



**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
SOUTHWEST BORDER PROSECUTION
INITIATIVE FUNDING RECEIVED BY
THE STATE OF ARIZONA**

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

Audit Report GR-60-12-005
February 2012

REDACTED – FOR PUBLIC RELEASE

**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
SOUTHWEST BORDER PROSECUTION
INITIATIVE FUNDING RECEIVED BY
THE STATE OF ARIZONA**

EXECUTIVE SUMMARY¹

The U.S. Department of Justice, Office of the Inspector General, Audit Division, has completed an audit of the Southwest Border Prosecution Initiative (SWBPI) funding awarded by the Office of Justice Programs (OJP) to the State of Arizona. From FYs 2006 through 2011, Arizona received SWBPI funding totaling \$1,601,265 on a pro-rata basis.

Many drug and other criminal cases occurring along the southwest border are initiated by a federal law enforcement agency or federal multi-jurisdictional task forces, such as the 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. The SWBPI reimburses the eligible applicants for costs incurred during prosecution for 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. Reimbursements received from SWBPI funding may be used by applicant jurisdictions for any purpose not otherwise prohibited by federal law. For FY 2012, Congress appropriated \$10 million for the SWBPI.

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

¹ The State of Arizona's response to this report contains the identity of one individual that may implicate the privacy rights of that individual. Therefore, the Office of the Inspector General redacted that person's name to create this public version of the report.

We found that the State of Arizona claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines. Based on the deficiencies listed below, we identified questioned costs totaling \$105,459. Specifically, we found that the State of Arizona:

- Received unallowable reimbursements totaling \$87,745 for 38 cases that were submitted in the wrong period.
- Received unallowable reimbursements totaling \$16,660 for four cases that were submitted multiple times and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.
- Received unallowable reimbursement totaling \$2,623 for one case that was never disposed.
- Received excess reimbursements totaling \$1,432 for two cases that were that were submitted under the wrong disposition category, based on numbers of days from arrest to disposition.

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.

TABLE OF CONTENTS

INTRODUCTION	1
Background.....	1
FINDINGS AND RECOMMENDATIONS	6
Case Eligibility	6
Accuracy of Reimbursements.....	7
RECOMMENDATIONS	9
APPENDIX I – OBJECTIVES, SCOPE, AND METHODOLOGY	10
APPENDIX II – SCHEDULE OF DOLLAR-RELATED FINDINGS.....	11
APPENDIX III – DETAILS OF QUESTIONED COSTS	12
APPENDIX IV – STATE OF ARIZONA RESPONSE TO THE DRAFT REPORT.....	14
APPENDIX V – OFFICE OF JUSTICE PROGRAMS RESPONSE TO THE DRAFT REPORT	24
APPENDIX VI – ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT	28

**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
SOUTHWEST BORDER PROSECUTION
INITIATIVE FUNDING RECEIVED BY
THE STATE OF ARIZONA**

INTRODUCTION

The Office of the Inspector General, Audit Division, has completed an audit and issued a report on the Southwest Border Prosecution Initiative (SWBPI) funding awarded by the U.S. Department of Justice, Office of Justice Programs (OJP) to the State of Arizona. The objective of the audit was to determine whether the SWBPI reimbursements received by the State of Arizona 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 2012, Congress appropriated \$10 million in funding for the SWBPI, Pub. L. No. 112-55 (2011), 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.

The SWBPI reimburses eligible applicants for costs incurred during prosecution for 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. For cases disposed of between FY 2002 and the second quarter of FY 2008, each eligible case submitted for prosecution or pre-trial detention services only received 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 disposed of between FY 2002 and the second quarter of FY 2008, each eligible case submitted for both prosecution and pre-trial detention services submitted for reimbursement, received 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.

For cases disposed between FY 2002 and the second quarter of FY 2008, the disposition period of a case with both prosecution and pre-trial detention services was calculated using the prosecution disposition period. For cases disposed from FYs 2002 through 2006, to meet the pre-trial detention services requirement, the defendant was required to be detained overnight, i.e., from 1 calendar day to the next. For cases disposed after FY 2006, to meet the pre-trial detention services requirement, the defendant must be detained for at least 24 hours.

For cases disposed of between the third and fourth quarters of FY 2008, jurisdictions were to only receive reimbursements for the actual number of prosecutor hours charged to the case and the number of days the defendant was detained prior to the disposition of the case. Prosecutors' salaries charged to the case are based on the average hourly rate for the county's prosecutors and cannot include fringe benefits. Detention reimbursements are based on the number of days the defendant was detained prior to the disposition and are calculated using the published federal detention per diem rate for the jurisdiction.

