

CONTRA COSTA COUNTY

Audit Report

NOT GUILTY BY REASON OF INSANITY PROGRAM

Chapter 1114, Statutes of 1979,
and Chapter 650, Statutes of 1982

July 1, 2001, through June 30, 2004



JOHN CHIANG
California State Controller

June 2010



JOHN CHIANG
California State Controller

June 23, 2010

The Honorable John Gioia, Chairman
Contra Costa County Board of Supervisors
651 Pine Street, Room 107
Martinez, CA 94553

Dear Chairman Gioia:

The State Controller's Office audited the costs claimed by Contra Costa County for the legislatively mandated Not Guilty by Reason of Insanity Program (Chapter 1114, Statutes of 1979, and Chapter 650, Statutes of 1982) for the period of July 1, 2001, through June 30, 2004.

The county claimed \$1,198,942 for the mandated program. Our audit disclosed that \$310,801 is allowable and \$888,141 is unallowable. The costs are unallowable because the county claimed unsupported costs and claimed costs that were ineligible for reimbursement. The State made no payment to the county. The State will pay allowable costs claimed, totaling \$310,801, contingent upon available appropriations.

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 Web site at 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: The Honorable Steven Ybarra
Auditor-Controller
Contra Costa County
Eileen Devlin
Chief of Management Services
Office of the Sheriff
Contra Costa County
Jeff Carosone, Principal Program Budget Analyst
Cor-Gen Unit, Department of Finance
Angie Teng, Section Supervisor
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Contra Costa County for the legislatively mandated Not Guilty by Reason of Insanity Program (Chapter 1114, Statutes of 1979, and Chapter 650, Statutes of 1982) for the period of July 1, 2001, through June 30, 2004.

The county claimed \$1,198,942 for the mandated program. Our audit disclosed that \$310,801 is allowable and \$888,141 is unallowable. The costs are unallowable because the county claimed unsupported costs and claimed costs that were ineligible for reimbursement. The State made no payment to the county. The State will pay allowable costs claimed, totaling \$310,801, contingent upon available appropriations.

Background

Penal Code sections 1026 and 1026.5 (added and amended by Chapter 1114, Statutes of 1979) require the District Attorney to bring petitions, in a court of competent jurisdiction on behalf of the State of California, to effect extensions of commitments in state hospitals for individuals who have been found not guilty by reason of insanity (NGI) and committed to said state institutions.

The Penal Code also requires the District Attorney to review all NGI cases prior to the expiration of the defendant's maximum term of commitment, for a determination as to whether or not the petition for extended commitment should be filed.

On July 16, 1980 the Board of Control (now the Commission on State Mandates [CSM]) determined that Chapter 1114, Statutes of 1979, and Chapter 650, Statutes of 1982, imposed a state mandate reimbursable under Government Code section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. CSM adopted the parameters and guidelines on March 17, 1983, and last amended it on July 27, 2000. 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 Not Guilty by Reason of Insanity Program for the period of July 1, 2001, through June 30, 2004.

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 Findings and Recommendations section of this report.

For the audit period, Contra Costa County claimed \$1,198,942 for costs of the Not Guilty by Reason of Insanity Program. Our audit disclosed that \$310,801 is allowable and \$888,141 is unallowable.

For the fiscal year (FY) 2001-02 claim, the State made no payment to the county. Our audit disclosed that \$26,432 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

For the FY 2002-03 claim, the State made no payment to the county. Our audit disclosed that \$148,782 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

For the FY 2003-04 claim, the State made no payment to the county. Our audit disclosed that \$135,587 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on April 22, 2010. Eileen Devlin, Chief of Management Services, Sheriff's Department, responded by letter dated May 11, 2010 (Attachment), advising us of the county's intention to provide additional information regarding the prisoner housing costs portion of Finding 2 and disagreeing with the transportation costs portion of Finding 2. The county did not provide the additional information as of the issuance date of this report.

Restricted Use

This report is solely for the information and use of Contra Costa 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

