



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
BUREAU OF FINANCIAL OPERATIONS

Room 525 Health & Welfare Building
Harrisburg, Pennsylvania 17105-2675

DEC 22 2008

KEVIN M. FRIEL
DIRECTOR

TELEPHONE NUMBER
(717) 772-2231
FAX NUMBER
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Mailing Date

Mr. Frank Castano, Director
Luzerne County Children and Youth Service
111 North Pennsylvania Boulevard, Suite 110
Wilkes-Barre, Pennsylvania 18701

Dear Mr. Castano:

Enclosed is the final audit report of the psychological evaluations provided to delinquent and alleged delinquent children in Luzerne County as prepared by the Division of Audit and Review (DAR). Your written response has been incorporated into the final report and labeled Appendix A.

The final report will be forwarded to the Department of Public Welfare's (DPW) Office of Children, Youth and Families to begin the DPW's resolution process concerning the report contents. The staff of the Office of Children, Youth and Families may be in contact with you to follow-up on the corrective action taken to comply with the report's recommendations.

I would like to express my appreciation for the courtesy and cooperation extended to my staff during the course of the fieldwork.

Please contact Mr. Alexander Matolyak, Audit Resolution Section, at (717) 783-7786 if you have any questions concerning this audit or if we can be of any further assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kevin M. Friel".

Kevin M. Friel

c: Mr. Richard Gold
Mr. Thomas Diehl
Mr. Edward Coleman



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KEVIN M. FRIEL
DIRECTOR

Mailing Date

Mr. Richard Gold
Deputy Secretary for Children, Youth and Families
Health and Welfare Building, Room 131
Harrisburg, Pennsylvania 17120

Dear Mr. Gold:

In response to a request from the Office of Children, Youth and Families (OCYF), the Bureau of Financial Operations (BFO) has completed a performance audit of the psychological evaluations provided to delinquent and alleged delinquent children in Luzerne County (County). The audit was conducted in response to the OCYF's concerns on the amount of State funds being used to fund psychological evaluations and recent newspaper articles relating to the Luzerne Counties purchase of these services. The audit was primarily directed to determine if the psychological services were provided in accordance with 55 PA Code Chapter 3170, and that the costs were adequately supported. This audit addresses costs reported to DPW for the period July 1, 2001 through December 31, 2007.

The audit questions the eligibility of \$836,636 in costs that were funded by the DPW. The report also identifies recommendations for improvement in the management and delivery of services to juvenile offenders.

Luzerne County Psychological Services
Executive Summary

The operation of the County Juvenile Court System is governed by the Juvenile Court Judges' Commission (JCJC). The JCJC standards incorporate the Rules of Juvenile Court Procedure for Delinquency Matters as well as the Juvenile Act. The cost of juvenile services is funded by DPW through expenditure reports submitted by the County C&Y office.

In Luzerne County the JPO makes recommendations to the court that psychological evaluations be completed on identified juveniles to assist in determining the best plan for treatment and rehabilitation. The recommendations to the court are overseen by a licensed social worker. The juvenile court judge makes the final decision on what juveniles should have a psychological evaluation through a court order.

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The psychological evaluations reviewed by the BFO were conducted by a licensed Psychologist who has performed forensic evaluations for the County since 2001. The forensic evaluations include administering and interpreting standard tests and providing recommendations on legal determinations regarding incarceration, treatment and placements. During our audit period the Psychologist performed an average of 124 evaluations per year for the court or an average of 10.3 evaluations per month. In June 2008 the responsibility for Juvenile Court was transferred to another judge. In the three months since the transfer court ordered evaluations have dropped to an average of four a month. If court ordered evaluations continue at this level the annual average will drop from 124 to 48.

