

Initial Draft Response to the 2007-08 Grand Jury Final Report Part 3



**EL DORADO COUNTY
BOARD OF SUPERVISORS**

August 19, 2008

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EL DORADO COUNTY GRAND JURY 2007-2008

Use of El Dorado County Vehicles

Case No. 07-030

REASON FOR REPORT

The El Dorado County Grand Jury received complaints regarding the use of County-owned vehicles designated as “take-home” vehicles. There was also media attention to the subject matter. Specifically, these complaints questioned why some County employees were assigned permanent and overnight retention of County-owned vehicles when they seemingly did not qualify under the requirements specified in the Board of Supervisors (BOS) Policy #D-4 for Vehicle Use, Standards, Procurement and Disposal, adopted 12/22/87 and revised 6/20/06. After initial review of the complaints the Grand Jury determined there was sufficient cause to investigate the use of County-owned vehicles.

BACKGROUND

The County owns 542 vehicles, although only 475 are specifically managed by Fleet Management. These vehicles range from passenger cars to heavy-duty vehicles for use by our Department of Transportation (DOT). Currently 83 vehicles in this fleet are assigned to individual employees of the County and are driven to and from their respective residences.

The Board Of Supervisors Policy #D-4 sets forth rules regarding the use and operation of vehicles while on official County business; the assignment, use, operation, procurement and disposal of County-owned vehicles, and the methods used by the County to meet business transportation needs of County employees.

The County’s Fleet Management Unit in the Department of General Services operates a vehicle pool and coordinates department requests for leased, rented, or purchased vehicles to make them available to County departments. Where appropriate, County vehicles are assigned to specific County departments and managed by Fleet Management.

County department heads are responsible for ensuring compliance with all provisions of the BOS Policy and maintaining and monitoring vehicle usage logs.

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METHODOLOGY

The Grand Jury gathered data from many sources. Personnel were interviewed from the Chief Administrative Office (CAO), Auditor-Controller's Office and General Services.

Documents Reviewed:

- Board of Supervisors Policy #D-4 For Vehicle Use, Standards, Procurement and Disposal adopted 12/22/87 and revised 6/20/06
- Fleet Rates Spreadsheet Draft (08/09)
- General Services – Fleet Management Draft Vehicle Cost Estimates Fiscal Year 08/09 Budget
- General Services – Fleet Management Vehicle Rate Reduced Calculations Fiscal Year 07/08
- Take Home Vehicles 2007 Spreadsheet

FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. BOS Policy #D-4 is not being followed. Paragraph B.2 titled "Vehicle Use" requires the CAO's Office to review permanent assignment and overnight retention of County-owned vehicles on an annual basis and to continue or rescind authorization. Interviews with the CAO's office revealed that this has not been done for several years.

Response to Finding 1: The respondent partially disagrees with the finding. Policy D-4 was revised in 2006 so it is inaccurate to suggest that the policy has not been followed for "several years." At the time of their interview with the Grand Jury, Chief Administrative Office staff indicated that a full review of assigned vehicles has not been done this year, but would be completed following the conclusion of the annual budget process. Staff also indicated that the Board of Supervisors considered permanent assignment and overnight retention of vehicles within the Department of Transportation on March 11, 2008.

2. Paragraph B.2.a of the policy specifies that an employee who is responsible for responding to emergency situations related to public health or safety and protection of property on a 24-hour basis may be assigned a vehicle for on-call duty. Those on those days the employee is assigned the on-call duty. However, paragraph B.2.b is subject to interpretation and allows any County employee that can demonstrate to the Board of Supervisors that it is in the best interest of the County for that employee to be assigned permanent and overnight retention of a County-owned vehicle.

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Response to Finding 2: *The respondent agrees with the finding.*

3. The purchase of County vehicle fuel is a budget item within various County departments, and **is not** a component of the Fleet Management process. This is a significant County expense...estimated to be over 1.6 million dollars next year and represents nearly 40% of total fleet costs.

Response to Finding 3: *The respondent agrees with the finding.*

4. Fuel purchases for County vehicles are not centrally managed or controlled. The County's primary fuel vendor possesses very sophisticated reporting capabilities and would be able to provide excellent tools in an effort to better manage fuel purchases.

Response to Finding 4: *The respondent agrees with the finding.*

5. The 50 vehicles identified as "Department 99" or department owned are not managed by Fleet Management, so the efficiency of operating those vehicles (which represent nearly 10% of the County total) is difficult to determine.

Response to Finding 5: *The respondent agrees with the finding.*

6. County fleet costs for 2008-2009 are estimated to be 4.2 million dollars, with projected total miles at over 5.4 million. These costs represent a cost to the County of 77.2 cents for every mile driven. As a point of reference, the rate the County reimburses employees to drive their own vehicles on County business is 50.5 cents per mile, or 26.7 cents per mile *less* than the County spends on its own vehicles. We do recognize that the County per mile cost is an average of ALL vehicles, including some heavy duty vehicles.

Response to Finding 6: *The respondent partially disagrees with the finding.* Section 5(b) of the county travel policy (D-1) says, "Travel by private auto in the performance of "official County business" shall be reimbursed at the Federal rate as determined by the Internal Revenue Service." The IRS recently announced a new mileage reimbursement rate for the period of 7/1/08 through 12/31/08 of 58.5 cents per mile.

7. In reviewing the take-home vehicle list many of the assignments are not for "health and safety" or on-call status use. Take-home vehicles are driven 21% more miles per year, per vehicle when compared to the balance of the Fleet managed vehicles. One reason is that take-home vehicles include "commute" miles.

Response to Finding 7: *The respondent agrees with the finding.*

8. Potential cost savings to the County exist in two areas:
 - a. The conversion of miles driven in County-owned vehicles to private vehicle reimbursement would save 26.7 cents per mile. If a 10%

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reduction were achieved, the County would save an estimated \$145,278 annually.

Response to Finding 8a: *The respondent partially disagrees with the finding. As indicated by the Grand Jury in Finding 6, the average cost per mile driven in a county vehicle is potentially inflated by the inclusion of heavy duty vehicles which are more expensive to purchase, operate and maintain. In addition, the Internal Revenue Service recently announced a new mileage reimbursement rate for the period of 7/1/08 through 12/31/08 of 58.5 cents per mile. These factors combined suggest that the Grand Jury overestimated the savings per mile to the county from increased reliance on employees' personal vehicles. The Board of Supervisors also notes that it is infeasible to substitute personal use vehicles for heavy duty vehicles contained in the county fleet.*

More problematic however is the fact that over the past approximately 10 years, the top selling vehicles in the County of El Dorado have been Sport Utility Vehicles and Trucks. Nationwide the Ford F-Series truck was the top selling vehicle for over 20 years. Those vehicles purchased over the last 10 years are currently the most commonly owned vehicles by El Dorado residents. As shown below the ownership cost per mile of these vehicles is well above the 58.5 cents per mile reimbursement rate. Given this negative reimbursement rate it is unlikely to see a 10% reduction in miles driven because there is little incentive for employees to use their own vehicles for county business.

COMMON CURRENTLY OWNED VEHICLES IN EL DORADO COUNTY			
Vehicle Model Year & Type	Ownership Costs Over 5 Years	Ownership Mileage Over 5 Years at 12k Miles Per Year**	Ownership Cost Per Mile
2007 Chevy Tahoe	\$ 50,664.00	60000	\$ 0.84
2007 Ford F-250	\$ 58,130.00	60000	\$ 0.97
2007 Ford Explorer	\$ 44,106.00	60000	\$ 0.74

** 12,000 miles per year based on www.epa.gov

However, over the past year or so the trend has changed. The top selling vehicles in El Dorado County are currently the Toyota Camry, the Toyota Corolla, and the Honda Civic. The ownership cost per mile of these vehicles is far less than those historically sold in El Dorado County, making reimbursement for some uses more acceptable in upcoming years.

COMMON CURRENT TOP SELLING VEHICLES IN EL DORADO COUNTY			
Vehicle Model Year & Type	Ownership Costs Over 5 Years	Ownership Mileage Over 5 Years at 12k Miles Per Year**	Ownership Cost Per Mile
2007 Toyota Camry	\$ 30,796.00	60000	\$ 0.51
2007 Toyota Corolla	\$ 24,743.00	60000	\$ 0.41
2007 Honda Civic	\$ 24,952.00	60000	\$ 0.42

** 12,000 miles per year based on www.epa.gov

- b. A 10% reduction of total County vehicle miles driven would yield a 77.2 cent per mile savings, estimated to be \$419,862 annually.

Response to Finding 8b: *The respondent partially disagrees with the finding. It is obvious that reduced driving saves money. Given the factors outlined in the response to*

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finding 8a however, it is likely that the Grand Jury has overestimated the actual savings per mile and failed to recognize the difficulty of providing a cost-effective incentive for employees to use personal vehicles for county business. In addition, reduction in vehicle miles incurred on county business potentially results in service reductions to the public. The Grand Jury has not specified where these services reductions should occur or provided a compelling rationale for why service reductions should occur.

9. Our investigation indicated that Fleet Management is performing their function well.

Response to Finding 9: The respondent agrees with the finding.

RECOMMENDATIONS

1. The CAO to complete the required annual review of permanent assignment and overnight retention for County-owned vehicles for each County department by the end of this calendar year. Those assignments that cannot be justified should be rescinded.

Response to Recommendation 1: The recommendation has not yet been implemented but will be implemented in the future. The Chief Administrative Office will complete the required annual review by December 31, 2008.

2. Paragraph B.2 in the County vehicle policy should provide a clear definition of what constitutes “in the best interest of the County” for assigning take-home vehicles when the vehicle is not used for the public health and safety of citizens or does not meet the on-call qualification.

Response to Recommendation 2: The recommendation will not be implemented because it is not warranted. The Board of Supervisors vehicle policy is intended to generally guide the use and assignment of vehicles but should not be interpreted to limit the Board of Supervisors overall discretion and authority in determining the best interest of the county.

3. The purchase of fuel for County vehicles should be consolidated under Fleet Management so that all vehicle cost accounting and oversight is managed under a single program.

Response to Recommendation 3: The recommendation has not yet been implemented but will be implemented in the future. Oversight of fuel card system process should be consolidated and standardized across all County departments. Fleet Management will work to ensure and mandate all departments use the two card (individual driver / individual vehicle) system. With department head discussion, a reasonable way to control “off hour” use of take home vehicle gas cards may be the “DATE & TIME” component of the Hunt and Sons System. A timeframe for full implementation of this recommendation is difficult to establish, but the county expects this to be a priority when a new Facilities and Fleet Management Directors is hired.

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4. The management of “Department 99” vehicles should be consolidated under the Fleet Management process to insure that effective oversight and efficiency is achieved.

Response to Recommendation 4: The recommendation has not yet been implemented but will be implemented in the future. Currently Fleet Management is only tracking department owned vehicle smog checks. By providing oversight of individual department owned vehicle services, safety inspections, and other required maintenance needs, the county will ensure vehicles are safe, reliable, and remain cost effective. With the expected addition of a third vehicle lift, Fleet will be able to accommodate those “Department 99” vehicles currently not on a routine maintenance schedule. A timeframe for full implementation of this recommendation is difficult to establish, but the county expects this to be a priority when a new Facilities and Fleet Management Directors is hired.

RESPONSES

Response(s) to this report is required in accordance with California Penal Code §933.05.

