

ITEM 6
FINAL STAFF ANALYSIS
REQUESTS TO AMEND PARAMETERS AND GUIDELINES

Government Code Sections 3301, 3303, 3304, 3305, 3306

As Added and Amended by Statutes 1976, Chapter 465 (AB 301); Statutes 1978, Chapters 775 (AB 2916), 1173 (AB 2443), 1174 (AB 2696), and 1178 (SB 1726); Statutes 1979, Chapter 405 (AB 1807); Statutes 1980, Chapter 1367 (AB 2977); Statutes 1982, Chapter 994 (AB 2397); Statutes 1983, Chapter 964 (AB 1216); Statutes 1989, Chapter 1165 (SB 353); and Statutes 1990, Chapter 675 (AB 389)

Directed by Government Code Section 3313, as added by
Statutes 2005, Chapter 72 (Assem. Bill No. 138, § 6, eff. July 19 2005)

*Peace Officers Procedural Bill of Rights (POBOR)*¹
06-PGA-03, 06-PGA-06

Department of Finance and County of Los Angeles, Requestors

EXECUTIVE SUMMARY

This item addresses three proposals to amend the parameters and guidelines for the *Peace Officers Procedural Bill of Rights* (POBOR) program. POBOR provides a series of rights and procedural safeguards to peace officers employed by local agencies and school districts that are subject to investigation or discipline. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing to amend, modify, or supplement parameters and guidelines. In adopting parameters and guidelines, the Commission is required to consult with the Department of Finance, the affected state agency, the Controller, the fiscal and policy committees of the Assembly and Senate, the Legislative Analyst, and the claimants to consider a reasonable reimbursement methodology that balances accuracy with simplicity.

Requests to Amend the Parameters and Guidelines

The POBOR program, the decisions of the Commission, the audits by the State Controller's Office, and the Bureau of State Audits report on this program have a long history. At issue are two proposed "reasonable reimbursement methodologies" in lieu of actual costs claimed, and an alternate proposal that would add a reasonable reimbursement methodology as an option to claiming actual costs. All of the proposals are effective for the reimbursement period beginning on July 1, 2006.

¹ Staff substituted the acronym "POBOR" throughout this document for all variations used in requests, comments, and other filings from interested parties and affected state agencies.

Department of Finance's Proposal

On January 12, 2007, the Department of Finance requested that the parameters and guidelines be amended to reimburse each eligible local agency at the rate of \$56.74 per officer employed by the agency. This rate was determined by analysis of 2004-2005 POBOR claims data. First, the per-officer rate for each claimant was calculated (total amount claimed divided by the number of officers employed by each agency). Then each agency's per-officer rate was reduced by 75 percent to reflect the claim reviews conducted by the State Controller's Office revealing that at least 75 percent of POBOR claims were unsubstantiated. The Department of Finance identified \$56.74 as the median of the reduced per-officer rates and proposed this as the per officer rate, beginning on July 1, 2006.

Los Angeles County's Original Proposal

On June 25, 2007, Los Angeles County proposed that the parameters and guidelines be amended to reimburse each eligible jurisdiction \$302.37 per officer employed by the agency. This rate was calculated by reducing the total amount claimed in 2004-2005 by 37.5 percent to reflect the claim reviews conducted by the State Controller's Office. To obtain the allowable cost per officer, the adjusted total was then divided by the number of officers employed by each agency. Los Angeles County's calculation resulted in a proposed rate of \$302.37 per officer, beginning on July 1, 2006.

Los Angeles County's Alternate Proposal

On March 3, 2008, in response to the Draft Staff Analysis, Los Angeles County offered an Alternate Proposal to allow claimants to continue to claim actual costs or be reimbursed based on a new reimbursement rate of \$36.86 per officer. This rate was calculated from the same 2004-2005 claims data and adjusted by a carefully computed average of the "allowed costs" reported by the State Controller's Office in their 2004-2007 final audit reports. The County multiplied the median cost/officer x the computed average of allowed costs reported in the 2004-2007 final audit reports. This calculation resulted in a rate of \$34.77 per officer for fiscal year 2004-2005. The County adjusted this rate by an Implicit Price Deflator to calculate a new reimbursement rate of \$36.86 per officer, beginning on July 1, 2006.

Staff Analysis and Conclusion

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a reasonable reimbursement methodology to "mean a formula for reimbursing local agencies and school districts for costs mandated by the state ..." The new definition requires that two elements be met:

1. A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
2. A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a "cost-efficient manner." (Gov. Code, § 17518.5, subds. (b), (c).)

Staff finds that the Department of Finance and the Los Angeles County proposals satisfy the first element of the new definition of reasonable reimbursement methodology, but do not satisfy the second element of the definition.

Staff finds that the County's Alternate Proposal of \$36.86 per officer satisfies the two elements of the definition of reasonable reimbursement methodology for the following reasons:

- It is based on cost information from a representative sample of eligible claimants.
- It considers the variation in costs among local agencies to implement the mandate in a cost-efficient manner.

However, staff recommends that the County's Alternate RRM calculation be updated to include two additional audits issued by the State Controller's Office in 2008, and to apply the current Implicit Price Deflator. This technical modification to the County's formula will result in a recalculated 2004-2005 rate of \$ 33.22 per officer, and recalculated 2006-2007 rate of \$37.25 per officer.

Staff finds that the County's Alternate Proposal to amend the parameters and guidelines allows eligible claimants to be reimbursed based on actual costs or a reasonable reimbursement methodology and thus "balances accuracy and simplicity."

Staff Recommendation

Therefore, Staff recommends that the Commission:

- Deny the Department of Finance's proposal of \$56.74/officer because it does not satisfy the requirements for a reasonable reimbursement methodology. (Attachment 1)
- Deny Los Angeles County's original proposal of \$302.74/officer because it does not satisfy the requirements for a reasonable reimbursement methodology. (Attachment 2)
- Adopt Los Angeles County's Alternate Proposal, as updated by staff. This proposal allows eligible claimants to file reimbursement claims based on the proposed reasonable reimbursement methodology of \$ 37.25 per full-time sworn peace officer or actual cost claims. The RRM will be updated each year by the implicit price deflator. (Attachment 3)

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Requestors

Department of Finance
County of Los Angeles

Chronology

- 11/30/1999 Commission on State Mandates (Commission) adopts original Statement of Decision
- 07/27/2000 Commission adopts parameters and guidelines
- 03/29/2001 Commission adopts statewide cost estimate
- 10/15/2003 Bureau of State Audits issues report on Peace Officers' Procedural Bill of Rights (commonly referred to as POBOR) and Animal Adoption Programs, Report No. 2003-106
- 07/19/2005 AB 138 (Stats. 2005, ch. 72) becomes effective, directing the Commission to reconsider the original POBOR Statement of Decision by July 1, 2006
- 04/26/2006 Commission reconsiders POBOR test claim, adopts Statement of Decision, and directs staff to work with state agencies and interested parties to develop and recommend a reasonable reimbursement methodology pursuant to Government Code section 17518.5 for inclusion in the revised parameters and guidelines
- 12/05/2006 Commission adopts amendments to the parameters and guidelines and denies requests from the California State Association of Counties, County of Los Angeles, and Department of Finance to adopt proposed reasonable reimbursement methodologies²
- 1/12/2007 Department of Finance proposes amendment to add a reasonable reimbursement methodology to the parameters and guidelines³
- 1/24/2007 Commission conducts pre-hearing conference
- 3/12/2007 Commission notifies parties that State Controller's Office has made available updated claims data on the POBOR reimbursement claims, and posts to the Commission's website⁴
- 4/10/2007 Commission notifies parties that State Controller's Office has made available final audit reports on County of Contra Costs, County of Los Angeles, and Los Angeles Police Department, and posts to the Commission's website⁵

² See Exhibit A.

³ See Exhibit B.

⁴ See Exhibit C.

⁵ See Exhibit D.

6/5/2007 Department of Finance notifies Commission that the reasonable reimbursement methodology proposal filed on January 12, 2007, will not be amended and that comments should be filed⁶

6/13/2007 Commission notifies parties that State Controller's Office has made available final audit reports on County of San Diego and City of Oakland, and posts to the Commission's website⁷

6/25/2007 County of Los Angeles proposes amendment to add a reasonable reimbursement methodology to the parameters and guidelines⁸

7/16/2007 Cost Recovery Systems, Inc., files comments on Department of Finance and County of Los Angeles proposals⁹

7/19/2007 State Controller's Office files comments on County of Los Angeles proposal¹⁰

7/24/2007 City and County of San Francisco files comments on Department of Finance and the County of Los Angeles proposals¹¹

08/7/2007 Department of Finance files comments on County of Los Angeles' proposal and clarifies proposal¹²

8/24/2007 County of Los Angeles requests postponement of hearing¹³

8/30/2007 Commission staff re-schedules hearing and comment period¹⁴

1/29/2008 Commission staff notifies parties that State Controller's Office has made available final audit reports on Orange County, San Bernardino County, City of Oceanside, City of Inglewood, Alameda County, Sacramento County, Ventura County, and City of Buena Park and posts to Commission's website¹⁵

⁶ See Exhibit E.

⁷ See Exhibit F.

⁸ See Exhibit G.

⁹ See Exhibit H.

¹⁰ See Exhibit H.

¹¹ See Exhibit H.

¹² See Exhibit H.

¹³ See Exhibit I.

¹⁴ See Exhibit I.

¹⁵ See Exhibit J.

2/8/2008	Commission staff issues draft staff analysis ¹⁶
3/3/2008	Commission staff notifies parties that State Controller's Office has made available final audit reports on City of Long Beach and the City and County of San Francisco and posts to Commission's website ¹⁷
3/3/2008	County of Los Angeles files comments and alternate proposal ¹⁸
3/13/2008	State Controller's Office files updated claims data on the POBOR reimbursement claims ¹⁹
3/14/2008	Final Staff Analysis issued

BACKGROUND

This item addresses three proposals to amend the parameters and guidelines for the *Peace Officers Procedural Bill of Rights* (POBOR) program.

Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing to amend, modify, or supplement parameters and guidelines. In adopting parameters and guidelines, the Commission is required to consult with the Department of Finance, the affected state agency, the Controller, the fiscal and policy committees of the Assembly and Senate, the Legislative Analyst, and the claimants to consider a reasonable reimbursement methodology that balances accuracy with simplicity.

The POBOR program, the decisions of the Commission, the State Controller's Office, and the Bureau of State Audits report on this program have a long history. At issue are two proposed "reasonable reimbursement methodologies" in lieu of actual costs claimed, and an alternate proposal that would add a reasonable reimbursement methodology as an option to claiming actual costs. All of the proposals are effective for the reimbursement period beginning on July 1, 2006. The history of the test claim and a summary of the proposals follow.

Statement of Decision and Parameters and Guidelines

The Legislature enacted the Peace Officers Procedural Bill of Rights Act (commonly abbreviated as "POBOR"), by adding Government Code sections 3300 through 3310, in 1976. POBOR provides a series of rights and procedural safeguards to peace officers employed by local agencies and school districts that are subject to investigation or discipline. Generally, POBOR prescribes certain procedural protections that must be afforded officers during interrogations that could lead to punitive action against them; gives officers the right to review and respond in writing to adverse comments entered in their personnel files; and gives officers the right to an administrative appeal when any punitive action, as defined by statute, is taken against them, or they are denied promotion on grounds other than merit.

¹⁶ See Exhibit K.

¹⁷ See Exhibit L.

¹⁸ See Exhibit M.

¹⁹ See Exhibit N.

On November 30, 1999, the Commission approved the POBOR test claim and adopted the original Statement of Decision (CSM 4499). The Commission found that certain procedural requirements under POBOR were rights already provided to public employees under the due process clause of the United States and California Constitutions. Thus, the Commission denied the procedural requirements of POBOR that were already required by law on the ground that they did not impose a new program or higher level of service, or impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c). The Commission approved the activities required by POBOR that exceeded the requirements of existing state and federal law.

On July 27, 2000, the Commission adopted parameters and guidelines that authorized reimbursement, beginning July 1, 1994, to counties, cities, a city and county, school districts, and special districts that employ peace officers for the ongoing activities summarized below:

- Developing or updating policies and procedures.
- Training for human resources, law enforcement, and legal counsel.
- Updating the status of cases.
- Providing the opportunity for an administrative appeal for permanent, at-will, and probationary employees that were subject to certain disciplinary actions that were not covered by the due process clause of state and federal law.
- When a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the employer that could lead to certain disciplinary actions, the following costs and activities are eligible for reimbursement: compensation to the peace officer for interrogations occurring during off-duty time; providing prior notice to the peace officer regarding the nature of the interrogation and identification of investigating officers; tape recording the interrogation; providing the peace officer employee with access to the tape prior to any further interrogation at a subsequent time or if any further specified proceedings are contemplated; and producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of complaints of reports or complaints made by investigators.
- Performing certain activities, specified by the type of local agency or school district, upon the receipt of an adverse comment against a peace officer employee.

Reconsideration Directed by the Legislature

In 2005, Statutes 2005, chapter 72, section 6 (AB 138) added section 3313 to the Government Code to direct the Commission to “review” the Statement of Decision, adopted in 1999, on POBOR to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859 and other applicable court decisions.

On April 26, 2006, the Commission reviewed its original findings and adopted a Statement of Decision on reconsideration (05-RL-4499-01). The Statement of Decision on reconsideration became final on May 1, 2006. On review of the claim, the Commission found that the *San Diego Unified School Dist.* case supports the Commission’s 1999 Statement of Decision, which found that the POBOR legislation constitutes a state-mandated program within the meaning of

article XIII B, section 6 of the California Constitution for counties, cities, school districts, and special districts identified in Government Code section 3301 that employ peace officers.

The Commission further found that the *San Diego Unified School Dist.* case supports the Commission's 1999 Statement of Decision that the test claim legislation constitutes a partial reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for all activities previously approved by the Commission *except* the following:

- The activity of providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) pursuant to Government Code section 3304 is no longer a reimbursable state-mandated activity because the Legislature amended Government Code section 3304 in 1998. The amendment limited the right to an administrative appeal to only those peace officers "who successfully completed the probationary period that may be required" by the employing agency and to situations where the chief of police is removed. (Stats. 1998, ch. 786, § 1.)
- The activities of obtaining the signature of the peace officer on the adverse comment or noting the officer's refusal to sign the adverse comment, pursuant to Government Code sections 3305 and 3306, when the adverse comment results in a punitive action protected by the due process clause does not constitute a new program or higher level of service and does not impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).

The Statement of Decision adopted by the Commission on this reconsideration applied to costs incurred and claimed beginning with the 2006-2007 fiscal year.

Parameters and Guidelines Amended Following the Reconsideration (For Costs Incurred Beginning July 1, 2006)

In May 2005, before the Commission reconsidered its original POBOR decision, the State Controller's Office filed a request to amend the parameters and guidelines. The request remained pending when the Commission adopted its Statement of Decision on reconsideration in May 2006.

At the time the Commission adopted the Statement of Decision on reconsideration, the Commission directed staff to work with state agencies and interested parties to develop and recommend a reasonable reimbursement methodology pursuant to Government Code section 17518.5 for inclusion in the revised parameters and guidelines. Subsequently, proposed amendments were filed by the State Controller's Office to supersede the proposed amendments previously filed in May 2005. The Counties of San Bernardino and Los Angeles; the California State Association of Counties (CSAC); and the Department of Finance also submitted proposed amendments. The parties proposed changes to the reimbursable activities and proposed different reasonable reimbursement methodologies as follows:

- The *California State Association of Counties* requested that the parameters and guidelines be amended to include a reasonable reimbursement methodology that would reimburse local agencies \$528 per peace officer employed by the agency on January 1 of the claim year, with annual adjustments based on the Implicit Price Deflator.

