

SACRAMENTO COUNTY

Audit Report

CUSTODY OF MINORS – CHILD ABDUCTION AND RECOVERY PROGRAM

Chapter 1399, Statutes of 1976;
Chapter 162, Statutes of 1992; and
Chapter 988, Statutes of 1996

July 1, 2016, through June 30, 2019



BETTY T. YEE
California State Controller

February 2022



BETTY T. YEE
California State Controller

February 23, 2022

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Joyce Renison, Assistant Auditor-Controller
Sacramento County
700 H Street, Room 3650
Sacramento, CA 95814

Dear Ms. Renison:

The State Controller's Office (SCO) audited the costs claimed by Sacramento County for the legislatively mandated Custody of Minors – Child Abduction and Recovery Program for the period of July 1, 2016, through June 30, 2019.

The county claimed and was paid \$1,885,876 for costs of the mandated program. Our audit found that \$1,420,782 is allowable and \$465,094 is unallowable. The costs are unallowable primarily because the county claimed costs for unallowable activities and did not claim actual costs.

Following issuance of this audit report, the SCO's Local Government Programs Services Division will notify the county of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

This final audit report contains an adjustment to costs claimed by the county. If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). Pursuant to the Commission's regulations, outlined in Title 2, California Code of Regulations, section 1185.1, subdivision (c), an IRC challenging this adjustment must be filed with the Commission no later than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. IRC information is available on the Commission's website at www.csm.ca.gov/forms/IRCForm.pdf.

If you have any questions, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138.

Sincerely,

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

KT/as

cc: John Black, CPA, Chief
Administrative and Fiscal Services
Sacramento County District Attorney's Office
Chris Hill, Principal Program Budget Analyst
Local Government Unit
California Department of Finance
Steven Pavlov, Finance Budget Analyst
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Contents

Audit Report

Summary	1
Background	1
Audit Authority.....	2
Objective, Scope, and Methodology	2
Conclusion	3
Follow-up on Prior Audit Findings.....	4
Views of Responsible Officials.....	4
Restricted Use	4
Schedule—Summary of Program Costs	5
Findings and Recommendations.....	7
Attachment—County’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller’s Office (SCO) audited the costs claimed by Sacramento County for the legislatively mandated Custody of Minors – Child Abduction and Recovery Program for the period of July 1, 2016, through June 30, 2019.

The county claimed and was paid \$1,885,876 for costs of the mandated program. Our audit found that \$1,420,782 is allowable and \$465,094 is unallowable. The costs are unallowable primarily because the county claimed costs for unallowable activities and did not claim actual costs.

Background

Chapter 1399, Statutes of 1976, established the Child Abduction and Recovery mandated program, based on the following laws:

- Civil Code section 4600.1 (repealed and added as Family Code sections 3060 through 3064 by Chapter 162, Statutes of 1992);
- Penal Code (PC) sections 278 and 278.5 (repealed and added as PC sections 277, 278, and 278.5 by Chapter 988, Statutes of 1996); and
- Welfare and Institutions Code section 11478.5 (repealed and added as Family Code section 17506 by Chapter 478, Statutes of 1999; last amended by Chapter 759, Statutes of 2002).

These laws require the District Attorney’s Office to assist persons having legal custody of a child in:

- Locating their children when they are unlawfully taken away;
- Gaining enforcement of custody and visitation decrees and orders to appear;
- Defraying expenses related to the return of an illegally detained, abducted, or concealed child;
- Civil court action proceedings; and
- Guaranteeing the appearance of offenders and minors in court actions.

On September 19, 1979, the State Board of Control (now the Commission on State Mandates) determined that this legislation imposed a state mandate reimbursable under Government Code (GC) section 17561.

The parameters and guidelines establish the state mandate and define the reimbursement criteria. The Commission on State Mandates adopted the parameters and guidelines on January 21, 1981; they were last amended on October 30, 2009. In compliance with GC section 17558, the SCO issues claiming instructions for mandated programs to assist local agencies in claiming reimbursable costs.

Audit Authority

We conducted this performance audit in accordance with GC sections 17558.5 and 17561, which authorize the SCO to audit the county's records to verify the actual amount of the mandated costs. In addition, GC section 12410 provides the SCO with general audit authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law.

Objective, Scope, and Methodology

The objective of our audit was to determine whether costs claimed represent increased costs resulting from the legislatively mandated Custody of Minors – Child Abduction and Recovery Program. Specifically, we conducted this audit to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.¹

The audit period was July 1, 2016, through June 30, 2019.

To achieve our objective, we completed the following tasks:

- We reviewed the annual mandated cost claims filed by the county for the audit period and identified the significant cost components of each claim as salaries and benefits, materials and supplies, travel and training, and indirect costs. We determined whether there were any errors or unusual or unexpected variances from year to year. We reviewed the activities claimed to determine whether they adhered to the SCO's claiming instructions and the program's parameters and guidelines.
- We completed an internal control questionnaire by interviewing key county staff. We discussed the claim preparation process with county staff to determine what information was obtained, who obtained it, and how it was used.
- We reviewed activity codes charged by the county and job descriptions for the audit period.
- We judgmentally selected the following cases for review:
 - Fiscal year (FY) 2016-17 – six cases, which equaled 21% of Salaries and Benefits claimed for the year;
 - FY 2017-18 – nine cases, which equaled 20% of Salaries and Benefits claimed for the year; and
 - FY 2018-19 – 10 cases, which equaled 20% of Salaries and Benefits claimed for the year.
- We isolated the claimed costs associated with standard distributed time, as these costs are not specifically for the mandated cost program. 100% of these costs are unallowable (see Finding 1 for more information).