PROJECTED 2008-2009 COUNTY VEHICLE MILES AND RELATED COSTS

TOTAL FLEET MILES:	5,437,318	
		<u>COST / MILE</u>
ALL COSTS LESS FUEL:	\$2,560,397	47.1 ¢
FUEL COST (407,806 gals.):	\$1,638,224	30.1 ¢
TOTAL COUNTY COST:	\$4,198,621	77.2 ¢
COUNTY PRIVATE VEHICLE REIMBURSEMENT RATE:		50.5 ¢
SPREAD BETWEEN COUNTY PER MILE COST AND REIMBURSEMENT RATE:		26.7 ¢

POTENTIAL ANNUAL SAVINGS:

- > EACH 10% REDUCTION IN OVERALL MILES DRIVEN = **\$ 419,862**
- > EACH 10% CONVERSION FROM COUNTY TO PRIVATE VEHICLE = **\$ 145,278**

<u>Vehicle Categories</u>	<u>Count</u>	<u>% of Fleet Managed Vehicles</u>	<u>Miles</u>	<u>% of Miles</u>	<u>Miles/Vehicle</u>
"Take-Home" Vehicles:	83	17.5%	1,112,350	20.5%	13,402
All Other Fleet-Managed Vehicles:	392	82.5%	4,324,968	79.5%	11,033
Total Fleet Managed Vehicles:	475	100%	5,437,318	100%	11,447
"Department 99" Vehicles:	50				
Inactive Vehicles:	17				
Total County Owned Vehicles:	542				

NOTE: costs and miles for the 50 "Department 99" vehicles are not included, as they are not managed by Fleet Mgmt.



EL DORADO COUNTY GRAND JURY 2007-2008

Emergency Permits in the Development Services Department Case No. GJ 07- 027

REASON FOR REPORT

The Grand Jury became aware of lengthy delays in the permit process for the reconstruction of damaged buildings.

BACKGROUND

Fires, floods, earthquakes and other unexpected damage to buildings can cause great hardship to occupants and owners. Often a business must cease or curtail operations and homeowners must find temporary lodging until building repair or reconstruction is completed. Expediting reconstruction is in the interest of building owners and occupants, as well as the community. However, unlike most construction contractors, building occupants and owners struck by fire or other emergencies are usually not familiar with the rigorous County construction permit and inspection regulations.

The El Dorado County Board of Supervisors commissioned a study of private development review processes conducted by the County, principally within the Development Services Department. Results were presented in a document and power point presentation, "Permits Evaluation and Recommended Tasks Report," March 25, 2008. This report was aimed at changes that would facilitate private commercial development in the County. While it made several recommendations regarding the Development Services Department, it omitted any discussion of the Department's response to emergency repair and reconstruction of damaged buildings.

METHODOLOGY

The Grand Jury investigated the County Development Services Department's process for emergency permits. The Grand Jury interviewed several individuals and reviewed many documents.

People Interviewed:

- El Dorado County Assistant Chief Administrative Officer (interim)
- El Dorado County building contractors and business owners

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- El Dorado County Development Services Department personnel
- Fire Protection District personnel

Documents Reviewed:

- “Angora Fire Reconstruction Expedited Process,” El Dorado County Development Services Department
- Building Permit Application (form), El Dorado County Development Services Department
- Contractor’s Project Notes for the re-building of a damaged business
- “Fire Damage Rapid Response Permit Process,” with charts, El Dorado County Development Services Department
- “Permits Evaluation & Recommended Tasks Report,” March 25, 2008, Assistant Chief Administrative Officer, El Dorado County (interim)
- “Scheduling of Permits for Reconstruction of a Fire Damaged Building,” El Dorado County Development Services Department

FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The need for a rapid response to expedite repair and reconstruction of damaged buildings is recognized in a Development Services Department’s document, “Fire Damage Rapid Response Permit Process.” Grand Jury interviews provided anecdotal evidence that this process takes much longer than necessary.

Response to Finding 1: The respondent disagrees partially with the finding. The Board of Supervisors cannot adequately respond to anecdotal evidence presented by the Grand Jury. Other anecdotal evidence suggests that the majority of people who have come through the building permit process after the Angora Fire have generally been happy with the county’s performance which suggests a timely process. In fact, approximately one-month before the publication of the Grand Jury’s report, the county had received 165 single-family dwelling building permit applications. 118 of those permits had been issued and one permit had been finalized. This evidence demonstrates that the Development Services Department is appropriately keeping up with the workload created by the Angora Fire.

2. The building construction inspection steps received little criticism. Most of the problems were deemed to occur in the permit process. Owners of damaged buildings often don’t have the knowledge and experience that developers have in navigating through the complicated

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process. They usually require guidance on how to proceed, both at the beginning and along the way to the completion of the permit process. Several persons within the Development Services Department, including outside officials such as fire marshals, are usually involved in a series of sequential steps. There is no evidence of an overall coordinator to actually obtain rapid response. Other than a red cover sheet (“red tag”) placed on the document package, there was no evidence of a systemic rapid response process. The Development Services Department has been characterized as insufficiently energetic in expediting permits under emergency response conditions.

Response to Finding 2: The respondent disagrees partially with the finding. The Board of Supervisors has extensively discussed the overall building permit process, as well as the specific issues and procedures related to processing Angora Fire building permits.

It is true that many property owners choose to go through the permit process without professional assistance. The county has no control over the expertise or prior experience of applicants. The county attempts to educate applicants and guide them along the proper path. However, this can add to the time it takes to process permits which subsequently causes frustration for the applicant.

Under direction of the Development Services Director, the Chief Building Official is the master coordinator for processing of building permits. As mentioned in the response to Finding 1, as of the middle of May, 2008, less than 10 months after the Angora Fire, the county had issued 118 building permits out of the 165 applications it had received. Again, this evidence demonstrates that the Development Services Department is appropriately keeping up with the workload created by the Angora Fire.

3. Reconstruction of damaged buildings to meet current codes required by State law leads to confusion between owners and the Development Services Department regarding the necessary reconstruction plans and re-submittals. This leads to delays.

Response to Finding 3: The respondent agrees with the finding. As mentioned in the response to Finding 2, many property owners choose to go through the permit process without professional assistance. The county has no control over the expertise or prior experience of applicants.

4. The Grand Jury found some evidence that contractors feared reprisal if they made complaints about the permit process.

Response to Finding 4: The respondent agrees with the finding. These fears and concerns have also been reported to the Acting Development Services Director. As a result, the Acting Development Services Director maintains an open door policy so applicants may report concerns and preventative or corrective measures can be taken if necessary.

RECOMMENDATIONS

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1. The County Board of Supervisors should direct the three Development Services Branch Managers (Placerville, El Dorado Hills and South Lake Tahoe) to be master coordinators of rapid response to all building emergencies that occur in their areas. In this capacity, their duties should include expediting all activities related to repair and reconstruction by:
 - Close supervision of all involved Department employees
 - Aggressive coordination with fire marshals and other government officials outside the Department
 - Actively advising the owners and occupants of damaged buildings throughout permitting and inspection, from beginning to completion of building repair and reconstruction

Response to Recommendation 1: *The recommendation has been implemented. This is already a component of the permit process. As mentioned in the response to Finding 2, the Chief Building Official is the master coordinator under the direction of the Development Services Director. For clarification we note that the El Dorado Hills office has been closed.*

2. A dated events log should be kept on each emergency response by the Branch Managers. These logs, with relevant comments, should be reported monthly to the Director of the Development Services Department.

Response to Recommendation 2: *The recommendation has been implemented. The building permit record itself serves as a dated events log.*

3. Rapid response to emergency repair and reconstruction should be a consideration in evaluating job performance of Branch Managers within the Development Services Department.

Response to Recommendation 3: *The recommendation has been implemented. Appropriate evaluation requires a review of all job duties and actions. The Chief Building Official evaluates all activities and actions of each Branch Manager during evaluation, which includes the expeditious review of all building permit applications.*

4. The (new) Director of the Development Services Department should establish an “open door” policy in order to hear complaints from building owners and contractors on a strictly confidential basis and make it clear to the construction community that this policy has been adopted.

Response to Recommendation 4: *The recommendation has been implemented. As mentioned in the response to Finding 4, the Acting Director has already established this policy and, since January, has been meeting with people expressing a wide range of concerns. This activity is something that the Board will look to continue when a new permanent Director is selected.*

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RESPONSE

Responses to this report are required in accordance with the California Penal Code §933.05



EL DORADO COUNTY GRAND JURY 2007-2008

Audit of Human Services and Mental Health Medi-Cal Revenues Case No. GJ 07-006

BACKGROUND

During the past five years, the Grand Jury has received several requests for action relating to the poor internal administrative controls in the County Departments of Human Services (DHS) and Mental Health. The Grand Jury seated in 2005-2006 had an outside audit performed by qualified, respected, and seasoned consultants with expertise in the Mental Health and Medi-Cal Programs. The audit determined that both departments lacked necessary internal controls. Specifically in the administrative areas of time-keeping, completing reports, clients receiving incorrect information, and the programs administrated were not in compliance with State and/or Federal laws. The major areas of concern were the financial billing, time keeping, accurate report documentation, and recouping funds from the State of California.

A follow-up study was performed by the 2006-2007 Grand Jury and although both departments had made improvements, still more needed to be done. (See Grand Jury reports from 2005-2006 and 2006-2007.)

In 2007, the Sacramento Bee reported the Attorney General and the Director of DHS provided an estimate that the State's Medi-Cal Program was losing up to one billion dollars annually due to fraudulent activities. The Grand Jury received a less than satisfactory response into its inquiry to both the County Departments of Mental Health and Human Services about the status of its billing and financial reimbursement of clients' services.

METHODOLOGY

The 2006-2007 Grand Jury voted to allocate funds to perform an audit of the financial billing practices of both County departments in the Medi-Cal programs. The audit was initiated in 2006-2007, but was not complete by the end of the jury's term requiring the audit to be terminated. After a thorough analysis, the 2007-2008 Grand Jury voted to resume the audit with Harvey Rose Associates, LLC, adjusting the audit scope to include questionable programs in DHS and Mental Health Departments.

FINDINGS

1. El Dorado County faces a severe budget crisis and the findings in the Audit Report provide evidence that the County could be at risk of losing up to **\$541,420**. If the State requested the money be refunded, it would have to come from the County's general fund. The potential losses are due to administrative errors and omissions, poor policy communications and procedures, and questionable management in the Human Services Public Guardian Program. Conversely, the Human Services Linkages Program was found to be well managed.

Response to Finding 1: The respondent disagrees with the finding. The Board of Supervisors does not concur with the conclusion that the county is at risk of losing up to \$541,420 because the faulty sampling methodology used in this audit produced inaccurate findings from which no valid extrapolations can be concluded.

In general, in order to ensure that the characteristics of a sample are representative of an entire population, certain statistical standards must be met. The sample sizes in this audit do not meet reasonably acceptable thresholds and their random selection is highly doubtful.

With respect to Mental Health Department, the audit indicates that 52 clients among both the Adult Outpatient and Children's Outpatient programs were selected initially for analysis. Among these 52 client files, only 37 were actually reviewed. According to the California External Quality Review Organization's (CAEQRO) February 2008 review of the County mental health plan, there were 1,313 beneficiaries of mental health outpatient services in calendar year 2006. Assuming a client population of this size for 2007, in order to draw a statistically valid inference about the entire population of clients, with a 95% confidence level and a 5% confidence interval, 297 client files would have had to be reviewed.

This sampling error is perhaps further compounded by the way in which the sample was selected. There are four sampling methods commonly used in clinical audits, the first three of which are forms of probability sampling:

1. *Simple Random Sampling. Each subject has an equal chance of being selected.*
2. *Quasi Random Sampling (or Systematic Sampling).*
3. *Stratified Sampling. Ensures the proportion of different groupings present in the population is reflected in the sample.*
4. *Consecutive Sampling (or Convenience Sampling).*

This audit reviewed billing and documentation files for selected Western Slope clients who were provided services between the months of August and October 2007, but only for a period of one month prior to the time actual bills were submitted to the State. For the South Lake Tahoe Adult sample, the audit sample was limited to three billings per client between the months of March and October 2007. This inconsistent sampling methodology suggests that the sample was not identified randomly, as stated in the audit report. A non-random sample further erodes the reliability of the sample, and the ability to extrapolate characteristics of the sample to the population.

