



**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
SOUTHWEST BORDER PROSECUTION
INITIATIVE FUNDING RECEIVED BY
DALLAS COUNTY, TEXAS**

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

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**AUDIT OF OFFICE OF JUSTICE PROGRAMS
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EXECUTIVE SUMMARY

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 Dallas County, Texas. From fiscal years (FYs) 2007 through 2008 and for FY 2010, Dallas County received SWBPI funding totaling \$891,077. Dallas County also requested \$1,306,584 in SWBPI funding for FY 2009. However, based on a review conducted by OJP, \$1,223,217 of the amount requested was found to be unsupported and unallowable and was deobligated. The remaining \$83,367 in SWBPI funding requested by Dallas County for FY 2009 had been approved by OJP but not yet reimbursed.

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 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 Border Prosecution Initiatives that includes both SWBPI and the Northern Border Prosecution Initiative.

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

We found that Dallas County claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines. Based on the deficiencies listed below, we identified questioned costs totaling \$469,395. Specifically, we found cases that were: (1) claimed under pre-trial detention using excess detention days, including jail days after disposition, (2) investigated or prosecuted concurrently, (3) not supported by the master case listing, (4) missing case file information, (5) claimed under both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (6) not federally initiated, (7) missing jail information, (8) submitted in the wrong quarter, (9) claimed under pre-trial detention despite that the jail booking date occurred after disposition, (10) submitted in the wrong reimbursement category, (11) claimed under detention awards in excess of actual federal detention per diem rates, and (12) claimed under prosecution awards in excess of actual prosecution rates.

Additionally, we identified unallowable and unsupported SWBPI reimbursements for FY 2009 that had been requested but not yet received totaling \$1,236,050. However, as stated above, we revised our analysis to account for the \$1,223,217 that OJP found to be unsupported and unallowable, and deobligated subsequent to our audit. Of the remaining unreimbursed funds, we identified funds to better use totaling \$51,154 based on the deficiencies listed. Specifically, we found cases that were: (1) submitted under pre-trial detention using excess detention days, including jail days after disposition, (2) submitted under prosecution awards in excess of actual prosecution rates, (3) investigated or prosecuted concurrently, and (4) submitted under detention awards in excess of actual federal detention per diem rates.

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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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 Dallas County, Texas. The objective of the audit was to determine whether the SWBPI reimbursements received by Dallas 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 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 Border Prosecution Initiatives that includes both SWBPI and the Northern Border Prosecution Initiative, 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 either 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 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 of 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 – from one calendar day to the next. For cases disposed after FY 2006, to meet the pre-trial detention services requirement, the defendant must have been detained for at least 24 hours.

For cases disposed of between the third and fourth quarters of FY 2008, jurisdictions only received 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 Dallas County are shown in Exhibit 1.

EXHIBIT 1: PRO-RATA REIMBURSEMENT BASIS TO DALLAS COUNTY

REPORTING PERIOD	START DATE	END DATE	PERCENTAGE REIMBURSED
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 ¹	10/01/08	09/30/09	0%
FY10, All Quarters	10/01/09	09/30/10	100%

Source: Office of Justice Programs

¹ Dallas County requested reimbursements totaling \$1,306,584 for FY 2009. However, based on a review conducted by OJP, \$1,223,217 of the amount requested was found to be unsupported and unallowable.

Dallas County received reimbursements from SWBPI funds totaling \$891,077 from FYs 2007 through 2008 and for FY 2010, as shown in Exhibit 2.

EXHIBIT 2: REIMBURSEMENTS TO DALLAS COUNTY²

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY07, 1 st Quarter	10/01/06	12/31/06	\$110,000	\$57,569
FY07, 2 nd Quarter	01/01/07	03/31/07	80,000	41,958
FY07, 3 rd Quarter	04/01/07	06/30/07	120,000	58,840
FY07, 4 th Quarter	07/01/07	09/30/07	120,000	68,717
FY08, 1 st Quarter	10/01/07	12/31/07	85,000	73,925
FY08, 2 nd Quarter	01/01/08	03/31/08	130,000	93,114
FY08, 3 rd Quarter	04/01/08	06/30/08	138,170	153,436
FY08, 4 th Quarter	07/01/08	09/30/08	280,382	306,032
FY10, All Quarters	10/01/09	09/30/10	37,486	37,486
TOTAL				\$891,077

Source: Office of Justice Programs

Additionally, Dallas County requested reimbursements totaling \$1,306,584 for FY 2009. However, based on a review conducted by OJP, \$1,223,217 of the amount requested was found to be unsupported and unallowable. The remaining \$83,367 in SWBPI funding requested by Dallas County for FY 2009 have been approved by OJP but not yet reimbursed, as shown in Exhibit 3.

EXHIBIT 3: REIMBURSEMENTS REQUESTED BY DALLAS COUNTY

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT DEOBLIGATED	AMOUNT TO BE REIMBURSED
FY09, All Quarters	10/01/08	09/30/09	\$1,306,584	\$1,223,217	\$83,367
TOTAL					\$83,367

Source: Office of Justice Programs

² 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 Dallas County claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines. Specifically, we found cases that were: (1) claimed under pre-trial detention using excess detention days, including jail days after disposition, (2) investigated or prosecuted concurrently, (3) not supported by the master case listing, (4) missing case file information, (5) claimed under both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (6) not federally initiated, (7) missing jail information, (8) submitted in the wrong quarter, (9) claimed under pre-trial detention despite that the jail booking date occurred after disposition, (10) submitted in the wrong reimbursement category, (11) claimed under detention awards in excess of actual federal detention per diem rates, and (12) claimed under prosecution awards in excess of actual prosecution rates. As a result, we identified questioned costs totaling \$469,395 and funds to better use totaling \$51,154.

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, such as the 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 selected a sample of 173 cases submitted for reimbursement by Dallas County to determine whether the cases were eligible for

reimbursement under the requirements of the SWBPI guidelines. In addition, we reviewed all cases submitted to determine: (1) if reimbursements were submitted in the quarter the cases were disposed, (2) if the cases met the pre-trial detention requirements, (3) if there was duplicate or concurrent prosecution, (4) if cases were submitted in the correct reimbursement category, (5) if the approved federal detention rate was used to calculate the detention reimbursement claimed, and (6) if the approved prosecution award was used to calculate the prosecution reimbursement claimed.