FINDINGS	SUMMARY
<p><i>Finding No. 1 – County Failed to Comply with Chapter 3140 and Chapter 3170 Regulations Jeopardizing the Allowability of \$836,636</i></p>	<ul style="list-style-type: none"> • Failure to follow Chapter 3140 and 3170 of State regulations has jeopardized the allowability of \$836,636 in State funding. • The County Probation Department’s one page purchase of service agreement with a licensed psychologist was not approved by the County commissioners. • The purchase of service agreements were not competitively procured and were awarded to the brother-in-law of the President Judge. At a minimum this presents the appearance of a conflict of interest. • Although these costs would be eligible for 50% State reimbursement, the County inappropriately claimed reimbursement at an 80% rate resulting in an overcharge of \$313,738.

HIGHLIGHTS OF RECOMMENDATIONS
<p>The OCYF should:</p> <ul style="list-style-type: none"> • Determine the allowability of \$836,636 in costs funded by DPW and recover unallowable funds from the County. At a minimum the OCYF should recover the \$313,738 overpayment that resulted from the inappropriate billing of psychological services at 80%. • Instruct the County that reimbursement of court ordered psychological evaluations be billed at 50% and not 80% reimbursement. <p>The County should:</p> <ul style="list-style-type: none"> • Ensure all contracts, including JPO contracts, are signed by the County Commissioners. This will provide additional assurance that the contract complies with DPW requirements and that the contract was awarded in an open and public manner. • Discontinue the practice of seeking 80% reimbursement for a court ordered examination which is reimbursable at 50%.

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FINDINGS	SUMMARY
<p><i>Finding No. 2 – County Evaluations Were Billed at an Average Cost of \$1,635 per Juvenile- Approximately 3.6 Times the Current Health Choices Rate</i></p>	<ul style="list-style-type: none"> • The average cost per evaluation was \$1,635 and was based on 18.2 hours at a \$90 rate. • More than 50% of the hours billed were based on estimates and not the actual time to perform the tasks. • 40-50% of written reports were comprised of “copied and pasted” standardized footnotes. • Copying and pasting also resulted in one instance where an evaluation references a different child than the one purported to be evaluated. • Beginning in July 2008, the cost of evaluations for MA eligible children will be 100% funded by Health Choices at a \$450 rate regardless of the hours needed to complete the evaluation.

HIGHLIGHTS OF RECOMMENDATIONS
<p>The County should:</p> <ul style="list-style-type: none"> • Adopt the MCO rate for psychological evaluations performed on non-MA eligible juveniles. <p>The OCYF should:</p> <ul style="list-style-type: none"> • Monitor the County to ensure that the rate charged to DPW Act 148 funds is the same as the MCO rate. If the County contracts at a higher rate, the difference for evaluations for non-MA eligible children should be paid with County funds.

FINDINGS	SUMMARY
<p><i>Finding No. 3 – Process used by JPO to make recommendations to the Court could be improved</i></p>	<ul style="list-style-type: none"> • The County reimbursed a licensed psychologist \$1.1 million to receive expert opinions and recommendations regarding juvenile treatment and rehabilitation options. • In a number of cases (5 of 31) the Psychologists’ recommendations were not implemented. • The documentation of the process and practices used to make recommendations to the Court could be improved.

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HIGHLIGHTS OF RECOMMENDATIONS

The Court and JPO should:

- Should redefine the process in making recommendations to the Court on the placement and treatment of children

The JPO should:

- Document the basis for recommendations made to the Court regarding evaluations and options for treatment and rehabilitation.
- Document the specific reason for non-acceptance or disagreement with the Psychologist recommendations.

Background

The Juvenile Act was created to set guidelines for JPOs to provide programs of supervision, care, and rehabilitation, which provide balanced attention to the protection of the community for children committing delinquent acts. The Act also requires that JPOs ensure children have an understanding of accountability for the offenses committed and the development of competencies to enable them to become responsible and productive members of the community.

The JPO provides these services and programs with the costs reported to DPW through the County C&Y. In fiscal year 2006-07, the County JPO incurred costs of \$11,307,272 for juvenile services. These costs are funded by DPW at reimbursement rates ranging from 50 to 80%, with the County funding the balance. For fiscal year 2007-08, reported costs were reduced to \$10,826,242. The costs do not include the salary and benefits of JPO staff, which are not funded through DPW.

