

# **RIVERSIDE COUNTY**

Audit Report

## **CRIME VICTIM'S RIGHTS PROGRAM**

Chapter 411, Statutes of 1995

*July 1, 2003, through June 30, 2009,  
excluding July 1, 2004, through June 30, 2006*



**JOHN CHIANG**  
California State Controller

February 2012



**JOHN CHIANG**  
**California State Controller**

February 28, 2012

John F. Tavaglione, Chairman  
Board of Supervisors  
Riverside County  
4080 Lemon Street, 11th Floor  
Riverside, CA 92502

Dear Mr. Tavaglione:

The State Controller's Office audited the costs claimed by Riverside County for the legislatively mandated Crime Victim's Rights Program (Chapter 411, Statutes of 1995), for the period of July 1, 2003, through June 30, 2009, excluding July 1, 2004, through June 30, 2006.

The county claimed \$913,246 for the mandated program. Our audit disclosed that \$20,531 is allowable and \$892,715 is unallowable. The costs are unallowable because the county claimed non-mandate-related costs. The State paid the county \$134,224. The amount paid exceeds allowable costs claimed by \$113,693.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's website at [www.csm.ca.gov/docs/IRCFORM.pdf](http://www.csm.ca.gov/docs/IRCFORM.pdf).

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/vb

cc: Paul E. Zellerbach, District Attorney  
Riverside County  
Paul Angulo, CPA, MA, Auditor-Controller  
Riverside County  
Jeffrey A. Van Wagenen, Jr.  
Assistant District Attorney, Administration  
Riverside County  
Eric Woolery, Deputy Director of Administration  
District Attorney's Office  
Riverside County  
Russell Dominski, Principal Accountant  
Auditor-Controller's Office  
Riverside County  
Jeff Carosone, Principal Program Budget Analyst  
Cor-Gen Unit, Department of Finance  
Jay Lal, Manager  
Division of Accounting and Reporting  
State Controller's Office

# Contents

## **Audit Report**

<b>Summary .....</b>	<b>1</b>
<b>Background .....</b>	<b>1</b>
<b>Objective, Scope, and Methodology .....</b>	<b>1</b>
<b>Conclusion .....</b>	<b>2</b>
<b>Views of Responsible Officials.....</b>	<b>2</b>
<b>Restricted Use .....</b>	<b>3</b>
<b>Schedule 1—Summary of Program Costs .....</b>	<b>4</b>
<b>Finding and Recommendation .....</b>	<b>6</b>
<b>Attachment—County’s Responses to Draft Audit Report</b>	

# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by Riverside County for the legislatively mandated Crime Victim's Rights Program (Chapter 411, Statutes of 1995) for the period of July 1, 2003, through June 30, 2009, excluding July 1, 2004, through June 30, 2006.

The county claimed \$913,246 for the mandated program. Our audit disclosed that \$20,531 is allowable and \$892,715 is unallowable. The costs are unallowable because the county claimed non-mandate-related costs. The State paid the county \$134,224. The amount paid exceeds allowable costs claimed by \$113,693.

## Background

Penal Code section 679.02 (amended by Chapter 411, Statutes of 1995) requires district attorneys to:

- Notify the victim of a violent felony, or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition before a change of plea is entered before a judge, or if it is not possible to notify before the change of plea is entered before a judge, as soon as possible;
- Notify the victim of any felony of a pretrial disposition upon the request of the victim.

On February 27, 1997, the Commission on State Mandates (CSM) determined that Chapter 411, Statutes of 1995, imposed a state mandate reimbursable under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on May 29, 1997. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

## Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Crime Victim's Rights Program for the period of July 1, 2003, through June 30, 2009, excluding July 1, 2004, through June 30, 2006.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

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

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

## **Conclusion**

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, Riverside County claimed \$913,246 for costs of the Crime Victim's Rights Program. Our audit disclosed that \$20,531 is allowable and \$892,715 is unallowable.

For the fiscal year (FY) 2003-04 claim, the State made no payment to the county. Our audit disclosed that \$8,095 is allowable. The State will pay that amount, contingent upon available appropriations.

For the FY 2006-07 claim, the State paid the county \$134,224. Our audit disclosed that \$9,006 is allowable. The State will offset \$125,218 from other mandated program payments due the county. Alternatively, the county may remit this amount to the State.