Based on our review, we found that Dallas County received SWBPI funds totaling \$411,831 for 158 cases that were not eligible for reimbursement pursuant to the SWBPI guidelines.³ A detailed listing of the cases claimed by Dallas County that were not eligible for reimbursement is provided in Appendix III. Specifically, we found that Dallas County:

- Received excess pre-trial detention reimbursements totaling \$146,631 for 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the cases were disposed.
- Received unallowable reimbursements totaling \$87,516 for 10 cases that were duplicates or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
- Received unsupported reimbursements totaling \$55,814 for four cases for which supporting case information could not be located.
- Received excess reimbursements totaling \$49,147 for 24 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.
- Received unallowable reimbursements totaling \$33,650 for five cases that were not federally initiated.
- Received unsupported reimbursements totaling \$15,387 for seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.

³ Throughout this report, the number of unallowable cases detailed includes cases that have no questioned costs because the cases were questioned previously, based on other SWBPI reimbursement criteria.

- Received unallowable reimbursements totaling \$10,969 for four cases that were submitted in the wrong quarter.
- Received unallowable reimbursements totaling \$6,843 for two cases for which the detention booking date was after the case was disposed.
- Received excess reimbursements totaling \$3,581 for one case that was submitted in the wrong reimbursement category.
- Received excess reimbursements totaling \$2,079 for 58 cases for which the detention rate submitted exceeded the approved federal detention rate for the county.
- Received excess reimbursements totaling \$214 for 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.

Additionally, Dallas County had unallowable and unsupported SWBPI reimbursements that were requested for FY 2009 but yet received totaling \$1,236,050 for 165 cases. Specifically, we found cases that were: (1) submitted under both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (2) submitted under pre-trial detention using excess detention days, including jail days after disposition, (3) missing jail information, (4) submitted under prosecution awards in excess of actual prosecution rates, (5) investigated or prosecuted concurrently, and (6) submitted under detention awards in excess of actual federal detention per diem rates.

However, we revised our analysis to account for the \$1,223,217 in FY 2009 SWBPI funds requested by Dallas County that OJP found to be unsupported and unallowable, and deobligated subsequent to our audit. As a result, our report only includes our analysis related to the reimbursements totaling \$83,367 that have been approved by OJP but not yet reimbursed. We found that Dallas County was approved for but has not yet received SWBPI funds totaling \$51,154 for 55 cases that were not eligible for reimbursements pursuant to the SWBPI guidelines. A detailed listing of the cases claimed by Dallas County that were not eligible for reimbursement is provided in Appendix IV. Specifically, we found that Dallas County:

- Requested, but not yet received, excess pre-trial detention reimbursements totaling \$24,987 for one case that was submitted for detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the case was disposed.

- Requested, but not yet received, excess reimbursements totaling \$18,699 for 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.
- Requested, but not yet received, unallowable reimbursements totaling \$7,447 for six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
- Requested, but not yet received, excess reimbursements totaling \$21 for two cases for which the detention rate submitted exceeded the approved federal detention rate for the county.

Accuracy of Reimbursements

Dallas County requests reimbursements from SWBPI funds through an on-line application available on the Bureau of Justice Assistance website. Pursuant to the SWBPI guidelines, for FY 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 Dallas County for FY 2007 to determine if the number of cases claimed for each disposition category was supported by the detailed case listings obtained during fieldwork.⁴ Based on our review, we determined that the reimbursement requests were not always supported by the master case listing resulting in excess reimbursements totaling \$57,564, as shown in Exhibit 4.

⁴ 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 the third quarter of FY 2008, SWBPI recipients were only required to provide OJP the number of cases for which they were requesting reimbursement for each disposition category.

EXHIBIT 4: UNSUPPORTED CASES CLAIMED FOR REIMBURSEMENT FOR FY 2007

REPORTING PERIOD	DISPOSITION CATEGORIES	CASES CLAIMED	ACTUAL CASES	DIFFERENCE	UNSUPPORTED QUESTIONED COSTS
FY07, 1 st Quarter	91 + Days	11	5	6	\$31,401
FY07, 3 rd Quarter	91 + Days	12	9	3	14,710
FY07, 4 th Quarter	91 + Days	12	10	2	11,453
TOTAL EXCESS REIMBURSEMENTS				11	\$57,564

Source: Dallas County and Office of Justice Programs

Recommendations

We recommend that OJP:

1. Remedy the \$146,631 in questioned costs received by Dallas County for 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the cases were disposed.
2. Remedy the \$87,516 in questioned costs received by Dallas County for 10 cases that were duplicates or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
3. Remedy the \$57,564 in questioned costs received by Dallas County related to 11 cases claimed that were not supported by the master case list.
4. Remedy the \$55,814 in questioned costs received by Dallas County for four cases for which supporting case information could not be located.⁵
5. Remedy the \$49,147 in questioned costs received by Dallas County for 24 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.⁶

⁵ In its response to the draft report, Dallas County's response provided the supporting documentation for two cases related to this recommendation that could not be located at the time of our audit, which remedied \$45,677 of the questioned costs related to this recommendation. As a result, the remaining questioned costs to be remedied for this recommendation are \$10,137 (\$55,814 - \$45,677).

⁶ In its response to the draft report, Dallas County's response provided the supporting documentation for two cases that could not be located at the time of our audit. However, one of the cases was also identified as not meeting the requirements for pre-trial detention. To avoid duplicating questioned costs associated with Recommendation 4, questioned costs related to this case for this recommendation were originally reported as \$0. Since the questioned costs related to this case for Recommendation 4 have now been remedied, we are including the unallowable detention portion of this case as part of the questioned costs related to this recommendation. As a result, we identified an additional \$40,174 in questioned costs related to this recommendation, for a total of \$89,321 (\$49,147 + 40,174).

6. Remedy the \$33,650 in questioned costs received by Dallas County for five cases that were not federally initiated.⁷
7. Remedy the \$15,387 in questioned costs received by Dallas County for seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.⁸
8. Remedy the \$10,969 in questioned costs received by Dallas County for four cases that were submitted in the wrong quarter.
9. Remedy the \$6,843 in questioned costs received by Dallas County for two cases for which the detention booking date was after the case was disposed.
10. Remedy the \$3,581 in questioned costs received by Dallas County for one case that was submitted in the wrong reimbursement category.
11. Remedy the \$2,079 in questioned costs received by Dallas County for 58 cases for which the detention rate submitted exceeded the approved federal detention rate for the county.
12. Remedy the \$214 in questioned costs received by Dallas County for 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.
13. Remedy the \$24,987 in funds to better use requested, but not yet received by Dallas County for one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the case was disposed.

⁷ In its response to the draft report, Dallas County's response provided the supporting documentation for two cases that could not be located at the time of our audit. However, a reviewed of the supporting documentation for one of these cases revealed that the case was not federally initiated. As a result, we identified an additional \$5,234 in questioned costs related to this recommendation, for a total of \$38,884 (\$33,650 + 5,234).

