

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **Department of Justice:**

*Recent Improvements in Its Monitoring,  
Staffing, and Accounting of the California  
Witness Protection Program Meet Our  
Previous Recommendations*



November 2000  
2000-012

The first five copies of each California State Auditor report are free.  
Additional copies are \$3 each, payable by check or money order.  
You can obtain reports by contacting the Bureau of State Audits  
at the following address:

**California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814  
(916) 445-0255 or TDD (916) 445-0255 x 216**

**OR**

**This report may also be available  
on the World Wide Web  
<http://www.bsa.ca.gov/bsa/>**

**Alternate format reports available upon request.**

Permission is granted to reproduce reports.



# CALIFORNIA STATE AUDITOR

---

ELAINE M. HOWLE  
STATE AUDITOR

STEVEN M. HENDRICKSON  
CHIEF DEPUTY STATE AUDITOR

November 14, 2000

2000-012

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by the 2000-2001 Budget Act, the Bureau of State Audits presents its audit report concerning its evaluation of the Department of Justice's (department) claims review process for the Witness Protection Program (program).

This report follows up on our prior audit report and concludes that recent improvements in the department's administration of the program meet our previous recommendations. In particular, the department has sufficient staff for the program's current workload and has begun conducting audits of district attorneys' offices participating in the program.

Respectfully submitted,

*Elaine M. Howle*

ELAINE M. HOWLE  
State Auditor

# CONTENTS

---

<i>Summary</i>	1
<i>Introduction</i>	5
<i>Audit Results</i>	
The Department Has Implemented Formal Management Oversight	11
Staffing Is Now Sufficient to Handle Current Program Activities	11
The Department's Audits Help Ensure Program Compliance	12
A Reconciliation of Program and Accounting Records Now Exists	13
The Department Is Proposing Additional Changes to the Policies and Procedures Manual	13
The Department Continues to Inform District Attorneys' Offices About the Program's Availability and Requirements	14
<i>Recommendations</i>	15
<i>Response to the Audit</i>	
Office of the Attorney General	17

# SUMMARY

---

---

## *Audit Highlights . . .*

*The Department of Justice (department) has improved controls over the California Witness Protection Program (CWPP) that meet our previous recommendations.*

*These improvements include:*

- Establishing a formal review process for approving applications and reimbursements.*
  - Ensuring that staffing is sufficient to perform program activities.*
  - Performing field audits of district attorneys' offices participating in the CWPP.*
  - Updating the CWPP policies and procedures manual.*
- 

## RESULTS IN BRIEF

In February 1999, the Bureau of State Audits (bureau) issued a report concluding that the State's Department of Justice (department) lacked certain administrative controls over its California Witness Protection Program (CWPP). In a follow-up report issued in November 1999, the bureau stated that although the department had taken steps to address our previous recommendations, it still needed to tighten some controls over the CWPP to prevent problems from arising, especially as more witnesses come under its protection. Our current audit examines the actions the department has taken since then to implement the recommendations.

Through the CWPP, district attorneys' offices can encourage key witnesses to testify in state criminal justice proceedings by offering to shield them from intimidation by those associated with criminal activity. The CWPP covers the costs the district attorneys incur for services such as relocating witnesses, changing their identities, and providing them with food and housing.

To ensure the accuracy of its work and the propriety of its decisions, the CWPP has established a formal review process for approving district attorneys' applications and reimbursement requests. A division manager now has final approval of all program applications and reviews each reimbursement request prior to payment. In the past, the program analyst's decisions on applications and reimbursement requests were generally not subject to management review.

The department has also seen that staffing at the CWPP is now sufficient to perform current program activities. In the past, the CWPP had only one full-time program analyst who had to work overtime to process applications and reimbursement requests. We were concerned that, as the CWPP grew, the overtime would become excessive or essential work would be delayed. The addition of a part-time employee has reduced the amount of overtime the analyst works.

The department has also begun to perform periodic field audits to ensure that district attorneys' offices are claiming only allowable costs and are using the CWPP consistently. As of October 2000, it had completed five audits, and it plans to complete three more by December 31, 2000. In addition, the CWPP has developed procedures to periodically reconcile program and accounting records for all CWPP transactions to determine that reimbursements to district attorneys' offices are prompt and accurate.

Finally, as recommended in our prior audits, the CWPP updated its policies and procedures manual to clarify requirements for meal receipts and housing deposits. While conducting field audits, the department found it was impractical to collect all meal receipts from each witness. In addition, the department concluded that district attorneys' offices had been unable to successfully track and reclaim amounts paid for deposits. Thus, the department has proposed further revisions to the CWPP manual, setting a monthly food allowance for witnesses, without requiring receipts, and establishing a \$750 limit for monitoring and collecting housing deposits. We agree that a monthly allotment for food and a deposit limit are needed and believe that the currently proposed amounts are reasonable.