¹ Unreasonable and/or excessive costs include ineligible costs that are not identified in the program's parameters and guidelines as reimbursable costs.

- We isolated the claimed costs associated with PC section 278.7 (commonly known as “good cause” cases), as these cases are not allowable per the program’s parameters and guidelines. 100% of these costs are unallowable (see Finding 1 for more information).
- We traced claimed productive hourly rates for the audit period to county-provided personnel budget schedules. We noted no exceptions to the claimed productive hourly rates.
- We reviewed claimed materials and supplies costs and found that the county claimed costs that were allocated to the State Targeted Offenders Unit as direct costs applicable to the mandated program, although the costs were not actual costs supported by source documentation. Per the program’s parameters and guidelines, only actual costs are allowed. We found \$217,020 in materials and supplies costs to be unallowable (see Finding 2 for more information).
- We reviewed 100% of the claimed travel and training costs for the audit period. We found immaterial variances in the claimed travel and training costs that did not result in a finding.
- We reviewed the claimed indirect cost rates, including supporting documentation provided by the county. We found that the indirect cost rates were properly supported.
- We interviewed county personnel and reviewed the county’s Single Audit Reports and revenues reports to identify potential sources of offsetting revenues and reimbursements from federal or pass-through programs applicable to this mandated program. We found that the county did not receive any funding for this mandate that should be offset from claimed costs.

We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We did not audit the county’s financial statements.

Conclusion

As a result of performing the audit procedures, we found instances of noncompliance with the requirements described in our audit objective. We did not find that the county claimed costs that were funded by other sources; however, we did find that it claimed unsupported and ineligible costs, as quantified in the Schedule and described in the Findings and Recommendations section of this audit report.

For the audit period, the county claimed and was paid \$1,885,876 for costs of the legislatively mandated Custody of Minors – Child Abduction and Recovery Program. Our audit found that \$1,420,782 is allowable and \$465,094 is unallowable.

Following issuance of this audit report, the SCO's Local Government Programs and Services Division will notify the county of the adjustment to its claims via a system-generated letter for each fiscal year in the audit period.

**Follow-up on
Prior Audit
Findings**

The county has satisfactorily resolved the findings noted in our prior audit report for the period of July 1, 2001, through June 30, 2003, issued on August 5, 2005.

**Views of
Responsible
Officials**

We issued a draft report on November 17, 2021. John Black, CPA, Chief, Administrative and Fiscal Services, responded by letter dated December 10, 2021, disagreeing with the audit results. This final audit report includes the county's response.

Restricted Use

This audit report is solely for the information and use of Sacramento 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 audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

February 23, 2022

Schedule—
Summary of Program Costs
July 1, 2016, through June 30, 2019

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ^a
<u>July 1, 2016, through June 30, 2017</u>				
Direct costs:				
Salaries and benefits	\$ 358,375	\$ 308,151	\$ (50,224)	Finding 1
Materials and supplies	67,970	2,966	(65,004)	Finding 2
Travel and training	10,860	10,860	-	
Total direct costs	437,205	321,977	(115,228)	
Indirect costs	125,288	107,730	(17,558)	Finding 1
Total program costs	<u>\$ 562,493</u>	429,707	<u>\$ (132,786)</u>	
Less amount paid by the State ^b		(562,493)		
Amount paid in excess of allowable costs claimed		<u>\$ (132,786)</u>		
<u>July 1, 2017, through June 30, 2018</u>				
Direct costs:				
Salaries and benefits	\$ 388,786	\$ 337,180	\$ (51,606)	Finding 1
Materials and supplies	81,806	7,937	(73,869)	Finding 2
Travel and training	2,863	2,863	-	
Total direct costs	473,455	347,980	(125,475)	
Indirect costs	122,779	106,482	(16,297)	Finding 1
Total program costs	<u>\$ 596,234</u>	454,462	<u>\$ (141,772)</u>	
Less amount paid by the State ^b		(596,234)		
Amount paid in excess of allowable costs claimed		<u>\$ (141,772)</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ^a
<u>July 1, 2018, through June 30, 2019</u>				
Direct costs:				
Salaries and benefits	\$ 463,254	\$ 378,681	\$ (84,573)	Finding 1
Materials and supplies ^c	110,876	32,729	(78,147)	Finding 2
Travel and training	655	655	-	
Total direct costs	574,785	412,065	(162,720)	
Indirect costs	152,364	124,548	(27,816)	Finding 1
Total program costs	<u>\$ 727,149</u>	536,613	<u>\$(190,536)</u>	
Less amount paid by the State ^b		(727,149)		
Amount paid in excess of allowable costs claimed		<u>\$ (190,536)</u>		
<u>Summary: July 1, 2016, through June 30, 2019</u>				
Direct costs:				
Salaries and benefits	\$ 1,210,415	\$ 1,024,012	\$(186,403)	Finding 1
Materials and supplies	260,652	43,632	(217,020)	Finding 2
Travel and training	14,378	14,378	-	
Total direct costs	1,485,445	1,082,022	(403,423)	
Indirect costs	400,431	338,760	(61,671)	Finding 1
Total program costs	<u>\$ 1,885,876</u>	1,420,782	<u>\$(465,094)</u>	
Less amount paid by the State ^b		(1,885,876)		
Amount paid in excess of allowable costs claimed		<u>\$ (465,094)</u>		

^a See the Findings and Recommendations section.