⁸ In its response to the draft report, Dallas County's response provided the supporting documentation for two cases related to this recommendation that could not be located at the time of our audit, which remedied \$7,526 of the questioned costs related to this recommendation. As a result, the remaining questioned costs to be remedied for this recommendation are \$7,861 (\$15,387 - \$7,526).

14. Remedy the \$18,699 in funds to better use requested, but not yet received by Dallas County for 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.
15. Remedy the \$7,447 in funds to better use requested, but not yet received by Dallas County for six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
16. Remedy the \$21 in funds to better use requested, but not yet received by Dallas County for two cases for which the detention rate submitted exceeded the approved federal detention rate for the county.

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, 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 reimbursements claimed from October 1, 2006 through September 30, 2010.

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 Dallas 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 Dallas County as a whole. The Single Audit Report for Dallas County was prepared under the provisions of Office of Management and Budget Circular A-133 for the fiscal year ended September 30, 2010. We reviewed the independent auditor's assessment to identify internal control weaknesses and significant non-compliance issues related to Dallas County or federal programs. The auditor's assessment disclosed one finding related to the general information technology control environment that could potentially affect the county's management of the SWBPI, because SWBPI data are pulled from Dallas County databases; as a result, we expanded our sample to account for potential concerns related to computer processed data. 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>
Excess reimbursements for cases that claimed pre-trial detention days in excess of actual detention days, including claims for pre-trial detention after the disposition date.	\$146,631	6
Unallowable cases that were duplicates or prosecuted concurrently.	87,516	6
Unsupported reimbursements for cases that were not supported by the master case list.	57,564	8-9
Unsupported reimbursements for cases for which supporting case information could not be located.	55,814	6
Excess reimbursements for cases that were erroneously claimed as both prosecution and pre-trial detention that did not meet the pre-trial detention requirement.	49,147	6
Unallowable cases that were not federally initiated.	33,650	6
Unsupported detention reimbursements for which the supporting pre-trial detention information could not be located.	15,387	6
Unallowable cases that were submitted in the wrong quarter.	10,969	7
Unallowable reimbursements for cases for which the jail booking dates were after the cases were disposed.	6,843	7

QUESTIONED COSTS:	<u>AMOUNT</u>	<u>PAGE</u>
Excess reimbursements for cases that were submitted under the wrong reimbursement category.	3,581	7
Excess detention reimbursements for cases that with overstated federal detention per diem rates.	2,079	7
Excess reimbursements for cases that claimed prosecution awards in excess of actual prosecution costs.	214	7
Total Questioned Costs: ⁹	\$469,395	

FUNDS TO BETTER USE:

Excess reimbursements for cases that claimed pre-trial detention days in excess of actual detention days, including claims for pre-trial detention after the disposition date.	24,987	7
Excess reimbursements for cases that claimed prosecution awards in excess of actual prosecution costs.	18,699	8
Unallowable cases that were prosecuted concurrently.	7,447	8

⁹ **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.

FUNDS TO BETTER USE:	<u>AMOUNT</u>	<u>PAGE</u>
Excess reimbursements for cases that claimed detention awards based on overstated federal detention per diem rates.	21	8
Total Funds To Better Use:¹⁰	\$51,154	

¹⁰ ***Funds to Better Use*** are requested 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. Funds to better use may be remedied by not approving or disallowing future payments or the provision of supporting documentation.

**DALLAS COUNTY
DETAILS OF QUESTIONED COSTS**

**CASES REIMBURSED FOR EXCESS DETENTION DAYS
(INCLUDING DETENTION DAYS AFTER THE DISPOSITION DATE)¹¹**

CASE NO.	REPORTING PERIOD	DETENTION DAYS REPORTED TO OJP	ACTUAL DETENTION DAYS	AMOUNT QUESTIONED
F05-45666	FY08-4 TH QTR	1,382	352	\$62,507
F0668326	FY08-3 RD QTR	635	235	24,697
F06-00940	FY08-4 TH QTR	193	6	11,348
F08-88058-R	FY08-4 TH QTR	175	4	10,377
F08-88020-N	FY08-4 TH QTR	189	27	9,831
F07-00556	FY08-3 RD QTR	140	3	8,459
F0720859	FY08-3 RD QTR	200	63	8,459
F08-20261-X	FY08-3 RD QTR	138	9	7,965
F09-00764	FY 2010	49	3	2,624
F07-00759-U	FY08-3 RD QTR	9	8	62
F08-00259-X	FY08-3 RD QTR	24	23	62
F08-00552	FY08-3 RD QTR	114	113	62
F06-00169	FY08-4 TH QTR	7	6	61
F08-00622	FY08-4 TH QTR	31	30	61
F10-00345	FY 2010	11	10	57
F0700316	FY08-3 RD QTR	74	1	0
F0700568	FY08-3 RD QTR	141	1	0
F0800262	FY08-3 RD QTR	138	9	0
F0800551	FY08-3 RD QTR	114	113	0
F0600892	FY08-4 TH QTR	662	2	0
F0783813	FY08-4 TH QTR	353	79	0
F0783814	FY08-4 TH QTR	353	79	0
F0783922	FY08-4 TH QTR	353	79	0
F0888018	FY08-4 TH QTR	151	27	0
F0888019	FY08-4 TH QTR	189	27	0
TOTAL				\$146,631

¹¹ The number of unallowable cases detailed includes cases that have no questioned costs because the cases were questioned previously, based on other SWBPI reimbursement criteria.

CASES THAT WERE DUPLICATES OR PROSECUTED CONCURRENTLY

CASE No.	REPORTING PERIOD	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
F0783813	FY08-4 TH QTR	BOTH	\$21,584
F0783814	FY08-4 TH QTR	BOTH	21,584
F0888019	FY08-4 TH QTR	BOTH	11,792
F0888018	FY08-4 TH QTR	BOTH	9,486
F0800262	FY08-3 RD QTR	BOTH	8,630
F0800551	FY08-3 RD QTR	BOTH	7,148
F0688212	FY07-2 ND QTR	BOTH	5,245
F0800260	FY08-3 RD QTR	BOTH	1,468
F0800619	FY08-4 TH QTR	BOTH	290
F0800620	FY08-4 TH QTR	BOTH	290
TOTAL			\$87,516

MISSING CASE FILES

CASE No.	REPORTING PERIOD	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
F06-00892	FY08-4 TH QTR	BOTH	\$40,443
F0501568	FY07-1 ST QTR	BOTH	5,234
F0501567	FY07-1 ST QTR	BOTH	5,234
F0501571	FY07-3 RD QTR	BOTH	4,903
TOTAL			\$55,814