Included in the JPO costs is the cost for psychological evaluations. For the period July 1, 2001 through June 30, 2008, the county reimbursed the Psychologist \$1,122,025 for these services.

Objective, Scope and Methodology

The audit objectives were:

- To determine if psychological evaluations billed to DPW were provided in accordance with 55 PA Code Chapter 3170 regulations.
- To determine if payments to the Psychologist were supported by valid documentation.

In pursuing these objectives, the BFO interviewed staff from the County C&Y, JPO, the Court Human Resource Director and the Psychologist. We also reviewed County C&Y invoices, financial records, the Psychologist billings and evaluations, case files, and

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other pertinent data necessary to complete our objectives. Our review covered the period July 1, 2001 through December 31, 2007. However, our testing and review of the psychological evaluations and billing documents were limited to the period July 1, 2004 through December 31, 2007.

Government auditing standards require that we obtain an understanding of management controls that are relevant to the audit objectives described above. The applicable controls were examined to the extent necessary to provide reasonable assurance of the effectiveness of those controls. Based on our understanding of the controls no significant deficiencies came to our attention other than those described in the findings included in this report.

The audit fieldwork was conducted intermittently between June 30, 2008 and September 3, 2008 and was performed in accordance with general accepted government auditing standards. The report, when presented in its final form, is available for public inspection.

Results of Fieldwork

Finding No. 1 – The County Failed to Comply with DPW’s 3140 and 3170 Regulations Jeopardizing Allowability of \$836,636

The Standard County Purchase of Service Agreement was not used by the Juvenile Probation Department in the purchase of Psychological Services. The agreement used since February 2003 was limited to a one page document that was signed by the former Director of Probation Services.¹ The agreements were not approved by the Chairperson of the County Commissioners or an authorized representative as required by Regulation 3170.93(e)(i).

During the period July 1, 2001 through December 31, 2007, the County reimbursed the Psychologist \$1,045,795 to perform psychological evaluations for the court. The County also reimbursed the Psychologist an additional \$76,230 for the period January through June 2008. Reimbursement for this period was not included on the DPW claim due to the absence of a valid contract. In total the \$1,122,025 paid to the Psychologist resulted in \$836,636 of reimbursement by DPW (\$1,045,795 @ 80%). The eligibility of these costs is being questioned due to the fact that the County did not procure the services, establish the hourly rate, or report the costs using the correct reimbursement rate in accordance with DPW Chapter 3140 and 3170 regulations.

The Court and JPO began using the Psychologist during calendar year 2001. The process utilized by the JPO to procure the services was limited to a review of a résumé and a comparison of work products of the Psychologist to that of an existing contractor.

¹ The BFO requested the written Agreements for psychological services dating back to the 2001 service inception. The JPO could not locate or determine the existence of a written Agreement prior to February 1, 2003.

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An hourly rate of \$85 was offered to and accepted by the Psychologist. The rate was increased to \$90 during fiscal year 2002-03. The process used to procure the services did not comply with requirements of 55 PA Code Chapter 3170.81-3170.86. Specifically Chapter 3170.83 requires the County to either request bid proposals in writing, in which County code sections will apply on how contract will be awarded, or the County may establish a maximum rate or range of rates for the service to be purchased. These rates shall be developed considering the reasonableness of cost for the service, in an open and public manner, and must be updated on an annual basis. Neither method was employed by the County in their procurement of the services.

The former Director of Probation Services, who signed the annual Agreements, informed us that he was not aware of the existence of the Chapter 3170 Regulations, the specific requirements related to procurement of services, or that the regulations applied to JPO services.

In addition to the procurement requirements provided in Chapter 3170.81-3170.86, the Luzerne County Commissioners approved and adopted a Procurement Manual in April 2004. The procedures outlined in the manual were to be followed by all units of County government including the courts. According to the manual all professional services exceeding \$7,500 are to be procured through a request for proposal (RFP) published in the daily newspaper. The RFP process was not used by the JPO for the purchase of the psychological services. In our attempt to determine why, we were informed, by the former Director of Probation Services, that the manual was never formally transmitted to his Department nor was training provided to implement the requirements of the Purchase Manual.