For cases disposed after FY 2008, jurisdictions may receive reimbursements based on the personnel costs associated with prosecuting a case, including the personnel costs for prosecutors, paralegals, judges, judicial staff, public defenders, clerical staff and indigent screening personnel. The allowable costs are then allocated to each case based on the percentage of eligible SWBPI cases prosecuted by the jurisdiction out of the total number of cases prosecuted during the period. This percentage is calculated separately for misdemeanor cases and felony cases, and then is multiplied by the total allowable misdemeanor and felony costs to arrive at total allowable prosecution costs per case. Detention reimbursements are still based on the number of days the defendant was detained prior to the disposition and are calculated using the published federal detention per diem rate for the jurisdiction.

Pursuant to the SWBPI guidelines, when reimbursement requests exceed available funding, applicants receive funds on a uniform, pro-rata basis. The pro-rata reimbursement percentages for the State of Arizona are shown in Exhibit 1.²

² The State of Arizona did not request any reimbursements for FY 2006 3rd Quarter.

EXHIBIT 1: PRO-RATA REIMBURSEMENT BASIS TO THE STATE OF ARIZONA

REPORTING PERIOD	START DATE	END DATE	PERCENTAGE REIMBURSED
FY06, 1 st Quarter	10/01/05	12/31/05	53.18%
FY06, 2 nd Quarter	01/01/06	03/31/06	47.61%
FY06, 4 th Quarter	07/01/06	09/30/06	44.05%
FY07, 1 st Quarter	10/01/06	12/31/06	52.34%
FY07, 2 nd Quarter	01/01/07	03/31/07	52.45%
FY07, 3 rd Quarter	04/01/07	06/30/07	49.03%
FY07, 4 th Quarter	07/01/07	09/30/07	57.26%
FY08, 1 st Quarter	10/01/07	12/31/07	86.97%
FY08, 2 nd Quarter	01/01/08	03/31/08	71.63%
FY08, 3 rd Quarter	04/01/08	06/30/08	111.05%
FY08, 4 th Quarter	07/01/08	09/30/08	109.15%
FY09, All Quarters	10/01/08	09/30/09	100%
FY10, All Quarters	10/01/09	09/30/10	100%

Source: Office of Justice Programs

The State of Arizona received reimbursements from SWBPI funds totaling \$1,601,265 from FYs 2006 through 2011, as shown in Exhibit 2.³

³ Recently OJP reimbursed SWBPI recipients in the fiscal year following the fiscal year of the application submission. Hence, the FY 2010 reimbursement was not received until FY 2011 and any reference to FY 2011 funding received by the State of Arizona in this report relates back to cases that were disposed in FY 2010.

EXHIBIT 2: REIMBURSEMENTS TO THE STATE OF ARIZONA⁴

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY06, 1 st Quarter	10/01/05	12/31/05	\$135,000	\$71,795
FY06, 2 nd Quarter	01/01/06	03/31/06	100,000	47,614
FY06, 4 th Quarter	07/01/06	09/30/06	175,000	77,083
FY07, 1 st Quarter	10/01/06	12/31/06	55,000	28,784
FY07, 2 nd Quarter	01/01/07	03/31/07	58,570	30,813
FY07, 3 rd Quarter	04/01/07	06/30/07	40,000	19,613
FY07, 4 th Quarter	07/01/07	09/30/07	45,000	25,769
FY08, 1 st Quarter	10/01/07	12/31/07	105,000	91,320
FY08, 2 nd Quarter	01/01/08	03/31/08	115,000	82,370
FY08, 3 rd Quarter	04/01/08	06/30/08	134,918	149,825
FY08, 4 th Quarter	07/01/08	09/30/08	146,462	159,860
FY09, All Quarters	10/01/08	09/30/09	613,098	613,098
FY10, All Quarters	10/01/09	09/30/10	203,320	203,320
TOTAL				\$1,601,265

Source: Office of Justice Programs

⁴ Throughout the report, the differences in the total amounts are due to rounding, in that the sum of individual numbers prior to rounding reported may differ from the sum of the individual numbers rounded.

FINDINGS AND RECOMMENDATIONS

We found that the State of Arizona claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines. Specifically, we found cases that were: (1) submitted in the wrong period, (2) investigated or prosecuted concurrently, (3) not yet disposed, and (4) submitted in the wrong reimbursement category. As a result, we identified questioned costs totaling \$105,459.

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 the 361 cases submitted for reimbursement by the State of Arizona to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines.

Based on our review, we found that the State of Arizona received SWBPI funds totaling \$105,459 for 46 cases that were not eligible for reimbursement pursuant to the SWBPI guidelines.