## **RECOMMENDATIONS**

The department has implemented the recommendations from our two previous audit reports. However, to ensure that the CWPP continues to fulfill its responsibilities efficiently, we recommend the following:

- The CWPP should periodically review established program rates, such as monthly food allowances and the follow-up limit for collection of housing deposits, and make adjustments as needed.
- The department should continue to ensure that staffing at the CWPP remains adequate.

Because the department now has sufficient controls to ensure the propriety of the CWPP's expenditures, we believe we no longer need to do annual audits of the CWPP. We recommend that the Legislature direct the department to provide us with an annual report on its operations, including the number of cases and related expenditures, a summary of its audits of district attorneys' offices, changes in program requirements, and the

status of continuing implementation of our recommendations. Further, we recommend that the Legislature direct us to follow up on any areas of concern that arise from their annual report and to perform a follow-up audit of the CWPP in five years to ensure that the department continues to administer it appropriately.

### **AGENCY COMMENTS**

The department agrees with our recommendations and has indicated it is taking steps to implement them. ■

Blank page inserted for reproduction purposes only.



# INTRODUCTION

---

## BACKGROUND

**E**stablished in response to district attorneys' fears that witnesses in the State's criminal justice proceedings may be too afraid to testify in criminal cases, the California Witness Protection Program (CWPP) affords witnesses the protection they need to feel safe in exposing the actions of dangerous criminals. The CWPP protects not only witnesses but also their families, friends, and associates whom the witnesses' ongoing or anticipated testimony might endanger. The California Penal Code, Title 7.5, sections 14020 through 14033, provides statutory authority for the CWPP. The State's Department of Justice (department), under the leadership of the attorney general, is responsible for administering the CWPP. In creating the CWPP, the Legislature intended that its funding would augment, not supplant, existing county witness protection programs.

The CWPP allows this protection when there is credible evidence that a particular witness may suffer intimidation or retaliatory violence. Cases relating to organized crime, gang activities, drug trafficking, or other activities posing a high degree of risk to the witness receive priority. The department has estimated that witnesses are afraid to cooperate with prosecutors in at least 75 percent of the violent crimes committed in some gang-dominated neighborhoods. According to the Attorney General's Office, the success ratio of investigations and prosecutions by sheriff and police departments and district attorneys' offices declines when witnesses refuse to testify.

The CWPP reimburses a county district attorney's office for the costs of armed protection, relocation, acquiring appropriate documents to establish a new identity, and moving or storing personal possessions, as well as housing and basic living expenses for a qualified witness. Basic living expenses include food, transportation, utility costs, and health care. The initial period of protection is six months. However, if the district attorney determines during the course of a trial that a witness needs protection for additional time, the CWPP may grant an extension. Services can continue up to three months after the district attorney determines it no longer needs the witness to testify.

## REQUIREMENTS FOR FUNDING UNDER THE WITNESS PROTECTION PROGRAM

To receive CWPP funding, a district attorney's office must first obtain approval from the department that a witness is eligible for the CWPP. The district attorney's office prepares an application detailing the case, potential threats to the witness, and the witness's background and submits it to the department for written approval. The department can also give emergency authorization by telephone. Once it has approved a case, the department prepares a CWPP agreement confirming the types and period of service, the number of people to receive support, and the amount of assistance needed. The witness must also sign an agreement form documenting his or her willingness to comply with certain conditions.

### Conditions of the Witness Agreement Form

The witness must agree to do the following:

- Testify truthfully in and provide all necessary information to appropriate law enforcement officials concerning all criminal proceedings.
- Obey all laws.
- Take all necessary steps to avoid detection by others during the period of protection.
- Comply with all legal obligations and civil judgments.
- Cooperate with all reasonable requests from officials providing the protection.
- Disclose all outstanding legal obligations, including those concerning child custody and visitation rights.
- Disclose any probation or parole responsibilities.
- Regularly inform the appropriate district attorney's office or law enforcement designee of the witness's current address.

Failure to comply with any of the above may be a condition for termination from the CWPP.

Throughout the period of protection, the district attorney's office submits reimbursement claims to the department, listing its expenses. However, the underlying support for these claims, such as invoices and receipts, remains at the district attorney's office to protect the witness's identity and location.

### CURRENT SIZE OF THE CWPP

The department received yearly appropriations of \$3 million in fiscal years 1997-98 through 2000-2001 for the CWPP. The department reports increasing use of the CWPP from its inception on January 1, 1998, through August 2000. As

the Table indicates, during this time, the department opened 716 witness protection cases, an increase of 69 percent since our November 1999 report.