For the FY 2007-08 claim, the State made no payment to the county. Our audit disclosed that \$2,723 is allowable. The State will pay that amount, contingent upon available appropriations.

For the FY 2008-09 claim, the State made no payment to the county. Our audit disclosed that \$707 is allowable. The State will pay that amount, contingent upon available appropriations.

## **Views of Responsible Officials**

We issued a draft audit report on January 19, 2012. Paul E. Zellerbach, District Attorney, and Paul Angulo, Auditor-Controller, responded by separate letters dated February 8, 2012 (Attachment), disagreeing with the audit results. This final audit report includes the county's responses.

**Restricted Use**

This report is solely for the information and use of Riverside County, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

February 28, 2012

**Schedule 1—  
Summary of Program Costs  
July 1, 2003, through June 30, 2009,  
Excluding July 1, 2004, through June 30, 2006**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment <sup>1</sup></u>
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries	\$ 98,967	\$ 4,109	\$ (94,858)
Benefits	39,636	1,648	(37,988)
Total direct costs	138,603	5,757	(132,846)
Indirect costs	56,312	2,338	(53,974)
Total program costs	<u>\$ 194,915</u>	8,095	<u>\$ (186,820)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess or (less than) amount paid		<u>\$ 8,095</u>	
<u>July 1, 2006, through June 30, 2007</u>			
Direct costs:			
Salaries	\$ 64,526	\$ 4,392	\$ (60,134)
Benefits	33,447	2,145	(31,302)
Total direct costs	97,973	6,537	(91,436)
Indirect costs	36,251	2,469	(33,782)
Total program costs	<u>\$ 134,224</u>	9,006	<u>\$ (125,218)</u>
Less amount paid by the State		(134,224)	
Allowable costs claimed in excess or (less than) amount paid		<u>\$ (125,218)</u>	
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Salaries	\$ 130,824	\$ 1,343	\$ (129,481)
Benefits	65,361	633	(64,728)
Total direct costs	196,185	1,976	(194,209)
Indirect costs	72,738	747	(71,991)
Total program costs	<u>\$ 268,923</u>	2,723	<u>\$ (266,200)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess or (less than) amount paid		<u>\$ 2,723</u>	

## Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment <sup>1</sup>
<u>July 1, 2008, through June 30, 2009</u>			
Direct costs:			
Salaries	\$ 145,426	\$ 330	\$ (145,096)
Benefits	71,553	154	(71,399)
Total direct costs	216,979	484	(216,495)
Indirect costs	98,205	223	(97,982)
Total program costs	<u>\$ 315,184</u>	707	<u>\$ (314,477)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess or (less than) amount paid		<u>\$ 707</u>	
 <u>Summary: July 1, 2003, through June 30, 2009,</u> <u>excluding July 1, 2004, through June 30, 2006</u>			
Direct costs:			
Salaries	\$ 439,743	\$ 10,174	\$ (429,569)
Benefits	209,997	4,580	(205,417)
Total direct costs	649,740	14,754	(634,986)
Indirect costs	263,506	5,777	(257,729)
Total direct and indirect costs	<u>\$ 913,246</u>	20,531	<u>\$ (892,715)</u>
Less amount paid by the State		(134,224)	
Allowable costs claimed in excess or (less than) amount paid		<u>\$ (113,693)</u>	

<sup>1</sup> See the Findings and Recommendations section.

# Finding and Recommendation

**FINDING—  
Unallowable salaries,  
benefits, and related  
indirect costs**

The county claimed unallowable salaries and benefits totaling \$634,986. The related indirect costs total \$257,729.

The county claimed unallowable salaries and benefits for its Victim Witness Advocates (later renamed Victim Service Advocates), Legal Support Assistants, and a Paralegal. The unallowable salaries and benefits are attributable to non-mandate-related costs. The following table summarizes the audit adjustment:

	Fiscal Year				Total
	2003-04	2006-07	2007-08	2008-09	
Direct costs:					
Salaries	\$ (94,858)	\$ (60,134)	\$ (129,481)	\$ (145,096)	\$ (429,569)
Benefits	(37,988)	(31,302)	(64,728)	(71,399)	(205,417)
Total direct costs	(132,846)	(91,436)	(194,209)	(216,495)	(634,986)
Indirect costs	(53,974)	(33,782)	(71,991)	(97,982)	(257,729)
Audit adjustment	\$ (186,820)	\$ (125,218)	\$ (266,200)	\$ (314,477)	\$ (892,715)

For all fiscal years, the program's parameters and guidelines identify mandate-related costs as follows:

Costs to notify, by any reasonable means available, the victim of a specified violent felony, or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition, or to notify the victim of any felony of a pending pretrial disposition upon the request of the victim (*generally, this requirement can be accomplished with a form letter*) [emphasis added].