A detailed listing of the cases claimed by the State of Arizona that were not eligible for reimbursement is provided in Appendix III. Specifically, we found that the State of Arizona:⁵

- Received unallowable reimbursements totaling \$87,745 for 38 cases that were submitted in the wrong period.
- Received unallowable reimbursements totaling \$13,660 for four cases that were submitted multiple times and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.
- Received unallowable reimbursement totaling \$2,623 for one case that was never disposed.
- Received excess reimbursements totaling \$1,432 for two cases that were that were submitted under the wrong disposition category, based on numbers of days from arrest to disposition.

Accuracy of Reimbursements

The State of Arizona requests reimbursements from SWBPI funds through an on-line application available on the Bureau of Justice Assistance website. Pursuant to the SWBPI guidelines, for FYs 2002 through 2007 eligible cases were 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 case resolution. Resolution of the case is defined as dismissal, conviction, or plea.

We reviewed the reimbursement requests submitted by the State of Arizona for FYs 2006 through 2007 to determine if the number of cases claimed for each disposition category was supported by the detailed case

⁵ The OIG provided a draft of this audit report to OJP and the State of Arizona. In response to our draft report, the State of Arizona provided additional documentation supporting the allowability of several cases that were questioned in our draft report. As a result, we adjusted the status of the recommendations as discussed in Appendix III.

listings obtained during fieldwork.⁶ Based on our review, we determined that the reimbursement requests were supported by the master case listing.

⁶ We did not reconcile cases submitted to OJP after FY 2007 because starting in the first quarter of FY 2008, SWBPI recipients were required to provide OJP a detailed listing of cases for which they were requesting reimbursement. Prior to FY 2008, SWBPI recipients were only required to provide OJP the number of cases for which they were requesting reimbursement for each disposition category.

Recommendations

We recommend that OJP:

1. Remedy the \$87,745 in questioned costs received by the State of Arizona for 38 cases that were submitted in the wrong period.
2. Remedy the \$13,660 in questioned costs received by the State of Arizona for four cases that were submitted multiple times and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.
3. Remedy the \$2,623 in questioned costs received by the State of Arizona for one case that was never disposed.
4. Remedy the \$1,432 in questioned costs received by the State of Arizona for two cases that were that were submitted under the wrong disposition category, based on numbers of days from arrest to disposition.

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. The scope of our audit included reimbursements received by the State of Arizona for FYs 2006 through 2011.

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 the State of Arizona 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 the State of Arizona as a whole. The Single Audit Report for the State of Arizona was prepared under the provisions of Office of Management and Budget Circular A-133 for the fiscal year ended June 30, 2010. We reviewed the independent auditor's assessment to identify internal control weaknesses and significant non-compliance issues related to the State of Arizona 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.

SCHEDULE OF DOLLAR-RELATED FINDINGS

QUESTIONED COSTS:	<u>AMOUNT</u>	<u>PAGE</u>
Unallowable cases that were submitted in the wrong period.	\$87,745	7
Unallowable duplicate cases and cases that were prosecuted concurrently.	\$13,660	7
Unsupported reimbursements for a case that was never disposed.	\$2,623	7
Excess reimbursements for cases that were submitted under the wrong reimbursement category.	\$1,432	7
Total Questioned Costs: ⁷	\$105,459	
TOTAL DOLLAR-RELATED FINDINGS	\$105,459	

⁷ **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

DETAILS OF QUESTIONED COSTS

CASES REIMBURSED IN THE WRONG PERIOD

CASE No.	QUARTER SUBMITTED	DISPOSITION DATE	AMOUNT QUESTIONED
CR2008-009267	FY09-All	11/12/2009	\$5,196
CR2008-007339	FY10-All	10/18/2010	4,149
CR05-108725	FY06-1	09/29/2005	2,659
CR04-023146	FY06-1	06/09/2005	2,659
CR04-023146	FY06-1	06/15/2005	2,659
CR04-020895	FY06-1	07/20/2005	2,659
CR05-008770	FY06-1	09/01/2005	2,659
CR2004-1809	FY06-1	11/28/2004	2,659
CR07-005589	FY07-2	07/18/2007	2,623
CR05-111069	FY06-2	04/17/2006	2,381
CR05-010090	FY06-2	05/15/2006	2,381
CR2005-4541	FY06-4	06/05/2006	2,203
CR05-013132	FY06-4	04/27/2006	2,203
CR04-020376	FY06-4	06/13/2006	2,203
CR04-020376	FY06-4	04/28/2006	2,203
CR05-013124	FY06-4	03/24/2006	2,203
CR05-048293	FY06-4	07/16/2005	2,203
CR05-105983	FY06-4	01/13/2006	2,203
CR05-014327	FY06-4	01/27/2006	2,203
CR05-012366	FY06-4	05/10/2006	2,203
CR05-012366	FY06-4	05/10/2006	2,203
CR05-013733	FY06-4	05/02/2006	2,203
CR2005-4540	FY06-4	04/17/2006	2,203
CR2005-4540	FY06-4	06/08/2006	2,203
CR2005-4541	FY06-4	04/06/2006	2,203
CR2005-4540	FY06-4	04/20/2006	2,203
CR2005-4541	FY06-4	05/01/2006	2,203
CR2005-4540	FY06-4	04/25/2006	2,203
CR2005-4541	FY06-4	04/06/2006	2,203
CR2005-4540	FY06-4	05/16/2006	2,203
CR2005-4541	FY06-4	05/05/2006	2,203