**TABLE****Case Statistics for the California Witness Protection Program**

Case Statistics	Total as of 10/21/99	Total as of 08/31/00	Percent Increase
Cases opened	424	716	69%
Cases active	292	366	25
Cases closed	132	350	165
Number of witnesses	504	869	72
Number of family members	711	1,298	83
Number of defendants	789	1,416	79

Source: The California Witness Protection Program

The department has reported that it spent nearly \$2 million from January 1998 through August 2000 and committed an additional \$2.2 million of program funds for approved cases. Program expenditures have increased 134 percent from November 1999, indicating that the district attorneys' use of the CWPP is growing. Currently, 40 of the State's 58 counties participate in the CWPP, up from the 35 participating counties we reported in November 1999.

**RESULTS OF OUR PREVIOUS TWO AUDITS OF THE CWPP**

In February 1999, the Bureau of State Audits (bureau) issued a report titled *Department of Justice: Has Taken Appropriate Steps to Implement the California Witness Protection Program, but Additional Controls Are Needed*. The report concluded that the department had already adopted important measures to establish administrative controls over the CWPP that covered both program operation and witness protection. However, the department lacked certain controls that could prevent problems from arising as the CWPP grew.

In November 1999, the bureau issued another report titled *Department of Justice: It Is Beginning to Address Our Recommendations to Improve Controls Over the California Witness Protection Program*. This report concluded that the department had taken steps to address the recommendations in our February audit report but that further improvements were needed. The unique

nature of the CWPP, which allows the department to move quickly to help district attorneys' offices protect witnesses, presents special procedural problems for the department in approving witness applications and monitoring expenses. In our November 1999 report, we concluded that the CWPP lacked consistent management oversight, may have had insufficient staff to deal with future growth, and had not adequately clarified certain policies. Finally, the CWPP had not fully developed a process for periodic reconciliation between program and accounting records.

## **SCOPE AND METHODOLOGY**

The 2000-2001 Budget Act again requires us to audit the department's process for reviewing claims for the CWPP to ensure that expenditures are allowable and made for witnesses who meet all criteria for program eligibility, a mandate identical to that of our two previous audits. Our current audit examines the actions the department has taken to implement the recommendations from our February and November 1999 reports.

To determine the department's responsiveness to our recommendations and to better understand corrective actions it has taken, we reviewed changes made to the CWPP since our previous reports and interviewed program staff. We determined that the department continued its implementation of those recommendations it had addressed as of our November 1999 audit. For recommendations that the department had not yet fully addressed as of our November 1999 audit, we evaluated the current status of corrective actions and the department's future plans. We also assessed whether program staff complied with the changes in policies or procedures that the department instituted. Specifically, we reviewed the department's oversight of the CWPP and the adequacy of current staffing.

We also reviewed the department's reconciliation process between program records and those of the department's accounting office. Further, we determined that the department reimbursed district attorneys' offices only after they submitted proper documentation. In addition, we inquired about the CWPP's efforts to inform district attorneys' offices about the nature and policies of the CWPP. Finally, we reviewed the department's audits of district attorneys' offices to determine whether the scope and performance of the audits were adequate to ensure that the

district attorneys were claiming only allowable costs and using the CWPP consistently. We concluded the audits were adequate for these purposes and relied on their testing of expenditures. ■

Blank page inserted for reproduction purposes only.

# AUDIT RESULTS

---

## **THE DEPARTMENT HAS IMPLEMENTED FORMAL MANAGEMENT OVERSIGHT**

**T**he Department of Justice (department) now has adequate management oversight of the California Witness Protection Program (CWPP). In our November 1999 audit, we found that the department provided only limited management oversight over the direct administration of the CWPP. Specifically, a single program analyst was responsible for approving original applications and amendments, reviewing and processing claims, and initiating reimbursements to the district attorneys' offices. Usually, a manager got involved only upon the analyst's request, when extenuating circumstances arose or when additional expertise was needed. Consequently, we recommended that the department establish a more formal management review process for approving CWPP applications and reimbursement requests.

In December 1999, the department established and implemented such a review process. Specifically, after approving an application, the program analyst forwards it to a division manager for review and final approval. The division manager also reviews each reimbursement request before sending it to the department's accounting office for payment. This control provides the necessary safeguard to ensure that the analyst works accurately and makes decisions appropriately.

