



**OFFICE OF JUSTICE PROGRAMS  
SOUTHWEST BORDER PROSECUTION  
INITIATIVE FUNDING RECEIVED BY  
EL PASO COUNTY, TEXAS**

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

Audit Report GR-60-10-005  
May 2010

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**EXECUTIVE SUMMARY**

The U.S. Department of Justice, Office of the Inspector General, Audit Division, has completed an audit and issued a revised report on the Southwest Border Prosecution Initiative (SWBPI) funding awarded by the Office of Justice Programs (OJP) to El Paso County, Texas. This revised report replaces a report issued in September 2007.<sup>1</sup> As of July 11, 2007, El Paso County had received SWBPI funding on a pro-rata basis totaling \$13,470,120.

Many drug and other criminal cases occurring along the southwest border are initiated by a federal law enforcement agency or multi-jurisdictional task forces, e.g., High Intensity Drug Trafficking Areas (HIDTA) and Organized Crime Drug Enforcement Task Forces (OCDETF). Many U.S. Attorneys have developed prosecution guidelines that 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 referred to the state or county for prosecution.

The SWBPI was established in fiscal year (FY) 2002, when Congress began appropriating funds to reimburse state, county, parish, tribal, and municipal governments for costs associated with the prosecution of criminal cases declined by local U.S. Attorneys' offices. Reimbursements received from SWBPI funding may be used by applicant jurisdictions for any purpose not otherwise prohibited by federal law. For FY 2009, Congress appropriated \$31 million for the SWBPI.

The objective of our audit was to determine if the SWBPI reimbursements received by El Paso County were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI.

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<sup>1</sup> After the prior report was issued, we found errors we had made related to the amount of questioned costs. As a result, we conducted additional fieldwork and issued this revised report.

We found that El Paso County claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines. Specifically, we identified questioned costs totaling \$5,100,526 for 1,044 cases that were: (1) not federally initiated, (2) disposed of in FY 2001 prior to the initiation of the SWBPI Program, (3) duplicate cases, (4) claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (5) investigated or prosecuted concurrently, (6) submitted in the wrong disposition category, and (7) submitted in the wrong quarter.<sup>2</sup>

These issues are discussed in detail in the Findings and Recommendations section of the report. Our audit Objectives, Scope, and Methodology appear in Appendix I.

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<sup>2</sup> The Inspector General Act of 1978, as amended, contains our reporting requirements for questioned costs. However, not all findings are dollar-related. See Appendix II for a breakdown of our dollar-related findings and for definitions of questioned costs and funds to better use.

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## INTRODUCTION

The Office of the Inspector General, Audit Division, has completed an audit and issued a revised report on the Southwest Border Prosecution Initiative (SWBPI) funding awarded by the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP) to El Paso County, Texas. This revised report replaces a report issued in September 2007.<sup>1</sup> The objective of the audit was to determine whether the SWBPI reimbursements received by El Paso County were allowable, supported, and in accordance with applicable laws, regulations, and terms and conditions of the SWBPI guidelines.

### Background

Prior to 1994, most southwest border counties in the states of Arizona, California, New Mexico, and Texas did not prosecute drug cases resulting from the illegal importation of controlled substances at U.S. borders. Typically, these cases were prosecuted exclusively by U.S. Attorneys in federal courts. However, in late 1994, U.S. Attorneys, and state and local prosecutors established partnerships through which the state and local governments began prosecuting federally referred criminal cases. These partnerships allowed the U.S. Attorneys to focus on addressing major drug trafficking organizations and prosecuting deported criminal aliens who returned to the U.S. illegally. As state and local governments began to prosecute a growing number of federally referred criminal cases, the partnerships led to an increased financial and resource burden. Congress recognized this problem and began appropriating funds under the SWBPI in fiscal year (FY) 2002 to support state and local prosecutions along the southwest border.

For FY 2009, Congress appropriated \$31 million in funding for the SWBPI, Pub. L. No. 111-8 (2009), to reimburse state, county, parish, tribal, or municipal governments for costs associated with the prosecution of criminal cases declined by local U.S. Attorneys' offices. Reimbursements received from the SWBPI funding may be used by applicant jurisdictions for any purpose not otherwise prohibited by federal law; however, the direct support and enhancement of jurisdictions' prosecutorial and detention services are encouraged.

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<sup>1</sup> After the prior report was issued, we found errors we had made related to the amount of questioned costs. As a result, we conducted additional fieldwork and issued this revised report.

For cases submitted for prosecution or pre-trial detention services only, each eligible case may receive the following maximum reimbursement, based upon the length of disposition and the availability of funds:

- \$1,250 for each case of 1 to 15 days,
- \$2,500 for each case of 16 to 30 days,
- \$3,750 for each case of 31 to 90 days, and
- \$5,000 for each case over 90 days.

For cases submitted for both prosecution and pre-trial detention services, each eligible case submitted for reimbursement, may receive the following maximum reimbursement based upon the length of disposition and the availability of funds:

- \$2,500 for each case of 1 to 15 days,
- \$5,000 for each case of 16 to 30 days,
- \$7,500 for each case of 31 to 90 days, and
- \$10,000 for each case over 90 days.

The disposition period of a case with both prosecution and pre-trial detention services is calculated using the prosecution disposition period. To meet the pre-trial detention services requirement, the individual must be incarcerated overnight.

Pursuant to the SWBPI guidelines, when reimbursement requests exceed available funding, applicants receive funds on a uniform, pro-rata basis. The following table shows the pro-rata reimbursement percentages for El Paso County.

**PRO-RATA REIMBURSEMENT BASIS TO EL PASO COUNTY**

<b>REPORTING PERIOD</b>	<b>START DATE</b>	<b>END DATE</b>	<b>PERCENTAGE REIMBURSED</b>
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%

Source: Office of Justice Programs

As shown in the following table, El Paso County received reimbursements from SWBPI funds totaling \$13,470,120 from FYs 2002 through 2006. El Paso County did not request reimbursements for the second and third quarters of FY 2004. There were no SWBPI funds available for the fourth quarter ended September 30, 2004.

**REIMBURSEMENTS TO EL PASO COUNTY<sup>2</sup>**

<b>REPORTING PERIOD</b>	<b>S DATE</b>	<b>END DATE</b>	<b>A REQUESTED</b>	<b>A REIMBURSED</b>
FY02 all Quarters	10/01/01	09/30/02	\$5,038,750	\$5,038,750
FY03 1 <sup>st</sup> & 2 <sup>nd</sup> Quarters	10/01/02	03/31/03	2,162,500	2,162,500
FY03 3 <sup>rd</sup> Quarter	04/01/03	06/30/03	855,000	855,000
FY03 4 <sup>th</sup> Quarter	07/01/03	09/30/03	1,037,500	1,037,500
FY04 1 <sup>st</sup> Quarter	10/01/03	12/31/03	1,192,500	1,192,500
FY04 2 <sup>nd</sup> Quarter	01/01/04	03/31/04	0	0
FY04 3 <sup>rd</sup> Quarter	04/01/04	06/30/04	0	0
FY05 1 <sup>st</sup> Quarter	10/01/04	12/31/04	957,500	471,924
FY05 2 <sup>nd</sup> Quarter	01/01/05	03/31/05	1,068,750	471,111
FY05 3 <sup>rd</sup> Quarter	04/01/05	06/30/05	1,095,000	519,045
FY05 4 <sup>th</sup> Quarter	07/01/05	09/30/05	617,500	309,718
FY06 1 <sup>st</sup> Quarter	10/01/05	12/31/05	748,750	398,196
FY06 2 <sup>nd</sup> Quarter	01/01/06	03/31/06	785,000	373,772
FY06 3 <sup>rd</sup> Quarter	04/01/06	06/30/06	711,250	306,443
FY06 4 <sup>th</sup> Quarter	07/01/06	09/30/06	757,500	333,661
<b>TOTAL</b>				<b>\$13,470,120</b>

Source: Office of Justice Programs

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<sup>2</sup> The difference in the total amount is due to rounding, in that the sum of individual numbers prior to rounding may differ from the sum of the individual numbers rounded.