- The *County of Los Angeles* requested that the parameters and guidelines be amended to include a reasonable reimbursement methodology that would allow local agencies to be reimbursed based on *approximations of local costs mandated by the state*. This proposal was based on studies of claims data submitted to the Controller's Office for the 2001-2002 through 2004-2005 fiscal years. The County described its proposal as a reimbursement formula which reflected differences in POBOR case loads among local law enforcement agencies and differences in the numbers of peace officers employed by those agencies. The reasonable reimbursement methodology was comprised of three components: (1) *Unit Case Costs* were determined by multiplying the number of unit level cases X 12 standard hours X productive hourly rate; (2) *Extended Case Costs* were determined by multiplying number of extended cases X 162 standard hours X productive hourly rate; 3) Uniform Costs were determined by multiplying the number of peace officers X standard rate of \$100. The costs from these three components were then totaled for the annual claim amount.
- The *Department of Finance* requested that the parameters and guidelines be amended to include a reasonable reimbursement methodology. Under this methodology, a distinct "base rate" would be calculated for each claimant based on State Controller audited amounts for four years of claims. The annual reimbursement would be the result of multiplying the "base rate" by the number of covered officers. The base rates would be adjusted annually by an appropriate factor to capture the normal cost increases. Department of Finance requested a process for determining the *mean* reimbursement rates while final reimbursement rates are determined.

The hearing on the proposed amendments to the parameters and guidelines took place on December 5, 2006. Based on the plain meaning of Government Code section 17518.5, the statute defining *reasonable reimbursement methodology*, the Commission made the following findings with respect to the proposed reasonable reimbursement methodologies:

- The Department of Finance, the State Controller, affected state agencies, a claimant, or an interested party is authorized to develop a reasonable reimbursement methodology.
- There is no statutory requirement or authority for the Commission to audit reimbursement claims and to develop a reasonable reimbursement methodology proposal that complies with section 17518.5.
- The conditions or criteria for defining a reasonable reimbursement methodology are defined in section 17518.5 and may not be changed by the Commission.

The Commission denied the proposed reasonable reimbursement methodologies submitted by the *California State Association of Counties, the County of Los Angeles, and the Department of Finance* because they did not meet the following conditions in section 17518.5:

- (1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.
- (2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

The Commission did adopt the following changes to parameters and guidelines for costs incurred beginning July 1, 2006:

- The addition of time study language to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.
- Deletion of specific activities relating to the administrative appeal hearing and the receipt of an adverse comment that the Commission expressly denied in the Statement of Decision on reconsideration.
- Clarification of administrative activities, and activities related to the administrative appeal, interrogations, and adverse comments that are consistent with the Commission's Statement of Decision adopted in 1999, the Statement of Decision on reconsideration, and the Commission's prior findings when adopting the original parameters and guidelines. Language was included to clarify that certain activities are *not* reimbursable, including investigation and conducting the interrogation. The Commission expressly denied reimbursement for these activities when it adopted the original parameters and guidelines in 2000 and, again, when it adopted the Statement of Decision on reconsideration in April 2006.

Department of Finance Request to Amend the Parameters and Guidelines (06-PGA-03)

On January 12, 2007, the Department of Finance requested that the parameters and guidelines be amended to reimburse each eligible local agency at the rate of \$56.74 per officer employed by the agency, beginning July 1, 2006. According to the Department of Finance:

This rate was determined by an analysis of 2004-05 POBOR claims data. First, the per-officer rate for each claimant was calculated (total amount claimed divided by the number of officers employed by each agency). Pursuant to reviews conducted by the State Controller's Office (Controller) revealing that at least 75 percent of POBOR claims were unsubstantiated, we then reduced each agency's per-officer rate by 75 percent. The median of the reduced per-officer rates was calculated to be \$56.74.

The proposed reimbursement rate would then be adjusted after the Controller has completed one year of audits of all POBOR claims. The adjusted rate would be the median of all claimants' per-officer rates, which would be calculated by dividing the costs deemed to be reimbursable by the Controller by the number of officers employed by each agency. The rate would be adjusted again each year until three years of audits have been completed by the Controller.

The reimbursement rate also would be adjusted by the implicit price deflator each year.

On January 24, 2007, Commission staff held a pre-hearing conference regarding the Department of Finance's request. The Department of Finance notified the parties of its intention to modify the original proposal upon receipt and review of the State Controller's final report on the fiscal year 2004-2005 reimbursement claims, and receipt of final audit reports on 20-25 audits that are underway. Commission staff agreed to notify all parties, affected state agencies, and interested persons when these documents were available and to post all documents on the Commission's POBOR website.

On June 5, 2007, the Department of Finance notified the Commission that based on their review of the additional claiming data and audit reports that they were not amending the January proposal and that if before the Commission hearing, additional data became available supporting an adjustment to the per-officer amount, an adjustment to the per-officer amount may be recommended during the Commission hearing.

Los Angeles County Request to Amend the Parameters and Guidelines (06-PGA-06)

On June 25, 2007, Los Angeles County proposed that the parameters and guidelines be amended to provide a reasonable reimbursement methodology in recovering allowable costs for the POBOR program. The County proposes that “starting with the 2006-07 fiscal year, eligible jurisdictions be reimbursed \$302.37 per officer and, in subsequent fiscal years, be reimbursed at the same rate adjusted for inflation.” The County explains its proposals as follows:

The \$302.37 rate was computed in accordance with Government Code section 17518.5 and based on state-wide data made available by the State Controller’s Office for the 2004-05 fiscal year. The 2004-05 year was selected in order to compare computations and assumptions used here with those used by the State Department of Finance [Finance] in their POBOR’s RRM proposal of \$56.74 per officer, filed with the Commission on January 12, 2007 and amended on June 5, 2007.

...The State Controller indicates that for all claimants, costs claimed for 2004-05 totaled \$24,529,434.

To compute the RRM then, the total costs of \$24,529,434 are divided by 50,701 officers, the number of officers Finance reported in their June 5, 2007 filing with the Commission. These officers were employed by local jurisdictions throughout the State on August 14, 2006. The result is \$483.80 of claimed cost per officer. But, the State Controller indicates that not all costs claimed were allowable under the parameters and guidelines for the POBOR’s program.

The County then addressed the State Controller’s concern that claimed costs may not be entirely reimbursable, and reduced the total statewide claimed amount reported to the State Controller for 2004-2005 by 37.5%.

Accordingly, the \$24,529,434 of costs claimed is reduced by 37.5% to obtain the allowable costs of \$15,330,897 $[(24,529,434) - (.375 \times 24,529,434)]$.

To obtain the allowable cost per officer, the allowable cost of \$15,330,897 is divided by 50,701 officers. The result is \$302.37 per officer.

The County concluded that the reasonable reimbursement methodology meets the first and second criteria of Government Code section 17518.5, subdivision (a), regarding full reimbursement of the total statewide allowable costs claimed by all claimants and regarding full reimbursement of costs claimed by 50% or more of eligible claimants.

State Controller’s Comments on Los Angeles County Proposal

On July 19, 2007, the State Controller’s Office submitted comments on the County’s proposal, pointing out that the county’s computation assumes that 62.5% of claimed costs

are allowable on average based on an August 4, 2006 letter issued by the State Controller's Office, which used preliminary audit error rates that stated allowable costs might vary between 25-100% of claimed costs. The county computed a simple average between both extremes of 25-100% and declared that the simple average of 62.5% fairly determines an allowable percentage of claimed costs.

The State Controller's Office notes that on August 4, 2006, only two final audit reports for the POBOR program had been issued, and that:

SCO audits conducted to date have shown that average allowable costs, expressed as a percentage of claimed costs, are closer to 3.7%. This percentage includes costs deemed unallowable due to inadequate or missing supporting documentation. Therefore, the actual percentage of "actual" allowable costs could be somewhat higher, possibly as high as 11-12%. The county should consider the effects of actual audit data and its impact on the reasonableness of their proposed reimbursement percentage in light of the newly amended P's &G's that clear state which costs are and aren't reimbursable.²⁰

The State Controller's Office reports that the actual audit exception rate is significantly higher than originally stated in the State Controller's Office's August 4, 2006 letter, and the parameters and guidelines have been amended to clarify the reimbursable activities, and the State Controller's Office proposes that the reasonable reimbursement methodology be calculated on 2006-2007 actual claimed costs instead of 2004-2005 actual claimed costs.

The State Controller's Office also notes that Los Angeles County's actual claimed costs for their 2005-06 claim amounted to \$279,775. The county had employed 9,028 sworn peace officers during FY 2004-2005, according to Department of Finance and the Commission on Peace Officer Standards and Training. Using the county's proposed rate of \$302.37/officer, their reimbursement claim for 2005-2006 would amount to \$2,729,796, a difference of \$2,450,021 or approximately 975% higher than what was actually claimed. Using the Department of Finance's proposed rate of \$56.74 per sworn officer is a more appropriate rate until an analysis can be made of the 2006-2007 actual costs claimed using the newly amended parameters and guidelines and the results of audits to verify actual costs incurred.

Interested Party Comments on Department of Finance Proposal

On July 16, 2007, Cost Recovery Systems, Inc. (CRSI) submitted comments criticizing the Department of Finance's approach to reduce the total amount claimed for all agencies by 75% based on the results of audits conducted on the largest and most "suspect" claims only, and not a random sampling. CRSI points out that some of the audit reductions were based on inadequate documentation findings, which does not mean that what was claimed was in error, but how time tracked did not meet State Controller's Office standards.

²⁰ Staff notes that the State Controller's Office has not updated the percentage of allowable costs since the filing of this comment.

On July 24, 2007, the City and County of San Francisco commented on the proposed amendments. San Francisco argues “[t]he discounted median amount of \$56.74 per officer proposed by the Department of Finance grossly understates any reasonable estimation of costs given the breadth of mandated activities. San Francisco believes that Finance’s assumption that 75% of the value of POBOR claims are invalid or include only 25 percent eligible, reimbursable costs is unsubstantiated and flawed, given the complexity of tasks and provisions covered under POBOR. Basing a reimbursement amount on the median value disproportionately weights reimbursement to lower cost, smaller jurisdictions. Instead, San Francisco argues that a more reasonable approach would have been to use the mean value of submitted cost per officer statewide, which would have produced a per-officer reimbursement of \$414.81.

For San Francisco, Department of Finance’s proposal results in reimbursement of \$173,170 for fiscal year 2004-2005, compared to the actual claim of \$2,952,086.²¹

State Controller’s Final Audit Reports

The Department of Finance notified the parties of its intention to modify their original proposal upon receipt and review of the State Controller’s final report on the fiscal year 2004-2005 reimbursement claims, and receipt of final audit reports on 20-25 audits that are underway. Commission staff agreed to notify all parties, affected state agencies, and interested persons when these documents were available and to post all documents on the Commission’s POBOR website.

Since 2004, the State Controller has issued final audit reports on reimbursement claims filed by eligible claimants. Before 2007, the State Controller issued three final audit reports on three cities.²² Beginning in 2007, the State Controller issued 14 final audit reports on eight counties, five cities, and one city and county.²³

These reports are available on the State Controller’s website and the Commission’s website and are included in this record. According to the State Controller, these claims were reduced, primarily because the local agencies claimed ineligible costs or did not provide supporting documentation.

Issue: Should the Commission amend the parameters and guidelines to include a reasonable reimbursement methodology (RRM) proposed by the Department of Finance or Los Angeles County for claiming increased costs, beginning on July 1, 2006?

²¹ Staff notes that in February 2008, the State Controller’s Office issued the Final Audit Report on their audit of the City and County of San Francisco’s claims for fiscal years 1994-95 through 2002-03. The audit resulted in allowing 6.49% of the total amount claimed (\$1,557,587 of \$24,014,018).

²² Cities of Long Beach, Sacramento, and Stockton audits are in Exhibit M.

²³ Contra Costa County, Los Angeles County, Los Angeles Police Department, San Diego County, City of Oakland, Orange County, San Bernardino County, City of Oceanside, City of Inglewood, Alameda County, Sacramento County, Ventura County, City of Buena Park, City of Long Beach, and City and County of San Francisco audits are in Exhibits D, F, J, and L.

There are three proposed parameters and guidelines amendment proposals before the Commission. The proposals are described below:

1. Department of Finance Proposal (Exhibit B)

The Department of Finance proposal requests that the parameters and guidelines be amended to reimburse each eligible local agency at the rate of \$56.74 per officer employed by the agency, beginning July 1, 2006. According to Department of Finance:

This rate was determined by an analysis of 2004-05 POBOR claims data. First, the per-officer rate for each claimant was calculated (total amount claimed divided by the number of officers employed by each agency). Pursuant to reviews conducted by the State Controller's Office (Controller) revealing that at least 75 percent of POBOR claims were unsubstantiated, we then reduced each agency's per-officer rate by 75 percent. The median of the reduced per-officer rates was calculated to be \$56.74.

The proposed reimbursement rate would then be adjusted after the Controller has completed one year of audits of all POBOR claims. The adjusted rate would be the median of all claimants' per-officer rates, which would be calculated by dividing the costs deemed to be reimbursable by the Controller by the number of officers employed by each agency. The rate would be adjusted again each year until three years of audits have been completed by the Controller. The reimbursement rate also would be adjusted by the implicit price deflator each year.

2. Los Angeles County's Original Proposal (Exhibit G)

Los Angeles County proposes that beginning with the 2006-2007 fiscal year, "eligible jurisdictions be reimbursed \$302.37 per officer and, in subsequent fiscal years, be reimbursed at the same rate adjusted for inflation."

The County explains its proposal as follows:

The \$302.37 rate was computed in accordance with [former] Government Code section 17518.5 and based on state-wide data made available by the State Controller's Office for the 2004-05 fiscal year...The State Controller indicates that for all claimants, costs claimed for 2004-05 totaled \$24,529,434.

To compute the RRM then, the total costs of \$24,529,434 are divided by 50,701 officers, the number of officers Finance reported in their June 5, 2007 filing with the Commission. These officers were employed by local jurisdictions throughout the State on August 14, 2006. The result is \$483.80 of claimed cost per officer. But, the State Controller indicates that not all costs claimed were allowable under the parameters and guidelines for the POBOR's program.

The County then addressed the State Controller's concern that claimed costs may not be entirely reimbursable, and reduced the total statewide claimed amount reported to the State Controller for 2004-2005 by 37.5%.

Accordingly, the \$24,529,434 of costs claimed is reduced by 37.5% to obtain the allowable costs of \$15,330,897 $[(24,529,434) - (.375 \times 24,529,434)]$.

To obtain the allowable cost per officer, the allowable cost of \$15,330,897 is divided by 50,701 officers. The result is \$302.37 per officer.

3. Los Angeles County's Alternate Proposal (Exhibit M)

In response to the Draft Staff Analysis, Los Angeles County offered an Alternate Proposal to allow claimants to continue to claim actual costs or be reimbursed based on a new reimbursement rate.

Los Angeles County describes its proposal, as follows:

[C]laimants continue to be allowed to claim actual costs. In addition, it is proposed that claimants be permitted to utilize a RRM rate, in lieu of actual costs, which is based on audited costs to date. For this purpose, the County now proposes an audited cost RRM per officer rate.

The County's alternate formula begins from the same report of 2004-05 actual cost claims submitted to the State Controller's Office by 33 counties and 142 cities that is the basis for the original proposals submitted by the Department of Finance and the County.

The median cost per officer identified by the Department of Finance was \$226.97. From this number, the County developed an audited cost RRM per officer rate which uses a methodology that is similar to the analysis in the draft staff analysis to calculate a reduction.

The County adds three final audit reports that were issued in the period from 2004-2006, and one new audit report to calculate the average percentage of costs allowed by the State Controller's Office. According to the County:

The result is that the percentage of claimed to allowed costs increased from 9.17% to 11.49%. In addition, the County removed four audited claims because no claimed costs were allowed at all – highly unusual for any audit. The result is that the percentage of claimed to allowed costs increased from 11.49% to 15.32%. This then translated to \$34.77 reimbursement rate per officer [$\$226.97 \times 15.32\% = \34.77] based on audited costs.

It should be noted that the \$34.77 per officer rate is a 2004-05 rate. According to the SCO's September 29, 2006 claiming instructions, attached in pertinent part, the implicit price deflator for 2005-06 was 6%. Therefore, for a rate which is effective on July 1, 2006, the 2004-2005 rate of \$34.77 should be increased by 6% to \$36.86 [$1.06 \times \$34.77 = \36.86].

Therefore, using Commission staff's assumptions that the RRM be based on audited costs, a rate of \$36.86 per officer, effective July 1, 2006 is required.