## **STAFFING IS NOW SUFFICIENT TO HANDLE CURRENT PROGRAM ACTIVITIES**

The department has increased the CWPP staffing level to meet current program demands. In our November 1999 audit report, we noted that the department was taking steps to ensure adequate staffing to help prevent work backlogs and excessive overtime, and to ensure that the CWPP staff processes witness protection claims and reimbursements promptly. We recommended that the department continue to evaluate staffing needs as program activities increase.

Currently, the department has one full-time program analyst and one part-time program analyst. The part-time program analyst assists in processing applications and reimbursement claims, as well as serving as the liaison to Los Angeles County, which has the largest caseload. As a result, the full-time program analyst's overtime has decreased, even though the caseload has increased significantly. Furthermore, having two individuals able to perform administrative tasks provides time for staff to better advertise the CWPP and present training seminars on its availability and requirements. Thus, we believe the staffing level of the CWPP is adequate for the current caseload.

### **THE DEPARTMENT'S AUDITS HELP ENSURE PROGRAM COMPLIANCE**

The department has begun auditing the district attorneys' offices participating in the CWPP, with five audits completed as of October 2000. In our November 1999 report, we noted that the department had not performed any field audits to verify the propriety of claimed costs. With no field audits, the department could not be certain that underlying support for claims actually existed because the strict confidentiality requirements of the program prevent the district attorneys from submitting detailed invoices documenting their expenditures. We recommended that the department perform periodic field audits to ensure that district attorneys' offices claim only allowable costs and use the CWPP consistently.

---

*The department now audits district attorneys' offices to determine whether proper controls exist and the offices administer the program consistently.*

---

To address our recommendation, the department's internal audit team conducted audits of five district attorneys' offices. It reviewed the underlying support for each expenditure at the five district attorneys' offices and determined whether proper controls are in place and the offices are administering the program consistently. Our review of the department's audit procedures revealed that they are sufficient for the purposes. The auditors' review of expenditures is appropriate and thorough, and their general conclusions and recommendations are properly supported. The department's internal audit team indicated it plans to conduct audits of three additional district attorneys' offices by December 31, 2000. By continuing to conduct these audits, the department is ensuring that it spends CWPP funds appropriately.



## **A RECONCILIATION OF PROGRAM AND ACCOUNTING RECORDS NOW EXISTS**

The department has recently developed a process to reconcile CWPP expenditure records with the separate department accounting records. Our November 1999 report revealed that a formal reconciliation did not exist, so the program analyst had no formal way of knowing whether a claim had been paid, and if so, whether the payment was correct, prompt, or recorded accurately. At the time, the department was beginning to develop a reconciliation system, and we recommended that the department continue with those plans.

The department has now fully implemented the reconciliation process. The program analyst uses a database report that summarizes budget and expenditure data for each case, and compares it to data from the department's accounting office. When the balances differ, the analyst promptly communicates with the accounting office, whose staff investigate and resolve the differences. The reconciliation is adequate and ensures that the department records all CWPP transactions properly.

## **THE DEPARTMENT IS PROPOSING ADDITIONAL CHANGES TO THE POLICIES AND PROCEDURES MANUAL**

As recommended in our prior audits, the CWPP has distributed an updated policies and procedures manual that clarifies requirements for meal receipts and housing deposits. Previously, without clear policies, the district attorneys' offices were inconsistent in managing deposits and retaining meal receipts. The revised policies and procedures manual requires district attorneys to retain meal receipts to match reimbursement requests for food and to return all unused portions of housing deposits to the CWPP.

---

*The department's proposal to use a set monthly food allowance, without requiring receipts, is reasonable.*

---

However, as a result of conducting field audits of five district attorneys' offices, the department concluded that, given the nature of the CWPP, it is impractical to expect the kind of documentation of costs the revised manual requires. According to department auditors, the district attorneys' offices believe it is cumbersome to collect all meal receipts from each witness who participates in the CWPP. Thus, the department has proposed that the CWPP provide a set monthly food allowance for the witness without requiring receipts. We agree that a monthly allotment

for food is a reasonable policy. In addition, the department's proposed allotments, which vary with the number of people protected under each case, are currently reasonable.

Further, the department's auditors noted that, in several instances, the district attorneys' offices had been unable to successfully track and reclaim amounts paid to landlords for rental deposits. According to the auditors, the district attorneys' offices stated that it is not always worth the time and effort required to track down and collect housing deposits after a witness moves out of temporary housing. The department's auditors also contended that in many cases the landlord keeps a large portion of the deposit for cleaning, painting, and refurbishing the rental unit, leaving little of the original deposit to reclaim. Thus, the department has proposed a \$750 limit for monitoring and collecting housing deposits. Essentially, any district attorney's office claiming reimbursement for a deposit greater than \$750 would be required to document, track, and recover any unused deposit amounts and return the recovered amounts to the CWPP. We believe that this policy is reasonable; however, the department should periodically reevaluate the cutoff amount and make changes as needed.