CASE No.	QUARTER SUBMITTED	DISPOSITION DATE	AMOUNT QUESTIONED
CR2005-4540	FY06-4	04/07/2006	2,203
CR2005-4991	FY06-4	06/16/2006	2,203
CR2005-4991	FY06-4	06/26/2006	2,203
CR05-006100	FY06-4	02/06/2006	2,203
CR03-032705	FY06-4	03/08/2006	2,203
CR2004-1811	FY06-1	11/28/2004	0
CR2004-1814	FY06-1	11/28/2004	0
Total			\$87,745

CASES THAT WERE CONCURRENTLY PROSECUTED

CASE No.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	DISPOSITION DATE	AMOUNT QUESTIONED
CR2004-1809	FY08-2	91+ Days	01/25/2008	\$3,581
CR2004-1811	FY06-1	91+ Days	11/28/2004	2,659
CR2004-1814	FY06-1	91+ Days	11/28/2004	2,659
CR03-032705	FY06-4	91+ Days	03/08/2006	2,381
CR05-006100	FY06-4	91+ Days	02/06/2006	2,381
Total				\$13,660

CASE NOT DISPOSED

CASE No.	INITIATING AGENCY	REIMBURSEMENT CATEGORY	QUARTER SUBMITTED	AMOUNT QUESTIONED
CR04-013347	HIDTA/MCSO	91+ Days	FY07-2	\$2,623
Total				\$2,623

EXTRA DAYS REIMBURSED

CASE No.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	CASE LENGTH (DAYS)	AMOUNT QUESTIONED
CR07-134405	FY07-4	91+ Days	70	\$716
CR07-134405	FY07-4	91+ Days	70	716
Total				\$1,432

STATE OF ARIZONA RESPONSE
TO THE DRAFT REPORT



Tom Horne
Attorney General

Office of the Attorney General
State of Arizona

Kimberly H. Ortiz
Criminal Division

January 5, 2012

David M. Sheeren
Regional Audit Manager
US Department of Justice
Office of Inspector General
Denver Regional Audit Office
1120 Lincoln, Suite 1500
Denver, Colorado 80203

Re: SWBPI - Audit

Dear Mr. Sheeren:

I am in receipt of your letter dated December 19, 2011 regarding the audit findings of the Southwest Border Prosecution Initiative (SWBPI) funds reimbursed to the Arizona Attorney General's Office (AAGO).

As you know, the AAGO has been participating in the SWBPI program since FFY2002-1 through FFY2011, receiving approximately \$1,601,265 in reimbursements. Throughout these six years, in a vigilant effort to comply with the program guidelines, the AAGO actively sought out guidance and assistance from members of the OJP when questions and concerns arose regarding eligibility and reporting requirements. The bulk of the cases identified "to be remedied" in the audit (and discussed below) were cases successfully prosecuted by AAGO; however, these cases were flagged because they inadvertently had been omitted from submission for reimbursement during the proper quarter and were reported on a subsequent quarter submission.

Regarding this particular reporting issue, our documentation reflects that in July, 2003, AAGO personnel contacted OJP for clarification of reporting eligibility for cases submitted in a quarter different from the quarter when the case was concluded. OJP advised the AAGO that inclusion of previously-omitted cases was allowable. When deciding an appropriate remedy on these cases, the AAGO urges OJP to consider both our good-faith reliance on this clarification as well as the fact that all these cases were actively prosecuted and resulted in successfully convictions of federal-nexus defendants. We hope that OJP will impose no sanction for this administrative reporting discrepancy.