^b Payment amount current as of December 16, 2021.

^c For FY 2018-19, the county incorrectly identified materials and supplies costs as contract services.

Findings and Recommendations

FINDING 1— Overstated salaries and benefit costs and related indirect costs

The county claimed \$1,210,415 in salaries and benefits for the audit period. We determined that \$1,024,012 is allowable and \$186,403 is unallowable. The related unallowable indirect costs total \$61,671, for total unallowable costs of \$248,074. The costs are unallowable because the county claimed time for activities performed for “good cause” cases, and did not claim actual time spent on mandated activities.

The following table summarizes the overstated salaries and benefits, the related indirect costs, and the audit adjustment:

	<u>FY 2016-17</u>	<u>FY 2017-18</u>	<u>FY 2018-19</u>	<u>Total</u>
Overstated salaries and benefits:				
“Good cause” cases (PC section 278.7)	\$ (9,910)	\$ (6,757)	\$ (15,609)	\$ (32,276)
Standard distributed time	(40,314)	(44,849)	(68,964)	(154,127)
Total unallowable salaries and benefits	A (50,224)	(51,606)	(84,573)	(186,403)
Claimed indirect cost rate	B 34.96%	31.58%	32.89%	
Related indirect costs (A × B)	C (17,558)	(16,297)	(27,816)	(61,671)
Audit adjustment (A + C)	D \$ (67,782)	\$ (67,903)	\$ (112,389)	\$ (248,074)

Standard Distributed Time

The county claimed time for employees working on non-program-specific activities—including supervisory, general clerical, and billing—for the State Targeted Offenders Unit. This time is categorized as standard distributed (SD) time, and is allocated monthly, based on the unit’s case load for all programs. The time is then spread amongst the programs based on the full-time equivalent percentage for each program.

We determined that \$154,127 claimed for SD time salaries and benefits is unallowable, because SD time is not actual time spent on traceable mandated activities.

Section V, “Reimbursable Costs,” of the parameters and guidelines states, in part:

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. 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. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

“Good Cause” Cases

The county claimed time spent on activities for PC section 278.7 cases (commonly referred to as “good cause” cases). We determined that the salaries and benefits claimed, totaling \$32,276, are unallowable because

the parameters and guidelines do not identify activities related to PC section 278.7 cases as a reimbursable cost.

The parameters and guidelines incorporate requirements of PC sections 278 and 278.5, as amended by Chapter 988, Statutes of 1996. This law, known as the Parental Kidnapping Prevention Act, also added section 278.7 to the Penal Code. However, PC section 278.7 was not incorporated into the parameters and guidelines; therefore, any costs claimed under this section are not reimbursable.

Recommendation

We recommend that the county:

- Follow the mandated program claiming instructions and the parameters and guidelines when preparing its reimbursement claims; and
- Ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County Response

Standard Distributed Times

The Audit Report concluded that salaries and benefits for Standard Distributed (SD) time in the amount of \$154,127 claimed by the DA's Office during the audit period (July 1, 2016 – June 30, 2019) were unallowable. We do not agree with this finding.

California Family Code sections 3130 through 3134.5 mandate that District Attorneys assist the courts in enforcing their child custody and visitation orders and in locating and returning children who have been taken or detained in violation of another person's custody right. Prosecutors are authorized to utilize any appropriate civil or criminal proceeding to assist the courts in enforcing their orders and to locate and recover missing children. District Attorneys' child abduction work is reimbursable by the state under the Child Abduction and Recovery Mandate.

The DA's Office has a State Targeted Offenders Program (STOP), which consists of our Child Abduction and Recovery Program, CDCR prison prosecutions, and other state-reimbursed programs. This allows for consolidation of supervisory, clerical, and other general costs such as rent, phones, office supplies, and insurance for which the state will provide reimbursement. These costs were then subdivided amongst the various state-reimbursed programs within STOP, directly allocating those expenses to the appropriate program according to time studies. Employees who worked on Child Abduction cases tracked their time daily and only time actually worked on applicable cases was thereafter billed to the state. Many of these employees work exclusively on Child Abduction and Recovery cases. For other employees who provided supportive activities, such as clerical, supervisory, and billing, when they recorded time generally, those hours were proportioned based on the number of worked during the month. If not for state mandate, the DA's Office would not have had these dedicated employees and their related costs of employment handling Child Abduction and Recovery matters. The DA's Office allocated and claimed these costs using what was believed to be a reasonable methodology, which was applied consistently

and not disproportionately allocated to this mandated program. The time claimed was general administrative time on behalf of eligible cases as a whole, spread amongst the programs based on the full-time equivalent percentage for each program.