June 23, 2010

**Schedule 1—
Summary of Program Costs
July 1, 2001, through June 30, 2004**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2001, through June 30, 2002</u>				
Direct costs:				
Salaries and benefits	\$ 17,976	\$ —	\$ (17,976)	Finding 1
Services and supplies	225,043	26,432	(198,611)	Finding 2
Total direct costs	243,019	26,432	(216,587)	
Indirect costs	6,119	—	(6,119)	Finding 1
Total program costs	<u>\$ 249,138</u>	26,432	<u>\$ (222,706)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 26,432</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Direct costs:				
Salaries and benefits	\$ 19,396	\$ —	\$ (19,396)	Finding 1
Services and supplies	468,101	148,782	(319,319)	Finding 2
Total direct costs	487,497	148,782	(338,715)	
Indirect costs	4,015	—	(4,015)	Finding 1
Total program costs	<u>\$ 491,512</u>	148,782	<u>\$ (342,730)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 148,782</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Direct costs:				
Salaries and benefits	\$ 13,469	\$ —	\$ (13,469)	Finding 1
Services and supplies	441,460	135,587	(305,873)	Finding 2
Total direct costs	454,929	135,587	(319,342)	
Indirect costs	3,363	—	(3,363)	Finding 1
Total program costs	<u>\$ 458,292</u>	135,587	<u>\$ (322,705)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 135,587</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary: July 1, 2001, through June 30, 2004</u>				
Direct costs:				
Salaries and benefits	\$ 50,841	\$ —	\$ (50,841)	Finding 1
Services and supplies	<u>1,134,604</u>	<u>310,801</u>	<u>(823,803)</u>	Finding 2
Total direct costs	1,185,445	310,801	(874,644)	
Indirect costs	<u>13,497</u>	<u>—</u>	<u>(13,497)</u>	Finding 1
Total program costs	<u>\$ 1,198,942</u>	310,801	<u>\$ (888,141)</u>	
Less amount paid by the State		<u>—</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 310,801</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Unsupported salaries,
benefits, and related
indirect costs**

The county claimed \$50,841 in salaries and benefits for the audit period. We determined that the entire amount is unallowable. The costs are unallowable because the county did not provide any documentation to support salaries and benefits claimed for the audit period. The related unallowable indirect cost totaled \$13,497.

The table below summarizes the unallowable costs by fiscal year:

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Allowable salaries and benefits	\$ —	\$ —	\$ —	
Claimed salaries and benefits	(17,976)	(19,396)	(13,469)	
Adjustment, salaries and benefits	(17,976)	(19,396)	(13,469)	\$ (50,841)
Related indirect costs	(6,119)	(4,015)	(3,363)	(13,497)
Total audit adjustment	\$ (24,095)	\$ (23,411)	\$ (16,832)	\$ (64,338)

The program’s parameters and guidelines (section VI.A.1, Employee Salaries and Benefits) require the claimant to identify the employee(s) and/or show the classification of the employee(s) involved, describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, productive hourly rate, and related fringe benefits.

The parameters and guidelines (section VI, Supporting Data) state that “for audit purposes, all costs shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, and declarations) that show evidence of the validity of such costs and their relationship to the state mandate program.”

The parameters and guidelines (section V.A, Claim Preparation and Submission–Supporting Documentation–Direct Costs) state that “direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities, or functions.”

Recommendation

We recommend that the county establish and implement procedures to ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County’s Response

The county did not respond to this finding.

**FINDING 2—
Unsupported services
and supplies costs**

The county claimed \$1,134,604 in services and supplies for the audit period (\$1,129,756 for prisoner housing costs and \$4,848 for prisoner transportation costs). We determined that \$310,801 is allowable and \$823,803 is unallowable. The county overstated prisoner housing costs by \$818,955 because it misstated daily jail rates (DJRs) claimed for the audit period and claimed housing costs for non-NGI defendants, and claimed \$4,848 for prisoner transportation that were not increased costs.

The following table summarizes the audit adjustment by fiscal year:

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Allowable costs	\$ 26,432	\$ 148,782	\$ 135,587	\$ 310,801
Claimed costs	(225,043)	(468,101)	(441,460)	(1,134,604)
Audit adjustment	<u>\$ (198,611)</u>	<u>\$ (319,319)</u>	<u>\$ (305,873)</u>	<u>\$ (823,803)</u>

Prisoner Housing Costs

The county claimed \$1,129,756 for prisoner housing costs during the audit period. We determined that \$310,801 is allowable and \$818,955 is unallowable. The unallowable costs occurred because the county claimed costs for the housing of non-NGI defendants and misstated the DJRs for each year of the audit period.

The table below summarizes the audit adjustments:

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Allowable costs	\$ 26,432	\$ 148,782	\$ 135,587	\$ 310,801
Claimed costs	(220,195)	(468,101)	(441,460)	(1,129,756)
Audit adjustment	<u>\$ (193,763)</u>	<u>\$ (319,319)</u>	<u>\$ (305,873)</u>	<u>\$ (818,955)</u>

Housing Days

During the course of the audit, we used the county’s Inmate Case Report Summary reports to determine which defendants included in the county’s claims were NGI defendants. We noted that housing days were overstated by 2,535 days for FY 2001-02 (22 defendants), by 4,785 days for FY 2002-03 (51 defendants), and by 4,707 days for FY 2003-04 (34 defendants) because defendants claimed were not part of the NGI program.

