six of the seven counties relied on the same contractor, PRM, to identify cases and manage their SWBPI reimbursements. The six counties that used the contractor were: (1) San Francisco County, (2) San Mateo County, (3) Humboldt County, (4) Lake County, (5) San Benito County, and (6) Siskiyou County. Generally, we found that the SWBPI reimbursements submitted for the six counties that used the contractor were not allowable because a federal law enforcement agency was not involved in the investigation or arrest. We found that the contractor incorrectly advised these counties to submit locally initiated cases related to

<sup>13</sup> Throughout this report, differences in the total amounts are due to rounding.

undocumented aliens and locally initiated drug cases that were under the USAO prosecution thresholds.

The seventh county that consistently submitted locally initiated cases for reimbursement was Mendocino County. While Mendocino County did not hire or rely on the contractor, it followed the same practice as the other six counties and incorrectly submitted locally initiated drug cases that were under the USAO prosecution thresholds.

While we found that 17 percent of the cases submitted by Monterey and Santa Clara Counties for SWBPI reimbursement were unallowable, these two counties did not use the contractor, and the majority of the cases submitted were allowable. Specifically, we found that:

- Monterey County received unallowable SWBPI reimbursements totaling \$76,804 for cases that were: (1) not federally initiated, (2) submitted in the wrong quarter, (3) duplicate cases, (4) unavailable to review, and (5) not prosecuted.
- Santa Clara County received unallowable SWBPI reimbursement totaling \$323,859 for cases that were: (1) submitted in the wrong disposition category, (2) submitted in the wrong quarter, (3) not in violation of a federal criminal law, (4) submitted twice or processed concurrently, and (5) claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

The results of our SWBPI audits were provided to the USAOs for the Northern and Eastern Districts of California and the OIG Investigations Division. The USAO for the Northern District of California determined that because PRM, the contractor, had dissolved and SWBPI funds were received by San Francisco County rather than PRM, it would not seek charges against or a civil recovery from the contractor or its employees. Based on the results of our audits, the USAOs for the Northern and Eastern Districts of California, with the assistance of the OIG Investigations Division, pursued civil recoveries on behalf of the United States for the unallowable SWBPI reimbursements received by the following counties: (1) San Francisco, (2) San Mateo, (3) Humboldt, (4) Lake, (5) San Benito, (6) Siskiyou, and (7) Mendocino.

In addition, OJP has stated it will pursue remedies of the questioned costs associated with the unallowable SWBPI reimbursements received by Monterey and Santa Clara Counties.

The USAOs for the Northern and Eastern Districts of California, with the assistance of the OIG Investigations Division, sought reimbursements from the seven counties to remedy the questioned costs associated with cases that were not eligible for SWBPI reimbursement. As of February 2010, the USAOs have reached settlement agreements totaling \$11.03 million with the seven counties and those counties have remitted \$9.17 million in unallowable SWBPI reimbursements back to the United States, as shown in Table 5.

**TABLE 5  
SWBPI REIMBURSEMENTS RECOVERED AS OF FEBRUARY 2010**

<b>CALIFORNIA COUNTIES</b>	<b>TOTAL OIG QUESTIONED COSTS</b>	<b>SETTLEMENT AMOUNT</b>	<b>AMOUNT RECOVERED AS OF FEBRUARY 2010</b>
San Francisco	\$ 5,751,149	\$ 5,228,192	\$ 5,228,192
San Mateo	1,520,999	1,513,921	1,513,921
Humboldt	555,888	416,986	416,986
Lake	989,605	989,605	989,605
San Benito	397,984	397,984	397,984
Siskiyou	702,317	695,080	200,000
Mendocino	1,910,431	1,793,045	425,360
<b>Totals</b>	<b>\$11,828,373</b>	<b>\$11,034,813</b>	<b>\$9,172,048</b>

Source: The OIG Audit Division, USAOs for the Northern and Eastern Districts of California, and OJP.

The results of each of the external audits related to the seven counties for which the USAOs, with the assistance of the OIG Investigations Division, have pursued reimbursement of unallowable SWBPI reimbursements on behalf of the United States are discussed in more detail in the following sections of this report.

### **San Francisco**

We conducted two external audits of the SWBPI reimbursements received by San Francisco County, with the first report issued in November 2007 and the second report in October 2008.

November 2007 Audit

The November 2007 Report, GR-60-08-001, included all SWBPI reimbursements received by San Francisco County since it began participating in the program through FY 2006. During the period covered by our audit, San Francisco County received SWBPI reimbursements totaling \$5,414,895, as shown in Table 6.