CASES WITHOUT 24 HOURS OF DETENTION

CASE No.	REPORTING PERIOD	AMOUNT QUESTIONED
F07-00568	FY08-3 RD QTR	\$8,706
F07-00316	FY08-3 RD QTR	4,569
F07-00891	FY08-1 ST QTR	3,261
FY07-00318	FY08-1 ST QTR	3,261
F0600105	FY07-4 TH QTR	2,863
F0694220	FY07-4 TH QTR	2,863
F0700153	FY07-4 TH QTR	2,863
F0694212	FY07-2 ND QTR	2,622
F0688206	FY07-2 ND QTR	2,622
F0687923	FY07-1 ST QTR	2,617
F0688424	FY07-1 ST QTR	2,617
F06-71964-H	FY07-3 RD QTR	2,452
F05-00797-P	FY07-3 RD QTR	2,452
F0501572	FY07-3 RD QTR	2,452
F0700150	FY07-3 RD QTR	2,452
F08-00444	FY08-4 TH QTR	121
F08-00442	FY08-4 TH QTR	121
F08-00445	FY08-4 TH QTR	61
F0800441	FY 2010	57
F0916410	FY 2010	57
F0916440	FY 2010	57
F0501568	FY07-1 ST QTR	0
F06-00892	FY08-4 TH QTR	0
FY0663831	FY08-1 ST QTR	0
TOTAL		\$49,147

CASES THAT WERE NOT FEDERALLY INITIATED

CASE No.	INITIATING AGENCY	REPORTING PERIOD	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
F07-83922-P	STATE OF TEXAS	FY08-4 TH QTR	BOTH	\$21,584
FY07-51025	DALLAS COUNTY PD	FY08-2 ND QTR	BOTH	7,163
F06-37012-Q	IRVING PD	FY07-3 RD QTR	BOTH	4,903
F0783813	STATE OF TEXAS	FY08-4 TH QTR	BOTH	0
F0783814	STATE OF TEXAS	FY08-4 TH QTR	BOTH	0
TOTAL				\$33,650

CASES WITH NO JAIL RECORD

CASE No.	REPORTING PERIOD	AMOUNT QUESTIONED
F07-00323	FY08-4 TH QTR	\$3,945
F06-66883	FY08-2 ND QTR	3,581
F0501569	FY07-2 ND QTR	2,622
F0501570	FY07-2 ND QTR	2,622
F0501573	FY07-1 ST QTR	2,617
F0501567	FY07-1 ST QTR	0
F0501571	FY07-3 RD QTR	0
TOTAL		\$15,387

CASES REIMBURSED IN THE WRONG REPORTING PERIOD

CASE No.	REPORTING PERIOD	DISPOSITION DATE	AMOUNT QUESTIONED
F0700128	FY07-2 ND QTR	05/31/07	\$5,245
F0700141	FY07-2 ND QTR	06/06/07	5,245
F08-00264-X	FY08-3 RD QTR	08/13/08	480
F0501568	FY07-1 ST QTR	06/29/06	0
TOTAL			\$10,969

**CASES WITH JAIL BOOKING DATES
AFTER THE CASES WERE DISPOSED**

CASE No.	REPORTING PERIOD	AMOUNT QUESTIONED
FY06-44958	FY08-2 ND QTR	\$3,581
FY06-63831	FY08-1 ST QTR	3,261
TOTAL		\$6,843

CASES SUBMITTED IN THE WRONG REIMBURSEMENT CATEGORY

CASE No.	REPORTING PERIOD	REIMBURSEMENT CATEGORY	CASE LENGTH (DAYS)	AMOUNT QUESTIONED
F0800137	FY08-2 ND QTR	31 TO 90 DAYS	5	\$3,581
TOTAL				\$3,581

**CASES REIMBURSED FOR EXCESS DETENTION BASED
ON INCORRECT FEDERAL DETENTION PER DIEM RATES**

CASE No.	REPORTING PERIOD	AMOUNT QUESTIONED
F0694001K	FY08-4 TH QTR	\$466
F0673553	FY08-3 RD QTR	320
F0545666	FY08-4 TH QTR	231
F0668326	FY08-3 RD QTR	157
F1000118	FY 2011	104
F1016798	FY 2011	98
F0820261	FY08-3 RD QTR	86
F1000683	FY 2011	75
F0800552	FY08-3 RD QTR	75
F0801047	FY 2011	73
F0888043	FY08-3 RD QTR	51
F0888056	FY08-3 RD QTR	46
F0720859	FY08-3 RD QTR	42
F0888013	FY08-4 TH QTR	42
F1016819	FY 2011	35
F0800740	FY08-4 TH QTR	33
F1000345	FY 2011	20
F0800622	FY08-4 TH QTR	20
F0888020	FY08-4 TH QTR	18
F0800259	FY08-3 RD QTR	15
F0888051	FY08-3 RD QTR	8
F0600229	FY 2011	6
F0900493	FY 2011	6
F0900764	FY 2011	6
F0700759	FY08-3 RD QTR	5
F0600221	FY08-4 TH QTR	5
F0600498	FY 2011	4
F0916441	FY 2011	4
F0800621	FY08-3 RD QTR	4
F0700556	FY08-4 TH QTR	4
F0901202	FY08-4 TH QTR	4
F0600235	FY08-4 TH QTR	4
F0888058	FY08-4 TH QTR	3
F0800263	FY 2011	2
F0600940	FY 2011	2
F0600169	FY08-3 RD QTR	2
F0800443	2008, Q4	2
F0700316	FY08-3 RD QTR	0
F0700568	FY08-3 RD QTR	0
F0800260	FY08-3 RD QTR	0
F0800262	FY08-3 RD QTR	0
F0800264	FY08-3 RD QTR	0

CASE No.	REPORTING PERIOD	AMOUNT QUESTIONED
F0800551	FY08-3 RD QTR	0
F0600892	FY08-4 TH QTR	0
F0700323	FY08-4 TH QTR	0
F0783813	FY08-4 TH QTR	0
F0783814	FY08-4 TH QTR	0
F0783922	FY08-4 TH QTR	0
F0800442	FY08-4 TH QTR	0
F0800444	FY08-4 TH QTR	0
F0800445	FY08-4 TH QTR	0
F0800619	FY08-4 TH QTR	0
F0800620	FY08-4 TH QTR	0
F0888018	FY08-4 TH QTR	0
F0888019	FY08-4 TH QTR	0
F0800441	FY 2011	0
F0916410	FY 2011	0
F0916440	FY 2011	0
TOTAL		\$2,079

