



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

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

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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 Hudspeth County, Texas. From fiscal years (FYs) 2002 through 2008, Hudspeth County received SWBPI funding totaling \$6,190,854 on a pro-rata basis. Hudspeth County has also requested but not yet received \$177,737 in SWBPI funding for FY 2009.

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, e.g., High Intensity Drug Trafficking Areas (HIDTA) and Organized Crime Drug Enforcement Task Forces (OCDETF). Many U.S. Attorneys have developed prosecution guidelines that govern the most common violations of federal law. These prosecution guidelines are used by law enforcement agencies to determine whether to file a case in federal, state, or county court. As a result, many federally initiated cases occurring near the southwest border are referred to the state or county for prosecution.

The SWBPI was established in FY 2002, when Congress began appropriating funds to reimburse state, county, parish, tribal, and municipal governments for costs associated with the prosecution of criminal cases declined by local U.S. Attorneys' offices. Reimbursements received from SWBPI funding may be used by applicant jurisdictions for any purpose not otherwise prohibited by federal law. For FY 2010, Congress appropriated \$31 million for the SWBPI.

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

We found that Hudspeth 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 \$479,595 and funds to better use totaling \$900.¹ Specifically, we found cases that were: (1) investigated or prosecuted concurrently, (2) claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (3) not federally initiated, (4) submitted in the wrong quarter, (5) missing case file information, (6) claimed using a pre-trial detention rate that exceeded the approved federal rate, (7) claimed for detention reimbursement after disposition, (8) submitted in the wrong reimbursement category, and (9) not supported by the master case listing.

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.

¹ The Inspector General Act of 1978, as amended, contains our reporting requirements for questioned costs. However, not all findings are dollar-related. See Appendix II for a breakdown of our dollar-related findings and for definitions of questioned costs and funds to better use.

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INTRODUCTION

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

Background

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

For FY 2010, Congress appropriated \$31 million in funding for the SWBPI, Pub. L. No. 111-117 (2010), 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.

For cases disposed of between FY 2002 and the second quarter of FY 2008, each eligible case submitted for prosecution or pre-trial detention services only received the following maximum reimbursement, based upon the length of disposition and the availability of funds:

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

For cases disposed of between FY 2002 and the second quarter of FY 2008, each eligible case submitted for both prosecution and pre-trial detention services submitted for reimbursement, received the following maximum reimbursement based upon the length of disposition and the availability of funds:

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

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

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

disposition and are calculated using the published federal detention per diem rate for the jurisdiction.

For cases disposed in FY 2009, 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 following table shows the pro-rata reimbursement percentages for Hudspeth County. No SWBPI funds were available for the fourth quarter of FY 2004.

PRO-RATA REIMBURSEMENT BASIS TO HUDSPETH COUNTY

REPORTING PERIOD	START DATE	END DATE	PERCENTAGE REIMBURSED
FY02, All Quarters	10/01/01	9/30/02	100%
FY03, 1 st and 2 nd Quarters	10/01/02	3/31/03	100%
FY03, 3 rd Quarter	04/01/03	06/30/03	100%
FY03, 4 th Quarter	07/01/03	09/30/03	100%
FY04, 1 st Quarter	10/01/03	12/31/03	100%
FY04, 2 nd Quarter	01/01/04	03/31/04	100%
FY04, 3 rd Quarter	04/01/04	06/30/04	81.00%
FY05, 1 st Quarter	10/01/04	12/31/04	49.29%
FY05, 2 nd Quarter	01/01/05	03/31/05	44.08%
FY05, 3 rd Quarter	04/01/05	06/30/05	47.40%
FY05, 4 th Quarter	07/01/05	09/30/05	50.16%
FY06, 1 st Quarter	10/01/05	12/31/05	53.18%
FY06, 2 nd Quarter	01/01/06	03/31/06	47.61%
FY06, 3 rd Quarter	04/01/06	06/30/06	43.09%
FY06, 4 th Quarter	07/01/06	09/30/06	44.05%
FY07, 1 st Quarter	10/01/06	12/31/06	52.34%
FY07, 2 nd Quarter	01/01/07	03/31/07	52.45%
FY07, 3 rd Quarter	04/01/07	06/30/07	49.03%
FY07, 4 th Quarter	07/01/07	09/30/07	57.26%
FY08, 1 st Quarter	10/01/07	12/31/07	86.97%
FY08, 2 nd Quarter	01/01/08	03/31/08	71.63%
FY08, 3 rd Quarter	04/01/08	06/30/08	111.05%
FY08, 4 th Quarter	07/01/08	09/30/08	109.15%

Source: Office of Justice Programs

As shown in the following table, Hudspeth County received reimbursements from SWBPI funds totaling \$6,190,854 from FYs 2002 through 2008.