## FINDINGS AND RECOMMENDATIONS

We found that El Paso County claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines. Specifically, we found cases that were: (1) not federally initiated, (2) disposed of in FY 2001 prior to the initiation of the SWBPI Program, (3) duplicate cases, (4) claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (5) investigated or prosecuted concurrently, (6) submitted in the wrong disposition category, and (7) submitted in the wrong quarter. As a result, we identified questioned costs totaling \$5,100,526.

### Case Eligibility

Pursuant to the SWBPI guidelines, an eligible case is any federally initiated criminal case that the U.S. Attorney declined to prosecute and referred to the state or local government for prosecution, which was prosecuted by the state or local government and disposed of during an eligible reporting period. 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, e.g., High Intensity Drug Trafficking Areas (HIDTA) and Organized Crime Drug Enforcement Task Forces (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 and not prosecuted by the state or local government are ineligible for reimbursement.

We analyzed 2,445 cases listed on El Paso County's master case list to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines.

Based on our review, we found that El Paso County received SWBPI funds totaling \$5,100,526 for cases that were not eligible for reimbursement pursuant to the SWBPI guidelines. A detailed listing of the cases claimed by El Paso County that were not eligible for

reimbursement is provided in Appendix III. Specifically, we found that El Paso County:

- Received unallowable reimbursements totaling \$2,411,781 for 572 bond forfeiture cases submitted by the County Attorney's Office that were not federally initiated.
- Received unallowable reimbursements totaling \$780,000 for 81 juvenile cases that were disposed of in FY 2001, prior to the inception of the program.
- Received unallowable reimbursements totaling \$605,000 for 63 juvenile cases that were duplicates, already previously claimed.
- Received excess reimbursements totaling \$553,527 for 187 cases submitted by the District Attorney's Office under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.
- Received unallowable reimbursements totaling \$357,270 for 54 cases submitted by the District Attorney's Office that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
- Received excess reimbursements totaling \$212,500 for 61 juvenile cases that were erroneously submitted in the wrong disposition category, based on numbers of days from arrest to disposition.
- Received unallowable reimbursements totaling \$95,000 for 10 juvenile cases that were not federally initiated.
- Received unallowable reimbursements totaling \$49,680 for 10 cases submitted by the District Attorney's Office that were not federally initiated.
- Received unallowable reimbursements totaling \$27,500 for three juvenile cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

- Received unallowable reimbursements totaling \$6,652 for two juvenile cases that were not submitted for reimbursement in the same quarter in which the case was disposed.
- Received unallowable reimbursements totaling \$1,616 for one juvenile case submitted under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.

### **Accuracy of Reimbursements**

El Paso County requests reimbursements from SWBPI funds through an on-line application available on the Bureau of Justice Assistance website. Pursuant to the SWBPI guidelines, eligible cases are reimbursed using a uniform payment per case schedule based on the length of disposition, which is calculated from the date of the suspect's arrest through resolution. Resolution of the case is defined as dismissal, conviction, or plea.

We reviewed the reimbursement requests submitted by El Paso County for the period October 1, 2001, through September 30, 2006, to determine if the number of cases claimed for each disposition category was supported by the detailed case listings obtained during fieldwork. Based on our review, we determined that the reimbursement requests were not always supported by the master case listing resulting in excess reimbursements totaling \$267,938, as shown in Table 1.

**TABLE 1  
RECONCILIATION OF CASES CLAIMED FOR REIMBURSEMENT**

Period Ending	OIG Total of Detailed Case Listing	Amount From Other Federal Funding	Detailed Case Listing less Other Federal Funding	Amount OJP Reported as Requested	Difference	Percentage Reimbursed by BJA	Excess/ (Under) Reimbursed
03/31/2003	\$7,818,750	\$537,500	\$7,281,250	\$7,201,250	(\$80,000)	100.00%	(\$80,000)
06/30/2003	1,065,000	135,521	929,479	855,000	(74,479)	100.00%	(74,479)
09/30/2003	942,500	0	942,500	1,037,500	95,000	100.00%	95,000
12/31/2003	1,116,250	257,138	859,112	1,192,500	333,388	100.00%	333,388
12/31/2004	976,250	133,557	842,693	957,500	114,807	49.29%	56,588
03/31/2005	1,228,750	129,326	1,099,424	1,068,750	(30,674)	44.08%	(13,521)
06/30/2005	1,235,000	134,113	1,100,887	1,095,000	(5,887)	47.40%	(2,790)
09/30/2005	711,250	112,088	599,162	617,500	18,338	50.16%	9,198
12/31/2005	872,500	115,040	757,460	748,750	(8,710)	53.18%	(4,632)
03/31/2006	937,500	152,436	785,064	785,000	(64)	47.61%	(30)
06/30/2006	985,000	166,813	818,187	711,250	(106,937)	43.09%	(46,079)
09/30/2006	945,000	176,820	768,180	757,500	(10,680)	44.05%	(4,705)
Total	\$18,833,750	\$2,050,352	\$16,783,398	\$17,027,500			\$267,938

Source: El Paso County and OJP.

Pursuant to the SWBPI guidelines, the jurisdiction's Chief Executive Officer (CEO) or designee must certify for quarterly SWBPI applications that the application does not contain payment claims for cases already fully reimbursed by federal funds, or when combined with other federal reimbursement, grant, or payment funds, does not make payment claims in excess of 100 percent of the cost of prosecuting and or detaining case defendants in the reporting period. The SWBPI guidelines also state that, at "submission, the CEO or designee certifies that the total application amount, when combined with other federal funds . . . does not exceed 100 percent of the jurisdiction's annualized costs for prosecution and or pre-trial detention services."

At the time the SWBPI reimbursements were requested, El Paso County did not know the costs associated with prosecuting federally initiated cases. As a result, El Paso County officials conservatively backed out all other federal funding received to prosecute federally initiated cases, to ensure that the total amount of funding received did not exceed actual costs. However, subsequent to our review, El Paso County officials calculated actual costs for FYs 2004 through 2006 and discovered they did not need to back out all additional federal funding. The combination of the other federal funding as well as the SWBPI reimbursements did not exceed their actual costs. We recalculated El Paso County's reimbursement requests backing out only the portion of other federal funding received that exceeded actual prosecution costs and found that El Paso County under claimed for SWBPI reimbursements by \$299,813, as shown in Table 2.