**CASES REIMBURSED FOR EXCESS PROSECUTION
BASED ON INCORRECT RATE PER ATTORNEY HOUR**

CASE No.	REPORTING PERIOD	AMOUNT QUESTIONED
F0700556	FY08-3 RD QTR	109
F0673553	FY08-3 RD QTR	29
F0668326	FY08-3 RD QTR	22
F0720859	FY08-3 RD QTR	15
F0700568	FY08-3 RD QTR	7
F0800259	FY08-3 RD QTR	5
F0800552	FY08-3 RD QTR	5
F0820261	FY08-3 RD QTR	5
F0888056	FY08-3 RD QTR	5
F0700316	FY08-3 RD QTR	2
F0700759	FY08-3 RD QTR	2
F0800443	FY08-3 RD QTR	2
F0888043	FY08-3 RD QTR	2
F0888051	FY08-3 RD QTR	2
F0800260	FY08-3 RD QTR	0
F0800262	FY08-3 RD QTR	0
F0800264	FY08-3 RD QTR	0
F0800551	FY08-3 RD QTR	0
TOTAL		\$214

**DALLAS COUNTY
DETAILS OF FUNDS TO BETTER USE**

**CASES REIMBURSED FOR EXCESS DETENTION DAYS
(INCLUDING DETENTION DAYS AFTER THE DISPOSITION DATE)**

CASE No.	REPORTING PERIOD	DETENTION DAYS SCHEDULED TO BE REIMBURSED BY OJP	ACTUAL DETENTION DAYS	FUNDS TO BETTER USE
F0783918	FY 2009	469	22	\$24,987
TOTAL				\$24,987

**CASES REIMBURSED FOR EXCESS PROSECUTION
BASED ON INCORRECT PER CASE PROSECUTION RATES**

CASE No.	REPORTING PERIOD	FUNDS TO BETTER USE
AN EXCESS RATE OF \$467 FOR ALL PROSECUTION CASES SCHEDULED TO BE REIMBURSED BY OJP (EXCEPT BELOW)	FY 2009	\$18,699
F07078350	FY 2009	0
F07083550	FY 2009	0
F0783917	FY 2009	0
F0888037K	FY 2009	0
F0888059	FY 2009	0
F0888129Y	FY 2009	0
TOTAL		\$18,699

CASES THAT WERE PROSECUTED CONCURRENTLY

CASE No.	REPORTING PERIOD	PROSECUTION ONLY OR BOTH	FUNDS TO BETTER USE
F07078350	FY 2009	PROSECUTION ONLY	\$1,241
F07083550	FY 2009	PROSECUTION ONLY	1,241
F0783917	FY 2009	PROSECUTION ONLY	1,241
F0888037K	FY 2009	PROSECUTION ONLY	1,241
F0888059	FY 2009	PROSECUTION ONLY	1,241
F0888129Y	FY 2009	PROSECUTION ONLY	1,241
TOTAL			\$7,447

**CASES REIMBURSED FOR EXCESS DETENTION BASED
ON INCORRECT FEDERAL DETENTION PER DIEM RATES**

CASE No.	REPORTING PERIOD	FUNDS TO BETTER USE
F0783918	FY 2009	\$20
F0888055	FY 2009	1
TOTAL		\$21

DALLAS COUNTY RESPONSE TO THE DRAFT REPORT



DALLAS COUNTY JUDGE CLAY LEWIS JENKINS

March 6, 2012

David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General
U.S. Department of Justice
1120 Lincoln, Suite 1500
Denver, CO 80203
Email: David.M.Sheeren@usdoj.gov

Dear Mr. Sheeren:

Please find attached the Dallas County's response to the U.S. Department of Justice (DOJ), Office of the Inspector General (OIG), Denver Regional Audit Office draft audit report that was issued on February 14, 2012 to the Office of Justice Programs (OJP), related to an audit of the Southwest Border Prosecution Initiative funding, received by Dallas County (County).

Dallas County responded to the 16 recommendations, \$469,395 in questioned costs, and \$51,133 in funds put to better use. Dallas County concurs with 13 recommendations and requests a waiver for 3 recommendations (Items #4, #7, and #8).

If you should have any questions please contact Ryan Brown, Budget Director, at 214-653-6384. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Clay Lewis Jenkins".

Clay Jenkins, County Judge
Dallas County
411 Elm Street
Administration Building
Dallas, Texas 75202

411 Elm Street

Dallas County Administration Building
Dallas, TX 75202

(214)653-7949

DALLAS COUNTY RESPONSES TO DRAFT AUDIT

1. Remedy the \$146,631 in questioned costs received by Dallas County for 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the cases were disposed.

Dallas County concurs with recommendation: The Dallas County District Attorney's Office Administrative Attorney will provide review and oversight of all data collected for submission to SWBPI. All staff will be train on the proper way of reporting pre-trial detention based on SWBPI guidelines.

2. Remedy the \$87,516 in questioned costs received by Dallas County for 10 cases that were duplicates or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

Dallas County concurs with recommendation: The Dallas County District Attorney's Office Administrative Attorney will provide review and oversight of all data collected for submission to SWBPI. The Dallas County District Attorney's Office Administrative Attorney will train the designated staff regarding submission of only one case per defendant.

3. Remedy the \$57,564 in questioned costs received by Dallas County related to 11 cases claimed that were not supported by the master case list.

Dallas County concurs with recommendation: The Dallas County District Attorney's Office Administrative Attorney will develop retention guidelines of all cases that are submitted. All case files of cases that were submitted to SWBPI will be retained for seven years after submission date.

4. Remedy the \$55,814 in questioned costs received by Dallas County for four cases for which supporting case information could not be located.

Dallas County requests a waiver on these questioned costs. The additional two cases were located and attached as case file F0600892 and F0501568.

In addition, Texas Code of Criminal Procedure Article 55.02 § 5(f) mandates that "On Receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), each official, agency, or other governmental entity named in the order: Shall: (A) obliterate all portions of the record or file that identify the petitioner." The District Attorney's Office routinely destroys all case files when ordered to do so and will continue that procedure. One of the four cases referred to in this finding was one that was ordered expunged.

The Texas Government Code § 411.081 allows an individual who has successfully completed deferred adjudication community supervision to petition the court that placed the individual on probation for an order of nondisclosure. An order of

nondisclosure prohibits criminal justice agencies from disclosing to the public criminal history record information related to an offense. Disclosure is allowed to law enforcement agencies only for a law enforcement purpose. An auditor is not a law enforcement person as defined and thus the contents of the file cannot be disclosed. One of the four cases referred to in this finding has an order of nondisclosure.