In finding that this methodology was unallowable, the audit relied upon and quoted the following language from section V of the 2009 *Custody of Minors: Child Abduction and Recovery* Amendment to Parameters and Guidelines (“Parameters and Guidelines”):

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. 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. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Furthermore, the auditor noted that each cost had to be attributed to an actual case. However, the language of section V does not require that all costs be attributed to an actual *case*. Instead, it uses the language of “actual costs” (emphasis added). These are defined as “those costs actually incurred to implement the mandated activities.” It specifically allows the use of “employee time records or time logs” as a methodology to show actual costs. Additionally, section V goes on to provide that evidence corroborating the validity of costs may include “worksheets” and “cost allocation reports (system generated).” Section V by its very terms anticipates and allows for allocating costs. Subsection A of section V provides, “Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody and visitation....” This includes both direct and indirect costs.

The DA’s Office has properly submitted for reimbursement those increased costs which it was required to incur in order to conduct the mandated activities related to Child Abduction and Recovery. The DA’s Office used time records, time logs, and worksheets generated by employees detailing the time they worked on Child Abduction and Recovery activities, and then used cost allocation to determine the full-time equivalent percentage of those expenses attributable to that particular program. These reflect the DA’s actual costs associated with providing these mandated actions. The DA’s Office consolidation of services saves the state by avoiding duplicative costs.

We respectfully disagree with the audit’s findings and intend to submit an Incorrect Reduction Claim. However, in light of the audit’s findings and to avoid future billing disputes, moving forward, until any Incorrect Reduction Claim is resolved, the DA’s Office will individually track administrative time by case. Adjustments have been made to update time keeping so that all costs are directly charged to the specific case worked.

“Good Cause” Cases

Child abduction cases take many different forms, oftentimes evolving as an investigation unfolds. Complaints of a child abduction are received and reviewed by DA staff. It is not uncommon that while investigating a complaint, the DA’s Office will be contacted by the alleged offender with a “Good Cause” claim pursuant to Penal Code section 278.7 that the person has a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or physical harm. Furthermore, frequently the DA’s Office will receive multiple complaints regarding the same child or children and involved parties, which may relate back to a prior “Good Cause” claim, but each new complaint must be investigated anew.

The Audit Report noted that, even if otherwise in the context of a child abduction investigation, “Good Cause” cases are unallowable because the Parameters and Guidelines do not identify activities related to section 278.7 cases as a reimbursable cost. The finding determined that the DA’s Office claimed unallowable costs in the amount of \$32,276 related to “Good Cause” cases. We do not agree with this finding.

The Legislature created the Child Abduction and Recovery Mandate by statute in 1976. The code sections that set forth these provisions and the specific mandates were thereafter repealed and reissued with different section numbers. Former Civil Code section 4604 was reissued as Family Code sections 3130 and 3131. Family Code section 3130 provides that if a petition to determine custody of a child has been filed in court or a temporary order pending determination of custody has been entered, and the whereabouts of a party in possession of the child are not known or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child, *District Attorneys are mandated to take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody.* Family Code section 3131 provides that if a custody or visitation order has been entered and the child is taken or detained by another person in violation of the order, *District Attorneys are mandated to take all actions necessary to locate and return the child and the person who violated the order,* as well as assist in enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding. Neither section provides for or mentions a “Good Cause” exception. Although such a claim may arise in the course of an investigation, District Attorneys are still mandated by statute to take all actions necessary in locating the parties and procuring compliance, which would necessarily involve an evaluation of any “Good Cause” claim that is made.

Furthermore, as previously noted, subsection A of section V in the Parameters and Guidelines provides, “Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney *actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren)* by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody and visitation...” (emphasis added). Actively assisting in the resolution of child custody and visitation problems can involve and result in a “Good Cause” claim. All actions necessary in locating and returning a child can involve and result in a “Good Cause” claim. Thus, those costs should be allowable as they fall within mandated activities.

In creating the Child Abduction and Recovery Mandate in 1976, the Legislature added, amongst other things, two specific Penal Code provisions that prosecutors could charge as part of their authorization to utilize any appropriate civil or criminal proceedings to assist, as mandated, the courts in enforcing their orders and to locate and recover missing children (these two criminal provisions were later renumbered as Penal Code sections 278 and 278.5). In 1996, the Legislature added Penal Code section 278.7, which provides a specific exception for prosecutions under section 278.5 for “Good Cause” claims. Essentially, section 278.7 creates a defense to prosecution under section 278.5.

Part of investigating a potential criminal matter involves a determination of whether any particular defenses would excuse or justify the behavior, thus negating the possibility of successfully utilizing criminal proceedings to prosecute the matter. Imagine the state mandated that DA’s Offices investigate homicide cases under Penal Code section 187. However, Penal Code section 196 sets forth when a homicide may be justified, which includes homicides committed in self-defense. Using the same logic followed in the Audit Report, prosecutors would not be entitled to reimbursement for investigation for any homicide where the investigation led to a determination that the homicide was committed in self-defense because Penal Code section 196 is a different provision than section 187. However, it is still a homicide. Similarly, “Good Cause” cases are still a form of child abduction, where one person has deprived another of lawful custody or visitation, but for a lawfully excused reason.