Accordingly, it is recommended that claimants be permitted to claim a RRM rate of \$36.86 per officer or their actual costs.

Staff Findings

For the reasons below, staff finds that the Department of Finance's proposal (\$56.74/officer) and the County of Los Angeles' original proposal (\$302.37/officer) do not satisfy the requirements of a "reasonable reimbursement methodology" and, thus, staff recommends that the Commission deny the proposed amendments to the parameters and guidelines.

However, staff finds that the Los Angeles County's alternate proposal satisfies the requirements for adoption of a reasonable reimbursement methodology and, thus, staff recommends that the Commission adopt Attachment 3, as modified by staff (\$37.25/officer or actual costs).

Government Code section 17557, subdivision (b) states that the Commission may adopt a reasonable reimbursement methodology when adopting parameters and guidelines. In adopting parameters and guidelines, Government Code section 17557, subdivision (f) states that "[t]he Commission shall consult with the Department of Finance, the affected state agency, the Controller, the fiscal and policy committees of the Assembly and Senate, the Legislative Analyst, and the claimants to consider a reasonable reimbursement methodology that balances accuracy with simplicity."

Government Code section 17518.5, as amended by AB 1222 (eff. Jan. 1, 2008), defines a reasonable reimbursement methodology to "mean a formula for reimbursing local agencies and school districts for costs mandated by the state ...". The new definition requires that two elements be met:

1. A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
2. A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a "cost-efficient manner." (Gov. Code, § 17518.5, subs. (b), (c).)

The Commission's regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies "shall include any documentation or assumption relied upon to develop the methodology."

Staff finds that the Department of Finance and the Los Angeles County proposals satisfy the first element of the new definition of reasonable reimbursement methodology. The original two proposals are based on statewide claiming data provided by the State Controller's Office for the 2004-2005 fiscal year. The Department of Finance data is limited to cities and counties and the County's proposal is based on the updated claiming information provided by the State Controller's Office as of March 6, 2007. Staff finds that the statewide claiming data is "cost information" from actual claims filed by local agencies that is a "representative sample of eligible local agencies" employing peace officers. Therefore, staff concludes that the three proposals satisfy Government Code section 17518.5, subdivision (b).

The second element of the definition states that "a reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner." For the reasons below, staff finds that neither the Department of Finance proposal nor the original Los Angeles County proposal satisfies the second element of the definition of reasonable reimbursement methodology.

Both the Department of Finance and Los Angeles County recognized that reductions made by the State Controller's audits must be applied to the development of a reasonable reimbursement methodology that considers the variation in costs to implement the mandate in a "cost efficient manner."

- The Department of Finance divided each claimant’s actual costs claimed by the number of officers to calculate a per officer rate, then reduced each agency’s per-officer rate by 75 percent, based on reviews conducted by the State Controller’s Office. (Emphasis added.) The median of the reduced per-officer rates was then identified as the proposed unit cost of \$56.74 per officer.
- Los Angeles County addressed the State Controller’s concern that claimed costs may not be entirely reimbursable, and reduced the total statewide claimed amount reported to the State Controller for 2004-05 by 37.5 percent. (Emphasis added.) Then, to obtain the allowable cost per officer, the adjusted total of \$15,330,897 was divided by the total number of officers (50,701). This calculation resulted in a proposed unit cost of \$302.37 per officer.

Although both requestors cite to the State Controller’s Office as a source for calculating reductions and then rely on their own assumptions, neither party has provided or cited to supporting documentation for these assumptions. In fact, staff finds that the final audit reports issued by the State Controller’s Office do not support the proposed reasonable reimbursement methodologies.

In 2007, the State Controller’s Office issued final audit reports on eight counties and five cities. The audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

The State Controller’s Office reduced the audited claims primarily because the local agencies claimed ineligible costs or did not provide supporting documentation. The State Controller found that \$ 102,254,499 of \$105,036,650 was unallowable, and \$ 2,782,151 was allowable. For the audit population, staff calculated 2.65% as “the percent allowed of the total amount claimed” and 9.17% as the “average percent allowed for each claimant.”²⁴ (See Table 1.)

²⁴ Staff recognizes that the percentage of allowable costs could increase if costs originally denied due to inadequate source documentation were later restored because documentation was submitted.

Table 1
 Overview of 2007 Final Audit Reports²⁵
 State Controller's Office

Claimant	Amount Claimed	SCO Findings		Percent Allowed
		Unallowable Costs	Allowable Costs	
Contra Costa County	\$532,160	\$491,524	\$40,636	7.64%
Los Angeles County	\$31,152,062	\$29,839,005	\$1,313,057	4.21%
Los Angeles Police Department	\$60,660,765	\$60,110,420	\$550,345	0.91%
San Diego County	\$1,848,251	\$1,848,251	\$0	0.00%
City of Oakland	\$3,497,273	\$3,496,086	\$1,187	0.03%
Orange County	\$1,676,796	\$1,580,812	\$95,984	5.72%
San Bernardino County	\$1,222,606	\$1,159,749	\$62,857	5.14%
City of Oceanside	\$951,689	\$939,138	\$12,551	1.32%
City of Inglewood	\$838,740	\$838,740	\$0	0.00%
Alameda County	\$388,851	\$309,257	\$79,594	20.47%
Sacramento County	\$1,186,488	\$805,778	\$380,710	32.09%
Ventura County	\$587,525	\$342,295	\$245,230	41.74%
City of Buena Park	\$493,444	\$493,444	\$0	0.00%
Totals	\$105,036,650	\$102,254,499	\$2,782,151	2.65%

Average Percent Allowed Per Claimant: 9.17 %

To evaluate the two original proposals the Commission must determine if the proposed reasonable reimbursement methodologies consider the variation in costs among local agencies to implement the mandate in a “cost-efficient manner.”

Staff calculated what each local agency claimant would be eligible to claim based on the two proposals and the percent of the total amount claimed that would be reimbursed. The percent of the total claim that would be reimbursed was then compared with the results of the 13 final audit reports issued in 2007. This information is presented in Table 2 below. (The underlying data for Table 2 is in Tables 4, 5, and 6, following this analysis.)

²⁵ In 2008, the State Controller's Office issued two more final audit reports, for a city and a city and county. One audit resulted in a 100% reduction, and the other resulted in 6.49 % allowed. These reports are not included in Table 1.

TABLE 2

Comparison: State Controller's Office Audits (2007) and Reasonable Reimbursement Methodologies

	Total Amounts Claimed	Total Amounts Allowed	Percent of Total Allowed	Average Percent Allowed Per Local Agency
State Controller's 13 Audits (2007) (8 counties) (5 cities)	\$ 105,036,650	\$ 2,782,151	2.65 %	9.17 %
2004-2005 Claims				
33 Counties	\$ 6,722,152			
\$56.74/officer		\$ 1,512,802	22.5 %	71.06 %
\$302.37/officer		\$ 8,061,789	119.93 %	377.73 %
142 Cities	\$ 14,309,092			
\$56.74/officer		\$ 1,288,849	9.01 %	40.55 %
\$302.37/officer		\$ 7,225,736	50.5 %	216.07 %
Combined	\$21,031,244			
\$56.74/officer	X 50,701	\$ 2,876,775	13.68 %	46.30%
\$302.37/officer	X 50,701	\$ 15,330,461	72.89 %	246.73%

Source: Claiming Data was provided by the Department of Finance in their original proposal.

The two original proposals provide a significantly higher level of reimbursement than would result if the claimants were audited by the State Controller's Office, and 9.17% of their claimed costs were allowed.

For example, Table 2 shows:

- The Department of Finance proposal (\$56.74/officer) would allow 46.3% of costs claimed for cities/counties combined; 40.55% for cities; and 71.06% for counties.
- The Los Angeles County proposal (\$302.37/officer) would allow 246.73 % for cities/counties; 216.07% for cities; and 377.73 % for counties.

Staff finds that neither the Department of Finance, nor Los Angeles County's original proposals satisfy the second element of the definition of reasonable reimbursement methodology and should be denied. When reasonable reimbursement methodology proposals would result in reimbursing eligible claimants more than was originally claimed, or significantly more than the State Controller's Office audits have allowed, staff must conclude that the proposed reasonable

reimbursement methodologies have not given consideration to the variation in costs among local agencies to implement the mandate in a cost-efficient manner.

Therefore, staff concludes that the original “reasonable reimbursement methodology” proposals submitted by the Department of Finance and Los Angeles County do not meet the second element of the definition of reasonable reimbursement methodology (Gov. Code, § 17518.5, subd. (c)) and thus should be denied.

Los Angeles County’s Alternate Proposal Based on Audited Costs

Los Angeles County filed an alternate proposal with its comments on the draft staff analysis. Staff has reviewed this proposal and finds that it satisfies the two elements of the definition of reasonable reimbursement methodology for the following reasons:

It is based on cost information from a representative sample of eligible claimants.

It considers the variation in costs among local agencies to implement the mandate in a “cost-efficient manner.”

The County’s Alternate Proposal includes a reasonable reimbursement methodology that satisfies the first element of the definition because it is based on statewide claiming data provided by the State Controller’s Office for the 2004-2005 fiscal year and filed by the Department of Finance. Staff finds that the statewide claiming data is “cost information” from actual claims filed by local agencies that is a “representative sample of eligible local agencies” employing peace officers. Therefore, staff concludes that the County’s Alternate proposal satisfies Government Code section 17518.5, subdivision (b).

The second element of the definition states that “a reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.” For the reasons below, staff finds that the County’s Alternate proposal satisfies Government Code section 17518.5, subdivision (c), the second element of the definition of reasonable reimbursement methodology.

The County’s formula establishes a per officer rate based on the \$226.97 median per officer rate identified by the Department of Finance. The County considers the variation in costs among local agencies to implement the mandate in a cost-efficient manner, by adjusting the median per officer rate by a new factor calculated from the 2004-2007 final audit reports.

The County calculates an audit reduction factor based on the State Controller’s 2004-2007 final audit reports. (The Commission staff’s analysis is based on the 2007 final audit reports.) Four audits that resulted in “no allowed costs” are excluded from the calculation of the average percent of claimed costs allowed. This results in a new average percent (15.32 %) of claimed costs allowed by the State Controller’s Office auditors.

To calculate this rate, the County multiplies the median per officer rate by an audit adjustment of 15.32% ($\$226.97 \times 15.32\%$). This results in a new proposed reimbursement rate of \$34.77 per officer. For fiscal year 2006-2007 costs, the County adjusted the \$34.77 per officer rate based on 2004-2005 costs, by multiplying the unit rate by the Implicit Price Deflator for 2005-2006 of 6%. This results in a new rate of \$36.86 for fiscal year 2006-2007.

Staff concludes that the County’s methodology for calculating the proposed unit rate of \$36.86 per officer satisfies the two elements of the definition of reasonable reimbursement methodology.

However, staff recommends that the calculation of the proposed unit rate in County's Alternate Proposal be updated and corrected to include two additional audits issued by the State Controller's Office in 2008 (see Table 3) and to apply the current Implicit Price Deflator. These technical modifications will result in a recalculated 2004-2005 rate of \$ 33.22 per officer.

TABLE 3
STATE CONTROLLER'S OFFICE AUDITS, 2004-2008

Audit Report Issued	Claimant	DOJ 2006 Report Sworn Officers	Years Audited	Amount Claimed	SCO Finding Allowable Costs	Percent Allowed
2004	City of Long Beach	901	1994/95-01/02	\$13,640,845	0	0.00%
2005	City of Stockton (1)	404	1994/95-01/02	\$2,344,211	\$681,799	29.08%
2006	City of Sacramento (2)	663	2001/02-03/04	\$1,323,971	\$469,058	35.43%
2007	Contra Costa County (3)	711	2001/02-03/04	\$532,160	\$40,636	7.64%
2007	Los Angeles County (4)	8459	1994/95-02/03	\$31,152,062	\$1,313,057	4.21%
2007	Los Angeles P. D. (5)	9393	1994/95-01/02	\$60,660,765	\$550,345	0.91%
2007	San Diego County	2112	2001/02-03/04	\$1,848,251	0	0.00%
2007	City of Oakland (6)	688	2000/01-03/04	\$3,497,273	\$1,187	0.03%
2007	Orange County (7)	1695	2001/02-03/04	\$1,676,796	\$95,984	5.72%
2007	San Bernardino County (8)	1761	2000/01-03/04	\$1,222,606	\$62,857	5.14%
2007	City of Oceanside (9)	199	2002/03-04/05	\$951,689	\$12,551	1.32%
2007	City of Inglewood	192	2002/03-04/05	\$838,740	0	0.00%
2007	Alameda County (10)	935	2002/03-04/05	\$388,851	\$79,594	20.47%
2007	Sacramento County (11)	1392	2001/02-03/04	\$1,186,488	\$380,710	32.09%
2007	Ventura County (12)	733	2002/03-04/05	\$587,525	\$245,230	41.74%
2007	City of Buena Park	91	2002/03-02/03	\$493,444	0	0.00%
2008	City of Long Beach	0	2002/03-02/03	\$1,307,923	0	0.00%
2008	City and County of San Francisco (13)	2992	1994/95-02/03	\$24,014,018	\$1,557,587	6.49%
Totals		33,321		\$147,667,618	\$5,490,595	190.27%
					3.72%	14.64%
					2004-2005	\$33.22

The \$33.22 per officer rate is based on 2004-2005 costs and must be updated by the current Implicit Price Deflator²⁶ to calculate the 2006-2007 rate. The 2006-2007 rate is calculated as follows:

$$2005 \text{ Rate} = \$33.22 \text{ (2004 rate)} \times 1.064 \text{ (2005)} = \$35.34608$$

$$2006 \text{ Rate} = \$35.34608 \text{ (2005 rate)} \times 1.054 \text{ (2006)} = \$37.25477 \text{ (Rounded to } \$37.25)$$

Staff also finds that the 2004-2008 audit population is a representative sample of local agencies employing peace officers. All police chiefs and sheriffs annually report the number of full-time sworn peace officers employed by their law enforcement agencies to the Department of Justice. According to the Department of Justice, the audited local agencies listed in Table 3 employed 33,321 full-time sworn peace officers in 2006, which is about 2/3 of the peace officers employed by the local agencies filing reimbursement claims for fiscal year 2004-2005.

Conclusion and Recommendation

Therefore, Staff recommends that the Commission:

- Deny the Department of Finance's proposal of \$56.74/officer because it does not satisfy the requirements for a reasonable reimbursement methodology. (Attachment 1)
- Deny Los Angeles County's original proposal of \$302.74/officer because it does not satisfy the requirements for a reasonable reimbursement methodology. (Attachment 2)
- Adopt Los Angeles County's Alternate Proposal, as updated by staff. This proposal allows eligible claimants to file reimbursement claims based on the proposed reasonable reimbursement methodology of \$ 37.25 per full-time sworn peace officer or actual cost claims. (Attachment 3)

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

²⁶ The change in the Implicit Price Deflator pursuant to the Department of Finance Report of January 10, 2008, National Deflators, State and Local Purchases (Calendar Years 1950-2010).

