



JOHN CHIANG
California State Controller

December 2, 2014

RECEIVED

December 02, 2014

*Commission on
State Mandates*

LATE FILING

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Incorrect Reduction Claim (IRC)
Peace Officers Procedural Bill of Rights (POBOR), 10-4499-I-01
Statutes 1976, Chapter 465, Statutes 1978, Chapters 775, 1173, 1174, and 1178
Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994
Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675
Fiscal Years: 2003-2004, 2004-2005, and 2005-2006
Santa Clara County, Claimant

Dear Ms. Halsey:

The State Controller's Office is transmitting our response to the above-named IRC.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

JIM L. SPANO, Chief
Mandated Cost Audits Bureau
Division of Audits

JLS/sk

14824

**RESPONSE BY THE STATE CONTROLLER'S OFFICE
TO THE INCORRECT REDUCTION CLAIM (IRC) BY
SANTA CLARA COUNTY**

Peace Officers Procedural Bill of Rights Program

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Note: References to Exhibits relate to the county's IRC filed on September 16, 2010, as follows:

- Exhibit A – PDF page 33
- Exhibit B – PDF page 97
- Exhibit C – PDF page 129
- Exhibit D – PDF page 141
- Exhibit E – PDF page 161
- Exhibit F – PDF page 207
- Exhibit G– PDF page 225
- Exhibit H – PDF page 249
- Exhibit I– PDF page 299
- Exhibit J– PDF page 323
- Exhibit K – PDF page 349
- Exhibit L – PDF page 375
- Exhibit M – PDF page 381

Tab 1

1 **OFFICE OF THE STATE CONTROLLER**

2 Division of Audits
3 3301 C Street, Suite 725
4 Sacramento, CA 95816
5 Telephone No.: (916) 323-5849

6 **BEFORE THE**
7 **COMMISSION ON STATE MANDATES**
8 **STATE OF CALIFORNIA**

9
10 **INCORRECT REDUCTION CLAIM ON:**

11 *Peace Officers Procedural Bill of Rights*
12 *Program*

13 Government Code Sections 3300-3310
14 Statutes 1976, Chapter 465; Statutes 1978,
15 Chapter 775, 1173, 1174, and 1178; Statutes
16 1979, Chapter 405; Statutes 1980, Chapter
17 1367; Statutes 1982, Chapter 994; Statutes
18 1983, Chapter 964; Statutes 1989, Chapter
19 1165; and Statutes 1990, Chapter 675

20 **SANTA CLARA COUNTY,**
21 **Claimant**

No.: Commission 10-4499-I-01

AFFIDAVIT OF BUREAU CHIEF

22 I, Jim L. Spano, make the following declarations:

- 23 1) I am an employee of the State Controller's Office (SCO) and am over the age of 18
24 years.
- 25 2) I am currently employed as a bureau chief, and have been so since April 21, 2000.
Before that, I was employed as an audit manager for two years and three months.
- 3) I am a California Certified Public Accountant.
- 4) I reviewed the work performed by the SCO auditor.
- 5) Any attached copies of records are true copies of records, as provided by Santa Clara
County or retained at our place of business.

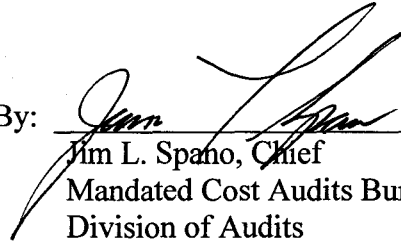
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- 6) The records include claims for reimbursement, and attached supporting documentation, explanatory letters, or other documents relating to the above-entitled Incorrect Reduction Claim.
- 7) A field audit of the claims for fiscal year (FY) 2003-04, FY 2004-05, and FY 2005-06 commenced March 19, 2007, and ended on May 14, 2008.

I do declare that the above declarations are made under penalty of perjury and are true and correct to the best of my knowledge, and that such knowledge is based on personal observation, information, or belief.

Date: December 2, 2014

OFFICE OF THE STATE CONTROLLER

By: 
Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

Tab 2

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE
TO THE INCORRECT REDUCTION CLAIM BY
SANTA CLARA COUNTY**

For Fiscal Year (FY) 2003-04, FY 2004-05, and FY 2005-06

Peace Officers Procedural Bill of Rights Program

Government Code Sections 3300-3310

**Statutes 1976, Chapter 465; Statutes 1978, Chapter 775, 1173, 1174, and 1178;
Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994;
Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675**

SUMMARY

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim (IRC) that Santa Clara County submitted on September 16, 2010. The SCO audited the county's claims for costs of the legislatively mandated Peace Officers Procedural Bill of Rights Program for the period of July 1, 2003, through June 30, 2006. The SCO issued its final report on May 14, 2008 (**Exhibit A**).

The county submitted reimbursement claims totaling \$748,888 (\$749,888 less a \$1,000 penalty for filing a late claim)—\$166,422 for fiscal year (FY) 2003-04 (**Exhibit H**), \$270,774 for FY 2004-05 (**Exhibit I**), and \$311,692 for FY 2005-06 (**Exhibit J**). Subsequently, the SCO audited these claims and determined that \$222,086 is allowable and \$526,802 is unallowable. The county claimed ineligible costs and overstated productive hourly wage rates.

The following table summarizes the audit results:

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2003, through June 30, 2004</u>			
Direct costs:			
Salaries	\$ 91,196	\$ 26,890	\$ (64,306)
Benefits	27,816	8,441	(19,375)
Total direct costs	119,012	35,331	(83,681)
Indirect costs	48,410	13,230	(35,180)
Total direct and indirect costs	167,422	48,561	(118,861)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 166,422</u>	47,561	<u>\$ (118,861)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 47,561</u>	

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>
<u>July 1, 2004, through June 30, 2005</u>			
Direct costs:			
Salaries	\$ 125,091	\$ 49,340	\$ (75,751)
Benefits	37,276	14,759	(22,517)
Services and supplies	1,991	1,991	—
Travel and training	3,299	1,778	(1,521)
Total direct costs	167,657	67,868	(99,789)
Indirect costs	103,117	44,360	(58,757)
Total program costs	<u>\$ 270,774</u>	112,228	<u>\$ (158,546)</u>
Less amount paid by the State ¹		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 112,228</u>	
<u>July 1, 2005, through June 30, 2006</u>			
Direct costs:			
Salaries	\$ 140,795	\$ 28,671	\$ (112,124)
Benefits	51,201	9,894	(41,307)
Total direct costs	191,996	38,565	(153,431)
Indirect costs	119,696	23,732	(95,964)
Total program costs	<u>\$ 311,692</u>	62,297	<u>\$ (249,395)</u>
Less amount paid by the State ¹		(62,297)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	
<u>Summary: July 1, 2002, through June 30, 2006</u>			
Direct costs:			
Salaries	\$ 357,082	\$ 104,901	\$ (252,181)
Benefits	116,293	33,094	(83,199)
Services and supplies	1,991	1,991	—
Travel and training	3,299	1,778	(1,521)
Total direct costs	478,665	141,764	(336,901)
Indirect costs	271,223	81,322	(189,901)
Total direct and indirect costs	749,888	223,086	(526,802)
Less late filing penalty	(1,000)	(1,000)	—
Total program costs	<u>\$ 748,888</u>	222,086	<u>\$ (526,802)</u>
Less amount paid by the State ¹		(62,297)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 129,789</u>	

¹ Payment information current as of November 24, 2014.

I. PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM CRITERIA

Parameters and Guidelines – August 26, 1999

On July 27, 2000, the Commission on State Mandates (Commission) adopted parameters and guidelines and corrected them on August 17, 2000, for Government Code Sections 3300-3310 Statutes 1976, Chapter 465; Statutes 1978, Chapter 775, 1173, 1174, and 1178; Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994; Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675 (**Exhibit C**). These parameters and guidelines are applicable to the county's FY 2003-04, FY 2004-05, and FY 2005-06 claims.

SCO Claiming Instructions

The SCO annually issues mandated cost claiming instructions, which contain filing instructions for mandated cost programs. The September 2003 general claiming instructions, State Controller's Office Mandated Cost Manual for Local Agencies, Section 2-Filing A Claim, subdivision 7(a) through 7(c) (**Tab 3**), provide instructions for calculating productive hourly rates. The September 2003 claiming instructions are believed to be, for the purposes and scope of the audit period, substantially similar to the version extant at the time the county filed its FY 2003-04, FY 2004-05, and FY 2005-06, mandated cost claims. The SCO issued Peace Officers Procedural Bill of Rights Program claiming instructions on October 2, 2000.

II. THE COUNTY OVERSTATED COSTS RELATED TO ADMINISTRATIVE ACTIVITIES

Issue

The county's IRC contests Finding 1 in the SCO's final audit report issued May 14, 2008, related to the Administrative Activities cost component. The SCO concluded that the county claimed ineligible salaries and benefits totaling \$43,953 (\$8,463 by the Sheriff's Department, and \$35,490 by the Probation Department) because costs claimed were for ineligible activities (**Tab 4**). Related unallowable indirect costs totaled \$29,114. The county believes that the SCO based its finding on the wrong set of parameters and guidelines that became effective starting fiscal year 2006-2007. The county also believes that the original parameters and guidelines in effect during the audit period lacked the necessary level of specificity.

SCO's Analysis

The county claimed costs for ineligible activities. The parameters and guidelines (section IV(A), Administrative Activities, Ongoing Activities) allow for reimbursement of the following ongoing activities:

1. Developing or updating internal policies, procedures, manual(s) 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; and
3. Updating the status of the POBOR cases.

Sheriff Department

The Sheriff's Department claimed the following ineligible activities:

- Preparing the file

- Logging initial case information into the system and assigning the case
- Interviewing the complainants

Probation Department

We adjusted the Probation Department's training hours that were not related to POBOR training. The ineligible training hours included the following topics:

- Labor relations
- Unionized vs. non-unionized employees
- Private and public employees
- Handling sexual harassment issues
- Confidentiality issues
- Investigation errors
- Ethical issues in probation
- Budgeting implications
- Juvenile Justice Reforms
- Discrimination issues
- Electronic research
- First Amendment-related conduct
- Preparing investigation reports
- Key mistakes in workplace investigations
- Assessing credibility
- Types of lawsuits
- Representation and indemnification
- Supervisory liability of failure to train
- Minimizing exposure to liability

The department also claimed the following ineligible activities for FY 2004-05:

- Reviewing Internal Affairs (IA) investigation reports to approve or to make corrections
- Visiting other IA units during the establishment of the IA unit at the Probation Department
- Conducting interviews for the IA Management Analyst position
- Reviewing the progress of development of the IA database
- Reviewing complaints, response letters, Merit System Rules, and assigning cases
- Reviewing the unit's training schedule

County's Response

A. AUDIT FINDING NUMBER ONE REGARDING POBOR ADMINISTRATIVE ACTIVITIES IS INCORRECT

Audit Finding 1 states that the County over-claimed salaries, benefits, and related indirect costs related to POBOR administrative activities in the amount of \$73,067. The SCO asserts that such over-claiming was due to claiming for ineligible activities, such as, preparing the file, logging the initial case information, interviewing complainants, training, reviewing reports, and so on. As the County pointed out in its response, the SCO based its finding on the wrong set of Parameters and Guidelines. The original Parameters and Guidelines did not have that level of specificity and the

amended Parameters and Guidelines were not effective until the 2006-2007 fiscal year – the fiscal year after the claims represented in the instant audit. The County cannot be held to a standard that was non-existent at the time the costs were incurred and of which the County had no notice. The SCO must audit each claim based on the Parameters and Guidelines applicable to the particular claiming cycle. In the instant case, the amended Parameters and Guidelines were not relevant to the claiming cycle being audited.

The SCO objects to a number of claimed activities stating, in essence, that there was no nexus between the activity claimed and the Parameters and Guidelines. The only guidance the County had at the time of claiming were the following activities as set forth in the Parameters and Guidelines:

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.
3. Updating the status of the POBOR cases.

Each of these components is sufficiently flexible so as to allow local government to adapt them to its own method of implementing the mandate. If the Legislature had had in mind a specific manner in which to implement the mandate, it would have said so.

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

The County properly claimed costs for visiting other Internal Affairs (IA) units during the establishment of its IA unit. Part of developing internal policies can include reviewing other department doing the same or similar work. This information is not only important to the development of internal policies; it is also a reasonable method of compliance as it allows for the mere editing or cutting-and-pasting of other policies. Thus, time spent gathering information can yield time savings in the process of drafting the policies.

2. Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.

The County properly claimed training costs. The SCO pared the list of covered topics to those it believes relate to the mandate. For a mandate as complex and pervasive s POBOR, however, such limitations are not proper. Training on POBOR properly encompasses issues of labor relations, confidentiality issues, investigation errors, first amendment-related conduct, key mistakes in workplace, investigations, and assessing credibility, to name a few. While the County appreciates the SCO's attempt to include some costs rather than give a full disallowance, the SCO did not allow for some legitimate costs.

3. Updating the status of the POBOR cases.

In the instant case, the County properly claimed those activities involved in setting up a POBOR file. The creation of the file is, itself, an update of the status of the case. This is also the case for placing the case information in the file management system which allows for later updating.

SCO's Comment

The county believes that the SCO based its finding on the revised parameters and guidelines for the POBOR program adopted by the Commission on December 4, 2006. The county also raised the same issue during its response to the draft report. The county's contention is not accurate. We previously responded to this issue in our final report. The county has not provided any additional arguments or evidence to support its contention.

Our audit of the county's claims was initiated on March 19, 2007, when we contacted the county to inform them of the audit and arrange for an entrance conference to begin fieldwork. Fieldwork began on April 9, 2007 (**Tab 5**). Therefore, the revised parameters and guidelines was the version extant at the time that fieldwork was conducted. Any references to the revised parameters and guidelines adopted on December 4, 2006, that we made during the exit conference or in any discussion during the audit process were made solely to point out to county staff that reimbursable and non-reimbursable activities of the mandated program are spelled out more clearly in the revised parameters and guidelines. Except for changes to allowable activities for the cost components of Administrative Appeal for probationary and at-will peace officers (pursuant to amended Government Code Section 3304) and Adverse Comment (for punitive actions protected by the due process clause), reimbursable activities did not change from the original parameters and guidelines. In addition, our understanding of allowable Administrative Activities per the original parameters and guidelines did not change as a result of the Commission amending them on December 4, 2006.

The audit report, dated May 14, 2008, [**Exhibit A**] states that the audit was based on the parameters and guidelines adopted by the Commission on July 27, 2000, and corrected on August 17, 2000. The language in the audit report and in the SCO response to the county's comments to the audit report originates either from the August 17, 2000, parameters and guidelines, the original statement of decision, or from the Commission staff analysis of the originally proposed parameters and guidelines for this mandate program.

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

The county believes that it properly claimed costs for visiting other Internal Affairs (IA) units during the establishment of the IA unit at its Probation Department. The county believes that these costs are an integral part of developing internal policies.

The county is interpreting the reimbursable activity very broadly. The reimbursable activity is for developing internal policies and procedures that pertain to the conduct of the mandated activities. Establishing a new IA unit involves many other aspects that are outside the scope of the mandated activities. We concur that visiting other IA units may have provided time savings during the county's establishment of an IA unit in its Probation Department. However, the county has not provided any documentation to explain how the hours in question relate to the portion of the policies and procedures developed for the conduct of the mandated activities.

In addition, the county did not include in its response that the hours in question involved not only the activity of visiting other IA units, but also the activities of reviewing the training schedules of the IA units, reviewing Merit System Rules, reviewing the IA database, and interviewing for the IA Management Analyst position. The county has not provided any additional information or explanation as to how these activities pertained to its development or update of internal policies, procedures, or manuals for the mandated program. Therefore, it is still our contention that these activities are not reimbursable under the mandated program.

2. **Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.**

The county believes that it properly claimed training costs for the Probation Department. The county believes that our methodology to partially adjust the training hours was improper. In the county's view, reimbursable POBOR training should also encompass issues such as labor relations, confidentiality issues, investigation errors, first amendment-related conduct, key mistakes in workplace investigations, assessing credibility, budgeting implications, and others. We disagree.

The county raised this issue in its response to the draft audit report and we provided our comments in the final audit report. The parameters and guidelines state that one of the reimbursable activities under the cost component of Administrative Activities includes attendance at specific training for human resources, law enforcement, and legal counsel *regarding the requirements of the mandate* [emphasis added]. The county's argument suggests that training on other comprehensive topics not related to requirements of the mandated program should be allowable. We disagree.

In the staff analysis for the proposed POBOR Program's parameters and guidelines (Item #10 in the Commission hearing of July 27, 2000) (Tab 6), the Commission discussed its analysis of the test claimant's proposed parameters and guidelines for administrative activities. On page 901, this analysis addresses the following training issues:

Finally, staff has designated the administrative activities as on-going activities. Due to a lack of specificity in the test claim legislation, hundreds of court cases have been, and continue to be issued. The case law has provided new interpretations of the legislation and clarified the responsibilities of local agencies. Thus, staff finds that it is reasonably necessary for local agencies to update their internal policies and procedures, and train their employees on an on-going basis.

The language in the parameters and guidelines states that training "regarding the requirements of the mandate" is reimbursable. Accordingly, training hours for topics unrelated to the requirements of the mandated program are unallowable, consistent with the language in the adopted parameters and guidelines. For additional clarification, we referred to the Commission staff analysis cited above for the proposed parameters and guidelines, which mentions ongoing changes in case law related to the mandated activities that would require staff training. We noted all of the specific training topics in the final audit report that were deemed unallowable. The county did not and has not provided any additional documentation or information supporting why these topics should be considered allowable training hours related to the mandated program.

3. Updating the status of the POBOR cases.

The county believes that it properly claimed costs of updating the status of the POBOR cases for the Sheriff's Department. The county believes that the activities of setting up POBOR files and logging the initial case information are part of the reimbursable activity of updating the status of the POBOR cases. We disagree.

The county raised this issue in its response to the draft audit report and we provided our comments in the final audit report. The county has not provided any additional documentation or information explaining how setting up POBOR files and logging the initial case information fit into the activity of updating the status of the POBOR cases.

The county is taking the reimbursable activity of "updating" out of context. In the staff analysis for the proposed POBOR Program's parameters and guidelines (Item #10 in the Commission hearing of July 27, 2000) (Tab 6), the Commission discussed its analysis of the test claimant's proposed parameters and guidelines for administrative activities. On page 901, this analysis addresses the following related to "updating the status of the POBOR cases:

Before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions, and *maintaining* files for those cases." "Accordingly, staff has modified this component to provide that claimants are eligible for reimbursement for "updating the status report of the POBAR cases."

Therefore, we contend that the activities deemed unallowable are part of file maintenance activities that go beyond what the reimbursable activity intended.

III. THE COUNTY OVERSTATED COSTS RELATED TO ADMINISTRATIVE APPEALS.

Issue

The county's IRC contests Finding 1 in the SCO's final audit report issued May 14, 2008, related to the Administrative Appeals cost component. The SCO concluded that the county claimed ineligible salaries and benefits totaling \$2,373 (\$1,388 by the Sheriff's Department, and \$985 by the Probation Department) because costs claimed were for ineligible activities (**Tab 4**). Related unallowable indirect costs totaled \$1,193. The county believes that the claiming of these costs was proper.

SCO's Analysis

The parameters and guidelines (section IVB (2), Administrative Appeals) allow reimbursement for providing the opportunity for, and the conduct of, an administrative appeal for the following disciplinary actions:

1. Dismissal, demotion, suspension, salary reduction, or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e., the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
2. Transfer of permanent employees for purposes of punishment;
3. Denial of promotion for permanent employees for reasons other than merit; and
4. Other actions against permanent employees or the Chief of Police that result in disadvantage, harm, loss, or hardship, and that impact the career opportunities of the employee.

Sheriff's Department

Our review of the claimed costs under this component revealed that no administrative hearings were held for the two cases included in the claims.

Probation Department

All costs claimed under this component included hours incurred during appeal hearings that resulted from unallowable disciplinary actions (suspension and letter of reprimand for permanent employees). Subsequently claimed activities were ineligible for reimbursement.

County's Response

B. AUDIT FINDING NUMBER ONE REGARDING POBOR ADMINISTRATIVE APPEALS IS INCORRECT

Audit Finding 1 states that the County over-claimed salaries, benefits, and related indirect costs related to POBOR administrative appeals in the amount of \$3,566. The SCO alleges that such over-claiming was due to claiming for ineligible appeals which are part and parcel of due process and, as such, are outside the scope of POBOR. In 1999 when the Commission considered the POBOR test claim, it carefully evaluated existing due process protections from the protections imposed by POBOR. (See SOD, at pp. 4-8.) The Commission's Statement of Decision resulted in the following Parameters and Guidelines on this matter:

Reimbursement period beginning January 1, 1999 – The administrative appeal activities listed below apply to permanent employees and the Chief of Police. Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions (Gov. Code § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction, or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e., the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- 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 or the Chief of Police that result in disadvantage, harm, loss, or hardship, and that impact the career opportunities of the employee.

As set forth under the final bullet, other actions against a permanent employee that negatively impact his career are reimbursable such as reprimand and suspension. The claiming of these costs by the County was therefore proper.

SCO's Comment

The county claimed Administrative Appeal costs for permanent employees. Two cases were claimed by the Sheriff's Department and two by the Probation Department. No administrative hearings were ever held for the two cases claimed by the Sheriff's Department. Administrative hearings were held for the two cases claimed by the Probation Department that resulted in a suspension and a letter of reprimand.

Section IVB (2) of the parameters and guidelines addresses allowable costs for permanent employees under the next three bullet points when it includes:

- 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 or the Chief of Police that result in disadvantage, harm, loss, or hardship and impact the career opportunities of the employee.

The county suggests that the last bullet point covers the costs included in its claim by stating "other actions against a permanent employee that negatively impact his career are reimbursable such as reprimand and suspension." We disagree.

The Commission's original statement of decision for the POBOR program, adopted November 30, 1999, [Exhibit E] states the following on page 11:

Thus, the Commission found that the administrative appeal hearings would be required in the absence of the test claim legislation when:

- A permanent employee is dismissed, demoted, suspended, receives a reduction in pay or a written reprimand; or
- A probationary or at-will employee is dismissed and the employee's reputation and ability to obtain future employment is harmed by the dismissal.

Under these circumstances, the Commission determined that the administrative appeal does not constitute a new program or higher level of service because prior law requires such an appeal under the due process clause. Moreover, the Commission recognized that pursuant to Government Code section 17566, subdivision (c), the costs incurred in providing the administrative appeal in the above

circumstances would not constitute "costs mandated by the state" since the administrative appeal merely implements the requirements of the United States Constitution.

The Commission language is clear, and the costs in question are unallowable because they are already required under the due process clause.

IV. THE COUNTY OVERSTATED COSTS RELATED TO INTERROGATIONS

Issue

The county's IRC contests Finding 1 in the SCO's final audit report issued May 14, 2008, related to the Interrogations cost component. The SCO concluded that the county claimed ineligible salaries and benefits totaling \$207,936 (\$61,350 by the Sheriff's Department, \$130,236 by the Probation Department, and \$16,350 by the District Attorney's Office) because costs claimed were for ineligible activities (**Tab 4**). Related unallowable indirect costs totaled \$120,026.

The county believes that its claiming of interrogation costs was proper. The County cites "over-claimed salaries, benefits, and related indirect costs related to POBOR interrogations in the amount of \$250,262." That amount is incorrect. The unallowable amount cited on page 10 of the audit report for the Interrogation cost component was \$327,962 (\$207,936 for salaries and benefits and \$120,026 for related indirect costs).

SCO's Analysis

The parameters and guidelines (section IV(C), Interrogations) state that claimants are not eligible for interrogation activities when an interrogation of a peace officer occurs in the normal course of duty. It further states:

When required by a seriousness of investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.

The parameters and guidelines (section IV(C)) also state that the following activities are reimbursable:

Tape recording the interrogation when the peace officer employee records the interrogation.

Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers.

The county claimed the following ineligible activities:

Sheriff's Department

- Gathering reports and reviewing complaints and evidence as part of investigating the allegations
- Investigation time
- Preparing questions for the interviews
- Interviewing witnesses during normal working hours (investigators' time)
- Reviewing tapes and summarizing/transcribing witness officers' statements
- Conducting pre-interrogation meetings
- Interviewing accused officers during normal working hours (investigators' time)

Probation Department

- Gathering reports, log sheets, and evidence
- Reviewing complaints, reports, and evidence as part of investigating the allegations
- Interviewing witnesses, both civilian and officers (investigators' time)
- Traveling to interview witnesses
- Transcribing witness tapes
- Reviewing tapes and making corrections
- Preparing interview questions
- Conducting pre-interrogation meetings
- Interviewing accused officers during normal working hours (investigators' time)

District Attorney's Office

- Gathering reports, logs sheets, etc
- Reviewing complaints, reports, and evidence as part of investigating the allegations
- Preparing interview questions
- Interviewing witnesses during normal working hours (investigators' time)
- Conducting pre-interrogation meetings
- Interviewing accused offices during normal working hours (investigators' time)
- Preparing a summary report of the agency complaint as part of the case file preparation
- Reviewing interview tapes

County's Response

C. AUDIT FINDING NUMBER ONE REGARDING INTERROGATION COSTS IS INCORRECT

Audit Finding 1 states that the County over-claimed salaries, benefits, and related indirect costs related to POBOR interrogations in the amount of \$250,262. This finding was based upon the SCO's interpretation of the Parameters and Guidelines which was made without thoughtful review of the Commission's Statement of Decision. The Statement of Decision is the "law of the case" and is given deference when there is any discrepancy between the finding of a judicial body and the documents that arise from that finding.