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Similar sampling errors are evident with respect to the Department of Human Services portion of the audit. For example, the TCM Program funding component within the Linkages Program served a total client population of 60 cases that met the Auditor's criteria. The audit reviewed 10 cases. In order to draw a statistically valid inference about the population with a 95% confidence level and a 5% confidence interval, 52 cases would have to be sampled. Similarly the TCM Program funding component within Public Guardian served a total client population of 153 cases that met the Auditor's criteria. At a 95% confidence level with a 5% confidence interval, 110 cases would have to be included in the sample in order to draw a valid inference. The audit reviewed 12 cases.

Given the extremely small sample sizes, there is insufficient evidence that the rate of disallowance suggested by the sample is representative of the Medi-Cal client file population.

The Board of Supervisors is further concerned about the auditor's ability to draw conclusions based on the data requested and reviewed. In particular, many of the alleged disallowances in the Mental Health component of the audit were attributed to "incomplete client plan/assessment notes." It is not clear that the auditor is professionally trained in medical documentation standards and clinical psychiatry to judge the quality of clinical progress documents.

The audit findings relative to Targeted Case Management in the Department of Human Services are based upon:

- 1) An apparent lack of understanding of the TCM Program and its requirements.*
- 2) An apparent lack of understanding of the distinction between Medi-Cal beneficiaries and Medi-Cal beneficiaries eligible for or receiving TCM services.*
- 3) An apparent lack of understanding of the Public Guardian and Linkages Programs and target populations.*
- 4) Inaccurate underlying data due to reviewing redacted documentation.*

A more detailed discussion of the audit inaccuracies affecting the audit results is available in Appendix A.

In addition, although the audit reviewed many aspects of Medi-Cal billing practices in two different departments, Finding 1 implies that the entire amount of "at risk" funds are due to management of the Public Guardian Program only. Although the Board of Supervisors believes the amounts suggested in the audit are in error, the audit itself suggests a potential Medi-Cal disallowance for the Department of Human Services' Public Guardian Program of \$144,828.

Finally, to the best of our knowledge, the County has no history of having these types of claims disallowed at the rates suggested by the audit. The audit does not provide any specific state or federal criteria indicating that disallowances would occur for the issues discussed. Even if the documentation reviewed was out of compliance with program requirements, the documentation deficiencies would more likely be the subject of a corrective action plan than of disallowed costs.

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2. The Grand Jury acknowledges the difficulty in administering and implementing mental health and human service programs. County staff is concerned and takes pride in caring for our citizens; however, there is room for improvement.

Response to Finding 2: The respondent agrees with the finding. County staff is proud of these programs and is always looking for opportunities to improve services.

3. The Grand Jury and the Auditor encountered multiple impediments in obtaining the necessary legally authorized and court-ordered records from DHS. Even with repeated County Counsel intervention, the Auditor, with the court-order, did not receive requested client case record information, including requested assessments in effect during the review period, pertinent to the performance of a comprehensive compliance audit. Only during the June 9, 2008 exit conference, did DHS acquiesce to allow the Auditor and grand jurors a chance to physically inspect the records, just six days before the audit was to be submitted to the Grand Jury. The Auditor gave DHS every possible opportunity to comply. After the exit conference, DHS did provide the Auditor with additional information requested. A subsequent letter from the Assistant Director of DHS to the Grand Jury dated June 13, 2008, extended a late invitation encouraging jurors to review the electronic records. The invitation was received in the Grand Jury after the audit review period and the closure of the investigation.

The impediments the Auditor experienced in acquiring information was in direct contrast with the Department of Mental Health. The Grand Jury commends the Department of Mental Health for their positive attitude and desire to improve customer service and providing information requested by the Auditor while still maintaining client confidentiality.

Response to Finding 3: The respondent disagrees partially with the finding. Client privacy is of the utmost importance, and it is difficult to connect case management and reporting information for individual clients without compromising protected information.

The Department of Human Services welcomed the court order issued for this audit, which was actually a recommendation by the State of California to provide an outside auditor with access to case files that may contain clients' personal information. The Board of Supervisors understands that the auditor may have been frustrated by the redactions in the documentation provided as directed by the court order. However, during the audit process the auditor advised the Department of Human Services staff that he had sufficient information to proceed. Staff also notes that the auditor followed up with only limited questions about the information provided. The Department of Human Services expected an onsite audit of the case files and offered the auditor access to the case files with limited redactions. However, the auditor declined the onsite file review. Since the documents requested for review would be leaving the Department of Human Services office, staff exercised an abundance of caution in redacting client information.

4. The results of the investigation and information from previous Grand Juries indicate that closer oversight of the leadership in the DHS by the Board of Supervisors is required.

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Response to Finding 4: The respondent disagrees with the finding. As stated in the response to Finding 1, the Board of Supervisors does not concur with the audit findings and believes that the suggested amount of potential Medi-Cal disallowances are inaccurate. However, even if the audit findings with respect to the Department of Human Services Medi-Cal billings were infallible, the total amount of suggested disallowance represents approximately one-quarter of 1% of the Department of Human Services annual budget.

In addition, the 2006-07 Grand Jury Wraparound Program Audit acknowledged improvements in the areas of administration and fiscal responsibility under Department of Human Services management. Although the Wraparound Audit made several suggestions for making the Wraparound Program a “model” program above and beyond state requirements, the audit noted that, “The County is operating in compliance with all State mandates pertaining to the Wraparound program” (*El Dorado County Grand Jury 2006-2007, Wraparound Program Audit, GJ 06-049, Prepared by Harvey M. Rose Associates, LLC, May 2007*). In fact, many of the audit recommendations had been implemented before the audit commenced.

In short, the Board of Supervisors concludes that the Grand Jury’s finding that additional oversight is required of DHS leadership is unsupported by evidence.

5. During the exit conference, the Auditor presented to DHS a copy of State regulations pertaining to Targeted Case Management and written comprehensive Individualized Service Plans. DHS stated they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation.

Response to Finding 6: The respondent disagrees with the finding. As indicated in Appendix A, the auditor did not present a copy of this document to Department of Human Services staff, but rather briefly displayed his copy of what he said were regulations. No statement by Department of Human Services staff was made to the effect that they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation. The perception that staff failed to comply with “state regulations” suggests an insufficient understanding of the complexities of the state and federal regulatory environment.

The Board of Supervisors notes that the Department of Human Services analyst who has administered the Targeted Case Management Program for the County for the past seven years is considered by the State to be an expert in TCM administration, has collaborated with the California Department of Health Care Services to present statewide TCM trainings, and serves as a resource for ongoing technical assistance relative to the operation of TCM programs statewide.

RECOMMENDATIONS

1. The Grand Jury agrees with the Audit findings and urges the Board of Supervisors to direct management in the Departments of Human Services and Mental Health to implement all the audit recommendations.

Response to Recommendation 1: *The recommendation will not be implemented because it is not warranted. As stated, the limited data reviewed and sampling methodology utilized does not support the findings of the audit. The Board of Supervisors recognizes that regardless of the quantitative findings of the audit, some of the recommendations are rather obvious suggestions for the Department of Human Services and Department of Mental Health Management. As evidenced from the departmental responses to the audit, the Board determines that no additional direction is required to Department of Human Services or Department of Mental Health management.*

2. The Board of Supervisors should direct the development of a comprehensive written policy and procedure for departments on “How To” process requests for confidential records from auditors and court orders.

Response to Recommendation 2: *The recommendation will not be implemented because it is not reasonable. As the implementers of numerous and disparate state programs, County departments are accountable not only to the Board of Supervisors but also to a wide range of state departments with different documentation and access requirements. Consequently, it is more reasonable and practical to evaluate each request for confidential information in context than to attempt to establish a “one policy fits all” approach to information requests.*

3. Next year’s Grand Jury should determine if DHS provided to the Auditor the documents requested in the court-order.

Response to Recommendation 3: *The Board of Supervisors has no response as this recommendation is apparently directed at the 2008-09 Grand Jury.*

4. Department of Health Services should actively engage in a process with the State of California to resolve any discrepancies in training when that training conflicts with statutes and program regulations. Resolutions should be well documented, communicated, and readily retrievable.

Response to Recommendation 4: *The recommendation will not be implemented because it is not warranted. (The Board of Supervisors notes that the Grand Jury most likely meant this recommendation for the County Department of Human Services, not the state Department of Health [Care] Services.) As mentioned in the discussion of the audit findings, the inferences of the audit are invalid, the County has no history of disallowances suggested by the audit, and County staff managing particular programs are viewed by the State as experts in the field. In short, the evidence does not support the conclusion that “discrepancies in training” exist.*

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RESPONSES

Response(s) to this report is required in accordance with California Penal Code §933.05.

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APPENDIX A

**El Dorado County Department of Human Services
Response to Grand Jury FY 2007-2008 Final Report
Audit of El Dorado County’s
Medi-Cal Revenues Generated by the
Departments of Human Services
and Mental Health**

Doc Page	Grand Jury Report	DHS Response
15	After a thorough analysis, the 2007-2008 Grand Jury voted to resume the audit with Harvey Rose Associates, LLC, adjusting the audit scope to include questionable programs in DHS and Mental Health Departments.	The meaning and intent of the term “questionable” are not clear. DHS programs are operated under State authority pursuant to the appropriate State and Federal laws, regulations and guidelines. DHS was not made aware of the referenced analysis or given an opportunity to respond.
16	Finding 1. El Dorado County faces a severe budget crisis and the findings in the Audit Report provide evidence that the County could be at risk of losing up to \$541,420. If the State requested the money be refunded, it would have to come from the County’s general fund. The potential losses are due to administrative errors and omissions, poor policy communications and procedures, and questionable management in the Human Services Public Guardian Program. Conversely, the Human Services Linkages Program was found to be well managed.	<p>DHS disagrees with this finding.</p> <p>The audit implies that the \$541,420 is attributable to the Public Guardian Program. As demonstrated by tables contained within the Audit Report, the majority of the amount claimed to be at risk (\$393,673) is attributable to Mental Health programs, with \$147,747 attributed to DHS, of which \$144,828 is attributed to Public Guardian and \$2,919 to Linkages.</p> <p>The Audit Report identified the scope of the audit as being the TCM Program, yet the finding implies that the Public Guardian Program as a whole suffers from questionable management. The Public Guardian Program Manager and any Deputy Public Guardians or Program Assistants within Public Guardian Program were not interviewed during this audit.</p> <p>Calculations and methodology substantiating the total possible disallowances are not provided in the Audit Report. DHS disagrees with the audit as to the total number of non-compliant TCM encounters and the potential risk.</p> <p>The TCM Program and the Public Guardian Program are separate and distinct programs. The relevance of TCM audit findings to the operations of the Public Guardian’s Program has not been articulated in the audit, nor are any facts supporting the claim of “questionable” management provided in the Grand Jury’s report.</p>