Contract Requirements and Disclosures

Chapter 3170.23(b) requires that the County adhere to contract requirements outlined in 3170.93. Specifically, 3170.93(e) outlines a list of required elements that must be contained in service contracts or agreements. The one page agreement approved annually by the County Probation Department lacked a number of required elements.

Moreover, Chapter 3170.93(g) requires the County to notify and obtain approval from the OCYF regional office before a contract or agreement is awarded to members of its staff or immediate families. The JPO is a Department of the Court under the authority of the County President Judge. The brother-in-law of the Psychologist at the time the February 2003 Agreement was awarded was the President Judge.² According to the former Director of Probation Services, about a year after the Psychologist began providing services he became aware of the relationship between the President Judge and the Psychologist. However, he was unaware of the requirements in the 3170 regulations and did not request approval of the contracting arrangement. At a minimum,

² The Psychologist began providing JPO services in 2001. The Psychologist's brother-in-law became President Judge in 2002.

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we believe that the awarding of a JPO contract to the relative of the President Judge from 2003 through 2007 presents the appearance of a conflict of interest.

Reporting the Cost of Psychological Evaluations as 80% Reimbursement Results in a \$313,738 Overcharge

According to Chapter 3140.23, the allowable reimbursement level for medical and other examination ordered by the Court is 50%. The County reported the costs of the court ordered psychological evaluations as 80% reimbursable. As a result the DPW was billed and paid \$313,738 more than would be appropriate had the services been procured in accordance with the requirements detailed in the Chapter 3140 and Chapter 3170 regulations. Note that the \$313,738 is included as a component of the \$836,636 total questioned costs due to noncompliance with 3140 and 3170 regulations.

Per regulation 3140.22, for a cost to be reimbursed at 80%, it must be a counseling or intervention service provided to a child, or child's family, and directed at alleviating conditions which present a risk to the safety or well being of the child. The psychological evaluations, we reviewed, are more appropriately defined as a medical/other examination that was ordered by the Court and should be reimbursed at 50%.

Recommendations

The BFO recommends that OCYF determine the allowability of the \$836,636 in DPW funding received by the County for psychological services that were not procured in accordance with the requirements of Chapter 3140 and Chapter 3170. The OCYF should note that a decision to agree to participate in these costs will then require that they enter into negotiations on the recovery of the \$313,738 over billing that resulted from the inappropriate classification of these court related costs as 80%reimbursable.

The BFO also recommends the County C&Y office discontinue the practice of seeking 80% reimbursement for evaluations ordered by the court. These evaluations should be billed at 50%. The OCYF should monitor the annual fee for service schedule submitted with the County's fiscal summary to ensure reimbursement for these costs is limited to 50%.

The BFO finally recommends all contracts and/or purchase of service agreements use the standard boiler plate language and be approved by the County Commissioners. Contracts for JPO service should also be reviewed by the County C&Y fiscal officer who is knowledgeable of the 3170 requirements. These practices will provide additional assurance that the contracts comply with DPW requirements and are awarded in an open and public manner.

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Finding No. 2 - County Evaluations Were Billed at an Average Cost of \$1,635 per Juvenile-Approximately 3.6 Times the Current Health Choices Rate

Prior to July 2008, psychological evaluations ordered by the Court were eligible for 50% reimbursement from DPW through Act 148; the remainder was to be funded by the County. Beginning in July 2008, medically necessary psychological evaluations for juveniles who are MA eligible will no longer be funded with Act 148 funds, but rather through the DPW Health Choices Program. Community Care Behavioral Health, the local managed care organization under health Choices, will manage the psychological testing for children including the payment for the service. The current rate for the MA eligible evaluations performed by the Psychologist, whose services are the subject of this audit, is \$450, regardless of the amount of time needed for testing, scoring and reporting. Evaluations funded by MA are provided at no cost to the County.