This Commission, in 1999, addressed the test claim legislation of POBOR which provides safeguards for the protection of peace officers that are subject of investigation or discipline. Of primary concern was whether and to what extent these safeguards and protections were more expansive than those already in existence through statute, case law and the Constitution. Indeed, as evidenced in the Statement of Decision, this Commission took particular care to root out those protections that were not duplicative of pre-existing due process rights and to delineate the scope and extent of the state-mandated activities:

Government Code section 3303, subdivision (a), establishes procedures for the timing and compensation of a peace officer subject to investigation and interrogation by an employer.

This section requires that the interrogation be conducted at a reasonable hour, preferably at a time when the peace officer is on duty, or during the "normal waking hours" of the peace officer, unless seriousness of investigation requires otherwise. If the interrogation takes place

during off-duty time of the peace officer, the peace officer "shall" be compensated for the off-duty time in accordance with regular department procedures.

The claimant contended that Government Code section 3303, subdivision (a), results in the payment of overtime to the investigated employee and, thus, imposes reimbursable state mandated activities. The claimant stated the following:

"If a typical police department works in three shifts, such as the Police Department for the City, two-thirds of the police force work hours [that are] not consistent with the work hours of Investigators in the Internal Affairs section. Even in a smaller department without such a section, hours conflict if command staff assigned to investigate works a shift different than the employees investigated. Payment of overtime occurs to the employees investigated or those performing the required investigation, or is at least a potential risk to an employer for the time an employee is interrogated pursuant to this section."

The Commission agreed. Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular departmental procedures are new requirements not previously imposed on local agencies and school districts. (SOD, Exhibit B at pp. 12-13. Emphasis added.)

The use of conjunctive "and" and the plural "requirements" refers to the fact that Commission found that both the costs of conducting the interrogation during on-duty hours and the costs for paying overtime for off-duty time are reimbursable activities of the mandate. This conclusion is supported by the evidence before this Commission at the hearing as stated above.

The fact that that is omitted in the conclusion to the Statement of Decision, which is an abbreviated summary of the text, is not definitive. The interpretation of any writing requires that words be given their plain and ordinary meaning, and the interpretation should give meaning to the circumstances under which it was made and should relate to the whole. In the instant case, the use of "and" in the text and the quote to the supporting evidence clearly indicates that the Commission intended to allow reimbursement for both on-duty and off-duty time.

Thus, the County properly claimed the costs of conducting the interrogation while the officer was on duty and those costs for compensating the officer when the interrogation was performed during off-duty hours.

SCO's Comment

The county believes that the language used by the Commission in the statement of decision paragraphs quoted above support that costs incurred for interrogating officers during their regular on-duty time are reimbursable. We disagree. We believe this position to be an expanded interpretation, given that the issue under analysis in that section of the statement of decision was whether or not the test claim statute imposed the payment of overtime to the investigated employee. It imposes overtime if the officer is on-duty and the timing of the interrogation results in the officer working overtime, or if the officer is interrogated during off-duty time. In addition, the costs incurred for interrogating officers to conduct interrogations were never included in the Interrogations cost component as a reimbursable activity.

The county is relying solely on language in the statement of decision. However, the statement of decision does not define the reimbursable activities. The purpose of the statement of decision [Exhibit E] is stated on page 2 of that document as follows:

Issue: Does the test claim legislation, which established rights and procedures for peace officers subject to investigation or discipline, constitute a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

On November 30, 1999, the Commission adopted its statement of decision that the test claim legislation constitutes a partial reimbursable mandated program within the meaning of Article XIII B, section 6 of the California Constitution, and Government Code section 17514. On June 20, 2000, the draft staff analysis and claimant's parameters and guidelines as modified by Commission staff were issued to interested parties. The draft staff analysis was based on a review of the claimant's proposed parameters and guidelines, the test claim legislation, and the Commission's statement of decision. Subsequently, the reimbursable activities were written into regulation when the Commission adopted the parameters and guidelines for POBOR on July 27, 2000, and corrected them on August 17, 2000 [Exhibit C].

We re-examined the statement of decision and noted that the county is taking the language cited in its response out of context. The language cited by the county is found in the section of the statement of decision titled "Compensation and Timing of an Interrogation." The purpose of this section was to address the test claimant's assertion that Government Code section 3303, subdivision (a), results in the payment of overtime to the investigated employee and, thus, imposes reimbursable state-mandated activities. The county is basing its entire position on one sentence in the original statement of decision that reads "Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts." Based on this one sentence, the county concludes that costs incurred to conduct interrogations during a peace officer's regular on-duty time are reimbursable. This is an enhanced conclusion given the circumstances surrounding the issue addressed by the Commission in that portion of the statement of decision.

When quoting the statement of decision in its response, the county omitted the Commission's language in the beginning of that section where it is noted that the procedures under Government Code section 3303 do *not* apply to any interrogation in the normal course of duty, counseling, instruction, or informal verbal admonition by a supervisor. The Commission even italicized the word "not" to make its point clear. The section begins on page 12 of the statement of decision by stating that:

Government Code section 3303 describes the procedures for the interrogation of a peace officer. The procedures and rights given to peace officers under section 3303 do *not* apply to any interrogation in the normal course of duty, counseling, instruction, or informal verbal admonition by a supervisor. In addition, the requirements do not apply to an investigation concerned solely and directly with alleged criminal activities.

Government Code section 3303, subdivision (a), establishes procedures for the timing and compensation of a peace officer subject to investigation and interrogation by an employer. This section requires that the interrogation be conducted at a reasonable hour, preferably at a time when the peace officer is on duty, or during the "normal waking hours" of the peace officer, unless the seriousness of the investigation requires otherwise. If the interrogation takes place during the off-duty time of the peace officer, the peace officer "shall" be compensated for the off-duty time in accordance with regular department procedures.

The claimant contended that Government Code section 3303, subdivision (a), results in the payment of overtime to the investigated employee, and thus, imposes reimbursable state mandated activities.

Therefore, the Commission had already made a determination that costs incurred for interrogations conducted during a peace officer's normal duty hours were not reimbursable before the evaluation of the test claimant's assertion about overtime costs even began. The county seems to suggest that the Commission somehow contradicted itself and reached a totally different conclusion from the one it had already emphasized in the beginning of its analysis. We believe that the county's conclusion is unsupported and unreasonable.

The county states that “the interpretation of any writing requires that words be given their plain and ordinary meaning, and the interpretation should give meaning to the circumstances under which it was made and should relate to the whole.” We agree. However, we believe that the county is taking some the Commission language out of context without examining the full documentary evidence available for this cost component.

To fully examine the Commission’s intent in relation to the Interrogation activity, we also re-examined Commission’s staff analysis for the proposed parameters and guidelines (Item #10 for its hearing of July 27, 2000) (Tab 6) regarding the Interrogations costs component. This document contains the following language:

Section IV, (C) (1) and (2), Compensating and Timing of an Interrogation, Interrogation Notice

The Commission’s Statement of Decision includes the following reimbursable activity:

“Conducting an interrogation of a peace officer while the office is on duty, or compensating the peace officer for off-duty time in accordance with regular departmental procedures. (Gov. Code, § 3303, subd. (a).)”

This activity was derived from Government Code section 3303, subdivision (a), which establishes the timing and compensation of a peace officer subject to an interrogation. Section 3303, subdivision (a) requires that the interrogation be conducted at a reasonable hour, preferably at a time when the peace officer is on duty, or during the normal waking [sic] hours of the peace officer, unless the seriousness of the investigation requires otherwise. At the test claim phase, *the claimant contended that this section resulted in the payment of overtime to the peace officer employee* [emphasis added]. (See page 12 of the Commission’s statement of decision.)

The staff analysis goes on to state:

Government Code section 3303, subdivision (a), addresses only the compensation and timing of the interrogation. It does not require local agencies to investigate the allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses as implied by the claimant’s proposed language. Certainly, local agencies were performing these investigative activities before POBAR [sic] was enacted.

Based on the foregoing, staff has modified Section IV (C) as follows:

~~“1. Conducting an interrogation of a peace officer while the officer is on duty or compensating~~ When required by the seriousness of investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code section 3303, subd. (a).)

The Commission re-examined this issue in the final staff analysis for Item #13 – Request to Amend Parameters and Guidelines for its hearing held on December 4, 2006 (Tab 7). In that analysis, page 22, it states:

The County of San Bernardino, the City of Sacramento, and the City of Los Angeles contend that investigation costs and the cost to conduct the interrogation are reimbursable.

However,...the Commission has already rejected the arguments raised by the County and Cities for reimbursement of investigation costs and the cost to conduct interrogations.

The county is attempting to expand the Commission’s staff analysis of the Interrogations cost component to include activities that were not included in the adopted parameters and guidelines. The adopted parameters and guidelines (section IV(C), Interrogation) state that “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 any other

routine or unplanned contact with, a supervisor or any other public safety officer.” The document goes on to specify five activities that are reimbursable.

Section IV(C)(1) describes only one reimbursable activity that relates to interrogations. It states “when required by seriousness of investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.”

To state that interrogations conducted during an officer’s regular on-duty time are reimbursable is contrary to the wording that appears in the statement of decision, the staff analysis for the proposed parameters and guidelines, and in the adopted parameters and guidelines. Therefore, the preponderance of evidence on this issue does not support the County’s contention.

V. THE COUNTY OVERSTATED COSTS RELATED TO ADVERSE COMMENTS

Issue

The county’s IRC contests Finding 1 in the SCO’s final audit report issued May 14, 2008, related to the Adverse Comment cost component. The SCO concluded that the county claimed ineligible salaries and benefits totaling \$70,259 (\$43,291 by the Sheriff’s Department, \$26,108 by the Probation Department, and \$860 by the District Attorney’s Office) because costs claimed were for ineligible activities (**Tab 4**). Related unallowable indirect costs totaled \$34,185. The county believes that the claiming of these costs was proper.

SCO’s Analysis

Depending on the circumstances surrounding an adverse comment, the parameters and guidelines (section IV(D), Adverse Comment) allow some or all of the following four activities upon receipt of an Adverse Comment:

- Providing notice of adverse comment;
- Providing an opportunity to review and sign the adverse comment;
- Providing an opportunity to respond to the adverse comment within 30 days; and
- Noting on the document the peace officer’s refusal to sign the adverse comment and obtaining the signature or initials of the peace officer under such circumstances.

The parameters and guidelines also state:

Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.

The county claimed the following ineligible activities:

Sheriff’s Department

- Reviewing the circumstances of the complaint to determine the level of investigation prior to starting the case investigation process (to determine whether the case will be investigated at the Internal Affairs or division level)
- Documenting the complaint/allegation and reviewing it for accuracy during the initial complaint intake prior to starting the investigation

- Summarizing the investigation in a case summary report and having Internal Affairs review the summary report to ensure proper procedures were followed
- Preparing interview questions

Probation Department

- Preparing the investigation summary and reviewing it with the supervisor prior to closing the case
- Preparing the final case report

District Attorney's Office

- Preparing the case summary report

County's Response

D AUDIT FINDING NUMBER ONE REGARDING POBOR ADVERSE COMMENTS IS INCORRECT

Audit Finding 1 states that the County over-claimed salaries, benefits, and related indirect costs related to POBOR adverse comments in the amount of \$104,444. The SCO maintains that these costs resulted from claiming activities that are not reimbursable, such as reviewing and documenting the complaint, summarizing the complaint, and reviewing the procedures for compliance. And yet these activities were expressly allowed by the Parameters and Guidelines.

Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.

According to the plain language of the Parameters and Guidelines, these activities are reimbursable and were properly claimed by the County.

SCO's Comment

The county believes that activities such as "reviewing and documenting the complaint, summarizing the complaint, and reviewing the procedures for compliance" are expressly allowed by parameters and guidelines. In its response, the county ignores that the unallowable activities relate to investigation activities by omitting that part of the activity description. The county believes that the language used by the Commission in the paragraphs quoted above support that these costs in question are reimbursable. We disagree.

The county's position is an expanded interpretation of the language in the parameters and guidelines that is taken out of context. The costs for reviewing and documenting a complaint to determine its accuracy and the level of investigation required, summarizing the results of an investigation to ensure that proper procedures were followed, or preparing the final case report were never included in the Adverse Comment cost component as reimbursable activities.

The parameters and guidelines state that "review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel" is an allowable activity for this component. As noted in the audit report, the county's activity of reviewing documentation leading to the adverse comment/findings by command staff was eligible for reimbursement. However, other activities relating to reviewing and documenting the complaint for

accuracy and to start an investigation, summarizing investigation results, preparing the final case report, and others noted in the audit report are not reimbursable under the mandated program.

VI. THE COUNTY UNDERSTATED COUNTYWIDE AVERAGE ANNUAL PRODUCTIVE HOURS USED TO CALCULATE PRODUCTIVE HOURLY WAGE RATES

Issue

The county's IRC contests Finding 2 in the SCO's final audit report issued May 14, 2008, related to overstated productive hours. The SCO concluded that the county overstated allowable salaries and benefits by a total of \$11,800 (\$2,543 by the Sheriff's Department, \$7,762 by the Probation Department, and \$1,495 by the District Attorney's Office (**Tab 4**)). Related unallowable indirect costs totaled \$6,952. This overstatement occurred because the county understated annual productive hours in its calculation of productive hourly rates in each fiscal year. The county believes that the computation of productive hourly rates was proper.

SCO's Analysis

The county incorrectly calculated countywide average annual productive hours because it deducted hours applicable to authorized employee break time, required training, and classification-specific training.

The county deducted hours applicable to break time based on authorized break time rather than actual break time taken. Furthermore, the county's accounting system did not accurately account for break time taken, did not adjust for employees who worked less than 8-hour days or who worked alternate work schedules, and did not adjust for break time directly charged to program activities.

The county deducted training time based on hours required by employees' bargaining unit agreements and/or continuing education requirements for licensure/certification rather than actual training hours attended. In addition, the deducted training hours benefited specific departments' employee classifications rather than benefiting all departments. Furthermore, the county did not adjust for training time directly charged to program activities.

County's Response

E. AUDIT FINDING NUMBER TWO REGARDING THE COUNTY'S PRODUCTIVE HOURLY RATE IS INCORRECT

Audit Finding 2 states that the County over-claimed salaries, benefits, and related indirect costs in the amount of \$18,752. This finding was based upon the County's computation of its productive hourly rates for employees. The computation was proper and complied with SCO's Claiming Instructions. Therefore, the County requests that this Commission reverse Audit Finding 2 to allow for the recovery of costs incurred for this state-mandated program for the reasons discussed below.

1. The County's Productive Hourly Rate Computation Complies with the SCO-Issued General Claiming Instructions.

The computation of an annual productive hourly rate used by the County removes non-productive time spent on authorized breaks, training, and staff meetings. The resulting total countywide annual productive hours of 1571 is the basis for the annual productive hourly rate used in the County's claim.

In the audit report, the SCO relied upon the Mandated Cost Manual for Local Agencies with regard to the productive hourly rate computation. To support its argument that the County's rate was improper, the SCO cited the following test from the Manual:

A productive hourly rate may be computed for each job title whose labor is directly related to the claimed reimbursable cost. A local agency has the option of using any of the following:

- Actual annual productive hours for each job title,
- The local agency's average annual productive hours, or for simplicity
- An annual average rate of 1,800* hours to compute the productive hourly rate

* 1,800 annual productive hours include:

- Paid Holidays
- Vacation earned
- Informal time off
- Jury duty
- Military leave taken

Relying on this section, the SCO argued that the County's figure of 1571 productive hours was incorrect and that a figure of 1800 hours should have been used. However, the SCO omitted relevant portions of the Manual which indicate that the productive hourly rate can be calculated in three different ways.

A full reading of the Manual indicates that using 1800 hours is not the only approved approach. The manual clearly states that the use of countywide average annual productive hours is also an approved method. The County calculated its average annual productive hours in full compliance with the Manual as issued. The County cannot and should not be penalized for availing itself of an approved, though not often used, option.

To date, the SCO has not been able to cite one reference as to why the County's approach is improper.

2. **The County's Computation Results in a More Accurate and Consistent Productive Hourly Rate.**

The County submits, on average, 25 to 30 S.B. 90 claims annually. As these claims are prepared by numerous County departments and staff members, the process could easily fall victim to inconsistency in approaches, accuracy and documentation with respect to calculating a productive hourly rate for each claim. Recognizing this threat and wanting to create a more reliable county-wide system, the County embarked on the creation of a verifiable and accurate method of establishing a productive hourly rate through the computation of average productive hours. As a result, the County's methodology improves its S.B. 90 program claiming accuracy, consistency, and documentation. It also facilitates the State audit process because the methodology for the County's annual productive hours calculation is fully documented and supported.

In creating its average annual productive hours, the County carefully ensured that all non-productive time was removed from the total annual hours. In addition to those items suggested by the SCO above, the County removed time spent in training and on breaks. Such revision from the manner suggested by the SCO ensures greater accuracy. The more accurate the computational factors, the more accurate the result. Indeed, in response to the final audit report, the County made further adjustments solidifying the precision of its productive hours computation.

The SCO's main complaint seems to be that the County used authorized break times and required training times rather than actual times spent on these activities. This argument lacks merit.

State law requires that workers be given two fifteen minute break periods per day. Presumably, County employees take these breaks. The presumption that these breaks are taken is no different from the presumption that paid holidays, which are specifically set forth as properly included in the calculation by the SCO, are also taken. Instead of making this presumption, the SCO would have the County employ clock-in, clock-out system for breaks to ensure that the break times do not actually add up to 23 or 32 minutes daily. Such an expenditure of time and costs is unwarranted in light of the statistically invalid difference that may be found between actual break time and the time required break time.

The same argument applies with even greater force to presumption that County employees will undertake the necessary training required for licensure or certification. Such education is more likely to be pursued because of its impact on the employees' licensure or certification and, ultimately, their ability to perform their jobs.

The use of a countywide productive hourly rate is explicitly authorized by the State Controller's claiming instructions. The productive hourly rate used by the County for this claim is fully documented and was accurately calculated by the County Controller's Office. All supporting documents for the calculation for countywide productive hours were provided during the state audit.

Further, as shown in the letter of December 27, 2001 from the County Controller to the State Controller's Office, the State was notified years ago that the County was electing to change its state mandated claiming procedures relating to the calculation productive hourly rate. A true and correct copy of this letter is attached as Exhibit L and is incorporated herein by reference. The County reported that the switch to a countywide methodology for the calculation of average productive hours per position would improve state mandate claiming accuracy, consistency, documentation and facilitate the State audit function. Consequently, more than 50 claims were submitted and accepted during 2002 and 2003 using this methodology. Furthermore, the State Controller has accepted the County's use of countywide productive hours for state mandated claims as evidenced by an e-mail from Jim Spano dated February 6, 2004, a true and correct copy of which is attached hereto as Exhibit M and is incorporated herein by reference.

SCO's Comment

1. The County's Productive Hourly Rate Computation Complies with the SCO-Issued General Claiming Instructions.

The county states that our final audit report failed to acknowledge the alternative methodologies available to calculate productive hourly wage rates. In the conclusion to its IRC, the county also states that it is being "forced to utilize the standard 1,800 hours." The SCO's mandated cost manual does allow the county to calculate productive hourly wage rates using countywide average annual productive hours. We did not adjust the county's annual productive hours to 1,800 hours; therefore, the county's comments about being "forced to utilize" that methodology are incorrect.

The county states that, "The County cannot and should not be penalized for availing itself of an approved, though not often used, option." The county also states, "The County calculated its average annual productive hourly rates in full compliance with the Manual as issued." The county has not been penalized for using an approved methodology. We disagree that the county's calculations fully comply with the claiming instructions and the program's parameters and guidelines. Our audit report explains why the county's calculation is improper.

In addition, the county states that it calculated the productive hourly wage rate using 1,571 productive hours during the audit period. The county's statement is inaccurate. The county calculated productive hourly wage rates using 1,560.65 productive hours for FY 2003-04, 1,545 productive hours for FY 2004-05, and 1,544 productive hours for FY 2005-06. Contrary to the

county's statement, we did not adjust the county's productive hours to 1,800 hours. We determined that 1,696.35 hours for FY 2003-04, 1,682 hours for FY 2004-05, and 1,677 hours for FY 2005-06 were allowable based on county-provided documentation (**Tab 8**).

2. The County's Computation Results in a More Accurate and Consistent Productive Hourly Rate.

The county's response fails to address the primary audit issues. The county presents an argument that "the SCO would have the County employ a clock-in, clock-out system for breaks." Our audit report includes no such suggestion.

The county deducted authorized break time rather than actual break time taken. The county states that employees presumably took authorized breaks and notes that "The presumption that these breaks were taken is no different from the presumption that paid holidays. . . . were also taken." We disagree. Employees do not report any hours worked during paid holidays. Conversely, the fact that employees are *authorized* to take break time is not evidence that employees actually took break time. It is irrelevant whether the county has correctly presumed that all employees take all authorized break time. The county's accounting system did not consistently limit daily hours reported to 7.5 hours worked or otherwise reflect actual break time taken. This does not constitute consistent break time accounting for all county programs (mandated and non-mandated). Furthermore, when calculating the break time deduction for average annual productive hours, the county did not address instances in which employees work less than 8 hours per day and did not address employees who work alternate work schedules. Duplicate reimbursed hours result when employees charge 8 hours daily to program activities, yet the county identifies 0.5 hours daily as nonproductive time in its calculation of countywide average annual productive hours.

Regarding training hours deducted, the county should not deduct training time that benefits specific departments or training common to all departments when calculating the countywide productive hours. The county is indirectly claiming reimbursement for ineligible training time by excluding training hours from the county's annual productive hours calculation. Training specifically related to the mandated program is eligible for reimbursement only if it is specifically identified in the parameters and guidelines as a reimbursable activity. In that case, the mandate-related training should be claimed as a direct cost to the mandated program.

The SCO's claiming instructions do not identify training and authorized break time as deductions from total hours for calculating productive hours. The county cannot infer that the SCO accepted its methodology simply because the county notified the SCO of its methodology on December 27, 2001. In addition, the county states that the SCO accepted claims that the county submitted using this methodology in 2002 and 2003. This statement is inaccurate. We audited other county mandated programs and reported this issue in those audit reports. The additional programs audited are: Open Meetings Act, July 1, 1998 through June 30, 2001, report issued February 26, 2004; Sexually Violent Predators, July 1, 1998 through June 30, 2001, report issued July 30, 2004; Domestic Violence Treatment Services, July 1, 1998, through June 30 2001, report issued February 26, 2004 and revised October 30, 2009; Absentee Ballots, July 1, 2000 through June 30, 2003, report issued June 30, 2005; and Child Abduction and Recovery, July 1, 1999 through June 30, 2002, report issued March 17, 2006.

Furthermore, the county indicated that the SCO accepted the county's methodology in an email from the SCO dated February 6, 2004 (**Exhibit M**). We disagree. While the SCO agreed with the concept of countywide average annual productive hours, the SCO did not concur with the specific methodology presented. The SCO's email states:

The use of countywide productive hours would be acceptable to the State Controller's Office provided all employee classifications are included and productive hours are consistently used for all county programs (mandated and non-mandated).

The SCO's Mandated Cost Manual (claiming instructions), which includes guidelines for preparing mandated cost claims, does not identify the time spent on training and authorized breaks as deductions (excludable components) from total hours when computing productive hours. However, if a county chooses to deduct time for training and authorized breaks in calculating countywide productive hours, its accounting system must separately identify the actual time associated with these two components. The accounting system must also separately identify training time directly charged to program activities. Training time directly charged to program activities may not be deducted when calculating productive hours.

The countywide productive hours used by Santa Clara County were not consistently applied to all mandates for FY 2000-01. Furthermore, countywide productive hours used during the audit period include unallowable deductions for time spent on training and authorized breaks. The county deducted training time based on hours required by employees' bargaining unit agreement and continuing education requirements for licensure/certification rather than actual training hours taken. In addition, the county deducted authorized break time rather than actual break time taken. The county did not adjust for training time and break time directly charged to program activities during the audit period, and therefore, cannot exclude those hours from productive hours

V. THE COUNTY OVERSTATED TRAVEL AND TRAINING COSTS

Issue

The county's IRC contests Finding 5 in the SCO's final audit report issued May 14, 2008, related to travel and training costs. The SCO concluded that the county claimed ineligible travel and training costs of \$1,521 for FY 2004-05 (**Tab 9**). The overstatement occurred because the Probation Department claimed ineligible training-related costs. The county believes that the costs are allowable.

SCO's Analysis

As discussed in Finding 1 under the Administrative Activities cost component, the Probation Department's training hours were adjusted to account only for eligible POBOR-related training. We also adjusted travel expenses associated with attendance at the ineligible portion of the training classes accordingly.

County's Response

F. AUDIT FINDING NUMBER FIVE REGARDING COUNTY'S TRAINING COSTS IS INCORRECT

Audit Finding 5 states that the County over-claimed costs related to POBOR travel and training in the amount of \$1,521. The SCO asserts that these costs were excluded because they related to ineligible training under Finding 1. As noted above, however, the Parameters and Guidelines provided the following regarding allowable training costs:

2. Attendance at specific training for human resources, law enforcement and legal counsel regarding the requirements of the mandate.

The Commission could have been more specific regarding these costs, but it chose to provide an expansive category for training. The SCO cannot use the audit process to place limitations on the program that the Commission did not see fit to include.

SCO's Comment

The county believes that it properly claimed training costs for the Probation Department. The county believes that our methodology to partially adjust the training hours was not proper. As discussed in the SCO comment section for Finding 1, the county already raised this issue and we provided our comments in the final audit report. The parameters and guidelines state that one of the reimbursable activities under the Administrative Activities cost component includes attendance in specific training for human resources, law enforcement, and legal counsel *regarding the requirements of the mandate* [emphasis added]. The county suggests that training in other comprehensive topics not related to requirements of the mandated program should be allowable. We disagree.