**TABLE 6  
SAN FRANCISCO COUNTY SWBPI REIMBURSEMENTS AS OF FY 2006**

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY04 1 <sup>st</sup> Quarter	10/01/03	12/31/03	\$20,000	\$16,200
FY04 2 <sup>nd</sup> Quarter	01/01/04	03/31/04	\$15,000	\$12,150
FY04 3 <sup>rd</sup> Quarter	04/01/04	06/30/04	\$12,500	\$10,125
FY04 4 <sup>th</sup> Quarter	N/A	N/A	N/A	N/A
FY05 1 <sup>st</sup> Quarter	10/01/04	12/31/04	\$127,500	\$62,841
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	\$1,817,500	\$801,165
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	\$860,000	\$407,652
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	\$872,500	\$437,618
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$1,890,000	\$1,005,128
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$1,882,500	\$896,338
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$2,125,000	\$915,559
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$1,930,000	\$850,120
<b>TOTAL</b>				<b>\$5,414,895</b>

Source: Office of Justice Programs

Based on the results of our initial audit, we determined that each of the SWBPI reimbursements totaling \$5,414,895 received by San Francisco County were unallowable because none of the 2,241 cases submitted were federally initiated.

We began our fieldwork in San Francisco County, on August 20, 2007. After reviewing several case files we found that none of the cases we reviewed were eligible under the SWBPI guidelines. San Francisco officials then told us that the master case list they provided to us was incorrect. To give them time to provide us with a corrected case list, we rescheduled the audit to start on September 10, 2007.

We selected a new sample of 152 cases from the revised case list submitted by San Francisco to review to determine whether the cases were

eligible for reimbursement under the requirements of the SWBPI guidelines. Our sample included both prosecution and pre-trial detention cases.<sup>14</sup>

We reviewed 71 of the 152 case files requested and found no evidence of federal initiation. We discussed this issue with San Francisco officials, who said that they had misinterpreted the SWBPI guidelines. According to San Francisco officials, the SWBPI reimbursement requests were not based on actual cases. Instead, according to San Francisco officials at that time, the county submitted approximately 30 percent of its drug cases, believing that at least this percentage would fall under the U.S. Attorney's blanket declination policy.<sup>15</sup> Therefore, San Francisco was unable to provide a listing of cases submitted for reimbursements because the SWBPI submissions were not based on specific cases.

Additionally, according to San Francisco officials, they did not consider the fact that the cases had to be initiated by a federal law enforcement agency or task force in order to be eligible for reimbursement under the SWBPI guidelines. We found in our audit that the cases included on the final master list created by San Francisco, which were selected to represent the types of cases San Francisco had submitted for reimbursement, were ineligible under the SWBPI guidelines. We determined that San Francisco received unallowable SWBPI reimbursements totaling \$5,414,895 for the 2,241 cases submitted because they were not federally initiated.

As stated previously, San Francisco hired a contractor, PRM, in February 2005, to manage its SWBPI claim reimbursement process. We determined that the guidance provided by the contractor was materially inaccurate. When we questioned the contractor's representative as to why cases that did not meet SWBPI criteria for reimbursement were submitted, the contractor's representative stated that the contractor may have been confused about the difference between the criteria for reimbursement under SWBPI and the criteria for reimbursement under another federal reimbursement program he administered for San Francisco called SCAAP. This suggests that he did not research the requirements of the SWBPI program as required by the contract. The contractor's representative also

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<sup>14</sup> On September 7, 2007, San Francisco officials informed us the case files requested for review might not contain evidence that the cases were federally initiated. However, we decided that it to continue our audit on September 10, 2007, as planned, to determine whether the cases were allowable under the SWBPI guidelines.

<sup>15</sup> Many U.S. Attorneys have developed prosecution guidelines that govern the most common violations of federal law. These guidelines establish blanket policies for which cases will be prosecuted federally and which cases will be automatically referred to a state or location jurisdiction for prosecution.



stated that the contractor did not understand the SWBPI guidelines, despite the fact that the contractor obtained the contract based on the contractor's professed expertise related to SWBPI.

We determined that in FY 2006, while using the incorrect criteria provided by the contractor of submitting SCAAP cases, San Francisco County's SWBPI reimbursements began to decline. As a result, beginning in March 2006, San Francisco County officials decided also to start including locally initiated drug cases in its SWBPI reimbursement requests. The decision was based on the presumption that because the drug cases submitted were under the USAO's blanket declination thresholds, the cases were allowable because the USAO would decline to prosecute the cases if the cases had been submitted to the USAO for prosecution. However, this presumption violated SWBPI guidelines, because San Francisco could not demonstrate that these cases were initiated by federal law enforcement agencies. Additionally, the drug cases submitted by San Francisco County were never presented to the USAO for prosecution and thus were not declined by the USAO.

According to San Francisco County officials, the contractor's representative was aware that San Francisco County was including locally initiated drug cases in its SWBPI reimbursements and never informed them that locally initiated drug cases were not eligible for SWBPI reimbursement.