5. Remedy the \$49,147 in questioned costs received by Dallas County for 24 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

Dallas County concurs with recommendation: The Dallas County District Attorney's Office Administrative Attorney will provide final oversight of all cases that are submitted to SWBPI to ensure prosecution and pre-trial detention (pre-trial requires 24 hour detention) reimbursement rates are accurate.

6. Remedy the \$33,650 in questioned costs received by Dallas County for five cases that were not federally initiated.

Dallas County concurs with recommendation: The Dallas County District Attorney's Office Administrative Attorney will verify that all cases submitted to SWBPI were federally initiated with the supporting documentation.

7. Remedy the \$15,387 in questioned costs received by Dallas County for seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.

Dallas County requests a waiver on these questioned costs. The additional two cases were located and attached as case file F0666883 and F0700323.

In addition, Texas Code of Criminal Procedure Article 55.02 § 5(f) mandates that "On Receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), each official, agency, or other governmental entity named in the order: Shall: (A) obliterate all portions of the record or file that identify the petitioner." The District Attorney's Office routinely destroys all case files when ordered to do so and will continue that procedure.

The Texas Government Code § 411.081 allows an individual who has successfully completed deferred adjudication community supervision to petition the court that placed the individual on probation for an order of nondisclosure. An order of nondisclosure prohibits criminal justice agencies from disclosing to the public criminal history record information related to an offense. Disclosure is allowed to law enforcement agencies only for a law enforcement purpose. An auditor is not a law enforcement person as defined and thus the contents of the file cannot be disclosed.

8. Remedy the \$10,969 in questioned costs received by Dallas County for four cases that were submitted in the wrong quarter.

Dallas County requests consideration for the four cases, if eligible, to be re-submitted for the appropriate quarters.

9. Remedy the \$6,843 for two cases for which the detention booking date was after the case was disposed.

Dallas County concurs with recommendation: District Attorney's Office Administrative Attorney will verify the booking and disposed dates.

10. Remedy the \$3,581 in questioned costs received by Dallas County for one case that was submitted in the wrong reimbursement category.

Dallas County concurs with recommendation: The Dallas County District Attorney's Office Administrative Attorney will review all cases being submitted for reimbursement to ensure that the proper way of reporting pre-trial detention based on SWBPI guidelines for reimbursement of the correct category.

11. Remedy the \$2,079 in questioned costs received by Dallas County for 58 cases for which the detention rate submitted exceeded the approved federal detention rate for the county.

Dallas County concurs with recommendation: The Office of Budget and Evaluation will confirm that the daily jail rate is the amount that is computed annually and does not exceed the approved federal detention rate for the county.

12. Remedy the \$214 in questioned costs received by Dallas County for 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.

Dallas County concurs with recommendation: The Auditor's Office Payroll will provide the actual salary for all reimbursable employees.

13. Remedy the \$24,987 in funds to better use requested, but not yet received by Dallas County for one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the case was disposed.

Dallas County concurs with recommendation: District Attorney's Office Administrative Attorney will verify the booking and disposed dates. The Dallas County District Attorney's Office will verify that the proper way of reporting pre-trial detention is based on SWBPI guidelines for reimbursement of the correct category.

14. Remedy the \$18,699 in funds to better use requested, but not yet received by Dallas County for 46 for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.

Dallas County concurs with recommendation: The Auditor's Office Payroll will provide the actual salary for all reimbursable employees.

15. Remedy the \$7,447 in funds to better use requested, but not yet received by Dallas County for six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

Dallas County concurs with recommendation: Dallas County District Attorney's Office Administrative Attorney will provide final review of all cases submitted to SWBPI to ensure that multiple cases will not be submitted for the same defendant.

16. Remedy the \$21 in funds to better use requested, but not yet received by Dallas County for two cases for which the detention rate submitted exceeded the approved federal detention rate for the county.

Dallas County concurs with recommendation: The Office of Budget and Evaluation will confirm that the daily jail rate is the amount that is computed annually and does not exceed the approved federal detention rate for the county.

OJP RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice
Office of Justice Programs
Office of Audit, Assessment, and Management

Washington, D.C. 20531

MAR 14 2012

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

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 Dallas County, Texas*

This memorandum is in response to your correspondence, dated February 14, 2012, transmitting the subject draft audit report for Dallas County (County). 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 a significant number of ineligible SWBPI cases, identified by the OIG during the audit, were for cases submitted by the County prior to changes that BJA implemented for the SWBPI program beginning in October 2008.

The report contains **16** recommendations and **\$469,395** in questioned costs, and **\$51,154** in funds put to better use. The following is the Office of Justice Programs' (OJP) 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 \$146,631 in questioned costs received by Dallas County for 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the cases were disposed.**

We agree with the recommendation. We will coordinate with the County to remedy the \$146,631 in questioned costs related to the 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days.

2. **We recommend that OJP remedy the \$87,516 in questioned costs received by Dallas County for 10 cases that were duplicates, or 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 \$87,516 in questioned costs related to the 10 cases that were duplicates, or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

3. **We recommend that OJP remedy the \$57,564 in questioned costs received by Dallas County related to 11 cases claimed that were not supported by the master case list.**

We agree with the recommendation. We will coordinate with the County to remedy the \$57,564 in questioned costs related to the 11 cases claimed that were not supported by the master case list.

4. **We recommend that OJP remedy the \$55,814 in questioned costs received by Dallas County for four cases for which supporting case information could not be located.**

We agree with the recommendation. We will coordinate with the County to remedy the \$55,814 in questioned costs related to the four cases for which supporting case information could not be located.

5. **We recommend that OJP remedy the \$49,147 in questioned costs received by Dallas County for 24 cases that were submitted under both the prosecution and pre-trial detention categories that did not meet the requirements for pre-trial detention.**

We agree with the recommendation. We will coordinate with the County to remedy the \$49,147 in questioned costs related to the 24 cases that were submitted under both the prosecution and pre-trial detention categories that did not meet the requirements for pre-trial detention.

6. **We recommend that OJP remedy the \$33,650 in questioned costs received by Dallas County for five cases that were not Federally initiated.**

We agree with the recommendation. We will coordinate with the County to remedy the \$33,650 in questioned costs related to the five cases that were not Federally initiated.

7. **We recommend that OJP remedy the \$15,387 in questioned costs received by Dallas County for seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.**

We agree with the recommendation. We will coordinate with the County to remedy the \$15,387 in questioned costs related to the seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.

8. **We recommend that OJP remedy the \$10,969 in questioned costs received by Dallas County for four cases that were submitted in the wrong quarter.**

We agree with the recommendation. We will coordinate with the County to remedy the \$10,969 in questioned costs related to the four cases that were submitted in the wrong quarter. In 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.