**TABLE 2**  
**REVISED RECONCILIATION OF CASES CLAIMED FOR REIMBURSEMENT**

Period Ending	OIG Total of Detailed Case Listing	Amount From Other Federal Funding <sup>3</sup>	Detailed Case Listing less Other Federal Funding	Amount OJP Reported as Requested	Difference	Percentage Reimbursed by BJA	Excess/ (Under) Reimbursed
3/31/2003	\$7,818,750	\$537,500	\$7,281,250	\$7,201,250	(\$80,000)	100%	(\$80,000)
6/30/2003	1,065,000	135,521	929,479	855,000	(74,479)	100%	(74,479)
9/30/2003	942,500	0	942,500	1,037,500	95,000	100%	95,000
12/31/2003	1,116,250	84,860	1,031,390	1,192,500	161,110	100%	161,110
12/31/2004	976,250	57,691	918,559	957,500	38,941	49.29%	19,194
3/31/2005	1,228,750	57,691	1,171,059	1,068,750	(102,309)	44.08%	(45,098)
6/30/2005	1,235,000	57,691	1,177,309	1,095,000	(82,309)	47.40%	(39,014)
9/30/2005	711,250	57,691	653,559	617,500	(36,059)	50.16%	(18,087)
12/31/2005	872,500	10,924	861,576	748,750	(112,826)	53.18%	(60,001)
3/31/2006	937,500	10,924	926,576	785,000	(141,576)	47.61%	(67,404)
6/30/2006	985,000	10,924	974,076	711,250	(262,826)	43.09%	(113,252)
9/30/2006	945,000	10,924	934,076	757,500	(176,576)	44.05%	(77,782)
Total	\$18,833,750	\$1,032,341	\$17,801,409	\$17,027,500			(\$299,813)

Source: El Paso County and OJP.

Due to the fact that El Paso County was not required to back out all of the other federal funding it received to prosecute federally initiated cases, we are not questioning the \$267,938 in excess reimbursements identified in Table 1.

### Recommendations

We recommend that OJP:

1. Remedy the \$2,411,781 in questioned costs received by El Paso County for 572 bond forfeiture cases submitted by the County Attorney's Office that were not federally initiated.
2. Remedy the \$780,000 in questioned costs received by El Paso County for 81 juvenile cases which were disposed of in FY 2001, prior to the inception of the program.
3. Remedy the \$605,000 in questioned costs received by El Paso County for 63 juvenile cases which were duplicates, already previously claimed.

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<sup>3</sup> Amounts from other federal funding were applied equally by quarter for FYs 2005 and 2006 because actual costs provided by El Paso County were for the entire fiscal year. As a result, we had to average the amounts of other federal funding for each quarter that should have been deducted from El Paso County's reimbursement requests.

4. Remedy the \$553,527 in questioned costs received by El Paso County for 187 cases submitted by the District Attorney's Office under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.
5. Remedy the \$357,270 in questioned costs received by El Paso County for 54 cases submitted by the District Attorney's Office that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
6. Remedy the \$212,500 in questioned costs received by El Paso County for 61 juvenile cases that were erroneously submitted in the wrong disposition category, based on numbers of days from arrest to disposition.
7. Remedy the \$95,000 in questioned costs received by El Paso County for 10 juvenile cases that were not federally initiated.
8. Remedy the \$49,680 in questioned costs received by El Paso County for 10 cases submitted by the District Attorney's Office that were not federally initiated.
9. Remedy the \$27,500 in questioned costs received by El Paso County for three juvenile cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
10. Remedy the \$6,652 in questioned costs received by El Paso County for two juvenile cases that were not submitted for reimbursement in the same quarter in which the case was disposed.
11. Remedy the \$1,616 in questioned costs received by El Paso County for one juvenile case submitted under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.

## APPENDIX I

### OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether reimbursements claimed for costs under the SWBPI are allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the SWBPI guidelines.

We conducted this 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. Our audit concentrated on, but was not limited to, the inception of the reimbursements through September 30, 2006.

We tested compliance with what we consider to be the important conditions of the reimbursements under the SWBPI. Unless otherwise stated in our report, the criteria we audit against are contained in the SWBPI guidelines. We tested El Paso County SWBPI activities in case eligibility and compliance with regulations.

In addition, our testing was conducted by judgmentally selecting a sample of cases submitted for reimbursement. Judgmental sampling design was applied to obtain broad exposure to numerous facets of the reimbursements reviewed. This non-statistical sample design does not allow projection of the test results to all reimbursements received.

We did not test internal controls for El Paso County as a whole. The Single Audit Report for El Paso County was prepared under the provisions of Office of Management and Budget Circular A-133 for the fiscal year ended September 30, 2007. We reviewed the independent auditor's assessment to identify internal control weaknesses and significant non-compliance issues related to El Paso County or federal programs. The auditor's assessment disclosed no material control weaknesses or significant non-compliance issues related to the SWBPI. In addition, we performed testing of source documents to assess the accuracy of reimbursement requests; however, we did not test the reliability of the financial management system as a whole.

**APPENDIX II**

**SCHEDULE OF DOLLAR-RELATED FINDINGS**

<b>QUESTIONED COSTS:</b>	<b><u>AMOUNT</u></b>	<b><u>PAGE</u></b>
Unallowable County Attorney cases that were not federally initiated.	\$2,411,781	6
Unallowable juvenile cases that were disposed of in FY 2001.	780,000	6
Unallowable juvenile cases that were disposed of in FY 2001.	605,000	6
Excess Reimbursements – District Attorney cases that did not meet the pre-trial detention requirement.	553,527	6
Unallowable District Attorney cases that were investigated or prosecuted concurrently with other allowable cases.	357,270	6
Excess Reimbursements – Juvenile cases that were submitted in the wrong disposition category.	212,500	6
Unallowable juvenile cases that were not federally initiated.	95,000	6
Unallowable District Attorney cases that were not federally initiated.	49,680	6
Unallowable juvenile cases that were investigated or prosecuted concurrently with other allowable cases.	27,500	6
Unallowable juvenile cases not submitted in the same quarter the case was disposed.	6,652	7

<b>QUESTIONED COSTS:</b>	<b><u>AMOUNT</u></b>	<b><u>PAGE</u></b>
Excess Reimbursements – Juvenile case that did not meet the pre-trial detention requirement.	1,616	7
<b>Total Questioned Costs: <sup>4</sup></b>	<b>\$5,100,526</b>	
<b>TOTAL DOLLAR-RELATED FINDINGS</b>	<b>\$5,100,526</b>	

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<sup>4</sup> **Questioned Costs** are expenditures that do not comply with legal, regulatory or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