#### *October 2008 Audit*

The OIG conducted a follow up audit of the SWBPI reimbursements received by San Francisco County and issued Report GR-60-09-003 in October 2008. In our follow-up audit, we found that after we had issued the draft report for our first audit of San Francisco County in October 2007, San Francisco County officials decided to continue to request additional SWBPI funds until the final report was issued. As a result, San Francisco County requested and received SWBPI reimbursement for 83 cases totaling \$336,254 for the quarter ending December 31, 2006, following the same incorrect reimbursement criteria that we had questioned in our first audit. According to San Francisco County Officials, the reimbursement request was submitted using the same incorrect criteria because at the time the contractor's representative was still maintaining that he had correctly interpreted the SWBPI guidelines. As a result, we questioned all of the additional \$336,254 in SWBPI reimbursements received by San Francisco County as unallowable. When combined with the unallowable reimbursements identified in our prior audit, we found that San Francisco County received unallowable SWBPI reimbursements totaling \$5,751,149.

## *Repayment*

In February 2008, through an agreement with the USAO, San Francisco made an initial repayment of \$2.7 million to DOJ to remedy the unallowable SWBPI reimbursements. Additionally, the USAO gave San Francisco the opportunity to identify any eligible cases, not submitted previously, to support any remaining portion of the funds it received.

San Francisco submitted 134 supplemental cases to replace the unallowable cases for which it had previously received SWBPI reimbursements. San Francisco estimated the supplemental cases were eligible for maximum SWBPI reimbursements totaling \$1,170,000 under the "both" prosecution and pretrial detention reimbursement category.

Based on our review of the 134 supplemental cases submitted by San Francisco, we determined that 128 supplemental cases provided by San Francisco County would have been eligible for SWBPI reimbursements totaling \$522,957.<sup>16</sup> Therefore, we determined that the remaining net unallowable SWBPI reimbursements for San Francisco County totaled \$2,528,192, as shown in Table 7.

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<sup>16</sup> We identified eight cases that were not eligible for reimbursement. Additionally, we identified 36 cases that did not meet the pre-trial detention services requirement; as a result, the cases were only eligible for half the maximum reimbursement. In total, we identified 90 cases that were eligible for the "both" prosecution and pre-trial detention reimbursement category, and an additional 36 cases were eligible for the prosecution only reimbursement category. To calculate the allowable reimbursement amount, we determined the maximum reimbursement for each case based on the length of disposition and then applied the pro-rata reimbursement percentages applicable to each quarter.

**TABLE 7  
CALCULATION OF UNALLOWABLE SWBPI FUNDS  
STILL OWED BY SAN FRANCISCO COUNTY**

Unallowable SWBPI Reimbursements Identified in the November 2007 Prior Audit	\$5,414,895
Unallowable SWBPI Reimbursements Received Subsequent to the November 2007 Prior Audit	336,254
<b><i>Total Unallowable SWBPI Reimbursements</i></b>	<b><i>\$5,751,149</i></b>
Less: Unallowable SWBPI Reimbursements Repaid in February 2008	(\$2,700,000)
Less: Allowable SWBPI Reimbursements Identified for subsequent SWBPI Cases Submitted	(522,957)
<b><i>Total Remaining Unallowable SWBPI Funds</i></b>	<b><i>\$2,528,192</i></b>

Based on the results of our two external audits of the SWBPI reimbursements received by San Francisco County, the USAO for the Northern District of California and San Francisco County entered into an agreement on October 16, 2008, in which San Francisco County agreed to pay the balance of \$2,528,192 to the Department of Justice. This brought San Francisco County's total agreed upon repayment of SWBPI funds to \$5,228,192.<sup>17</sup>

### **San Mateo County**

The OIG conducted an external audit of the SWBPI reimbursements received by San Mateo County, and issued Report GR-60-08-010 in August 2008. The audit included all SWBPI reimbursements received by San Mateo County since it began participating in the program through FY 2007. During the period covered by our audit, San Mateo County received SWBPI reimbursements totaling \$1,520,999, as shown in Table 8.

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<sup>17</sup> Subsequent to the issuance of the letter from the USAO for the Northern District of California, San Francisco remitted the remaining \$2,528,192 in unallowable SWBPI reimbursements back to the United States on October 16, 2008.

**TABLE 8  
SAN MATEO COUNTY SWBPI REIMBURSEMENTS AS OF FY 2007**

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY04 1 <sup>st</sup> Quarter	10/01/03	12/31/03	\$76,250	\$61,763
FY04 2 <sup>nd</sup> Quarter	01/01/04	03/31/04	\$111,250	\$90,113
FY04 3 <sup>rd</sup> Quarter	04/01/04	06/30/04	\$113,750	\$92,138
FY04 4 <sup>th</sup> Quarter	N/A	N/A	N/A	N/A
FY05 1 <sup>st</sup> Quarter	10/01/04	12/31/04	\$106,250	\$52,368
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	\$181,250	\$79,896
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	\$135,000	\$63,992
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	\$123,750	\$62,069
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$167,500	\$89,079
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$122,500	\$58,327
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$213,750	\$92,094
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$260,000	\$114,524
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	\$308,750	\$161,585
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	\$297,500	\$156,033
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	\$288,750	\$141,584
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	\$358,750	\$205,436
<b>TOTAL</b>				<b>\$1,520,999</b>

Source: Office of Justice Programs

We found that San Mateo County hired the same contractor, PRM, used by San Francisco County to manage its SWBPI claim reimbursement process. San Mateo County officials first learned of the SWBPI program at a presentation made by the contractor to a group of representatives from multiple California sheriffs' offices. San Mateo County officials had used the contractor in the past and decided to utilize its services to begin applying for SWBPI reimbursements.