The language in the parameters and guidelines states that only training that concerns the requirements of the mandate is reimbursable. Accordingly, training hours for topics unrelated to the requirements of the mandated program are unallowable, consistent with the language in the adopted parameters and guidelines. We noted all of the specific training topics in the final audit report that were deemed unallowable. The county did not provide any additional documentation or information supporting why these topics should be considered allowable training hours under the mandated program.

If the Commission determines that the unallowable salary and benefit training costs cited in Finding 1 are allowable, then the associated travel costs cited in Finding 5 are also allowable. However, if the Commission agrees with our determination that the training costs cited in Finding 1 are unallowable, then the associated costs in Finding 5 should also be unallowable.

VIII. CONCLUSION

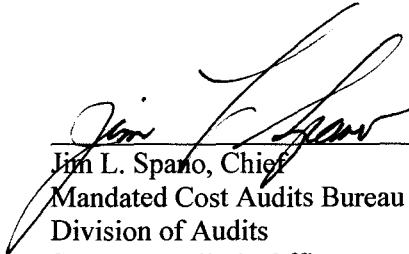
The SCO audited Santa Clara County's claims for costs of the legislatively mandated Peace Officers Procedural Bill of Rights Program (Government Code Sections 3300-3310 Statutes 1976, Chapter 465; Statutes 1978, Chapter 775, 1173, 1174, and 1178; Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994; Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675) for the period of July 1, 2003, through June 30, 2006. The county claimed \$748,888 (\$749,888 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit found that \$222,086 is allowable and \$526,802 is unallowable. The costs are unallowable because the county claimed ineligible costs and overstated productive hourly wage rates.

The Commission should find that: (1) the SCO correctly reduced the county's FY 2003-04 claim by \$118,861; (2) the SCO correctly reduced the county's FY 2004-05 claim by \$158,546; and (3) the SCO correctly reduced the county's FY 2005-06 claim by \$249,395.

IX. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on December 2, 2014, at Sacramento, California, by:



Jim L. Spano, Chief
Mandated Cost Audits Bureau
Division of Audits
State Controller's Office

Tab 3

7. Direct Costs

A direct cost is a cost that can be identified specifically with a particular program or activity. Each claimed reimbursable cost must be supported by documentation as described in Section 12. Costs that are typically classified as direct costs are:

(1) Employee Wages, Salaries, and Fringe Benefits

For each of the mandated activities performed, the claimant must list the names of the employees who worked on the mandate, their job classification, hours worked on the mandate, and rate of pay. The claimant may, in-lieu of reporting actual compensation and fringe benefits, use a productive hourly rate:

(a) Productive Hourly Rate Options

A local agency may use one of the following methods to compute productive hourly rates:

- Actual annual productive hours for each employee
- The weighted-average annual productive hours for each job title, or
- 1,800* annual productive hours for all employees

If actual annual productive hours or weighted-average annual productive hours for each job title is chosen, the claim must include a computation of how these hours were computed.

* 1,800 annual productive hours excludes the following employee time:

- Paid holidays
- Vacation earned
- Sick leave taken
- Informal time off
- Jury duty
- Military leave taken.

(b) Compute a Productive Hourly Rate

1. Compute a productive hourly rate for salaried employees to include actual fringe benefit costs. The methodology for converting a salary to a productive hourly rate is to compute the employee's annual salary and fringe benefits and divide by the annual productive hours.

Table 1 Productive Hourly Rate, Annual Salary + Benefits Method

Formula:	Description:
$[(EAS + Benefits) \div APH] = PHR$	EAS = Employee's Annual Salary
	APH = Annual Productive Hours
$[(\$26,000 + \$8,099) \div 1,800 \text{ hrs}] = 18.94$	PHR = Productive Hourly Rate

- As illustrated in Table 1, if you assume an employee's compensation was \$26,000 and \$8,099 for annual salary and fringe benefits, respectively, using the "Salary + Benefits Method," the productive hourly rate would be \$18.94. To convert a biweekly salary to EAS, multiply the biweekly salary by 26. To convert a monthly salary to EAS, multiply the monthly salary by 12. Use the same methodology to convert other salary periods.

- 2. A claimant may also compute the productive hourly rate by using the "Percent of Salary Method."

Table 2 Productive Hourly Rate, Percent of Salary Method

Example:		
Step 1: Fringe Benefits as a Percent of Salary		Step 2: Productive Hourly Rate
Retirement	15.00 %	Formula:
Social Security & Medicare	7.65	$[(EAS \times (1 + FBR)) + APH] = PHR$
Health & Dental Insurance	5.25	
Workers Compensation	3.25	$[(\$26,000 \times (1.3115)) + 1,800] = \18.94
Total	31.15 %	
Description:		
EAS = Employee's Annual Salary		APH = Annual Productive Hours
FBR = Fringe Benefit Rate		PHR = Productive Hourly Rate

- As illustrated in Table 3, both methods produce the same productive hourly rate.

Reimbursement for personnel services includes, but is not limited to, compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include employer's contributions for social security, pension plans, insurance, workmen's compensation insurance and similar payments. These benefits are eligible for reimbursement as long as they are distributed equitably to all activities. Whether these costs are allowable is based on the following presumptions:

- The amount of compensation is reasonable for the service rendered.
- The compensation paid and benefits received are appropriately authorized by the governing board.
- Amounts charged for personnel services are based on payroll documents that are supported by time and attendance or equivalent records for individual employees.
- The methods used to distribute personnel services should produce an equitable distribution of direct and indirect allowable costs.

For each of the employees included in the claim, the claimant must use reasonable rates and hours in computing the wage cost. If a person of a higher-level job position performs an activity which normally would be performed by a lower-level position, reimbursement for time spent is allowable at the average salary range for the lower-level position. The salary rate of the person at the higher level position may be claimed if it can be shown that it was more cost effective in comparison to the performance by a person at the lower-level position under normal circumstances and conditions. The number of hours charged to an activity should reflect the time expected to complete the activity under normal circumstances and conditions. The numbers of hours in excess of normal expected hours are not reimbursable.

(c) Calculating an Average Productive Hourly Rate

In those instances where the claiming instructions allow a unit as a basis of claiming costs, the direct labor component of the unit cost should be expressed as an average productive hourly rate and can be determined as follows:

Table 4 Calculating an Average Productive Hourly Rate

	<u>Time Spent</u>	<u>Productive Hourly Rate</u>	<u>Total Cost by Employee</u>
Employee A	1.25 hrs	\$6.00	\$7.50
Employee B	0.75 hrs	4.50	3.38
Employee C	3.50 hrs	10.00	35.00
Total	5.50 hrs		\$45.88
Average Productive Hourly Rate is $\$45.88/5.50 \text{ hrs.} = \8.34			

(d) Employer's Fringe Benefits Contribution

A local agency has the option of claiming actual employer's fringe benefit contributions or may compute an average fringe benefit cost for the employee's job classification and claim it as a percentage of direct labor. The same time base should be used for both salary and fringe benefits when computing a percentage. For example, if health and dental insurance payments are made annually, use an annual salary. After the percentage of salary for each fringe benefit is computed, total them.

For example:

<u>Employer's Contribution</u>	<u>% of Salary</u>
Retirement	15.00%
Social Security	7.65%
Health and Dental Insurance	5.25%
Worker's Compensation	0.75%
Total	<u>28.65%</u>

(e) Materials and Supplies

Only actual expenses can be claimed for materials and supplies, which were acquired and consumed specifically for the purpose of a mandated program. The claimant must list the materials and supplies that were used to perform the mandated activity, the number of units consumed, the cost per unit, and the total dollar amount claimed. Materials and supplies purchased to perform a particular mandated activity are expected to be reasonable in quality, quantity and cost. Purchases in excess of reasonable quality, quantity and cost are not reimbursable. Materials and supplies withdrawn from inventory and charged to the mandated activity must be based on a recognized method of pricing, consistently applied. Purchases shall be claimed at the actual price after deducting discounts, rebates and allowances received by local agencies.

Tab 4

Tab 4

Santa Clara County
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Summary of Claimed Costs and Adjustments by Reimbursable Activity and Department
 Salaries and Benefits

Administrative Activities

Fiscal Year	Department	W/P Reference	Claimed Salaries	Allowable Salaries	Audit Adjustments	W/P Reference	Claimed Benefits	Allowable Benefits	Audit Adjustment	Total Claimed	Total Allowable	Audit Adjustment
Sheriff Dept												
FY 2003-04		3D-1 2/7	\$ 7,981	\$ 3,959	\$ (4,022)	3E-1 2/7	\$ 2,602	\$ 1,319	\$ (1,283)	\$ 10,583	\$ 5,278	\$ (5,305)
FY 2004-05		3D-1 4/7	4,786	2,965	(1,821)	3E-1 4/7	1,561	940	(621)	6,347	3,905	(2,442)
FY 2005-06		3D-1 6/7	1,088	617	(471)	3E-1 6/7	569	324	(245)	1,657	941	(716)
	Subtotal		\$ 13,855	\$ 7,541	\$ (6,314)		\$ 4,732	\$ 2,583	\$ (2,149)	\$ 18,587	\$ 10,124	\$ (8,463)
Probation												
FY 2003-04		3D-2 2/8	\$ 1,767	\$ 884	\$ (883)	3E-2 2/8	\$ 612	\$ 306	\$ (306)	\$ 2,379	\$ 1,190	\$ (1,189)
FY 2004-05		3D-2 3/8	64,789	42,675	(22,114)	3E-2 3/8	17,553	11,658	(5,895)	82,342	54,333	(28,009)
FY 2005-06		3D-2 6/8	6,746	1,982	(4,764)	3E-2 6/8	2,117	589	(1,528)	8,863	2,571	(6,292)
	Subtotal		\$ 73,302	\$ 45,541	\$ (27,761)		\$ 20,282	\$ 12,553	\$ (7,729)	\$ 93,584	\$ 58,094	\$ (35,490)
District Attorney												
FY 2003-04		3D-3 2/5	\$ 13,654	\$ 13,654	\$ -	3E-3 2/5	\$ 4,382	\$ 4,382	\$ -	\$ 18,036	\$ 18,036	\$ -
FY 2004-05		3D-3 4/5	74	74	-	3E-3 4/5	22	22	-	96	96	-
FY 2005-06		3D-3 5/5	128	128	-	3E-3 5/5	58	58	-	186	186	-
	Subtotal		\$ 13,856	\$ 13,856	\$ -		\$ 4,462	\$ 4,462	\$ -	\$ 18,318	\$ 18,318	\$ -
	Total		\$ 101,013	\$ 66,938	\$ (34,075)		\$ 29,476	\$ 19,598	\$ (9,878)	\$ 130,489	\$ 86,536	\$ (43,953)

Santa Clara County
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Summary of Claimed Costs and Adjustments by Reimbursable Activity and Department
 Salaries and Benefits

Administrative Appeals

Fiscal Year Department	W/P Reference	Claimed Salaries	Allowable Salaries	Audit Adjustments	W/P Reference	Claimed Benefits	Allowable Benefits	Audit Adjustment	Total Claimed	Total Allowable	Audit Adjustment
Sheriff Dept											
FY 2003-04	3D-1 2/7	\$ 935	\$ -	\$ (935)	3E-1 2/7	\$ 269	\$ -	\$ (269)	\$ 1,204	\$ -	\$ (1,204)
FY 2004-05		-	-	-		-	-	-	-	-	-
FY 2005-06	3D-1 6/7	120	-	(120)	3E-1 6/7	64	-	(64)	184	-	(184)
Subtotal		\$ 1,055	-	\$ (1,055)		\$ 333	\$ -	\$ (333)	\$ 1,388	\$ -	\$ (1,388)
Probation											
FY 2003-04		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY 2004-05	3D-2 3/8	776	-	(776)	3E-2 3/8	209	-	(209)	985	-	(985)
FY 2005-06		-	-	-		-	-	-	-	-	-
Subtotal		\$ 776	-	\$ (776)		\$ 209	\$ -	\$ (209)	\$ 985	-	\$ (985)
Total		\$ 1,831	\$ -	\$ (1,831)		\$ 542	\$ -	\$ (542)	\$ 2,373	\$ -	\$ (2,373)

Santa Clara County
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Summary of Claimed Costs and Adjustments by Reimbursable Activity and Department
 Salaries and Benefits

Interrogations

Fiscal Year	Department	W/P Reference	Claimed Salaries	Allowable Salaries	Audit Adjustments	W/P Reference	Claimed Benefits	Allowable Benefits	Audit Adjustment	Total Claimed	Total Allowable	Audit Adjustment
Sheriff Dept												
FY 2003-04		3D-1 2/7	\$ 19,001	\$ 3,212	\$ (15,789)	3E-1 2/7	\$ 5,702	\$ 938	\$ (4,764)	\$ 24,703	\$ 4,150	\$ (20,553)
FY 2004-05		3D-1 4/7	17,637	1,412	(16,225)	3E-1 4/7	6,474	482	(5,992)	24,111	1,894	(22,217)
FY 2005-06		3D-1 6/7	14,518	2,670	(11,848)	3E-1 6/7	8,174	1,442	(6,732)	22,692	4,112	(18,580)
Subtotal			\$ 51,156	\$ 7,294	\$ (43,862)		\$ 20,350	\$ 2,862	\$ (17,488)	\$ 71,506	\$ 10,156	\$ (61,350)
Probation												
FY 2003-04		3D-2 2/8	\$ 18,435	\$ 3,320	\$ (15,115)	3E-2 2/8	\$ 5,528	\$ 1,016	\$ (4,512)	\$ 23,963	\$ 4,336	\$ (19,627)
FY 2004-05		3D-2 4/8	9,089	1,417	(7,672)	3E-2 4/8	2,692	414	(2,278)	11,781	1,831	(9,950)
FY 2005-06		3D-2 7/8	97,665	20,596	(77,069)	3E-2 7/8	29,178	5,588	(23,590)	126,843	26,184	(100,659)
Subtotal			\$ 125,189	\$ 25,333	\$ (99,856)		\$ 37,398	\$ 7,018	\$ (30,380)	\$ 162,587	\$ 32,351	\$ (130,236)
District Attorney												
FY 2003-04		3D-3 2/5	\$ 9,088	\$ 617	\$ (8,471)	3E-3 2/5	\$ 2,997	\$ 204	\$ (2,793)	\$ 12,085	\$ 821	\$ (11,264)
FY 2004-05		3D-3 4/5	2,174	1,125	(1,049)	3E-3 4/5	732	385	(347)	2,906	1,510	(1,396)
FY 2005-06		3D-3 5/5	2,568	133	(2,435)	3E-3 5/5	1,321	66	(1,255)	3,889	199	(3,690)
Subtotal			\$ 13,830	\$ 1,875	\$ (11,955)		\$ 5,050	\$ 655	\$ (4,395)	\$ 18,880	\$ 2,530	\$ (16,350)
Total			\$ 190,175	\$ 34,502	\$ (155,673)		\$ 62,798	\$ 10,535	\$ (52,263)	\$ 252,973	\$ 45,037	\$ (207,936)

Santa Clara County
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Summary of Claimed Costs and Adjustments by Reimbursable Activity and Department
 Salaries and Benefits

Adverse Comments

Fiscal Year	Department	W/P Reference	Claimed Salaries	Allowable Salaries	Audit Adjustments	W/P Reference	Claimed Benefits	Allowable Benefits	Audit Adjustment	Total Claimed	Total Allowable	Audit Adjustment
Sheriff Dept												
FY 2003-04		3D-1 3/7	\$ 9,102	\$ 2,160	\$ (6,942)	3E-1 3/7	\$ 2,611	\$ 612	\$ (1,999)	\$ 11,713	\$ 2,772	\$ (8,941)
FY 2004-05		3D-1 5/7	12,043	719	(11,324)	3E-1 5/7	3,966	240	(3,726)	16,009	959	(15,050)
FY 2005-06		3D-1 7/7	17,378	4,992	(12,386)	3E-1 7/7	9,580	2,666	(6,914)	26,958	7,658	(19,300)
	Subtotal		\$ 38,523	\$ 7,871	\$ (30,652)		\$ 16,157	\$ 3,518	\$ (12,639)	\$ 54,680	\$ 11,389	\$ (43,291)
Probation												
FY 2003-04		3D-2 2/8	\$ 10,380	\$ 1,092	\$ (9,288)	3E-2 2/8	\$ 2,847	\$ 307	\$ (2,540)	\$ 13,227	\$ 1,399	\$ (11,828)
FY 2004-05		3D-2 5/8	13,723	3,328	(10,395)	3E-2 5/8	4,067	906	(3,161)	17,790	4,234	(13,556)
FY 2005-06		3D-2 8/8	584	-	(584)	3E-2 8/8	140	-	(140)	724	-	(724)
	Subtotal		\$ 24,687	\$ 4,420	\$ (20,267)		\$ 7,054	\$ 1,213	\$ (5,841)	\$ 31,741	\$ 5,633	\$ (26,108)
District Attorney												
FY 2003-04		3D-3 3/5	\$ 853	\$ 195	\$ (658)	3E-3 3/5	\$ 266	\$ 64	\$ (202)	\$ 1,119	\$ 259	\$ (860)
FY 2004-05			-	-	-		-	-	-	-	-	-
FY 2005-06			-	-	-		-	-	-	-	-	-
	Subtotal		\$ 853	\$ 195	\$ (658)		\$ 266	\$ 64	\$ (202)	\$ 1,119	\$ 259	\$ (860)
	Total		\$ 64,063	\$ 12,486	\$ (51,577)		\$ 23,477	\$ 4,795	\$ (18,682)	\$ 87,540	\$ 17,281	\$ (70,259)

Santa Clara County
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Summary of Claimed Costs and Adjustments, Productive Hourly Rate Issue
 Salaries and Benefits

Productive Hourly Rates

Fiscal Year	W/P Reference	PHR Salaries Adjustments	N/P Reference	PHR Benefits Adjustments	PHR Total Adjustments
Sheriff Dept					
FY 2003-04	3D-1 3/7	\$ (742)	3E-1 3/7	\$ (238)	\$ (980)
FY 2004-05	3D-1 5/7	(418)	3E-1 5/7	(136)	(554)
FY 2005-06	3D-1 7/7	(658)	3E-1 7/7	(351)	(1,009)
Subtotal		\$ (1,818)		\$ (725)	\$ (2,543)
Probation					
FY 2003-04	3D-2 2/8	\$ (415)	3E-2 2/8	\$ (127)	\$ (542)
FY 2004-05	3D-2 5/8	(3,860)	3E-2 5/8	(1,060)	(4,920)
FY 2005-06	3D-2 8/8	(1,805)	3E-2 8/8	(495)	(2,300)
Subtotal		\$ (6,080)		\$ (1,682)	\$ (7,762)
District Attorney					
FY 2003-04	3D-3 3/5	\$ (1,046)	3E-3 3/5	\$ (342)	\$ (1,388)
FY 2004-05	3D-3 4/5	(97)	3E-3 4/5	(33)	(130)
FY 2005-06	3D-3 5/5	16	3E-3 5/5	7	23
Subtotal		\$ (1,127)		\$ (368)	\$ (1,495)
Total		\$ (9,025)		\$ (2,775)	\$ (11,800)

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights
 Summary of Salary Adjustments
 Fiscal Years 2003-04 Through 2005-06
Audit ID # S07-MCC-0033

Purpose: To calculate allowable salaries based on adjustments noted to claimed hours and Productive Hourly Rates.

Source: 2A-2; 3D-1a; 3D-1b; 3D-1c

Cost Components	Salaries Claimed	Allowed Salaries	Adjustment 1 Overstated Hours	Adjustment 2 Overstated PHR
FY 2003-04				
Admin. Activities	3D-1 ^{2/7} 7,981	\$ 3,642	\$ (4,022)	(317)
Admin. Appeal	935	-	(935)	-
Interrogation	19,001	2,957	(15,789)	(255)
Adverse Comment	3D-1 ^{3/7} 9,102	1,990	(6,942)	(170)
Subtotal	\$ 37,019	\$ 8,589	\$ (27,688)	\$ (742)
FY 2004-05				
Admin. Activities	3D-1 ^{4/7} 4,786	\$ 2,723	\$ (1,821)	(242)
Admin. Appeal	-	-	-	-
Interrogation	17,637	1,297	(16,225)	(115)
Adverse Comment	3D-1 ^{5/7} 12,043	658	(11,324)	(61)
Subtotal	\$ 34,466	\$ 4,678	\$ (29,370)	\$ (418)
FY 2005-06				
Admin. Activities	3D-1 ^{6/7} 1,088	568	\$ (471)	(49)
Admin. Appeal	120	-	(120)	-
Interrogation	14,518	2,458	(11,848)	(212)
Adverse Comment	3D-1 ^{7/7} 17,378	4,595	(12,386)	(397)
Subtotal	\$ 33,104	\$ 7,621	\$ (24,825)	\$ (658)
Total	\$ 104,589	\$ 20,888	\$ (81,883)	Adjustment 1
Adjustment 2			(1,818)	Adjustment 2
			\$ (83,701)	

n feet

3G-1^{2/2}
 3D^{12/12}; 3D^{5/12}; 1D-1^{1/4}

IG/16

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

Sheriff Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR - related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2003-04

Admin. Activities				
		2A-2a ^{3/13} -1		
Sgt. Staats	\$ 54.98	24		\$ 1,319.62
Sgt. L. St.Denis	51.15	7.25		370.84
Sgt. R. Schiller	64.91	5		324.55
Sgt. D. Matuzek	54.98	48.4		2,661.13
Sgt. C. Watson	54.98	8.5		467.43
Sgt. K. Burgess	54.98	51.6		2,836.97
Subtotal		144.75		\$ 7,981
Admin. Appeal				
		2A-2a ^{6/13} -1		
Sgt. K Burgess	\$ 54.98	17		\$ 934.66
Subtotal		17		\$ 935
Interrogation				
		2A-2a ^{7/13} -1		
Sgt. Tait	\$ 54.98	0.5		\$ 27.49
Sgt. Stevens	54.98	0.42		23.09
Sgt. Staats	54.98	3		164.94
Sgt. Lewis	52.35	0.33		17.28
Deputy Dona	49.66	0.5		24.83
Sgt. Broaumeland	46.36	0.92		42.65
Sgt. Atlas	54.98	0.33		18.14
Sgt. L. St. Denis	51.15	96.25		4,923.19
Sgt. R. Schiller	64.91	18		1,168.38
Sgt. D. Matuzek	54.98	95.71		5,262.14
Sgt. C. Watson	54.98	92.5		5,085.65
Sgt. K Burgess	54.98	26.65		1,465.22
Deputy Sheriff	40.05	19.42		777.77
Subtotal		354.53		\$ 19,001

3D-1b ^{1/3} 3D-1a ^{2/12}					
50.59	24.00	1,319.62	1,214.16	-	(105.56)
-	-	-	-	(370.84)	-
-	-	-	-	(324.55)	-
-	-	-	-	(2,661.13)	-
-	-	-	-	(467.43)	-
50.59	48.00	2,639.04	2,428.32	(198)	(211)
	72.00	\$ 3,959	\$ 3,642	\$ (4,022)	\$ (317)
3D-1a ^{3/12}					
-	-	-	-	(934.66)	-
-	-	-	-	(935)	-
3D-1a ^{5/12}					
-	-	-	-	(27.49)	-
-	-	-	-	(23.09)	-
50.59	1.00	54.98	51	(109.96)	(3.98)
-	-	-	-	(17.28)	-
-	-	-	-	(24.83)	-
49.41	0.17	7.88	8.40	(34.77)	0.52
-	-	-	-	(18.14)	-
47.06	20.00	1,023.00	941.20	(3,900.19)	(81.80)
59.72	3.75	243.41	223.95	(924.97)	(19.46)
50.59	15.75	865.94	797	(4,396.20)	(68.93)
50.59	11.00	604.78	556	(4,481)	(48.29)
50.59	7.50	412.35	379.43	(1,052.87)	(32.93)
-	-	-	-	(777.77)	-
59.17	\$ 3,212	\$ 2,957	\$ (15,789)	\$ (255)	

3E-12/7 3D-11/7

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

Sheriff Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2003-04

Adverse Comment

2A-2a 10/13

Sgt. Tait	\$ 54.98	0.5	\$ 27.49
Sgt. Stevens	54.98	0.17	9.35
Sgt. Staats	54.98	1.08	59.38
Sgt. Dona	49.66	0.25	12.42
Sgt. Broaumeland	46.36	0.75	34.77
Sgt. Atlas	54.98	0.17	9.35
Sgt. Babcock	53.71	0.17	9.13
Sgt. Dutra	54.98	0.25	13.75
Sgt. Langley	54.98	0.25	13.75
Sgt. Peterson	54.98	0.25	13.75
Sgt. Denis	51.15	62	3,171.30
Sgt. R. Schiller	64.91	7	454.37
Sgt. D Matuzek	54.98	25.58	1,406.39
Sgt. C Watson	54.98	55.83	3,069.53
Sgt. K Burgess	54.98	14.5	797.21

3D-16/13 *3D-1a 7/18*

				(27.49)	-			
50.59	0.17	9.35	8.60	-	(0.75)			
50.59	0.25	13.75	12.65	(45.63)	(1.10)			
45.69	0.25	12.42	11.42	-	(0.99)			
49.41	0.42	19.47	20.75	(15.30)	1.28			
50.59	0.17	9.35	8.60	-	(0.75)			
				(9.13)	-			
50.59	0.25	13.75	12.65	-	(1.10)			
50.59	0.25	13.75	12.65	-	(1.10)			
50.59	0.17	9.35	8.60	(4.40)	(0.75)			
47.06	18.00	920.70	847.08	(2,250.60)	(73.62)			
59.72	2.00	129.82	119.44	(324.55)	(10.38)			
50.59	5.84	321.08	295.45	(1,085.31)	(25.64)			
50.59	10.00	549.80	505.90	(2,519.73)	(43.90)			
50.59	2.50	137.45	126.48	(659.76)	(10.98)			
Subtotal		40.27	\$ 2,160	\$ 1,990	\$ (6,942)	\$ (170)		
Total		685.03	\$ 37,019	171.44	\$ 9,331	\$ 8,589	\$ (27,688)	\$ (742)