For fiscal year (FY) 2003-04, the parameters and guidelines (adopted May 29, 1997) state:

For auditing purposes, all costs claimed shall be traceable to source documents . . . that show evidence of the validity of such costs.

For FY 2006-07 through FY 2008-09, the parameters and guidelines (amended January 29, 2010) state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred *to implement the mandated activities* [emphasis added]. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. . . .

**Fiscal Year 2003-04**

The county claimed salaries and benefits totaling \$138,603. The claimed costs included Victim Witness Advocates' time to mail letters, make telephone calls, and visit residences to notify crime victims of pretrial disposition.

The following table identifies the claimed costs and audit adjustment:

	Claimed	Allowable	Audit Adjustment
Letters issued:			
Disposition letters	5,534	5,534	—
All other letters	13,172	—	(13,172)
Total letters issued	18,706	5,534	(13,172)
Hours per letter	× 0.033	× 0.033	× 0.033
Total hours, letters issued <sup>1</sup>	624	184	(440)
Total hours, telephone calls and home visits	13,673	—	(13,673)
Subtotal	14,297	184	(14,113)
Percentage claimed	× 31%	—	
Percentage allowable	—	× 100%	
Total hours	4,432	184	(4,248)
Productive hourly rate	× \$22.33	× \$22.33	× \$22.33
Total salaries	\$ 98,967	\$ 4,109	\$ (94,858)
Total benefits (40.05% of salaries) <sup>1</sup>	39,636	1,648	(37,988)
Total salaries and benefits	\$ 138,603	\$ 5,757	\$ (132,846)

<sup>1</sup> Calculation differences due to rounding.

#### *Letters Issued*

The county claimed salaries and benefits to issue various letters to crime victims. The county claimed the following letters:

- Disposition
- Offer of service
- Felony #1
- VOC #25
- Misdemeanor #1
- Juvenile #176
- Juvenile #177

The county did not provide a sample of the Juvenile #176 letters. Of the remaining letters, only the Disposition letter is mandate-related.

#### *Telephone Calls and Home Visits*

The county claimed salaries and benefits to make telephone calls and home visits to new crime victims. The county identified 9,115 new crime victim cases for FY 2003-04. The county claimed 1.5 hours for each case to calculate total time that Victim Witness Advocates spent making telephone calls and home visits.

The county did not provide any documentation to show that Victim Witness advocates spent 1.5 hours on each case or an average of 1.5 hours on all cases. In addition, the county's claim states:

Victims are notified through *both* a letter and a phone call(s), *and*, in many cases an actual visit to the victim's residence [emphasis added].

The mandated program does not provide reimbursement for multiple notifications. The parameters and guidelines (adopted May 29, 1997) specify that claimants may generally accomplish the mandated notification with a form letter.

Because the county notified all mandate-related victims through a letter and claimed the costs attributable to those letters, the telephone calls and home visits are unallowable for mandate reimbursement.

#### *Funding Allocation*

The county claimed 31% of the total hours documented for letters, telephone calls, and home visits as mandate-related. The county stated that it claimed only 31% because unrelated grant revenue funded 69% of the Victim Witness Advocate positions. However, the county did not receive the grant revenue specifically for the mandated program or as a result of the statutory language that resulted in the mandated program. Therefore, we allowed 100% of the mandate-related activities claimed that were supported by source documentation.