### **THE DEPARTMENT CONTINUES TO INFORM DISTRICT ATTORNEYS' OFFICES ABOUT THE PROGRAM'S AVAILABILITY AND REQUIREMENTS**

In accordance with our previous audit recommendations, the department has taken advantage of opportunities to inform representatives from the district attorneys' offices about the use of the CWPP. The program analyst indicated that, as of September 2000, she has presented 12 briefings and workshops explaining various aspects of the CWPP and has scheduled five more training sessions for the future at various counties.

---

*Over 40 district attorneys' offices now participate in the CWPP.*

---

With the CWPP maturing and over 40 district attorneys' offices now participating in the program, we expect the need is diminishing for briefings and workshops to publicize the program. Instead, in the future, we anticipate that communications from the department will need to focus on changes to the program as they occur, and may take the form of bulletins or memorandums to district attorneys' offices. This could allow the CWPP to better use its limited staff resources.

## RECOMMENDATIONS

The department has implemented the recommendations from our February and November 1999 audit reports on its administration of the CWPP. To ensure the CWPP's continued efficiency in the face of future growth, we recommend the following:

- The CWPP should periodically review established program rates, such as monthly food allowances and the housing deposit limit, to make certain that they remain reasonable, and make adjustments as needed.
- The department should continue to monitor program staffing to ensure that the CWPP can efficiently perform all its activities.

Because the department now has sufficient controls to ensure the propriety of the CWPP's expenditures, we believe we no longer need to conduct annual audits of the CWPP. We recommend that the Legislature direct the department to provide us with an annual report on its operations, including the number of cases and related expenditures, a summary of its audits of district attorneys' offices, changes in program requirements, and the status of continuing implementation of our recommendations. Further, we recommend that the Legislature direct us to follow up on any areas of concern that arise from their annual report and to perform a follow up audit of the CWPP in five years to ensure that the department continues to administer it appropriately.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



ELAINE M. HOWLE  
State Auditor

Date: November 14, 2000

Staff: Lois Benson, CPA, Audit Principal  
Matthew Liu  
Preston Hatch  
Robert A. Hughes

*Agency's comments provided as text only.*

Office of the Attorney General  
Steve Coony, Chief Deputy Attorney General  
1300 I Street, Suite 1730  
Sacramento, CA 95814

November 1, 2000

***Via Hand-Delivery***

Ms. Elaine M. Howle, CPA  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Re: BSA Audit of the Department of Justice's Operation  
of the California Witness Protection Program

Dear Ms. Howle:

The Department of Justice (DOJ) has reviewed the Bureau of State Audit's (BSA) draft report to be issued on the DOJ operation of the California Witness Protection Program (CWPP). On behalf of Attorney General Bill Lockyer, I am responding to your recommendations as follows:

**Finding One:**

- The CWPP should periodically review established program rates, such as monthly food allowances and the housing deposit limit, to make certain that they remain reasonable and make adjustments as needed.

**Response:**

BSA's recommendation indicates that DOJ should periodically review its rate limits for food and housing deposits so that the rate limits remain reasonable. The CWPP program is currently monitoring both the food allowances and deposit limits and implementing a policy that will allow for limited record keeping with housing security deposits under \$751.00.

Ms. Elaine Howle, CPA  
State Auditor  
November 1, 2000  
Page 2

Security Deposits over \$750 will be monitored and followed up on. The \$750 rate will be monitored to determine that it is the exception and that not every case requires approval above this limit. The Program will review and track the number of exceptions to the \$750 limit and will adjust the \$750 limit as counties indicate that the limit becomes a barrier to the program. The food allowances are reviewed periodically and will be adjusted as necessary.

**Finding Two:**

- The Department of Justice should continue to monitor program staffing to ensure that the CWPP can efficiently perform all its activities.

**Response:**

BSA's recommendation indicates that DOJ should monitor program staffing to ensure that the CWPP can efficiently perform all its activities. The majority of the analyst time is currently spent on active cases making sure the district attorney's offices' needs are met for their witnesses. The number of active cases has grown 600 percent from January 1999, to October 30, 2000. With continued growth, the Department will seek additional staff and resources to continue this program.

Thank you for this opportunity to comment on the BSA report. If you have any questions or require additional information, please contact Georgia Fong, Director, Office of Program Review and Audits, at (916) 324-8010.

Sincerely,

*(Signed by: Steve Coony)*

STEVE COONY  
Chief Deputy Attorney General  
Administration and Policy

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press