REIMBURSEMENTS TO HUDSPETH COUNTY¹

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY02, all Quarters	10/01/01	09/30/02	\$ 1,527,500	\$ 1,527,500
FY03, 1 st & 2 nd Quarters	10/01/02	03/31/03	482,500	482,500
FY03, 3 rd Quarter	04/01/03	06/30/03	263,750	263,750
FY03, 4 th Quarter	07/01/03	09/30/03	421,250	421,250
FY04, 1 st Quarter	10/01/03	12/31/03	353,750	353,750
FY04, 2 nd Quarter	01/01/04	03/31/04	410,000	410,000
FY04, 3 rd Quarter	04/01/04	06/30/04	587,500	475,875
FY05, 1 st Quarter	10/01/04	12/31/04	362,500	178,666
FY05, 2 nd Quarter	01/01/05	03/31/05	505,000	222,607
FY05, 3 rd Quarter	04/01/05	06/30/05	380,000	180,125
FY05, 4 th Quarter	07/01/05	09/30/05	427,500	214,420
FY06, 1 st Quarter	10/01/05	12/31/05	335,000	178,158
FY06, 2 nd Quarter	01/01/06	03/31/06	160,000	76,183
FY06, 3 rd Quarter	04/01/06	06/30/06	237,500	102,327
FY06, 4 th Quarter	07/01/06	09/30/06	287,500	126,637
FY07, 1 st Quarter	10/01/06	12/31/06	217,500	113,829
FY07, 2 nd Quarter	01/01/07	03/31/07	242,500	127,186
FY07, 3 rd Quarter	04/01/07	06/30/07	215,000	105,422
FY07, 4 th Quarter	07/01/07	09/30/07	232,500	133,139
FY08, 1 st Quarter	10/01/07	12/31/07	302,500	263,088
FY08, 2 nd Quarter	01/01/08	03/31/08	210,000	150,414
FY08, 3 rd Quarter	04/01/08	06/30/08	60,014	66,645
FY08, 4 th Quarter	07/01/08	09/30/08	15,926	17,383
TOTAL				\$6,190,854

Source: Office of Justice Programs

Additionally, as shown in the following table, Hudspeth County has requested, but not yet received reimbursements totaling \$177,737 for FY 2009.

¹ 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.

REIMBURSEMENTS REQUESTED BY HUDSPETH COUNTY

REPORTING PERIOD	START DATE	END DATE	AMOUNT REQUESTED	AMOUNT REIMBURSED
FY09, 1 st Quarter	10/01/08	12/31/08	\$ 47,429	Not Yet Determined
FY09, 2 nd Quarter	01/01/09	03/31/09	34,869	Not Yet Determined
FY09, 3 rd Quarter	04/01/09	06/30/09	38,217	Not Yet Determined
FY09, 4 th Quarter	07/01/09	09/30/09	57,221	Not Yet Determined
Total			\$177,737	N/A

Source: Office of Justice Programs

FINDINGS AND RECOMMENDATIONS

We found that Hudspeth County claimed and was reimbursed for cases that were ineligible under the SWBPI guidelines.

Specifically, we found cases that were: (1) investigated or prosecuted concurrently, (2) claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention, (3) not federally initiated, (4) submitted in the wrong quarter, (5) missing case file information, (6) claimed using a pre-trial detention rate that exceeded the approved federal rate, (7) claimed for detention reimbursement after disposition, (8) submitted in the wrong reimbursement category, and (9) not supported by the master case listing. As a result, we identified questioned costs totaling \$479,595 and funds to better use totaling \$900.

Case Eligibility

Pursuant to the SWBPI guidelines, an eligible case is any federally initiated criminal case that the U.S. Attorney declined to prosecute and referred to the state or local government for prosecution, which was prosecuted by the state or local government and disposed of during an eligible reporting period. The SWBPI guidelines define federally initiated as a case resulting from a criminal investigation or an arrest involving federal law enforcement authorities for a potential violation of federal criminal law. This may include investigations resulting from multi-jurisdictional task forces, e.g., High Intensity Drug Trafficking Areas (HIDTA) and Organized Crime Drug Enforcement Task Forces (OCDETF). The SWBPI guidelines further state that, "referred cases are eligible regardless of whether the case was formally declined and referred by a U.S. Attorney, or through a blanket federal declination-referral policy, an accepted federal law enforcement practice, or by federal prosecutorial discretion." Federally referred cases that are declined and not prosecuted by the state or local government are ineligible for reimbursement.

We analyzed the 1,093 cases submitted for reimbursement by Hudspeth County to determine whether the cases were eligible for reimbursement under the requirements of the SWBPI guidelines.