3E-13/7 *3D-1/7*

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Sheriff Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2004-05

Admin. Activities

2A-26 3/14

Training	Lt. Burgess	\$ 66.15	24.00	\$ 1,587.60
	Sgt. Matuzek	57.39	30.00	1,721.70
Other	Lt. Burgess	66.15	8.00	529.20
	Sgt. Matuzek	57.39	6.50	373.04
	Sgt. Staats	57.40	10.00	574.00
Subtotal			<u>78.50</u>	<u>\$ 4,786</u>

3D-16 2/3 3D-1a 8/18

60.76	24.00	1,587.60	1,458.24	-	(129.36)
52.71	24.00	1,377.36	1,265.04	(344.34)	(112.32)
-	-	-	-	-	-
-	-	-	-	(529.20)	-
-	-	-	-	(373.04)	-
-	-	-	-	(574.00)	-
<u>48.00</u>	<u>\$ 2,965</u>	<u>\$ 2,723</u>	<u>\$ (1,821)</u>	<u>\$ (242)</u>	

Interrogation

2A-26 7/14

Lt. Burgess	\$ 66.15	86.17	\$ 5,700.15
Sgt. Dona	57.01	0.50	28.51
Deputy Holloway	48.93	0.99	48.44
Sgt. Matuzek	57.39	47.07	2,701.35
Sgt. Mitre	56.85	0.50	28.43
Sgt. Staats	57.40	124.15	7,126.21
Deputy Sheriff	42.09	47.24	1,988.33
Sergeant	48.71	0.33	16.07
Subtotal		<u>306.95</u>	<u>\$ 17,637</u>

3D-1a 10/18

60.76	8.50	562.28	516.46	(5,137.87)	(46.00)
-	-	-	-	(28.51)	-
44.94	0.17	8.32	7.64	(40.12)	(0.68)
52.71	5.875	334,583.73	302,302.35	(2,366.76)	(27.28)
-	-	-	-	(28.43)	-
52.74	8.834	506,845.94	465,694.22	(6,619.37)	(41.38)
-	-	-	-	(1,988.33)	-
-	-	-	-	(16.07)	-
<u>23.33</u>	<u>\$ 1,412</u>	<u>\$ 1,297</u>	<u>\$ (16,228)</u>	<u>\$ (115)</u>	

3D-1 1/7
3E-1 4/7

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Sheriff Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)*(c)	(i)=(g)-(f)

FY 2004-05

Adverse Comment

Adverse Comment	PHR Claimed	Hours Claimed	Amount Claimed	Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
Sgt. Atlas	\$ 61.80	0.50	\$ 30.90	56.77	0.25	15.45	14.19	(15.45)	(1.26)
Lt. Burgess	66.15	75.33	4,983.08	60.76	4.17	275.85	253.37	(4,707.23)	(22.48)
Lt. Calderone	70.19	1.50	105.29	64.48	0.75	52.64	48.36	(52.64)	(4.28)
Sgt. Carrasco	58.67	0.33	19.36	-	-	-	-	(19.36)	-
Sgt. Dona	57.01	0.25	14.25	52.37	0.25	14.25	13.09	-	(1.16)
Deputy Holloway	48.93	0.33	16.15	-	-	-	-	(16.15)	-
Sgt. Hooper	60.48	0.50	30.24	55.55	0.25	15.12	13.89	(15.12)	(1.23)
Sgt. Imas	57.39	2.00	114.78	52.71	0.33	18.94	17.39	(95.84)	(1.54)
Lt. Keith	67.75	1.00	67.75	62.23	0.50	33.88	31.12	(33.88)	(2.76)
Lt. Lemmon	57.37	0.50	28.69	52.70	0.25	14.34	13.18	(14.34)	(1.17)
Sgt. Mathison	57.45	0.66	37.92	52.77	0.33	18.96	17.41	(18.96)	(1.54)
Sgt. Matuzek	57.39	80.81	4,637.69	52.71	1.42	81.49	74.85	(4,556.19)	(6.65)
Sgt. McIntosh	57.11	0.66	37.69	52.46	0.33	18.85	17.31	(18.85)	(1.53)
Sgt. Mitre	56.85	0.50	28.43	52.22	0.25	14.21	13.06	(14.21)	(1.16)
Sgt. Peterson	59.60	0.25	14.90	-	-	-	-	(14.90)	-
Lt. Pugh	67.75	1.83	123.98	62.23	0.33	22.36	20.54	(101.63)	(1.82)
Sgt. Rodriguez	47.22	0.50	23.61	43.38	0.25	11.81	10.85	(11.81)	(0.96)
Sgt. Scott	57.66	0.50	28.83	41.94	0.25	14.42	10.49	(14.42)	(3.93)
Sgt. Staats	57.40	28.91	1,659.43	52.74	1.33	76.34	70.14	(1,583.09)	(6.20)
Sgt. Waldher	61.27	0.66	40.44	56.28	0.33	20.22	18.57	(20.22)	(1.65)
Subtotal		197.52	\$ 12,043		11.57	\$ 719	\$ 658	\$ (11,324)	\$ (61)

Total

582.97 \$ 34,466 82.90 \$ 5,096 \$ 4,678 \$ (29,370) \$ (418)

2A-26 11/14
 3D-16 2/3 3D-1a 12/18
 3E-15/7 3D-11/7

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Sheriff Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2005-06

Admin. Activities				
Lt. Burgess	\$	70.75	4.5	\$ 318.38
Sgt. Matuzek		59.93	12.33	738.94
Sgt. Peterson		62.18	0.5	31.09
Subtotal			17.33	\$ 1,088

65.14	2.50	176.88	162.85	(141.50)	(14.03)
55.17	6.83	409.32	376.81	(329.62)	(32.51)
57.25	0.50	31.09	28.63	-	(2.47)
9.83	\$ 617	\$ 568	\$ (471)	\$ (49)	

Interrogation				
Lt. Burgess	\$	70.75	9.5	\$ 672.13
Sgt. Imas		59.93	1	59.93
Sgt. Langley		59.93	16.5	988.85
Sgt. Matuzek		59.93	101.42	6,078.10
Sgt. Peterson		62.18	0.5	31.09
Lt. Pugh		72.90	1	72.90
Depty Sheriff/Witne:		44.24	142.72	6,313.93
Sergeant/Witness &		51.21	5.08	260.15
Lieutenant/Witness &		60.52	0.67	40.55
Subtotal			278.39	\$ 14,518

65.14	2.00	141.50	130.28	(530.63)	(11.22)
55.17	3.75	224.74	206.89	(764.11)	(17.85)
55.17	37.92	2,272.55	2,092.05	(3,805.56)	(180.50)
57.25	0.50	31.09	28.63	-	(2.47)
-	-	-	-	(72.90)	-
-	-	-	-	(6,313.93)	-
-	-	-	-	(260.15)	-
-	-	-	-	(40.55)	-
44.17	\$ 2,670	\$ 2,458	\$ (11,848)	\$ (212)	

Admin. Appeal				
Sgt. Matuzek	\$	59.93	2	\$ 119.86
Subtotal			2	\$ 120

-	-	-	-	(119.86)	-
-	\$ -	\$ -	\$ -	(120)	\$ -

3E-1 6/7 3D-1 1/7

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Sheriff Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2005-06

Adverse Comment	PHR	Hours	Amount	Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
	(a)	(b)	(c)=(a)*(b)	(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)
Lt. Burgess	\$ 70.75	39.75	\$ 2,812.31	65.14	4.50	318.38	293.13	(2,493.94)	(25.25)
Sgt. Langley	59.93	120.25	7,206.58	55.17	9.17	549.56	505.91	(6,657.02)	(43.65)
Sgt. Matuzek	59.93	72.42	4,340.13	55.17	16.50	988.85	910.31	(3,351.29)	(78.54)
Sgt. Peterson	62.18	5	310.90	57.25	1.50	93.27	85.88	(217.63)	(7.40)
Findings									
Captain Angus	86.23	1	86.23	79.39	2.50	215.58	198.48	129.35	(17.10)
Lt. Burgess	70.75	19.25	1,361.94	65.14	15.25	1,078.94	993.39	(283.00)	(85.55)
Commander Bacon	105.58	2.75	290.35	97.21	3.58	377.98	348.01	87.63	(29.96)
Sgt. Dutra	60.08	1	60.08	55.31	2.50	150.20	138.28	90.12	(11.93)
Lt. Geary	63.57	0.5	31.79	58.53	0.50	31.79	29.27	-	(2.52)
Captain Hirokawa	91.40	1	91.40	84.15	1.00	91.40	84.15	-	(7.25)
Sgt. Langley	59.93	4.08	244.51	55.17	4.75	284.67	262.06	40.15	(22.61)
Captain Laverone	78.36	0.5	39.18	72.14	0.50	39.18	36.07	-	(3.11)
Sgt. Matuzek	59.93	4.33	259.50	55.17	5.33	319.43	294.06	59.93	(25.37)
Captain Perusina	104.60	0.58	60.67	96.31	0.58	60.67	55.86	-	(4.81)
Captain Rode	80.86	1	80.86	74.45	2.50	202.15	186.13	121.29	(16.03)
Lt. Schiller	73.35	0.58	42.54	67.53	0.58	42.54	39.17	-	(3.38)
Sgt. Spagnola	58.83	1	58.83	53.89	2.50	147.08	134.73	88.25	(12.35)
Subtotal		37.57	\$ 17,378		73.74	\$ 4,992	\$ 4,595	\$ (12,386)	\$ (397)
Total		335.29	\$ 33,104		127.74	\$ 8,279	\$ 7,621	\$ (24,825)	\$ (658)

3E-17/7 3D-11/7

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Summary of Claimed / Allowable Hours
 FY's 2003-04 through 2005-06
Audit ID # S07-MCC-0033

Purpose: To review Case Time Logs for all the years under the audit period in order to identify POBAR-related hours eligible for reimbursement as per criteria outlined in the *Parameters and Guidelines* for the POBAR program. To document allowed hours and audit adjustments as per auditors' review of case logs and sample cases.

Source: Case Time Logs, Sheriff Department's Internal Affairs Division, FY's 2003-04 through 2005-06
 Discussions with Commander Zink at the Sheriff Department's investigations unit

Analysis: The auditors reviewed all case logs for three fiscal years under the audit period and identified eligible hours.

Fiscal Year	Claim Component	Claimed Hours	Allowed Hours	Audit Adjustments
2003-04	Admin. Activities <u>3D-1a 2/18</u>	144.75	72.00	(72.75)
	Admin. Appeals <u>3D-1a 3/18</u>	17.00	-	(17.00)
	Interrogations <u>3D-1a 5/18</u>	354.53	59.17	(295.36)
	Adverse Comments <u>3D-1a 7/18</u>	168.75	40.27	(128.48)
	Total	<u>685.03</u>	<u>171.44</u>	<u>(513.59)</u>
2004-05	Admin. Activities <u>3D-1a 8/18</u>	78.50	48.00	(30.50)
	Interrogations <u>3D-1a 10/18</u>	306.95	23.33	(283.62)
	Adverse Comments <u>3D-1a 12/18</u>	197.52	11.57	(185.95)
	Total	<u>582.97</u>	<u>82.90</u>	<u>(500.07)</u>
2005-06	Admin. Activities <u>3D-1a 13/18</u>	17.33	9.83	(7.50)
	Admin. Appeals <u>3D-1a 14/18</u>	2.00	-	(2.00)
	Interrogations <u>3D-1a 16/18</u>	278.39	44.17	(234.22)
	Adverse Comments <u>3D-1a 18/18</u>	274.99	73.74	(201.25)
	Total	<u>572.71</u>	<u>127.74</u>	<u>(444.97)</u>
Grand Total		<u>1,840.71</u>	<u>382.08</u>	<u>(1,458.63)</u>

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
 Administrative Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-2a</u>	<input checked="" type="checkbox"/>	
IA 04-04	Sgt. Burgess	3.00	-	(3.00)
IA 04-001	Sgt. Matuzek	0.50	-	(0.50)
IA 04-002	Sgt. Watson	1.00	-	(1.00)
IA 04-03	Sgt. Matuzek	4.00	-	(4.00)
IA 04-05	Sgt. Matuzek	3.80	-	(3.80)
IA 04-06	Sgt. Matuzek	2.60	-	(2.60)
IA 04-08	Sgt. Burgess	0.60	-	(0.60)
IA 04-10	Sgt. Matuzek	5.00	-	(5.00)
IA 03-14	Sgt. Watson	3.50	-	(3.50)
IA 04-15	Sgt. Matuzek	2.50	-	(2.50)
IA 03-15	Sgt. Watson	1.50	-	(1.50)
IA 03-16	Sgt. Watson	2.50	-	(2.50)
IA 03-17	Sgt. Schiller	5.00	-	(5.00)
IA 03-12	Sgt. Denis	2.50	-	(2.50)
IA 03-19	Sgt. Denis	4.75	-	(4.75)
IA 04-28	Sgt. Matuzek	-	-	-
Training	Sgt. Burgess	48.00	48.00	-
Training	Sgt. Staats	24.00	24.00	-
Training	Sgt. Matuzek	30.00	-	(30.00)
Duplicate Hours, also claimed in FY 04-05				
Total		<u>144.75</u>	<u>72.00</u>	<u>(72.75)</u>

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2a</u>	<input checked="" type="checkbox"/>	
Sgt. Staats	24.00	24.00	-
Sgt. Denis	7.25	-	(7.25)
Sgt. Schiller	5.00	-	(5.00)
Sgt. Watson	8.50	-	(8.50)
Sgt. Burgess	51.60	48.00	(3.60)
Sgt. Matuzek	48.40	-	(48.40)
Total	<u>144.75</u>	<u>72.00</u>	<u>(72.75)</u>

Source:
 see w/P 30-1a/18
 N Ineligible activity
 E Eligible activity

Claimed Hours included the following activities:

- 30-1c {
- N * File Preparation
 - N * Logging case info into the system and assignment of the case
 - N * Interview Complainant
 - E * Training for IA staff regarding investigations and POBAR related materials
 (the auditors discussed the nature of training with Commander Zink at the Sheriff's department)

30-1a/18
 30-1 2/7

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Administrative Appeal
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-2G</u>	<u>✓</u>	
IA 04-04	Sgt. Burgess	17.00	-	(17.00)
Total		<u>17.00</u>	<u>-</u>	<u>(17.00)</u>

3D-1a 1/18 ; 3D-12/7

The review of the case 04-04 showed that no appeal was held for the disciplinary outcome of letter of reprimand.

✓ Source: See W/P 3D-1a 1/18

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Interrogation Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed			Total Allowed
		Prov. Interog. Notice / Statement of Allegations	Tape review / transcription for accused officers	Provide copies / tapes in case of further action	
DL 04-001	Sgt. Watson	-	-	-	-
DL 04-010	Sgt. Watson	-	-	-	-
DL 04-011	Sgt. Watson	-	-	-	-
DL 04-005	Sgt. Tait	-	-	-	-
DL 04-007	Sgt. Watson	-	-	-	-
DL 04-009	Sgt. Watson	-	-	-	-
DL-04-014	Sgt. Watson	-	-	-	-
DL 04-016	Sgt. Watson	-	-	-	-
DL 04-017	Sgt. Watson	-	-	-	-
DL 04-018	Sgt. Watson	-	-	-	-
DL 04-019	Lt. Burgess	-	-	-	-
DL 04-020	Sgt. Matuzek	0.33	0.33	-	0.67
DL 04-021	Sgt. Stevens	-	-	-	-
DL 04-022	Sgt. Matuzek	-	-	-	-
DL 04-023	Sgt. Matuzek	-	-	-	-
DL 04-024	Sgt. Atlas	-	-	-	-
DL 04-025	Sgt. Broaumelan	0.17	-	-	0.17
DL 04-026	Sgt. Matuzek	-	-	-	-
DL 04-027	Sgt. Matuzek	-	-	-	-
DL 04-028	Sgt. Matuzek	-	-	-	-
DL 04-029	Sgt. Dona	-	-	-	-
DL 04-031	Sgt. Staats	1.00	-	-	1.00
DL 04-032	Sgt. Matuzek	-	-	-	-
DL 04-033	Sgt. Matuzek	-	-	-	-
DL 04-034	Sgt. Matuzek	-	-	-	-
IA 04-04	Sgt. Burgess	-	4.00	-	4.00
IA 04-01	Sgt. Matuzek	0.83	1.00	1.50	3.33
IA 04-02	Sgt. Watson	1.00	2.00	-	3.00
IA 04-03	Sgt. Matuzek	0.67	1.50	-	2.17
IA 04-05	Sgt. Matuzek	0.75	1.00	-	1.75
IA 04-06	Sgt. Matuzek	0.67	1.50	1.33	3.50
IA 04-08	Sgt. Burgess	0.50	3.00	-	3.50
IA 04-10	Sgt. Matuzek	0.67	2.00	-	2.67
IA 03-14	Sgt. Watson	2.00	1.00	-	3.00
IA 04-15	Sgt. Matuzek	1.00	0.67	-	1.67
IA 03-15	Sgt. Watson	2.00	-	-	2.00
IA 03-16	Sgt. Watson	2.00	1.00	-	3.00
IA 03-17	Sgt. Schiller	1.00	2.00	0.75	3.75
IA 03-12	St. Denis	3.00	4.00	-	7.00
IA 03-19	St. Denis	3.00	5.00	5.00	13.00

Total

59.17

3D-1a 5/18

next page →

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Interrogation Activities
 Audit ID # S07-MCC-0033

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2a</u>	✓	
Sgt. Tait	0.50	-	(0.50)
Sgt. Stevens	0.42	-	(0.42)
Sgt. Staats	3.00	1.00	(2.00)
Sgt. Lewis	0.33	-	(0.33)
Deputy Donna	0.50	-	(0.50)
Sgt. Broumeland	0.92	0.17	(0.75)
Sgt. Atlas	0.33	-	(0.33)
Sgt. Denis	96.25	20.00	(76.25)
Sgt. Schiller	18.00	3.75	(14.25)
Sgt. Matuzek	95.71	15.75	(79.96)
Sgt. Watson	92.50	11.00	(81.50)
Sgt. Burgess	26.65	7.50	(19.15)
Deputies	19.42	-	(19.42)
Total	354.53	59.17	(295.36)

3D-1a 4/18

3D-1a 1/18 ; 3D-1 2/7

- 3D-1c {
- N * Gather Reports, Review Complaint, Reports & Evidence
 - E * Prepare and Serve Statement of Allegations and / or Provide notice of interrogation
 - N * Investigation
 - N * Prepare Questions for the interrogations
 - N * Interview Witnesses during normal working hours and review tape / transcribe / summarize
 - N * Conduct Pre-Interrogation Meeting
 - N * Interrogate Accused officers during normal working hours
 - E * Review tape of accused officer's interrogation to summarize the interview (transcription)
 - E * Transcribe tapes and copy file information for further proceedings or appeals
 - N * Travel time to interview witnesses

✓ source: See w/p 3D-1a 1/18

N Ineligible activity

E Eligible activity

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
 Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed		
		Admin Notice of Allegations Prep & Serve	Command Staff Review	Total Allowed
DL 04-001	Sgt. Watson	-	-	-
DL 04-005	Sgt. Tait	-	-	-
DL 04-010	Sgt. Watson	-	-	-
DL 04-007	Sgt. Watson	-	-	-
DL 04-009	Sgt. Watson	0.25	-	0.25
DL 04-011	Sgt. Watson	-	-	-
DL 04-014	Sgt. Watson	0.25	-	0.25
DL 04-016	Sgt. Watson	-	-	-
DL 04-017	Sgt. Watson	-	-	-
DL 04-018	Sgt. Watson	-	-	-
DL 04-019	Lt. Burgess	0.25	-	0.25
DL 04-020	Sgt. Matuzek	0.50	-	0.50
DL 04-021	Sgt. Stevens	0.17	-	0.17
	Lt. Burgess	0.25	-	0.25
DL 04-022	Sgt. Matuzek	0.25	-	0.25
DL 04-023	Sgt. Langley	0.25	-	0.25
	Sgt. Matuzek	0.17	-	0.17
DL 04-024	Sgt. Atlas	0.17	-	0.17
DL 04-025	Sgt. Boumeland	0.42	-	0.42
DL 04-026	Sgt. Matuzek	-	-	-
DL 04-027	Sgt. Babcock	-	-	-
DL 04-028	Sgt. Matuzek	-	-	-
DL 04-029	Sgt. Dona	0.25	-	0.25
DL 04-031	Sgt. Staats	0.25	-	0.25
DL 04-032	Sgt. Matuzek	0.25	-	0.25
DL 04-033	Sgt. Peterson	0.17	-	0.17
DL 04-034	Sgt. Dutra	0.25	-	0.25
IA 04-04	Lt. Burgess	-	1.00	1.00
IA 04-01	Sgt. Matuzek	-	0.50	0.50
IA 04-02	Sgt. Watson	-	1.50	1.50
IA 04-03	Sgt. Matuzek	-	1.50	1.50
IA 04-05	Sgt. Matuzek	-	0.67	0.67
IA 04-06	Sgt. Matuzek	-	0.50	0.50
IA 04-08	Lt. Sgt. Burgess	-	1.00	1.00
IA 04-10	Sgt. Matuzek	-	1.00	1.00
IA 03-14	Sgt. Watson	-	3.00	3.00
IA 04-15	Sgt. Matuzek	-	0.50	0.50
IA 03-15	Sgt. Watson	-	3.00	3.00
IA 03-16	Sgt. Watson	-	2.00	2.00
IA 03-17	Sgt. Schiller	-	2.00	2.00
IA 03-12	St. Denis	-	6.00	6.00
IA 03-19	St. Denis	-	12.00	12.00
Total				40.27

3D-1a 7/18

next page =>

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Adverse Comment Activities
 Audit ID # S07-MCC-0033

	Total Hours Claimed <i>2A-20</i>	Total Hours Allowed ✓	Audit Adjustments
Sgt. Tait	0.50	-	(0.50)
Sgt. Stevens	0.17	0.17	-
Sgt. Staats	1.08	0.25	(0.83)
Sgt. Dona	0.25	0.25	-
Sgt. Broaumelar	0.75	0.42	(0.33)
Sgt. Atlas	0.17	0.17	-
Sgt. Babcock	0.17	-	(0.17)
Sgt. Dutra	0.25	0.25	-
Sgt. Langley	0.25	0.25	-
Sgt. Peterson	0.25	0.17	(0.08)
Sgt. Denis	62.00	18.00	(44.00)
Sgt. Schiller	7.00	2.00	(5.00)
Sgt. Matuzek	25.58	5.84	(19.74)
Sgt. Watson	55.83	10.00	(45.83)
Sgt. Burgess	14.50	2.50	(12.00)
	<u>168.75</u>	<u>40.27</u>	<u>(128.48)</u>

3D-1A 6/18
3D-1A 1/18 ; 3D-1 3/7

3D-1C/k

Claimed hours included the following activities:

- * Review circumstances of complaint / adverse comment to determine level of investig. (divisional or IA)
- * Document the complaint / allegations / adverse comment and review for accuracy
- * Prepare and Serve Admin. Notice regarding nature of allegations
- * Summarize the case investigation in a report and IA review of the file
- * Command staff review and findings

V Source: See W/P 3D-1A 1/18

N Ineligible activity

E Eligible activity

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Administrative Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
		<u>2A-2b</u>	<u>✓</u>	
various IA cases	Lt. Burgess	8.00	-	(8.00)
	Sgt. Matuzek	6.50	-	(6.50)
	Sgt. Staats	10.00	-	(10.00)
Training	Lt. Burgess	24.00	24.00	-
Training	Sgt. Matuzek	30.00	24.00	(6.00)
Total		<u>78.50</u>	<u>48.00</u>	<u>(30.50)</u>

3D-1a 1/18 ; 3D-1 4/7

Claimed hours included the following activities:

- 3D-1c {
- N * File preparation
 - N * Logging the case info into the system and assignment of the case
 - N * Interview the complainant
 - E * Training for IA staff regarding investigations and POBAR related materials (the auditors discussed the nature of the training with Commander Zink)

✓ Source: See w/P 3D-1a 1/18

N Ineligible activity

E Eligible activity

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Interrogation Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed			Total Allowed
		Prov. Interrog. Notice / Statement of Allegations	Tape review / transcription for accused officers	Provide copies / tapes in case of further action	
IA 04-31	Sgt. Staats	-	2.50	-	2.50
IA 04-29	Sgt. Staats	1.00	2.50	-	3.50
IA 04-36	Sgt. Staats	-	-	-	-
IA 04-39	Lt. Burgess	3.50	-	-	3.50
IA 04-28	Sgt. Matuzek	0.50	1.17	0.33	2.00
IA 04-32	Lt. Burgess	2.00	1.00	-	3.00
IA 04-30	Sgt. Matuzek	0.50	-	-	0.50
IA 04-41	Lt. Burgess	-	-	-	-
IA 04-34	Lt. Burgess	2.00	-	-	2.00
DL 04-028	Sgt. Matuzek	0.17	-	-	0.17
DL 04-029	Sgt. Dona	-	-	-	-
DL 04-031	Sgt. Staats	1.00	-	-	1.00
DL 04-035	Sgt. Matuzek	-	-	-	-
DL 04-036	Sgt. Staats	-	-	-	-
DL 04-037	Sgt. Matuzek	-	-	-	-
DL 04-038	Sgt. Matuzek	0.42	-	-	0.42
DL 04-039	Sgt. Matuzek	-	-	-	-
DL 04-040	Sgt. Matuzek	0.42	-	-	0.42
DL 04-043	Sgt. Staats	0.33	-	-	0.33
DL 04-044	Sgt. Matuzek	-	-	-	-
DL 04-045	Sgt. Staats	-	-	-	-
DL 04-046	Sgt. Staats	0.17	-	-	0.17
DL 04-047	Sgt. Staats	0.25	-	-	0.25
DL 04-048	Sgt. Staats	0.17	-	-	0.17
DL 04-049	Sgt. Matuzek	0.25	0.17	-	0.42
DL 04-050	Sgt. Matuzek	0.75	1.00	-	1.75
DL 04-051	Sgt. Matuzek	0.17	-	-	0.17
DL 04-052	Sgt. Staats	0.67	-	-	0.67
DL 04-053	Sgt. Staats	0.25	-	-	0.25
DL 04-055	Dep. Holloway	0.17	-	-	0.17
DL 04-033	Sgt. Matuzek	-	-	-	-
DL 04-041	Sgt. Matuzek	-	-	-	-
DL 04-042	Sgt. Matuzek	-	-	-	-