APPENDIX III

EL PASO COUNTY  
 DETAILS OF UNALLOWABLE CASES

JUVENILE CASES CLAIMED IN FY 2001

JPD	REF No.	AMOUNT QUESTIONED
00,01297	00-250394	10,000
00,01416	2000-J07088	10,000
00,01435	00-280339	10,000
00,01286	00-245083	10,000
99,00912	99,00912	10,000
99,01407	00-245083	10,000
00,01599	EPPD00-314355	10,000
00,00764	00-320288	10,000
00,01619	00-326267	10,000
00,01657	00-335244	10,000
00,01671	00-339318	10,000
00,01720	00-349193	5,000
01,00016	01-017007	10,000
01,00017	01-017275	10,000
01,00109	MTF01-01023	10,000
01,00214	2001-B01133	10,000
00,00884	01-035303	7,500
01,00131	01-034253	10,000
01,00195	2001-B00850	10,000
01,00232	2001-B01194	10,000
01,00132	01-034253	10,000
01,00196	2001 B00-851	10,000
01,00206	01-045232	10,000
01,00291	2001-C01510	10,000
01,00301	2001-C01726	10,000
01,00279	01-0916398	7,500
01,00304	2001-C01753	10,000
01,00321	01-080034	10,000
01,00272	2001-B01326	10,000
00,01296	2000-C01834	10,000
01,00308	2001-C01766	10,000
01,00495	2001-D02164	10,000
01,00518	2001-D02334	10,000
01,00525	01-099331	10,000
01,00302	MTF01-01-059	7,500
01,00292	01-067003	10,000
01,00563	2001-D02658	10,000
01,00505	01-094417	10,000
01,00551	2001-D02569	10,000
01,00549	2001-D02530	5,000
98,00838	2001-D02677	10,000
01,00280	2001C01360	10,000

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
01,00571	01-D02846	10,000
01,00576	2001-E02920	10,000
01,00492	2001-C0232	10,000
01,00643	2001-E03410	10,000
01,00642	2001-E03413	10,000
01,00572	2001-E02875	10,000
01,00590	2001-E03030	10,000
01,00620	01-E03269	10,000
01,00596	2001-E03139	10,000
01,00622	01-140037	10,000
01,00567	01-116013	10,000
00,00780	01-067003	10,000
01,00717	01-173304	10,000
01,00667	2001-F03676	10,000
01,00682	01-156360	7,500
01,00306	2001-C01757	10,000
99,00397	01-158004	10,000
01,00686	01-159407	10,000
01,00687	2001-F03869	10,000
01,00689	01-F03887	10,000
01,00709	2001-F04185	10,000
01,00710	2001-F04204	10,000
01,00507	01-F04293	10,000
01,00721	2001-F04319	10,000
01-00702	2001-F04186	10,000
01,00991	2001-G04919	10,000
01,00722	MTF01-06-124	10,000
01,00723	MFT01-06-124	10,000
01,01018	01,210063	10,000
99,00857	00-311283	10,000
98,01811	01-158004	10,000
98,00391	2001-H05721	5,000
01,01017	2001-G05031	10,000
01,01230	2001-H05919	10,000
01,01195	2001-H05721	5,000
01,01236	2001-H06018	10,000
01,01097	2001-H05345	10,000
01,01098	2001-H05345	10,000
00,01750	00-354278	10,000
		<b>\$ 780,000</b>

**JUVENILE DUPLICATE CASES**

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
01,00721	MTM10-23-01	10,000
01,01457	01-275033	5,000
00,00287	01-274012	10,000
01,01473	01-277220	10,000
01,01549	01-292014	10,000
01,01437	MTF01-09-203	10,000
01,01608	2001-K07553	10,000
01,01652	01-313041	10,000
01,01653	01-M07747	10,000
97,01009	MTF01-010230	10,000
01,01630	EPSD2001-M07	7,500
00,00181	01-322203	10,000
01,01713	01-M9201613	10,000
99,00903	01-313040	10,000
01,01727	01-328075	10,000
99,00179	MTF0109198	10,000
01,01671	01-313040	10,000
01,01672	01-314357	10,000
01,00308	2001-N08628	7,500
01,01877	2001-408666	7,500
02,00005	2002-A0027	10,000
01,01875	01-349028	10,000
02,00227	MTF 02-02-049	10,000
02,00289	2002-B00931	10,000
02,00148	2002-A00503	10,000
00,01747	02-026072	10,000
00,00361	2002-C01360	10,000
02,00379	02-30703	10,000
02,00582	2002-D02273	10,000
02,00475	2002-C01668	7,500
02,00533	02-089048	10,000
02,00534	02-089048	10,000
02,00565	2002-002172	10,000
99,00584	02-075276	7,500
01,00411	2002-D02249	10,000
02,00586	2002-D02343	10,000
02,00333	2002-B01165	10,000
02,00414	MFC00414	10,000
02,00450	2002-C01597	10,000
02,00613	02-109300	10,000
02,00664	2002-D02706	10,000
02,00877	02-146105	10,000
02,00763	02-131239	10,000
02,00550	MTF02-04100	10,000
02,00680	2002-002782	10,000
02,00584	02-103343	10,000
01,00922	02-129018	10,000
02,00747	02-128031	10,000
02,00850	02-05141	5,000

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
01,01915	02-106359	10,000
02,00863	MTF 02-05-141	10,000
02,00878	02-146105	10,000
02,00780	2002-E03137	10,000
02,00983	02-F03843	10,000
02,00814	2002-E023212	10,000
02,00988	DPS #E-077039	10,000
02,00666	2002-D02722	10,000
02,00252	02-034121	10,000
99,01217	MTM 08-27-02	10,000
02,01180	2002-G05191	7,500
96,01582	02-204311	10,000
99,01833	02-102088	10,000
01,00109	MTM12-11-01	10,000
		<b>\$ 605,000</b>

**DISTRICT ATTORNEY CASES INCORRECTLY CATEGORIZED AS BOTH  
PROSECUTION AND PRE-TRIAL DETENTION**

<b>DA CONTROL NO.</b>	<b>LE CASE NO.</b>	<b>AMOUNT QUESTIONED</b>
D02-08126-1	02-144046	3,750
D02-06360-1	02-094017	5,000
01-12789	2001-N08447	5,000
D02-06616-1	02-102027	5,000
02-01630	2002-B00795	5,000
02-02837	2002-C01474	5,000
D02-05439-1	02-068011	5,000
D02-05080-1	02-059015	5,000
D01-16062-1	01-355011	5,000
01-13275	2001-N08770	5,000
01-06464	2001-F04294	5,000
D01-12141-1	01-249015	5,000
01-10670	2002-K07272	5,000
01-06415	2001-F04233	5,000
01-06414	2001-F04233	5,000
D01-14500-1	01-310027	5,000
D01-09100-1	01-168006	5,000
01-06627	2001-G04464	5,000
00-16836	--	5,000
00-12183	00-159128	5,000
D02-13146-1	02-284058	3,750
D03-03877-1	03-022159	3,750
D02-14184-1	02-313365	3,750
D02-14459-1	02-321057	5,000
D02-10442-1	02-208359	5,000
D02-09429-1	02-179052	5,000
02-07591	MTF02-07-166	5,000
02-06236	2002-F03839	5,000
02-07583	MTF02-03-094	5,000
02-01319	2001-N08735	5,000
02-10813	194B-EP-34250	5,000
02-11312	MTF02-10-242	5,000
02-11313	MTF02-10-243	5,000
D02-07001-1	02-111095	5,000
D02-05793-1	02-076079	5,000
D03-08667-1	03-155077	3,750
D03-09189-1	03-171422	3,750
D03-09038-1	03-167048	3,750
03-04860	MTF-03-05-294	3,750
D03-03564-1	03-016026	5,000
03-01929	MTF-03-01-021	5,000
D03-05091-1	03-058028	5,000
D03-04477-1	03-040051	5,000
D02-15393-1	02-348329	5,000
D02-15394-2	02-348329	5,000
D03-11693-1	03-251034	3,750
D03-10684-1	03-220205	3,750