I now will address your findings on a case-by-case basis below:

Cases Reimbursed in the Wrong Quarter

Case No.	Quarter Submitted	Disposition Date	Amount Questioned	Explanation
CR08-009267 Yanes	FY09-All	11/12/09	\$5,196	The disposition date of 11/12/09 does not match our records for defendant Robert Yanes. Yanes' charges were dismissed on 3/26/09, which falls within the correct reimbursement category. Please see attached MEO dated 3/26/09.
CR08-007339 Kinsel	FY10-All	10/18/10	\$4,149	The disposition date reported to OJP was 9/14/10; however, the defendant was sentenced 10/18/10. Please note the AAGO will not submit for this case in FY11-All.
CR05-108725 Flagg-Thomas	FY06-1	09/29/05	\$2,659	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 51 defendants in FY06-1 and was reimbursed for 27 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR04-023146 Blaylock	FY06-1	06/09/05	\$2,659	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 51 defendants in FY06-1 and was reimbursed for 27 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR04-023146 Brown	FY06-1	06/15/05	\$2,659	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 51 defendants in FY06-1 and was reimbursed for 27 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR04-020895 Bartolone-Vincente	FY06-1	07/20/05	\$2,659	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 51 defendants in FY06-1 and was reimbursed for 27 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR05-008770 Wagner	FY06-1	08/01/05	\$2,659	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 51 defendants in FY06-1 and was reimbursed for 27 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR04-1809 Arevallo-Pablo	FY06-1	11/28/05	\$2,659	AAGO incorrectly reported a disposition date of 11/28/04. The actual disposition date was 11/28/05, which falls within the correct reimbursement category. Please see attached MEO dated 11/28/05.

David M. Shereen
 January 5, 2012
 Page 3

CR07-005589 Shea	FY07-2	07/18/07	\$2,623	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 15 defendants in FY07-2 and was reimbursed for 11 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR05-111069 Heidrich	FY06-2	04/17/06	\$2,381	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 39 defendants in FY06-2 and was reimbursed for 20 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR05-010090 Howard	FY06-2	05/15/06	\$2,381	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 39 defendants in FY06-2 and was reimbursed for 20 defendants. If OJP finds that this case was not submitted timely, we would request that OJP allow us to replace it with another case from that quarter.
CR05-4540 Acosta-Salazar	FY06-4	06/05/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-013132 Inbody	FY06-4	04/27/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR04-020376 Van	FY06-4	06/13/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR04-020376 Vasquez	FY06-4	04/28/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-013124 Harrington	FY06-4	03/24/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total

400 West Congress, S-315, Tucson, Arizona 85701 - Phone 520.628.6504 - Fax 520.628.6530

				of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-048293 Bery	FY06-4	07/16/05	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-105883 Tuccio, Frank	FY06-4	01/13/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-014327 Tuccio, Caroline	FY06-4	01/27/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-012366 Young, Pamela	FY06-4	05/10/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-012366 Young, Kent	FY06-4	05/10/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-017733 Corral	FY06-4	05/02/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540	FY06-4	04/17/06	\$2,203	Although this case was not submitted in the

Fernandez				proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Cabralez-Navarro	FY06-4	06/08/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Garcia-Martinez	FY06-4	04/06/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Garcia-Nunez	FY06-4	04/20/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Rodriguez-Lopez, Manuel	FY06-4	05/01/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Rodriguez-Lopez, Ofelia	FY06-4	04/25/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Salazar	FY06-4	04/06/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.

David M. Shereen
 January 5, 2012
 Page 6

CR05-4540 Schirka	FY06-4	05/16/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Tuggle	FY06-4	05/05/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4540 Valenzuela	FY06-4	04/07/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4991 Landeros-Ibarra	FY06-4	06/16/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-4992 Masen	FY06-4	06/26/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR05-006100 Slaughter	FY06-4	02/06/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO received a conviction of this defendant.
CR03-032705 Mitchell	FY06-4	03/08/06	\$2,203	Although this case was not submitted in the proper quarter, the AAGO prosecuted a total of 64 defendants in FY06-3/FY06-4. The AAGO was reimbursed for 35 of those 64 defendants. The AAGO requests that OJP allow this defendant to be reimbursed since it was clearly a SWBPI case and the AAGO

400 West Congress, S315, Tucson, Arizona 85701 -- Phone 520.628.6504 -- Fax 520.628.6530

David M. Shereen
 January 5, 2012
 Page 7

				received a conviction of this defendant.
CR04-1811	FY06-1	11/28/04	\$0	Although the audit did not question the amount paid on this case in this category, AAGO still incorrectly reported a disposition date of 11/28/04. The actual disposition date was 11/28/05, which falls within the correct reimbursement category. Please see attached MEO dated 11/28/05. AAGO's explanation why this case is not concurrent is addressed below.
CR04-1814	FY06-1	11/28/04	\$0	Although the audit did not question the amount paid on this case in this category, AAGO still incorrectly reported a disposition date of 11/28/04. The actual disposition date was 11/28/05, which falls within the correct reimbursement category. Please see attached MEO dated 11/28/05. AAGO's explanation why this case is not concurrent is addressed below.