Based on our review, we found that Hudspeth County received SWBPI funds totaling \$479,595 for 151 cases that were not eligible for reimbursement pursuant to the SWBPI guidelines. Additionally, Hudspeth

County requested but had not yet received SWBPI funds totaling \$900 for 23 cases that were not eligible for detention reimbursements, as described below. A detailed listing of the cases claimed by Hudspeth County that were not eligible for reimbursement is provided in Appendix III. Specifically, we found that Hudspeth County:²

- Received unallowable reimbursements totaling \$240,574 for 37 cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
- Received excess reimbursements totaling \$163,104 for 70 cases that were submitted under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.
- Received unallowable reimbursements totaling \$33,142 for seven cases that were not federally initiated.
- Received unallowable reimbursements totaling \$16,168 for four cases that were submitted in the wrong quarter.
- Received unallowable reimbursements totaling \$10,726 for two cases for which supporting case information could not be located.
- Received excess reimbursements totaling \$5,440 for 27 cases, for which the detention rate claim exceeded the approved federal detention rate for the county.
- Received unallowable reimbursements totaling \$2,622 for one case that included incarceration costs after the case was disposed.
- Received unallowable reimbursements totaling \$2,500 for two cases that cases that were erroneously submitted in the wrong reimbursement category.
- Requested, but not yet received, reimbursements totaling \$900 for 23 cases that were claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

² 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.

Accuracy of Reimbursements

Hudspeth 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 FYs 2002 through 2007, eligible cases were reimbursed using a uniform payment per case schedule based on the length of disposition, which is calculated from the date of the suspect's arrest through case resolution. Resolution of the case is defined as dismissal, conviction, or plea.

We reviewed the reimbursement requests submitted by Hudspeth County for FYs 2002 through 2007, to determine if the number of cases claimed for each disposition category was supported by the detailed case listings obtained during fieldwork.³ Based on our review, we determined that the reimbursement requests were not always supported by the master case listing resulting in excess reimbursements totaling \$5,318, as shown in the following table.

³ 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.

**UNSUPPORTED CASES CLAIMED FOR
REIMBURSEMENT FOR THE QUARTER ENDED DECEMBER 31, 2005**

DISPOSITION CATEGORIES	CASES CLAIMED	ACTUAL CASES	DIFFERENCE	UNSUPPORTED QUESTIONED COSTS
1 – 15 Days	0	0	0	\$0
16 – 30 Days	0	0	0	0
31 – 90 Days	6	6	0	0
91 + Days	29	28	1	5,318
TOTAL EXCESS REIMBURSEMENTS				\$5,318

Source: Hudspeth County and OJP

Recommendations

We recommend that OJP:

1. Remedy the \$240,574 in questioned costs received by Hudspeth County for 37 cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
2. Remedy the \$163,104 in questioned costs received by Hudspeth County for 70 cases that were submitted under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.
3. Remedy the \$33,142 in questioned costs received by Hudspeth County for seven cases that were not federally initiated.
4. Remedy the \$16,168 in questioned costs received by Hudspeth County for four cases that were submitted in the wrong quarter.
5. Remedy the \$10,726 in questioned costs received by Hudspeth County for two cases for which supporting case information could not be located.
6. Remedy the \$5,440 in questioned costs received by Hudspeth County for 27 cases for which the detention rate claim exceeded the approved federal detention rate for the county.
7. Remedy the \$5,318 in questioned costs received by Hudspeth County related to the case claimed that was not supported by the master case list.

8. Remedy the \$2,622 in questioned costs received by Hudspeth County for one case that included incarceration costs after the case was disposed.
9. Remedy the \$2,500 in questioned costs received by Hudspeth County for two cases that cases that were erroneously submitted in the wrong reimbursement category.
10. Remedy the \$900 in funds to better use requested, but not yet received by Hudspeth County for 23 cases that were claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

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

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit concentrated on, but was not limited to, the inception of the reimbursements through September 30, 2009.

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 Hudspeth 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 Hudspeth County as a whole. The Single Audit Report for Hudspeth County was prepared under the provisions of Office of Management and Budget Circular A-133 for the fiscal year ended September 30, 2009. We reviewed the independent auditor's assessment to identify internal control weaknesses and significant non-compliance issues related to Hudspeth County or federal programs. The auditor's assessment disclosed no material control weaknesses or significant non-compliance issues related to the SWBPI. In addition, we performed testing of source documents to assess the accuracy of reimbursement requests; however, we did not test the reliability of the financial management system as a whole.