DA CONTROL NO.	LE CASE NO.	AMOUNT QUESTIONED
D03-09969-1	03-194131	5,000
D03-09063-1	03-168046	5,000
D03-00081	03-162084	5,000
03-07543	MTF03-07-342	5,000
D03-09099-1	03-169164	5,000
D03-10443-1	03-212165	5,000
03-04430	MTF03-04-267	5,000
D03-06472-1	03-095114	5,000
D02-07000-1	02-111095	5,000
04-08017	2003-01300-ID	1,232
D04-13058-1	04-290106	1,848
D04-11903-1	04-256122	1,848
D04-12048-1	04-260087	1,848
D04-10117-1	04-202161	2,465
D04-09931-1	04-197039	2,465
04-06702	MTF04-07-155	2,465
D04-08872-1	04-168143	2,465
D04-06821-1	04-111031	2,465
D04-05198-1	04-063014	2,465
D03-09121-2	03-170045	2,465
03-04266	ETF03-04-002	2,465
02-04965	ASU02-05-028	2,465
D04-14038-1	04-320036	1,653
D04-15455-1	04-364039	1,653
D05-03061-1	05-002057	1,653
D05-03062-1	05-002057	1,653
D05-03766-1	05-024110	1,653
D04-13748-1	04-311064	2,204
D04-09344-2	04-182010	2,204
D04-09714-1	04-191099	2,204
D04-06931-2	04-114023	2,204
04-01540	ASU04-01-002	2,204
D03-10220-1	03-202146	2,204
D05-06046-1	05-093069	1,185
D05-05463-1	05-075031	1,778
D05-06573-1	05-109035	1,778
D05-04211-1	05-038017	1,778
D05-04353-1	05-042036	1,778
D05-04979-1	05-060365	1,778
D05-04112-1	05-035190	2,370
D05-03690-1	05-022061	2,370
D04-14643-1	04-339042	2,370
D05-03810-1	05-026027	2,370
D04-13946-1	04-317192	2,370
04-09439	MTF04-10-233	2,370
D04-12777-1	04-283010	2,370
D04-11785-1	04-253034	2,370
D04-12879-1	04-285001	2,370
D04-07272-1	04-123079	2,370
D04-05626-1	04-076046	2,370

DA CONTROL NO.	LE CASE NO.	AMOUNT QUESTIONED
D04-06918-1	04-113398	2,370
D04-03371-1	04-010093	2,370
03-04050	MTF03-04-212	2,370
03-04063	2003-C02132	2,370
D05-09414-1	05-190090	1,254
D05-11123-1	05-241120	1,881
D05-08986-1	05-176080	1,881
D05-08513-1	05-163029	1,881
D05-07418-1	05-133069	1,881
D05-07940-1	05-147228	1,881
D05-06969-1	05-120042	1,881
D05-07729-1	05-141098	2,508
D05-05559-1	05-078069	2,508
D05-05724-1	05-084041	2,508
05-04096	05-040125	2,508
D04-13381-1	04-300107	2,508
D04-12482-1	04-273022	2,508
D03-13898-1	03-320032	2,508
D03-12494-1	03-276466	2,508
D05-13372-1	05-317124	1,330
D05-11517-1	05-254041	1,994
D05-12014-1	05-271045	1,994
D05-11914-1	05-267135	1,994
D05-09325-1	05-187095	2,659
D05-11196-1	05-243400	2,659
D05-10761-1	05-229036	2,659
D05-10860-1	05-232140	2,659
D05-09077-1	05-179007	2,659
05-04125	05-040358	2,659
D04-15134-1	04-354027	2,659
D04-12321-1	04-268071	2,659
D04-11244-1	04-237038	2,659
04-03210	MTF04-03-065	2,659
D06-04279-1	06-044084	1,785
D05-14414-1	05-353069	1,785
05-07623	05-192163	1,785
06-01688	06-0100224	1,785
D05-13186-1	05-311029	2,381
D05-11058-1	05-239076	2,381
D05-12458-1	05-288203	2,381
D05-11476-2	05-253010	2,381
D05-10912-1	05-234175	2,381
D05-11234-1	05-245050	2,381
05-09531	05-227064	2,381
05-05201	05-131079	2,381
05-08224	05-070539	2,381
05-08223	05-070539	2,381
D05-06897-1	05-118017	2,381
05-06804	MTF05-02-070	2,381
D05-03562-1	05-019033	2,381

DA CONTROL NO.	LE CASE NO.	AMOUNT QUESTIONED
04-11349	04-100573	2,381
D04-15056-1	04-352029	2,381
D04-06642-1	04-106014	2,381
02-11384	ASU0202015	2,381
06-00839	C05-0440	1,616
06-02548	06-0200502	1,616
06-01115	06-0100895	2,155
D06-03624-1	06-021322	2,155
D05-13209-2	05-312059	2,155
D05-13908-2	05-336027	2,155
D05-13998-1	05-339133	2,155
D05-14080-1	05-343017	2,155
D05-14078-1	05-343017	2,155
05-09091	05-243052	2,155
D05-08404-2	05-160007	2,155
D05-03691-1	05-022044	2,155
D04-12481-1	04-273022	2,155
D04-12279-1	04-267002	2,155
03-10161	MTF03-10-429	2,155
D06-07132-1	06-147101	1,652
D06-07483-1	06-159210	1,652
D06-07644-1	06-165062	1,652
D06-07119-1	06-147018	2,203
D06-05677-1	06-096040	2,203
D06-05676-1	06-096040	2,203
D06-06451-1	06-122374	2,203
02-11837	29B-79-34876	2,203
D06-05299-1	06-082004	2,203
D06-03904-1	06-032012	2,203
06-04594	06-0300024	2,203
05-10747	M7-05-2025	2,203
06-01108	06-0100895	2,203
05-11178	05-100409	2,203
D05-11713-1	05-260188	2,203
D05-11342-1	05-248141	2,203
D05-08996-1	05-176151	2,203
D05-09777-1	05-200005	2,203
D04-15088-2	04-352374	2,203
D04-15051-1	04-352004	2,203
04-08237	MTF04-08-208	2,203
		<sup>5</sup> \$ 553,527

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<sup>5</sup> The difference in the total amount is due to rounding.