Cases That Were Concurrently Prosecuted

Case No.	Quarter Submitted	Disposition Date	Amount Questioned	Explanation
CR04-1809 Mendez-Canez	FY08-2	1/25/08	\$3,581	Although it may appear that this defendant is a duplicate case with CR04-1812, these cases in fact were distinct criminal prosecutions. None of these cases were joined at trial as they all were factually distinct. To elaborate, as an example, the attorney time dedicated to trial preparation and the actual jury trial in CR02-1811 was NOT CONCURRENT with the attorney time required for trial preparation and the actual jury trial in CR02-1812. The trials involved different police reports, different witnesses, different dates of offense, different drug seizures, different co-conspirator co-defendants, etc. The cases were charged separately due to the fact that there were several wiretap investigations ongoing for this large scale drug trafficking organization. Finally, sentencings on defendants found guilty in multiple cause numbers routinely are set at the same date/time in the interest of efficiency and judicial economy. Based on these factors, the AAGO requests that OJP not define this case as a concurrent case as the attorney time invested in these prosecutions was not duplicative.
CR2004-1811 Arevallo-Pablo, Mary	FY06-1	11/28/05	\$2,659	Although it may appear that this defendant is a duplicate case with CR04-1812, these cases in fact were distinct criminal prosecutions. None of these cases were joined at trial as they all were factually distinct. To elaborate, as an example, the attorney time dedicated to

400 West Congress, S315, Tucson, Arizona 85701 - Phone 520.628.6504 - Fax 520.628.6530

				<p>trial preparation and the actual jury trial in CR02-1811 was NOT CONCURRENT with the attorney time required for trial preparation and the actual jury trial in CR02-1812. The trials involved different police reports, different witnesses, different dates of offense, different drug seizures, different co-conspirator co-defendants, etc. The cases were charged separately due to the fact that there were several wiretap investigations ongoing for this large scale drug trafficking organization. Finally, sentencings on defendants found guilty in multiple cause numbers routinely are set at the same date/time in the interest of efficiency and judicial economy. Based on these factors, the AAGO requests that OJP not define this case as a concurrent case as the attorney time invested in these prosecutions was not duplicative.</p>
CR2004-1814 Arevillo-Pablo, Mary	FY06-1	11/28/05	\$2,659	<p>Although it may appear that this defendant is a duplicate case with CR04-1812, these cases in fact were distinct criminal prosecutions. None of these cases were joined at trial as they all were factually distinct. To elaborate, as an example, the attorney time dedicated to trial preparation and the actual jury trial in CR02-1811 was NOT CONCURRENT with the attorney time required for trial preparation and the actual jury trial in CR02-1812. The trials involved different police reports, different witnesses, different dates of offense, different drug seizures, different co-conspirator co-defendants, etc. The cases were charged separately due to the fact that there were several wiretap investigations ongoing for this large scale drug trafficking organization. Finally, sentencings on defendants found guilty in multiple cause numbers routinely are set at the same date/time in the interest of efficiency and judicial economy. Based on these factors, the AAGO requests that OJP not define this case as a concurrent case as the attorney time invested in these prosecutions was not duplicative.</p>
CR03-032705 Mitchell	FY06-4	03/8/06	\$2,381	<p>It appears that this case was submitted in FY06-2 and FY06-4 by the AAGO. The FY06-4 submission was submitted in error.</p>
CR05-006100 Slaughter	FY06-4	02/06/06	\$2,381	<p>It appears that this case was submitted in FY06-2 and FY06-4 by the AAGO. The FY06-4 submission was submitted in error.</p>

David M. Shereen
January 5, 2012
Page 9

Cases Not Disposed

Case No.	Quarter Submitted	Disposition Date	Amount Questioned	Explanation
CR04-013347 Corbin-Zhang	FY07-2	N/A	\$2,632	It appears that the AAGO mistakenly included this case based on the date of the Change of Plea. Unfortunately, this defendant was issued a Bench Warrant and has not been sentenced.

Extra Days Reimbursed

Case No.	Quarter Submitted	Disposition Date	Amount Questioned	Explanation
CR07-134405 Smith	FY07-4	N/A	\$716	It appears that the AAGO miscalculated the timeline for this case. In FY07-4 the prosecutor assigned to this case also sentenced defendant Wolfe in that same quarter. The Wolfe case was not submitted to SWBPI. The AAGO requests that OJP allow us to replace the Smith case with the Wolfe case.
CR07-134405 Wilson	FY07-4	N/A	\$716	It appears that the AAGO miscalculated the timeline for this case.