#### **Fiscal Year 2006-07**

The county claimed salaries and benefits totaling \$97,973. The claimed costs included time spent by Victim Service Advocates, Legal Support Assistants, and a Paralegal to mail letters to crime victims. The claimed costs also include time spent by Victim Service Advocates to make telephone calls and/or provide in-office assistance to crime victims. The following table identifies the claimed costs and audit adjustment:

	<u>Claimed</u>	<u>Allowable</u>	<u>Audit Adjustment</u>
Victim Service Advocates:			
Letters issued:			
Disposition	5,374	5,374	—
All other letters	<u>4,549</u>	<u>—</u>	<u>(4,549)</u>
Total letters issued	9,923	5,374	(4,549)
Hours per letter	× 0.033	× 0.033	× 0.033
Total hours, letters issued <sup>1</sup>	331	179	(152)
Total hours, telephone calls and office visits	<u>27</u>	<u>—</u>	<u>(27)</u>
Total hours	358	179	(179)
Productive hourly rate	× \$24.54	× \$24.54	× \$24.54
Total salaries <sup>1</sup>	\$ 8,785	\$ 4,392	\$ (4,393)
Total benefits (48.83% of salaries) <sup>1</sup>	<u>4,290</u>	<u>2,145</u>	<u>(2,145)</u>
Total salaries and benefits, Victim Service Advocates	<u>13,075</u>	<u>6,537</u>	<u>(6,538)</u>
Legal Support Assistants and Paralegal:			
Salaries	55,741	—	(55,741)
Benefits	<u>29,157</u>	<u>—</u>	<u>(29,157)</u>
Total salaries and benefits, Legal Support Assistants and Paralegal	<u>84,898</u>	<u>—</u>	<u>(84,898)</u>
Total salaries and benefits	<u>\$ 97,973</u>	<u>\$ 6,537</u>	<u>\$ (91,436)</u>

<sup>1</sup> Calculation differences due to rounding.

*Victim Service Advocates—Letters Issued*

The county claimed salaries and benefits to issue various letters to crime victims. The county claimed the following letters:

- Disposition letters
- Offer of service
- Felony letters #1
- Juvenile letter #177

The county provided a sample of each letter. Only the Disposition letter is mandate-related.

*Victim Service Advocates—Telephone Calls and Office Visits*

A county representative testified that all victims receive letters to inform them of pretrial dispositions. The same representative identified various reasons why Victim Service Advocates also make telephone calls and provide assistance during office visits. The representative noted that telephone calls might be made to provide a “human touch” to the notification letter and to find out how the victim is doing. The representative also stated that the county might contact victims to see if they want to be in court. The representative stated that notification might be “on-going,” because the District Attorney’s office might solicit a victim’s input on potential plea bargains.

We concluded that the telephone calls and office visits are non-mandate-related activities. The county notified all mandate-related victims through a letter and claimed the costs attributable to those letters. The mandated program does not provide reimbursement for multiple or “on-going” notifications. In addition, soliciting a victim’s input is outside of the scope of the mandated activity.

*Legal Support Assistants and Paralegal—Letters Issued*

The county claimed costs for four Legal Support Assistants and a Paralegal to mail an “initial contact letter” (VS#1) to victims. The VS#1 letter informs crime victims of their rights and that the county’s Division of Victim Services is available to assist with victims’ questions and other needs. However, the VS#1 letter does not inform victims of violent crimes of a pretrial disposition. Therefore, the VS#1 letter is non-mandate-related and the Legal Support Assistants’ and Paralegal’s salaries and benefits are unallowable.

**Fiscal Year 2007-08**

The county claimed salaries and benefits totaling \$196,185. The claimed costs included time spent by Victim Service Advocates and Legal Support Assistants to mail letters to crime victims. The claimed costs also include time spent by Victim Service Advocates to make telephone calls and/or provide in-office assistance to crime victims.

The following table identifies the claimed costs and audit adjustment:

	Claimed	Allowable	Audit Adjustment
Victim Service Advocates:			
Letters issued:			
Disposition	1,662	1,662	-
All other letters	2,193	-	(2,193)
Total letters issued	3,855	1,662	(2,193)
Hours per letter	x 0.033	x 0.033	x 0.033
Total hours, letters issued <sup>1</sup>	129	55	(74)
Total hours, telephone calls and office visits	28	-	(28)
Total hours	157	55	(102)
Productive hourly rate	x \$24.42	x \$24.42	x \$24.42
Total salaries <sup>1</sup>	\$ 3,834	\$ 1,343	\$ (2,491)
Total benefits (47.15% of salaries) <sup>1</sup>	1,808	633	(1,175)
Total salaries and benefits, Victim Service Advocates	5,642	1,976	(3,666)
Legal Support Assistants:			
Salaries	126,990	-	(126,990)
Benefits	63,553	-	(63,553)
Total salaries and benefits, Legal Support Assistants	190,543	-	(190,543)
Total salaries and benefits	\$ 196,185	\$ 1,976	\$ (194,209)

<sup>1</sup> Calculation differences due to rounding.