Our audit found that San Mateo County officials relied on the contractor's guidance to determine which cases would be eligible for SWBPI reimbursement. Among the guidance given to San Mateo County officials by the contractor was that any SCAAP case would automatically be eligible for SWBPI reimbursements. This guidance was incorrect, since SCAAP cases are only eligible for SWBPI reimbursements if they also meet SWBPI criteria.

We also found that the San Mateo County's District Attorney's Office believed the cases did not meet SWBPI criteria, and did not want to participate in SWBPI reimbursements for the prosecution aspect of the selected cases. As a result, only the San Mateo County's Sheriff's Office claimed and received reimbursements for the pre-trial detention portion of the SWBPI program.

When San Mateo County officials became aware of the results of our prior audit of SWBPI reimbursements received by San Francisco County, they acknowledged that all their SWBPI reimbursements were ineligible because none of the cases were federally initiated. As a result, we questioned all of San Mateo County's unallowable SWBPI reimbursements totaling \$1,520,999 for the 1,076 cases submitted.

The USAO for the Northern District of California provided San Mateo County the opportunity to address the questioned costs identified in our audit. San Mateo County was able to provide documentation supporting \$7,078 of its \$1,520,999 in SWBPI reimbursements. As a result, the USAO entered into a settlement agreement with San Mateo County, on January 28, 2009, through which San Mateo County was required to remit the remaining unallowable SWBPI reimbursement of \$1,513,921 (the Settlement Amount) back to the United States. San Mateo County agreed to repay the Settlement Amount in two installments.<sup>18</sup>

## **Humboldt County**

The OIG conducted an external audit of the SWBPI reimbursements received by Humboldt County, and issued Report GR-60-08-011, in August 2008. The audit included all SWBPI reimbursements received by Humboldt County since it began participating in the program through FY 2007. During the period covered by our audit, Humboldt County received SWBPI reimbursements totaling \$728,445, as shown in Table 9.

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<sup>18</sup> The first installment of \$760,500 was remitted back to the United States on February 12, 2009, and the second installment of \$753,421 was remitted on August 10, 2009.

**TABLE 9  
HUMBOLDT COUNTY SWBPI REIMBURSEMENTS AS OF FY 2007**

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	\$130,000	\$57,305
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	\$140,000	\$66,362
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	\$172,500	\$86,520
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$162,500	\$86,420
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$207,500	\$98,799
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$100,000	\$43,085
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$165,000	\$72,679
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	\$87,500	\$45,793
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	\$60,000	\$31,469
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	\$160,000	\$78,454
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	\$107,500	\$61,559
<b>TOTAL</b>				<b>\$728,445</b>

Source: Office of Justice Programs

Humboldt County hired the same contractor, PRM, to manage its SWBPI claim reimbursement process. The contractor advised Humboldt County officials to submit federally initiated and SCAAP cases for SWBPI reimbursement. However, as noted above, SCAAP cases are only eligible for SWBPI reimbursements if they also meet SWBPI criteria.

We selected and analyzed the cases submitted by Humboldt County to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines. We identified 61 cases that were allowable for SWBPI reimbursement, and the remaining 179 cases were not allowable because they were not federally initiated. Specifically, we determined that Humboldt County received unallowable reimbursements totaling \$525,347 for 179 cases that were not federally initiated.

Additionally, for the 61 cases that were federally initiated, we determined that Humboldt County received excess reimbursements totaling \$30,542 for 15 cases that were claimed under the both prosecution and pre-trial detention category. These cases should have been claimed as prosecution only because the defendant was not held overnight. As a result, we identified questioned costs totaling \$555,888 (\$525,347 + \$30,542).

The USAO for the Northern District of California provided Humboldt County the opportunity to address the questioned costs identified in our audit. Humboldt County was able to provide documentation supporting \$138,902 of its \$555,888 in SWBPI reimbursements. As a result, the USAO

entered into a settlement agreement with Humboldt County, on January 28, 2009, through which Humboldt County was required to remit the remaining unallowable SWBPI reimbursement of \$416,986 (the Settlement Amount) back to the United States.<sup>19</sup>

## Lake County

The OIG conducted an external audit of the SWBPI reimbursements received by Lake County, and issued Report GR-60-09-001, in October 2008. The audit included all SWBPI reimbursements received by Lake County since it began participating in the program through FY 2007. During the period covered by our audit, Lake County received SWBPI reimbursements totaling \$1,019,095, as shown in Table 10.