We respectfully disagree with the audit’s findings and intend to submit an Incorrect Reduction Claim. However, in light of the audit’s findings and to avoid future billing disputes, moving forward, until any Incorrect Reduction Claim is resolved, the DA’s Office will review and modify its method of tracking “Good Cause” cases. Additional training has been provided to staff. Time will be tracked to the appropriate case and case review will occur prior to reimbursement request.

A change in allowable indirect costs of \$61,671 was associated with the adjustments from the SD times and “Good Cause” cases. The method of determining the indirect cost was not subject to a finding.

SCO’s Response

Our finding and recommendation remain unchanged.

Standard Distributed Times

In an email from the county dated February 3, 2021, the county explained the SD time as follows:

This is time spent working on non-program specific activities for the [State Targeted Offenders] unit as a whole. For example, a clerical person performs the mail run which takes 2.0 hours. They enter this as 2.0 hours general clerical and charge it to the whole unit. If we only worked on 4 cases that month, (1 Child Abduction, 1 SVP, 1 Prisons and 1 WF), each case in the month would get the 2.0 hours spread based on the FTE percentage for each unit.

Section V. (Reimbursable Activities) of the parameters and guidelines states, in part:

Actual costs are those costs actually incurred to implement the mandated activities. 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.

Per the county, SD time is spent working on “non-program specific activities.” As these claimed costs are non-program-specific, we are unable to determine the validity of these costs and their relationship to the reimbursable activities.

Furthermore, the county separately identified, and claimed, a category called Program Distributed (PD) time. The county explained in an email dated February 3, 2021:

This is time spent working on a program but not a specific case. When entered in the system, it spreads this time over all the cases that were worked on in that specific program for the month. For example, a clerical person work on updating the child abduction logs for 2 hours. They enter this as 2.0 hours general clerical and charge it to the Child Abduction program. If we only worked on 2 child abduction cases throughout the month, each case would show 1.0 hours of PD – General Clerical billing.

We determined that PD time was allowable, as the activities performed were directly related the Child Abduction and Recovery Program. Any disallowed PD time was directly attributable to time spent on activities related to PC section 278.7 cases (commonly referred to as “good cause” cases). These cases are not incorporated into the program’s parameters and guidelines.

The county states “Furthermore, the auditor noted that each cost had to be attributed to an actual case.” We disagree with this statement.

As stated in the county’s response, “Employees who worked on Child Abduction cases tracked their time daily and only time actually worked on applicable cases was thereafter billed to the state.” For the time claimed for employees’ activities performed directly on cases, we requested case files to determine the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. The county disagrees with the exclusion of SD time as part this audit report, but its own records already segregate SD time and PD time. PD time is directly attributable to Child Abductions cases, but SD time is for “non-program specific” activities and, per the program’s parameters and guidelines, is not considered an “actual cost.”

“Good Cause” Cases

The county states:

Actively assisting in the resolution of child custody and visitation problems can involve and result in a “Good Cause” claim. All actions necessary in locating and returning a child can involve and result in a “Good Cause” claim. Thus, those costs should be allowable as they fall within mandated activities.

We disagree. The costs do not “fall within the mandated activities,” because activities for PC 278.7 are not identified in the parameters and guidelines.

During the audit, the county provided a list of “good cause” cases that it had misidentified. As stated by the county in an email on August 27, 2021, “The cases were reported to the county as ‘Good Cause’ cases but turned out to be child abduction cases after all.” Therefore, we allowed the time spent on mandated activities performed on these misidentified cases. All other “good cause” cases confirmed by the county, and the associated time claimed, were disallowed.

**FINDING 2—
Overstated materials
and supplies costs**

The county claimed a total of \$260,652 in materials and supplies costs for the audit period. We determined that \$43,632 is allowable and \$217,020 is unallowable. These costs are unallowable because the county claimed costs that were allocated to the State Targeted Offenders Unit, rather than actual costs supported by source documentation.

The following table shows the materials and supplies costs claimed by the State Targeted Offenders Unit, the allowable costs, and the audit adjustment by fiscal year:

Fiscal Year	Amount Claimed	Amount Allowable	Audit Adjustment
2016-17	\$ 67,970	\$ 2,966	\$ (65,004)
2017-18	81,806	7,937	(73,869)
2018-19	110,876	32,729	(78,147)
	<u>\$260,652</u>	<u>\$ 43,632</u>	<u>\$(217,020)</u>

The county developed a methodology for allocating a percentage of materials and supplies costs incurred by the State Targeted Offenders Unit as direct costs applicable to the mandated program. For each fiscal year, the county calculated the ratio of the State Targeted Offenders Unit’s program-related salaries and benefits to the unit’s total salaries and benefits. To determine program-related materials and supplies costs, the county applied the applicable percentage to the materials and supplies costs incurred by the State Targeted Offenders Unit.