In March 2008 the County issued a Request for Proposal (RFP) to procure the services of a licensed psychologist to deliver psychological evaluations for non-MA eligible children. A contract is anticipated to be awarded in the Fall of 2008. The RFP does not specifically state whether the proposal should be based on a maximum rate per evaluation or on an hourly rate. The RFP also does not address the testing to be included in the evaluations. We believe it would be appropriate for the County to limit the reimbursement to the amounts paid for MA eligible children.

Evaluations were performed at an annual cost of \$1,635

We tested the documentation to support the Psychologist's billings for 31 evaluations completed between July 2004 and December 2007. In all cases the evaluations were performed and a written report was provided to the JPO detailing recommendations for treatment and rehabilitation. The tests identified on the billings were provided and documented in the evaluations. The 31 evaluations represented seven percent of the 433 evaluations performed during this period.

Our review of the Psychologist's invoices submitted and billed to DPW identified the following:

- The evaluations included the administering of four standard tests for nearly every child. The tests included screening for organic damage, I.Q. and personality. Our sample identified three children who were evaluated twice within a one year period, and the standard tests were administered in both evaluations.

The average cost per evaluation was \$1,635 based on 18.2 hours at \$90. The invoices categorized the average hours as: four hours for record review, clinical interview and administering tests; 10.5 hours for test scoring and interpretation; and 3.5 hours for report writing. The hours reported for each child to score and interpret test results were the same. For example, the hours to score and interpret the tests were 10.5 hours for almost every child. According to the Psychologist, the reported hours for scoring and interpretation were not based on

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actual hours but were estimates developed on the average time per child established over a period of time.

- A schedule of the hours of service billed indicates that the Psychologist worked seven days per week. Hours billed on Saturday and Sunday were similar to those billed on weekdays.
- For fiscal year 2006-07, the billings included eight days where reimbursement was requested for 12 or more hours. On two of the days he billed and was reimbursed for 16 and 16.5 hours. In response to our questions related to these eight days the Psychologist responded that he sometimes works 12 to 14 hours per day on County referrals and the 16 and 16.5 hours must be a mistake.
- Each evaluation identified an average of 3.5 hours, or \$315 in costs for report writing. The written report provided to the JPO averaged 30-35 pages. Approximately 40-50% of the report represents standard boilerplate footnotes explaining definitions, case law, test scoring, etc. In one report we noted that a “copy and pasting” resulted in the identification of two different children in one report. The Psychologist acknowledged report write-up time and cost would be reduced without the use of footnotes, but insisted the footnotes were needed to educate the users of the report, and for legal purposes. He also informed us that the name switch in the report had no bearing on the accuracy of the evaluation as each child fit into the same profile.

Recommendations

The BFO recommends the County use the approved MCO rate to reimburse evaluations performed on non-MA eligible clients. For exceptional cases requiring additional testing, the specific tests to be administered should be agreed upon before the tests are administered.

The BFO also recommends that OCYF recognize the rate paid by the MCO as the maximum charge that Act 148 funds will participate in. If the County contracts at a higher rate, the difference should be paid with County funds.

Finding No. 3 - The Process Used to Make JPO Recommendations to the Court for Evaluations and Treatment Options Could Be Improved

Since 2001 the County reimbursed a psychologist approximately \$1.1 million for opinions and recommendations on the treatment and rehabilitation options for delinquent children. In a number of cases we noted that the recommendations were not considered and/or not accepted.

In our review of the sample cases we identified situations that provide the County and the JPO with opportunities to improve the process used to make recommendations to the Court concerning the need for psychological evaluations for treatment and

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rehabilitation options. These improvements are primarily in the area of additional documentation in the case files and changes to and/or documentation of the existing model and practices. The need for improved documentation is supported by the following:

- We were informed that a collaborative approach involving intake and case management staff is used to make Court decisions. Documentation that would support the existence of and use of this process could not be located.
- The recommendations to the Court regarding evaluations and options for treatment and rehabilitation are overseen by a licensed social worker. This individual does not have regular contact with the JPO staff and the children involved in each recommendation. The recommendations are provided without apparent oversight by the Deputy Director of Administration. He is responsible for supervision of the JPO intake workers, case managers, and probation officers who should have a significant role in recommendations to the Court.
- During the period October 2005 through late in calendar year 2006, the case files did not contain documentation that would allow us to determine who made the recommendation to the court as to which children should be referred for evaluation.
- In some cases, the Psychologist's recommendations regarding the type of treatment and or type of placement were not followed by the Court. We noted a number of reasons for this including the opinion of the licensed social worker differed from the Psychologist; the recommended service provider did not have an available bed, or the Court elected to disregard the Psychologist's recommendation.
- Five of 31 evaluations included a recommendation to provide the children with a neurological test and evaluation. None of the court orders included this recommendation.

Recommendations

The BFO recommends the Court and JPO redefine the process in making recommendations to the Court on the placement and treatment of children. The current process allows a caseworker to control the recommendations going to the Court. According to JCJC standards the JPO Deputy Chief of Administration should have overall responsibility in making juvenile treatment and rehabilitation recommendations to the court.

The BFO also recommends the basis for recommendations made to the Court regarding what children should receive a psychological evaluation be documented for both MA and non-MA children. The collaborative model which includes the MH forensic caseworkers, intake workers, and probation officers should be followed in making

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recommendations to the Court. This model provides the best opportunity to incorporate the expertise and opinion of the JPO staff directly involved in working with the child and family.

The BFO further recommends the specific reason for non-acceptance or disagreement with the Psychologist recommendation by the JPO be documented and provided to the Court for their consideration.

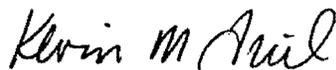
An audit exit conference was held on November 24, 2008 with the County Manager, Assistant Solicitor, and Directors of the Office of Human Services, Office of Children and Youth and Probation Services. At the conference, the findings and recommendations in the draft report and the County response were discussed. As a result of this meeting and discussions with personnel assigned to the Luzerne County Court we made minor changes to the draft report. We also added footnotes to Pages 6 and 7.

The County's written response has been incorporated into the final report and labeled Appendix A. In the response the County proposes that the Psychologist was a consultant that provided treatment and placement recommendations to develop the family service plan (FSP) and arrange for the provision of needed services. Based on our review of the services charged, the auditors cannot agree that the services, as provided, meet the DPW's definition of consulting services as defined in the bulletins for Invoicing Procedures for County Child Welfare Services. While the auditors agree that the results or recommendations of the psychological examinations may be used for the FSP the purpose of the evaluations as described in the court orders was to assist the court in making its determination and not to develop the FSP.

In accordance with the BFO established procedures, please provide a response within 60 days to the Audit Resolution Section concerning actions to be taken to ensure the report recommendations are implemented.

Please contact Alexander Matolyak, Audit Resolution Section at (717) 783-7786 if you have any questions concerning this audit or if we can be of any further assistance in this matter.

Sincerely,



Kevin M. Friel

Attachment

c: Mr. Thomas Diehl
Mr. Edward Coleman
Mr. Frank Castano

**Luzerne County's
Response to the Draft Report
Appendix A**



LUZERNE COUNTY

CHILDREN AND YOUTH SERVICES

111 North Pennsylvania Boulevard Suite 110, Wilkes-Barre, PA 18701-3697
(570) 826-8710 · Fax Number: 570-821-7355
TDD (570) 825-1860

November 18, 2008

Mr. Kevin Friel, Director
Bureau of Financial Operations
PA Department of Public Welfare
3rd Floor Bertolino Building
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675

Dear Mr. Friel,

This letter is to serve as the Luzerne County response to the proposed audit report concerning psychological evaluations that was provided together with your letter to me dated October 23, 2008.

1. **Background:** The Pennsylvania Department of Public Welfare ("DPW") has reimbursed Luzerne County \$836,636 (the "Evaluation Reimbursements") of the costs incurred by Luzerne County for services (the "Evaluation Services") rendered by a licensed psychologist (the "Psychologist") during the period from July 1, 2001 through June 30, 2008. In its proposed audit report, the Bureau of Financial Operations ("BFO") challenges the eligibility of the Evaluation Reimbursements. Luzerne County respectfully submits that applicable regulations do support the eligibility of the Evaluation Reimbursements.