Table 4. Counties				DOF - \$56.74	DOF	LA County	LA County
Comparison: Actuals, RRM, Percents		2004-05	Number of	Per	Percent	\$302.37 Per	Percent
		Actual Claims	Officers	Officer	Allowed	Officer	Allowed
176	COUNTY OF MARIN	\$ 2,977	213	12,086	405.97%	64,405	2163.41%
178	COUNTY OF EL DORADO	\$ 2,628	185	10,497	399.43%	55,938	2128.56%
163	COUNTY OF STANISLAUS	\$ 5,014	249	14,128	281.78%	75,290	1501.60%
193	COUNTY OF INYO	\$ 1,299	40	2,270	174.72%	12,095	931.09%
86	COUNTY OF TULARE	\$ 19,183	371	21,051	109.74%	112,179	584.78%
5	COUNTY OF LOS ANGELES	\$ 507,741	9028	512,249	100.89%	2,729,796	537.64%
22	COUNTY OF ORANGE	\$ 126,831	1928	109,395	86.25%	582,969	459.64%
112	COUNTY OF HUMBOLDT	\$ 13,235	182	10,327	78.03%	55,031	415.80%
140	COUNTY OF NAPA	\$ 8,330	94	5,334	64.03%	28,423	341.21%
143	COUNTY OF TEHAMA	\$ 8,049	88	4,993	62.03%	26,609	330.58%
95	COUNTY OF SHASTA	\$ 17,025	168	9,532	55.99%	50,798	298.37%
132	COUNTY OF YUBA	\$ 9,637	81	4,596	47.69%	24,492	254.15%
101	COUNTY OF YOLO	\$ 15,373	107	6,071	39.49%	32,354	210.46%
14	COUNTY OF SACRAMENTO	\$ 227,643	1512	85,791	37.69%	457,183	200.83%
19	COUNTY OF ALAMEDA	\$ 160,800	1049	59,520	37.02%	317,186	197.26%
43	COUNTY OF SAN MATEO	\$ 56,566	349	19,802	35.01%	105,527	186.56%
108	COUNTY OF SUTTER	\$ 14,468	88	4,993	34.51%	26,609	183.91%
77	COUNTY OF SOLANO	\$ 23,537	115	6,525	27.72%	34,773	147.74%
23	COUNTY OF FRESNO	\$ 110,494	529	30,015	27.16%	159,954	144.76%
34	COUNTY OF MONTEREY	\$ 70,153	329	18,667	26.61%	99,480	141.80%
54	COUNTY OF SAN LUIS OBISPO	\$ 37,454	167	9,476	25.30%	50,496	134.82%
100	COUNTY OF LAKE	\$ 15,434	68	3,858	25.00%	20,561	133.22%
16	COUNTY OF KERN	\$ 215,162	790	44,825	20.83%	238,872	111.02%
39	COUNTY OF PLACER	\$ 63,618	231	13,107	20.60%	69,847	109.79%
27	COUNTY OF SAN JOAQUIN	\$ 92,467	326	18,497	20.00%	98,573	106.60%
15	COUNTY OF VENTURA	\$ 216,825	726	41,193	19.00%	219,521	101.24%
25	COUNTY OF SONOMA	\$ 105,661	327	18,554	17.56%	98,875	93.58%
4	COUNTY OF RIVERSIDE	\$ 598,214	1824	103,494	17.30%	551,523	92.19%
3	COUNTY OF SAN BERNARDINO	\$ 653,148	1781	101,054	15.47%	538,521	82.45%
11	COUNTY OF SANTA CLARA	\$ 270,774	544	30,867	11.40%	164,489	60.75%
87	COUNTY OF MONO	\$ 18,923	28	1,589	8.40%	8,466	44.74%
29	COUNTY OF SISKIYOU	\$ 81,403	93	5,277	6.48%	28,120	34.54%
2	CITY & COUNTY OF SAN FRANCISCO	\$ 2,952,086	3052	173,170	5.87%	922,833	
	CLAIMANTS, DOF LIST	\$ 6,722,152	26662	1,512,802		8,061,789	
		Averages		22.50%	71.06%	119.93%	377.73%

Table 4
Comparison: Actuals, RRM, Audits
Counties

Table 5. Cities, Comparison of Actuals, RRM, Percents

No	CLAIMANTS-DOF LIST	2004-05 Actual Claims ¹	Number of Officers ²	DOF\$56.74 PER OFFICER	DOF Percent Allowed	LA County 302.37 PER OFFICER	LA County Percent Allowed
179	CITY OF NEWPORT BEACH	\$ 2,484	142	8,057	324.36%	42,937	1728.52%
149	CITY OF BAKERSFIELD	\$ 6,730	323	18,327	272.32%	97,666	1451.20%
166	CITY OF RICHMOND	\$ 4,673	151	8,568	183.35%	45,658	977.06%
181	CITY OF MANTECA	\$ 2,264	69	3,915	172.93%	20,864	921.53%
173	CITY OF REDDING	\$ 3,757	114	6,468	172.17%	34,470	917.49%
151	CITY OF FREMONT	\$ 6,498	191	10,837	166.78%	57,753	888.78%
185	CITY OF YUBA CITY	\$ 2,184	55	3,121	142.89%	16,630	761.46%
157	CITY OF COSTA MESA	\$ 6,064	151	8,568	141.29%	45,658	752.93%
158	CITY OF SANTA BARBARA	\$ 5,701	128	7,263	127.39%	38,703	678.89%
169	CITY OF REDWOOD CITY	\$ 4,356	95	5,390	123.74%	28,725	659.44%
189	CITY OF BARSTOW	\$ 1,658	34	1,929	116.35%	10,281	620.06%
90	CITY OF SANTA ANA	\$ 17,480	350	19,859	113.61%	105,830	605.43%
30	CITY OF SAN JOSE	\$ 76,383	1352	76,712	100.43%	408,804	535.20%
191	CITY OF PORT HUENEME	\$ 1,448	23	1,305	90.13%	6,955	480.28%
187	CITY OF BENICIA	\$ 2,057	32	1,816	88.27%	9,676	470.39%
182	CITY OF SOUTH PASADENA	\$ 2,257	35	1,986	87.99%	10,583	468.89%
145	CITY OF VISALIA	\$ 7,531	116	6,582	87.40%	35,075	465.74%
195	CITY OF GREENFIELD	\$ 1,041	16	908	87.21%	4,838	464.74%
174	CITY OF PORTERVILLE	\$ 3,749	51	2,894	77.19%	15,421	411.33%
165	CITY OF WOODLAND	\$ 4,788	65	3,688	77.03%	19,654	410.49%
177	CITY OF MARTINEZ	\$ 2,808	38	2,156	76.78%	11,490	409.19%
171	CITY OF NEWARK	\$ 4,091	55	3,121	76.28%	16,630	406.51%
137	CITY OF WEST COVINA	\$ 8,916	115	6,525	73.18%	34,773	390.00%
170	CITY OF BELL GARDENS	\$ 4,108	52	2,950	71.82%	15,723	382.75%
153	CITY OF NATIONAL CITY	\$ 6,478	80	4,539	70.07%	24,190	373.41%
186	CITY OF GRASS VALLEY	\$ 2,110	26	1,475	69.92%	7,862	372.59%
142	CITY OF ALAMEDA	\$ 8,052	98	5,561	69.06%	29,632	368.01%
159	CITY OF INDIO	\$ 5,275	64	3,631	68.84%	19,352	366.86%
194	CITY OF COTATI	\$ 1,077	13	738	68.49%	3,931	364.98%
155	CITY OF MURRIETA	\$ 6,386	73	4,142	64.86%	22,073	345.65%
180	CITY OF SAN MARINO	\$ 2,336	24	1,362	58.29%	7,257	310.65%
139	CITY OF SAN LEANDRO	\$ 8,631	88	4,993	57.85%	26,609	308.29%
80	CITY OF OCEANSIDE	\$ 21,778	201	11,405	52.37%	60,776	279.07%
118	CITY OF SANTA MARIA	\$ 11,924	108	6,128	51.39%	32,656	273.87%
110	CITY OF SANTA CLARA	\$ 14,148	128	7,263	51.33%	38,703	273.56%
121	CITY OF REDONDO BEACH	\$ 11,509	104	5,901	51.27%	31,446	273.23%
105	CITY OF EL CAJON	\$ 14,877	126	7,149	48.06%	38,099	256.09%
133	CITY OF TRACY	\$ 9,492	76	4,312	45.43%	22,980	242.10%
183	CITY OF PIEDMONT	\$ 2,250	18	1,021	45.39%	5,443	241.90%
175	CITY OF HILLSBOROUGH	\$ 3,210	25	1,419	44.19%	7,559	235.49%
115	CITY OF CHICO	\$ 12,366	93	5,277	42.67%	28,120	227.40%
162	CITY OF SOUTH LAKE TAHOE	\$ 5,052	37	2,099	41.56%	11,188	221.45%
150	CITY OF CALEXICO	\$ 6,674	47	2,667	39.96%	14,211	212.94%
167	CITY OF DINUBA	\$ 4,598	32	1,816	39.49%	9,676	210.44%
103	CITY OF DOWNEY	\$ 15,113	105	5,958	39.42%	31,749	210.08%
164	CITY OF SIGNAL HILL	\$ 4,790	32	1,816	37.91%	9,676	202.00%
130	CITY OF LA HABRA	\$ 10,043	65	3,688	36.72%	19,654	195.70%
92	CITY OF DALY CITY	\$ 17,197	108	6,128	35.63%	32,656	189.89%
75	CITY OF ORANGE	\$ 24,049	151	8,568	35.63%	45,658	189.85%
144	CITY OF LOMPOC	\$ 7,982	50	2,837	35.54%	15,119	189.41%
96	CITY OF VACAVILLE	\$ 16,703	101	5,731	34.31%	30,539	182.84%
78	CITY OF ROSEVILLE	\$ 22,316	131	7,433	33.31%	39,610	177.50%
172	CITY OF OROVILLE	\$ 3,921	23	1,305	33.28%	6,955	177.37%
63	CITY OF CORONA	\$ 29,811	168	9,532	31.98%	50,798	170.40%
111	CITY OF MONTEREY PARK	\$ 13,829	77	4,369	31.59%	23,282	168.36%
131	CITY OF SAN GABRIEL	\$ 9,768	54	3,064	31.37%	16,328	167.16%
36	CITY OF STOCKTON	\$ 69,290	380	21,561	31.12%	114,901	165.83%
107	CITY OF UNION CITY	\$ 14,513	78	4,426	30.49%	23,585	162.51%
94	CITY OF LIVERMORE	\$ 17,091	91	5,163	30.21%	27,516	161.00%
99	CITY OF SOUTH GATE	\$ 15,829	84	4,766	30.11%	25,399	160.46%
57	CITY OF BERKELEY	\$ 34,608	180	10,213	29.51%	54,427	157.27%
134	CITY OF LAGUNA BEACH	\$ 9,310	48	2,724	29.25%	14,514	155.89%
98	CITY OF MERCED	\$ 15,900	78	4,426	27.83%	23,585	148.33%

No	CLAIMANTS-DOF LIST	2004-05 Actual Claims ¹	Number of Officers ²	DOF\$56.74 PER OFFICER	DOF Percent Allowed	LA County 302.37 PER OFFICER	LA County Percent Allowed
116	CITY OF TURLOCK	\$ 12,350	60	3,404	27.57%	18,142	146.90%
51	CITY OF HAYWARD	\$ 39,280	182	10,327	26.29%	55,031	140.10%
46	CITY OF HUNTINGTON BEACH	\$ 48,311	213	12,086	25.02%	64,405	133.31%
35	CITY OF SAN BERNARDINO	\$ 69,399	303	17,192	24.77%	91,618	132.02%
52	CITY OF ESCONDIDO	\$ 38,532	160	9,078	23.56%	48,379	125.56%
114	CITY OF PLACENTIA	\$ 13,017	52	2,950	22.67%	15,723	120.79%
64	CITY OF WHITTIER	\$ 29,507	117	6,639	22.50%	35,377	119.89%
74	CITY OF WESTMINSTER	\$ 24,272	94	5,334	21.97%	28,423	117.10%
85	CITY OF PETALUMA	\$ 19,749	75	4,256	21.55%	22,678	114.83%
135	CITY OF EMERYVILLE	\$ 9,301	35	1,986	21.35%	10,583	113.78%
126	CITY OF BURLINGAME	\$ 10,636	40	2,270	21.34%	12,095	113.72%
71	CITY OF RIALTO	\$ 25,770	96	5,447	21.14%	29,028	112.64%
109	CITY OF HANFORD	\$ 14,247	52	2,950	20.71%	15,723	110.36%
31	CITY OF MODESTO	\$ 74,808	269	15,263	20.40%	81,338	108.73%
129	CITY OF PACIFICA	\$ 10,204	36	2,043	20.02%	10,885	106.68%
156	CITY OF SUISUN CITY	\$ 6,224	20	1,135	18.23%	6,047	97.16%
93	CITY OF NOVATO	\$ 17,178	55	3,121	18.17%	16,630	96.81%
44	CITY OF FONTANA	\$ 52,549	168	9,532	18.14%	50,798	96.67%
120	CITY OF CLAREMONT	\$ 11,652	37	2,099	18.02%	11,188	96.02%
168	CITY OF PARLIER	\$ 4,468	14	794	17.78%	4,233	94.74%
128	CITY OF SAN CARLOS	\$ 10,433	32	1,816	17.40%	9,676	92.74%
84	CITY OF EL SEGUNDO	\$ 19,944	61	3,461	17.35%	18,445	92.48%
91	CITY OF VERNON	\$ 17,356	52	2,950	17.00%	15,723	90.59%
65	CITY OF PALO ALTO	\$ 27,823	82	4,653	16.72%	24,794	89.11%
117	CITY OF HERMOSA BEACH	\$ 11,925	35	1,986	16.65%	10,583	88.75%
60	CITY OF REDLANDS	\$ 32,335	94	5,334	16.49%	28,423	87.90%
124	CITY OF ATASCADERO	\$ 10,689	30	1,702	15.92%	9,071	84.86%
32	CITY OF SANTA MONICA	\$ 74,732	206	11,688	15.64%	62,288	83.35%
113	CITY OF SAN FERNANDO	\$ 13,142	35	1,986	15.11%	10,583	80.53%
138	CITY OF PISMO BEACH	\$ 8,673	23	1,305	15.05%	6,955	80.19%
48	CITY OF FAIRFIELD	\$ 44,232	117	6,639	15.01%	35,377	79.98%
9	CITY OF FRESNO	\$ 306,626	802	45,505	14.84%	242,501	79.09%
102	CITY OF EL CERRITO	\$ 15,254	39	2,213	14.51%	11,792	77.31%
81	CITY OF GLENDORA	\$ 21,539	55	3,121	14.49%	16,630	77.21%
76	CITY OF MANHATTAN BEACH	\$ 23,825	60	3,404	14.29%	18,142	76.15%
83	CITY OF MONTCLAIR	\$ 21,049	53	3,007	14.29%	16,026	76.13%
59	CITY OF ALHAMBRA	\$ 32,698	81	4,596	14.06%	24,492	74.90%
26	CITY OF OXNARD	\$ 96,948	223	12,653	13.05%	67,429	69.55%
49	CITY OF TUSTIN	\$ 43,508	95	5,390	12.39%	28,725	66.02%
73	CITY OF BRENTWOOD	\$ 25,033	53	3,007	12.01%	16,026	64.02%
88	CITY OF SEASIDE	\$ 18,430	39	2,213	12.01%	11,792	63.98%
33	CITY OF GARDEN GROVE	\$ 74,268	156	8,851	11.92%	47,170	63.51%
66	CITY OF SAN LUIS OBISPO	\$ 27,144	55	3,121	11.50%	16,630	61.27%
67	CITY OF DAVIS	\$ 27,071	53	3,007	11.11%	16,026	59.20%
58	CITY OF SAN RAFAEL	\$ 33,920	66	3,745	11.04%	19,956	58.83%
45	CITY OF MOUNTAIN VIEW	\$ 51,879	96	5,447	10.50%	29,028	55.95%
17	CITY OF RIVERSIDE	\$ 200,265	366	20,767	10.37%	110,667	55.26%
41	CITY OF CARLSBAD	\$ 59,093	107	6,071	10.27%	32,354	54.75%
62	CITY OF AZUSA	\$ 31,129	55	3,121	10.03%	16,630	53.42%
82	CITY OF FOSTER CITY	\$ 21,446	36	2,043	9.52%	10,885	50.76%
47	CITY OF BALDWIN PARK	\$ 45,532	73	4,142	9.10%	22,073	48.48%
89	CITY OF REEDLEY	\$ 18,097	29	1,645	9.09%	8,769	48.45%
69	CITY OF MENLO PARK	\$ 26,236	42	2,383	9.08%	12,700	48.41%
38	CITY OF ANTIOCH	\$ 67,184	102	5,787	8.61%	30,842	45.91%
24	CITY OF EL MONTE	\$ 107,699	162	9,192	8.53%	48,984	45.48%
136	CITY OF TIBURON	\$ 9,258	13	738	7.97%	3,931	42.46%
28	CITY OF SIMI VALLEY	\$ 84,710	118	6,695	7.90%	35,680	42.12%
72	CITY OF EAST PALO ALTO	\$ 25,549	35	1,986	7.77%	10,583	41.42%
55	CITY OF MONROVIA	\$ 36,977	50	2,837	7.67%	15,119	40.89%
42	CITY OF UPLAND	\$ 57,458	77	4,369	7.60%	23,282	40.52%
104	CITY OF LIVINGSTON	\$ 15,061	19	1,078	7.16%	5,745	38.15%
40	CITY OF WALNUT CREEK	\$ 61,930	77	4,369	7.05%	23,282	37.59%
13	CITY OF GLENDALE	\$ 232,607	269	15,263	6.56%	81,338	34.97%
1	CITY OF LOS ANGELES	\$ 8,749,350	9577	543,399	6.21%	2,895,797	33.10%
20	CITY OF BURBANK	\$ 148,430	153	8,681	5.85%	46,263	31.17%