The following table illustrates the methodology used to calculate the State Targeted Offenders Unit’s materials and supplies costs, and the related audit adjustments by fiscal year.

Costs for the State Targeted Offenders Unit	Fiscal Year									Total Audit Adj.
	2016-17			2017-18			2018-19			
	Total Claimed	Total Allowable	Total Adj.	Total Claimed	Total Allowable	Total Adj.	Total Claimed	Total Allowable	Total Adj.	
Non-salary and benefit costs	\$ 737,151	-		\$ 788,279	-		\$ 747,223	-		
Less: travel and training	(18,842)	-		(21,113)	-		(23,290)	-		
Non-travel and training costs	718,309	-		767,166	-		723,933	-		
Percent of salaries and benefits related to program	x 9.0495%	-		9.6288%	-		10.7948%	-		
Non-travel and training costs reported as direct program materials and supplies	65,004	-		73,869	-		78,147	-		
Actual direct materials and supplies	2,966	2,966		7,937	7,937		32,729	32,729		
Total materials and supplies costs	<u>\$ 67,970</u>	<u>\$ 2,966</u>	<u>\$(65,004)</u>	<u>\$ 81,806</u>	<u>\$ 7,937</u>	<u>\$(73,869)</u>	<u>\$ 110,876</u>	<u>\$ 32,729</u>	<u>\$(78,147)</u>	<u>\$(217,020)</u>

Based on the documentation provided, we determined that a total of \$217,020 in materials and supplies costs is unallowable. The costs are unallowable because the county did not claim actual costs that were supported by source documentation.

Section V., “Reimbursable Costs,” of the parameters and guidelines states, in part:

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. 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. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Recommendation

We recommend that the county:

- Follow the mandated program claiming instructions and the parameters and guidelines when preparing its reimbursement claims; and
- Ensure that claimed costs include only eligible costs, are based on actual costs, and are properly supported.

County’s Response

As previously noted in the Standard Distributed Times discussion in response to Finding 1, the DA’s Office similarly relied on the reasonable methodology of cost allocation based on full-time equivalents (FTEs) to determine materials and supplies costs for this program. These costs include California mandated employment costs, general office supplies, computer infrastructure, phones, and leased facilities charges all used by staff working on the Child Abduction and Recovery Program. The Audit Report concluded that \$217,020 in materials and supplies costs were unallowable. The auditor noted that each cost had to be directly attributable to a particular case. We do not agree with this finding.

The employees who worked on child abduction matters tracked their time and only noted billable hours for reimbursable activities. From this, it can be calculated what percentage of their time was spent on reimbursable mandated activities, which then was used to determine the actual cost of related materials and supplies used in those efforts. As noted above, the Parameters and Guidelines permit cost allocation and allow for determining actual cost based on time records, time logs, and worksheets. This is a reasonable and appropriate manner to show actual cost. This audit process is now imposing additional requirements and limitations not set forth in the Parameters and Guidelines.

To analyze this finding further, the cost of phones can be used as an example. Employees need phones to do their jobs. A service fee is imposed to have that phone available. According to the auditor, the DA’s Office can only charge for the cost of the phone attributable to a particular case, i.e., the minutes spent on the phone per actual case. Some

of these employees worked exclusively on child abduction cases. The remaining employees split time working on child abduction cases and other state-mandated activities, for which they tracked their time. They would not have had a phone for this particular work if not mandated to perform these functions. Denying this as an actual cost would be akin to saying reimbursement would not be available for the cost of a desk chair and would instead only be allowable for the portion of the cost of the chair for the actual minutes we could show spent sitting in it directly working on a particular case.

To further show the validity of the methodology used by the DA's Office, the DA's Office provided an alternative cost allocation worksheet based on productive hourly rates and actual hours worked for further consideration. The alternative method totaled \$222,966 after backing out the unallowed SD time. The disallowed claim amount based on current methodology was \$217,020. The difference between the two methods is only \$5,946, providing further evidence that the current methodology is comparably accurate and reasonable.

We respectfully disagree with the audit's findings and intend to submit an Incorrect Reduction Claim. However, in light of the audit's findings and to avoid future billing disputes, moving forward, until any Incorrect Reduction Claim is resolved, the DA's Office will no longer request reimbursement using cost allocation methodologies. Management is working to implement a tracking mechanism for program costs so they can follow the claiming instructions as established in this audit process.

SCO's Response

Our finding and recommendation remain unchanged.

The county states "The auditor noted that each cost had to be directly attributable to a particular case." We disagree.

The county claimed both direct and allocated materials and supplies costs. For the direct materials and supplies costs claimed, we requested support to show the validity of claimed costs and their relationship to the reimbursable activities. The county supported the costs with child abduction and recovery case files. The county provided the related case files, and we determined that all direct materials supplies costs were allowable. We noted no exceptions for the direct materials and supplies costs claimed.

The county developed a methodology for allocating a percentage of materials and supplies costs incurred by the State Targeted Offenders Unit as direct costs applicable to the mandated program. These costs were allocated across all programs within the State Targeted Offenders Unit, but were claimed as direct costs directly attributable to the Child Abduction program.