Total

23.376
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 3D-19 10/18

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Interrogation Activities
 Audit ID # S07-MCC-0033

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2b</u>	<u>✓</u>	
Lt. Burgess	86.17	8.50	(77.67)
Sgt. Dona	0.50	-	(0.50)
Dep. Holloway	0.99	0.17	(0.82)
Sgt. Matuzek	47.07	5.875	(41.24) ✓
Sgt. Mitre	0.50	-	(0.50)
Sgt. Staats	124.15	8.874	(115.32)
Deputies (sub)	47.24	-	(47.24)
Sergeant (sub)	0.33	-	(0.33)
Total	306.95	<u>23.376</u>	<u>(283.62)</u>

3D-1a 9/18
59
3D-1a 1/18 ; 3D-1 4/7

Claimed Hours included the following activities:

- 3D-1c {
- N * Gather Reports, Review Complaint, Reports & Evidence
 - E * Prepare and Serve Statement of Allegations and / or Provide notice of interrogation
 - N * Investigation
 - N * Prepare Questions for the interrogations
 - N * Interview Witnesses during normal working hours and review tape / transcribe / summarize
 - N * Conduct Pre-Interrogation Meeting
 - N * Interrogate Accused officers during normal working hours
 - E * Review tape of accused officer's interrogation to summarize the interview (transcription)
 - E * Transcribe tapes and copy file info for further proceedings or appeals
 - N * Travel time to interview witnesses

✓ Source: See WIP 3D-1a 1/18
N Ineligible activity
E Eligible activity

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Allowable Hours
 FY 2004-05
 Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed		
		Admin Notice of Allegations Prep & Serve	Command Staff Review	Total Allowed
IA 04-31	Sgt. Staats	-	-	-
IA 04-29	Sgt. Staats	-	-	-
IA 04-36	Sgt. Staats	-	0.75	0.75
IA 04-41	Lt. Burgess	-	0.67	0.67
IA 04-39	Lt. Burgess	-	-	-
IA 04-28	Sgt. Matuzek	-	1.00	1.00
IA 04-32	Lt. Burgess	-	1.00	1.00
IA 04-30	Sgt. Matuzek	-	-	-
IA 04-41	Lt. Burgess	-	1.00	1.00
IA 04-34	Lt. Burgess	0.50	1.00	1.50
DL 04-028	Sgt. Matuzek	-	-	-
DL 04-029	Sgt. Dona	0.25	-	0.25
DL 04-031	Sgt. Staats	0.25	-	0.25
DL 04-035	Sgt. Matuzek	-	-	-
DL 04-036	Sgt. Staats	-	-	-
DL 04-037	Sgt. Matuzek	-	-	-
DL 04-038	Lt. Keith	0.25	-	0.25
DL 04-039	Sgt. Hooper	0.25	-	0.25
DL 04-040	Lt. Pugh	0.33	-	0.33
DL 04-043	Sgt. Rodriguez	0.25	-	0.25
DL 04-044	Sgt. Mathison	0.33	-	0.33
DL 04-045	Lt. Keith	0.25	-	0.25
DL 04-046	Sgt. Waldher	0.33	-	0.33
DL 04-047	Sgt. McIntosh	0.33	-	0.33
DL 04-048	Sgt. Scott	0.25	-	0.25
DL 04-049	Sgt. Matuzek	-	-	-
DL 04-050	Sgt. Matuzek	0.25	-	0.25
	Sgt. Imas	0.33	-	0.33
DL 04-051	Sgt. Mitre	0.25	-	0.25
DL 04-052	Lt. Calderone	0.50	-	0.50
DL 04-053	Sgt. Staats	0.33	-	0.33
DL 04-055	Sgt. Atlas	0.25	-	0.25
DL 04-033	Sgt. Matuzek	0.17	-	0.17
DL 04-041	Lt. Calderone	0.25	-	0.25
DL 04-042	Lt. Lemmon	0.25	-	0.25

Total

11.57

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Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Allowable Hours
 FY 2004-05
 Adverse Comment Activities
 Audit ID # S07-MCC-0033

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A 2b</u>	<u>✓</u>	
Sgt. Atlas	0.50	0.25	(0.25)
Lt. Burgess	75.33	4.17	(71.16)
Lt. Calderone	1.50	0.75	(0.75)
Sgt. Carrasco	0.33	-	(0.33)
Sgt. Dona	0.25	0.25	-
Dep. Holloway	0.33	-	(0.33)
Sgt. Hooper	0.50	0.25	(0.25)
Sgt. Imas	2.00	0.33	(1.67)
Lt. Keith	1.00	0.50	(0.50)
Lt. Lemmon	0.50	0.25	(0.25)
Sgt. Mathison	0.66	0.33	(0.33)
Sgt. Matuzek	80.81	1.42	(79.39)
Sgt. McIntosh	0.66	0.33	(0.33)
Sgt. Mitre	0.50	0.25	(0.25)
Sgt. Peterson	0.25	-	(0.25)
Lt. Pugh	1.83	0.33	(1.50)
Sgt. Rodriguez	0.50	0.25	(0.25)
Sgt. Scott	0.50	0.25	(0.25)
Sgt. Staats	28.91	1.33	(27.58)
Sgt. Waldher	0.66	0.33	(0.33)
Total	197.52	11.57	(185.95)

3D-19 11/18

3D-19 11/18
3D-15/7

Claimed hours included the following activities:

- N * Review circumstances of complaint / adverse comment to determine level of investig. (divisional or IA) -?
- N * Document the complaint / allegations / adverse comment and review for accuracy ?
- E * Prepare and Serve Admin. Notice regarding nature of allegations
- N * Summarize the case investigation in a report and IA review of the file
- E * Command staff review and findings ←

✓ Source: See W/P 3D-19 11/18

N Ineligible activity

E Eligible activity

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Allowable Hours
 FY 2005-06
 Administrative Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Allowed Hours (Update POBAR case records)
IA 05-11	Lt. Burgess	1.00
IA 05-12	Sgt. Matuzek	0.25
IA 05-13	Sgt. Langley	-
IA 05-16	Sgt. Matuzek	0.42
IA 05-17	Sgt. Matuzek	0.50
IA 05-18	Sgt. Langley	-
IA 05-19	Lt. Burgess	1.00
IA 05-20	Sgt. Matuzek	0.42
IA 05-21	Sgt. Langley	-
IA 05-22	Sgt. Langley	-
IA 05-23	Sgt. Matuzek	3.00
IA 05-24	Lt. Burgess	-
IA 05-25	Lt. Burgess	-
IA 05-26	Sgt. Langley	-
IA 05-29	Sgt. Langley	-
IA 06-01	Sgt. Matuzek	-
IA 06-04	Sgt. Matuzek	0.67
IA 06-05	Sgt. Matuzek	1.00
IA 06-07	Sgt. Matuzek	0.58
IA 06-08	Sgt. Langley	-
IA 06-09	Sgt. Matuzek	-
IA 06-10	Lt. Burgess	-
IA 06-11	Sgt. Langley	-
IA 06-13	Lt. Burgess	0.50
IA 06-17	Sgt. Matuzek	-
IA 06-18	Sgt. Peterson	0.50
Total		<u>9.83</u>

3D-1c

- Claimed hours included the following activities:
- N * File preparation
 - N * Logging the case info into the system and assignment
 - N * Interview the complainant
 - E * Updating POBAR case records

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2c</u>	<u>✓</u>	
Lt. Burgess	4.50	2.50	(2.00)
Sgt. Matuzek	12.33	6.83	(5.50)
Sgt. Peterson	0.50	0.50	-
Total	<u>17.33</u>	<u>9.83</u>	<u>(7.50)</u>

✓ Source: see w/P
 3D-1a 1/18
 N Ineligible activity
 E Eligible activity

3D-1a 1/18
 3D-1 6/7

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Administrative Appeal
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		2A-2C	✓	
IA 06-05	Sgt. Matuzek	2.00	-	(2.00)

3D-1a 1/18
 3D-1 6/7

The review of the case 06-05 revealed that no appeal was held for the disciplinary outcome of 1 week suspension.

✓ source: See w/p 3D-1a 4/18

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed		Total Allowed
		Prov. Interrog. Notice / Statement of Allegations	Tape review / transcription for accused officers	
IA 05-10	Lt. Burgess	-	-	-
IA 05-11	Lt. Burgess	-	-	-
IA 05-12	Sgt. Matuzek	-	-	-
IA 05-13	Sgt. Langley	1.00	-	1.00
IA 05-15	Sgt. Langley	-	-	-
IA 05-16	Sgt. Matuzek	-	0.58	0.58
IA 05-17	Sgt. Matuzek	1.50	4.00	5.50
IA 05-18	Sgt. Langley	-	-	-
IA 05-19	Lt. Burgess	-	-	-
IA 05-20	Sgt. Matuzek	1.50	-	1.50
IA 05-21	Sgt. Langley	-	-	-
IA 05-23	Sgt. Matuzek	-	9.32 ⁴	9.32 ⁴
IA 05-24	Lt. Burgess	-	-	-
IA 05-25	Lt. Burgess	-	-	-
IA 05-26	Sgt. Langley	0.75	-	0.75
IA 05-27	Lt. Burgess	-	-	-
IA 05-28	Sgt. Langley	-	-	-
IA 06-01	Sgt. Matuzek	-	-	-
IA 06-02	Sgt. Langley	1.00	-	1.00
IA 06-04	Sgt. Matuzek	1.00	-	1.00
IA 06-05	Sgt. Matuzek	-	-	-
IA 06-07	Sgt. Matuzek	1.00	-	1.00
IA 06-08	Sgt. Langley	1.00	-	1.00
IA 06-09	Sgt. Matuzek	2.00	5.00	7.00
IA 06-10	Lt. Burgess	1.00	1.00	2.00
IA 06-11	Sgt. Langley	-	-	-
IA 06-13	Lt. Burgess	-	-	-
IA 06-17	Sgt. Matuzek	2.00	7.00	9.00
IA 06-18	Sgt. Peterson	0.50	-	0.50
IA 06-20	Sgt. Matuzek	-	3.00	3.00

Total

44.17
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3D-19 16/18

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2C</u>	<u>✓</u>	
Lt. Burgess	9.50	2.00	(7.50)
Sgt. Imas	1.00	-	(1.00)
Sgt. Langley	16.50	3.75	(12.75)
Sgt. Matuzek	101.42	37.92	(63.50)
Sgt. Peterson	0.50	0.50	-
Lt. Pugh	1.00	-	(1.00)
Deputies (s/w)	142.72	-	(142.72)
Sergeants (s/w)	5.08	-	(5.08)
Lt. (s/w)	0.67	-	(0.67)
Total	<u>278.39</u>	<u>44.17</u>	<u>(234.22)</u>

3D-19 15/18
3D-10 1/18
3D-1 6/7

- 3D-1C {
- E * Provide prior notice regarding the nature of interrogation / allegations
 - N * Interrogation time (wit interviews), regular working hours
 - N * Interrogation time (accused interviews), regular working hours
 - N * Travel time for witness interviews
 - N * Transcription time for witness interviews
 - E * Transcription time for accused interviews (accused officers receive a copy of the interview)

✓ Source: See W/P 3D-10 1/18

N Ineligible activity

E Eligible activity

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Allowable Hours
 FY 2005-06
 Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed		
		Admin Notice of Allegations Prep & Serve	Command Staff Review	Total Allowed
IA 05-10	Lt. Burgess	-	4.00	4.00
IA 05-11	Lt. Burgess	1.00	1.50	2.50
IA 05-12	Sgt. Matuzek	1.50	1.25	2.75
IA 05-13	Sgt. Langley	3.00	1.50	4.50
IA 05-16	Sgt. Matuzek	2.00	-	2.00
IA 05-17	Sgt. Matuzek	1.00	-	1.00
IA 05-18	Sgt. Langley	1.67	1.50	3.17
IA 05-19	Lt. Burgess	1.00	1.25	2.25
IA 05-20	Sgt. Matuzek	1.00	-	1.00
IA 05-21	Comm. Bacon	-	1.00	1.00
	Capt. Hirokawa	-	1.00	1.00
	Capt. Angus	-	1.00	1.00
	Capt. Rode	-	1.00	1.00
	Sgt. Spagnola	-	1.00	1.00
	Sgt. Dutra	-	1.00	1.00
IA 05-23	Sgt. Matuzek	3.00	1.00	4.00
IA 05-24	Lt. Burgess	-	2.00	2.00
IA 05-25	Lt. Burgess	0.50	4.00	4.50
IA 05-26	Sgt. Langley	-	0.50	0.50
	Sgt. Matuzek	-	0.50	0.50
	Comm. Bacon	-	0.50	0.50
	Capt. Laverone	-	0.50	0.50
	Lt. Geary	-	0.50	0.50
IA 05-27	Lt. Burgess	2.00	2.00	4.00
IA 05-28	Sgt. Langley	0.50	0.67	1.17
IA 05-29	Sgt. Langley	1.00	-	1.00
IA 06-01	Sgt. Matuzek	1.50	-	1.50
IA 06-02	Sgt. Langley	0.50	-	0.50
IA 06-04	Sgt. Matuzek	1.25	1.00	2.25
IA 06-05	Sgt. Matuzek	1.50	1.00	2.50
IA 06-07	Sgt. Matuzek	0.75	-	0.75
IA 06-08	Sgt. Langley	1.50	0.58	2.08
	Sgt. Matuzek	-	0.58	0.58
	Comm. Bacon	-	0.58	0.58
	Capt. Perusina	-	0.58	0.58
	Lt. Schiller	-	0.58	0.58
IA 06-09	Sgt. Matuzek	1.00	-	1.00
IA 06-10	Lt. Burgess	-	0.50	0.50
IA 06-11	Sgt. Langley	1.00	-	1.00
IA 06-13	Lt. Burgess	-	-	-
IA 06-17	Sgt. Matuzek	1.00	-	1.00
IA 06-18	Sgt. Peterson	1.50	-	1.50
IA 06-20	Sgt. Matuzek	1.00	-	1.00

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Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Adverse Comment Activities
Audit ID # S07-MCC-0033

IA 05-15	Sgt. Langley	-	-	-
	Comm. Bacon	-	1.50	1.50
	Capt. Angus	-	1.50	1.50
	Sgt. Dutra	-	1.50	1.50
	Capt. Rode	-	1.50	1.50
	Sgt. Spagnola	-	1.50	1.50

Total 73.74 (1)

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2C</u>	<u>✓</u>	
Lt. Burgess	39.75	4.50	(35.25)
Sgt. Langley	120.25	9.17	(111.08)
Sgt. Matuzek	72.42	16.50	(55.92)
Sgt. Peterson	5.00	1.50	(3.50)
Findings:			
Capt. Angus	1.00	2.50	1.50
Lt. Burgess	19.25	15.25	(4.00)
Comm. Bacon	2.75	3.58	0.83
Sgt. Dutra	1.00	2.50	1.50
Lt. Geary	0.50	0.50	-
Capt. Hirokawa	1.00	1.00	-
Sgt. Langley	4.08	4.75	0.67
Capt. Laverone	0.50	0.50	-
Sgt. Matuzek	4.33	5.33	1.00
Capt. Perusina	0.58	0.58	0.00
Capt. Rode	1.00	2.50	1.50
Lt. Schiller	0.58	0.58	-
Sgt. Spagnola	1.00	2.50	1.50
Total	<u>274.99</u>	<u>73.74</u>	<u>(201.25)</u>

✓ source:
 see w/p
 3D-1a 1/18
N ineligible activity
E eligible activity

3D-1a 1/18
 3D-1 7/7

- 3D-1c
- Claimed hours included the following activities:
- N * Review circumstances of complaint / allegations / adverse comment prior to the start of investigation (?)
 - N * Document the complaint / allegations / adverse comment and review for accuracy (-?)
 - E * Prepare and Serve Admin. Notice regarding nature of allegations and schedule interviews
 - N * Prepare Questions for the interview
 - N * Summarize the case investigation in a report and IA review of the file
 - E * Command staff review and findings

Purpose To review Productive Hourly Rates claimed by the Sheriff department in FY 2003-04 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Alan Minato, Fiscal Officer, Sheriff Department
 ✓ Santa Clara County's Actual Salaries Recap Report per individual employee, FY 2003-04 (Report ID # Pay rpt 04 SAP 23004)

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1560.65 productive hours in the PHR calculation. (See <Document # 3D-43/7 > for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours.

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 3D-4 > for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b) / ^{3D-4 2/7} 1696.35	(d)=(c)-(a)
	<u>2A-2a</u>			
Sgt. Burgess	54.98	85,810.92 ✓	50.59	(4.39)
Sgt. Staats	54.98	85,810.92	50.59	(4.39)
Sgt. Broaumeland	46.36	83,815.42	49.41	3.05
Sgt. Denis	51.15	79,824.16	47.06	(4.09)
Sgt. Schiller	64.91	101,306.40	59.72	(5.19)
Sgt. Matuzek	54.98	85,810.92	50.59	(4.39)
Sgt. Watson	54.98	85,810.92	50.59	(4.39)
Sgt. Stevens	54.98	85,810.92	50.59	(4.39)
Sgt. Atlas	54.98	85,810.92	50.59	(4.39)
Sgt. Peterson	54.98	85,810.92	50.59	(4.39)
Sgt. Dutra	54.98	85,810.92	50.59	(4.39)
Sgt. Langley	54.98	85,810.92	50.59	(4.39)
Sgt. Dona	49.66	77,500.80 ✓	45.69	(3.97)

3D-12/7-3/7

Purpose To review Productive Hourly Rates claimed by the Sheriff department in FY 2004-05 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Alan Minato, Fiscal Officer, Sheriff Department
 ✓ Sheriff Department's Actual Salaries Recap Report per individual employee, FY 2004-05

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1545 productive hours in the PHR calculation. (See <Document # 30-44/7> for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 30-4> for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b) / 1682	(d)=(c)-(a)
Lt. Burgess	66.15	102,203.97	60.76	(5.39)
Dep. Holloway	48.93	75,590.87	44.94	(3.99)
Sgt. Matuzek	57.39	88,665.96	52.71	(4.68)
Sgt. Staats	57.40	88,710.87	52.74	(4.66)
Sgt. Atlas	61.80	95,487.65	56.77	(5.03)
Lt. Calderone	70.19	108,449.72	64.48	(5.71)
Sgt. Dona	57.01	88,084.40	52.37	(4.64)
Sgt. Hooper	60.48	93,442.29	55.55	(4.93)
Sgt. Imas	57.39	88,665.96	52.71	(4.68)
Lt. Keith	67.75	104,679.17	62.23	(5.52)
Lt. Lemmon	57.37	88,640.65	52.70	(4.67)
Sgt. McIntosh	57.45	88,236.80	52.46	(4.99)
Sgt. Mitre	56.85	87,840.73	52.22	(4.63)
Lt. Pugh	67.75	104,679.16	62.23	(5.52)
Sgt. Rodriguez	47.22	72,962.47	43.38	(3.84)
Sgt. Scott	57.66	70,544.49	41.94	(15.72)
Sgt. Waldher	61.27	94,663.40	56.28	(4.99)
Sgt. Peterson	59.60	92,086.42	54.75	(4.85)
Sgt. Mathison	57.45	88,755.78	52.77	(4.68)

2A-2b

30-14/7-5/7

- Purpose** To review Productive Hourly Rates claimed by the Sheriff department in FY 2005-06 to ensure that they are accurately computed.
- Source** Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Alan Minato, Fiscal Officer, Sheriff Department
 ✓ Sheriff Department's Actual Salaries Recap Report per individual employee, FY 2005-06
- Analysis** The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1544 productive hours in the PHR calculation. (See <Document # 30-457 for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 30-4 > for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b) / 1677	(d)=(c)-(a)
Sgt. Matuzek	<i>2A-JC</i> 59.93	92,528.00 ✓	55.17	(4.76)
Lt. Burgess	70.75	109,240.00	65.14	(5.61)
Sgt. Peterson	62.18	96,001.00	57.25	(4.93)
Sgt. Langley	59.93	92,528.00	55.17	(4.76)
Capt. Angus	86.23	133,135.00	79.39	(6.84)
Comm. Bacon	105.58	163,015.00	97.21	(8.37)
Sgt. Dutra	60.08	92,760.00	55.31	(4.77)
Capt. Hirokawa	91.40	141,120.00	84.15	(7.25)
Capt. Laverone	78.36	120,981.00	72.14	(6.22)
Capt. Perusina	104.60	161,505.00	96.31	(8.29)
Capt. Rode	80.86	124,847.00	74.45	(6.41)
Lt. Schiller	73.35	113,245.00	67.53	(5.82)
Sgt. Spagnola	58.83	90,376.00	53.89	(4.94)
Lt. Geary	63.57	98,153.00	58.53	(5.04)
Sgt. Imas	59.93	92,528.00	55.17	(4.76)
Lt. Pugh	72.90	112,559.00	67.12	(5.78)

30-167-7/7

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Summary of Salary Adjustments
 Fiscal Years 2003-04 Through 2005-06
Audit ID # S07-MCC-0033

Purpose: To calculate allowable salaries based on adjustments to claimed hours and Productive Hourly rates.