#### *Victim Service Advocates—Letters Issued*

The county claimed salaries and benefits to issue various letters to crime victims. The county claimed the following letters:

- Disposition letters
- Offer of service
- Felony letters #1
- Juvenile letter #177

The county provided a sample of each letter. Only the Disposition letter is mandate-related.

#### *Victim Service Advocates—Telephone Calls and Office Visits*

We concluded that the telephone calls and office visits are non-mandate-related activities. Refer to FY 2006-07 for further discussion regarding these activities.

#### *Legal Support Assistants—Letters Issued*

The county claimed costs for Legal Support Assistants to mail a VS#1 letter to victims. We concluded that the VS#1 letter is non-mandate-related and the Legal Support Assistants' salaries and benefits are unallowable. Refer to FY 2006-07 for further discussion of the VS#1 letter.

**Fiscal Year 2008-09**

The county claimed salaries and benefits totaling \$216,978. The claimed costs included time spent by Victim Service Advocates and Legal Support Assistants to mail letters to crime victims. The claimed costs also include time spent by Victim Service Advocates to make telephone calls and/or provide in-office assistance to crime victims. The following table identifies the claimed costs and audit adjustment:

	Claimed	Allowable	Audit Adjustment
<b>Victim Service Advocates:</b>			
Pre-trial disposition letters	387	387	-
Hours per letter	x 0.033	x 0.033	x 0.033
Total hours, letters issued <sup>1</sup>	13	13	-
Total hours, telephone calls and office visits	93	-	(93)
Total hours	106	13	(93)
Productive hourly rate	x \$25.40	x \$25.40	x \$25.40
Total salaries <sup>1</sup>	\$ 2,696	\$ 330	\$ (2,366)
Total benefits (46.63% of salaries) <sup>1</sup>	1,256	153	(1,103)
Total salaries and benefits, Victim Service Advocates	3,952	483	(3,469)
<b>Legal Support Assistants:</b>			
Salaries	142,730	-	(142,730)
Benefits	70,296	-	(70,296)
Total salaries and benefits, Legal Support Assistants	213,026	-	(213,026)
Total salaries and benefits	\$ 216,978	\$ 483	\$ (216,495)

<sup>1</sup> Calculation differences due to rounding.

*Victim Service Advocates—Telephone Calls and Office Visits*

We concluded that the telephone calls and office visits are non-mandate-related activities. Refer to FY 2006-07 for further discussion regarding these activities.

*Legal Support Assistants—Letters Issued*

The county claimed costs for Legal Support Assistants to mail a VS#1 letter to victims. We concluded that the VS#1 letter is non-mandate-related and the Legal Support Assistants' salaries and benefits are unallowable. Refer to FY 2006-07 for further discussion of the VS#1 letter.

Recommendation

On July 29, 2010, the Commission on State Mandates (CSM) concluded that Chapter 411, Statutes of 1995, does not impose a reimbursable state-mandated program on local agencies. On the same date, the CSM amended the parameters and guidelines to state, "Reimbursement for this program ends July 27, 2009." Therefore, no recommendation is applicable.

### County's Response and SCO's Comment

The county disagreed with the audit finding. Our finding and recommendation are unchanged. The county did not provide any additional documentation to refute the audit finding. The county's response and our corresponding comments are as follows:

#### County's Response

Penal Code section 679.02 requires our office to notify the victim of a violent felony (or any victim of any crime, at the request of that victim), or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition before a change of plea is entered before a judge, or if it is not possible to notify before the change of plea is entered before a judge, as soon as possible. To carry out this mandate, the State of California developed a program to reimburse prosecutors' offices for their costs. For all fiscal years at issue in the audit . . . this included all costs to notify the eligible victims *by any reasonable means available*. . . .