The county states:

As noted above, the Parameters and Guidelines permit cost allocation and allow for determining actual cost based on time records, time logs, and worksheets. This is a reasonable and appropriate manner to show actual cost. This audit process is now imposing additional requirements and limitations not set forth in the Parameters and Guidelines.

We disagree. Cost allocation reports are considered corroborating documents and not source documents.

Section V. (Reimbursable Activities) of the parameters and guidelines states, in part:

A source document is a document created at or near the same time the actual costs were incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations ...However, corroborating documents cannot be substituted for source documents.

The county must claim only the actual costs for the reimbursable program. Actual costs are supported by source documentation. Cost allocation reports are not considered source documents.

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



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Rod Norgaard
Chief Deputy

Michael M. Blazina
Assistant District Attorney

December 10, 2021

Lisa Kurokawa, Chief
Office of the State Controller Betty T. Yee
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 725A
Sacramento, CA 95816

Re: Audit of Legislatively Mandated Custody of Minors – Child Abduction and Recovery Program

Dear Ms. Kurokawa,

The Sacramento County District Attorney's (DA's) Office respectfully submits the following responses to the California State Controller's Audit Report regarding Sacramento County Custody of Minors – Child Abduction and Recovery Program for the period of July 1, 2016 – June 30, 2019.

Finding 1 – Overstated salaries and benefit costs and related indirect costs

Standard Distributed Times

The Audit Report concluded that salaries and benefits for Standard Distributed (SD) time in the amount of \$154,127 claimed by the DA's Office during the audit period (July 1, 2016 – June 30, 2019) were unallowable. We do not agree with this finding.

California Family Code sections 3130 through 3134.5 mandate that District Attorneys assist the courts in enforcing their child custody and visitation orders and in locating and returning children who have been taken or detained in violation of another person's custody right. Prosecutors are authorized to utilize any appropriate civil or criminal proceeding to assist the courts in enforcing their orders and to locate and recover missing children. District Attorneys' child abduction work is reimbursable by the state under the Child Abduction and Recovery Mandate.

The DA's Office has a State Targeted Offenders Program (STOP), which consists of our Child Abduction and Recovery Program, CDCR prison prosecutions, and other state-reimbursed programs. This allows for consolidation of supervisory, clerical, and other general costs such as rent, phones, office supplies, and insurance for which the state will provide reimbursement. These costs were then subdivided amongst the various state-reimbursed programs within STOP, directly allocating those expenses to the appropriate program according to time studies. Employees who worked on Child Abduction cases tracked their time daily and only time actually worked on applicable cases was thereafter billed to the state. Many of these employees work exclusively on Child Abduction and Recovery cases. For other employees who provided supportive activities, such as clerical, supervisory, and billing, when they recorded time generally, those hours were proportioned based on the number of worked during the month. If not for state mandate, the DA's Office would not have had these dedicated employees and their related costs of employment handling Child Abduction and Recovery matters. The DA's Office allocated and claimed these costs using what was believed to be a reasonable methodology, which was applied consistently and not disproportionately allocated to this mandated program. The time claimed was general administrative time on behalf of eligible cases as a whole, spread amongst the programs based on the full-time equivalent percentage for each program.

In finding that this methodology was unallowable, the audit relied upon and quoted the following language from section V of the 2009 *Custody of Minors: Child Abduction and Recovery* Amendment to Parameters and Guidelines ("Parameters and Guidelines"):

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. 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. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Furthermore, the auditor noted that each cost had to be attributed to an actual case. However, the language of section V does not require that all costs be attributed to an actual case. Instead, it uses the language of "actual costs" (emphasis added). These are defined as "those costs actually incurred to implement the mandated activities." It specifically allows the use of

"employee time records or time logs" as a methodology to show actual costs. Additionally, section V goes on to provide that evidence corroborating the validity of costs may include "worksheets" and "cost allocation reports (system generated)." Section V by its very terms anticipates and allows for allocating costs. Subsection A of section V provides, "Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody and visitation...." This includes both direct and indirect costs.

The DA's Office has properly submitted for reimbursement those increased costs which it was required to incur in order to conduct the mandated activities related to Child Abduction and Recovery. The DA's Office used time records, time logs, and worksheets generated by employees detailing the time they worked on Child Abduction and Recovery activities, and then used cost allocation to determine the full-time equivalent percentage of those expenses attributable to that particular program. These reflect the DA's actual costs associated with providing these mandated actions. The DA's Office consolidation of services saves the state by avoiding duplicative costs.

We respectfully disagree with the audit's findings and intend to submit an Incorrect Reduction Claim. However, in light of the audit's findings and to avoid future billing disputes, moving forward, until any Incorrect Reduction Claim is resolved, the DA's Office will individually track administrative time by case. Adjustments have been made to update time keeping so that all costs are directly charged to the specific case worked.

"Good Cause" Cases

Child abduction cases take many different forms, oftentimes evolving as an investigation unfolds. Complaints of a child abduction are received and reviewed by DA staff. It is not uncommon that while investigating a complaint, the DA's Office will be contacted by the alleged offender with a "Good Cause" claim pursuant to Penal Code section 278.7 that the person has a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or physical harm. Furthermore, frequently the DA's Office will receive multiple complaints regarding the same child or children and involved parties, which may relate back to a prior "Good Cause" claim, but each new complaint must be investigated anew.