No	CLAIMANTS-DOF LIST	2004-05 Actual Claims ¹	Number of Officers ²	DOF\$56.74 PER OFFICER	DOF Percent Allowed	LA County 302.37 PER OFFICER	LA County Percent Allowed
127	CITY OF WEED	\$ 10,447	10	567	5.43%	3,024	28.94%
119	CITY OF FIREBAUGH	\$ 11,715	11	624	5.33%	3,326	28.39%
68	CITY OF RED BLUFF	\$ 26,806	24	1,362	5.08%	7,257	27.07%
125	CITY OF JACKSON	\$ 10,655	9	511	4.79%	2,721	25.54%
70	CITY OF MILL VALLEY	\$ 25,892	20	1,135	4.38%	6,047	23.36%
37	CITY OF MONTEREY	\$ 67,531	47	2,667	3.95%	14,211	21.04%
7	CITY OF INGLEWOOD	\$ 338,790	198	11,235	3.32%	59,869	17.67%
8	CITY OF BEVERLY HILLS	\$ 316,298	131	7,433	2.35%	39,610	12.52%
147	CITY OF TULELAKE	\$ 7,356	3	170	2.31%	907	12.33%
21	CITY OF ROCKLIN	\$ 130,474	49	2,780	2.13%	14,816	11.36%
10	CITY OF SOUTH SAN FRANCISCO	\$ 284,763	70	3,972	1.39%	21,166	7.43%
12	CITY OF COVINA	\$ 257,535	51	2,894	1.12%	15,421	5.99%
6	CATHEDRAL CITY	\$ 339,824	52	2,950	0.87%	15,723	4.63%
18	CITY OF KERMAN	\$ 167,753	15	851	0.51%	4,536	2.70%
	CLAIMANTS-DOF LIST	\$ 14,309,092	24039	1,288,849		7,225,736	
	Averages			9.01%	40.55%	50.50%	216.07%

Table 6. Combined Local Agencies: Comparison: Actuals, RRM, Percents

		2004-05 Actual Claims ¹	Number of Officers ²	Per Officer	DOF - 56.74	Percent	LA- 302.37	Percent
6	CATHEDRAL CITY	\$ 339,824	52	\$ 6,535.08	2950.48	0.87%	15,723	4.63%
2	CITY & COUNTY OF SAN FRANCISCO	\$ 2,952,086	3052	\$ 967.26	173170.48	5.87%	922,833	31.26%
142	CITY OF ALAMEDA	\$ 8,052	98	\$ 82.16	5560.52	69.06%	29,632	368.01%
59	CITY OF ALHAMBRA	\$ 32,698	81	\$ 403.68	4595.94	14.06%	24,492	74.90%
38	CITY OF ANTIOCH	\$ 67,184	102	\$ 658.67	5787.48	8.61%	30,842	45.91%
124	CITY OF ATASCADERO	\$ 10,689	30	\$ 356.30	1702.2	15.92%	9,071	84.86%
62	CITY OF AZUSA	\$ 31,129	55	\$ 565.98	3120.7	10.03%	16,630	53.42%
149	CITY OF BAKERSFIELD	\$ 6,730	323	\$ 20.84	18327.02	272.32%	97,666	1451.20%
47	CITY OF BALDWIN PARK	\$ 45,532	73	\$ 623.73	4142.02	9.10%	22,073	48.48%
189	CITY OF BARSTOW	\$ 1,658	34	\$ 48.76	1929.16	116.35%	10,281	620.06%
170	CITY OF BELL GARDENS	\$ 4,108	52	\$ 79.00	2950.48	71.82%	15,723	382.75%
187	CITY OF BENICIA	\$ 2,057	32	\$ 64.28	1815.68	88.27%	9,676	470.39%
57	CITY OF BERKELEY	\$ 34,608	180	\$ 192.27	10213.2	29.51%	54,427	157.27%
8	CITY OF BEVERLY HILLS	\$ 316,298	131	\$ 2,414.49	7432.94	2.35%	39,610	12.52%
73	CITY OF BRENTWOOD	\$ 25,033	53	\$ 472.32	3007.22	12.01%	16,026	64.02%
20	CITY OF BURBANK	\$ 148,430	153	\$ 970.13	8681.22	5.85%	46,263	31.17%
126	CITY OF BURLINGAME	\$ 10,636	40	\$ 265.90	2269.6	21.34%	12,095	113.72%
150	CITY OF CALEXICO	\$ 6,674	47	\$ 142.00	2666.78	39.96%	14,211	212.94%
41	CITY OF CARLSBAD	\$ 59,093	107	\$ 552.27	6071.18	10.27%	32,354	54.75%
115	CITY OF CHICO	\$ 12,366	93	\$ 132.97	5276.82	42.67%	28,120	227.40%
120	CITY OF CLAREMONT	\$ 11,652	37	\$ 314.92	2099.38	18.02%	11,188	96.02%
63	CITY OF CORONA	\$ 29,811	168	\$ 177.45	9532.32	31.98%	50,798	170.40%
157	CITY OF COSTA MESA	\$ 6,064	151	\$ 40.16	8567.74	141.29%	45,658	752.93%
194	CITY OF COTATI	\$ 1,077	13	\$ 82.85	737.62	68.49%	3,931	364.98%
12	CITY OF COVINA	\$ 257,535	51	\$ 5,049.71	2893.74	1.12%	15,421	5.99%
92	CITY OF DALY CITY	\$ 17,197	108	\$ 159.23	6127.92	35.63%	32,656	189.89%
67	CITY OF DAVIS	\$ 27,071	53	\$ 510.77	3007.22	11.11%	16,026	59.20%
167	CITY OF DINUBA	\$ 4,598	32	\$ 143.69	1815.68	39.49%	9,676	210.44%
103	CITY OF DOWNEY	\$ 15,113	105	\$ 143.93	5957.7	39.42%	31,749	210.08%
72	CITY OF EAST PALO ALTO	\$ 25,549	35	\$ 729.97	1985.9	7.77%	10,583	41.42%
105	CITY OF EL CAJON	\$ 14,877	126	\$ 118.07	7149.24	48.06%	38,099	256.09%
102	CITY OF EL CERRITO	\$ 15,254	39	\$ 391.13	2212.86	14.51%	11,792	77.31%
24	CITY OF EL MONTE	\$ 107,699	162	\$ 664.81	9191.88	8.53%	48,984	45.48%
84	CITY OF EL SEGUNDO	\$ 19,944	61	\$ 326.95	3461.14	17.35%	18,445	92.48%
135	CITY OF EMERYVILLE	\$ 9,301	35	\$ 265.74	1985.9	21.35%	10,583	113.78%
52	CITY OF ESCONDIDO	\$ 38,532	160	\$ 240.83	9078.4	23.56%	48,379	125.56%
48	CITY OF FAIRFIELD	\$ 44,232	117	\$ 378.05	6638.58	15.01%	35,377	79.98%
119	CITY OF FIREBAUGH	\$ 11,715	11	\$ 1,065.00	624.14	5.33%	3,326	28.39%
44	CITY OF FONTANA	\$ 52,549	168	\$ 312.79	9532.32	18.14%	50,798	96.67%
82	CITY OF FOSTER CITY	\$ 21,446	36	\$ 595.72	2042.64	9.52%	10,885	50.76%
151	CITY OF FREMONT	\$ 6,498	191	\$ 34.02	10837.34	166.78%	57,753	888.78%
9	CITY OF FRESNO	\$ 306,626	802	\$ 382.33	45505.48	14.84%	242,501	79.09%
33	CITY OF GARDEN GROVE	\$ 74,268	156	\$ 476.08	8851.44	11.92%	47,170	63.51%
13	CITY OF GLENDALE	\$ 232,607	269	\$ 864.71	15263.06	6.56%	81,338	34.97%
81	CITY OF GLENORA	\$ 21,539	55	\$ 391.62	3120.7	14.49%	16,630	77.21%
186	CITY OF GRASS VALLEY	\$ 2,110	26	\$ 81.15	1475.24	69.92%	7,862	372.59%
195	CITY OF GREENFIELD	\$ 1,041	16	\$ 65.06	907.84	87.21%	4,838	464.74%

		2004-05 Actual Claims ¹	Number of Officers ²	Per Officer	DOF - 56.74	Percent	LA- 302.37	Percent
109	CITY OF HANFORD	\$ 14,247	52	\$ 273.98	2950.48	20.71%	15,723	110.36%
51	CITY OF HAYWARD	\$ 39,280	182	\$ 215.82	10326.68	26.29%	55,031	140.10%
117	CITY OF HERMOSA BEACH	\$ 11,925	35	\$ 340.71	1985.9	16.65%	10,583	88.75%
175	CITY OF HILLSBOROUGH	\$ 3,210	25	\$ 128.40	1418.5	44.19%	7,559	235.49%
46	CITY OF HUNTINGTON BEACH	\$ 48,311	213	\$ 226.81	12085.62	25.02%	64,405	133.31%
159	CITY OF INDIO	\$ 5,275	64	\$ 82.42	3631.36	68.84%	19,352	366.86%
7	CITY OF INGLEWOOD	\$ 338,790	198	\$ 1,711.06	11234.52	3.32%	59,869	17.67%
125	CITY OF JACKSON	\$ 10,655	9	\$ 1,183.89	510.66	4.79%	2,721	25.54%
18	CITY OF KERMAN	\$ 167,753	15	\$ 11,183.53	851.1	0.51%	4,536	2.70%
130	CITY OF LA HABRA	\$ 10,043	65	\$ 154.51	3688.1	36.72%	19,654	195.70%
134	CITY OF LAGUNA BEACH	\$ 9,310	48	\$ 193.96	2723.52	29.25%	14,514	155.89%
94	CITY OF LIVERMORE	\$ 17,091	91	\$ 187.81	5163.34	30.21%	27,516	161.00%
104	CITY OF LIVINGSTON	\$ 15,061	19	\$ 792.68	1078.06	7.16%	5,745	38.15%
144	CITY OF LOMPOC	\$ 7,982	50	\$ 159.64	2837	35.54%	15,119	189.41%
1	CITY OF LOS ANGELES	\$ 8,749,350	9577	\$ 913.58	543398.98	6.21%	2,895,797	33.10%
76	CITY OF MANHATTAN BEACH	\$ 23,825	60	\$ 397.08	3404.4	14.29%	18,142	76.15%
181	CITY OF MANTECA	\$ 2,264	69	\$ 32.81	3915.06	172.93%	20,864	921.53%
177	CITY OF MARTINEZ	\$ 2,808	38	\$ 73.89	2156.12	76.78%	11,490	409.19%
69	CITY OF MENLO PARK	\$ 26,236	42	\$ 624.67	2383.08	9.08%	12,700	48.41%
98	CITY OF MERCED	\$ 15,900	78	\$ 203.85	4425.72	27.83%	23,585	148.33%
70	CITY OF MILL VALLEY	\$ 25,892	20	\$ 1,294.60	1134.8	4.38%	6,047	23.36%
31	CITY OF MODESTO	\$ 74,808	269	\$ 278.10	15263.06	20.40%	81,338	108.73%
55	CITY OF MONROVIA	\$ 36,977	50	\$ 739.54	2837	7.67%	15,119	40.89%
83	CITY OF MONTCLAIR	\$ 21,049	53	\$ 397.15	3007.22	14.29%	16,026	76.13%
37	CITY OF MONTEREY	\$ 67,531	47	\$ 1,436.83	2666.78	3.95%	14,211	21.04%
111	CITY OF MONTEREY PARK	\$ 13,829	77	\$ 179.60	4368.98	31.59%	23,282	168.36%
45	CITY OF MOUNTAIN VIEW	\$ 51,879	96	\$ 540.41	5447.04	10.50%	29,028	55.95%
155	CITY OF MURRIETA	\$ 6,386	73	\$ 87.48	4142.02	64.86%	22,073	345.65%
153	CITY OF NATIONAL CITY	\$ 6,478	80	\$ 80.98	4539.2	70.07%	24,190	373.41%
171	CITY OF NEWARK	\$ 4,091	55	\$ 74.38	3120.7	76.28%	16,630	406.51%
179	CITY OF NEWPORT BEACH	\$ 2,484	142	\$ 17.49	8057.08	324.36%	42,937	1728.52%
93	CITY OF NOVATO	\$ 17,178	55	\$ 312.33	3120.7	18.17%	16,630	96.81%
80	CITY OF OCEANSIDE	\$ 21,778	201	\$ 108.35	11404.74	52.37%	60,776	279.07%
75	CITY OF ORANGE	\$ 24,049	151	\$ 159.26	8567.74	35.63%	45,658	189.85%
172	CITY OF OROVILLE	\$ 3,921	23	\$ 170.48	1305.02	33.28%	6,955	177.37%
26	CITY OF OXNARD	\$ 96,948	223	\$ 434.74	12653.02	13.05%	67,429	69.55%
129	CITY OF PACIFICA	\$ 10,204	36	\$ 283.44	2042.64	20.02%	10,885	106.68%
65	CITY OF PALO ALTO	\$ 27,823	82	\$ 339.30	4652.68	16.72%	24,794	89.11%
168	CITY OF PARLIER	\$ 4,468	14	\$ 319.14	794.36	17.78%	4,233	94.74%
85	CITY OF PETALUMA	\$ 19,749	75	\$ 263.32	4255.5	21.55%	22,678	114.83%
183	CITY OF PIEDMONT	\$ 2,250	18	\$ 125.00	1021.32	45.39%	5,443	241.90%
138	CITY OF PISMO BEACH	\$ 8,673	23	\$ 377.09	1305.02	15.05%	6,955	80.19%
114	CITY OF PLACENTIA	\$ 13,017	52	\$ 250.33	2950.48	22.67%	15,723	120.79%
191	CITY OF PORT HUENEME	\$ 1,448	23	\$ 62.96	1305.02	90.13%	6,955	480.28%
174	CITY OF PORTERVILLE	\$ 3,749	51	\$ 73.51	2893.74	77.19%	15,421	411.33%
68	CITY OF RED BLUFF	\$ 26,806	24	\$ 1,116.92	1361.76	5.08%	7,257	27.07%
173	CITY OF REDDING	\$ 3,757	114	\$ 32.96	6468.36	172.17%	34,470	917.49%
60	CITY OF REDLANDS	\$ 32,335	94	\$ 343.99	5333.56	16.49%	28,423	87.90%
121	CITY OF REDONDO BEACH	\$ 11,509	104	\$ 110.66	5900.96	51.27%	31,446	273.23%