2. **Service Procurement and Rate Determination:** Luzerne County submits that the procurement of the Evaluation Services and the rates that were established for the Evaluation Services complied with 55 PA Code Section 3170.49, which applies to the procurement of services from "professional practitioners and consultants" such as those that were provided by the Psychologist. Section 3170.49 reads in pertinent part as follows:

3170.49. Purchased personnel services.

(a) *Consultants.* This is an allowable expense for programmatic or administrative reasons. The Department will participate in the cost for fees and expenses of professional practitioners and consultants who are not regular employees, but are engaged as independent contractors for specified services and reimbursed by contract for a specific fee. A written agreement is required for consultants. This agreement shall state the services to be provided, the rate, and the method of payment.

(b) *Fee determination.* The fee charged by such consultants shall be determined in accordance with §3170.84 (relating to maximum levels of reimbursement)."

3. **Contract Requirements:** Section 3170.49 requires that there be a written agreement with the professional practitioner or consultant and that the "agreement state the services to be provided, the rate, and the method of payment." The written agreement between Luzerne County and the Psychologist does state the service, the rate and the method of payment and thus is in compliance with Section 3170.49.

4. Conflict of Interest: Luzerne County notes that BFO makes reference in its proposed report to Section 3170.93(g) which relates to conflicts of interest and that BFO states that it believes that there is an "appearance of a conflict of interest" regarding the agreement with the Psychologist. Please note that Luzerne County has not renewed its agreement with the Psychologist. Since BFO makes no finding of a conflict of interest or of a violation of Section 3170.93(g), Luzerne County does not address that issue in this document other than to assure BFO that Luzerne County is committed to an open and transparent procurement process. Luzerne County has demonstrated that commitment by enacting and enforcing a rigorous purchasing policy that goes beyond the requirements of the County Code. Any allegation of a conflict of interest has and will be taken very seriously and will be dealt with in a prompt and appropriate manner.

5. Reimbursement Rate: Luzerne County submits that Section 3140.22(f)(10) applies to the reimbursement rate of these Evaluation Services. Section 3140.22(f)(10) provides a reimbursement rate between seventy-five percent (75%) and ninety percent (90%) for "County agency staff activities provided to determine what services are needed, to develop a service plan and to arrange for provision of needed services." The evaluations provided by the Psychologist were provided to Luzerne County as part of and in furtherance of staff activities aimed at determining the service needs of certain juveniles. BFO correctly states in its proposed report that the Luzerne County Juvenile Probation Office recommended the use of the Psychologist's services to "assist in determining the best plan for treatment and rehabilitation" for certain identified juveniles (Page 2 of BFO's proposed report). Since the Evaluation Reimbursements that Luzerne County received over the past seven (7) years at the eighty percent (80%) reimbursement rate are within the seventy-five percent (75%) to ninety percent (90%) reimbursement rate prescribed by Section 3140.22(f)(10), Luzerne County requests that no portion of the Evaluation Reimbursements be considered an over billing or otherwise deemed ineligible for reimbursement.

6. Current and Future Practices: Notwithstanding the foregoing, Luzerne County understands and appreciates BFO's concerns regarding the prior service procurement processes and practices that were followed relative to the Evaluation Reimbursements and has already implemented changes to such processes and practices that should satisfy BFO's recommendations with respect to contracts, services and reimbursements on a going forward basis.

Thank you for your review and consideration of this response. We look forward to participating in the exit conference currently scheduled for November 24, 2008.

Sincerely,

Frank Castano

CC: Commissioner Maryanne Petrilla
Commissioner Gregory Skrepenak
Commissioner Stephen Urban
Mr. Doug Pape
Mr. Thomas Pribula
Mr. Brian Bufalino
Mr. Joseph DeVizia
Honorable Mark Ciavarella
Mr. Larry Saba
Mr. John Johnson