APPENDIX II

SCHEDULE OF DOLLAR-RELATED FINDINGS

QUESTIONED COSTS¹	<u>AMOUNT</u>	<u>PAGE</u>
Unallowable cases that were prosecuted concurrently.	\$240,574	8
Excess reimbursements for cases that were erroneously claimed as both prosecution and pre-trial detention that did not meet the pre trial detention requirement.	163,104	8
Unallowable cases that were not federally initiated.	33,142	8
Unallowable cases that were submitted in the wrong quarter.	16,168	8
Unsupported reimbursements for cases for which the supporting case file information could not be located.	10,726	8
Excess reimbursements for cases that were claimed with an inflated detention rate.	5,440	8
Unsupported reimbursements for cases that were not supported by the master case list.	5,318	9
Unallowable cases for which incarceration costs were claimed after the case was disposed.	2,622	8
Excess reimbursements for cases that were submitted under the wrong reimbursement category.	2,500	9
TOTAL QUESTIONED COSTS	\$479,595	

¹ **Questioned Costs** are expenditures that do not comply with legal, regulatory or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

APPENDIX II

FUNDS TO BETTER USE²

Excess reimbursements for cases that were erroneously claimed as both prosecution and pre-trial detention that did not meet the pre-trial detention requirement.

\$900 9

TOTAL FUNDS TO BETTER USE

\$900

TOTAL DOLLAR-RELATED FINDINGS

\$480,495

² **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.

HUDSPETH COUNTY DETAILS OF QUESTIONED COSTS

CASES THAT WERE CONCURRENTLY PROSECUTED¹

CASE NO.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
HU-3117-A	FY04-1	31-90 Days	Both	\$7,500
HU-3078	FY04-1	91+ Days	Both	10,000
HU-3103	FY04-1	31-90 Days	Both	7,500
HU-3117	FY04-1	31-90 Days	Both	7,500
HU-3123	FY04-1	16-30 Days	Both	5,000
HU3147-B	FY04-3	91+ Days	Both	8,100
HU-3147-A	FY04-3	91+ Days	Both	8,100
HU-6820	FY03-4	91+ Days	Pros. Only	5,000
HU-2535	FY03-1&2	91+ Days	Both	10,000
HU-6703	FY04-3	91+ Days	Both	8,100
HU-3204	FY04-3	16-30 Days	Both	4,050
HU-3203-B	FY04-3	31-90 Days	Both	6,075
HU-2957	FY03-4	91+ Days	Both	10,000
HU3179	FY05-2	91+ Days	Both	4,408
HU3008A	FY05-2	91+ Days	Both	4,408
HU3179	FY05-2	91+ Days	Both	4,408
HU2838-B	FY03-4	31-90 Days	Both	7,500
CR-7510	FY08-2	91+ Days	Both	7,163
CR-7511	FY08-2	91+ Days	Both	7,163
HU-3041-A	FY03-4	91+ Days	Both	10,000
HU-2838-B	FY03-4	91+ Days	Pros. Only	5,000
HU-3113-D	FY04-3	91+ Days	Both	8,100
HU-3041-B	FY03-4	91+ Days	Both	10,000
HU3494	FY06-3	91+ Days	Both	4,309
HU-3101	FY04-1	31-90 Days	Both	7,500
HU3391A	FY05-3	91+ Days	Both	4,740
HU3159A	FY05-3	91+ Days	Both	4,740
HU3158	FY05-3	91+ Days	Both	4,740
HU2717	FY05-2	91+ Days	Both	0
HU3266	FY05-4	91+ Days	Both	5,016
CR-7001	FY06-1	91+ Days	Both	5,318
HU3493	FY06-3	91+ Days	Both	4,309
HU-6702	FY04-3	91+ Days	Both	8,100
HU3244	FY05-2	91+ Days	Both	0
HU-3052	FY04-3	91+ Days	Both	8,100
CR-7079	FY05-3	91+ Days	Both	4,740

¹ The number of unallowable cases detailed throughout this report includes cases that have \$0 in questioned costs because the cases were questioned previously, based on other SWBPI reimbursement criteria.

APPENDIX III

CASE No.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
HU3287	FY05-2	91+ Days	Both	0
HU3045	FY05-2	91+ Days	Both	0
HU3391C	FY05-3	91+ Days	Both	4,740
HU3279	FY05-2	91+ Days	Both	0
HU3391B	FY05-3	91+ Days	Both	4,740
HU3371	FY05-2	91+ Days	Both	4,408
Total				\$240,574