		2004-05 Actual Claims ¹	Number of Officers ²	Per Officer	DOF - 56.74	Percent	LA- 302.37	Percent
169	CITY OF REDWOOD CITY	\$ 4,356	95	\$ 45.85	5390.3	123.74%	28,725	659.44%
89	CITY OF REEDLEY	\$ 18,097	29	\$ 624.03	1645.46	9.09%	8,769	48.45%
71	CITY OF RIALTO	\$ 25,770	96	\$ 268.44	5447.04	21.14%	29,028	112.64%
166	CITY OF RICHMOND	\$ 4,673	151	\$ 30.95	8567.74	183.35%	45,658	977.06%
17	CITY OF RIVERSIDE	\$ 200,265	366	\$ 547.17	20766.84	10.37%	110,667	55.26%
21	CITY OF ROCKLIN	\$ 130,474	49	\$ 2,662.73	2780.26	2.13%	14,816	11.36%
78	CITY OF ROSEVILLE	\$ 22,316	131	\$ 170.35	7432.94	33.31%	39,610	177.50%
35	CITY OF SAN BERNARDINO	\$ 69,399	303	\$ 229.04	17192.22	24.77%	91,618	132.02%
128	CITY OF SAN CARLOS	\$ 10,433	32	\$ 326.03	1815.68	17.40%	9,676	92.74%
113	CITY OF SAN FERNANDO	\$ 13,142	35	\$ 375.49	1985.9	15.11%	10,583	80.53%
131	CITY OF SAN GABRIEL	\$ 9,768	54	\$ 180.89	3063.96	31.37%	16,328	167.16%
30	CITY OF SAN JOSE	\$ 76,383	1352	\$ 56.50	76712.48	100.43%	408,804	535.20%
139	CITY OF SAN LEANDRO	\$ 8,631	88	\$ 98.08	4993.12	57.85%	26,609	308.29%
66	CITY OF SAN LUIS OBISPO	\$ 27,144	55	\$ 493.53	3120.7	11.50%	16,630	61.27%
180	CITY OF SAN MARINO	\$ 2,336	24	\$ 97.33	1361.76	58.29%	7,257	310.65%
58	CITY OF SAN RAFAEL	\$ 33,920	66	\$ 513.94	3744.84	11.04%	19,956	58.83%
90	CITY OF SANTA ANA	\$ 17,480	350	\$ 49.94	19859	113.61%	105,830	605.43%
158	CITY OF SANTA BARBARA	\$ 5,701	128	\$ 44.54	7262.72	127.39%	38,703	678.89%
110	CITY OF SANTA CLARA	\$ 14,148	128	\$ 110.53	7262.72	51.33%	38,703	273.56%
118	CITY OF SANTA MARIA	\$ 11,924	108	\$ 110.41	6127.92	51.39%	32,656	273.87%
32	CITY OF SANTA MONICA	\$ 74,732	206	\$ 362.78	11688.44	15.64%	62,288	83.35%
88	CITY OF SEASIDE	\$ 18,430	39	\$ 472.56	2212.86	12.01%	11,792	63.98%
164	CITY OF SIGNAL HILL	\$ 4,790	32	\$ 149.69	1815.68	37.91%	9,676	202.00%
28	CITY OF SIMI VALLEY	\$ 84,710	118	\$ 717.88	6695.32	7.90%	35,680	42.12%
99	CITY OF SOUTH GATE	\$ 15,829	84	\$ 188.44	4766.16	30.11%	25,399	160.46%
162	CITY OF SOUTH LAKE TAHOE	\$ 5,052	37	\$ 136.54	2099.38	41.56%	11,188	221.45%
182	CITY OF SOUTH PASADENA	\$ 2,257	35	\$ 64.49	1985.9	87.99%	10,583	468.89%
10	CITY OF SOUTH SAN FRANCISCO	\$ 284,763	70	\$ 4,068.04	3971.8	1.39%	21,166	7.43%
36	CITY OF STOCKTON	\$ 69,290	380	\$ 182.34	21561.2	31.12%	114,901	165.83%
156	CITY OF SUISUN CITY	\$ 6,224	20	\$ 311.20	1134.8	18.23%	6,047	97.16%
136	CITY OF TIBURON	\$ 9,258	13	\$ 712.15	737.62	7.97%	3,931	42.46%
133	CITY OF TRACY	\$ 9,492	76	\$ 124.89	4312.24	45.43%	22,980	242.10%
147	CITY OF TULELAKE	\$ 7,356	3	\$ 2,452.00	170.22	2.31%	907	12.33%
116	CITY OF TURLOCK	\$ 12,350	60	\$ 205.83	3404.4	27.57%	18,142	146.90%
49	CITY OF TUSTIN	\$ 43,508	95	\$ 457.98	5390.3	12.39%	28,725	66.02%
107	CITY OF UNION CITY	\$ 14,513	78	\$ 186.06	4425.72	30.49%	23,585	162.51%
42	CITY OF UPLAND	\$ 57,458	77	\$ 746.21	4368.98	7.60%	23,282	40.52%
96	CITY OF VACAVILLE	\$ 16,703	101	\$ 165.38	5730.74	34.31%	30,539	182.84%
91	CITY OF VERNON	\$ 17,356	52	\$ 333.77	2950.48	17.00%	15,723	90.59%
145	CITY OF VISALIA	\$ 7,531	116	\$ 64.92	6581.84	87.40%	35,075	465.74%
40	CITY OF WALNUT CREEK	\$ 61,930	77	\$ 804.29	4368.98	7.05%	23,282	37.59%
127	CITY OF WEED	\$ 10,447	10	\$ 1,044.70	567.4	5.43%	3,024	28.94%
137	CITY OF WEST COVINA	\$ 8,916	115	\$ 77.53	6525.1	73.18%	34,773	390.00%
74	CITY OF WESTMINSTER	\$ 24,272	94	\$ 258.21	5333.56	21.97%	28,423	117.10%
64	CITY OF WHITTIER	\$ 29,507	117	\$ 252.20	6638.58	22.50%	35,377	119.89%
165	CITY OF WOODLAND	\$ 4,788	65	\$ 73.66	3688.1	77.03%	19,654	410.49%
185	CITY OF YUBA CITY	\$ 2,184	55	\$ 39.71	3120.7	142.89%	16,630	761.46%
19	COUNTY OF ALAMEDA	\$ 160,800	1049	\$ 153.29	59520.26	37.02%	317,186	197.26%
178	COUNTY OF EL DORADO	\$ 2,628	185	\$ 14.21	10496.9	399.43%	55,938	2128.56%

		2004-05 Actual Claims ¹	Number of Officers ²	Per Officer	DOF - 56.74	Percent	LA- 302.37	Percent
23	COUNTY OF FRESNO	\$ 110,494	529	\$ 208.87	30015.46	27.16%	159,954	144.76%
112	COUNTY OF HUMBOLDT	\$ 13,235	182	\$ 72.72	10326.68	78.03%	55,031	415.80%
193	COUNTY OF INYO	\$ 1,299	40	\$ 32.48	2269.6	174.72%	12,095	931.09%
16	COUNTY OF KERN	\$ 215,162	790	\$ 272.36	44824.6	20.83%	238,872	111.02%
100	COUNTY OF LAKE	\$ 15,434	68	\$ 226.97	3858.32	25.00%	20,561	133.22%
5	COUNTY OF LOS ANGELES	\$ 507,741	9028	\$ 56.24	512248.72	100.89%	2,729,796	537.64%
176	COUNTY OF MARIN	\$ 2,977	213	\$ 13.98	12085.62	405.97%	64,405	2163.41%
87	COUNTY OF MONO	\$ 18,923	28	\$ 675.82	1588.72	8.40%	8,466	44.74%
34	COUNTY OF MONTEREY	\$ 70,153	329	\$ 213.23	18667.46	26.61%	99,480	141.80%
140	COUNTY OF NAPA	\$ 8,330	94	\$ 88.62	5333.56	64.03%	28,423	341.21%
22	COUNTY OF ORANGE	\$ 126,831	1928	\$ 65.78	109394.72	86.25%	582,969	459.64%
39	COUNTY OF PLACER	\$ 63,618	231	\$ 275.40	13106.94	20.60%	69,847	109.79%
4	COUNTY OF RIVERSIDE	\$ 598,214	1824	\$ 327.97	103493.76	17.30%	551,523	92.19%
14	COUNTY OF SACRAMENTO	\$ 227,643	1512	\$ 150.56	85790.88	37.69%	457,183	200.83%
3	COUNTY OF SAN BERNARDINO	\$ 653,148	1781	\$ 366.73	101053.94	15.47%	538,521	82.45%
27	COUNTY OF SAN JOAQUIN	\$ 92,467	326	\$ 283.64	18497.24	20.00%	98,573	106.60%
54	COUNTY OF SAN LUIS OBISPO	\$ 37,454	167	\$ 224.28	9475.58	25.30%	50,496	134.82%
43	COUNTY OF SAN MATEO	\$ 56,566	349	\$ 162.08	19802.26	35.01%	105,527	186.56%
11	COUNTY OF SANTA CLARA	\$ 270,774	544	\$ 497.75	30866.56	11.40%	164,489	60.75%
95	COUNTY OF SHASTA	\$ 17,025	168	\$ 101.34	9532.32	55.99%	50,798	298.37%
29	COUNTY OF SISKIYOU	\$ 81,403	93	\$ 875.30	5276.82	6.48%	28,120	34.54%
77	COUNTY OF SOLANO	\$ 23,537	115	\$ 204.67	6525.1	27.72%	34,773	147.74%
25	COUNTY OF SONOMA	\$ 105,661	327	\$ 323.12	18553.98	17.56%	98,875	93.58%
163	COUNTY OF STANISLAUS	\$ 5,014	249	\$ 20.14	14128.26	281.78%	75,290	1501.60%
108	COUNTY OF SUTTER	\$ 14,468	88	\$ 164.41	4993.12	34.51%	26,609	183.91%
143	COUNTY OF TEHAMA	\$ 8,049	88	\$ 91.47	4993.12	62.03%	26,609	330.58%
86	COUNTY OF TULARE	\$ 19,183	371	\$ 51.71	21050.54	109.74%	112,179	584.78%
15	COUNTY OF VENTURA	\$ 216,825	726	\$ 298.66	41193.24	19.00%	219,521	101.24%
101	COUNTY OF YOLO	\$ 15,373	107	\$ 143.67	6071.18	39.49%	32,354	210.46%
132	COUNTY OF YUBA	\$ 9,637	81	\$ 118.98	4595.94	47.69%	24,492	254.15%
	Totals:	\$ 21,031,244	50,701	Median:	\$ 2,876,774.74	46.30%	15,330,461	246.73%

1. Source: State Controller's Office

2. Number of officers as of 8/14/06. Source: Commission on Peace Officer Standards and Training.

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006
Proposed for Amendment: March 28, 2008

DEPARTMENT OF FINANCE’S
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Government Code Sections 3301, 3303, 3304, 3305, 3306

As Added and Amended by Statutes of 1976, Chapter 465;
Statutes of 1978, Chapters 775, 1173, 1174, and 1178;
Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982,
Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and
Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

~~05-PGA-18, 05-PGA-19, 05-PGA-20, 05-PGA-21, and 05-PGA-22~~ 06-PGA-03

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

In order to ensure stable employer-employee relations and effective law enforcement services, the Legislature enacted Government Code sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (POBOR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts¹ when a peace officer is subject to an interrogation by the employer, is facing punitive action or receives an adverse comment in his or her personnel file.

In 1999, the Commission approved the test claim and adopted the original Statement of Decision. The Commission found that certain procedural requirements under POBOR were rights already provided to public employees under the due process clause of the United States and California Constitutions. Thus, the Commission denied the procedural requirements of POBOR that were already required by law on the ground that they did not impose a new program or higher level of service, or impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c). Government Code section 17556, subdivision (c), generally provides that the Commission shall not find costs mandated by the state for test claim statutes that implement a federal law, unless the test claim statute mandates costs that exceed the federal mandate. The Commission approved

¹ Government Code section 3301 states: “For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code.”

the activities required by POBOR that exceeded the requirements of existing state and federal law.

On July 27, 2000, the Commission adopted parameters and guidelines that authorized reimbursement, beginning July 1, 1994, to counties, cities, a city and county, school districts, and special districts that employ peace officers for the ongoing activities summarized below:

- Developing or updating policies and procedures.
- Training for human resources, law enforcement, and legal counsel.
- Updating the status of cases.
- Providing the opportunity for an administrative appeal for permanent, at-will, and probationary employees that were subject to certain disciplinary actions that were not covered by the due process clause of state and federal law.
- When a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the employer that could lead to certain disciplinary actions, the following costs and activities are eligible for reimbursement: compensation to the peace officer for interrogations occurring during off-duty time; providing prior notice to the peace officer regarding the nature of the interrogation and identification of investigating officers; tape recording the interrogation; providing the peace officer employee with access to the tape prior to any further interrogation at a subsequent time or if any further specified proceedings are contemplated; and producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of complaints of reports or complaints made by investigators.
- Performing certain activities, specified by the type of local agency or school district, upon the receipt of an adverse comment against a peace officer employee.

A technical correction was made to the parameters and guidelines on August 17, 2000.

In 2005, Statutes 2005, chapter 72, section 6 (AB 138) added section 3313 to the Government Code to direct the Commission to “review” the Statement of Decision, adopted in 1999, on the *Peace Officer Procedural Bill of Rights* test claim (commonly abbreviated as “POBOR”) to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859 and other applicable court decisions.

On April 26, 2006, the Commission reviewed its original findings and adopted a Statement of Decision on reconsideration (05-RL-4499-01). The Statement of Decision on reconsideration became final on May 1, 2006. On review of the claim, the Commission found that the *San Diego Unified School Dist.* case supports the Commission’s 1999 Statement of Decision, which found that the test claim legislation constitutes a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for counties, cities, school districts, and special districts identified in Government Code section 3301 that employ peace officers.

The Commission further found that the *San Diego Unified School Dist.* case supports the Commission’s 1999 Statement of Decision that the test claim legislation constitutes a partial reimbursable state-mandated program within the meaning of article XIII B,

section 6 of the California Constitution and Government Code section 17514 for all activities previously approved by the Commission except the following:

- The activity of providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) pursuant to Government Code section 3304 is no longer a reimbursable state-mandated activity because the Legislature amended Government Code section 3304 in 1998. The amendment limited the right to an administrative appeal to only those peace officers “who successfully completed the probationary period that may be required” by the employing agency and to situations where the chief of police is removed. (Stats. 1998, ch. 786, § 1.)
- The activities of obtaining the signature of the peace officer on the adverse comment or noting the officer’s refusal to sign the adverse comment, pursuant to Government Code sections 3305 and 3306, when the adverse comment results in a punitive action protected by the due process clause² does not constitute a new program or higher level of service and does not impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).

The Statement of Decision adopted by the Commission on this reconsideration applies to costs incurred and claimed for the 2006-2007 fiscal year.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, school districts and special districts that employ peace officers are eligible claimants.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities [and reasonable reimbursement methodology](#) in this parameters and guidelines amendment begin on July 1, 2006.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- ~~1. A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).~~
1. A local agency or school district may, by ~~January~~ February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim ~~that details the costs actually incurred~~ for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between ~~October~~ November 15 and ~~January~~ February 15, a local agency or school district filing an annual reimbursement claim

² Due process attaches when a permanent employee is dismissed, demoted, suspended, receives a reduction in salary, or receives a written reprimand. Due process also attaches when the charges supporting a dismissal of a probationary or at-will employee constitute moral turpitude that harms the employee’s reputation and ability to find future employment and, thus, a name-clearing hearing is required.

shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

~~Reimbursable actual-costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.~~

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

~~To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.~~

~~Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.~~

~~Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.~~

~~The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.~~

For each eligible claimant, the following activities are reimbursable pursuant to the reasonable reimbursement methodology for claiming direct and indirect costs in Section V:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.
2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.

3. Updating the status report of mandate-reimbursable POBOR activities. “Updating the status report of mandate-reimbursable POBOR-activities” means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

1. The administrative appeal activities listed below apply to permanent peace officer employees as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5. The administrative appeal activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers.³

The following activities and costs are reimbursable:

- a. Providing the opportunity for, and the conduct of an administrative appeal hearing for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):
 - Transfer of permanent-employees for purposes of punishment;
 - Denial of promotion for permanent-employees for reasons other than merit; and
 - Other actions against permanent employees that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.
- b. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- c. Legal review and assistance with the conduct of the administrative appeal hearing.
- d. Preparation and service of subpoenas.
- e. Preparation and service of any rulings or orders of the administrative body.
- f. The cost of witness fees.
- g. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are **not** reimbursable:

- a. Investigating charges.
 - b. Writing and reviewing charges.
 - c. Imposing disciplinary or punitive action against the peace officer.
 - d. Litigating the final administrative decision.
2. Providing the opportunity for, and the conduct of an administrative appeal hearing for removal of the chief of police under circumstances that do not create a liberty

³ *Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.

interest (i.e., the charges do not constitute moral turpitude, which harms the employee's reputation and ability to find future employment). (Gov. Code, § 3304, subd. (b).)