**DISTRICT ATTORNEY CASES PROSECUTED CONCURRENTLY**

<b>DA CONTROL NO.</b>	<b>LE CASE NO.</b>	<b>AMOUNT QUESTIONED</b>
D01-05294-1	01-067380	10,000
D04-06752-1	04-108296	4,929
D03-11997-2	03-262170	7,500
D03-11997-3	03-262170	7,500
01-09896	C534415	7,500
D04-15015-2	04-350286	1,232
D03-09121-3	03-170045	4,929
D03-09121-4	03-170045	4,929
03-03248	MTF03-03-174	7,500
D02-15394-1	02-348329	10,000
D03-03948-1	03-025209	10,000
D03-03948-2	03-025209	10,000
D06-03060-1	06-002110	3,571
02-07245	2002-G05019	7,500
D05-13209-1	05-312059	4,761
D02-10002-1	02-195237	7,500
D02-12882-1	02-276232	7,500
D03-04276-2	03-035206	10,000
D03-07238-2	03-116247	4,929
D03-07238-3	03-116247	4,929
D03-06990-3	03-109262	10,000
D02-15393-2	02-348329	10,000
D04-12053-3	04-260097	5,016
D03-06049-1	03-084027	10,000
D06-04087-1	06-037170	4,309
00-18600	00-242343	10,000
00-18600	00-242343	10,000
05-07080	M7-05-2005	4,761
D06-07097-2	06-146243	4,405
D02-07478-2	02-124316	10,000
D06-06340-1	06-118242	1,077
02-01274	2002-A00551	5,000
03-02698	MTF03-03-154	5,000
D04-13448-2	04-302017	1,232
D04-13448-3	04-302017	1,232
D03-10591-2	03-217239	10,000
D02-06616-1	02-102027	10,000
D02-14713-1	02-327206	10,000
D02-14713-3	02-327206	10,000
01-09230	2001-H05879	10,000
02-01567	2002-B00773	7,500
01-08640	01-067380	10,000
D02-12972-1	02-278298	10,000
D04-14240-2	04-326249	1,232
D04-14240-3	04-326249	1,232
01-11728	M7-01-0151	7,500
01-11728	M7-01-0151	7,500
D06-03920-2	06-032153	4,309
D06-03921-1	06-032153	4,309

<b>DA CONTROL NO.</b>	<b>LE CASE NO.</b>	<b>AMOUNT QUESTIONED</b>
D03-03877-1	03-024028	7,500
D06-04086-1	06-037170	4,309
D05-11517-2	05-254041	3,989
D05-03690-1	05-022061	4,740
D04-10115-1	04-202070	4,408
		<sup>6</sup> \$ 357,270

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<sup>6</sup> The difference in the total amount is due to rounding.

**JUVENILE CASES WRONG DISPOSITION CATEGORY**

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
02,00582	2002-D002273	7,500
02,00877	02-146105	7,500
02,00227	MTF 02-02-049	7,500
02,01969	02-364274	7,500
03,00048	MTF-03-01-018	5,000
01,01532	03-023316	5,000
01,01549	01-292014	5,000
02,01566	MTF02-10248	5,000
02,01717	MTF-02-11-293	5,000
02,00763	02-131239	5,000
02,00005	2002-A0027	5,000
02,01927	MTF0212348	5,000
00,00287	01-274012	5,000
01,01473	01-277220	5,000
02,00379	02-30703	5,000
02,00414	MFC00414	5,000
02,00533	02-08948	5,000
02,00534	02-089048	5,000
02,01715	MTF-02-11-293	5,000
03,00140	MTF03-01-057	5,000
01,01652	01-313041	2,500
01,01713	01-M9201613	2,500
02,01564	02-291202	2,500
03,00245	03-032246	2,500
03,00246	03-032246	2,500
00,00361	2002-C01360	2,500
01,01727	01-328075	2,500
02,00289	2002-B00931	2,500
02,00565	2002-002172	2,500
02,00586	2002-D02343	2,500
02,00863	MTF 02-05-141	2,500
00,00181	01-322203	2,500
02,00613	02-109300	2,500
02,00664	2002-D02706	2,500
02,00747	02-128031	2,500
01,00411	2002-D02249	2,500
02,00450	2002-C01597	2,500
01,00922	02-129018	2,500
01,01608	2001-K07553	2,500
01,01653	01-M07747	2,500
02,00878	02-146105	2,500
02,01887	MTF 02-12339	2,500
98,01281	MTF-02-12-323	2,500
02,00983	02-F03843	2,500
02,00680	2002-002782	2,500
99,00903	01-313040	2,500
97,01009	MTF01-010230	2,500
02,01885	MTF 02-12340	2,500
01,01671	01-313040	2,500

JPD	REF No.	AMOUNT QUESTIONED
01,01672	01-314357	2,500
02,00148	2002-A00503	2,500
02,01591	MTF02-10-255	2,500
02,00584	02-103343	2,500
01,01875	01-349028	2,500
01,01437	MFT01-09-203	2,500
02,00814	2002-E023212	2,500
02,00550	MTF02-04100	2,500
02,01800	MTF 02-12315	2,500
01,00721	MTM10-23-01	2,500
02,00333	2002-B01165	2,500
02,01870	02-349020	2,500
		<b>\$212,500</b>

**JUVENILE CASES NOT FEDERALLY INITIATED**

JPD	REF No.	AMOUNT QUESTIONED
02,00252	02-034121	10,000
99,01833	02-102088	10,000
99,01217	MTM 08-27-02	10,000
00,01747	02-026072	10,000
02,00988	DPS #E-077039	10,000
01,01927	03-083336	5,000
96,01582	02-204311	10,000
01,01915	02-106359	10,000
02,00780	2002-E03137	10,000
01,00752	01-174027	10,000
		<b>\$95,000</b>

**DISTRICT ATTORNEY CASES NOT FEDERALLY INITIATED**

JPD	REF No.	AMOUNT QUESTIONED
D06-03734-1	06-026037	4,309
05-09060	05-246103	4,309
05-09218	05-253100	4,309
03-07840	03-166062	4,408
D04-06528-1	04-102027	4,740
04-07517	04-216035	4,929
04-07515	04-216035	4,929
D03-13542-1	03-310004	4,929
D04-12800-1	04-283025	5,318
D03-12535-2	03-277342	7,500
		<b>\$49,680</b>

**JUVENILE CASES CONCURRENTLY PROSECUTED**

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
03,00409	03-059194	7,500
03,00260	MTF-03-02-095	10,000
03,00259	MTF-03-02-096	10,000
		<b>\$27,500</b>

**JUVENILE CASES SUBMITTED IN INCORRECT QUARTER**

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
03,00049	MTF-03-01-018	5,000
04,00862	06-144421 EPP	1,652
		<b>\$6,652</b>

**JUVENILE CASES INCORRECTLY CATEGORIZED AS BOTH PROSECUTION AND  
PRE-TRIAL DETENTION**

<b>JPD</b>	<b>REF No.</b>	<b>AMOUNT QUESTIONED</b>
05,01738	06-102014 EPP	1,616
		<b>\$1,616</b>



COUNTY OF EL PASO  
OFFICE OF THE COUNTY AUDITOR

EDWARD A. DION, CPA, CIO  
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05-09

May 12, 2010

Mr. David M. Sheeren  
Regional Audit Manager  
Office of the Inspector General  
1120 Lincoln, Suite 1500  
Denver, Colorado 80203

Dear Mr. Sheeren:

As requested in your letter dated April 19, 2010, copy attached, please find enclosed the response from the County of El Paso, Texas.