Source: 2A-2 ; 3D-2a ; 3D-2b ; 3D-2c

Cost Components	Salaries Claimed	Allowed Salaries	Audit Adjustments
-----------------	------------------	------------------	-------------------

2003-04		Adjustment 1 Overstated Hours	Adjustment 2 Overstated PHR
Admin. Activities	3D-2 4/8 1,767	\$ 822	\$ (883)
Admin. Appeal	-	-	-
Interrogation	18,435	3,054	(15,115)
Adverse Comments	10,380	1,005	(9,288)
Subtotal	\$ 30,582	\$ 4,881	\$ (25,286)

2004-05		Adjustment 1 Overstated Hours	Adjustment 2 Overstated PHR
Admin. Activities	3D-2 3/8 64,789	\$ 39,201	\$ (22,114)
Admin. Appeal	776	-	(776)
Interrogation	3D-2 4/8 9,089	1,302	(7,672)
Adverse Comments	3D-2 5/8 13,723	3,057	(10,395)
Subtotal	\$ 88,377	\$ 43,560	\$ (40,957)

2005-06		Adjustment 1 Overstated Hours	Adjustment 2 Overstated PHR
Admin. Activities	3D-2 4/8 6,746	\$ 1,825	\$ (4,764)
Admin. Appeal	-	-	-
Interrogation	3D-2 7/8 97,665	18,948	(77,069)
Adverse Comments	3D-2 8/8 584	-	(584)
Subtotal	\$ 104,995	\$ 20,773	\$ (82,417)

Grandtotal	\$ 223,954	\$ 69,214	\$ (148,660)	Adjustment 1
			(6,080)	Adjustment 2
			(154,740)	

Handwritten notes and corrections:
 16/16
 3D-2 4/2
 3D 12/12 ; 3D 8/12 ; 1D 1/14

Santa Clara County
 Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2003-04

Admin. Activities		<u>1-2A-2a 9/13</u>		<u>3D-2b 1/3</u>		<u>3D-2a 2/13</u>					
Training	Supervising Proba	\$ 49.08	36.00	\$ 1,766.88	\$ 45.66	18.00	\$ 883.50	\$ 821.88	\$ (883.38)	\$ (61.62)	
Subtotal			<u>36.00</u>	<u>\$ 1,767</u>		<u>18.00</u>	<u>\$ 884</u>	<u>\$ 822</u>	<u>\$ (883)</u>	<u>\$ (62)</u>	
Interrogation		<u>1-2A-2a 9/13</u>		<u>3D-2a 3/12</u>							
	Jim Tarshis, Grou	\$ 49.84	115.00	\$ 5,731.60	\$ 45.86	16.00	\$ 797.44	\$ 733.76	\$ (4,934.16)	\$ (64.00)	
	Cathy Shields, Prc	63.03	7.00	441.21		-	-	-	(441.21)	-	
	Alicia Garcia, Sup	49.84	25.50	1,270.92	45.86	2.00	99.68	91.72	(1,171.24)	(8.00)	
	Diana Bishop, Suj	49.84	66.00	3,289.44	45.86	3.00	149.52	137.58	(3,139.92)	(12.00)	
	Rita Loncarich, Pr	64.88	15.00	973.20	59.69	2.00	129.76	119.38	(843.44)	(10.38)	
Interrogating	Jim Tarshis, Grou	49.84	126.00	6,279.84	45.86	40.00	1,993.60	1,834.40	(4,286.24)	(159.20)	
	Diana Bishop, Suj	49.84	9.00	448.56	45.86	3.00	149.52	137.58	(299.04)	(11.94)	
Subtotal			<u>363.50</u>	<u>\$ 18,435</u>		<u>66.00</u>	<u>\$ 3,320</u>	<u>\$ 3,054</u>	<u>\$ (15,115)</u>	<u>\$ (266)</u>	
Adverse Comment		<u>1-2A-2a 10/13</u>		<u>3D-2a 4/12</u>							
	Cathy Shields, Prc	\$ 63.03	20.00	\$ 1,260.60	\$ 57.99	6.00	\$ 378.18	\$ 347.94	\$ (882.42)	\$ (30.24)	
	Diana Bishop, Suj	49.84	100.00	4,984.00		-	-	-	(4,984.00)	-	
	Rita Loncarich, Pr	64.88	55.00	3,568.40	59.69	11.00	713.68	656.59	(2,854.72)	(57.09)	
	Cathy Shields, Prc	63.03	9.00	567.27		-	-	-	(567.27)	-	
Subtotal			<u>184.00</u>	<u>\$ 10,380</u>		<u>17.00</u>	<u>\$ 1,092</u>	<u>\$ 1,005</u>	<u>\$ (9,288)</u>	<u>\$ (87)</u>	
Total			<u>583.50</u>	<u>\$ 30,582</u>		<u>101.00</u>	<u>\$ 5,296</u>	<u>\$ 4,881</u>	<u>\$ (25,286)</u>	<u>\$ (415)</u>	

3A-22/8 3D-2/13

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2004-05

Admin. Activities				
	Shirley Cantu, Acti	\$ 73.34	2.00	\$ 146.68
	Nicholas Cademart	100.97	2.00	201.94
	Ann Meta Clarke, i	95.50	2.00	191.00
	Kathy Dupue, Depi	72.63	52.00	3,776.76
	Phuong Le, HR Mf	52.52	5.00	262.60
	Delores Nnam, Adi	70.47	29.00	2,043.63
	Karen Fletcher, De	66.84	457.00	30,545.88
	Kathy Viana, Adm	30.57	93.00	2,843.01
Training	Karen Fletcher, De	66.84	72.00	4,812.48
	John Dahl, Probati	65.79	24.00	1,578.96
	Bret Fidler, Supv. (51.16	24.00	1,227.84
	Ned Putt, Supv. Pr	56.96	24.00	1,367.04
Update POBAR	Karen Fletcher, Dep	66.84	153.00	10,226.52
Training	Probation Officer (45.37	48.00	2,177.76
	Supervising Probat	65.14	52.00	3,387.28
Subtotal			1,039.00	\$ 64,789

		\$ 67.36	2.00	\$ 146.68	\$ 134.72	\$ -	\$ (11.96)
		92.75	2.00	201.94	185.50	-	(16.44)
		87.73	2.00	191.00	175.46	-	(15.54)
		66.72	52.00	3,776.76	3,469.44	-	(307.32)
		48.24	5.00	262.60	241.20	-	(21.40)
		64.73	29.00	2,043.63	1,877.17	-	(166.46)
		61.40	376.00	25,131.84	23,086.40	(5,414.04)	(2,045.44)
		28.08	93.00	2,843.01	2,611.44	-	(231.57)
		61.40	48.00	3,208.32	2,947.20	(1,604.16)	(261.12)
		60.43	12.00	789.48	725.16	(789.48)	(64.32)
		47.00	12.00	613.92	564.00	(613.92)	(49.92)
		52.32	12.00	683.52	627.84	(683.52)	(55.68)
				-	-	(10,226.52)	-
		41.67	24.00	1,088.88	1,000.08	(1,088.88)	(88.80)
		59.84	26.00	1,693.64	1,555.84	(1,693.64)	(137.80)
			695.00	\$ 42,675	\$ 39,201	\$ (22,114)	\$ (3,474)

Admin. Appeal				
	Robert DeJesus, Pr	\$ 62.08	12.50	\$ 776.00
Subtotal			12.50	\$ 776

		-	-	-	-	(776.00)	-
		-	-	-	-	\$ (776)	\$ -

3E-23/8 30-21/8

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2004-05

Interrogation

	PHR	Hours	Amount	Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1	Audit Adjustment 2
	(a)	(b)	(c)=(a)*(b)	(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)
Robert DeJesus, Pr	\$ 62.08	9.00	\$ 558.72					\$ (558.72)	\$ -
Annette Van Unen,	30.32	20.50	621.56					(621.56)	-
Bret Fidler, SGC	51.16	85.00	4,348.60	47.00	16.00	818.56	752.00	(3,530.04)	(66.56)
Bruce Handry, SPO	56.96	2.50	142.40	52.32	0.50	28.48	26.16	(113.92)	(2.32)
Dave Perez	56.96	4.00	227.84	-	-	-	-	(227.84)	-
Gene Ginn, DPO	50.18	1.50	75.27	46.10	0.50	25.09	23.05	(50.18)	(2.04)
Jill Ornellas, SPO	57.11	1.50	85.67	52.46	0.50	28.56	26.23	(57.11)	(2.33)
John Dahl, PM	65.79	1.50	98.69	60.43	0.50	32.90	30.22	(65.79)	(2.68)
Karen Fletcher, PV	66.84	3.00	200.52	-	-	-	-	(200.52)	-
Linda Nguyen, SPO	56.96	1.50	85.44	-	-	-	-	(85.44)	-
Lucy Trevino, DPC	36.55	1.50	54.83	33.57	0.50	18.28	16.79	(36.55)	(1.49)
Mary Ryan, DPO	50.32	1.50	75.48	46.22	0.50	25.00	23.11	(50.48)	(1.89)
Ned Putt, SPO	56.96	35.50	2,022.08	52.32	5.50	313.28	287.76	(1,708.80)	(25.52)
Richard De Jesus, I	44.62	1.50	66.93	40.99	0.50	22.31	20.50	(44.62)	(1.82)
Subject, DPO	30.88	2.00	61.76	-	-	-	-	(61.76)	-
Subject, SPO	46.98	2.00	93.96	43.16	1.00	46.98	43.16	(46.98)	(3.82)
Subject, DPO	30.88	1.50	46.32	28.37	0.50	15.44	14.19	(30.88)	(1.26)
Subject, PCII	40.57	1.50	60.86	37.26	0.50	20.29	18.63	(40.57)	(1.66)
Subject, PCII	40.57	0.50	20.29	-	-	-	-	(20.29)	-
Boliavone Kegaric	50.18	1.50	75.27	-	-	-	-	(75.27)	-
Zulema Vasquez, D	44.62	1.50	66.93	40.99	0.50	22.31	20.50	(44.62)	(1.82)
Subtotal		180.50	\$ 9,089		27.50	\$ 1,417	\$ 1,302	\$ (7,672)	\$ (115)

2A-2b 9/14-10/14

3D-2b 3/3 3D-2a 3/12

3E-2 4/8 3D-2 1/8

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2004-05

Adverse Comment

	<u>2A-26</u> ^{12/14-13/14}									
	<u>30-26</u> ^{2/3}									
	<u>30-26</u> ^{10/18}									
Robert DeJesus, Pr	\$ 62.08	63.00	\$ 3,911.04	\$ 57.03	14.00	\$ 869.12	\$ 798.42	\$ (3,041.92)	\$ (70.70)	
Bret Fidler, SGC	51.16	45.00	2,302.20	47.00	6.00	306.96	282.00	(1,995.24)	(24.96)	
Cleveland Price, PI	63.45	5.00	317.25	58.29	5.00	317.25	291.45	-	(25.80)	
Delores Nham, AS	70.47	4.00	281.88	64.73	2.00	140.94	129.46	(140.94)	(11.48)	
Karen Fletcher, PV	66.84	23.00	1,537.32	61.40	13.00	868.92	798.20	(668.40)	(70.72)	
Kathy Duque, DCF	72.63	7.00	508.41	66.72	7.00	508.41	467.04	-	(41.37)	
Michael Simms, PI	61.93	2.00	123.86	56.89	2.00	123.86	113.78	-	(10.08)	
Ned Putt, SPO	56.96	19.00	1,082.24					(1,082.24)	-	
Phuong Le, HRM	52.52	11.00	577.72	48.24	1.00	52.52	48.24	(525.20)	(4.28)	
Starr Coatney, AM	35.01	88.00	3,080.88	32.16	4.00	140.04	128.64	(2,940.84)	(11.40)	
Subtotal		<u>267.00</u>	<u>\$ 13,723</u>		<u>54.00</u>	<u>\$ 3,328</u>	<u>\$ 3,057</u>	<u>\$ (10,395)</u>	<u>\$ (271)</u>	
Total		<u>1,499.00</u>	<u>\$ 88,377</u>		<u>\$ 776.50</u>	<u>\$ 47,420</u>	<u>\$ 43,560</u>	<u>\$ (40,957)</u>	<u>\$ (3,860)</u>	

3E-25/8 30-2 1/8

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2005-06

Admin. Activities

Update POBAR	John Dahl, Probator	\$ 67.58	2.00	\$ 135.16
Provide Training	John Dahl, Probator	67.58	1.00	67.58
Maintain cases	John Dahl, Probator	67.58	8.50	574.43
	Deputy Probation Officer	46.91	53.00	2,486.23
	Supervising Probator	60.05	58.00	3,482.90
Subtotal			122.50	\$ 6,746

FY 2005-06

\$ 62.22	2.00	\$ 135.16	\$ 124.44	\$ -	\$ (10.72)
62.22	1.00	67.58	62.22	-	(5.36)
62.22	8.50	574.43	528.87	-	(45.56)
43.19	18.00	844.38	777.42	(1,641.85)	(66.96)
55.29	6.00	360.30	331.74	(3,122.60)	(28.56)
	35.50	\$ 1,982	\$ 1,825	\$ (4,764)	\$ (157)

Interrogation

Andrew Flores, DPC	\$ 44.44	1.00	\$ 44.44
Annette Vanunen, D	33.57	158.05	5,305.74
Anthony Enweluzor,	42.32	1.00	42.32
Brad Kinne, DPO	58.40	1.00	58.40
Bret Fidler, DPO	52.45	682.50	35,797.13
Bruce Hendry, DPO	58.40	1.00	58.40
Burga Santiago, DPC	58.86	6.00	353.16
Delores Nnam, DPO	73.04	27.00	1,972.08
Diano Teves, DPO	28.48	4.00	113.92
Emi Chu, DPO	40.15	266.00	10,679.90
George Burnette, DF	50.45	1.00	50.45
Jabari Lomak, DPO	44.44	1.00	44.44
Joel Humble, DPO	39.45	1.00	39.45
John Dahl, DPO	67.58	91.00	6,149.78
Kathy Duque, DPO	78.32	39.00	3,054.48
Marvin Kusumoto, I	36.23	1.00	36.23

-	-	\$ -	\$ -	\$ (44.44)	\$ -
-	-	-	-	(5,305.74)	-
-	-	-	-	(42.32)	-
-	-	-	-	(58.40)	-
48.29	87.00	4,563.15	4,201.23	(31,233.98)	(361.92)
-	-	-	-	(58.40)	-
-	-	-	-	(353.16)	-
67.25	27.00	1,972.08	1,815.75	-	(156.33)
26.23	4.00	113.92	104.92	-	(9.00)
36.97	41.00	1,646.15	1,515.77	(9,033.75)	(130.38)
-	-	-	-	(50.45)	-
-	-	-	-	(44.44)	-
-	-	-	-	(39.45)	-
62.22	57.00	3,852.06	3,546.54	(2,297.72)	(305.52)
72.10	38.00	2,976.16	2,739.80	(78.32)	(236.36)
-	-	-	-	(36.23)	-

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2005-06				
				<i>2A-2c 9/10-13/10</i>
Maurico Rodriguez,	29.24	1.00	29.24	
Michelle Fernandez,	51.45	2.00	102.90	
Mike Green, DPO	67.81	3.00	203.43	
Mike Simms, DPO	67.34	6.50	437.71	
Ned Putt, DPO	58.40	412.00	24,060.80	
Nick Birchard, DPO	60.13	26.00	1,563.38	
Phuong Le, DPO	58.61	22.50	1,318.73	
Rita Loncarich, DPC	67.58	3.00	202.74	
Sal Heredia, DPO	57.24	3.00	171.72	
Steve Lived, DPO	58.40	1.00	58.40	
Steve Majores, DPO	37.31	0.50	18.66	
Vanessa Fajardo, DF	27.34	1.00	27.34	
Jon Vickroy, DPO II	73.04	8.00	584.32	
DPO	46.91	11.00	516.01	
DPO I	46.91	2.00	93.82	
DPO II	46.91	2.50	117.28	
DPO III	46.91	13.00	609.83	
GCI	36.23	31.50	1,141.25	
GCII	39.45	8.50	335.33	
PC	37.31	1.00	37.31	
PC I	37.31	1.00	37.31	
PC II	37.31	2.00	74.62	
SGC	44.44	41.00	1,822.04	
SPO	60.05	5.00	300.25	
Subtotal		1,889.55	\$ 97,665	

		<i>30-26 3/3</i>	<i>30-29 16/18</i>	\$ -	\$ -	\$ (29.24)	\$ -	
				-	-	(102.90)	-	
		62.43	3.00	203.43	187.29	-	(16.14)	
		62.00	2.00	134.68	124.00	(303.03)	(10.68)	
		53.77	33.00	1,927.20	1,774.41	(22,133.60)	(153.00)	
		55.37	28.00	1,683.64	1,550.36	120.26	(133.28)	
		53.96	1.50	87.92	80.94	(1,230.81)	(6.97)	
		62.22	3.00	202.74	186.66	-	(16.08)	
		-	-	-	-	(171.72)	-	
		-	-	-	-	(58.40)	-	
		-	-	-	-	(18.66)	-	
		-	-	-	-	(27.34)	-	
		-	-	-	-	(584.32)	-	
		-	-	-	-	(516.01)	-	
		43.19	0.50	23.46	21.60	(70.37)	(1.86)	
		43.19	0.50	23.46	21.60	(93.82)	(1.86)	
		43.19	2.50	117.28	107.98	(492.56)	(9.30)	
		31.53	9.50	344.19	299.54	(797.06)	(44.65)	
		36.67	3.50	138.08	128.35	(197.25)	(9.73)	
		-	-	-	-	(37.31)	-	
		34.95	1.00	37.31	34.95	-	(2.36)	
		-	-	-	-	(74.62)	-	
		41.04	11.00	488.84	451.44	(1,333.20)	(37.40)	
		55.29	1.00	60.05	55.29	(240.20)	(4.76)	
		354.00		\$ 20,596	\$ 18,948	\$ (77,069)	\$ (1,648)	

3E-2 7/8 30-2 1/8

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Probation Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

FY 2005-06

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR - related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

Adverse Comment				
Jon Vickroy, DPO II	\$	73.04	8.00	\$ 584.32
Subtotal			<u>8.00</u>	<u>\$ 584</u>
Total			<u>2,020.05</u>	<u>\$ 104,995</u>

-	-	-	-	\$ (584.32)	-
-	\$ -	\$ -	\$ -	\$ (584)	\$ -
<u>389.50</u>	<u>\$ 22,578</u>	<u>\$ 20,773</u>	<u>\$ (82,417)</u>	<u>\$ (1,805)</u>	

30-2a 18/12
 30-21/8
 3E-28/8

Santa Clara County

Probation Department

Legislatively Mandated Peace Officers Procedural Bill of Rights Program

Summary of Claimed / Allowable Hours

FY's 2003-04 through 2005-06

Audit ID # S07-MCC-0033

Purpose: To review Case Time Logs for all the years under the audit period in order to identify POBAR-related hours eligible for reimbursement as per criteria outlined in the *Parameters and Guidelines* for the POBAR program. To document allowed hours and audit adjustments as per auditors' review of case logs and sample cases.

Source: Case Time Logs, Probation Department's Internal Affairs Division, FY's 2003-04 through 2005-06
 Discussions with John Dahl, Probation Manager, Internal Affairs Unit
 Discussions with Ned Putt, Supervising Probation Officer, Internal Affairs

Analysis: The auditors reviewed all case logs for three fiscal years under the audit period and identified eligible hours.

Fiscal Year	Claim Component	Claimed Hours	Allowed Hours	Audit Adjustments
2003-04	Admin. Activities <u>3D-2a 2/18</u>	36.00	18.00	(18.00)
	Interrogations <u>3D-2a 3/18</u>	363.50	66.00	(297.50)
	Adverse Comments <u>3D-2a 4/18</u>	184.00	17.00	(167.00)
	Total	<u>583.50</u>	<u>101.00</u>	<u>(482.50)</u>
2004-05	Admin. Activities <u>3D-2a 5/18</u>	1,039.00	695.00	(344.00)
	Admin. Appeals <u>3D-2a 7/18</u>	12.50	-	(12.50)
	Interrogations <u>3D-2a 8/18</u>	180.50	27.50	(153.00)
	Adverse Comments <u>3D-2a 10/18</u>	267.00	54.00	(213.00)
Total	<u>1,499.00</u>	<u>776.50</u>	<u>(722.50)</u>	
2005-06	Admin. Activities <u>3D-2a 12/18</u>	122.50	35.50	(87.00)
	Interrogations <u>3D-2a 16/18</u>	889.55	354.00	(1,535.55)
	Adverse Comments <u>3D-2a 18/18</u>	8.00	-	(8.00)
Total	<u>2,020.05</u>	<u>389.50</u>	<u>(1,630.55)</u>	
Grand Total		<u>4,102.55</u>	<u>1,267.00</u>	<u>(2,835.55)</u>

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
 Administrative Activities
 Audit ID # S07-MCC-0033

Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
	2A-2G	✓	

Sup. Prob. Officer (9) 36.00 18.00 (18.00) *

3D-2A 1/18 ; 3D-2 2/8

* Claimed hours include a four-hour training class on Labor Relations that took place on 12/10/03. The auditors reviewed the list of 9 attendees and the class outline / schedule. The auditors concluded that 2 out of 4 hours were related to POBAR. Related topics included discussions on progressive discipline process and case law (such as Skelly). The auditors decided to exclude two hours of training that were not related to POBAR. Unrelated topics included discussions about labor relations, unionized vs. non unionized employees, and distinction of private and public employees.

✓ Source: See w/P # 3D-2A 1/18

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Interrogation Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed	
		Prepare Admin. Notice & Schedule Interviews	Transcription of accused officers' interviews
		Pre-Interrogation	Interrogation
Case 1	Jim Tarshis	16.00	40.00
	Cathy Shields	-	-
Case 2	Cathy Shields	-	-
	Alicia Garcia	2.00	
Case 3	Diana Bishop	3.00	3.00
Case 4	Rita Loncarich	-	-
Case 5	Rita Loncarich	2.00	-
Total Hours Claimed		Total Hours Allowed	Audit Adjustments
2A-29		✓	

Pre-Interrogation

Jim Trashis	115.00	16.00	(99.00)
Cathy Shields	7.00	-	(7.00)
Alicia Garcia	25.50	2.00	(23.50)
Diana Bishop	66.00	3.00	(63.00)
Rita Loncarich	15.00	2.00	(13.00)

Interrogation

Jim Trashis	126.00	40.00	(86.00)
Diana Bishop	9.00	3.00	(6.00)
	<u>363.50</u>	<u>66.00</u>	<u>(297.50)</u>

✓ source:
see w/p 3D-2a 1/18

N: Ineligible activity

E: Eligible activity

3D-2a 1/18
3D-2 2/3

Claimed hours included the following activities:

3D-2C {

Pre-Interrogation:

- N * Review complaint and other documents
- N * Gather reports, log sheets, etc.
- N * Interview witnesses (tape record) - both civilian and officers (the department did not keep track of specifics of each witness interview)
- N * Travel time to interview witnesses
- N * Transcribe witness tapes (witnesses are both civilian and officers) (witness officers do not receive a copy of the interview)
- N * Tape review and corrections
- E * Prepare Admin. Notices regarding nature of allegations and the interview and Schedule POBAR interviews (for accused officers)

Interrogation:

- N * Prepare Reports for Interviews
- N * Pre-Interrogation Meeting
- N * Accused Interview (investigators' time)
- E * Transcribe accused tapes (accused officers receive a copy of their interview automatically)

3D-2C

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed	
		Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice
Case 1	Cathy Shields	4.00	-
Case 2	Cathy Shields	2.00	-
	Alicia Garcia	-	-
Case 3	Diana Bishop	-	-
Case 4	Rita Loncarich	4.00	1.00
Case 5	Rita Loncarich	4.00	2.00

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2a</u>	<u>✓</u>	
Cathy Shields	20.00	6.00	(14.00)
Cathy Shields	9.00	-	(9.00)
Diana Bishop	100.00	-	(100.00)
Rita Loncarich	55.00	11.00	(44.00)
	<u>184.00</u>	<u>17.00</u>	<u>(167.00)</u>

3D-2a 1/18
3D-2 2/8

- 3D-2c {
- N Claimed hours included the following activities:
 - * Case Summary and Management Review of findings (investigator discusses finalization of case with management and prepares final report of the investigation summary)
 - N * Preparation of report of recommended disciplinary action (investigator prepares final case report)
 - E * Interaction with the Labor Relations (supervising staff reviews the proposed outcome with Labor Relations department to ensure proper discipline)
 - E * Final disciplinary order and service (notice of adverse comment)

✓ Source: see W/P 3D-2a 1/18
N: Ineligible activity
E: Eligible activity

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Administrative Activities
 Audit ID # S07-MCC-0033

✓ source: see W/P 3D-2a 1/12

Claimed Activities	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-2b</u>	<u>✓</u>	
Establishment of IA unit and Create / develop internal policies / procedur	Shirley Cantu	2.00	2.00	-
	Nicholas Cademartori	2.00	2.00	-
	Ann Meta Clarke	2.00	2.00	-
	Kathy Duque	52.00	52.00	-
	Phuong Le	5.00	5.00	-
	Delores Nnam	29.00	29.00	-
	Kathy Viana	93.00	93.00	-
	Karen Fletcher	457.00	376.00	(81.00) A
POBAR-related training	Karen Fletcher	72.00	48.00	(24.00)
	John Dahl	24.00	12.00	(12.00)
	Bret Fidler	24.00	12.00	(12.00)
	Ned Putt	24.00	12.00	(12.00)
Update status of cases / Review Investig	Karen Fletcher	153.00	-	(153.00) B
POBAR-related training	Prob. Officer (12)	48.00	24.00	(24.00)
	Sup. Prob. Officer (13)	52.00	26.00	(26.00)
		<u>1,039.00</u>	<u>695.00</u>	<u>(344.00)</u>

3D-2a 1/18 ; 3D-2 3/8

Claimed hours included the following: (According to Jesse Fuentes, the department only claimed partial costs associated with the development of the Internal Affairs unit. The department included costs they thought were associated with development of procedures necessary to proceed with POBAR investigations).

- Kathy Viana (93 hours) Type forms and documents (creation of IA templates), relating to establishment of new policies and procedures for the department
- Karen Fletcher (457 hours) Review and update Internal Affairs Policies and Procedures
 - A Site visits to other IA units
 - A Conduct interviews for IA Management Analyst position
 - Meet and confer with Labor Relations / County Counsel about development of IA policie.
 - A Meet with ISU regarding IA database and review IA database
 - A Review complaints, response letters, Merit System Rules, and assign cases
 - A Review training schedule for the unit
 - Conduct meetings with IA staff to inform and discuss new policies / procedures
- Karen Fletcher (153 hours) B) Review IA investigations reports to approve or make corrections (the review ensured that investigation was performed up to standards)
- Kathy Duque (52 hours) Meet with various personnel to discuss IA policy development
Review and make corrections / revisions to draft policies / procedures for the IA unit
Meet / confer with CEMA (County Employee Management Association)
- Nick Catamatori (2 hours) IA meeting - re: new policies
- Phuong Le (5 hours) Prepare documentation relating to creation of the Internal Affairs Unit
- Ann Clarke (2 hours) IA meeting - re: new policies

⇒ next page

Santa Clara County
Probation Department
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
FY 2004-05
Administrative Activities
Audit ID # S07-MCC-0033

Shirley Cantu (2 hours) Meeting regarding development of IA policies
Delores Nham (29 hours) IA meeting - re: new policies
Transmittal preparation
Meet / confer with CEMA (County Employee Management Association)
Meet / confer 1587 (Santa Clara County Peace Officers Union)

Probation Officer (12) - 48 hours Training
Sup. Probation Officer (13) - 52 hours Training
The department claimed costs associated with the following training courses:
* Labor Relations Overview (01/18/05) - 4 hour class
The auditors reviewed the class outline / schedule and confirmed attendance for affected employees. The auditors concluded that 2 out of 4 hours were related to POBAR. Related topics included discussions on progressive discipline process and case law (such as Skelly). The auditors decided to exclude two hours of training that were not related to POBAR. Unrelated topics included discussions about labor relations, unionized vs. non unionized employees, and distinction of private and public employees.
* Peace Officers Discipline (01/13/05) - 4 hour class
The auditors reviewed the list of attendees and the class outline / schedule. The auditors concluded that 2 out of 4 hours were related to POBAR. Related topics included discussions on due process and Peace Officers Bill of Rights. The auditors decided to exclude two hours of training that were not related to POBAR. Unrelated topics included discussions about handling sexual harassment issues, confidentiality issues, investigation errors, and other personnel topics.