**TABLE 10  
LAKE COUNTY SWBPI REIMBURSEMENTS AS OF FY 2007**

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$102,500	\$54,511
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$95,000	\$45,234
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$87,500	\$37,699
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$65,000	\$28,631
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	\$270,000	\$141,305
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	\$550,000	\$288,464
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	\$597,500	\$292,975
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	\$227,500	\$130,276
<b>TOTAL</b>				<b>\$1,019,095</b>

Source: Office of Justice Programs

Lake County hired the same contractor, PRM, to manage its SWBPI claim reimbursement process. Among the guidance given to Lake County officials by the contractor was that locally initiated cases in which the defendant was arrested on federal land, as well as Indian reservations, were eligible for SWBPI reimbursement. The contractor also told Lake County officials that locally initiated cases, for which an immigration hold was placed on the defendant, were eligible for SWBPI reimbursement. However, as noted above, the guidance given by the contractor was incorrect, since federal initiation is a requirement in the SWBPI criteria.

<sup>19</sup> Humboldt County agreed to repay the Settlement Amount in two installments. The first installment of \$208,493 was remitted back to the United States on January 10, 2009, and the second installment of \$208,493 was remitted on July 7, 2009.

Upon reading our previous audit of San Francisco's SWBPI reimbursements, Lake County officials realized it had used the same contractor and that the majority of its cases were ineligible. Based on an initial assessment of the cases submitted for SWBPI reimbursement, Lake County repaid \$700,455 of the total SWBPI funds received. After Lake County was notified of our audit, Lake County officials reviewed all cases that had been submitted for SWBPI reimbursement and determined that all but 10 cases were ineligible because the cases were not federally initiated. We confirmed that the \$29,490 in SWBPI reimbursements received for the 10 cases identified by Lake County was allowable. As a result, we found that Lake County received unallowable SWBPI reimbursements totaling \$989,605 for 264 cases because the cases were not federally initiated, of which \$289,150 was still owed to DOJ.

The USAO for the Northern District of California provided Lake County the opportunity to address the questioned costs identified in our audit. As a result, the USAO entered into a settlement agreement with Lake County, on December 16, 2008, through which Lake County remitted the remaining unallowable SWBPI reimbursement of \$289,150 owed to the United States.

### **San Benito County**

The OIG conducted an external audit of the SWBPI reimbursements received by San Benito County, and issued Report GR-60-09-002, in October 2008. The audit included all SWBPI reimbursements received by San Benito County since it began participating in the program through FY 2007. During the period covered by our audit, San Benito County received SWBPI reimbursements totaling \$397,984, as shown in Table 11.



**TABLE 11**  
**SAN BENITO COUNTY SWBPI REIMBURSEMENTS AS OF FY 2007**

<b>REPORTING PERIOD</b>	<b>START DATE</b>	<b>END DATE</b>	<b>AMOUNT REQUESTED</b>	<b>AMOUNT REIMBURSED</b>
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	\$92,500	\$40,775
FY05 3 <sup>rd</sup> Quarter	N/A	N/A	N/A	N/A
FY05 4 <sup>th</sup> Quarter	N/A	N/A	N/A	N/A
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$12,500	\$6,648
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$120,000	\$57,137
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$90,000	\$38,777
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$146,250	\$64,420
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	\$117,500	\$61,494
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	\$95,000	\$49,826
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	\$67,500	\$33,098
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	\$80,000	\$45,811
<b>TOTAL</b>				<b>\$397,984</b>

Source: Office of Justice Programs

San Benito officials hired the same contractor, PRM, to manage its SWBPI claim reimbursement process, and relied on the advice of the contractor for the selection of cases submitted for SWBPI reimbursement. Among the guidance given to San Benito officials by the contractor was that a case that was initiated by local law enforcement, but which could be prosecuted on a federal level, would be eligible for SWBPI reimbursement.

We selected and analyzed a sample of 52 cases submitted by San Benito to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines. We found no evidence of federal initiation during our review of the cases submitted for SWBPI reimbursement. As a result, we determined that San Benito received unallowable SWBPI reimbursements totaling \$397,984 for the 103 cases submitted because the cases were not federally initiated.

The USAO for the Northern District of California provided San Benito County the opportunity to address the questioned costs identified in our audit. San Benito County was not able to provide documentation supporting any of its SWBPI reimbursements. As a result, the USAO entered into a settlement agreement with San Benito County, on January 27, 2009, through which San Benito County was required to remit the unallowable

SWBPI reimbursement of \$397,984 (the Settlement Amount) back to the United States.<sup>20</sup>

## Siskiyou County

The OIG conducted an external audit of the SWBPI reimbursements received by Siskiyou County, and issued Report GR-60-09-005, in December 2008. The audit included all SWBPI reimbursements received by Siskiyou County since it began participating in the program through FY 2007. During the period covered by our audit, Siskiyou County received SWBPI reimbursements totaling \$702,317, as shown in Table 12.