We used the county’s Inmate History Report to determine how many days NGI defendants were held in the county jail during the audit period. The table below summarizes the number of housing days by fiscal year that the county was able to support with documentation:

	Fiscal Year			Total
	2001-02	2002-03	2003-04	
Allowable days	448	1,555	1,273	3,276
Claimed days	(2,983)	(6,340)	(5,980)	(15,303)
Audit adjustment	<u>(2,535)</u>	<u>(4,785)</u>	<u>(4,707)</u>	<u>(12,027)</u>

Daily Jail Rates

The county initially claimed DJRs of \$73.82 for FY 2001-02, FY 2002-03, and FY 2003-04. The county did not provide any documentation supporting this rate or explain how this rate was derived. For mandated cost claims, the claimants can compute DJRs based on actual costs.

During the course of the audit, the Sheriff’s Department provided actual cost documentation to support DJRs for FY 2002-03 and FY 2003-04. The actual cost information was in the DJR calculations for FY 2004-05 and FY 2005-06 that the Department of Corrections and Rehabilitation (CDCR) approved for Contra Costa County. We applied the rates noted in the table below to the documented housing days to determine allowable housing costs for FY 2002-03 and FY 2003-04.

For FY 2001-02, the county did not have documentation from CDCR for the FY 2003-04 DJR calculation and only provided some of its own cost information to support a DJR based on actual costs. Therefore, for FY 2001-02, we used the DJR of \$59 that the CDCR approved for Contra Costa County. We applied the rate to the documented housing days to determine allowable housing costs for FY 2001-02.

The following table summarizes the claimed and allowable costs, and audit adjustment amount by fiscal year for the Sheriff’s daily jail rates:

	Fiscal Year		
	2001-02	2002-03	2003-04
Allowable rate	\$ 59.00	\$ 95.68	\$ 106.51
Claimed rate	(73.82)	(73.82)	(73.82)
Audit variance	<u>\$ (14.82)</u>	<u>\$ 21.86</u>	<u>\$ 32.69</u>

If the county is able to provide actual cost information for the DJR that is applicable to FY 2001-02, we will revise the audit results accordingly. As noted above, we received some actual cost information from the county. We still need the following information applicable to the Martinez Detention Facility to compute a DJR based on actual costs:

- Medical costs (routine and non-routine),
- Booking costs,
- Indirect costs, and
- Offsetting reimbursements and applicable credits

Transportation Costs

The county claimed \$4,848 for FY 2001-02 for transportation costs. We determined that the entire amount is unallowable. We initially determined that \$2,263 was claimed for transportation of non-NGI defendants. The county did not provide any documentation to support the remaining \$2,585 of transportation costs for NGI defendants as provided by Tri-County Transportation. In addition, during discussions with Sheriff’s Department representatives, we determined that NGI defendants were transported between the county jail and the state hospital with other non-NGI defendants. Government Code

section 17514 states, “Costs mandated by the state means any increased costs which a local agency or school district is *required* [emphasis added] to incur. . . .” To the extent that the county transported NGI prisoners with other non-NGI prisoners in the same vehicle, at the same time, and with the same correctional officers for security, the county did not incur any increased costs.

The parameters and guidelines (section VI.A.2, Services, Equipment and Supplies) state that “Only expenditures that can be identified as a direct cost of the mandate may be claimed. List the cost of the materials or equipment consumed specifically for the purpose of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, specifically applied.”

The parameters and guidelines (section V.A, Claim Preparation and Submission–Supporting Documentation–Direct Costs) state that “direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities, or functions.”

The parameters and guidelines (section VI, Supporting Data) state that “for audit purposes, all costs shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars’, and declarations) that show evidence of the validity of such costs and their relationship to the state mandate program.”

Recommendation

We recommend that the county develop and implement an effective control and reporting system to ensure that all claimed costs are properly accounted for, and adequately supported.

County’s Response

It is the County’s intention to provide actual cost information for the daily jail rate (DJR) that is applicable to FY 2001-02 and to the Martinez Detention Facility by June 15, 2010. Specifically,

- Medical Costs (routine and non-routine);
- Booking costs;
- Indirect Costs; and
- Offsetting reimbursements and applicable credits.

Thank you for allowing us the opportunity to supply additional data. We expect a revision to the audit results upon your review of the supplemental information.