APPENDIX III

CASES WITH UNALLOWABLE DETENTION

CASE NO.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	BOOKING DATE	AMOUNT QUESTIONED
HU3376	FY05-3	31-90 Days	3/3/2005	\$1,778
HU3296	FY05-2	91+ Days	9/9/2004	2,204
HU2982	FY05-2	91+ Days	1/27/2003	2,204
HU3730A	FY07-3	91+ Days	2/16/07	2,452
HU3730B	FY07-3	91+ Days	2/16/07	2,452
HU3550	FY07-3	91+ Days	4/30/06	2,452
HU3533	FY07-3	91+ Days	1/18/06	2,452
HU3478	FY07-3	91+ Days	10/11/05	2,452
HU2731A	FY07-3	91+ Days	10/4/01	2,452
CR-7280	FY07-3	91+ Days	5/26/2006	2,452
CR-7363	FY07-3	91+ Days	N/A	2,452
HU3295A	FY05-1	91+ Days	8/26/2004	2,464
CR-6887	FY05-4	91+ Days	7/23/2003	2,508
HU3541B	FY07-1	91+ Days	4/9/06	2,617
HU3677A	FY07-1	91+ Days	12/6/05	2,617
HU3676	FY07-1	91+ Days	6/19/06	2,617
HU3652	FY07-1	91+ Days	6/15/06	2,617
HU3643	FY07-1	91+ Days	5/15/06	2,617
HU3504	FY07-1	91+ Days	3/1/06	2,617
HU3687	FY07-2	91+ Days	9/18/06	2,622
HU3683	FY07-2	91+ Days	9/10/06	2,622
HU3671B	FY07-2	91+ Days	8/24/06	2,622
HU3671A	FY07-2	91+ Days	8/24/06	2,622
HU3681	FY07-2	91+ Days	8/13/06	2,622
HU3711	FY07-2	91+ Days	9/7/06	2,622
HU3694	FY07-2	91+ Days	7/5/06	2,622
HU3542-B	FY07-4	91+ Days	4/11/2006	2,863
HU3542	FY07-4	91+ Days	4/11/2006	2,863
HU3515	FY07-4	91+ Days	1/22/2006	2,863
HU3736	FY07-4	91+ Days	11/25/2006	2,863
HU3716	FY07-4	91+ Days	12/15/2006	2,863
HU3732	FY07-4	91+ Days	3/5/2007	2,863
CR-7386	FY07-4	91+ Days	12/28/2006	2,863
HU3917	FY08-2	91+ Days	N/A	3,581
HU3932	FY08-2	91+ Days	7/12/2007	3,581
HU3951	FY08-2	91+ Days	8/30/2007	3,581
HU3745-B	FY08-2	91+ Days	3/14/2007	3,581
HU3953	FY08-2	91+ Days	7/1/2007	3,581
CR-7512	FY08-2	91+ Days	4/25/2007	3,581
CR-7513	FY08-2	91+ Days	4/24/2007	3,581
CR-7514	FY08-2	91+ Days	4/25/2007	3,581
HU-3117	FY04-1	31-90 Days	10/17/2003	0
HU3914	FY08-1	91+ Days	4/15/2007	4,349

APPENDIX III

CASE No.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	BOOKING DATE	AMOUNT QUESTIONED
HU3915	FY08-1	91+ Days	3/14/2007	4,349
HU3926	FY08-1	91+ Days	6/29/2007	4,349
HU3930	FY08-1	91+ Days	4/19/2007	4,349
HU-2934-A	FY03-1&2	91+ Days	7/28/2002	5,000
HU-2836-B	FY03-1&2	91+ Days	5/6/2002	5,000
HU-6627	FY03-3	91+ Days	2/10/2002	5,000
HU2997	FY04-1	91+ Days	2/12/2003	5,000
HU3109	FY04-2	91+ Days	9/17/2003	5,000
HU3150-A	FY04-2	91+ Days	10/22/2003	5,000
HU4046-B	FY08-3	N/A	4/23/2008	1,175
HU3432	FY08-3	N/A	6/5/2005	153
HU3961	FY08-3	N/A	10/18/2007	102
HU3992-A	FY08-3	N/A	6/4/2007	51
HU3946-A	FY08-3	N/A	5/31/2007	51
HU2711-B	FY08-3	N/A	8/3/2001	51
HU3919-B	FY08-3	N/A	5/29/2007	51
HU3972	FY08-3	N/A	11/2/2007	51
HU3731	FY08-3	N/A	12/7/2006	51
CR-7544	FY08-3	N/A	6/6/2007	50
CR-7546	FY08-3	N/A	6/7/2007	50
CR-7547	FY08-3	N/A	6/7/2007	50
CR-7559	FY08-3	N/A	5/20/2007	50
HU4057-A	FY08-4	N/A	3/6/2008	50
HU4056	FY08-4	N/A	2/19/2008	50
HU4015	FY08-4	N/A	1/14/2008	50
HU3705	FY08-4	N/A	11/16/2006	50
CR-7589	FY08-4	N/A	6/17/2007	50
Total				\$163,104