In summary, the AAGO respectfully requests that OJP review this response and we propose the following remedies for the audit findings:

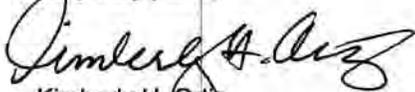
- (1) For cases reported in the wrong quarter, that OJP waive any sanction for the cases submitted for reimbursement in quarters for which they were not disposed in the proper submission quarter since the AAGO actively pursued detention, prosecution and conviction of those federal-nexus defendants; or
- (2) if OJP is disinclined to waive any sanction for cases reported in the wrong quarter, that OJP offset the AAGO cases submitted in quarters for which they were not disposed with other cases that the AAGO prosecuted and sentenced but did not submit for reimbursement; and
- (3) For cases described as concurrently prosecuted, that OJP not categorize CR2004-1809, CR2004-1811 and CR2004-1814 as being concurrently prosecuted because the dates of offenses are distinct, the drug seizures are different, and the co-conspirator co-defendants are different. The cases were charged separately due to the fact that there were several wiretap investigations ongoing for this large-scale drug trafficking organization; and

David M. Shereen
January 5, 2012
Page 10

- (4) For the categories of "cases not disposed" and "extra days reimbursed", the audit conclusions are founded and AAGO would request that OJP again allow for substitution of unreported cases as proposed in (2) above; and
- (5) Upon OJP's final determination of the audit remedies, if financial sanctions in fact are required, the AAGO requests that any funds to be reimbursed to OJP be accomplished through offsets against any future AAGO submissions to SWBPI.

I hope our response is helpful to the review process. Please contact me if you need any further clarification or additional information. Also, just for your information, our auditor, [REDACTED] was professional and courteous during the case audit and minimized disruption of on-going work by allowing Tucson-based staff to appear telephonically during the interview process at the Phoenix office. My staff and I enjoyed working with him throughout the review process.

Very truly yours,



Kimberly H. Ortiz
Section Chief Counsel
Border Crimes Enforcement Section
Office of the Attorney General
Direct: (520) 628-6517

KHO:lsr

cc: [REDACTED] Auditor

#1487537v40

OFFICE OF JUSTICE PROGRAMS
RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

Washington, D.C. 20531

January 23, 2012

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

/s/
FROM: Maureen A. Henneberg
Director

SUBJECT: Response to the Draft Audit Report, *Audit of Office of Justice Programs Southwest Border Prosecution Initiative Funding Received by the State of Arizona*

The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the Office of the Inspector General's (OIG's) draft report, entitled "Audit of Office of Justice Programs Southwest Border Prosecution Initiative Funding Received by the State of Arizona," dated December 19, 2011. We consider the subject report resolved and request written acceptance of this action from your office.

As a result of the OIG's audit of the Southwest Border Prosecution Initiative (SWBPI) program in fiscal years (FYs) 2008 and 2010, the Bureau of Justice Assistance (BJA): 1) modified the SWBPI application system on October 6, 2008, to require that each prosecution case submitted by a jurisdiction for reimbursement contain the case/docket number, defendant's first and last

name, referring federal agency, referred date, resolution type and the resolved date; and 2) established new internal guidelines on June 9, 2010, to ensure that SWBPI reimbursements are analyzed to identify anomalies that may indicate unallowable or unsupported payments to specific jurisdictions.

In FY 2011, OJP's Office of Audit, Assessment, and Management (OAAM) conducted a review of BJA's SWBPI application review process. OAAM determined that BJA's internal procedures to verify the eligibility and accuracy of SWBPI applications are effective. However, OAAM recommended that BJA implement a process to identify overlapping requests for detention expenses between SWBPI and the State Criminal Alien Assistance Program (SCAAP). As a result, in the FY 2011 application cycle, BJA reviewed the list of individuals submitted by each jurisdiction that requested reimbursement for detention expenses under both programs. The review found duplication in the SWBPI and SCAAP applications requests. The amounts identified were removed from the total application value of the SWBPI applications prior to award. Further, BJA will continue this review process in future application cycles to prevent duplication.

It should also be noted that the ineligible SWBPI cases, identified by the OIG during the audit, were for cases submitted by the State of Arizona prior to changes that BJA implemented for the SWBPI program beginning in October 2008.

The report contains **four** recommendations and **\$105,459** in questioned costs. The following is OJP's analysis of the draft audit report recommendations. For ease of review, the recommendations are restated in bold and are followed by our response.

- 1. We recommend that OJP remedy the \$87,745 in questioned costs received by the State of Arizona for 38 cases that were submitted in the wrong quarter.**

We agree with the recommendation. We will coordinate with the State of Arizona to remedy the \$87,745 in questioned costs related to the 38 cases that were submitted in the wrong quarter. On previous cases, OJP has not required funds to be returned for cases submitted in the wrong quarter, if all of the other case requirements were met.