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Doc Page	Grand Jury Report	DHS Response
16	<p>Finding 3. The Grand Jury and the Auditor encountered multiple impediments in obtaining the necessary legally authorized and court-ordered records from DHS. Even with repeated County Counsel intervention, the Auditor, with the court-order, did not receive requested client case record information, including requested assessments in effect during the review period, pertinent to the performance of a comprehensive compliance audit. Only during the June 9, 2008 exit conference, did DHS acquiesce to allow the Auditor and grand jurors a chance to physically inspect the records, just six days before the audit was to be submitted to the Grand Jury. The Auditor gave DHS every possible opportunity to comply. After the exit conference, DHS did provide the Auditor with additional information requested. A subsequent letter from the Assistant Director of DHS to the Grand Jury dated June 13, 2008, extended a late invitation encouraging jurors to review the electronic records. The invitation was received in the Grand Jury after the audit review period and the closure of the investigation.</p>	<p>The opportunity to review the subject records onsite at DHS with very limited redactions (e.g., name and Social Security Number) was available to the Auditor throughout the course of the audit. Based on early communications with HMR, DHS expected that HMR would perform an on-site case file review. In a phone conversation on February 11, 2008 between DHS Department Analyst Yasmin Hichborn and Monica Na of HMR, it was discussed that client files would be available on site for review but that any documentation leaving DHS offices would be redacted. On February 13, 2008, Ms. Na corresponded with DHS by email and indicated that they would begin on-site records inspection on February 15, 2008. As of February 13, 2008, the required court order had not been issued, and the Auditor was notified that County Counsel had advised that DHS would be unable to release records without it. The required court order was not issued until February 20, 2008. The Auditor went forward with their planned February 15, 2008 site visit, but did not schedule any visits after receipt of the court order allowing on-site inspection of the records, instead choosing to receive records by mail.</p> <p>On April 14, 2008, DHS staff received an email from the Auditor stating “I think we have everything from the request list now”.</p> <p>Despite ongoing communication between the Auditor and DHS relative to issues such as clarification of information and requests for additional information, DHS was not informed that the level of redaction in the documents was an impediment to the Auditor’s review. DHS’s first awareness of the Auditor’s concerns about redaction was upon receipt and review of the draft Audit Report (received by DHS after 5:00 pm on Friday, May 30, 2008). During the June 9, 2008 exit conference, in a good faith effort to assist the Auditor, DHS offered the Auditor and representatives of the Grand Jury the opportunity to review the records in question on-site to confirm that the correct records had been provided. The offer was declined.</p> <p>On June 13, 2008, the Assistant Director of DHS followed up with a written offer for members of the Grand Jury to make an on-site inspection of the records, but did not receive a response.</p>
16	<p>Finding 4. The results of the investigation and information from previous Grand Juries indicate that closer oversight of the leadership in the DHS by the Board of Supervisors is required.</p>	<p>Department of Human Services welcomes and appreciates Board of Supervisors oversight. However, a careful review of recent Grand Jury reports and responses to those reports will confirm that DHS is in compliance with State laws and that numerous deficiencies existed in prior audit work performed by or on behalf of the Grand Jury.</p>

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Doc Page	Grand Jury Report	DHS Response
16	<p>Finding 5. During the exit conference, the Auditor presented to DHS a copy of State regulations pertaining to Targeted Case Management and written comprehensive Individualized Service Plans. DHS stated they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation.</p>	<p>DHS disagrees with this finding. The auditor did not present a copy of this document to DHS, but rather briefly displayed his copy of what he stated were regulations. No statement by DHS staff was made to the effect that they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation. In fact, DHS staff informed the auditor that they had attended Statewide TCM training for Public Guardian providers, that DHS had assisted in the development of the State-accepted forms used during the training, and that DHS staff assisted in training representatives from other Public Guardian offices.</p>
17	<p>Recommendation 4. Department of Health Services should actively engage in a process with the State of California to resolve any discrepancies in training when that training conflicts with statutes and program regulations. Resolutions should be well documented, communicated, and readily retrievable.</p>	<p>The intent of this recommendation is unclear. There is no "Department of Health Services" in El Dorado County. DHS works closely with the State throughout the year. However, it should be noted that DHS has no authority to require any action on the part of the State.</p>

Doc Page	HMR Audit Report Statement	DHS Response
Cover Letter	<p>We found that, to varying degrees, opportunities for improvement exist in the program areas reviewed for improved compliance with Medi-Cal and Targeted Case Management documentation requirements to ensure that the County maximizes its Medi-Cal revenues and minimizes Medi-Cal reimbursements disallowances.</p>	<p>While DHS welcomes opportunities to improve program performance, the audit lacked sufficient specificity for the Department to identify or develop such improvements. The DHS audit was specific to TCM. The audit appears to have focused on an attempt to determine the potential risk for reimbursement disallowances rather than on maximizing revenues. DHS disagrees with the audit calculations relative to potential disallowances.</p>

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E-4	4.1 Direct Public Guardian Office management to establish written policies and procedures and documentation requirements that are consistent with Targeted Case Management program requirements and regulations, to include: inclusion in Individual Client Services Plans of client issues identified in Assessments; inclusion of specific actions and services in Individual Client Services Plans; and, specific discussion in Periodic Reviews of client progress in meeting service objectives and needs identified in previous Assessments and Service Plans.	<p>This statement is recommending the development of policies and procedures for a discontinued program funding source. The State suspended billing for TCM services by Public Guardian offices Statewide effective March 3, 2008. If billing for TCM services for Public Guardian Programs is reinstated by the State, the State will issue necessary instructions to the counties.</p> <p>In a letter dated April 7, 2008, DHCS notified TCM providers that as of March 3, 2008, TCM providers may not submit invoices to DHCS for TCM services performed by staff of Public Guardian agencies. This letter is posted on the State's TCM website under the heading "Policy & Legislation" as "End of TCM Claiming from AP and PG Agencies".¹</p> <p>The Auditor and representatives of the Grand Jury were informed of this development by DHS staff during the June 9, 2008 exit conference, at which time the Auditor acknowledged that he was aware at the time his "risk criteria" was developed that TCM funding would likely be terminated for Public Guardian Programs Statewide. The Auditor's recommendation to the Grand Jury was for review of a program that had a high probability of not being a viable future funding source for the County. Therefore, the audit of TCM in relation to Public Guardian services could be expected to be of limited benefit to the County, the Department and the community. By the time the draft Audit Report was provided to DHS, TCM was a discontinued revenue source for Public Guardian Programs Statewide. Neither the draft nor the final Audit Report disclosed this relevant information.</p>
19	The Targeted Case Management (TCM) program was recommended for more detailed review by the auditors and approved by the Grand Jury based on this risk criteria.	<p>The Auditor and representatives of the Grand Jury were informed of this development by DHS staff during the June 9, 2008 exit conference, at which time the Auditor acknowledged that he was aware at the time his "risk criteria" was developed that TCM funding would likely be terminated for Public Guardian Programs Statewide. The Auditor's recommendation to the Grand Jury was for review of a program that had a high probability of not being a viable future funding source for the County. Therefore, the audit of TCM in relation to Public Guardian services could be expected to be of limited benefit to the County, the Department and the community. By the time the draft Audit Report was provided to DHS, TCM was a discontinued revenue source for Public Guardian Programs Statewide. Neither the draft nor the final Audit Report disclosed this relevant information.</p>
E-4	4.2 Direct Linkages program management to direct staff to include frequency and duration of activities and services in their Individual Client Services Plans.	<p>The recommendation has been implemented.</p> <p>DHS has issued an instruction to Linkages staff to include frequency and duration on the form where the specific activity or service is documented.</p>
28	Though a TCM program requirement, none of the Plans in the twelve sets of case records reviewed identified the frequency or duration of the proposed actions to be taken.	<p>DHS has issued an instruction to Linkages staff to include frequency and duration on the form where the specific activity or service is documented.</p>
32-33	<p>Exhibit 4.6</p> <p>Review of 10 Individual Client Service Plans</p> <p>Linkages Program</p> <p>Plans with activity frequency, duration</p> <p>-----</p> <p>they were found not fully compliant with TCM regulations in that none of the Service Plans reviewed described the frequency or nature of the activities and specific services to be performed, as required by TCM regulations.</p>	<p>The recommendation has been implemented.</p> <p>DHS has issued an instruction to Linkages staff to include frequency and duration on the form where the specific activity or service is documented.</p>

¹ <http://www.dhcs.ca.gov/provgovpart/Pages/TCM.aspx>.

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E-4	4.3 Direct the Department’s TCM Coordinator to conduct periodic spot audits of Public Guardian and Linkages program Medi-Cal beneficiary client case records to ensure that they are compliant with TCM requirements and report the results in writing to the Director every six months.	<p>The recommendation will not be implemented because it is not warranted. DHS created an audit tool and audits have been performed. A more regular audit schedule has been implemented for TCM services provided by Linkages and for those TCM services that have not yet been billed for Public Guardian.</p> <p>However, it is important to clarify that not all Medi-Cal beneficiaries are eligible for TCM services, so an internal audit of Medi-Cal beneficiary files by the TCM department coordinator is not warranted unless they also receive TCM services.</p>
E-4	4.4 Establish protocols for periodic reviews and audits of TCM and other Medi-Cal program case records by oversight agents such as the County Auditor-Controller, the Chief Administrative Officer and future Grand Juries that will allow for unimpaired audits of Medi-Cal programs by providing all documents needed to assess program compliance while still protecting client privacy.	<p>The State has the ability to review the TCM records at any time because these are State records. The relevant records may also be reviewed by the County’s CAO and the Auditor-Controller’s office. Requests for access by the Grand Jury will continue to require County Counsel review and approval and/or instruction from the State.</p>
25	According to DHS, these impairments would not occur if the State were to audit TCM program records since they would be entitled to review all aspects of case records and records. However, a system should be established so that other parties with an interest in County Medi-Cal revenues, such as the Chief Administrator’s Office, the Auditor-Controller or future Grand Juries, can audit these records without these impairments and still protect the confidentiality of the clients.	
i	Interviews were conducted with directors, program managers and key staff at the Department of Human Services and the Department of Mental Health.	DHS notes that “key” staff interviewed at the Department of Human Services did not include the Public Guardian Program Manager, Deputy Public Guardians or Program Assistants for the Public Guardian Program.

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ii	Due to the Department of Human Services' refusal to provide access to Targeted Case Management case records due to concerns about client confidentiality, it was necessary for a court order to be obtained to allow access to the records for audit purposes.	<p>DHS is required by law to protect records from access by unauthorized individuals or entities. On June 21, 2007, the State provided DHS with a letter specifying the legal requirements for protecting client records. The letter states:</p> <p style="padding-left: 40px;">These records are governed by Welfare and Institutions Code section 14100.2, which states that records about Medi-Cal beneficiaries may only be used or disclosed for purposes directly connected with the operation of the Medi-Cal program. We would not consider a disclosure to the grand jury to be directly connected with the operation of the program and, furthermore, as your letter indicates, a grand jury has no authority to investigate a state agency.</p> <p>The letter also states in regard to Medi-Cal records, that if the Grand Jury were investigating billing fraud, "Welfare and Institutions Code section 14100.2 and federal Medicaid regulations would prevent their release without a court order. The agency would likely oppose such an order on the ground that the grand jury auditor has no authority to investigate a state agency."</p> <p>DHS could not release Medi-Cal records, including TCM records, to the Grand Jury or the Auditor given the specific direction from the State of California.</p> <p>The Auditor was informed during the initial conference on January 25, 2008, that in accord with State guidance, a court order would be required to comply with the Grand Jury's request for records. DHS and HMR mutually developed and agreed upon the terms memorialized in the February 18, 2008 letter upon which the February 20, 2008 court order was based.</p>
25	Two other impairments affected this TCM case file review. First was the extensive redacting of the case file documents by DHS to the extent that compliance with some TCM program regulations could not be determined.	