#### SCO's Comment

The county misstates part of the mandated program's reimbursable activities. The county states that Penal Code section 679.02 "requires our office to notify . . . any victim *of any crime* [emphasis added], at the request of that victim. . . . of a pending pretrial disposition. . . ." Penal Code section 679.02, subdivision (a)(12)(A) (effective during the audit period), required the county to notify a victim of any *felony*, at the request of that victim. We agree that Penal Code section 679.02, subdivision (a)(12)(C) and the parameters and guidelines allow the county to provide such notification by any reasonable means available.

#### County's Response

The State Controller's Office audit has resulted in disallowance of most of our costs for two reasons. First, the auditor claims that we were too proactive in protecting the rights of victims at issue, and went too far in making every effort to keep victims apprised of any pretrial disposition, as required by the Penal Code. The auditor claims that our attempts to notify victims through mail, telephone contact, and, if necessary, home visits, was too much for the state to allow. The audit found that "[t]he mandated program does not provide for reimbursement for multiple notifications." This is unacceptable. While the parameters and guidelines for the reimbursement program specify that the notification requirement can generally be accomplished with a form letter, there is no language to suggest that the notification must be done by a form letter, or that there can be only one attempt at contacting a victim and advising them of their rights under the law. It is this sort of thinking that we have been battling for years. At a time when qualifying victims are struggling to put the pieces of their life back together, to assume that one form letter is sufficient is naïve. In the real world, valid notification often requires multiple attempts. . . . Pursuant to our mandate, we made every effort to uphold the law and protect the rights of victims. The auditor's claim now that our actions were somehow inappropriate is outrageous.

### SCO's Comment

Our audit neither states that the county was “too proactive in protecting the rights of victims,” nor that the county “went too far in making every effort to keep victims apprised.” The county may voluntarily expend whatever effort it believes is appropriate to maintain contact with crime victims. However, the mandated program provides reimbursement for only a single notification to those crime victims specified in the parameters and guidelines. We agree that the county may provide the notification through any reasonable means available, which might include means other than a form letter.

The parameters and guidelines state that the required notification “can be accomplished with *a* [emphasis added] form letter.” This language indicates that a single notification meets the requirements of, and is reimbursable under, the mandated program.

Our audit report does not state that the county's actions “were somehow inappropriate.” Our audit finding identifies unsupported and non-mandate-related costs.

### County's Response

Even if one were to erroneously assume that the law contemplated a single effort to notify victims of potential pre-trial dispositions, the auditor chose only to allow form letters, and not any other type of communication. Telephone calls or personal visits are equally valid, and would have generated a higher reimbursable claim. If the State Controller's Office had considered these alternative forms of communication instead of their preferred method of communication, the form letter, a much higher percentage of our claim for the referenced fiscal years would have been allowed.

### SCO's Comment

Contrary to the county's response, the SCO does not have a “preferred method of communication.” We agree that former Penal Code section 679.02, subdivision (a)(12)(C) and the parameters and guidelines allowed the county to provide such notification by any reasonable means available.

For each fiscal year, the county's claims state, “Victims are notified through *both* a letter and a phone call(s), *and* in many cases an actual visit to the victim's residence [emphasis added].” A county representative testified that the county *first* sent a letter to each victim and then would follow up with telephone calls and/or visits. We allowed the claimed costs applicable to the mandate-related letters distributed because the letters were the initial notification. Any contacts subsequent to the letters were outside the scope of the mandate-reimbursable activities.

The county states that we would have allowed “a much higher percentage” of its claims if we had considered the other methods of communication used besides the form letter. The county is incorrect.

For FY 2003-04, the county did not provide any documentation to support the average time claimed for telephone calls and home visits. Therefore, the claimed costs were unsupported. In addition, we noted that the county applied the average time to all new crime victim cases reported during the fiscal year. However, the county did not differentiate between mandate-related and non-mandate-related new crime victim cases. The county's summary list of new cases did not segregate felony cases from misdemeanor cases and did not segregate violent felonies from non-violent felonies.

For FY 2006-07 through FY 2008-09, most unallowable costs are attributable to the costs claimed for Legal Support Assistants and a Paralegal. The county claimed costs for these employees to distribute non-mandate-related letters. Therefore, the issue of form letters versus other means of notification has no bearing on those unallowable costs.