The Audit Report noted that, even if otherwise in the context of a child

abduction investigation, "Good Cause" cases are unallowable because the Parameters and Guidelines do not identify activities related to section 278.7 cases as a reimbursable cost. The finding determined that the DA's Office claimed unallowable costs in the amount of \$32,276 related to "Good Cause" cases. We do not agree with this finding.

The Legislature created the Child Abduction and Recovery Mandate by statute in 1976. The code sections that set forth these provisions and the specific mandates were thereafter repealed and reissued with different section numbers. Former Civil Code section 4604 was reissued as Family Code sections 3130 and 3131. Family Code section 3130 provides that if a petition to determine custody of a child has been filed in court or a temporary order pending determination of custody has been entered, and the whereabouts of a party in possession of the child are not known or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child, *District Attorneys are mandated to take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody.* Family Code section 3131 provides that if a custody or visitation order has been entered and the child is taken or detained by another person in violation of the order, *District Attorneys are mandated to take all actions necessary to locate and return the child and the person who violated the order,* as well as assist in enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding. Neither section provides for or mentions a "Good Cause" exception. Although such a claim may arise in the course of an investigation, District Attorneys are still mandated by statute to take all actions necessary in locating the parties and procuring compliance, which would necessarily involve an evaluation of any "Good Cause" claim that is made.

Furthermore, as previously noted, subsection A of section V in the Parameters and Guidelines provides, "Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney *actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren)* by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody and visitation..." (emphasis added). Actively assisting in the resolution of child custody and visitation problems can involve and result in a "Good Cause" claim. All actions necessary in locating and returning a child can involve and result in a "Good Cause" claim. Thus, those costs should be allowable as they fall within mandated activities.

In creating the Child Abduction and Recovery Mandate in 1976, the Legislature added, amongst other things, two specific Penal Code provisions that prosecutors could charge as part of their authorization to utilize any appropriate civil or criminal proceedings to assist, as mandated, the courts in enforcing their orders and to locate and recover missing children (these two criminal provisions were later renumbered as Penal Code sections 278 and 278.5). In 1996, the Legislature added Penal Code section 278.7, which provides a specific exception for prosecutions under section 278.5 for "Good Cause" claims. Essentially, section 278.7 creates a defense to prosecution under section 278.5.

Part of investigating a potential criminal matter involves a determination of whether any particular defenses would excuse or justify the behavior, thus negating the possibility of successfully utilizing criminal proceedings to prosecute the matter. Imagine the state mandated that DA's Offices investigate homicide cases under Penal Code section 187. However, Penal Code section 196 sets forth when a homicide may be justified, which includes homicides committed in self-defense. Using the same logic followed in the Audit Report, prosecutors would not be entitled to reimbursement for investigation for any homicide where the investigation led to a determination that the homicide was committed in self-defense because Penal Code section 196 is a different provision than section 187. However, it is still a homicide. Similarly, "Good Cause" cases are still a form of child abduction, where one person has deprived another of lawful custody or visitation, but for a lawfully excused reason.

We respectfully disagree with the audit's findings and intend to submit an Incorrect Reduction Claim. However, in light of the audit's findings and to avoid future billing disputes, moving forward, until any Incorrect Reduction Claim is resolved, the DA's Office will review and modify its method of tracking "Good Cause" cases. Additional training has been provided to staff. Time will be tracked to the appropriate case and case review will occur prior to reimbursement request.

A change in allowable indirect costs of \$61,671 was associated with the adjustments from the SD times and "Good Cause" cases. The method of determining the indirect cost was not subject to a finding.

Finding 2 – Overstated materials and supplies costs

As previously noted in the Standard Distributed Times discussion in response to Finding 1, the DA's Office similarly relied on the reasonable methodology of cost allocation based on full-time equivalents (FTEs) to determine

materials and supplies costs for this program. These costs include California mandated employment costs, general office supplies, computer infrastructure, phones, and leased facilities charges all used by staff working on the Child Abduction and Recovery Program. The Audit Report concluded that \$217,020 in materials and supplies costs were unallowable. The auditor noted that each cost had to be directly attributable to a particular case. We do not agree with this finding.

The employees who worked on child abduction matters tracked their time and only noted billable hours for reimbursable activities. From this, it can be calculated what percentage of their time was spent on reimbursable mandated activities, which then was used to determine the actual cost of related materials and supplies used in those efforts. As noted above, the Parameters and Guidelines permit cost allocation and allow for determining actual cost based on time records, time logs, and worksheets. This is a reasonable and appropriate manner to show actual cost. This audit process is now imposing additional requirements and limitations not set forth in the Parameters and Guidelines.

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avoid future billing disputes, moving forward, until any Incorrect Reduction Claim is resolved, the DA's Office will no longer request reimbursement using cost allocation methodologies. Management is working to implement a tracking mechanism for program costs so they can follow the claiming instructions as established in this audit process.

Sincerely,



John Black, CPA
Chief, Administrative & Fiscal Services

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