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ii	All records provided by the Department were to have client information such as name and Social Security number redacted though a unique identification number from each client's records was to remain visible in the records so that it could be matched to a corresponding client master list to ensure that we were provided the randomly selected case records.	The request letter from HMR referenced by the court order stated: "It was also agreed that identifying client information such as names and full Social Security numbers will be redacted from the selected documents, though a unique identification number from each client's records will be provided on the anonymous client master list provided by the Department so that the [sic] we can verify that we have received the records of the clients selected from the master lists."
ii	The required unique identification numbers were not included in the computer generated records as requested but were instead handwritten on each document. This reduced the assurance that the auditors received the randomly selected records requested.	The letter attached to the court order stated that a master list would be provided with the unique identification number. It did not state that a "unique identification number from each client's records was to remain visible in the records". HMR's letter formed the basis for the court order. It was agreed that full Social Security numbers would not be provided. Other than Social Security numbers, no unique identifying number is common to the Department's client records and the State's TCM billing records. Even Social Security numbers do not appear on every type of document that was requested for review. Thus, a hand-written key was developed to facilitate client identification.
20	This audit of Targeted Case Management program Medi-Cal billing records was impaired by the documentation provided by the Department of Human Services in that: 1) the case file documents provided could not be positively identified as those of the clients randomly selected for review because client identification numbers from the Department's client master lists were blacked out by the Department on case file documents and replaced with handwritten numbers; 2) documentation provided did not allow for verification of whether or not claims were submitted for Medi-Cal reimbursement for the cases reviewed;	The only way to relate Departmental records to State TCM records was to add handwritten unique identifying numbers to each page. This is because the State TCM system assigns random numbers to each encounter. These numbers cannot be duplicated or overridden at the county level. The Department complied with the court order.

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25	<p>To avoid providing documents with client names, the Department of Human Services provided clients lists for sample selection with client identification numbers only. Consistent with the terms of the February 20, 2008 court order issued requiring the Department to provide the records reviewed, a request was made by the auditors that the identification numbers on the Department’s client master list be visible in the case file documents to verify that the client billing records provided by the Department were in fact those of the randomly selected clients. This intended method of validating that the selected records were the actual records provided was not possible as the Department blacked out the client identification numbers in the case file documents and handwrote the identification numbers on each document. As a result, it cannot be confirmed that the selected records were the ones provided by the Department.</p> <p>Another impairment to the audit process was that it was not possible to validate that the selected records contained client encounters for which the Department billed Medi-Cal. A request was made for documentation showing a cross-reference such as the client identification number of the reviewed records on the invoice but this was not provided by the Department. As a result, it was not possible to verify which encounters reviewed were billed to Medi-Cal.</p>	

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ii	<p>The arrangement in the court order did allow for provision of the needed records but the extent of Departmental redaction efforts exceeded name and Social Security number. Much of the content of progress reports and client service plans was blacked out, reducing the extent to which case record compliance with all Targeted Case Management requirements could be evaluated.</p>	<p>In addition to State and federal law, DHS is bound by the terms of the contract between DHCS and El Dorado County. Exhibit G to the contract states in part:</p> <p style="padding-left: 40px;">“Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time.”</p> <p>Exhibit G further provides that, “Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of CDHS², provided that such use or disclosure would not violate the HIPAA regulations, if done by CDHS.”</p> <p>Examples of personal identifying information that must be protected are provided in Welfare and Institutions Code section 14100.2(b) as “names and addresses, medical services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data, including diagnosis and past history of disease or disability.” Other relevant State and Federal laws may require additional protections (e.g., HIPAA).</p> <p>Additionally, Title 42, United States Code, Section 1396a(a)(7) requires agencies to provide “safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the state Medicaid program.” Confidentiality policies governing Medi-Cal and the Medi-Cal Eligibility Data System (MEDS) are discussed in greater detail in DHCS All County Welfare Directors Letter 08-04.</p> <p>Given the need to comply with the relevant State and federal laws, the court order did not limit redaction to names and Social Security numbers. HMR staff were informed that records leaving the office would be subject to much more extensive redaction than records examined in an on-site review.</p>

² CDHS refers to the California Department of Health Services, now the California Department of Health Care Services (DHCS).

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ii	In spite of this impediment, it was still possible to determine compliance with most program requirements.	
26	In spite of that, it was still possible to determine in the majority of cases whether or not the Periodic Reviews were compliant with most TCM requirements.	
ii-iii	Initially all Targeted Case Management records provided by the Department of Human Services had supervisor signatures redacted so it was not possible to determine if the Department was complying with the Program requirement that supervisors sign Client Service Plans. After the exit conference with the Department, a subsequent set of records was provided showing the signatures.	<p>DHS offered these records after reviewing the draft Audit Report, learning there was an issue, and determining the information was not protected.</p> <p>On April 14, 2008, DHS staff received an email from the Auditor stating “I think we have everything from the request list now”.</p> <p>Despite ongoing communication between the Auditor and DHS relative to issues such as clarification of information and requests for additional information, DHS was not informed that the level of redaction in the documents was an impediment to the Auditor’s review.</p> <p>DHS first became aware of the Auditor’s concerns about redaction upon receipt and review of the draft Audit Report.</p> <p>The opportunity to review the subject records onsite at DHS with very limited redactions (e.g., name and Social Security Number) was available to the Auditor throughout the course of the audit.</p>
20	3) case file documents were so extensively redacted in some cases that it was not possible to verify compliance with some program regulations;	
26	Some measures of compliance were difficult to determine since so much of the content of the records provided was redacted by the Department of Human Services. For example, Periodic Reviews are supposed to assess accomplishment of the objectives set forth in Individual Client Service Plans. Unfortunately, much of the text in the Periodic Reviews and Individual Client Service Plan documents was blacked out by DHS to the point that it could not be determined in all cases what services or service objectives were being discussed. In spite of that, it was still possible to determine in the majority of cases whether or not the Periodic Reviews were compliant with most TCM requirements.	
29	None of the recorded Linkage and Consultation services reviewed were fully compliant with TCM requirements. In all cases, there were either no service referrals or, if there were, the nature of the services could not be confirmed because so much of the text in the report was blacked out by DHS.	

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34	<p>Exhibit 4.7</p> <p>Periodic Reviews in 10 Sets of Case Records</p> <p>Linkages Program</p> <p># assessing Service Plan objectives accomplished?</p> <p>6 Could not be determined due to state of records</p>	
1817	<p>The primary objective of the Multipurpose Senior Services Program (MSSP) is “to avoid, delay, or remedy the inappropriate placement of persons in nursing facilities, while fostering independent living in the community. MSSP provides services [that] enable clients to remain in or return to their homes”.¹</p> <p>¹ California Department of Aging, Multipurpose Senior Services Program Site Manual, 1-1, April 2004.</p>	<p>This statement does not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p align="center">“The primary objective of MSSP is to avoid delay, or remedy the inappropriate placement of persons in nursing facilities, while fostering independent living in the community. MSSP provides services <u>to eligible clients and their families to enable clients to remain in or return to their homes</u>”</p> <p>The Department notes that the currently applicable version of the page 1-1 of the MSSP Site Manual is September 2005.</p>
18	<p>Targeted Case Management (TCM) consists of case management services that assist Medi-Cal beneficiaries gain access to needed medical, social, educational, and other services. The objective of the program is to ensure that the changing needs of Medi-Cal eligible individuals are addressed on an ongoing basis and choices are made from the widest array of options for meeting those needs.²</p> <p>² State Department of Health Care Services, “Targeted Case Management: Fact Sheet.” Available for download at http://www.dhcs.ca.gov</p>	<p>This statement does not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p align="center">“TCM consists of case management services that assist <u>Medi-Cal eligible individuals within a specific targeted population</u> to gain access to needed medical, social, educational and other services.”³</p> <p>The goal of TCM is actually identified as:</p> <p align="center">“Ensure that the changing needs of Medi-Cal eligible <u>persons</u> are addressed on an ongoing basis and <u>appropriate choices are provided</u> among the widest array of options for meeting those needs.”</p>

³ State Department of Health Care Services, “Targeted Case Management Fact Sheet.” Available for download at <http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/TCM/TCMFactSheet.pdf>.

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18	<p>The Public Guardian provides services that are contingent upon the Office’s appointment as conservator for an individual by the Superior Court or through its Representative Payee program for individuals who receive income through public entitlements, public benefits programs or other benefits programs and voluntarily seek financial management services.</p>	<p>The audit description of the Public Guardian services paraphrased from the County’s webpage omits that services provided by the Public Guardian Program are “defined and directed by the Probate Division of the Superior Court”.</p> <p>In critiquing Public Guardian TCM services, the audit does not address the differences between the target populations served by the Public Guardian, those being probate conservatees, LPS conservatees and representative payee clients. This is an important differentiation on many levels, specifically the nature of the services provided, program service and oversight responsibilities and, most relevant, the level and type of decision-making authority delegated to the Public Guardian for the three divergent client populations.</p> <p>The representative payee program consists primarily of services to those individuals who are required by the Social Security Administration to have a representative payee. The voluntary component is that the SSA benefit recipient may choose a representative payee, provided that person or organization meets SSA’s requirements.</p> <p>Given that 58.3% of the clients selected by the Auditor were representative payees, DHS would expect a statistically significant impact on the results of the audit. While financial management is mandatory, provision of TCM services requires the cooperation of the client. Representative payee clients participate in TCM services but may (and often do) decline specific services. Representative payees have the right to refuse Public Guardian referrals and assistance with any matter that is not financial in nature.</p>
18	<p>The Linkages program offers case management services and referral to...⁴ [Emphasis added.]</p> <p>⁴ The Linkages program description is posted on the Department’s website at http://www.co.eldorado.ca.us/humanservices/Linkages.html</p>	<p>This statement does not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p align="center"><u>“care management as well as information and assistance regarding appropriate community resources...”</u>. [Emphasis added.]</p> <p>This website further states that “Linkages care managers work with you, your family, and other community agencies to provide essential links that help you live independently in your own home”.⁴</p>

⁴ <http://www.co.el-dorado.ca.us/humanservices/Linkages.html>.

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19	The Targeted Case Management (TCM) program was recommended for more detailed review by the auditors and approved by the Grand Jury based on this risk criteria.	<p>In a letter dated April 7, 2008, DHCS notified TCM providers that as of March 3, 2008, TCM providers may not submit invoices to DHCS for TCM services performed by staff of Public Guardian agencies. This letter is posted on the State's TCM website under the heading "Policy & Legislation" as "End of TCM Claiming from AP and PG Agencies".⁵</p> <p>The Auditor and representatives of the Grand Jury were informed of this development by DHS staff during the June 9, 2008 exit conference, at which time the Auditor acknowledged that he was aware at the time his "risk criteria" was developed that TCM funding would likely be terminated for Public Guardian Programs Statewide. The Auditor's recommendation to the Grand Jury was for review of a program that had a high probability of not being a viable future funding source for the County. Therefore, the audit of TCM in relation to Public Guardian services could be expected to be of limited benefit to the County, the Department and the community. By the time of the draft Audit Report was provided to DHS, TCM was a discontinued revenue source for Public Guardian Programs Statewide. Neither the draft nor the final Audit Report disclosed this relevant information.</p>
19	And unlike the Multipurpose Senior Services Program, TCM has never been audited.	<p>The State conducted a desk review of the El Dorado County TCM Program in 2002. No adverse findings were communicated to DHS as a result of this desk review.</p> <p>State audits of 13 of the 49 counties that participate in TCM resulted in the issuance of Policy and Procedure Letter PPL 03-003. The State identified issues "that may prove useful when conducting internal reviews" and help the counties "maintain an accountable and effective program." DHS has applied the information provided by the State to its internal review process.</p>
19	The Program Manager who oversees the TCM and MAA program reimbursement claiming processes reviews encounter progress notes before invoicing the State for reimbursement, but does not review client files for overall compliance with program requirements. For example, although the progress notes for encounters may be reviewed discretely, the entire client file may not reviewed as a whole, and items that are required of the client file, such as annual Assessments may not be checked for compliance.	<p>The person who oversees the TCM reimbursement claiming process is actually a Department Analyst, not a Program Manager.</p> <p>An internal review of TCM encounters is conducted monthly by the Analyst. The internal review determines which encounters meet TCM requirements and will be submitted for reimbursement.</p> <p>TCM does not require annual re-assessments. Re-assessments on an annual basis are a California Department of Aging program requirement; annual re-assessments are not a TCM compliance requirement.</p>

⁵ <http://www.dhcs.ca.gov/provgovpart/Pages/TCM.aspx>.