**TABLE 12  
SISKIYOU COUNTY SWBPI REIMBURSEMENTS AS OF FY 2007**

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	\$25,000	\$11,020
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	\$167,500	\$79,397
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	\$192,500	\$96,552
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$447,500	\$236,840
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$50,000	\$23,807
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$50,000	\$21,543
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$167,500	\$73,780
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	\$120,000	\$62,802
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	\$57,500	\$30,158
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	\$97,500	\$47,808
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	\$32,500	\$18,611
<b>TOTAL</b>				<b>\$702,317</b>

Source: Office of Justice Programs

Siskiyou County hired the same contractor, PRM, to manage its SWBPI claim reimbursement process. Siskiyou County officials relied on the contractor's guidance to determine which cases would be eligible for SWBPI reimbursement. Among the guidance the contractor gave to Siskiyou County officials was that all cases that could have been prosecuted by the federal government would be allowable. The example given to the auditors by Siskiyou County officials were cases where the defendant was arrested by state or local authorities on violations of drug laws, because the defendant could have been prosecuted federally in violation of federal drug laws.

<sup>20</sup> San Benito County agreed to repay the Settlement Amount in two installments of \$198,992. The first installment was remitted back to the United States on January 29, 2009, and the second installment was remitted on July 13, 2009.

Specifically, the written guidance given to Siskiyou County by the contractor stated, "What we are looking for are all potential violations of a federal criminal law. To put it another way, these are cases that the Feds could get involved with and would have jurisdiction over, if they chose to do so." However, the contractor's guidance was incorrect, because federal initiation is a requirement in the SWBPI criteria.

We selected and analyzed a sample of 50 cases submitted by Siskiyou County to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines. We found no evidence of federal initiation during our review of the cases submitted for SWBPI reimbursement. Additionally, Siskiyou County officials were provided the opportunity to identify any cases that might have been federally initiated; however, they were unable to find any such cases at the time of our audit. As a result, we determined that Siskiyou County received unallowable SWBPI reimbursements totaling \$702,317 for the 259 cases submitted because the cases were not federally initiated.

The USAO for the Eastern District of California provided Siskiyou County the opportunity to address the questioned costs identified in our audit. Siskiyou County was able to provide documentation supporting \$7,237 of its \$702,317 in SWBPI reimbursements. As a result, the USAO entered into a Settlement Agreement with Siskiyou County, on November 3, 2009, through which Siskiyou County has agreed to remit back to the United States the remaining unallowable SWBPI reimbursement of \$695,080 (the Settlement Amount).<sup>21</sup>

## **Mendocino County**

The OIG conducted an external audit of the SWBPI reimbursements received by Mendocino County, and issued Report GR-60-09-007, in December 2008. The audit included all SWBPI reimbursements received by Mendocino County since it began participating in the program through FY 2007. During the period covered by our audit, Mendocino County received SWBPI reimbursements totaling \$1,910,431, as shown in Table 13.

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<sup>21</sup> Siskiyou County has agreed to repay the Settlement Amount in four installments, with 3 percent annual interest accruing on the balance remaining after December 1, 2009. The first installment of \$200,000 was paid on November 12, 2009, the second installment of \$175,026 shall be paid prior to December 1, 2010, the third installment of \$175,026 shall be paid prior to December 1, 2011, and the fourth installment of \$175,026 shall be paid prior to December 1, 2012.

**TABLE 13  
MENDOCINO COUNTY SWBPI REIMBURSEMENTS AS OF FY 2007**

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY02 All Quarters	10/01/01	09/30/02	\$223,750	\$223,750
FY03 1 <sup>st</sup> and 2 <sup>nd</sup> Quarters	10/01/02	03/31/03	\$112,500	\$112,500
FY03 3 <sup>rd</sup> Quarter	04/01/03	06/30/03	\$55,000	\$55,000
FY03 4 <sup>th</sup> Quarter	07/01/03	09/30/03	\$71,250	\$71,250
FY04 1 <sup>st</sup> Quarter	10/01/03	12/31/03	\$70,000	\$70,000
FY04 2 <sup>nd</sup> Quarter	01/01/04	03/31/04	\$70,000	\$70,000
FY04 3 <sup>rd</sup> Quarter	04/01/04	06/30/04	\$53,750	\$43,538
FY04 4 <sup>th</sup> Quarter	N/A	N/A	N/A	N/A
FY05 1 <sup>st</sup> Quarter	10/01/04	12/31/04	\$10,000	\$4,929
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	\$25,000	\$11,020
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	\$38,750	\$18,368
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	\$37,500	\$18,809
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	\$225,000	\$119,658
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	\$245,000	\$116,655
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	\$252,500	\$108,790
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	\$235,000	\$103,512
FY07 1 <sup>st</sup> Quarter	10/01/06	12/31/06	\$347,500	\$181,865
FY07 2 <sup>nd</sup> Quarter	01/01/07	03/31/07	\$350,000	\$183,568
FY07 3 <sup>rd</sup> Quarter	04/01/07	06/30/07	\$305,000	\$149,552
FY07 4 <sup>th</sup> Quarter	07/01/07	09/30/07	\$432,500	\$247,668
<b>TOTAL</b>				<b>\$1,910,431</b>