#### County's Response

A second reason for disallowing a portion of our claims was the allegation that there was no documentation provided to show that the time spent by victim witness advocates was actually spent in the notification process. While we dispute this finding, it is important to note that any failure in documentation is not the fault of the current District Attorney. . . . To punish today's District Attorney for the perceived sins of yesterday's District Attorney is inappropriate. . . .

#### SCO's Comment

The county states that it "disputes" a portion of the audit finding related to victim witness advocates. However, the county does not specify the reason(s) for its dispute. In addition, it is unclear whether the county is referencing only the Victim Witness Advocate costs identified in FY 2003-04, or also the Victim Service Advocate costs in FY 2006-07 through FY 2008-09.

The current and former District Attorneys' identities are irrelevant to the audit finding. The SCO does not issue audit reports to "punish" county representatives. The county submitted claims for reimbursement of costs under the Crime Victim's Rights Program. The SCO audited the county's claims as authorized by Government Code sections 12410, 17558.5, and 17561. Our audit determined that the county claimed unsupported and non-mandate-related costs.

**Attachment—  
County's Responses to  
Draft Audit Report**

---



PAUL E. ZELLERBACH  
DISTRICT ATTORNEY

OFFICE OF  
THE DISTRICT ATTORNEY  
COUNTY OF RIVERSIDE  
3960 ORANGE STREET  
RIVERSIDE, CALIFORNIA 92501-3643

JEFFREY A. VAN WAGENEN, JR.  
ASSISTANT DISTRICT ATTORNEY  
ADMINISTRATION

CREG G. DATIG  
ASSISTANT DISTRICT ATTORNEY  
RIVERSIDE DIVISION  
SOUTHWEST DIVISION

SEAN P. LAFFERTY  
ASSISTANT DISTRICT ATTORNEY  
INDIO DIVISION

February 8, 2012

Mr. Jim L. Spano  
Chief, Mandated Cost Audits Bureau  
California State Controller's Office  
Post Office Box 942850  
Sacramento, CA 94250-5874

Dear Mr. Spano:

At the Riverside County District Attorney's Office, we are committed to ensuring that justice is done and the community is protected; we prosecute the guilty, safeguard the innocent, and protect victims and their rights. It is a duty that we take seriously, and we are always striving to find ways to more effectively meet these goals. Our Division of Victim Services is a shining example of our commitment to our cause.

Originally created by Grover Trask, District Attorney of Riverside County from 1982 to 2006, our Division of Victim and Witness Services (as it was then known) was a new and unique approach to ensure that victims and witnesses were given the respect and support they deserve while participating in the Criminal Justice System. For too long, victims and witnesses had been treated as an afterthought. Our program, with its emphasis on victims' rights and our innovative use of trained advocates who are responsive to the needs of those who have been victimized, was a model that many other prosecutors' offices across the state, and across the nation, looked to when designing their own programs years later.

The District Attorney's Office continued to adapt and improve our victim and witness services over the years. In fact, we are proud of the fact that our efforts continued to blaze trails, and often led to changes in the law as it relates to victims' rights. We were notifying victims of pre-trial dispositions before there was a mandate to do so. And, we began a more aggressive approach to protecting the rights of victims' years before we were required to do so by the enactment of Marsy's Law. It is for this reason that we are disappointed in, and disagree with, the findings in the State Controller's Office audit of our claims under the Crime Victim's Rights Program. Please consider this our management representation letter detailing our specific concerns related to the accuracy of the audit findings.

Penal Code section 679.02 requires our office to notify the victim of a violent felony (or any victim of any crime, at the request of that victim), or in the event of a homicide, the

victim's next of kin, of a pending pretrial disposition before a change of plea is entered before a judge, or if it is not possible to notify before the change of plea is entered before a judge, as soon as possible. To carry out this mandate, the State of California developed a program to reimburse prosecutors' offices for their costs. For all fiscal years at issue in the audit (2003-04, 2006-07, 2007-08, and 2008-09), this included all costs to notify the eligible victims *by any reasonable means available*. In fiscal years 2006-07 through 2008-09, to be eligible for mandated cost reimbursement, only actual costs may be claimed, and the actual costs must be traceable and supported by source documents that show the validity of such costs.