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20	The Public Guardian provides services that are contingent upon the Office's appointment as conservator for an individual by the Superior Court or through its Representative Payee program for individuals who receive income through public entitlements, public benefits programs or other benefits programs and voluntarily seek financial management services.	Given that 58.3% of the clients selected by the Auditor were representative payees, DHS would expect a statistically significant impact on the results of the audit. While financial management is mandatory, provision of TCM services requires the cooperation of the client. Representative payee clients participate in TCM services but may (and often do) decline specific services. Representative payees have the right to refuse Public Guardian referrals and assistance with any matter that is not financial in nature.
19	For example, although the progress notes for encounters may be reviewed discretely, the entire client file may not reviewed as a whole, and items that are required of the client file, such as annual Assessments may not be checked for compliance.	TCM does not require re-assessments. Re-assessments on an annual basis are a California Department of Aging program requirement for the Linkages Program (not the Public Guardian Program). The audit uses the term "re-assessment" to refer to TCM documents that are not utilized by, and are not required to be utilized by, Public Guardian.
26	The Assessment documentation provided by DHS for all but one of the twelve Public Guardian clients reviewed were Re-assessments rather than the requested clients Assessments in effect for the period being reviewed.	
27	The Public Guardian's Re-assessment form contains only four categories: 1) Medical/Mental; 2) Social/Environmental; 3) Financial; and 4) Closing (for comments and summary statements).	
20	Most of the Targeted Case Management records reviewed for Public Guardian clients were found non-compliant with one or more aspects of Program regulations. If this pattern holds true for all Public Guardian clients, a good portion of the Department's Medi-Cal revenues for this program are at risk of being disallowed for non-compliance with Targeted Case Management regulations.	Due to limitations in the data reviewed, DHS disagrees with the conclusion that most of the TCM records reviewed for Public Guardian were found non-compliant.
20	On the other hand, records reviewed for Linkages program clients were found to be substantially compliant. These records were more thorough and structured consistent with Targeted Case Management requirements. Some areas of the Linkages program billing records, however, were found to be noncompliant with program requirements or determinations of compliance could not be made because of the form in which case file records were provided by DHS.	TCM regulations do not specify documentation formats or type of forms. Linkages documentation conforms to the requirements of the California Department of Aging.

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20	Assessment and Individual Client Service Plan documents provided by the Department for a number of clients were prepared after the Periodic Reviews provided so it was not possible to determine if service plans and objectives in effect at the time of the Periodic Reviews had been assessed by the case managers.	
25	The second other impairment was that the Assessment and Individual Client Service Plan documents provided for some of the case records were prepared after the Periodic Review documents provided though the request was made for Assessments and Client Service Plans in effect during the review period for each client.	
33	Some of the Service Plans provided by DHS were those prepared after the 13 month review period for the case records.	
20	Given the rate of non-compliance found with the sample Targeted Case Management records reviewed, the Department of Human Services is at risk of Medi-Cal disallowances of up to \$147,747 for Fiscal Year 2006-2007 if the sample results apply to all Medi-Cal beneficiary program clients. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.	<p>The Audit Report does not provide the calculations or define the methodology substantiating the possible disallowances. DHS disagrees with the audit as to the total number of non-compliant TCM encounters and the potential risk of disallowance.</p> <p>DHS agrees that any amount resulting from potential disallowances would be reduced if deficiencies were corrected to the State's satisfaction.</p>
22	As of January 2008, the Public Guardian was serving 327 clients, of which 153 were Medi-Cal beneficiaries.	It must be clarified that not all Medi-Cal beneficiaries are eligible for or receive TCM services. As of February 2008 (not January 2008), the Public Guardian was serving 327 clients, of which 206 were Medi-Cal beneficiaries and of those 206, 153 were eligible for TCM services.

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23	<p>1. <i>Needs Assessment</i>. The Assessment documents the conditions of the client and supports the selection of services for the individual. The Assessment should contain at least the following elements: 1) medical/mental health; 2) training; 3) vocational needs; 4) social/emotional issues; 5) housing/physical needs; 6) family/social matters; and, 7) finances.</p>	<p>It appears this information was extrapolated from the TCM Provider Manual. These statements omit consideration or discussion of relevancy to the individual in assessing the client's needs.</p> <p>The more detailed discussion of the Assessment within the TCM Provider Manual states:</p> <p style="padding-left: 40px;">“The documented assessment identifies the beneficiary's needs. The assessment supports the selection of activities and assistance necessary to meet the beneficiary's assessed needs and must include the following, <u>as relevant to each individual</u>:</p> <ul style="list-style-type: none"> • Medical/mental condition. The assessment may require obtaining evaluations completed by other providers of service. • Training needs for community living. • Vocational/educational needs. • Physical needs, such as food and clothing. • Social/emotional status. • Housing/physical environment. • Familial/social support system.⁶ <p style="padding-left: 40px;">[Emphasis added.]</p>
26	<p>The purpose of the required TCM Assessment is to document the client's needs in the following areas: 1) Medical/Mental Health; 2) Training needs for community living; 3) Vocational/Education needs; 4) Physical needs, such as food and clothing; 5) Social/Emotional status; 5) Housing/Physical environment; and, 6) Family/Social Support systems.</p>	
27	<p>The Public Guardian's Re-assessment form contains only four categories: 1) Medical/Mental; 2) Social/Environmental; 3) Financial; and 4) Closing (for comments and summary statements). While some of the other elements required for TCM Assessments are embedded in the four Re-assessment categories (e.g., Family/Social Support Systems is a subsection of the Social/Environmental category) or may be addressed in summary written comments, some of the TCM required elements such as Training or Vocational/Education needs are simply not included and could potentially go unaddressed in Re-assessments. The Public Guardian could ensure greater compliance with TCM Assessment requirements and greater continuity in client services by revising its Re-assessment standardized forms to include all required Assessment elements.</p>	<p>For example, a 90-year old assisted living facility resident is unlikely to require a vocational needs assessment. Conversely, a mentally retarded 19 year old representative payee living with his or her parents would be unlikely to need a housing assessment.</p> <p>At the time a Periodic Review is performed, the Public Guardian case worker prepares an updated Service Plan, even if there are no changes to the previous Service Plan. This prompts the case manager to address 19 distinct areas identified on the form to be assessed in terms of meeting the client's needs.</p>

⁶ TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-1.

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23	3. <i>Periodic review.</i> This is an evaluation of the beneficiary's progress toward achieving goals in Individual Client Service Plans must be assessed at least every six months. The Linkages program requires periodic review at least every 3 months.	<p>It appears these statements were paraphrased from the TCM Provider Manual. However, the statements do not fully incorporate relevant elements of said document, resulting in a misrepresentation of said facts. The referenced document actually states:</p> <p style="padding-left: 40px;">“The case manager must periodically reevaluate the beneficiary's progress toward achieving the objectives identified in the service plan to determine whether current services should be continued, modified, or discontinued. The review shall be:</p> <ul style="list-style-type: none"> • Completed at least every <u>six</u> months”⁷ <p>[Emphasis added.]</p> <p>There is a separate California Department of Aging requirement for the Linkages Program that a face-to-face contact with the client must occur every three months. This is a Linkages requirement, not a TCM requirement.⁸</p>
24	TCM requirements are for Periodic Reviews at least every six months for the Public Guardian and every three months for the Linkages program.	
31	The TCM service components and requirements for the Linkages program is the same as for the Public Guardian with the exception that Periodic Reviews must take place at least every three months instead of the Public Guardian requirement of every six months.	
33	Though TCM regulations require Periodic Reviews of program clients at least every six months, the Linkages program has a more restrictive requirement that Periodic Reviews take place at least every three months.	
33	As shown in Exhibit 4.7, the majority of Linkages Program Period Reviews were conducted within the required three month interval requirement.	
34	While the case records reviewed showed that most Linkages clients do receive visits from the case managers more frequently than the minimum required four times a year, the fact that certain Linkage and Consultation services are not documented as such has resulted in an absence of TCM required 30 day follow-ups to such services.	

⁷ TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-2.

⁸ Linkages Program Manual, Section 7.E., Monitoring and Follow-Up, page 23.

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	<p>Twenty Medi-Cal eligible clients were randomly selected for review from the Public Guardian's client list. DHS did not submit documentation for eight of the 20 requested sets of records for the following stated reasons: three had billings after the August 2007 cutoff date, two were erroneously attributed to the program sample and three had not received services. Consequently, twelve of the twenty requested Public Guardian Medi-Cal beneficiary client case records were reviewed.</p>	<p>The cut-off date was actually July 2007, not August 2007. Documentation was not submitted for 8 clients because: 4 had not received TCM services prior to July 2007, 3 had not received billable TCM services within the 13 month time frame, and 1 client was erroneously included in the sample list. The Auditor did not request additional client records to bring the sample size back up to 20.</p>
26	<p>A minority of the twelve randomly selected sets of Public Guardian client records reviewed were found to be fully compliant with TCM program regulations and are thus at risk for Medi-Cal disallowance.</p>	<p>DHS disagrees that records that <u>are fully compliant</u> with TCM Program regulations <u>are at risk</u> for Medi-Cal disallowances.</p>

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27	<p>The Individual Client Service Plan documents in the sample client records could be characterized more as checklists rather than “written, comprehensive individual service plans”², as required by TCM regulations. Instead of writing, many Plans simply contained checked off boxes for “Problems or Service Areas” such as “Financial” with no written commentary or specific objectives or actions to be taken. Many of the Plans reviewed did not identify services the client would be referred to, as required by TCM regulations, or were simply comprised of notes regarding previous actions taken by the case manager such as, “Deputy Public Guardian got a temporary card for file.”</p> <p>² Targeted Case Management Overview, page T-2-1-1, California Department of Health Care Services.</p>	<p>This statement misquoted the referenced document and did not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p style="padding-left: 40px;">“written, comprehensive, <u>individualized</u> service plan”⁹</p> <p>All Service Plans are client-specific. The TCM Provider Manual actually states that the plan will be individualized to the client. Therefore, some areas may not require written commentary or specific objectives or actions in need of attention. For example, a 90-year old assisted living facility resident is unlikely to require a vocational needs assessment. Conversely, a mentally retarded 19 year old representative payee living with his or her parents would be unlikely to need a housing assessment.</p> <p>Checkboxes are a tool used to indicate which areas need attention from the case worker. The Public Guardian case manager prepares the Service Plan, which prompts the case manager to consider 19 distinct areas identified on the form to be assessed for meeting the client’s needs. DHS agrees that case notes regarding actions by the case managers could be more directly related to the Service Plan areas and has taken steps to improve both the correlation of the areas and the review by supervisory staff.</p> <p>TCM Service Plans do not have a required format. Service Plans may be designed by each program participating in TCM using the format that works best for them. Check boxes are an acceptable method as evidenced by the State’s use of the forms, which El Dorado County Public Guardian staff participated in the development of, during a Statewide TCM training.</p> <p>In fact, DHS staff informed the Auditor that they had attended Statewide TCM training for Public Guardian providers, that DHS had assisted in the development of the State-accepted forms used during the training, and that DHS staff assisted in training representatives from other Public Guardian offices.</p>
29	<p>When such services, called Linkage and Consultation, are provided, TCM regulations require that the initial referral or consultation be documented and that a documented follow-up occurs within a maximum of 30 days to determine whether the services were provided and whether they met the client’s needs. Linkage and Consultation services are not required but when they are provided, they must follow the protocols described.</p>	<p>This statement did not fully incorporate relevant aspects of said requirements, resulting in a misrepresentation of facts. The TCM Provider Manual states:</p> <p style="padding-left: 40px;">“Linkage and Consultation</p> <p style="padding-left: 40px;">TCM services provide beneficiaries with linkage and consultation and with referral to service providers and placement activities. The case manager shall follow up with the beneficiary and/or service provider to determine whether services were received and</p>

⁹ TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-1.