The following activities and costs are reimbursable:

- a. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- b. Legal review and assistance with the conduct of the administrative appeal hearing.
- c. Preparation and service of subpoenas.
- d. Preparation and service of any rulings or orders of the administrative body.
- e. The cost of witness fees.
- f. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are **not** reimbursable:

- a. Investigating charges.
- b. Writing and reviewing charges.
- c. Imposing disciplinary or punitive action against the chief of police.
- d. Litigating the final administrative decision.

C. Interrogations

The performance of the activities listed in this section are eligible for reimbursement only when a peace officer, as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5, is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)⁴

Claimants are not eligible for reimbursement for the activities listed in this section when an interrogation of a peace officer is in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer. Claimants are also not eligible for reimbursement when the investigation is concerned solely and directly with alleged criminal activities. (Gov. Code, § 3303, subd. (i).)

The following activities are reimbursable:

⁴ Interrogations of reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers are not reimbursable. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

1. When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

Preparation and review of overtime compensation requests are reimbursable.

2. Providing notice to the peace officer before the interrogation. The notice shall inform the peace officer of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. The notice shall inform the peace officer of the nature of the investigation. (Gov. Code, § 3303, subds. (b) and (c).)

The following activities relating to the notice of interrogation are reimbursable:

- a. Review of agency complaints or other documents to prepare the notice of interrogation.
 - b. Identification of the interrogating officers to include in the notice of interrogation.
 - c. Preparation of the notice.
 - d. Review of notice by counsel.
 - e. Providing notice to the peace officer prior to interrogation.
3. Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

The cost of media and storage, and the cost of transcription are reimbursable. The investigator's time to record the session and transcription costs of non-sworn peace officers are **not** reimbursable.

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a. The further proceeding is not a disciplinary action;
 - b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);
 - c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
 - e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other

persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):

- a) When the investigation does not result in disciplinary action; and
- b) When the investigation results in:
 - A dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest *is not* affected (i.e.; the charges supporting the dismissal do not harm the employee's reputation or ability to find future employment);
 - A transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - A denial of promotion for a permanent, probationary or at-will employee for reasons other than merit; or
 - Other actions against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career of the employee.

Review of the complaints, notes or recordings for issues of confidentiality by law enforcement, human relations or counsel; and the cost of processing, service and retention of copies are reimbursable.

The following activities are **not** reimbursable:

1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
2. Investigation activities, including assigning an investigator to the case, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses.
3. Preparing for the interrogation, reviewing and preparing interrogation questions, conducting the interrogation, and reviewing the responses given by the officer and/or witness during the interrogation.
4. Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment concerning a peace officer, as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5. (Gov. Code, §§ 3305 and 3306.):⁵

⁵ The adverse comment activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, or school security

School Districts

- (a) If an adverse comment *is* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:
 - 1. Providing notice of the adverse comment;
 - 2. Providing an opportunity to review and sign the adverse comment;
 - 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 - 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for:
 - 1. Obtaining the signature of the peace officer on the adverse comment; or
 - 2. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

Counties

- (a) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
 - 1. Providing notice of the adverse comment;
 - 2. Providing an opportunity to review and sign the adverse comment;
 - 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 - 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties obtained are entitled to reimbursement for:
 - 1. Providing notice of the adverse comment: and
 - 2. Obtaining the signature of the peace officer on the adverse comment; or
 - 3. Noting the peace officer's refusal to sign the adverse comment ~~on the document~~ and obtaining the signature or initials of the peace officer under such circumstances.

Cities and Special Districts

- (a) If an adverse comment *is* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:
 - 1. Providing notice of the adverse comment;
 - 2. Providing an opportunity to review and sign the adverse comment;

officers. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to respond to the adverse comment within 30 days; and
 3. Obtaining the signature of the peace officer on the adverse comment; or
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

The following adverse comment activities are reimbursable:

1. Review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel to determine whether the comment constitutes a written reprimand or an adverse comment.
2. Preparation of notice of adverse comment.
3. Review of notice of adverse comment for accuracy.
4. Informing the peace officer about the officer's rights regarding the notice of adverse comment.
5. Review of peace officer's response to adverse comment.
6. Attaching the peace officers' response to the adverse comment and filing the document in the appropriate file.

The following activities are **not** reimbursable:

1. Investigating a complaint.
2. Interviewing a complainant.
3. Preparing a complaint investigation report.

V. CLAIM PREPARATION AND SUBMISSION – Reasonable Reimbursement Methodology

The Commission is adopting a reasonable reimbursement methodology to reimburse local agencies and school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), in lieu of payment of total actual costs incurred for the reimbursable activities specified in Section IV. above.

A. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5, as follows:

- (a) Reasonable reimbursement methodology means a formula for reimbursing local agency and school districts for costs mandated by the state, as defined in Section 17514.

- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a *reasonable reimbursement methodology* shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

B. Formula

The *reasonable reimbursement methodology* shall allow each eligible claimant to be reimbursed at the rate of \$56.74 per full-time sworn peace officer employed by the agency for all direct and indirect costs of performing the activities, as described in Section IV, Reimbursable Activities.

The rate per full-time sworn peace officer shall be adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

Reimbursement is determined by multiplying the rate per full-time sworn peace officer for the appropriate fiscal year by the number of full-time sworn peace officers employed by the agency and reported to the State Department of Justice.

~~Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.~~

A. Direct Cost Reporting

~~Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.~~

~~1. Salaries and Benefits~~

~~Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided~~

~~by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.~~

~~2. Materials and Supplies~~

~~Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.~~

~~3. Contracted Services~~

~~Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.~~

~~4. Fixed Assets and Equipment~~

~~Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.~~

~~5. Travel~~

~~Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.~~

~~6. Training~~

~~Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who~~

conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

1. Local Agencies

~~Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.~~

~~Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.~~

~~If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.~~

~~The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.~~

~~In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:~~

~~a. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or~~

~~b. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.~~

2. School Districts

~~Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.~~

~~Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.~~

~~School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~3. County Offices of Education~~

~~County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~4. Community College Districts~~

~~Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.~~

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the application of a reasonable reimbursement methodology ~~reimbursable activities, as described in Section IV,~~ must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsets ~~savings~~ the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the revised parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the revised parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM 4499) and the Statement of Decision on Reconsideration (05-RL-4499-01) are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision and the Statement of Decision on Reconsideration, is on file with the Commission.

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006
[Proposed for Amendment: March 28, 2008](#)

COUNTY OF LOS ANGELES'
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Government Code Sections 3301, 3303, 3304, 3305, 3306

As Added and Amended by Statutes of 1976, Chapter 465;
Statutes of 1978, Chapters 775, 1173, 1174, and 1178;
Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982,
Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and
Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

~~05-PGA-18, 05-PGA-19, 05-PGA-20, 05-PGA-21, and 05-PGA-22~~ [06-PGA-06](#)

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

In order to ensure stable employer-employee relations and effective law enforcement services, the Legislature enacted Government Code sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (POBOR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts¹ when a peace officer is subject to an interrogation by the employer, is facing punitive action or receives an adverse comment in his or her personnel file.

In 1999, the Commission approved the test claim and adopted the original Statement of Decision. The Commission found that certain procedural requirements under POBOR were rights already provided to public employees under the due process clause of the United States and California Constitutions. Thus, the Commission denied the procedural requirements of POBOR that were already required by law on the ground that they did not impose a new program or higher level of service, or impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c). Government Code section 17556, subdivision (c), generally provides that the Commission shall not find costs mandated by the state for test claim statutes that implement a federal law, unless the test claim statute mandates costs that exceed the federal mandate. The Commission approved

¹ Government Code section 3301 states: "For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code."

the activities required by POBOR that exceeded the requirements of existing state and federal law.

On July 27, 2000, the Commission adopted parameters and guidelines that authorized reimbursement, beginning July 1, 1994, to counties, cities, a city and county, school districts, and special districts that employ peace officers for the ongoing activities summarized below:

- Developing or updating policies and procedures.
- Training for human resources, law enforcement, and legal counsel.
- Updating the status of cases.
- Providing the opportunity for an administrative appeal for permanent, at-will, and probationary employees that were subject to certain disciplinary actions that were not covered by the due process clause of state and federal law.
- When a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the employer that could lead to certain disciplinary actions, the following costs and activities are eligible for reimbursement: compensation to the peace officer for interrogations occurring during off-duty time; providing prior notice to the peace officer regarding the nature of the interrogation and identification of investigating officers; tape recording the interrogation; providing the peace officer employee with access to the tape prior to any further interrogation at a subsequent time or if any further specified proceedings are contemplated; and producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of complaints or reports or complaints made by investigators.
- Performing certain activities, specified by the type of local agency or school district, upon the receipt of an adverse comment against a peace officer employee.

A technical correction was made to the parameters and guidelines on August 17, 2000.

In 2005, Statutes 2005, chapter 72, section 6 (AB 138) added section 3313 to the Government Code to direct the Commission to “review” the Statement of Decision, adopted in 1999, on the *Peace Officer Procedural Bill of Rights* test claim (commonly abbreviated as “POBOR”) to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859 and other applicable court decisions.

On April 26, 2006, the Commission reviewed its original findings and adopted a Statement of Decision on reconsideration (05-RL-4499-01). The Statement of Decision on reconsideration became final on May 1, 2006. On review of the claim, the Commission found that the *San Diego Unified School Dist.* case supports the Commission’s 1999 Statement of Decision, which found that the test claim legislation constitutes a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for counties, cities, school districts, and special districts identified in Government Code section 3301 that employ peace officers.

The Commission further found that the *San Diego Unified School Dist.* case supports the Commission’s 1999 Statement of Decision that the test claim legislation constitutes a

partial reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for all activities previously approved by the Commission except the following:

- The activity of providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) pursuant to Government Code section 3304 is no longer a reimbursable state-mandated activity because the Legislature amended Government Code section 3304 in 1998. The amendment limited the right to an administrative appeal to only those peace officers “who successfully completed the probationary period that may be required” by the employing agency and to situations where the chief of police is removed. (Stats. 1998, ch. 786, § 1.)
- The activities of obtaining the signature of the peace officer on the adverse comment or noting the officer’s refusal to sign the adverse comment, pursuant to Government Code sections 3305 and 3306, when the adverse comment results in a punitive action protected by the due process clause² does not constitute a new program or higher level of service and does not impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).

The Statement of Decision adopted by the Commission on this reconsideration applies to costs incurred and claimed for the 2006-2007 fiscal year.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, school districts and special districts that employ peace officers are eligible claimants.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities [and reasonable reimbursement methodology](#) in this parameters and guidelines amendment begin on July 1, 2006.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

~~1. A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).~~

~~2.1.~~ A local agency or school district may, by ~~January~~ February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim ~~that details the costs actually incurred~~ for that fiscal year.

~~3.2.~~ In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between ~~October~~ November 15 and ~~January~~

² Due process attaches when a permanent employee is dismissed, demoted, suspended, receives a reduction in salary, or receives a written reprimand. Due process also attaches when the charges supporting a dismissal of a probationary or at-will employee constitute moral turpitude that harms the employee’s reputation and ability to find future employment and, thus, a name-clearing hearing is required.

February 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable ~~actual~~ costs for one fiscal year shall be included in each claim. ~~Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.~~

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

~~To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.~~

~~Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system-generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.~~

~~Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.~~

~~The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.~~

For each eligible claimant, the following activities are reimbursable pursuant to the reasonable reimbursement methodology for claiming direct and indirect costs in Section V:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.

2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.

3. Updating the status report of mandate-reimbursable POBOR activities. “Updating the status report of mandate-reimbursable POBOR-activities” means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

1. The administrative appeal activities listed below apply to permanent peace officer employees as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5. The administrative appeal activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers.³

The following activities and costs are reimbursable:

- a. Providing the opportunity for, and the conduct of an administrative appeal hearing for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):
 - Transfer of permanent-employees for purposes of punishment;
 - Denial of promotion for permanent-employees for reasons other than merit; and
 - Other actions against permanent employees that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.
- b. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- c. Legal review and assistance with the conduct of the administrative appeal hearing.
- d. Preparation and service of subpoenas.
- e. Preparation and service of any rulings or orders of the administrative body.
- f. The cost of witness fees.
- g. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are **not** reimbursable:

- a. Investigating charges.
- b. Writing and reviewing charges.

³ *Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.

- c. Imposing disciplinary or punitive action against the peace officer.
 - d. Litigating the final administrative decision.
2. Providing the opportunity for, and the conduct of an administrative appeal hearing for removal of the chief of police under circumstances that do not create a liberty interest (i.e., the charges do not constitute moral turpitude, which harms the employee's reputation and ability to find future employment). (Gov. Code, § 3304, subd. (b).)

The following activities and costs are reimbursable:

- a. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- b. Legal review and assistance with the conduct of the administrative appeal hearing.
- c. Preparation and service of subpoenas.
- d. Preparation and service of any rulings or orders of the administrative body.
- e. The cost of witness fees.
- f. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are **not** reimbursable:

- a. Investigating charges.
- b. Writing and reviewing charges.
- c. Imposing disciplinary or punitive action against the chief of police.
- d. Litigating the final administrative decision.

C. Interrogations

The performance of the activities listed in this section are eligible for reimbursement only when a peace officer, as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5, is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)⁴

Claimants are not eligible for reimbursement for the activities listed in this section when an interrogation of a peace officer is in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact

⁴ Interrogations of reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers are not reimbursable. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

with, a supervisor or any other public safety officer. Claimants are also not eligible for reimbursement when the investigation is concerned solely and directly with alleged criminal activities. (Gov. Code, § 3303, subd. (i).)

The following activities are reimbursable:

1. When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

Preparation and review of overtime compensation requests are reimbursable.

2. Providing notice to the peace officer before the interrogation. The notice shall inform the peace officer of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. The notice shall inform the peace officer of the nature of the investigation. (Gov. Code, § 3303, subds. (b) and (c).)

The following activities relating to the notice of interrogation are reimbursable:

- a. Review of agency complaints or other documents to prepare the notice of interrogation.
 - b. Identification of the interrogating officers to include in the notice of interrogation.
 - c. Preparation of the notice.
 - d. Review of notice by counsel.
 - e. Providing notice to the peace officer prior to interrogation.
3. Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

The cost of media and storage, and the cost of transcription are reimbursable. The investigator's time to record the session and transcription costs of non-sworn peace officers are **not** reimbursable.

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a. The further proceeding is not a disciplinary action;
 - b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);
 - c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;

e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):
 - a) When the investigation does not result in disciplinary action; and
 - b) When the investigation results in:
 - A dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest *is not* affected (i.e.; the charges supporting the dismissal do not harm the employee's reputation or ability to find future employment);
 - A transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - A denial of promotion for a permanent, probationary or at-will employee for reasons other than merit; or
 - Other actions against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career of the employee.

Review of the complaints, notes or recordings for issues of confidentiality by law enforcement, human relations or counsel; and the cost of processing, service and retention of copies are reimbursable.

The following activities are **not** reimbursable:

1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
2. Investigation activities, including assigning an investigator to the case, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses.
3. Preparing for the interrogation, reviewing and preparing interrogation questions, conducting the interrogation, and reviewing the responses given by the officer and/or witness during the interrogation.
4. Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment concerning a peace officer, as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32,

830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5. (Gov. Code, §§ 3305 and 3306.):⁵

School Districts

- (a) If an adverse comment *is* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to review and sign the adverse comment;
 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for:
1. Obtaining the signature of the peace officer on the adverse comment; or
 2. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

Counties

- (a) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to review and sign the adverse comment;
 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties obtained are entitled to reimbursement for:
1. Providing notice of the adverse comment: and
 2. Obtaining the signature of the peace officer on the adverse comment; or
 3. Noting the peace officer's refusal to sign the adverse comment ~~on the document~~ and obtaining the signature or initials of the peace officer under such circumstances.

⁵ The adverse comment activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, or school security officers. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

Cities and Special Districts

- (a) If an adverse comment *is* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to review and sign the adverse comment;
 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to respond to the adverse comment within 30 days; and
 3. Obtaining the signature of the peace officer on the adverse comment; or
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

The following adverse comment activities are reimbursable:

1. Review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel to determine whether the comment constitutes a written reprimand or an adverse comment.
2. Preparation of notice of adverse comment.
3. Review of notice of adverse comment for accuracy.
4. Informing the peace officer about the officer's rights regarding the notice of adverse comment.
5. Review of peace officer's response to adverse comment.
6. Attaching the peace officers' response to the adverse comment and filing the document in the appropriate file.