The State Controller's Office audit has resulted in the disallowance of most of our costs for two reasons. First, the auditor claims that we were too proactive in protecting the rights of the victims at issue, and went too far in making every effort to keep victims apprised of any pretrial disposition, as required by the Penal Code. The auditor claims that our attempts to notify victims through mail, telephone contact, and, if necessary, home visits, was too much for the state to allow. The audit found that "[t]he mandated program does not provide for reimbursement for multiple notifications." This is unacceptable. While the parameters and guidelines for the reimbursement program specify that the notification requirement can generally be accomplished with a form letter, there is no language to suggest that the notification must be done by a form letter, or that there can be only one attempt at contacting a victim and advising them of their rights under the law. It is this sort of thinking that we have been battling for years. At a time when qualifying victims are struggling to put the pieces of their life back together, to assume that one form letter is sufficient is naïve. In the real world, valid notification often requires multiple attempts. (As an aside, it is interesting to note that the State Controller's Office chose to send us the draft audit report and letter requesting our response via certified mail, with return receipt requested; one can only assume that the information was too important to be left to a "form" letter.) Pursuant to our mandate, we made every effort to uphold the law and protect the rights of victims. The auditor's claim now that our actions were somehow inappropriate is outrageous.

Even if one were to erroneously assume that the law contemplated a single effort to notify victims of potential pre-trial dispositions, the auditor chose only to allow form letters, and not any other type of communication. Telephone calls or personal visits are equally valid, and would have generated a higher reimbursable claim. If the State Controller's Office had considered these alternative forms of communication instead of their preferred method of communication, the form letter, a much higher percentage of our claim for the referenced fiscal years would have been allowed.

A second reason for disallowing a portion of our claims was the allegation that there was no documentation provided to show that the time spent by victim witness advocates was actually spent in the notification process. While we dispute this finding, it is important to note that any failure in documentation is not the fault of the current District Attorney. The vast majority of disallowed claims came in fiscal years 2006-07 through 2008-09, during the administration of ex-District Attorney Rod Pacheco. The current District Attorney took office in January of 2011, and has made every effort to comply with the

both the spirit and the letter of the requirements attached to each revenue stream. To punish today's District Attorney for the perceived sins of yesterday's District Attorney is inappropriate.

Thank you for the opportunity to respond to the draft of the audit report. While we fully intend on appealing the findings contained in the report as it is currently written, we thought that it was important for our response to be included while the appellate process is on-going.

If you have any questions or concerns, please feel free to contact me.

Sincerely,

PAUL E. ZELLERBACH  
District Attorney



JEFFREY A. VAN WAGENEN, JR.  
Assistant District Attorney

cc: The Honorable Paul Angulo  
Auditor-Controller  
County of Riverside

Russell Dominski  
Principal Accountant  
County of Riverside

Jeffrey V. Brownfield  
Chief, Division of Audits  
State Controller's Office



**COUNTY OF RIVERSIDE  
OFFICE OF THE  
AUDITOR-CONTROLLER**

County Administrative Center  
4080 Lemon Street, 11<sup>th</sup> Floor  
P.O. Box 1326  
Riverside, CA 92502-1326  
(951) 955-3800  
Fax (951) 955-3802

**AO** | AUDITOR  
CONTROLLER  
COUNTY OF RIVERSIDE

**Paul Angulo, CPA, MA-Mgmt.  
AUDITOR-CONTROLLER**

February 8, 2012

Mr. Jim L. Spano  
Chief, Mandated Cost Audits Bureau  
California State Controller's Office  
Post Office Box 942850  
Sacramento, CA 94250-5874

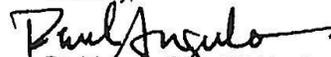
Dear Mr. Spano:

RE: Riverside County Crime Victim's Rights Program July 1, 2003 through June 30, 2009, excluding July 1, 2004, through June 30, 2006

In connection with the State Controller's Office (SCO) audit of the County's claims for the mandated program period identified above my office has reviewed and is agreement with concerns detailed in the response provided by the Office of the District Attorney. The Crime Victim's Rights Program parameters and guidelines do not specifically limit the notification process to a form letter or preclude multiple notifications.

If you have any questions or concerns, please feel free to contact me.

Sincerely,

  
Paul Angulo, CPA, MA-Mgmt.  
Auditor-Controller

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874**

**<http://www.sco.ca.gov>**