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29	Documentation of required 30 day follow-ups to the Linkage and Consultation services were not found in any of the eleven reported incidents.	<p>whether the services met the beneficiary’s needs. The follow-up shall occur as quickly as indicated by the assessed need, not to exceed thirty (30) days from the <i>scheduled date</i> of the referral service.”¹⁰ [Emphasis added.]</p> <p>Hence, 30-day follow-ups are only required on referrals with specific, scheduled services and must not exceed 30 days from the scheduled date of service. The 30-day follow up is not required for referrals with open time frames or for referrals without a scheduled service.</p>
34	TCM regulations require that referral to such services be followed up within 30 days to determine if the services were received and whether they met the client’s needs	
34	None of the case records in which such services are recorded contained 30 day follow-up documentation either.	
34	While the case records reviewed showed that most Linkages clients do receive visits from the case managers more frequently than the minimum required four times a year, the fact that certain Linkage and Consultation services are not documented as such has resulted in an absence of TCM required 30 day follow-ups to such services.	
	<p>Since the TCM program has many requirements, some more significant than others, some judgment was necessary to define substantial compliance. For example, none of the case records reviewed for either the Public Guardian or the Linkages program contained the frequency or duration of activities recommended for clients in the Individual Client Service Plans, as required by TCM regulations. Using this measure, all encounters billed for during preparation of Client Services Plans are out of compliance with TCM regulations and are therefore subject to Medi-Cal disallowance.</p> <p>A different standard was used though since the absence of frequency and duration of Service Plan activities was not considered as serious a breach of compliance as, for example, lack of compliance with the TCM requirement that a face-to-face Periodic Review of progress be conducted with the client at least every six months.</p>	<p>It is not clear how the Auditor arrived at the opinion that some TCM requirements are “more significant than others” or how the Auditor defines “substantial compliance”.</p> <p>The Audit Report acknowledged that the State would likely offer the Department an opportunity to correct deficiencies prior to a finding of disallowance. The Department’s understanding of Medi-Cal programs is that disallowances are not made unless the work was not performed or a duplication in services is identified.</p>

¹⁰ TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-2.

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36	<p>If a case file was found compliant with all TCM requirements except including the frequency and duration of activities in the Individual Client Service Plan, the file was considered compliant. If a case file was non-compliant in a variety of areas such as: not specifying activities for the client in the Individual Client Service Plan; not cross-referencing service needs from the client's Assessment in the Individual Client Service Plan; and, not specifying the frequency and duration of activities in the Individual Client Service Plan, the case file was considered non-compliant and subject to Medi-Cal disallowance.</p>	<p>Individual billed encounters do not have to contain all TCM components. Only those components specific to the TCM encounter being billed are required. Case files typically contain additional information relevant to the TCM encounter. Full case files were not reviewed by HMR nor were they requested.</p> <p>Case file compliance cannot be determined based on the limited number of and types of documents reviewed during the Audit.</p>

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APPENDIX B

El Dorado County Mental Health Department Response to the 2007-08 Grand Jury Final Report Part 3: *Audit of Human Services and Mental Health Medi-Cal Revenues* Case No. GJ 07-006

Response to Grand Jury Audit Recommendations for Mental Health Department

The Mental Health Department commends the 2007-2008 El Dorado County Grand Jury for its sincere effort to assure the clinical and fiscal integrity of the Department's Medi-Cal policies.

Although the Department has serious concerns about

- 1) the statistical legitimacy of generalizations (i.e., extrapolations) inferred from results based on the invalid audit sample selected by the Jury's auditor and
- 2) the multiple discrepancies between the Department's audits of the same charts analyzed by the Jury's auditor

the Department nevertheless completely agrees with the recommendations contained in the Jury's report. Specifically:

The Jury's Recommendations

The Director of the Department of Mental Health should:

- 1) Direct the Department's Utilization Management/Quality Improvement Coordinator to continue to focus Department manager training efforts on ensuring that complete progress notes, complete assessments and complete client plans are in every case file to minimize the risk of Medi-Cal disallowances for the Department and that all eligible services provided are included in Medi-Cal claims.

Response to Recommendation 1: The recommendation has been implemented. The Department conducts its own internal documentation training program for clinicians and its own internal medical records' audits since the beginning of calendar 2006. In addition, the ongoing conversion to a combined electronic medical record and billing software application will assure that each billable service documented in the medical record will be correspondingly billed to Medi-Cal electronically.

- 2) Direct the Utilization Review Coordinator to include reviews for unbilled services as part of the Department's routine Quality Improvement audits and to report the results of these audits quarterly to the Director.

Response to Recommendation 2: The recommendation has been implemented. The Department's internal audit tool routinely identifies delivered services and cross-checks the billing system to insure that a claim is submitted to Medi-Cal for each billable service delivered. As the conversion to the new software billing application transpired between February and August 2007 (coincidentally, the time frame of the Grand Jury's audit), the Department was aware that not all billable Medi-Cal services were captured and claimed. As acknowledged in the auditor's report, this conversion-related omission has been fully rectified.

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- 3) Set goals for each Program Manager that make them accountable for eliminating the number of potential Medi-Cal disallowances and unbilled services in their program areas, measurement and achievement of which should be captured through the Department's regularly performed Quality Improvement audits.

Response to Recommendation 3: The recommendation has been implemented. The Department's internal audit process consists of ongoing, sequential, program-by-program medical records' reviews and plans of correction for which each clinical program manager is responsible. Each program manager's annual performance evaluation consists of reviewing the integrity of his or her unit's Medi-Cal billing errors and successful plans of correction.

The Board of Supervisors should:

- 4) Direct the Director of Mental Health to annually report to the Board and Chief Administrative Officer the results of the Department's Quality Improvement audits and success in reducing potential Medi-Cal disallowances and unbilled services.

Response to Recommendation 4: The recommendation has been implemented. This is accomplished both in the quarterly and annual reporting of the Department's QI performance indicators to the CAO's office and in the annual BOS performance evaluation of the Department's Director.



EL DORADO COUNTY GRAND JURY 2007-2008

El Dorado County Procurement Department

Case No. GJ 07-019

REASON FOR REPORT

The El Dorado County Grand Jury received a complaint regarding poor customer service levels delivered by the County Procurement and Contracts Division of the Chief Administrative Office (Purchasing Department). There was sufficient concern to warrant the Grand Jury investigating the allegations and determining if some corrective recommendations would surface.

BACKGROUND

County Procurement Policy #C-17 states, "The County Purchasing Department is responsible for the procurement of services, supplies, materials, goods, furnishings, equipment, and other personal property for the County and its offices unless otherwise excepted by ordinance or these policies." The Purchasing Department is also responsible for providing leadership, guidance and assistance to departments in all procurement related matters, including interpreting and applying County policies and procedures related to procurement of goods and services. The department is expected to provide a high degree of customer service.

The Purchasing Department is staffed with seven people: a department manager, three buyers (of which one position is currently vacant), one analyst (concentrating primarily on contracts), and two administrative support personnel. This county decentralizes the purchasing function as it relates to contracts. There are currently seven additional employees engaged in the contract process within the departments of transportation, environmental health and public health.

METHODOLOGY

The Grand Jury gathered data through interviews with county personnel, as well as reviewing written county documents.

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El Dorado County Personnel Interviewed:

- Auditor/Controller
- Chief Administrative Officer
- Information Technology Department Manager
- Office of Emergency Services Manager
- Procurement Department Analyst
- Procurement Department Buyer
- Procurement Department Manager

Documents Reviewed:

- Document titled “Procurement and Contracts Division Workflow Analysis and Recommendations” dated 10-31-2007
- Document titled “Purchasing Issues” from Purchasing/Fiscal Staff meeting 1-30-2008
- Documented procurement problems from various county sources
- El Dorado County Procurement Policy C-17, adopted 10-11-2006; revised 3-20-07
- Several papers regarding procurement issues from various County sources

FINDINGS

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

1. Interviews with County personnel indicate a very poor internal and external customer service level for the purchasing function in the County. This is evidenced by late billings and payments, as well as excessive time to process contracts and bids.

Response to Finding: The respondent disagrees partially with the finding. Over the past fourteen (14) months, the Procurement and Contracts Division has worked diligently to provide a heightened level of service to internal and external customers. Included in this was the implementation of a Contract Tracking System, Contract Retrieval System, Bid Tracking System and improved forms which are all available on the County’s intranet site for use by all internal customers. External customers have been provided with an enhanced online bid notification system, bid results system, and bid addenda notification process which are all available on the County’s internet site. Late billings and payments could occur for a variety of reasons, including delays by the vendor, delays by the department in submitting claims to the Auditor’s Office and should not be seen as an indication of quality or level of services provided by the Procurement and Contracts Division.

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2. A package put together by the Purchasing Department in October of 2007 titled "Procurement and Contracts Division Workflow Analysis and Recommendations" (PCDWAR) was reviewed. This document was prepared for the Chief Administrative Officer (CAO), and some of the recommendations in the document were presented to the Board of Supervisors (BOS). The main thrust of the recommendations was to increase staffing levels, with a few substantive process change recommendations. These recommendations were based on a comparison to Placer County's procurement processes and staffing. Comparing El Dorado County to Placer County is not a valid comparison as Placer County has four additional cities (six vs. two) making Placer County's procurement functions and needs greatly different.

Response to Finding: *The respondent disagrees wholly with the finding. The "Procurement and Contracts Division Workflow Analysis and Recommendations" document was prepared by the Procurement and Contracts Division at the request of the Chief Administrative Officer and a copy was provided to the entire Board of Supervisors (BOS) on October 31, 2007. While some of the comments in this document did recommend additional staffing to manage the increased workload and volume, many additional recommendations were presented that did not include the increase in staffing levels. The comparison to Placer County is a valid and warranted component to this report. Despite the fact that Placer County has four (4) additional incorporated cities results in Placer County's procurement needs and functions to be quite similar to those of El Dorado County. This was validated in a meeting with a representative of the Placer County Procurement Division in the preparation of this work product. However, this document was not intended to address what is typical in the context of what other county governments or private industry provide in terms of service levels to user departments.*

3. This PCDWAR package contained detailed process flow charts for each major segment in the procurement process. The processes are long, complex, and heavily "paper-based." There are also lead-time charts in the package, but nothing to tell the reader if these processes and lead times are typical in the context of other county governments, private industry, or any measure of meeting expected levels of service to user departments.

Response to Finding: *The respondent disagrees partially with the finding. The referenced PCDWAR package does contain detailed process flow charts for each major segment of the procurement process. As demonstrated by these flow charts, the processes are long, fairly complex and are, to a certain extent, "paper based". The purpose of the flow charts was to inform the Board and the CAO about processes currently in place and establish a starting point for improvement. However, this document was not intended to address what is typical in the context of what other county governments or private industry provide in terms of service levels to user departments.*

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4. The current purchasing process involves a time period for County Counsel and Risk Management to review all contracts. The lag times built in for those reviews appear excessive, especially if it is a renewal of an existing contract.

Response to Finding: *The respondent partially disagrees with the finding. The timeframes noted in the PCDWAR with respect to the involvement of County Counsel and Risk Management are the agreed to timeframes between those departments and those departments that prepare contracts. Further, County Ordinance 2.06.040 mandates that any contract not written by County Counsel must be reviewed by County Counsel for approval as to form.*

5. When a purchase order or contract needs to be changed, the current process necessitates virtually going back to the beginning of the process, adding excessive time delays.

Response to Finding: *The respondent agrees with the finding.*

6. It is recognized by the purchasing department, and the CAO, that the purchasing data management system, Advanced Purchasing Inventory Computer System, is out of date and inadequate to facilitate faster turnaround times for processing change orders. However, there is no plan or budget to affect an upgrade to this software program.