1. El Paso County's SWBPI program was audited twice by OIG. The original audit had two Recommendations. One of those was to repay \$3.8 million and the second was to develop Policies and Procedures. We complied with the second requirement and developed Policies and Procedures that were accepted by OJP. We then worked for several months, reviewing every questioned case and preparing packets of material justifying our billings.
2. In preparing packets and responding to OJP, El Paso relied upon approved Policies & Procedures for billing. El Paso submitted boxes of material, providing an analysis of each of its billings. In many cases OJP agreed with El Paso County's challenges, and El Paso County was generally satisfied with OJP's resolution of several categories of questioned cases. In some areas, El Paso County could not verify the number of cases and the billings amounts that had been questioned by OIG in the first audit. After repeated questions and challenges by El Paso County, OIG re-audited El Paso County in greater depth.
3. The second auditors immediately rejected the case resolutions that had been accepted by OJP, and the positions taken by the second audit team from OIG rendered the Policies and Procedures that had just been accepted by OJP obsolete and useless.
4. El Paso County has made every effort to properly interpret the Guidelines published by OJP even though many Guidelines changed subsequent to the County's billings. The County acknowledges that it made some errors based on limited Guidelines which were subsequently clarified, particularly early in the program. Based on the County's interpretation of Guidelines early on, computer programs were written and did not work properly, and this resulted in mistakes, particularly with the juvenile cases. In many other instances, there were fundamental differences of opinion as to how to read and interpret the Guidelines. This was a major weakness in the SWBPI Program, particularly when OJP and OIG reached different conclusions and provided inconsistent feedback. Compliance with the Guidelines and their continuous changes, remains very frustrating and requires an excessive amount of County staff time and effort.

Mr. David M. Sheeren  
May 6, 2010  
Page 2

5. During the period El Paso County was being audited, OJP was also audited by OIG. OJP's internal processes were found to be poor, difficult to follow, and a long list of Recommendations was issued for OJP to use to improve the SWBPI Program. The response by OJP made the information gathering process for SWBPI Program even more burdensome and resulted in even less reimbursement of County costs.
6. We appreciate that OIG's Draft Audit Report acknowledges that there were no material control weaknesses or significant non-compliance issues. El Paso County has and continues to make every effort to turn in accurate billings. When OIG disagreed with elements of our case billing practices, El Paso County immediately discontinued the billing practices.
7. It is most important to El Paso County that OIG and OJP understand and recognize that we have been diligent, open, honest and billed our cases in good faith;
8. Even though El Paso County often disagreed with OIG's interpretation of the OJP's Guidelines, the County prepared exhaustive responses and provided our legal analysis and justification, each time the County's position was resolved against the County by OIG, even when OJP agreed with a different resolution;
9. El Paso County has become aware after going through the audit that we both billed cases that were not allowed and we failed to bill cases that were allowed;
10. El Paso County has labored with great frustration and will ensure that it does not find itself in this situation again, especially after thousands of man-hours have been spent responding to the two audits. In light of the outcome of the second audit, El Paso County's interest in continuing to participate in the SWBPI Program is at an all time low, and there is genuine and sincere discussion of withdrawing the County's services. The County's continued participation in: (1) responding to 911 calls from Federal agencies; (2) taking federally referred prisoners into County custody; and (3) prosecuting federally referred cases is currently in jeopardy. The County cannot withstand continued financial burden regarding this program especially when it is not mutually beneficial.
11. We understand that the County's role in prosecuting federally referred cases is fundamental to the Federal government's ability to handle the criminal case load in the region. It is time to reexamine the federal referral process to one that is based on clear concise guidelines and that is mutually beneficial to El Paso County and the Federal Government.

We look forward to bringing closure on this pending issue, if El Paso County can be of any further assistance in this endeavor, please let us know.

Very truly yours,



Edward A. Dion  
County Auditor

EAD:WH:ya



U.S. Department of Justice

Office of Justice Programs

*Office of Audit, Assessment, and Management*

MAY 10 2010

Washington, D.C. 20531

MEMORANDUM TO: David M. Sheeren  
Regional Audit Manager  
Office of the Inspector General  
Denver Regional Audit Office

FROM: Maureen A. Henneberg  
Director *MA Henneberg*

SUBJECT: Response to the Draft Audit Report, *Office of Justice Programs, Southwest Border Prosecution Initiative Funding, Received by El Paso County, Texas*

This memorandum is in response to your correspondence dated April 19, 2010, transmitting the above draft audit report for El Paso County (County). We consider the subject report resolved and request written acceptance of this action from your office.

The report contains 11 recommendations and \$5,100,526 in questioned costs. For ease of review, the draft audit report recommendations are restated in bold and are followed by the Office of Justice Program's (OJP) response.

1. **We recommend that OJP remedy the \$2,411,781 in questioned costs received by El Paso County for 572 bond forfeiture cases submitted by the County Attorney's Office that were not Federally initiated.**

We agree with the recommendation. We will coordinate with the County to remedy the \$2,411,781 in questioned costs related to the 572 bond forfeiture cases that were not Federally initiated and submitted for reimbursement under the Southwest Border Prosecution Initiative program.

2. **We recommend that OJP remedy the \$780,000 in questioned costs received by El Paso County for 81 juvenile cases which were disposed of in FY 2001, prior to the inception of the program.**

We agree with the recommendation. We will coordinate with the County to remedy the \$780,000 in questioned costs related to the 81 juvenile cases which were disposed of in FY 2001, prior to the inception of the program.

3. **We recommend that OJP remedy the \$605,000 in questioned costs received by El Paso County for 63 juvenile cases which were duplicates, already previously claimed.**

We agree with the recommendation. We will coordinate with the County to remedy the \$605,000 in questioned costs received by the County for 63 juvenile cases which were duplicates, and previously claimed.

4. **We recommend that OJP remedy the \$553,527 in questioned costs received by El Paso County for 187 cases submitted by the District Attorney's Office under the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.**

We agree with the recommendation. We will coordinate with the County to remedy the \$553,527 in questioned costs related to the 187 cases submitted by the District Attorney's Office under the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.

5. **We recommend that OJP remedy the \$357,270 in questioned costs received by El Paso County for 54 cases submitted by the District Attorney's Office that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.**

We agree with the recommendation. We will coordinate with the County to remedy the \$357,270 in questioned costs received by the County for 54 cases submitted by the District Attorney's Office that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

6. **We recommend that OJP remedy the \$212,500 in questioned costs received by El Paso County for 61 juvenile cases that were erroneously submitted in the wrong disposition category, based on the number of days from arrest to disposition.**

We agree with the recommendation. We will coordinate with the County to remedy the \$212,500 in questioned costs related to 61 juvenile cases that were erroneously submitted in the wrong disposition category, based on the number of days from arrest to disposition.

7. **We recommend that OJP remedy the \$95,000 in questioned costs received by El Paso County for 10 juvenile cases that were not Federally initiated.**

We agree with the recommendation. We will coordinate with the County to remedy the \$95,000 in questioned costs received by the County for 10 juvenile cases that were not Federally initiated.