APPENDIX III

CASES THAT WERE NOT FEDERALLY INITIATED

CASE No.	INITIATING AGENCY	OFFENSE	REIMBURSEMENT CATEGORY	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
HU2915	Texas Dept. of Public Safety	N/A	91+ Days	Both	\$10,000
HU3318	USBP	BAIL JUMPING	91+ Days	Both	4,408
HU3316	USBP	BAIL JUMPING	91+ Days	Both	4,408
HU3350	USBP	BAIL JUMPING	91+ Days	Both	4,408
HU3315	USBP	BAIL JUMPING	31-90 Days	Both	3,306
HU3284	USBP	BAIL JUMPING	31-90 Days	Both	3,306
HU3341	USBP	BAIL JUMPING	31-90 Days	Both	3,306
Total					\$33,142

CASES REIMBURSED IN THE WRONG QUARTER

CASE No.	QUARTER SUBMITTED	DISPOSITION DATE	AMOUNT QUESTIONED
HU-2888	FY03-1&2	9/16/2002	\$5,000
CR-6985	FY05-2	8/10/2004	4,408
CR-7122	FY06-3	12/13/2005	4,309
CR-7280	FY07-3	10/10/2006	2,452
Total			\$16,168

MISSING CASE FILE INFORMATION

CASE No.	INITIATING AGENCY	PROSECUTION ONLY OR BOTH	REIMBURSEMENT CATEGORY	AMOUNT QUESTIONED
HU-946	N/A	Pros. Only	91+ Days	\$5,000
HU-3716	HCSO	Both	91+ Days	5,726
Total				\$10,726

EXCESS DETENTION REIMBURSEMENTS

CASE No.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	PROSECUTION ONLY OR BOTH	AMOUNT QUESTIONED
HU4046-C	FY08-3	4/23/2008	5/15/2008	\$220
HU4046-A	FY08-3	4/23/2008	5/15/2008	220
HU4037	FY08-3	3/27/2008	6/16/2008	810
HU3946-A	FY08-3	8/29/2007	5/14/2008	2,590
HU3986	FY08-3	11/17/2007	4/10/2008	60
HU3984	FY08-3	11/20/2007	4/17/2008	280
HU2711-A	FY08-3	8/3/2001	4/17/2008	30
HU3996	FY08-3	10/21/2007	6/16/2008	10
HU4011	FY08-3	1/20/2008	6/16/2008	240
HU3747	FY08-3	2/28/2007	6/26/2008	10
HU3988-A	FY08-3	6/10/2007	6/26/2008	10
HU3988-B	FY08-3	6/10/2007	6/26/2008	10
HU4004	FY08-3	12/27/2007	6/26/2008	10
HU4033	FY08-3	12/31/2007	6/26/2008	20
HU3912	FY08-3	4/3/2007	6/26/2008	20
HU4022-A	FY08-3	2/15/2008	6/16/2008	20
HU4022-B	FY08-3	2/15/2008	6/16/2008	20
CR-7582	FY08-3	9/1/2007	5/14/2008	10
CR-7583	FY08-3	9/1/2007	5/14/2008	10
CR-7587	FY08-3	7/1/2007	5/14/2008	630
CR-7612	FY08-3	9/17/2007	6/18/2008	10
HU4041-B	FY08-4	1/28/2008	7/7/2008	40
HU4021	FY08-4	2/1/2008	8/11/2008	100
HU4010	FY08-4	1/13/2008	8/11/2008	10
HU4043-A	FY08-4	12/21/2007	9/21/2008	20
HU3998	FY08-4	12/6/2007	9/21/2008	10
CR-7599	FY08-4	6/17/2007	7/16/2008	20
Total				\$5,440

CASE REIMBURSED FOR INCARCERATION AFTER DISPOSITION

CASE No.	DISPOSITION DATE	BOOKING DATE	REIMBURSEMENT CATEGORY	AMOUNT QUESTIONED
HU3704	3/12/2007	12/6/07	91+ Days	\$2,622
Total				\$2,622

EXTRA DAYS REIMBURSED

CASE NO.	QUARTER SUBMITTED	REIMBURSEMENT CATEGORY	CASE LENGTH (DAYS)	AMOUNT QUESTIONED
HU-2892	FY02-All	31-90 Days	29	\$1,250
HU-2891	FY02-All	91+ Days	65	1,250
Total				\$2,500