- 2. We recommend that OJP remedy the \$13,660 in questioned costs received by the State of Arizona for four cases that were submitted multiple times and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.**

We agree with the recommendation. We will coordinate with the State of Arizona to remedy the \$13,660 in questioned costs related to the four cases that were submitted multiple times, and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.

- 3. We recommend that OJP remedy the \$2,623 in questioned costs received by the State of Arizona for one case that was never disposed.**

We agree with the recommendation. We will coordinate with the State of Arizona to remedy the \$2,623 in questioned costs related to one case that was never disposed.

- 4. We recommend that OJP remedy the \$1,432 in questioned costs received by the State of Arizona for two cases that were submitted under the wrong disposition category, based on the numbers of days from arrest to disposition.**

We agree with the recommendation. We will coordinate with the State of Arizona to remedy the \$1,432 in questioned costs related to the two cases that were submitted under the wrong disposition category.

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

Denise O'Donnell
Director
Bureau of Justice Assistance

Tracey Trautman
Acting Deputy Director for Programs
Bureau of Justice Assistance

Amanda LoCicero
Budget Analyst
Bureau of Justice Assistance

Joseph Husted
Policy Advisor
Bureau of Justice Assistance

Maria Anderson
State Policy Advisor
Bureau of Justice Assistance

Louise Duhamel, Ph.D.
Acting Director, Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

OJP Executive Secretariat
Control Number 20111997

ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT

The OIG provided a draft of this audit report to OJP and the State of Arizona. In its response, which is included in Appendix V of this report, OJP states that "It should also be noted that the ineligible SWBPI cases, identified by the OIG during the audit, were for cases submitted by the State of Arizona prior to changes that BJA implemented for the SWBPI program beginning in October 2008." We recognize the changes that OJP made to the SWBPI program in October 2008 based on recommendations provided in a prior OIG report.⁸ However, questioned costs related to the ineligible cases submitted prior to 2008 must still be remedied. OJP's response is incorporated in Appendix V of this final report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendation Number

- 1. Resolved.** OJP concurred with our recommendation to remedy the \$87,745 in questioned costs received by the State of Arizona for 38 cases that were submitted in the wrong period. OJP stated in its response that it will coordinate with the State of Arizona to remedy the \$87,745 in questioned costs related to the 38 cases submitted for reimbursement under the SWBPI program that were submitted in the wrong period.

In its response, which is included as Appendix IV of this report, the State of Arizona provided its views on each case we questioned. In addition, the State of Arizona proposed remedies for some cases and requested action by OJP. However, the State of Arizona also provided in its response supporting documentation that was sufficient to remedy four cases totaling \$7,855 included in our questioned costs. Therefore, the remaining questioned costs for remedy in association with this recommendation are \$79,890 (\$87,745 - \$7,855).

⁸ U.S. Department of Justice Office of the Inspector General, *Southwest Border Prosecution Initiative Reimbursement Program*, Audit Report 08-22 (March 2008).

This recommendation can be closed when we receive adequate documentation that OJP remedied the remaining \$79,890 in questioned costs received by the State of Arizona for the remaining 34 cases that were submitted in the wrong period.

- 2. Resolved.** OJP concurred with our recommendation to remedy the \$13,660 in questioned costs received by the State of Arizona for four cases that were submitted multiple times and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement. OJP stated in its response that they will coordinate with the State of Arizona to remedy the \$13,660 in questioned costs related to the four cases that were submitted multiple times, and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.

This recommendation can be closed when we receive documentation that OJP remedied the \$13,660 in questioned costs received by the State of Arizona for four cases that were submitted multiple times and one case that was prosecuted during a concurrent period of time as a case involving the same defendant that was also submitted for reimbursement.

- 3. Resolved.** OJP concurred with our recommendation to remedy the \$2,623 in questioned costs received by the State of Arizona for one case that was never disposed. OJP stated in its response that they will coordinate with the State of Arizona to remedy the \$2,623 in questioned costs related to the one case submitted for reimbursement under the SWBPI program that was never disposed.

This recommendation can be closed when we receive documentation that OJP remedied the \$2,623 in questioned costs received by the State of Arizona for one case that was never disposed.

- 4. Resolved.** OJP concurred with our recommendation to remedy the \$1,432 in questioned costs received by the State of Arizona for two cases that submitted under the wrong disposition category, based on numbers of days from arrest to disposition. OJP stated in its response that they will coordinate with the State of Arizona to remedy the \$1,432 in questioned costs related to the two cases submitted for reimbursement under the SWBPI program that submitted under the wrong disposition category.

This recommendation can be closed when we receive documentation that OJP remedied the \$1,432 in questioned costs received by the State of Arizona for two cases that were submitted under the wrong disposition category.