Source: Office of Justice Programs

Unlike the previous six counties included in our audit, Mendocino County did not use PRM to manage its SWBPI reimbursements requests. However, we included Mendocino County in our audit because, like the previous six counties, Mendocino County submitted locally initiated cases based on an incorrect interpretation of the criteria. According the Mendocino County Officials, a former District Attorney created criteria to search for cases that he believed would be eligible for SWBPI reimbursements. The criteria included any case in which the defendant was an undocumented alien, regardless of whether the case was federally initiated. However, the case selection criteria used by Mendocino County was incorrect, since federal initiation is a requirement in the SWBPI criteria.

We selected and analyzed a sample of 107 cases submitted by Mendocino County to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines. We found no evidence of federal initiation for any of the cases included in our review.

As a result, we determined that Mendocino County received unallowable SWBPI reimbursements totaling \$1,910,431 for the 710 cases submitted because the cases were not federally initiated.

The USAO for the Eastern District of California provided Mendocino County the opportunity to address the questioned costs identified in our audit. Mendocino County was able to provide documentation supporting \$117,423 of its \$1,910,431 in SWBPI reimbursements. As a result, the USAO entered into a Settlement Agreement with Mendocino County, on June 24, 2009, through which Mendocino County agreed to remit back to the United States the remaining unallowable SWBPI reimbursement of \$1,793,045.<sup>22</sup>

## Conclusion

As noted previously, in March 2008, the Office of the Inspector General (OIG), Audit Division, issued an audit report on the *Southwest Border Prosecution Initiative Reimbursement Program* (Report No. 08-22). The prior report found that OJP did not adequately oversee the SWBPI program. The findings specifically related to the results of this audit included that at the time:

- OJP did not require applicants to provide documentation supporting reimbursement requests.
- OJP did not review the applications for accuracy or monitor recipients to determine the eligibility of cases submitted for reimbursement.

In response to our prior audit, OJP implemented corrective actions to assist in ensuring that: (1) reimbursement requests only include eligible cases; (2) reimbursement amounts are linked to actual costs; and (3) reimbursements do not exceed actual costs and are adjusted to reflect other federal prosecution and detention funding received by SWBPI participants.

In this audit we examined specifically SWBPI reimbursements awarded to nine California counties and identified additional weaknesses in the SWBPI program. These audits identified \$12.23 million in unallowable SWBPI

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<sup>22</sup> Mendocino County has agreed to repay the Settlement Amount in four installments, with 3 percent annual interest accruing on the balance remaining after January 2, 2010. The first installment of \$425,360 was paid on January 7, 2010, the second installment of \$469,572 shall be paid prior to January 1, 2011, the third installment of \$483,659 shall be paid prior to January 1, 2012, and the fourth installment of \$498,209 shall be paid prior to January 1, 2013.

reimbursements, which represents 85 percent of the total funding received by these counties.

In our judgment, OJP should implement additional procedures to analyze SWBPI reimbursements to timely identify and follow up on anomalies that may indicate errors related to reimbursement requests for specific jurisdictions. For example, we noted that in the last quarter of FY 2006, San Francisco County, despite being located about 500 miles north of the Southwest Border, received the highest reimbursement of any SWBPI participant, including jurisdictions located on the border, such as San Diego County, California, and El Paso County, Texas. This should have been a “red flag” issue that OJP identified and followed up on much earlier in the process to make sure that the reimbursements requested by and paid to San Francisco County were compliant with SWBPI guidelines. As previously noted, our audit of San Francisco County identified over \$5.7 million in unallowable reimbursements, representing almost one-half of all questioned costs for the California counties we audited.

We also found that from FYs 2004 through 2007 San Francisco County and five other California counties used the same contractor, PRM, to manage their SWBPI reimbursements and that the guidance provided by the contractor to the counties for submitting cases for SWBPI reimbursement was materially inaccurate. The reimbursements received by the other eight counties included in this audit also appeared high based on the size of the counties and their location in relation to the Southwest Border. Again, these are anomalies that OJP should have identified and followed up on much earlier in the process.

## **Recommendation**

As a result of our most recent audit work and to further improve the SWBPI program, we recommend that OJP: implement procedures to analyze SWBPI reimbursements to identify anomalies that may indicate unallowable or unsupported payments to specific jurisdictions.

## STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards* we tested as appropriate, internal controls significant within the context of our audit objective. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of OJP's internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. OJP's management is responsible for the establishment and maintenance of internal controls.