Karen Fletcher (72 hours) Training (*all 3 classes*)
John Dahl (24 hours) Training (*1 class*)
Bret Fidler (24 hours) Training (*1 class*)
Ned Putt (24 hours) Training (*1 class*)
The department claimed costs associated with the following training courses:
* Internal Affairs Investigation course (03/16/05-03/18/05) - 24 hour course
The auditors reviewed the course materials and concluded that claimed costs associated with training classes are eligible for reimbursement. The review of training materials disclosed that course contents were related to performance of POBAR activities.
* CA Association of Probation Services Admin course re: POBAR and Labor Relations (02/01/05-02/04/05) - 24 hour course
The auditors reviewed the class outline / schedule and confirmed attendance for affected employees. The auditors concluded that 12 out of 24 hours were related to POBAR. Related topics included discussions on Peace Officers Bill of Rights and Legislative updates. The auditors decided to exclude twelve hours of training that were not related to POBAR. Unrelated topics included discussions about budgeting implications, ethical issues in Probation, Juvenile Justice Reforms, and Labor relations
* Law Enforcement Legal Center course re: Discipline process and Internal Investigation (04/04/05-04/06/05) - 24 hour course
The auditors reviewed the class outline / schedule and confirmed attendance for affected employees. The auditors concluded that 12 out of 24 hours were related to POBAR. Related topics included discussions on Disciplinary Procedures, Disciplinary Investigations, Interrogations of employees, Procedural Bill of Rights. The auditors decided to exclude twelve hours of training that were not related to POBAR. Unrelated topics included discussions about rules of efficiency, electronic research, discrimination issues, first amendment related conduct.

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Administrative Appeal
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-2b</u>	<u>V</u>	
2005-03-01	Robert de Jesus	7.00	-	(7.00)*
2005-03-02	Robert de Jesus	5.50	-	(5.50)*
		<u>12.50</u>	<u>-</u>	<u>(12.50)</u>

3D-20 1/18 ; 3D-2 3/8

Claimed hours included the following activities:

- * Review of documents necessary to proceed with the hearing
- * Legal review and assistance with the conduct of the hearing

Claimed hours resulted from the following appeal hearings:

- * Case 05-01 - 5 days suspension (falls under due process)*
- * Case 05-02 - letter of reprimand (falls under due process)*

V: source: see w/P 3D-20 1/18

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Interrogation Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed		Total
		Prepare Admin. Notice & Schedule Interviews	Transcription of accused officers' interviews	
2005-03-01	Ned Putt	2.00	1.00	3.00
2005-03-02	Brett Fidler	5.00	1.00	6.00
	Subject SPO	1.00	-	1.00
	Jill Ornellas	0.50	-	0.50
	Mary Ryan	0.50	-	0.50
	Lucy Trevino	0.50	-	0.50
	Bruce Handry	0.50	-	0.50
	Gene Ginn	0.50	-	0.50
	Zulema Vasquez	0.50	-	0.50
	Richard de Jesus	0.50	-	0.50
	John Dahl	0.50	-	0.50
2005-03-03	Brett Fidler	2.00	1.00	3.00
	Subject DPO	0.50	-	0.50
2005-04-07	Brett Fidler	6.00	1.00	7.00
	Subject PCII	0.50	-	0.50
2005-04-09	Ned Putt	2.00	0.50	2.50
2005-05-10		-	-	-

27.50 *[Handwritten mark]*

Total Hours Claimed	Total Hours Allowed	Audit Adjustments
<u>2A-26</u>	<u>✓</u>	
Robert DeJesus, Pro	9.00	- (9.00)
Annette Van Unen, S	20.50	- (20.50)
Bret Fidler, SGC	85.00	16.00 (69.00)
Bruce Handry, SPO	2.50	0.50 (2.00)
Dave Perez	4.00	- (4.00)
Gene Ginn, DPO	1.50	0.50 (1.00)
Jill Ornellas, SPO	1.50	0.50 (1.00)
John Dahl, PM	1.50	0.50 (1.00)
Karen Fletcher, PM	3.00	- (3.00)
Linda Nguyen, SPO	1.50	- (1.50)
Lucy Trevino, DPO	1.50	0.50 (1.00)
Mary Ryan, DPO	1.50	0.50 (1.00)
Ned Putt, SPO	35.50	5.50 (30.00)
Richard De Jesus, D	1.50	0.50 (1.00)
Subject, DPO	2.00	- (2.00)
Subject, SPO	2.00	1.00 (1.00)
Subject, DPO	1.50	0.50 (1.00)
Subject, PCII	1.50	0.50 (1.00)
Subject, PCII	0.50	- (0.50)
Boliavone Kegarice,	1.50	- (1.50)
Zulema Vasquez, DP	1.50	0.50 (1.00)
<u>180.50</u>	<u>27.50</u>	<u>(153.00)</u>

✓ Lower:
See w/A 3D-2A 1/18

3D-2A 1/18 | 3D-2 4/18
next page = 8

Santa Clara County
Probation Department
Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
FY 2004-05
Interrogation Activities
Audit ID # S07-MCC-0033

3D-29

Claimed hours included the following activities:

Pre-Interrogation:

- N * Review complaint, Report and Evidence
- N * Gather reports, log sheets, etc.
- N * Interview witnesses (tape record) - both civilian and officers
(the department did not keep track of specifics of each witness interview)
- N * Travel time to interview witnesses
- N * Transcribe witness tapes (witnesses are both civilian and officers)
(witness officers do not receive a copy of the interview)
- N * Tape review and corrections
- E * Prepare Admin. Notices regarding nature of allegations and the interview
and Schedule POBAR interviews (for accused officers)
- N * Prepare Questions for the interviews

Interrogation:

- N * Pre-Interrogation Meeting
- N * Accused Interview
(investigators' time)
(sub / wit time - unknown if overtime or on-duty)
- E * Transcribe accused tapes
(accused officers receive a copy of
their interview automatically)

N : Ineligible activity

E : Eligible activity

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed			Total
		Command Staff Review and Findings	Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice	
2005-03-01	Robert de Jesus	-	8.00	-	8.00
2005-03-02	Bret Fidler	1.00	-	1.00	2.00
	Karen Fletcher	1.00	2.00	1.00	4.00
	Cleveland Prince	1.00	-	1.00	2.00
	Kathy Duque	1.00	-	1.00	2.00
	Star Coatney	-	1.00	-	1.00
	Robert de Jesus	-	4.00	-	4.00
2005-03-03	Bret Fidler	1.00	-	1.00	2.00
	Karen Fletcher	2.00	2.00	1.00	5.00
	Cleveland Prince	2.00	-	1.00	3.00
	Kathy Duque	2.00	-	1.00	3.00
	Delores Nham	1.00	-	-	1.00
	Star Coatney	-	1.00	-	1.00
2005-04-07	Robert de Jesus	-	2.00	-	2.00
	Bret Fidler	1.00	-	1.00	2.00
	Karen Fletcher	1.00	2.00	1.00	4.00
	Michael Simms	1.00	-	1.00	2.00
	Kathy Duque	1.00	-	1.00	2.00
2005-04-09	Delores Nham	-	-	1.00	1.00
	Phuong Le	-	-	-	-
2005-05-10	Phuong Le	-	1.00	-	1.00
	Star Coatney	-	2.00	-	2.00

54.00 [Ⓟ]

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
Robert DeJesus, Prob M	63.00	14.00	(49.00)
Bret Fidler, SGC	45.00	6.00	(39.00)
Cleveland Price, PM	5.00	5.00	-
Delores Nham, ASM	4.00	2.00	(2.00)
Karen Fletcher, PM	23.00	13.00	(10.00)
Kathy Duque, DCPO	7.00	7.00	-
Michael Simms, PM	2.00	2.00	-
Ned Putt, SPO	19.00	-	(19.00)
Phuong Le, HRM	11.00	1.00	(10.00)
Starr Coatney, AMA	88.00	4.00	(84.00)
	267.00	54.00 [Ⓟ]	(213.00)

✓ Source:
 see WIP 3D-20/18

next page:
 3D-20/18 ; 3D-29/8 ⇒

Santa Clara County

Probation Department

Legislatively Mandated Peace Officers Procedural Bill of Rights Program

Review of Allowable Hours

FY 2004-05

Adverse Comment Activities

Audit ID # S07-MCC-0033

3D-20

Claimed hours included the following activities:

- N * Case Summary and Management Review of findings
(investigator discusses finalization of case with management and prepares final report of the investigation summary)
- N * Preparation of report of recommended disciplinary action
(investigator prepares final case report)
- E * Interaction with the Labor Relations
(supervising staff reviews the proposed outcome with Labor Relations department to ensure proper discipline)
- E * Final disciplinary order and service
(notice of adverse comment)
- E * Commanding staff review of findings

N : Ineligible activity
E : Eligible activity

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
 Administrative Activities
 Audit ID # S07-MCC-0033

Claimed Activities	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-2c</u>	<u>✓</u>	
Update Procedure Manuals	John Dahl	2.00	2.00	-
Conduct training regarding POBAR	John Dahl	1.00	1.00	-
Maintain and update case records	John Dahl	8.50	8.50	-
Training	Dep. Prob. Officer	53.00	18.00	(35.00) *
	Sup. Prob. Officer	58.00	6.00	(52.00) *
		<u>122.50</u>	<u>35.50</u>	<u>(87.00)</u>

3D-2a 1/18 ; 3D-2 6/8

- The department claimed costs associated with the following training courses:
- * Labor Relations Overview (05/25/06) - 4 hour class
 The auditors reviewed the class outline / schedule and confirmed attendance for affected employees. The auditors concluded that 2 out of 4 hours were related to POBAR. Related topics included discussions on progressive discipline process and case law (such as Skelly). The auditors decided to exclude two hours of training that were not related to POBAR. Unrelated topics included discussions about labor relations, unionized vs. non unionized employees, and distinction of private and public employees.
 - * Peace Officer Discipline (01/26/06) - 4 hour course
 The auditors reviewed the class outline / schedule and confirmed attendance for affected employees. The auditors concluded that 2 out of 4 hours were related to POBAR. Related topics included discussions on Procedural Bill of Rights and due process. The auditors decided to exclude two hours of training that were not related to POBAR. Unrelated topics included discussions about conducting investigations, sexual harrasment issues, confidentiality issues, investigation errors, and other personnel related topics.
 - * How to conduct investigations into allegations of employee misconduct class (03/29/06) - 4 hour training
 The auditors reviewed the class outline / schedule and confirmed attendance for affected employees. The auditors concluded that 1 out of 4 hours were related to POBAR. Related topics included discussions on legal mandates to investigate. The auditors decided to exclude three hours of training that were not related to POBAR. Unrelated topics included discussions about types of investigations, preparing investigation report, key mistakes in workplace investigations, and assessing credibility.
 - * Civil Liabilities for Managers and Supervisors (05/10/06) - 4 hours course
 The auditors reviewed the class outline and concluded that this class was not related to POBAR. The auditors decided to exclude all four hours of training. Class topics included discussions about types of lawsuits, representation and indemnification, liability for supervising clients, supervisory liability of failure to train, minimizing exposure to liability, and individual development training.

✓ source: see WIP 3D-2a 1/18

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, the department combined / grouped interrogation and adverse comment activities and claimed them under interrogations component of the claim

Case Number	Employee Claimed	Activities / Time Allowed				Total	
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings	Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice		
2005-04-08	Brett Fidler	5.50	1.00		2.00	8.50	
	Subject GCI	1.00				1.00	
	Subject GCI	1.00				1.00	
	Subject GCII	1.00				1.00	
	Subject SGC	1.00				1.00	
	Subject SGC	0.50				0.50	
	Subject GCI	0.50				0.50	
	Subject GCI	0.50				0.50	
	Nick Birchard				2.00	2.00	
	John Dahl			1.00	2.00	3.00	
2005-05-11	Delores Nham				2.00	2.00	
	Emi Chu			1.00	4.00	5.00	
	Brett Fidler	5.00	2.00		2.00	9.00	
	Subject SGC	0.50				0.50	
	Subject SGC	0.50				0.50	
	Subject SGC	0.50				0.50	
	Subject GCI	0.50				0.50	
	Subject GCI	0.50				0.50	
	Kathy Duque		2.00		2.00	4.00	
	Nick Birchard		2.00		2.00	4.00	
2005-05-12	John Dahl		2.00	2.00	2.00	6.00	
	Delores Nham				2.00	2.00	
	Ned Putt	3.00				3.00	
	Emi Chu			1.00	4.00	5.00	
	2005-05-13	Brett Fidler	1.00	1.00		2.00	4.00
		Subject SGC	1.00				1.00
		Subject SGC	1.00				1.00
		Subject SGC	1.00				1.00
		Subject SGC	1.00				1.00
		Subject SGC	1.00				1.00
Subject SGC		1.00				1.00	
Subject SGC		1.00				1.00	
Subject GCII		1.00				1.00	
John Dahl			1.00	1.00	2.00	4.00	
2005-05-14	Kathy Duque				2.00	2.00	
	Nick Birchard				2.00	2.00	
	Ned Putt	2.00				2.00	
	2005-06-16	Ned Putt	2.00				2.00
		Brett Fidler	8.00	3.00		2.00	13.00
		Kathy Duque		2.00		2.00	4.00
		Nick Birchard		2.00		2.00	4.00
		John Dahl		2.00	2.00	2.00	6.00
		Delores Nham		1.00		2.00	3.00
		Phuong Le			0.50	1.00	1.50
2005-06-20		Ned Putt	1.00				1.00

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Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, the department combined / grouped interrogation and adverse comment activities and claimed them under interrogations component of the claim

Case Number	Employee Claimed	Activities / Time Allowed				Total
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings	Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice	
2005-06-21	Emi Chu			1.00	4.00	5.00
	Ned Putt	3.00				3.00
2005-07-25	Emi Chu			1.00	4.00	5.00
	Ned Putt	1.00				1.00
2005-07-26	Ned Putt	2.00				2.00
2005-08-29	Brett Fidler	3.50	1.00		2.00	6.50
	Subject DPOIII	0.50				0.50
	Subject SPO	0.50				0.50
	Subject SPO	0.50				0.50
	Subject DPOI	0.50				0.50
	Subject DPOIII	0.50				0.50
	Subject DPOII	0.50				0.50
	Kathy Duque		1.00		2.00	3.00
	Mike Green		1.00		2.00	3.00
	John Dahl		1.00	1.00	2.00	4.00
2005-09-31	Delores Nham		1.00		2.00	3.00
	Emi Chu			1.00	4.00	5.00
	Brett Fidler	2.00	2.00		2.00	6.00
	Subject GCI	0.50				0.50
	Kathy Duque		1.00		2.00	3.00
	Nick Birchard		1.00		2.00	3.00
	John Dahl		1.00	1.00	2.00	4.00
	Delores Nham		1.00		2.00	3.00
2005-09-32	Ned Putt	2.00				2.00
2005-10-33	Ned Putt	2.00				2.00
2005-10-34	Ned Putt	10.00				10.00
2005-10-35	Brett Fidler	1.00	2.00		2.00	5.00
	Subject DPOIII	0.50				0.50
	Kathy Duque		2.00		2.00	4.00
	Diano Teves		2.00		2.00	4.00
	John Dahl		2.00	2.00	2.00	6.00
	Delores Nham				2.00	2.00
	2005-11-37	Brett Fidler	1.00	2.00		2.00
2005-11-38	Subject SGC	0.50				0.50
	Kathy Duque		2.00		2.00	4.00
	Nick Birchard		2.00		2.00	4.00
	John Dahl		2.00	2.00	2.00	6.00
	Delores Nham				2.00	2.00
	Ned Putt	2.00				2.00
2005-11-40	Brett Fidler	10.00	2.00		2.00	14.00
	Subject SGC	0.50				0.50
	Subject SGC	0.50				0.50
	Subject SGC	0.50				0.50
	Subject GCI	0.50				0.50

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Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, the department combined / grouped interrogation and adverse comment activities and claimed them under interrogations component of the claim

Case Number	Employee Claimed	Activities / Time Allowed				Total
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings	Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice	
	Subject GCI	0.50				0.50
	Subject GCI	0.50				0.50
	Subject GCI	0.50				0.50
	Subject GCI	0.50				0.50
	Subject GCI	0.50				0.50
	Subject GCII	0.50				0.50
	Kathy Duque		2.00		2.00	4.00
	Nick Birchard		2.00		2.00	4.00
	John Dahl		2.00	2.00	2.00	6.00
	Delores Nham				2.00	2.00
2005-12-43	Ned Putt	2.00				2.00
2006-01-04	Brett Fidler	1.00	1.00		2.00	4.00
	Subject DPOIII	1.00				1.00
	Kathy Duque		1.00		2.00	3.00
	Rita Loncarich		1.00		2.00	3.00
	John Dahl		1.00	1.00	2.00	4.00
	Delores Nham		1.00		2.00	3.00
	Emi Chu			1.00	4.00	5.00
2006-01-05	Brett Fidler	1.00			2.00	3.00
	Subject GCI	1.00				1.00
	Kathy Duque				2.00	2.00
	Nick Birchard				2.00	2.00
	John Dahl				2.00	2.00
2006-01-07	Ned Putt	1.00				1.00
2006-02-14	Brett Fidler	1.00			2.00	3.00
	Subject PCI	1.00				1.00
	Kathy Duque				2.00	2.00
	Mike Simms				2.00	2.00
	John Dahl				2.00	2.00
	Delores Nham				2.00	2.00
2006-03-20	Brett Fidler	2.00	2.00		2.00	6.00
	Subject GCII	1.00				1.00
	Subject GCI	1.00				1.00
	Kathy Duque		1.00		2.00	3.00
	Nick Birchard		1.00		2.00	3.00
	John Dahl		1.00	1.00	2.00	4.00
	Delores Nham		1.00		2.00	3.00
2005-03-04	Emi Chu			1.00	4.00	5.00
2005-04-07	Emi Chu			1.00		1.00
2005-03-01	Emi Chu			1.00	4.00	5.00

354.00 3D-2a 16/18
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Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, the department combined / grouped interrogation and adverse comment activities and claimed them under interrogations component of the claim

Case Number	Employee Claimed	Activities / Time Allowed				Total
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings	Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice	
		Total Hours Claimed	Total Hours Allowed	Audit Adjustments		
		<u>2A-2C</u>				
	Andrew Flores, DPO	1.00	-	(1.00)		
	Annette Vanunen, DPO	158.05	-	(158.05)		
	Anthony Enweluzor, DPO	1.00	-	(1.00)		
	Brad Kinne, DPO	1.00	-	(1.00)		
	Bret Fidler, DPO	682.50	87.00	(595.50)		
	Bruce Hendry, DPO	1.00	-	(1.00)		
	Burga Santiago, DPO	6.00	-	(6.00)		
	Delores Nnam, DPO	27.00	27.00	-		
	Diano Teves, DPO	4.00	4.00	-		
	Emi Chu, DPO	266.00	41.00	(225.00)		
	George Burnette, DPO	1.00	-	(1.00)		
	Jabari Lomak, DPO	1.00	-	(1.00)		
	Joel Humble, DPO	1.00	-	(1.00)		
	John Dahl, DPO	91.00	57.00	(34.00)		
	Kathy Duque, DPO	39.00	38.00	(1.00)		
	Marvin Kusumoto, DPO	1.00	-	(1.00)		
	Maurico Rodriguez, DPO	1.00	-	(1.00)		
	Michelle Fernandez, DPO	2.00	-	(2.00)		
	Mike Green, DPO	3.00	3.00	-		
	Mike Simms, DPO	6.50	2.00	(4.50)		
	Ned Putt, DPO	412.00	33.00	(379.00)		
	Nick Birchard, DPO	26.00	28.00	2.00		
	Phuong Le, DPO	22.50	1.50	(21.00)		
	Rita Loncarich, DPO	3.00	3.00	-		
	Sal Heredia, DPO	3.00	-	(3.00)		
	Steve Lived, DPO	1.00	-	(1.00)		
	Steve Majores, DPO	0.50	-	(0.50)		
	Vanessa Fajardo, DPO	1.00	-	(1.00)		
	Jon Vickroy, DPO III	8.00	-	(8.00)		
	DPO	11.00	-	(11.00)		
	DPO I	2.00	0.50	(1.50)		
	DPO II	2.50	0.50	(2.00)		
	DPO III	13.00	2.50	(10.50)		
	GCI	31.50	9.50	(22.00)		
	GCII	8.50	3.50	(5.00)		
	PC	1.00	-	(1.00)		
	PC I	1.00	1.00	-		
	PC II	2.00	-	(2.00)		
	SGC	41.00	11.00	(30.00)		
	SPO	5.00	1.00	(4.00)		
		1,889.55	354.00	(1,535.55)		

✓ Sources
 see w/p
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Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, the department combined / grouped interrogation and adverse comment activities and claimed them under interrogations component of the claim

Case Number	Employee Claimed	Activities / Time Allowed				Total
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings	Interaction w/ Labor Relations regarding the disciplinary action	Final Disciplinary Order and Service of Notice	

3D-2c

Claimed hours included the following activities:

Pre-Interrogation:

- N * Review complaint, Report and Evidence
- N * Gather reports, log sheets, etc.
- N * Interview witnesses (tape record) - both civilian and officers
(the department did not keep track of specifics of each witness interview)
- N * Travel time to interview witnesses
- N * Transcribe witness tapes (witnesses are both civilian and officers)
(witness officers do not receive a copy of the interview)
- N * Tape review and corrections
- E * Prepare Admin. Notices regarding nature of allegations and the interview and Schedule POBAR interviews (for accused officers)
- N * Prepare Questions for the interviews

Interrogation:

- N * Pre-Interrogation Meeting
- N * Accused Interview
(investigators' time)
(sub / wit time - unknown if overtime or on-duty)
- E * Transcribe accused tapes
(accused officers receive a copy of their interview automatically)

Adverse Comments:

- N * Case Summary and Management Review of findings
(investigator discusses finalization of case with management and prepares final report of the investigation summary)
- N * Preparation of report of recommended disciplinary action
(investigator prepares final case report)
- E * Interaction with the Labor Relations
(supervising staff reviews the proposed outcome with Labor Relations department to ensure proper discipline)
- E * Final disciplinary order and service
(notice of adverse comment)
- E * Commanding staff review of findings

N: Ineligible activity
 E: Eligible activity

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
		<u>2A-2C</u>	<u>✓</u>	
06-01	Jon Vickroy	8.00	-	(8.00) *
		8.00	-	(8.00)

3D-2A 1/18 ; 3D-2 8/8

Claimed hours included the following activities:
 * * Review case summary

✓ Source: See W/P 3D-2A 1/18

Purpose To review Productive Hourly Rates claimed by Probation department in FY 2003-04 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jesse Fuentes, Departmental Fiscal Officer, Probation Department
 ✓ Probation Department's People Soft individual payroll reports per fiscal period
 Department's calculations on employees productive hourly and benefit rates

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1560.65 productive hours in the PHR calculation. (See <Document # 30-437> for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours.

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 30-4> for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b)/1696.35	(d)=(c)-(a)
Sup. Prob. Officers	<u>2A-2a</u> 49.08	77,454.00 ✓	45.66	(3.42)
Jim Tarshis	49.84	77,789.00	45.86	(3.98)
Cathy Shields	63.03	98,364.00	57.99	(5.04)
Alicia Garcia	49.84	77,789.00	45.86	(3.98)
Diana Bishop	49.84	77,789.00	45.86	(3.99)
Rita Loncarich	64.88	101,255.00	59.69	(5.19)

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Santa Clara County - Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Analysis of Productive Hourly Rates - Probation Department
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Purpose To review Productive Hourly Rates claimed by Probation department in FY 2004-05 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jesse Fuentes, Departmental Fiscal Officer, Probation Department
 ✓ Probation Department's People Soft individual payroll reports per fiscal period
 Department's calculations on employees productive hourly and benefit rates

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1545 productive hours in the PHR calculation. (See <Document # 30-447 for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 30-4 > for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c) = (b) / 1682	(d) = (c) - (a)
Bret Fidler, SGC	51.16	79,050.00	47.00	(4.16)
Bruce Handry, SPO	56.96	88,003.00	52.32	(4.64)
Gene Ginn, DPO	50.18	77,533.00	46.10	(4.08)
Jill Ornellas, SPO	57.11	88,234.00	52.46	(4.65)
John Dahl, PM	65.79	101,650.00	60.43	(5.36)
Lucy Trevino, DPO	36.55	56,473.00	33.57	(2.98)
Mary Ryan, DPO	50.32	77,742.00	46.22	(4.10)
Ned Putt, SPO	56.96	88,003.00	52.32	(4.64)
Richard De Jesus, DPO	44.62	68,940.00	40.99	(3.63)
Zulema Vasquez, DPO	44.62	68,940.00	40.99	(3.63)
Robert DeJesus, Prob M	62.08	95,921.00	57.03	(5.05)
Cleveland Price, PM	63.45	98,038.00	58.29	(5.16)
Delores Nham, ASM	70.47	108,880.00	64.73	(5.74)
Karen Fletcher, PM	66.84	103,270.00	61.40	(5.44)
Kathy Duque, DCPO	72.63	112,216.00	66.72	(5.91)
Michael Simms, PM	61.93	95,682.00	56.89	(5.04)
Phuong Le, HRM	52.52	81,141.00	48.24	(4.28)
Starr Coatney, AMA	35.01	54,090.00	32.16	(2.85)
Kathy Viana	30.57	47,235.00	28.08	(2.49)
Shirley Cantu	73.34	113,304.00	67.36	(5.98)
Probation Officer (12)	45.37	70,089.00	41.67	(3.70)
Sup. Prob. Officer (13)	65.14	100,647.00	59.84	(5.30)
Subject, SPO	46.98	72,588.00	43.16	(3.82)
Subject, DPO	30.88	47,713.00	28.37	(2.51)
Subject, PCII	40.57	62,679.00	37.26	(3.31)

30-2 3/8-5/8

Santa Clara County - *Probation Department*
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Analysis of Productive Hourly Rates - Probation Department
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Purpose To review Productive Hourly Rates claimed by Probation department in FY 2005-06 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jesse Fuentes, Departmental Fiscal Officer, Probation Department
 ✓ Probation Department's People Soft individual payroll reports per fiscal period
 Department's calculations on employees productive hourly and benefit rates

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the department applied 1544 productive hours in the PHR calculation. (See <Document # 30-4577> for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 30-4> for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c) = (b) / 1677 ^{30-4 2/7}	(d) = (c) - (a)
Dep. Prob. Officer	2A-2c 46.91	72,437.00	43.19	(3.72)
Sup. Prob. Officer	60.05	92,721.00	55.29	(4.76)
Bret Fidler, DPO	52.45	80,987.00	48.29	(4.16)
Delores Nnam, DPO	73.04	112,776.00	67.25	(5.79)
Diano Teves, DPO	28.48	43,980.00	26.23	(2.25)
Emi Chu, DPO	40.15	61,994.00	36.97	(3.18)
John Dahl, DPO	67.58	104,349.00	62.22	(5.36)
Kathy Duque, DPO	78.32	120,919.00	72.10	(6.22)
Mike Green, DPO	67.81	104,701.00	62.43	(5.38)
Mike Simms, DPO	67.34	103,976.00	62.00	(5.34)
Ned Putt, DPO	58.40	90,167.00	53.77	(4.63)
Nick Birchard, DPO	60.13	92,848.00	55.37	(4.76)
Phuong Le, DPO	58.61	90,498.00	53.96	(4.65)
Rita Loncarich, DPO	67.58	104,349.00	62.22	(5.36)
DPO I	46.91	72,437.00	43.19	(3.72)
DPO II	46.91	72,437.00	43.19	(3.72)
DPO III	46.91	72,437.00	43.19	(3.72)
GCI	36.23	52,873.60	31.53	(4.70)
GCI	39.45	61,493.12	36.67	(2.78)
PC I	37.31	58,604.00	34.95	(2.36)
SGC	44.44	68,818.00	41.04	(3.40)
SPO	60.05	92,721.00	55.29	(4.76)

30-2 6/8-8/8

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Summary of Salary Adjustments
 Fiscal Years 2003-04 Through 2005-06
Audit ID # S07-MCC-0033

Purpose: To calculate allowable salary costs based on adjustments noted to claimed hours and productive hourly rates.