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

CASES WITHOUT 24 HOUR DETENTION PERIOD

CASE No.	DISPOSITION DATE	BOOKING DATE	QUARTER SUBMITTED	AMOUNT QUESTIONED
HU-3723-A	10/13/2008	1/10/2007	FY09-1	\$72
HU-4111	4/6/2009	12/4/2008	FY09-3	72
HU-4083	12/2/2008	8/22/2008	FY09-1	36
HU-4068	12/2/2008	7/22/2008	FY09-1	36
HU-4023-B	11/20/2008	2/20/2008	FY09-1	36
HU-3994	10/16/2008	9/11/2007	FY09-1	36
HU-2722	12/2/2008	10/31/2001	FY09-1	36
HU-4085-A	1/29/2009	6/29/2008	FY09-2	36
HU-4085-B	1/29/2009	6/29/2008	FY09-2	36
HU-3999	2/20/2009	11/21/2007	FY09-2	36
HU-4086	3/19/2009	7/25/2008	FY09-2	36
HU-4102	3/16/2009	11/7/2008	FY09-2	36
CR-7686	3/17/2009	3/8/2008	FY09-2	36
HU-4017	6/1/2009	6/4/2007	FY09-3	36
HU-4090	6/9/2009	9/17/2008	FY09-3	36
CR-7318	5/11/2009	4/3/2006	FY09-3	36
HU-4160	9/21/2009	6/29/2009	FY09-4	36
HU-4153-B	9/17/2009	9/17/2009	FY09-4	36
HU-4145	9/21/2009	4/8/2009	FY09-4	36
HU-4124	9/17/2009	2/25/2009	FY09-4	36
HU-4039-A	9/9/2009	2/26/2008	FY09-4	36
CR-7751	8/24/2009	7/13/2008	FY09-4	36
CR-7758	8/24/2009	7/13/2008	FY09-4	36
Total				\$900

HUDSPETH COUNTY RESPONSE TO THE DRAFT REPORT

YOLANDA P. ESPARZA
HUDSPETH COUNTY AUDITOR
P.O. BOX 279
SIERRA BLANCA, TEXAS 79851
PHONE: (915) 369-4147
FAX: (915) 369-2407

October 26, 2010

David M. Sheeren
Regional Audit Manager
(OIG) Denver Regional Audit Office
1120 Lincoln, Suite 1500
Denver, Colorado 80203

Dear Mr. Sheeren:

We would very much like to work with OJP to have the opportunity to address each individual recommendation and remedy by providing documentation necessary to support corrective action for cost allowed.

1. On recommendation number one, we will see that a request for reimbursement is not submitted for a defendant for more than one crime at one time. Our information comes from the District Attorneys office in El Paso, Texas. They obviously were not aware of this rule, and neither were we.
2. On recommendation number two, we will not submit a request for reimbursement in the future on any person that does not meet the pre-trial standard. We are going to check the Jail records to see if each of the 70 cases actually did not meet the pre-trial detention period.
3. On recommendation number three, we will furnish documentation showing that these seven cases were Federal Initiated Cases, but a misunderstanding of the coding used by the District Attorney's office was misleading to the Auditors.
4. On recommendation number four, we will furnish documentation showing for which quarter these 4 cases should have been reimbursed. In doing so, please give us credit on the correct quarter once we send the information.

5. On recommendation number five, we are checking documents from our county jail to support allowable cost for these two cases.
6. On recommendation number six, we have submitted a request to the Federal Officials to upgrade the per diem paid to Hudspeth County in light of the actual cost being a concern. The figures have remained at \$36.00 per day as of today, while our neighbor in Presidio County has been approved for \$60.00 per day per inmate. The local prison (Emerald Prison) per diem is \$60.00 per day by the U.S. Marshals, (copy attached), and they have requested an upgrade. We can not actually house and take care of prisoners for \$36.00 per day. We are taking a tremendous lose.
7. On recommendation number seven, we will check if miscoding occurred or misinformation was provided. We will check the master file listing to determined if the number reported was correct. We may need to provide documentation for you to tell us if these cases are allowable.
8. On recommendation number eight, we believe that the dates were reversed by mistake on the District Attorneys report. We will obtain the correct records from the jail to provide documentation of the correct dates.
9. On recommendation number nine, we will get the correct dates so as to put the two cases in the correct category.
10. On recommendation number ten, we will double check our records on the 23 cases that you are saying did not qualify for pre-trial detention and we will send in the correction if necessary before payment is issued.

Unfortunately, we have to travel two hours one way to obtain documents from the District Attorneys office in El Paso, Texas. Once we obtain them we will forward the rest of the supporting documents to you. We look forward to working with you in resolving the recommendations.

Sincerely,

Yolanda P. Esparza
Hudspeth County Auditor

cc: Linda Taylor

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

November 5, 2010

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

FROM: /s/
Maureen A. Henneberg
Director

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

This memorandum is in response to your correspondence, dated October 6, 2010, transmitting the subject draft audit report for Hudspeth County (County). We consider the subject report resolved and request written acceptance of this action from your office.