Mr. Brownfield’s letter is accepting of comments concerning the Draft Report. In light of this, we would like to make a point about transportation costs. Your audit determined that the entire amount of transportation costs claimed were unallowable due to the extent that the County transported NGI prisoners with other non-NGI prisoners in the same vehicle, at the same time, and with the same correctional officers and as such, the County did not incur any increased cost. This

interpretation did not consider the fact that a seat occupied by an NGI prisoner displaces seat availability for a non-NGI prisoner who must still be transported on yet another trip. We ask that the State Controller's Office consider the undeniable fact that a NGI prisoner was moved from point A to point B and that the trip cost was not zero, but rather, proportionate to the number of seats in the transport vehicle times a .55 per mile fuel cost.

SCO's Comment

The finding and recommendation remain unchanged. Our comments address the issues raised in the county's response in the order that they appear in the letter from Ms. Devlin.

- Prisoner Housing Costs

We advised the county by e-mail on May 17, 2010, that we needed the additional information no later than June 4, 2010. We have not yet received any additional information to calculate daily jail rates based on actual costs incurred for FY 2001-02. As we already noted in the body of the finding, if the county is able to provide actual cost information, we will revise the audit results accordingly.

- Transportation Costs

The county's response contains the statement "This interpretation did not consider the fact that a seat occupied by an NGI prisoner displaces seat availability for a non-NGI prisoner who must still be transported on yet another trip." This statement implies that the county's vehicle used to transport prisoners was full and that a return trip was necessary to pick up the displaced prisoner. If the county can document that this scenario occurred—meaning that additional costs were incurred for prisoner transportation for both mileage and security personnel because of the mandated program—the costs incurred would be allowable.

We don't deny the fact that an NGI prisoner was moved from one location to another. However, one of the tenets of mandated costs is that local agencies are to be reimbursed for the increased costs incurred to comply with a mandated program. On this issue, we determined that no additional costs were incurred to transport NGI prisoners, as the trips to/from the county jail were already being made to transport non-NGI prisoners. In other words, the county would have incurred the same costs to operate the vehicle, along with the labor costs associated with the driver and security personnel, regardless of whether an NGI prisoner was in the vehicle or not.

We would allow additional costs if the county can support costs related to any of the following scenarios:

- The mandate-related prisoner was transported separately;
- The mandate-related prisoner was transported only with other mandate-related prisoners (in which case the costs could be pro-rated between mandated programs); or
- A separate trip was required to transport a non-mandate prisoner because of the requirement to transport a mandate-related prisoner.

**Attachment—
County’s Response to
Draft Audit Report**



County of Contra Costa
Office of the Sheriff
Warren E. Rupf
Sheriff

May 11, 2010

Mr. Jim L. Spano
Chief, Mandated Cost Audits Bureau
State Controllers Office - Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

RE: SB90 Not Guilty by Reason of Insanity (NGI) Program

Dear Mr. Spano:

I am in receipt of Jeffery V. Brownfield's letter dated April 22, 2010, addressed to the Honorable Steven Ybarra, Auditor-Controller Contra Costa County, and the accompanying draft Audit Report titled "Not Guilty by Reason of Insanity Program."

It is the County's intention to provide actual cost information for the daily jail rate (DJR) that is applicable to FY 2001-02 and to the Martinez Detention Facility by June 15, 2010. Specifically,

- Medical Costs (routine and non-routine);
- Booking costs;
- Indirect Costs; and
- Offsetting reimbursements and applicable credits.

Thank you for allowing us the opportunity to supply additional data. We expect a revision to the audit results upon your review of the supplemental information.

Mr. Brownfield's letter is accepting of comments concerning the Draft Report. In light of this, we would like to make a point about transportation costs. Your audit determined that the entire amount of transportation costs claimed were unallowable due to the extent that the County transported NGI prisoners with other non-NGI prisoners in the same vehicle, at the same time, and with the same correctional officers and as such, the County did not incur any increased cost. This interpretation did not consider the fact that a seat occupied by an NGI prisoner displaces seat availability for a non-NGI prisoner who must still be transported on yet another trip. We ask that the State Controller's Office consider the undeniable fact that a NGI prisoner was moved

Mr. Jim L. Spano

-2-

May 11, 2010

from point A to point B and that the trip cost was not zero, but rather, proportionate to the number of seats in the transport vehicle times a .55 per mile fuel cost.

We would appreciate your deliberation of this point for FYs 2001-02 through 2003-04 and welcome the opportunity to discuss further. Please do not hesitate to call me. I can be reached at (925) 335-1557.

Sincerely,

A handwritten signature in blue ink that reads "Eileen Devlin". The signature is fluid and cursive, with the first name being more prominent.

Eileen Devlin
Sheriff's Chief of Management Services

ED/bk

cc: The Honorable Stephen Ybarra, Auditor-Controller Contra Costa County

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

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