Response to Finding: *The respondent agrees with the finding.*

7. Although the problems within the purchasing function are recognized and acknowledged by both the CAO and the purchasing department, there are no definitive plans to fix the problems.

Response to Finding: *The respondent partially disagrees with the finding. The Chief Administrative Officer and the Purchasing Division recognize that improvement opportunities exist within the purchasing function. It is expected that the new Chief Administrative Officer will monitor the progress of the purchasing function.*

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RECOMMENDATION

1. The Grand Jury recommends that a task force be formed comprised of expert end users and outside vendors, charging them with the responsibility of streamlining the procurement process and improving the customer service level to all internal departments and external vendors. This end user task force should include members from all major County functions. The BOS should champion this process and assign one of the Supervisors to oversee the progress of this task force, with a monthly update from the leader of this task force to him/her and the CAO. We recommend that this task force start with a “blank page,” and identify an appropriate flow process, effective computer systems’ support and lead times that best serve the needs of the County and outside vendors. Significant progress has already been made in identifying the current process, but the challenge to the team is to identify what changes should be made to improve the procurement process.

Response to Recommendation: *The recommendation requires further analysis. The forming of a task force does have merit. However, more analysis and evaluation of the most appropriate way to implement this recommendation is necessary. The Chief Administrative Officer will consider alternatives and strategies to streamline the procurement process and improve customer service given the overall context of the county budget and relationship of the CAO Purchasing Division to other county departments. This may or may not require the convening of a task force. The CAO will bring the results of this analysis to the Board of Supervisors by December 31, 2008.*

2. The completed task force report should be written and submitted to the BOS with all recommended changes no later than the end of fiscal year 2008-2009.

Response to Recommendation: *The recommendation requires further analysis. Please refer to the response to Recommendation 1 above.*

3. No additions to personnel should occur until such time as a full review of the procurement process is completed.

Response to Recommendation: *The recommendation is not warranted. During the Fiscal Year 2007 - 2008 mid-year budget cuts, two (2) positions in the Procurement and Contracts Division were eliminated taking the total allocation to a staff of five (5). The proposed budget for Fiscal Year 2008 - 2009 did not include any additional personnel allocations to the division. We recognize the reasonableness that refraining from adding staff to the division prior to the completion of further analysis.*

RESPONSES

Response(s) to this report is required in accordance with California Penal Code §933.05.



EL DORADO COUNTY GRAND JURY 2007-2008

Victim Restitution

GJ 07-014

REASON FOR REPORT

The Grand Jury elected to investigate the County's Victim Restitution activity to determine if El Dorado County is effectively and efficiently managing victim restitution.

BACKGROUND

The successful 1998 ballot initiative, known as the California State Constitutional "Victims' Bill of Rights," created a new **Constitutional Right** for all victims of crime to receive restitution from their offender.

"It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of crimes for the losses they suffer."

The State of California Victims Compensation and Governmental Claims Board (VCGC) assists victims of **violent** crimes. Victims of **non-violent** crimes must rely mostly on the County to assist with ensuring that their right to restitution is realized.

METHODOLOGY

The Grand Jury heard sworn testimony, information gathered from interviews and the review of documentation consisting of reports, written statements, and observation of court restitution proceedings.

The investigation focused on:

1. Processes and preparation necessary to attain and amend court orders of restitution
2. Court ordered restitution collection

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3. Disbursement of payments
4. Enforcement of the court restitution order including financial reviews when offenders fail to consistently pay their restitution

Additionally, the investigation reviewed the efficiency and effectiveness of the following County restitution processes:

- Educating and supporting victims on restitution from the moment the crime is reported through the life of the restitution order
- Monitoring the offender's payment progress on existing restitution orders
- Determining if the County has a centralized and comprehensive county-wide restitution accounting system
- The collection and administration of restitution including:
 - a. Administrative fees
 - b. Financial reviews
 - c. Fines
 - d. Interest
 - e. Restitution orders payable to the victim(s)
- Disbursing restitution to the victim and reimbursement to the California State VCGC Board

People Interviewed:

- Alameda County Deputy District Attorney Restitution Specialist
- California Department of Corrections and Rehabilitation, Restitution Program Manager
- El Dorado County:
 - Assistant Court Executive Officer
 - Chief Probation Officer and staff members
 - District Attorney
 - Fiscal Administrative Manager
 - Public Defender
 - Sheriff
 - Sheriff's Team of Active Retirees (STAR)
 - Superior Court Judges
 - Treasurer-Tax Collector
 - Victim Witness Program Coordinator

Documents Reviewed:

- Alameda County Restitution Program Policy and Procedures
- Alameda County Superior Courthouse-Oakland Corpus Restitution Court Calendar
- Applicable California Restitution Statutes
- California Constitution, Victims' Bill of Rights

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- California Department of Corrections and Rehabilitation State Restitution Program Audit from 2002 and 2004

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- California State Controller's Audit Report on Alameda Restitution Fines and Court Ordered Restitution, February 25, 2004
- California Victim Compensation and Governmental Claims Board Restitution Policy and Procedures
- El Dorado County District Attorney Victim Witness Program, Restitution Policy and Procedures
- El Dorado County Probation Department Restitution Policy and Procedures

FINDINGS

1. The County's Restitution activity process is not centralized.

Response to Finding 1: *The respondent agrees with the finding.*

2. The County and City jails have no procedure to collect victims' restitution from inmates.

Response to Finding 2: *The respondent agrees with the finding. However, there is currently no legal mechanism for jails to collect victim restitution from inmates.*

3. There is insufficient follow-up with victims to obtain information as to their actual losses. This information is necessary to support the issuance of a victim restitution order by the court. According to the 2002 State Department of Corrections and Rehabilitation Restitution Audit, approximately 11% of offenders in the California State Prison system sentenced from El Dorado County have a court order to pay restitution to the victim(s).

Response to Finding 3: *The respondent disagrees partially with the finding. There is sufficient follow up if the offender is sentenced to formal probation. Insufficient follow up occurs when the offender is sentenced to summary or informal (unsupervised) probation.*

4. Attaining timely victim information, including losses, is essential. The Probation Department is responsible for determining victim losses if the offender is sentenced to probation, which may be well after the crime is reported.

Response to Finding 4: *The respondent disagrees partially with the finding. Attaining timely victim information, including losses, is essential. The Probation Department is responsible for determining victim losses if the offender is sentenced to formal probation. However, the Probation Department is not responsible for determining victim losses if the offender is sentenced to summary or informal probation.*

5. The District Attorney's Office of Victim Services is cognizant of the rights of victims and provides valuable services to victims of crime in El Dorado County. However, insufficient funding severely limits the services the District Attorney is able to provide.

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Response to Finding 5: *The respondent agrees with the finding.*

6. When offenders are sentenced to State prison, or a juvenile facility, all outstanding restitution ordered for all cases is transferred to the Department of Corrections for collections. The State of California is only able to disburse 25% of victim restitution collected to victims because victim information is unavailable. It is imperative that victim information is included in the case records file accompanying the offender when sentenced to State prison.

Response to Finding 6: *The respondent disagrees partially with the finding.* *It is true that when offenders are sentenced to a state prison or juvenile facility all outstanding restitution ordered for all cases is transferred to the California Department of Corrections and Rehabilitation for collections. The Board of Supervisors is unable to verify the state's disbursement of victim restitution.*

7. Although the Probation Department is diligent and successful in their efforts to collect and disburse restitution from those offenders on probation obtaining the victim information when the crime is reported and communicating that information to the appropriate collection and disbursing entities is lacking.

Response to Finding 7: *The respondent disagrees partially with the finding.* *As mentioned in the response to previous findings, the Probation Department is responsible for determining victim losses if the offender is sentenced to formal probation. However, the Probation Department is not responsible for determining victim losses if the offender is sentenced to summary or informal probation.*

8. Victims of misdemeanor crimes do not have their restitution orders actively collected by the County.

Response to Finding 8: *The respondent disagrees with the finding.* *If the restitution order is for an undetermined amount, there is currently no further action because there is nothing specific to collect. In misdemeanor cases with a specified restitution amount, the Court actively pursues collection and also goes through the revenue recovery process for collections. In misdemeanor cases resulting in formal probation, the Probation Department collects restitution.*

9. The restitution administration fee is currently being collected in an inefficient manner and occasionally at a rate higher than authorized by State statute. The current practice of the County is to collect the restitution administrative fee after the court-ordered amount is satisfied. The Grand Jury is aware of the justification for this method; however, research indicates the method of collecting administrative costs as payments are received improves the Restitution Program's ability to increase collections in future years.

Response to Finding 9: *The respondent disagrees with the finding.* *This finding is more appropriately addressed by the Court because it is the Court (not the County) which collects the restitution administration fee according to state Penal Code. The current practice of collecting the restitution administrative fee after the court-ordered amount is*

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satisfied is pursuant to state statute. The restitution administration fee is not collected at a higher amount. The restitution administration fee is 10% of the restitution amount.

RECOMMENDATIONS

1. The District Attorney should convene a team of restitution activity experts to analyze the feasibility and methodology that will best enhance restitution activities. The Alameda County Restitution Program Managers, the Alameda County District Attorney, the El Dorado County Superior Court, and the STAR volunteers are supportive to formalizing and improving the County's Restitution program.

Response to Recommendation 1: The recommendation has been implemented. Within existing resources, the Board of Supervisors will support the District Attorney's approach as outlined in his response to this report.

2. Increase victim services under the District's Attorney's Victim Witness Program, utilizing the assistance of the STAR Program (volunteers). Increased services should include:
 - Early contact with **all** victims of crime to provide comprehensive county-wide information on the restitution program
 - Obtain and confirm current victim losses and addresses and a process for victims to keep address information current and have that information passed on to the State when appropriate.

Victim contact by the District Attorney's Office will increase the success of identifying victim losses and information needed to request a Court Order in an amount commensurate with the loss, rather than an amount "to be determined." Collection cannot commence on orders to be determined where no dollar amount is stated.

Response to Recommendation 2: This recommendation does not appear to require a response from the Board of Supervisors.

3. In conjunction with the entities involved in restitution process, the El Dorado County District Attorney should adopt a more aggressive approach to the collection and enforcement of restitution that includes actively collecting restitution resulting from misdemeanor crimes. Delinquent accounts need to be identified and brought before the Superior Court. Alameda County has received statewide recognition as a leader in restitution enforcement with several counties in California successfully utilizing Alameda County's Restitution Enforcement Program as a model.

Response to Recommendation 3: The recommendation has been implemented. Within existing resources, the Board of Supervisors will support the District Attorney's approach as outlined in his response to this report.

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4. To offset operational costs collect the administration fee, authorized by State statute, as payments are received.

Response to Recommendation 4: *The recommendation will not be implemented because it is not reasonable. This recommendation appears to be directed at the Court however, collecting the administration fee as payments are received violates Penal Code section 1203.1d*

5. The Sheriff should analyze the feasibility of collecting restitution from offenders in the County jails, prior to depositing cash received into the offender's trust account. Hold offenders accountable until final payment is made regardless if the offender is in jail, on formal/informal probation, or work release programs.

Response to Recommendation 5: *This recommendation does not appear to require a response from the Board of Supervisors.*

6. A team or restitution experts should develop a comprehensive restitution and accounting system that tracks information from the date the crime is reported to the release of the offender from County jurisdiction. Also the system should track accurate records including the offender(s) name, case number, payment history, and link the offender(s) to the appropriate victim(s). Lastly, the system should interface with State systems.

Response to Recommendation 6: *This recommendation will not be implemented because it is not reasonable. Overall, this recommendation is cost-prohibitive. In addition, unless the state took the initiative and funding responsibility, it is unlikely that a system could be developed that interfaces with state systems. However the county is committed to analyzing this problem from a multidisciplinary standpoint to create a more integrated approach to victim restitution.*