9. **We recommend that OJP remedy the \$6,843 for two cases for which the detention booking date was after the case was disposed.**

We agree with the recommendation. We will coordinate with the County to remedy the \$6,843 in questioned costs related to the two cases for which the disposition date preceded the detention booking date.

10. **We recommend that OJP remedy the \$3,581 in questioned costs received by Dallas County for one case that was submitted in the wrong reimbursement category.**

We agree with the recommendation. We will coordinate with the County to remedy the \$3,581 in questioned costs received for one case that was submitted in the wrong reimbursement category.

11. **We recommend that OJP remedy the \$2,079 in questioned costs received by Dallas County for 58 cases for which the detention rate submitted exceeded the approved Federal detention rate for the County.**

We agree with the recommendation. We will coordinate with the County to remedy the \$2,079 in questioned costs for the 58 cases for which the detention rate submitted exceeded the approved Federal detention rate for the County.

12. **We recommend that OJP remedy the \$214 in questioned costs received by Dallas County for 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.**

We agree with the recommendation. We will coordinate with the County to remedy the \$214 in questioned costs related to the 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.

13. **We recommend that OJP remedy the \$24,987 in funds to better use requested, but not yet received by Dallas County, for one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the case was disposed.**

We agree with the recommendation. We will coordinate with the County to remedy the \$24,987 in funds to be put to better use that were requested, but not yet received, for the one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days.

14. **We recommend that OJP remedy the \$18,699 in funds to better use requested, but not yet received by Dallas County, for 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.**

We agree with the recommendation. We will coordinate with the County to remedy the \$18,699 in funds to be put to better use that were requested, but not yet received, for the 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.

15. **We recommend that OJP remedy the \$7,447 in funds to better use requested, but not yet received by Dallas County, for six 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 \$7,447 in funds to be put to better use that were requested, but not yet received, for the six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

16. **We recommend that OJP remedy the \$21 in funds to better use requested, but not yet received by Dallas County for two cases for which the detention rate submitted exceeded the approved Federal detention rate for the County.**

We agree with the recommendation. We will coordinate with the County to remedy the \$21 in funds to be put to better use, which were requested by the County, but not yet received, for the two cases that were submitted that had a detention rate which exceeded the approved Federal detention rate for the County.

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

Tracey Trautman
Acting Deputy Director for Programs
Bureau of Justice Assistance

Esmeralda Womack
Division Chief
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

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

OJP Executive Secretariat
Control Number 20120194

**OFFICE OF THE INSPECTOR GENERAL
ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE REPORT**

The OIG provided a draft of this audit report to OJP and Dallas County, Texas. OJP's response, included as Appendix VI of this report, states that, "It should also be noted that a significant number of ineligible SWBPI cases, identified by the OIG during the audit, were for cases submitted by the County 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.¹² However, questioned costs related to the ineligible cases submitted prior to 2008 must still be remedied. 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 \$146,631 in questioned costs received by Dallas County for 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the cases were disposed. OJP stated in its response that they will coordinate with Dallas County to remedy the \$146,631 in questioned costs related to the 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days.

This recommendation can be closed when we receive documentation that OJP remedied the \$146,631 in questioned costs received by Dallas County for 25 cases that were submitted for detention days in excess of the actual number of pre-trial detention days.

- 2. Resolved.** OJP concurred with our recommendation to remedy the \$87,516 in questioned costs received by Dallas County for 10 cases that were duplicates or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement. OJP stated in its response that

¹² U.S. Department of Justice Office of the Inspector General, *Southwest Border Prosecution Initiative Reimbursement Program*, Audit Report 08-22 (March 2008).

they will coordinate with Dallas County to remedy the \$87,516 in questioned costs related to the 10 cases that were duplicates or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

The recommendation can be closed when we receive documentation that OJP remedied the \$87,516 in questioned costs received by Dallas County for 10 cases that were duplicates or investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

- 3. Resolved.** OJP concurred with our recommendation to remedy the \$57,564 in questioned costs received by Dallas County related to 11 cases claimed that were not supported by the master case list. OJP stated in its response that they will coordinate with Dallas County to remedy the \$57,564 in questioned related to the 11 cases claimed that were not supported by the master case list.

The recommendation can be closed when we receive documentation that OJP remedied the \$57,564 in questioned costs received by Dallas County related to 11 cases claimed that were not supported by the master case list.

- 4. Resolved.** OJP concurred with our recommendation to remedy the \$55,814 in questioned costs received by Dallas County for four cases for which supporting case information could not be located. OJP stated in its response that it will coordinate with Dallas County to remedy the \$55,814 in questioned costs related to the four cases for which supporting case information could not be located.

Dallas County's response, included as Appendix V of this report, specifies that in accordance with Texas Code of Criminal Procedure one case file was ordered expunged, meaning it was destroyed, and that in accordance with Texas Government Code one case file was part of an order of nondisclosure, meaning it was not available for review outside of a law enforcement purpose. According to SWBPI guidelines, supporting case information must be maintained for 3 years after the case is submitted for reimbursement. Additionally, any cases that do not have the corresponding court and arrest records will not be considered for SWBPI funding. Dallas County also included supporting documentation that was sufficient to remedy two cases – Case Nos. F0501568 and F0600892 – totaling \$45,677 that were included in our questioned costs. Therefore, the remaining

questioned costs for remedy in association with this recommendation are \$10,137 (\$55,814 - \$45,677).

This recommendation can be closed when we receive documentation that OJP remedied the remaining \$10,137 in questioned costs received by Dallas County for the remaining two cases for which supporting case information could not be located.

A review of the supporting documentation for the two cases identified above resulted in additional questioned costs in Recommendations 5 and 6, which are described in detail below.

5. **Resolved.** OJP concurred with our recommendation to remedy the \$49,147 in questioned costs received by Dallas County for 24 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention. OJP stated in its response that it will coordinate with Dallas County to remedy the \$49,147 in questioned costs related to the 24 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

Dallas County's response, included as Appendix V of this report, included supporting documentation that was sufficient to remedy the questioned costs for Case No. F0600892 related to Recommendation 4. However, this case was also one of the 24 cases identified as not meeting the requirements for pre-trial detention. To avoid duplicating questioned costs associated with Recommendation 4, questioned costs related to this case for this recommendation were originally reported as \$0. Since the questioned costs related to this case in Recommendation 4 are now remedied, we are including the detention portion of this case as part of questioned costs related to this recommendation. As a result, we identified an additional \$40,174 in questioned costs received by Dallas County related to this recommendation, for a total of \$89,321 (\$49,147 + 40,174).