8. **We recommend that OJP remedy the \$49,680 in questioned costs received by El Paso County for 10 cases submitted by the District Attorney's Office that were not Federally initiated.**

We agree with the recommendation. We will coordinate with the County to remedy the \$49,680 in questioned costs received by the County for 10 cases submitted by the District Attorney's Office that were not Federally initiated.

9. **We recommend that OJP remedy the \$27,500 in questioned costs received by El Paso County for three juvenile cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.**

We agree with the recommendation. We will coordinate with the County to remedy the \$27,500 in questioned costs received by the County for three juvenile cases that were investigated or prosecuted during concurrent periods of time, with cases involving the same defendant that were also submitted for reimbursement.

10. **We recommend that OJP remedy the \$6,652 in questioned costs received by El Paso County for two juvenile cases that were not submitted for reimbursement in the same quarter in which the cases were disposed.**

We agree with the recommendation. We will coordinate with the County to remedy the \$6,652 in questioned costs received by the County for two juvenile cases that were not submitted for reimbursement in the same quarter in which the cases were disposed.

11. **We recommend that OJP remedy the \$1,616 in questioned costs received by El Paso County for one juvenile case submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.**

We agree with the recommendation. We will coordinate with the County to remedy the \$1,616 in questioned costs received by the County for one juvenile case that was submitted under the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.

We appreciate the opportunity to review and comment on the draft audit report. If you have any questions or require additional information, please contact Jeffery A. Haley, Deputy Director, Audit and Review Division, on (202) 616-2936.

cc: Jeffery A. Haley  
Deputy Director, Audit and Review Division  
Office of Audit, Assessment, and Management

Carol Poole  
Acting Deputy Director for Programs  
Bureau of Justice Assistance

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Assistant Director  
Audit Liaison Group  
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OJP Executive Secretariat  
Control Number 20100670

## APPENDIX VI

### ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT

The OIG provided a draft of this audit report to OJP and to El Paso County. OJP's response is incorporated in Appendix V of this final report. OJP agreed with each of our recommendations and our report is therefore resolved. A summary of the actions necessary to close each recommendation follows later in this appendix. The El Paso County response is incorporated in Appendix IV of this final report. We provide the following reply to some of the statements made by El Paso County in its response to the draft report.

El Paso County correctly stated that its SWBPI program was audited twice by the OIG. The OIG issued an audit report in September 2007 questioning \$3.9 million of the SWBPI reimbursements received by El Paso County. As part of the follow-up process for that audit, and in responding to El Paso County's request for information related to the number of cases and amounts questioned in the prior report, the OIG found errors we had made in the prior report related to amount of questioned costs. We therefore initiated a new audit and requested that OJP suspend follow-up activities with El Paso County on the prior audit. While the OIG regrets any problems that resulted from the new audit, we believe that a second, more comprehensive review was the only way to ensure that our audit results were accurate.

In conducting this new audit we considered documentation from the previous audit and any new analysis and documentation provided by El Paso County. For example, the prior audit report included cases that were questioned because they did not meet the overnight requirement for the detention portion of the reimbursement since, according to the case listing provided at the time of the audit by El Paso County, the defendant was booked and released on the same day. In conducting the new audit, we examined additional documentation provided by El Paso County, including police reports. Where appropriate, we credited El Paso County for documentation supporting that the defendant was detained in a secure facility, such as a holding cell in a police substation, the day prior to being released.

El Paso County also stated that the OIG rejected resolutions that El Paso County had reached with OJP related to the recommendations in the prior audit. The OIG's role in the audit process is to collect the

facts and make independent assessments about whether program guidelines were followed. For this audit, OJP is the program office within the DOJ that decides what corrective action is required by the recipient based on its assessment of our findings. The cases we questioned were based on non-compliance with the SWBPI program guidelines, not any arbitrary determination or resolution with OJP. The criteria that we used in the evaluation of these cases are contained in the SWBPI guidelines that El Paso County agreed to abide by when it accepted over \$13.4 million in OJP funds. We questioned only those cases that clearly conflicted with those guidelines.

El Paso County also stated that “We appreciated that OIG’s Draft Audit Report acknowledges that there were no material control weaknesses or significant non-compliance issues.” The statement that El Paso County is referring to is from Appendix I of this report and was not related to the OIG’s assessment of El Paso’s administration of its SWBPI program. Instead the statement summarizes the findings of another audit performed by a different audit organization under the Single Audit Act for El Paso County’s fiscal year 2007.<sup>9</sup> The Single Audit Act audit reviewed El Paso County’s overall financial statements, schedule of expenditures of federal awards, internal controls over major programs, compliance with requirements that may have a direct and material effect on its major programs, and prior audit findings. However, the Single Audit Act auditors did not specifically review El Paso County’s SWBPI reimbursements as the OIG did.

To ensure the accuracy of the cases questioned in this report and the resulting \$5.1 million in questioned costs, we provided El Paso County with listings of all cases we questioned in this audit. We also provided El Paso County with the opportunity to submit any additional documentation related to the questioned cases. Further, we met with El Paso County officials multiple times to discuss any additional information they wanted to provide. Finally, while El Paso County takes issue with the process of being audited twice, it did not dispute the accuracy of the findings in our current audit, and it acknowledged in its response that El Paso County became aware after going through the audit that it billed cases that were not allowed.

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<sup>9</sup> Single Audits are required to be performed for organizations that expend \$500,000 or more in federal awards in accordance with the Single Audit Act of 1984, as amended, and Office of Management and Budget (OMB) Circular A-133. A private certified public accounting firm in El Paso, Texas, conducted El Paso County’s fiscal year 2007 Single Audit.

## Status of Recommendations:

1. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$2,411,781 in questioned costs received by El Paso County for the 572 unallowable bond forfeiture cases submitted by the County Attorney's Office that were not federally initiated.
2. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$780,000 in questioned costs received by El Paso County for the 81 unallowable juvenile cases which were disposed of in FY 2001, prior to the inception of the program.
3. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$605,000 in questioned costs received by El Paso County for the 63 unallowable juvenile cases which were duplicates, already previously claimed.
4. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$553,527 in questioned costs received by El Paso County for the 187 unallowable cases submitted by the District Attorney's Office under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.
5. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$357,270 in questioned costs received by El Paso County for the 54 unallowable cases submitted by the District Attorney's Office that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
6. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$212,500 in questioned costs received by El Paso County for the 61 unallowable juvenile cases that were erroneously submitted in the wrong disposition category, based on numbers of days from arrest to disposition.

7. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$95,000 in questioned costs received by El Paso County for the 10 unallowable juvenile cases that were not federally initiated.
8. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$49,680 in questioned costs received by El Paso County for the 10 unallowable cases submitted by the District Attorney's Office that were not federally initiated.
9. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$27,500 in questioned costs received by El Paso County for the three unallowable juvenile cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
10. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$6,652 in questioned costs received by El Paso County for the two unallowable juvenile cases that were not submitted for reimbursement in the same quarter in which the case was disposed.
11. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$1,616 in questioned costs received by El Paso County for the one unallowable juvenile case submitted under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention reimbursement.