The following activities are **not** reimbursable:

1. Investigating a complaint.
2. Interviewing a complainant.
3. Preparing a complaint investigation report.

V. CLAIM PREPARATION AND SUBMISSION – Reasonable Reimbursement Methodology

The Commission is adopting a reasonable reimbursement methodology to reimburse local agencies and school districts for all direct and indirect costs, as authorized by Government

Code section 17557, subdivision (b), in lieu of payment of total actual costs incurred for the reimbursable activities specified in Section IV. above.

A. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5, as follows:

- (a) Reasonable reimbursement methodology means a formula for reimbursing local agency and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

B. Formula

The reasonable reimbursement methodology shall allow each eligible claimant to be reimbursed at the rate of \$302.37 per full-time sworn peace officer employed by the agency for all direct and indirect costs of performing the activities, as described in Section IV, Reimbursable Activities.

The rate per full-time sworn peace officer shall be adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

Reimbursement is determined by multiplying the rate per full-time sworn peace officer for the appropriate fiscal year by the number of full-time sworn peace officers employed by the agency and reported to the Department of Justice.

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed

reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

~~6. Training~~

~~Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.~~

B. Indirect Cost Rates

~~1. Local Agencies~~

~~Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.~~

~~Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.~~

~~If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.~~

~~The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.~~

~~In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:~~

- ~~a. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or~~

~~b. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.~~

~~2. School Districts~~

~~Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.~~

~~Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.~~

~~School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~3. County Offices of Education~~

~~County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~4. Community College Districts~~

~~Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.~~

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall

⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

be completed not later than two years after the date that the audit is commenced. All documents used to support the [application of a reasonable reimbursement methodology reimbursable activities, as described in Section IV,](#) must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsets ~~savings~~ the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the revised parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the revised parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM 4499) and the Statement of Decision on Reconsideration (05-RL-4499-01) are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision and the Statement of Decision on Reconsideration, is on file with the Commission.

Adopted: July 27, 2000
Corrected: August 17, 2000
Amended: December 4, 2006
Proposed for Amendment: March 28, 2008

**COUNTY OF LOS ANGELES' ALTERNATE PROPOSAL
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES
(AS MODIFIED BY STAFF)**

Government Code Sections 3301, 3303, 3304, 3305, 3306

As Added and Amended by Statutes of 1976, Chapter 465;
Statutes of 1978, Chapters 775, 1173, 1174, and 1178;
Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982,
Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and
Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

05-RL-4499-01(4499)

~~05-PGA-18, 05-PGA-19, 05-PGA-20, 05-PGA-21, and 05-PGA-22, 06-PGA-06~~

BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY AND SOURCE OF THE MANDATE

In order to ensure stable employer-employee relations and effective law enforcement services, the Legislature enacted Government Code sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (POBOR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts¹ when a peace officer is subject to an interrogation by the employer, is facing punitive action or receives an adverse comment in his or her personnel file.

In 1999, the Commission approved the test claim and adopted the original Statement of Decision. The Commission found that certain procedural requirements under POBOR were rights already provided to public employees under the due process clause of the United States and California Constitutions. Thus, the Commission denied the procedural requirements of POBOR that were already required by law on the ground that they did not impose a new program or higher level of service, or impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c). Government Code section 17556, subdivision (c), generally provides that the Commission shall not find costs

¹ Government Code section 3301 states: "For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code."

mandated by the state for test claim statutes that implement a federal law, unless the test claim statute mandates costs that exceed the federal mandate. The Commission approved the activities required by POBOR that exceeded the requirements of existing state and federal law.

On July 27, 2000, the Commission adopted parameters and guidelines that authorized reimbursement, beginning July 1, 1994, to counties, cities, a city and county, school districts, and special districts that employ peace officers for the ongoing activities summarized below:

- Developing or updating policies and procedures.
- Training for human resources, law enforcement, and legal counsel.
- Updating the status of cases.
- Providing the opportunity for an administrative appeal for permanent, at-will, and probationary employees that were subject to certain disciplinary actions that were not covered by the due process clause of state and federal law.
- When a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the employer that could lead to certain disciplinary actions, the following costs and activities are eligible for reimbursement: compensation to the peace officer for interrogations occurring during off-duty time; providing prior notice to the peace officer regarding the nature of the interrogation and identification of investigating officers; tape recording the interrogation; providing the peace officer employee with access to the tape prior to any further interrogation at a subsequent time or if any further specified proceedings are contemplated; and producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of complaints or reports or complaints made by investigators.
- Performing certain activities, specified by the type of local agency or school district, upon the receipt of an adverse comment against a peace officer employee.

A technical correction was made to the parameters and guidelines on August 17, 2000.

In 2005, Statutes 2005, chapter 72, section 6 (AB 138) added section 3313 to the Government Code to direct the Commission to “review” the Statement of Decision, adopted in 1999, on the *Peace Officer Procedural Bill of Rights* test claim (commonly abbreviated as “POBOR”) to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859 and other applicable court decisions.

On April 26, 2006, the Commission reviewed its original findings and adopted a Statement of Decision on reconsideration (05-RL-4499-01). The Statement of Decision on reconsideration became final on May 1, 2006. On review of the claim, the Commission found that the *San Diego Unified School Dist.* case supports the Commission’s 1999 Statement of Decision, which found that the test claim legislation constitutes a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for counties, cities, school districts, and special districts identified in Government Code section 3301 that employ peace officers.

The Commission further found that the *San Diego Unified School Dist.* case supports the Commission's 1999 Statement of Decision that the test claim legislation constitutes a partial reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for all activities previously approved by the Commission except the following:

- The activity of providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) pursuant to Government Code section 3304 is no longer a reimbursable state-mandated activity because the Legislature amended Government Code section 3304 in 1998. The amendment limited the right to an administrative appeal to only those peace officers "who successfully completed the probationary period that may be required" by the employing agency and to situations where the chief of police is removed. (Stats. 1998, ch. 786, § 1.)
- The activities of obtaining the signature of the peace officer on the adverse comment or noting the officer's refusal to sign the adverse comment, pursuant to Government Code sections 3305 and 3306, when the adverse comment results in a punitive action protected by the due process clause² does not constitute a new program or higher level of service and does not impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).

The Statement of Decision adopted by the Commission on this reconsideration applies to costs incurred and claimed for the 2006-2007 fiscal year.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, school districts and special districts that employ peace officers are eligible claimants.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities [and reasonable reimbursement methodology](#) in this parameters and guidelines amendment begin on July 1, 2006.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

~~1. A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).~~

~~2.1. A local agency or school district may, by January-February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.~~

² Due process attaches when a permanent employee is dismissed, demoted, suspended, receives a reduction in salary, or receives a written reprimand. Due process also attaches when the charges supporting a dismissal of a probationary or at-will employee constitute moral turpitude that harms the employee's reputation and ability to find future employment and, thus, a name-clearing hearing is required.

~~3.2.~~ In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between ~~October- November~~ 15 and ~~January February~~ 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable ~~actual~~ costs for one fiscal year shall be included in each claim. ~~Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.~~

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, ~~an eligible claimant may file a reimbursement claim based on the reasonable reimbursement methodology described in Section V A. or for only~~ actual costs, ~~as described in Section V. B. may be~~ claimed.

~~Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.~~

~~Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.~~

~~Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.~~

~~The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.~~

For each eligible claimant, the following activities are reimbursable:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals and other materials pertaining to the conduct of the mandated activities.

2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate. The training must relate to mandate-reimbursable activities.

3. Updating the status report of mandate-reimbursable POBOR activities. “Updating the status report of mandate-reimbursable POBOR-activities” means tracking the procedural status of the mandate-reimbursable activities only. Reimbursement is not required to maintain or update the cases, set up the cases, review the cases, evaluate the cases, or close the cases.

B. Administrative Appeal

1. The administrative appeal activities listed below apply to permanent peace officer employees as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5. The administrative appeal activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers.³

The following activities and costs are reimbursable:

- a. Providing the opportunity for, and the conduct of an administrative appeal hearing for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):
 - Transfer of permanent-employees for purposes of punishment;
 - Denial of promotion for permanent-employees for reasons other than merit; and
 - Other actions against permanent employees that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.
- b. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- c. Legal review and assistance with the conduct of the administrative appeal hearing.
- d. Preparation and service of subpoenas.
- e. Preparation and service of any rulings or orders of the administrative body.
- f. The cost of witness fees.
- g. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are **not** reimbursable:

- a. Investigating charges.
- b. Writing and reviewing charges.
- c. Imposing disciplinary or punitive action against the peace officer.

³ *Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.

- d. Litigating the final administrative decision.
2. Providing the opportunity for, and the conduct of an administrative appeal hearing for removal of the chief of police under circumstances that do not create a liberty interest (i.e., the charges do not constitute moral turpitude, which harms the employee's reputation and ability to find future employment). (Gov. Code, § 3304, subd. (b).)

The following activities and costs are reimbursable:

- a. Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- b. Legal review and assistance with the conduct of the administrative appeal hearing.
- c. Preparation and service of subpoenas.
- d. Preparation and service of any rulings or orders of the administrative body.
- e. The cost of witness fees.
- f. The cost of salaries of employee witnesses, including overtime, the time and labor of the administrative appeal hearing body and its attendant clerical services.

The following activities are **not** reimbursable:

- a. Investigating charges.
- b. Writing and reviewing charges.
- c. Imposing disciplinary or punitive action against the chief of police.
- d. Litigating the final administrative decision.

C. Interrogations

The performance of the activities listed in this section are eligible for reimbursement only when a peace officer, as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5, is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)⁴

Claimants are not eligible for reimbursement for the activities listed in this section when an interrogation of a peace officer is in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer. Claimants are also not eligible for

⁴ Interrogations of reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, and school security officers are not reimbursable. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

reimbursement when the investigation is concerned solely and directly with alleged criminal activities. (Gov. Code, § 3303, subd. (i).)

The following activities are reimbursable:

1. When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

Preparation and review of overtime compensation requests are reimbursable.

2. Providing notice to the peace officer before the interrogation. The notice shall inform the peace officer of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. The notice shall inform the peace officer of the nature of the investigation. (Gov. Code, § 3303, subs. (b) and (c).)

The following activities relating to the notice of interrogation are reimbursable:

- a. Review of agency complaints or other documents to prepare the notice of interrogation.
 - b. Identification of the interrogating officers to include in the notice of interrogation.
 - c. Preparation of the notice.
 - d. Review of notice by counsel.
 - e. Providing notice to the peace officer prior to interrogation.
3. Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

The cost of media and storage, and the cost of transcription are reimbursable. The investigator's time to record the session and transcription costs of non-sworn peace officers are **not** reimbursable.

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a. The further proceeding is not a disciplinary action;
 - b. The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);
 - c. The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - d. The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
 - e. The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

The cost of media copying is reimbursable.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):
 - a) When the investigation does not result in disciplinary action; and
 - b) When the investigation results in:
 - A dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest *is not* affected (i.e.; the charges supporting the dismissal do not harm the employee's reputation or ability to find future employment);
 - A transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - A denial of promotion for a permanent, probationary or at-will employee for reasons other than merit; or
 - Other actions against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career of the employee.

Review of the complaints, notes or recordings for issues of confidentiality by law enforcement, human relations or counsel; and the cost of processing, service and retention of copies are reimbursable.

The following activities are **not** reimbursable:

1. Activities occurring before the assignment of the case to an administrative investigator. These activities include taking an initial complaint, setting up the complaint file, interviewing parties, reviewing the file, and determining whether the complaint warrants an administrative investigation.
2. Investigation activities, including assigning an investigator to the case, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses.
3. Preparing for the interrogation, reviewing and preparing interrogation questions, conducting the interrogation, and reviewing the responses given by the officer and/or witness during the interrogation.
4. Closing the file, including the preparation of a case summary disposition reports and attending executive review or committee hearings related to the investigation.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment concerning a peace officer, as defined in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32,

830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5. (Gov. Code, §§ 3305 and 3306.):⁵

School Districts

- (a) If an adverse comment *is* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to review and sign the adverse comment;
 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for:
1. Obtaining the signature of the peace officer on the adverse comment; or
 2. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

Counties

- (a) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to review and sign the adverse comment;
 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* related to the investigation of a possible criminal offense, then counties obtained are entitled to reimbursement for:
1. Providing notice of the adverse comment: and
 2. Obtaining the signature of the peace officer on the adverse comment; or
 3. Noting the peace officer's refusal to sign the adverse comment ~~on the document~~ and obtaining the signature or initials of the peace officer under such circumstances.

⁵ The adverse comment activities do not apply to reserve or recruit officers; coroners; railroad police officers commissioned by the Governor; or non-sworn officers including custodial officers, sheriff security officers, police security officers, or school security officers. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

Cities and Special Districts

- (a) If an adverse comment *is* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to review and sign the adverse comment;
 3. Providing an opportunity to respond to the adverse comment within 30 days; and
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is not* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:
1. Providing notice of the adverse comment;
 2. Providing an opportunity to respond to the adverse comment within 30 days; and
 3. Obtaining the signature of the peace officer on the adverse comment; or
 4. Noting the peace officer's refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

The following adverse comment activities are reimbursable:

1. Review of the circumstances or documentation leading to the adverse comment by supervisor, command staff, human resources staff, or counsel to determine whether the comment constitutes a written reprimand or an adverse comment.
2. Preparation of notice of adverse comment.
3. Review of notice of adverse comment for accuracy.
4. Informing the peace officer about the officer's rights regarding the notice of adverse comment.
5. Review of peace officer's response to adverse comment.
6. Attaching the peace officers' response to the adverse comment and filing the document in the appropriate file.

The following activities are **not** reimbursable:

1. Investigating a complaint.
2. Interviewing a complainant.
3. Preparing a complaint investigation report.

V. CLAIM PREPARATION AND SUBMISSION

Claimants may be reimbursed for the Reimbursable Activities described in Section IV above by claiming costs mandated by the state pursuant to the reasonable reimbursement methodology or by filing an actual cost claim, as described below:

-A. Reasonable Reimbursement Methodology

The Commission is adopting a reasonable reimbursement methodology to reimburse local agencies and school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), in lieu of payment of total actual costs incurred for the reimbursable activities specified in Section IV. above.

1. Definition

The definition of reasonable reimbursement methodology is in Government Code section 17518.5, as follows:

- (a) Reasonable reimbursement methodology means a formula for reimbursing local agency and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

2. Formula

The reasonable reimbursement methodology shall allow each eligible claimant to be reimbursed at the rate of ~~\$36.86~~ \$ 37.25 per full-time sworn peace officer employed by the agency for all direct and indirect costs of performing the activities, as described in Section IV, Reimbursable Activities.

The rate per full-time sworn peace officer shall be adjusted each year by the Implicit Price Deflator referenced in Government Code section 17523.

Reimbursement is determined by multiplying the rate per full time sworn peace officer for the appropriate fiscal year by the number of full time sworn peace officers employed by the agency and reported to the Department of Justice.

B. ACTUAL COST CLAIMS

Although the Commission adopted a reasonable reimbursement methodology for this mandated program, any eligible claimant may instead choose to file a reimbursement claim based on actual costs.

Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified above. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described ~~above.~~ ~~in Section IV.~~ Additionally, each reimbursement claim must be filed in a timely manner.

A1. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

a. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2b. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3c. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4d. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5e. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, B. 1. a, Salaries and Benefits, for each applicable reimbursable activity.

6f. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1 B.1.a, Salaries and Benefits, and B.1.bA-2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3B.1.c, Contracted Services.

B2. Indirect Cost Rates

1a. Local Agencies

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

a.i The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

b.ii The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

2b. School Districts

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost

may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

3c. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

4d. -Community College Districts

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the [application of a reasonable reimbursement methodology reimbursable activities, as described in Section IV,](#) must also be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsets ~~savings~~ the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the revised parameters and guidelines from the Commission,

⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the revised parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM 4499) and the Statement of Decision on Reconsideration (05-RL-4499-01) are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision and the Statement of Decision on Reconsideration, is on file with the Commission.