Through our audit testing, we did not identify any deficiencies in OJP's internal controls that are significant within the context of the audit objective and based upon the audit work performed that we believe would affect OJP's ability to effectively and efficiently operate, to correctly state financial and performance information, and to ensure compliance with laws, regulations, and other applicable requirements.

## **STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS**

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objective, selected transactions, records, procedures, and practices, to obtain reasonable assurance that OJP's management complied with federal laws and regulations that, for which noncompliance, in our judgment could have a material effect on the results of our audit. OJP's management is responsible for ensuring compliance with federal laws and regulations applicable to the SWBPI program. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objective:

(1) Pub. L. No. 107- 7 (2001); (2) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; and (3) all subsequent SWBPI appropriations.

Our audit included examining, on a test basis, OJP's compliance with the aforementioned laws and regulations that could have a material effect on OJP's operations, through conducting external audits of SWBPI recipients. Nothing came to our attention that caused us to believe that OJP was not in compliance with the aforementioned laws and regulations.



## OBJECTIVE, SCOPE, AND METHODOLOGY

We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was to summarize the results of our external audits conducted at the request of the USAO for the Northern District of California and the OIG Investigations Division.

The audit generally covered, but is not limited to, SWBPI reimbursements awarded from FYs 2002 through 2007. We conducted external audits of nine SWBPI recipients to determine if SWBPI reimbursements were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program. The external audits were conducted at the following selected SWBPI California County recipients: (1) San Francisco, Reports GR-60-08-001 and GR-60-09-003; (2) San Mateo, Report GR-60-08-010; (3) Humboldt, Report GR-60-08-011; (4) Lake, Report GR-60-09-001; (5) San Benito, Report GR-60-09-002; (6) Siskiyou, Report GR-60-09-005; (7) Mendocino, Report GR-60-09-007; (8) Monterey, Report GR-60-09-008; and (9) Santa Clara, Report GR-60-09-009.

To determine if SWBPI reimbursements were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI program, we:

- selected a judgmental sample of SWBPI recipients and conducted audits of OJP's administration of the selected recipients, and
- assessed the allowability of cases reimbursed in accordance with applicable laws, regulations, guidelines, and terms and conditions of the program.

Our sample selection methodology was not designed with the intent of projecting our results to the entire universe of SWBPI recipients.

We included the work performed in prior OIG SWBPI audits in our assessment of the allowability of cases reimbursed.



## U.S. Department of Justice

Office of Justice Programs


*Office of the Assistant Attorney General*

Washington, D.C. 20531

FEB 24 2010

MEMORANDUM TO: Glenn A. Fine  
Inspector General  
United States Department of Justice

THROUGH: Raymond J. Beudet  
Assistant Inspector General for Audit  
Office of the Inspector General  
United States Department of Justice

FROM: Laurie O. Robinson   
Assistant Attorney General

SUBJECT: Response to Office of the Inspector General's Draft Audit Report,  
*Southwest Border Prosecution Initiative Reimbursements*

This memorandum provides a response to the recommendation directed to the Office of Justice Programs (OJP) included in the Office of the Inspector General's (OIG's) draft audit report entitled, *Southwest Border Prosecution Initiative Reimbursements*.

The draft audit report contains one recommendation and no questioned costs directed to the OJP. For ease of review, the draft audit report recommendation is restated in bold and is followed by OJP's response.

**As a result of our most recent audit work and to further improve the SWBPI program, we recommend that OJP: implement procedures to analyze SWBPI reimbursements to identify anomalies that may indicate unallowable or unsupported payments to specific jurisdictions.**

The Office of Justice Programs agrees with the recommendation. During fiscal year 2009, the Bureau of Justice Assistance (BJA) implemented changes to the Southwest Border Prosecution Initiative (SWBPI) system to allow for the collection and analysis of case and cost data submitted by jurisdictions. BJA has already begun analyzing these data to assess payment trends and identify duplicate cases or defendants. By June 30, 2010, BJA anticipates implementing internal guidelines to ensure that SWBPI reimbursements are routinely analyzed and appropriate remedial action is taken to address all payments that are determined to be unallowable or unsupported.

Thank you for your continued cooperation. If you have any questions regarding this response, please contact Maureen A. Henneberg, Director of the Office of Audit, Assessment, and Management, on (202) 616-3282.

cc: Beth McGarry  
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**OFFICE OF THE INSPECTOR GENERAL  
ANALYSIS AND SUMMARY OF ACTIONS  
NECESSARY TO CLOSE THE REPORT**

The OIG provided a draft of this audit report to OJP, and OJP's response is included as Appendix II of this final report. The following provides the OIG's analysis of the response and summary of actions necessary to close the report.

1. **Resolved.** The OJP concurred with our recommendation. This recommendation can be closed when we receive documentation supporting that OJP has implemented internal guidelines to ensure that SWBPI reimbursements are routinely analyzed to identify anomalies that may indicate unallowable or unsupported payments. In addition, the procedures should ensure that appropriate remedial action is taken to address all payments that are determined to be unallowable or unsupported.