The report contains **10** recommendations, **\$479,595** in questioned costs, and **\$900** 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 \$240,574 in questioned costs received by Hudspeth County for 37 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 \$240,574 in questioned costs related to the 37 cases that were investigated or prosecuted

during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.

- 2. We recommend that OJP remedy the \$163,104 in questioned costs received by Hudspeth County for 70 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.**

We agree with the recommendation. We will coordinate with the County to remedy the \$163,104 in questioned costs related to the 70 cases that were submitted under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

- 3. We recommend that OJP remedy the \$33,142 in questioned costs received by Hudspeth County for seven cases that were not Federally initiated.**

We agree with the recommendation. We will coordinate with the County to remedy the \$33,142 in questioned costs received by the County for seven cases that were not Federally initiated.

- 4. We recommend that OJP remedy the \$16,168 in questioned costs received by Hudspeth County for four cases that were submitted in the wrong quarter.**

We agree with the recommendation. We will coordinate with the County to obtain adequate documentation to demonstrate that the \$16,168 received by the County for the four cases submitted in the wrong quarter were otherwise allowable. On previous cases, OJP has not required funds to be returned for cases submitted in the wrong quarter, if all of the other case requirements were met.

- 5. We recommend that OJP remedy the \$10,726 in questioned costs received by Hudspeth County for two cases for which supporting case information could not be located.**

We agree with the recommendation. We will coordinate with the County to remedy the \$10,726 in questioned costs received by the County for two cases for which supporting case information could not be located.

- 6. We recommend that OJP remedy the \$5,440 in questioned costs received by Hudspeth County for 27 cases, for which the detention rate claim exceeded the approved Federal detention rate for the County.**

We agree with the recommendation. We will coordinate with the County to remedy the \$5,440 in questioned costs related to the 27 cases for which the detention rate claim exceeded the approved Federal detention rate for the County.

7. **We recommend that OJP remedy the \$5,318 in questioned costs received by Hudspeth County related to the case claimed that was not supported by the master case list.**

We agree with the recommendation. We will coordinate with the County to remedy the \$5,318 in questioned costs related to the case claimed that was not supported by the master case list.

8. **We recommend that OJP remedy the \$2,622 in questioned costs received by Hudspeth County for one case that included incarceration costs after the case was disposed.**

We agree with the recommendation. We will coordinate with the County to remedy the \$2,622 in questioned costs received by the County for one case that included incarceration costs after the case was disposed.

9. **We recommend that OJP remedy the \$2,500 in questioned costs received by Hudspeth County for two cases that were erroneously submitted in the wrong reimbursement category.**

We agree with the recommendation. We will coordinate with the County to remedy the \$2,500 in questioned costs received by the County for two cases that were erroneously submitted in the wrong reimbursement category.

10. **We recommend that OJP remedy the \$900 in funds to better use requested, but not yet received by Hudspeth County for 23 cases which were claimed under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.**

We agree with the recommendation. We will coordinate with the County to remedy the \$900 in funds to better use requested, but not yet received by the County, for 23 cases which were claimed under both the prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.

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

James H. Burch, II
Acting Director
Bureau of Justice Assistance

Jill Young
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Joseph Husted
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Richard Theis
Assistant Director
Audit Liaison Group
Justice Management Division

OJP Executive Secretariat
Control Number 20101974

ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT

1. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP remedied the \$240,574 in questioned costs received by Hudspeth County for 37 cases that were investigated or prosecuted during concurrent periods of time with cases involving the same defendant that were also submitted for reimbursement.
2. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$163,104 in questioned costs received by Hudspeth County for 70 cases that were submitted under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.
3. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$33,142 in questioned costs received by Hudspeth County for seven cases that were not federally initiated.
4. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$16,168 in questioned costs received by Hudspeth County for four cases that were submitted in the wrong quarter.
5. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$10,726 in questioned costs received by Hudspeth County for two cases for which supporting case information could not be located.
6. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$5,440 in questioned costs received by Hudspeth County for 27 cases for which the detention rate claim exceeded the approved federal detention rate for the county.
7. **Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$5,318 in questioned costs received by Hudspeth County related to the case claimed that was not supported by the master case list.

- 8. Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$2,622 in questioned costs received by Hudspeth County for one case that included incarceration costs after the case was disposed.
- 9. Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$2,500 in questioned costs received by Hudspeth County for two cases that were erroneously submitted in the wrong reimbursement category.
- 10. Resolved.** This recommendation can be closed when we receive documentation supporting that OJP has remedied the \$900 in funds to better use requested, but not yet received by Hudspeth County for 23 cases that were claimed under the both prosecution and pre-trial detention category that did not meet the requirements for pre-trial detention.