The recommendation can be closed when we receive documentation that OJP remedied the \$89,321 in questioned costs received by Dallas County for 24 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

6. **Resolved.** OJP concurred with our recommendation to remedy the \$33,650 in questioned costs received by Dallas County for five cases that were not federally initiated. OJP stated in its response that it will coordinate with Dallas County to remedy the \$33,650 in questioned costs related to the five cases that were not federally initiated.

Dallas County's response, included as Appendix V of this report, included supporting documentation that was sufficient to remedy the questioned costs for Case No. F0501568 related to Recommendation 4. However, a review of the supporting documentation revealed that the case was initiated by the State of Texas, not a federal agency, meaning the case was not federally initiated. Therefore, we identified an additional \$5,234 in questioned costs received by Dallas County related to this recommendation, for a total of \$38,884 (\$33,650 + 5,234).

The recommendation can be closed when we receive documentation that OJP remedied the \$38,884 in questioned costs received by Dallas County for six cases that were not federally initiated.

7. **Resolved.** OJP concurred with our recommendation to remedy the \$15,387 in questioned costs received by Dallas County for seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located. OJP stated in its response that it will coordinate with Dallas County to remedy the \$15,387 in questioned costs related to the seven cases that were submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.

Dallas County's response, included as Appendix V of this report, specifies that in accordance with Texas Code of Criminal Procedure, the county destroys all case files related to expunction. Additionally, in accordance with Texas Government Code, an order of nondisclosure prohibits the review of case files outside of a law enforcement purpose. According to SWBPI guidelines, supporting case information must be maintained for 3 years after the case is submitted for reimbursement. Additionally, any cases that do not have the corresponding court and arrest records will not be considered for SWBPI funding. Dallas County also included supporting documentation that was sufficient to remedy two cases – Case Numbers F06-66883 and F07-00323 – totaling \$7,526 that were included in our questioned costs. Therefore, the remaining

questioned costs for remedy in association with this recommendation are \$7,861 (\$15,387 - \$7,526).

This recommendation can be closed when we receive documentation that OJP remedied the remaining \$7,861 in questioned costs received by Dallas County for the remaining five cases submitted under pre-trial detention for which the supporting pre-trial detention information could not be located.

- 8. Resolved.** OJP concurred with our recommendation to remedy the \$10,969 in questioned costs received by Dallas County for four cases that were submitted in the wrong quarter. OJP stated in its response that it will coordinate with Dallas County to remedy the \$10,969 in questioned costs related to the four cases that were submitted in the wrong quarter.

The recommendation can be closed when we receive documentation that OJP remedied the \$10,969 in questioned costs received by Dallas County for four cases that were submitted in the wrong quarter.

- 9. Resolved.** OJP concurred with our recommendation to remedy the \$6,843 in questioned costs received by Dallas County for two cases for which the detention booking date was after the case was disposed. OJP stated in its response that it will coordinate with Dallas County to remedy the \$6,843 in questioned costs related to the two cases for which the disposition date preceded the detention booking date.

The recommendation can be closed when we receive documentation that OJP remedied the \$6,843 in questioned costs received by Dallas County for two cases for which the detention booking date was after the case was disposed.

- 10. Resolved.** OJP concurred with our recommendation to remedy the \$3,581 in questioned costs received by Dallas County for one case that was submitted in the wrong reimbursement category. OJP stated in its response that it will coordinate with Dallas County to remedy the \$3,581 in questioned costs received for one case that was submitted in the wrong reimbursement category.

The recommendation can be closed when we receive documentation that OJP remedied the \$3,581 in questioned costs received by Dallas County for one case that was submitted in the wrong reimbursement category.

- 11. Resolved.** OJP concurred with our recommendation to remedy the \$2,079 in questioned costs received by Dallas County for 58 cases for which the detention rate submitted exceeded the approved federal detention rate for the county. OJP stated in its response that it will coordinate with Dallas County to remedy the \$2,079 in questioned costs for the 58 cases for which the detention rate submitted exceeded the approved federal detention rate for the county.

The recommendation can be closed when we receive documentation that OJP remedied the \$2,079 in questioned costs received by Dallas County for 58 cases for which the detention rate exceeded the approved federal detention rate for the county.

- 12. Resolved.** OJP concurred with our recommendation to remedy the \$214 in questioned costs received by Dallas County for 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour. OJP stated in its response that it will coordinate with Dallas County to remedy the \$214 in questioned costs related to the 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.

The recommendation can be closed when we receive documentation that OJP remedied the \$214 in questioned costs received by Dallas County for 18 cases for which the submitted rate per attorney hour exceeded the actual rate per attorney hour.

- 13. Resolved.** OJP concurred with our recommendation to remedy the \$24,987 in funds to better use requested, but not yet received by Dallas County for one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days. This included claims for pre-trial detention costs after the case was disposed. OJP stated in its response that it will coordinate with Dallas County to remedy the \$24,987 in funds to better use requested, but not yet received for the one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days.

The recommendation can be closed when we receive documentation that OJP remedied the \$24,987 in funds to better use requested, but not yet received by Dallas County for one case that was submitted under pre-trial detention based on reporting detention days in excess of the actual number of pre-trial detention days.

- 14. Resolved.** OJP concurred with our recommendation to remedy the \$18,699 in funds to better use requested, but not yet received by Dallas County for 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case. OJP stated in its response that it will coordinate with Dallas County to remedy the \$18,699 in funds to better use requested, but not yet received for the 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.

The recommendation can be closed when we receive documentation that OJP remedied the \$18,699 in funds to better use requested, but not yet received by Dallas County for 46 cases for which the submitted prosecution rate per case exceeded the actual prosecution rate per case.

- 15. Resolved.** OJP concurred with our recommendation to remedy the \$7,447 in funds to better use requested, but not yet received by Dallas County for six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement. OJP stated in its response that it will coordinate with Dallas County to remedy the \$7,447 in funds to better use requested, but not yet received for the six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

The recommendation can be closed when we receive documentation that OJP remedied the \$7,447 in funds to better use requested, but not yet received by Dallas County for six cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

- 16. Resolved.** OJP concurred with our recommendation to remedy the \$21 in funds to better use requested, but not yet received by Dallas County for two cases for which the detention rate submitted exceeded the approved federal detention rate for the county. OJP stated in its response that it will coordinate with Dallas County to remedy the \$21 in funds to better use requested, but not yet

received for the two cases that had a detention rate which exceeded the approved federal detention rate for the county.

The recommendation can be closed when we receive documentation that OJP remedied the \$21 in funds to better use requested, but not yet received by Dallas County for two cases for which the detention rate submitted exceeded the approved federal detention rate for the county.