Source: 2A-2; 3D-3a; 3D-3b; 3D-3c

Cost Components	Salaries Claimed	Allowed Salaries	Audit Adjustments	
			Adjustment 1 Overstated Hours	Adjustment 2 Overstated PHR
2003-04				
Admin. Activities	3D-3 ^{2/5} 13,654	12,673 11,292	(1,381)	(981)
Admin. Appeal	-	-	-	-
Interrogation	9,088	568	(8,471)	(49)
Adverse Comments	3D-3 ^{3/5} 853	179	(658)	(16)
Subtotal	\$ 23,595	\$ 13,430 12,039	\$ (10,510) 9,129	\$ (1,046)
2004-05				
Admin. Activities	3D-3 ^{4/5} 74	68	-	(6)
Admin. Appeal	-	-	-	-
Interrogation	2,174	1,034	(1,049)	(91)
Adverse Comments	-	-	-	-
Subtotal	\$ 2,248	\$ 1,102	\$ (1,049)	\$ (97)
2005-06				
Admin. Activities	3D-3 ^{5/5} 128	142	-	14
Admin. Appeal	-	-	-	-
Interrogation	2,568	135	(2,435)	2
Adverse Comments	-	-	-	-
Subtotal	\$ 2,696	\$ 277	\$ (2,435)	\$ 16
Total	\$ 28,539	\$ 14,799 13,418	\$ (13,994) (1,127) (15,121)	Adjustment 1 Adjustment 2 (13,740)

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3D-3^{2/2}

3D^{12/12} ; 3D^{10/12-11/12} ; 1D-1/4

16/16

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

District Attorney Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2003-04

Admin. Activities

W. Vidmar, Criminal Inve	\$ 67.93	15.00	\$ 1,018.95
B. Fraccoli, Criminal Inve	64.91	15.00	973.65
M Avila, Criminal Invest.	57.54	15.00	863.10
G Cunningham, Criminal	64.91	15.00	973.65
B Headrick, Criminla Inve	64.91	15.00	973.65
J Perez, Criminal Invest.	54.98	24.00	1,319.52
S Reinhardt, Criminal Inv	57.54	24.00	1,380.96
W Vidmar, Criminal Inves	67.93	24.00	1,630.32
M Avila, Criminal Invest.	57.54	24.00	1,380.96
L Evans, Criminal Invest.	57.54	24.00	1,380.96
J McMullen, Criminal Inv	56.26	24.00	1,350.24
W Vidmar, Criminal Inves	\$ 67.93	6.00	407.58
Subtotal		225.00	\$ 13,654

\$ 62.50	15.00	\$ 1,018.95	\$ 937.50	\$ -	\$ (81.45)
59.72	15.00	973.65	895.80	-	(77.85)
52.94	15.00	863.10	794.10	-	(69.00)
59.72	15.00	973.65	895.80	-	(77.85)
59.72	15.00	973.65	895.80	-	(77.85)
50.59	24.00	1,319.52	1,214.16	-	(105.36)
52.94	24.00	1,380.96	1,270.56	-	(110.40)
62.50	24.00	1,630.32	1,500.00	-	(130.32)
52.94	24.00	1,380.96	1,270.56	-	(110.40)
* 57.54	124	1,380.96	1,380.96	(1,380.96)	-
51.76	24.00	1,350.24	1,242.24	-	(108.00)
62.50	6.00	407.58	375.00	-	(32.58)
225	204.00	\$ 13,654	\$ 12,273	\$ (1,381)	\$ (981)

Interrogation

G Cunningham, Criminal I	\$ 64.91	5.50	\$ 357.01
B Fraccoli, Criminal Inves	64.91	3.50	227.19
M Lane, Criminal Invest.	64.91	8.00	519.28
K Smith, Criminal Invest.	64.91	10.50	681.56
P Campbell, Criminal Inve	64.91	1.00	64.91
B Fraccoli, Criminal Inves	64.91	30.50	1,979.86
K Smith, Criminal Invest.	64.91	19.50	1,265.75
P Campbell, Criminal Inve	64.91	3.50	227.19
G Cunningham, Criminal	64.91	38.00	2,466.58
M Lane, Criminal Invest.	64.91	20.00	1,298.20
Subtotal		140.00	\$ 9,088

-	-	\$ -	\$ -	\$ (357.01)	\$ -
-	-	-	-	(227.19)	-
-	-	-	-	(519.28)	-
-	-	-	-	(681.56)	-
-	-	-	-	(64.91)	-
59.72	6.00	389.46	358.32	(1,590.40)	(31.14)
59.72	1.00	64.91	60	(1,200.84)	(4.91)
59.72	0.50	32.46	29.86	(194.73)	(2.60)
-	-	-	-	(2,466.58)	-
59.72	2.00	129.82	119.44	(1,168.38)	(10.38)
9.50		\$ 617	\$ 568	\$ (8,471)	\$ (49)

* per w/p 10/17

3E-32/5 30-31/5

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

District Attorney Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2003-04

Adverse Comment	PHR Claimed	Hours Claimed	Amount Claimed	Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
W. Vidmar, Criminal Inve	\$ 67.93	3.00	\$ 203.79			\$ -	\$ -	\$ (203.79)	\$ -
B. Fraccoli, Criminal Inve	64.91	3.00	194.73			-	-	(194.73)	-
P. Campbell, Criminal Inv	64.91	3.00	194.73	59.72	1.00	64.91	59.72	(129.82)	(5.19)
G. Cunningham, Criminal	64.91	4.00	259.64	59.72	2.00	129.82	119.44	(129.82)	(10.38)
Subtotal		13.00	\$ 853		3.00	\$ 195	\$ 179	\$ (658)	\$ (16)
Total		378.00	\$ 23,595		213.50	\$ 13,085	\$ 12,039	\$ (10,510)	\$ (1,046)

2A-29 11/13

3D-36 1/3 3D-30 4/8

*3D-3 1/5
3E-3 3/5*

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Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

District Attorney Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2004-05

Admin. Activities				
	M. Vidmar Assist. Chic	\$ 74.06	1.00	\$ 74.06
Subtotal			<u>1.00</u>	<u>\$ 74</u>
Interrogation				
	M. Lane Lieutenant	\$ 70.19	11.25	\$ 789.64
	R. Pifferini, Deputy Chi	58.30	23.75	1,384.63
Subtotal			<u>35.00</u>	<u>\$ 2,174</u>
Total			<u>36.00</u>	<u>\$ 2,248</u>

68.02	1.00	74.06	68.02	-	(6.04)
	<u>1.00</u>	<u>\$ 74</u>	<u>\$ 68</u>	<u>\$ -</u>	<u>\$ (6)</u>
64.48	1.50	105	96.72	(684.64)	(8.28)
53.55	17.50	1,020.25	937.13	(364.38)	(83.13)
	<u>19.00</u>	<u>\$ 1,125</u>	<u>\$ 1,034</u>	<u>\$ (1,049)</u>	<u>\$ (91)</u>
	<u>20.00</u>	<u>\$ 1,199</u>	<u>\$ 1,102</u>	<u>\$ (1,049)</u>	<u>\$ (97)</u>

30-31/5
3E-34/5

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Salaries
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

District Attorney Department Data				
Activities	Classification	PHR Claimed	Hours Claimed	Amount Claimed
		(a)	(b)	(c)=(a)*(b)

Auditors' Analysis					
Allowed PHR	Allowed Hours	Hours times Claimed PHR	Hours times Allowed PHR	Audit Adjustment 1 Hours-related	Audit Adjustment 2 PHR-related
(d)	(e)	(f)=(e)*(a)	(g)=(e)*(d)	(h)=(f)-(c)	(i)=(g)-(f)

FY 2005-06

Admin. Activities				
Mike Vidmar, Crimina	\$ 64.13	2.00	\$ 128.26	
Subtotal		2.00	\$ 128	
Interrogation				
Maurice Lane, Lieuten	\$ 73.32	24.75	\$ 1,814.67	
Pat Alvarez, Criminal	64.13	9.25	593.20	
Mike Vidmar, Crimina	64.13	2.50	160.33	
Subtotal		36.50	\$ 2,568	
Total		38.50	\$ 2,696	

71.20	2.00	128.26	142.40	-	14.14
	2.00	\$ 128	\$ 142	\$ -	\$ 14
67.50	0.50	36.66	34	(1,778.01)	(2.66)
65.14	1.00	64.13	65.14	(529.07)	1.01
71.20	0.50	32.07	35.60	(128.26)	3.54
	2.00	\$ 133	\$ 135	\$ (2,435)	\$ 2
	4.00	\$ 261	\$ 277	\$ (2,435)	\$ 16

3D-36 3/3 3D-39 7/2
3D-32 2/8
3D-3 1/5
3E-3 5/5

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Santa Clara County
District Attorney
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Summary of Claimed / Allowable Hours
 FY's 2003-04 through 2005-06
Audit ID # S07-MCC-0033

Purpose: To review Case Time Logs for all the years under the audit period in order to identify POBAR-related hours eligible for reimbursement as per criteria outlined in the *Parameters and Guidelines* for the POBAR program. To document allowed hours and audit adjustments as per auditors' review of case logs and sample cases.

Source: Case Time Logs, District Attorney Department's Investigations unit, FY's 2003-04 through 2005-06
 Discussions with Michael Vidmar, Assistant Chief, Investigations unit

Analysis: The auditors reviewed all case logs for the three fiscal years under the audit period and identified eligible hours.

Fiscal Year	Claim Component	Claimed Hours	Allowed Hours	Audit Adjustments
2003-04	Admin. Activities <u>3D-3a 2/8</u>	225.00	²²⁵ 201.00	(24.00)
	Interrogations <u>3D-3a 3/8</u>	140.00	9.50	(130.50)
	Adverse Comments <u>3D-3a 4/8</u>	13.00	3.00	(10.00)
	Total	378.00	<u>213.50</u> ^{237.50}	<u>(164.50)</u> ^{140.50}
2004-05	Admin. Activities <u>3D-3a 5/8</u>	1.00	1.00	-
	Interrogations <u>3D-3a 6/8</u>	35.00	19.00	(16.00)
	Total	36.00	<u>20.00</u>	<u>(16.00)</u>
2005-06	Admin. Activities <u>3D-3a 7/8</u>	2.00	2.00	-
	Interrogations <u>3D-3a 8/8</u>	36.50	2.00	(34.50)
	Total	38.50	<u>4.00</u>	<u>(34.50)</u>
Grand Total		452.50	<u>237.50</u> ^{261.5}	<u>(215.00)</u> ^{191.0}

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Allowable Hours
 FY 2003-04
 Administrative Activities
 Audit ID # S07-MCC-0033

Claimed Activities	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-29</u>	✓	
A Revise and update policies / procedures	W. Vidmar	15.00	15.00	-
	B. Fraccoli	15.00	15.00	-
	M. Avila	15.00	15.00	-
	G. Cunningham	15.00	15.00	-
	B. Headrick	15.00	15.00	-
B Training	J. Perez	24.00	24.00	-
	S. Reinhardt	24.00	24.00	-
	W. Vidmar	24.00	24.00	-
	M. Avila	24.00	24.00	-
	L. Evans	24.00	-24	(24.00) *
	J. McMullen	24.00	24.00	-
Update / maintain status of cases	W. Vidmar	6.00	6.00	-
		225.00	<u>225</u> 201.00	(24.00)

3D-39 1/8 | 3D-32/5

Claimed hours included the following: (According to Michael Vidmar, the Assistant Chief of the Investigations unit, the department claimed the following hours relating to POBAR activities:

- A Revise / update policies / procedures The department claimed meeting hours to review current policies and procedures and create new manual within the department to provide a guide for Internal Affairs investigators and create a uniform procedures pertaining to forms, format, and outline of investigations. The auditors reviewed the department's manual and confirmed that this activity in fact took place.

- B Training The department claimed costs associated with the following training course:
 * Internal Affairs Investigation course - 24 hour course (various dates for each employee)
 The auditors reviewed the course materials and concluded that claimed costs associated with training classes are eligible for reimbursement. The review of training materials disclosed that course contents were related to performance of POBAR activities. The auditors also reviewed training history for each claimed employee to confirm attendance of this training class. With the exception of one employee, whose records did not show attendance of this course, all other employees attended the training class in question. *

✓ source: see w/p 3D-39 1/8
 * see w/p 16/17

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2003-04
Interrogation Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed
		Prepare Admin. Notice & Schedule Interviews
03-IA-04	Fraccoli, R.	6.00
03-IA-05	Cunningham, G.	-
03-IA-06	Lane, M.	2.00
04-IA-01	Campbell, P.	0.50
04-IA-02	Smith, K.	1.00
		9.50

Total Hours Claimed	Total Hours Allowed	Audit Adjustments
<u>24.29</u>	✓	

Interviews:

G Cunningham, Crimir	5.50	-	(5.50)
B Fraccoli, Criminal I	3.50	-	(3.50)
M Lane, Criminal Inve	8.00	-	(8.00)
K Smith, Criminal Inv	10.50	-	(10.50)
P Campbell, Criminal	1.00	-	(1.00)
Other interrog activities:			
B Fraccoli, Criminal I	30.50	6.00	(24.50)
K Smith, Criminal Inv	19.50	1.00	(18.50)
P Campbell, Criminal	3.50	0.50	(3.00)
G Cunningham, Crimi	38.00	-	(38.00)
M Lane, Criminal Inve	20.00	2.00	(18.00)
140.00		9.50	(130.50)

3D-3a 1/8
 3D-3 2/5
 Claimed hours included the following activities:

- 3D-3c {
- N * Review complaint, Report and Evidence
 - N * Gather reports, log sheets, etc.
 - N * Interview witnesses on regular hours (investigators' time)
 - N * Review tapes for witness interviews
 - N * Travel time to interview witnesses
 - N * Conduct pre-interrogation meeting
 - N * Interview subject officers on regular hours (investigators' time)
 - N * Review tapes for subject officer interviews (no transcriptions)
 - E * Prepare Admin. Notices regarding nature of allegations and the interview and Schedule POBAR interviews (for accused officers)
 - N * Prepare Questions for the interviews

N: Ineligible activity
 E: Eligible activity

✓ Source: See W/P 3D-3a 1/8

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Review of Allowable Hours
 FY 2003-04
 Adverse Comment Activities
 Audit ID # S07-MCC-0033

Case Number	Employee Claimed	Activities / Time Allowed
		Command Staff Review and Findings
03-IA-04	Fracolli, R.	-
03-IA-05	Cunningham, G.	2.00
03-IA-06	Lane, M.	-
04-IA-01	Campbell, P.	1.00
04-IA-02	Smith, K.	-
		<u>3.00</u>

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A-2a</u>	<u>✓</u>	
W. Vidmar, Criminal	3.00	-	(3.00)
B. Fraccolli, Criminal	3.00	-	(3.00)
P. Campbell, Criminal	3.00	1.00	(2.00)
G. Cunningham, Criminal	4.00	2.00	(2.00)
	<u>13.00</u>	<u>3.00</u>	<u>(10.00)</u>

3D-3a 1/8
3D-3 3/5

Claimed hours included the following activities:

- 3D-3c {
- N * Case Summary and Review of findings (prepare final investigation report and summarize findings)
 - E * Commanding staff review of findings

✓ Source: See WIP 3D-3a 1/8
N: Ineligible activity
E: Eligible activity

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Administrative Activities
 Audit ID # S07-MCC-0033

Claimed Activities	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
		<u>2A-26</u>	<u>✓</u>	
Update / maintain status of cases	W. Vidmar	1.00	1.00	-

[Handwritten bracket]
 3D-30 1/8 ; 3D-3 4/5

✓ source: See w/p 3D-30 1/8

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2004-05
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, interrogation and adverse comment activities were claimed together

Case Number	Employee Claimed	Activities / Time Allowed	
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings
05-IA-01	Lane, M.	1.50	-
04-IA-04	Pifferini, R.	0.50	17.00
		2.00	17.00

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>2A 26</u>	<u>✓</u>	
M. Lane, Lieutenant	11.25	1.50	(9.75)
R. Pifferini, Deputy CI	23.75	17.50	(6.25)
	35.00	19.00	(16.00)

3D-3a 1/8 ; 3D-3 4/5

Claimed hours included the following activities:

- 3D-3c {
- N * Review complaint, Report and Evidence
 - N * Gather reports, log sheets, etc.
 - N * Interview witnesses on regular hours (investigators' time)
 - N * Review tapes for witness interviews
 - N * Travel time to interview witnesses
 - N * Conduct pre-interrogation meeting
 - N * Interview subject officers on regular hours (investigators' time)
 - N * Review tapes for subject officer interviews (no transcriptions)
 - E * Prepare Admin. Notices regarding nature of allegations and the interview and Schedule POBAR interviews (for accused officers)
 - N * Prepare Questions for the interviews
 - E * Supervisor / Commanding staff review of documents leading to the finding
 - N * Preparation of final report

✓ Source: see w/P 3D-3a 1/8

N: Ineligible activity

E: Eligible activity

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Administrative Activities
 Audit ID # S07-MCC-0033

Claimed Activities	Employee Claimed	Hours Claimed	Allowed Hours	Audit Adjustments
Update / maintain status of cases	W. Vidmar	2.00	2.00	-

3D-3a 1/8 ; 3D-3 5/5

✓ source: see w/P 3D-3a 1/8

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Allowable Hours
 FY 2005-06
Interrogation Activities
 Audit ID # S07-MCC-0033

Note: In this fiscal period, interrogation and adverse comment activities were claimed together

Case Number	Employee Claimed	Activities / Time Allowed	
		Prepare Admin. Notice & Schedule Interviews	Command Staff Review and Findings
06-IA-02	Lane, M.	0.50	-
06-IA-01	Vidmar, M.	0.50	-
05-IA-02	Alvarez, P.	0.50	0.50
		1.50	0.50

	Total Hours Claimed	Total Hours Allowed	Audit Adjustments
	<u>24.25</u>	<u>✓</u>	
Maurice Lane, Lieuten	24.75	0.50	(24.25)
Pat Alvarez, Criminal	9.25	1.00	(8.25)
Mike Vidmar, Criminal	2.50	0.50	(2.00)
	36.50	2.00	(34.50)

3D-39 1/8 ; 3D-35/5

Claimed hours included the following activities:

- 3D-39 {
- N * Interview subject officer (regular hours, investigators' time)
 - E * Provide prior notice to the subject
 - N * Review agency complaint / evidence / reports
 - N * Prepare agency complaint report / form
 - N * Interview witnesses (regular hours, investigators' time)
 - N * Prepare final finding report
 - E * Commanding staff review of findings

✓ Source: see w/p 3D-39 1/8

N: Ineligible activity

E: Eligible activity

Purpose To review Productive Hourly Rates claimed by the District Attorney department in FY 2003-04 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jean Dobroff, Accountant, District Attorney department
 Discussion with Jennifer Yu, Senior Accountant, District Attorney department
 ✓ District Attorney Department's People Soft individual payroll reports per fiscal period

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1560.65 productive hours in the PHR calculation. (See <Document # 30-4-3/7> for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours.

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 30-4> for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b) / 1696.35 ^{30-4 2/7}	(d)=(c)-(a)
W. Vidmar, Crim. Invest	67.93	106,018.00 ✓	62.50	(5.43)
B. Fraccoli, Crim. Invest	64.91	101,306.00	59.72	(5.19)
M. Avila, Crim. Investig	57.54	89,802.00	52.94	(4.60)
G. Cunningham, Crim. I	64.91	101,306.00	59.72	(5.19)
B. Headrick, Crim. Inves	64.91	101,306.00	59.72	(5.19)
J. Perez, Crim. Investig	54.98	85,811.00	50.59	(4.39)
S. Reinhardt, Crim. Inve	57.54	89,802.00	52.94	(4.60)
L. Evans, Crim. Investig	57.54	89,802.00	52.94	(4.60)
J. McMullen, Crim. Inves	56.26	87,807.00	51.76	(4.50)
M. Lane, Crim. Investig	64.91	101,306.00	59.72	(5.19)
K. Smith, Crim. Investig	64.91	101,306.00	59.72	(5.19)
P. Campbell, Crim. Inve	64.91	101,306.00	59.72	(5.19)

30-32/5-3/5

Purpose To review Productive Hourly Rates claimed by the District Attorney department in FY 2004-05 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jean Dobroff, Accountant, District Attorney department
 Discussion with Jennifer Yu, Senior Accountant, District Attorney department
 ✓ District Attorney Department's People Soft individual payroll reports per fiscal period

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1545 productive hours in the PHR calculation. (See <Document # 3D-4 4/7> for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 3D-4> for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b) / 1682	(d)=(c)-(a)
M. Vidmar, Assist. Chief	^{2A-2b} 74.06	114,417.00 ✓	68.02	(6.04)
M. Lane, Lieutenant	70.19	108,450.00	64.48	(5.71)
R. Pifferini, Deputy Chie	58.30	90,074.00	53.55	(4.75)

3D-3 4/5

Santa Clara County - District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
 Analysis of Productive Hourly Rates - District Attorney Department
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Purpose To review Productive Hourly Rates claimed by the District Attorney department in FY 2005-06 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jean Dobroff, Accountant, District Attorney department
 Discussion with Jennifer Yu, Senior Accountant, District Attorney department
 ✓ District Attorney Department's People Soft individual payroll reports per fiscal period

Analysis The county used actual salary info for each employee to calculate PHR.

The auditors noted that the county applied 1544 productive hours in the PHR calculation. (See <Document # 3D-457 for more details). The auditors concluded that the county's productive hours are understated due to inclusion of ineligible break time and training time in the calculation of productive hours

The auditors adjusted county's calculation of annual productive hours by excluding ineligible break time and training time from the calculation. (See <Document # 3D-4 > for more details).

Employee Classification	PHR Claimed	Allowed Annual Salary	Allowed Productive Hourly Rate	Audit Adjustments
	(a)	(b)	(c)=(b)/1677	(d)=(c)-(a)
M. Vidmar, Crim. Invest	<u>2A-2c</u> 64.13	119,401.00 ✓	71.20	7.07 *
M. Lane, Lieutenant	73.32	113,201.00	67.50	(5.82)
P. Alvarez, Crim. Investi	64.13	109,240.00	65.14	1.01 *

3D-35/5

* For this fiscal period, the department mistakenly used lower annual salary for M. Vidmar and P. Alvarez. Therefore, claimed productive hourly rates for these two individuals were understated even considering the adjustments made to productive hours.

Santa Clara County
Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights
 Summary of Benefit Adjustments
 Fiscal Years 2003-04 Through 2005-06
 Audit ID # S07-MCC-0033

Purpose: To calculate allowable benefit costs based on adjustments noted to claimed salaries and benefit rates.

Source: 2A-2 ; 3D-1 ; 3E-1a

Cost Components	Benefits Claimed	Allowed Benefits	Audit Adjustments		
			Adjustment 1 Hours-related	Adjustment 2 PHR - related	
FY 2003-04					
Admin. Activities	3E-12/7 2,602	1,214	(1,283)	(105)	
Admin. Appeal	269	-	(269)	-	
Interrogation	5,702	861	(4,764)	(77)	
Adverse Comment	3E-13/7 2,611	556	(1,999)	(56)	
Subtotal	\$ 11,184	\$ 2,631	\$ (8,315)	\$ (238)	
FY 2004-05					
			Adjustment 1 Hours-related	Adjustment 2 PHR - related	Adjustment 3 Ben. Rate
Admin. Activities	3E-14/7 1,561	1,266	(621)	(77)	403
Admin. Appeal	-	-	-	-	-
Interrogation	6,474	677	(5,992)	(39)	234
Adverse Comment	3E-15/7 3,966	331	(3,726)	(20)	111
Subtotal	\$ 12,001	\$ 2,274	\$ (10,339)	\$ (136)	\$ 748
FY 2005-06					
			Adjustment 1 Hours-related	Adjustment 2 PHR - related	
Admin. Activities	3E-16/7 569	299	(245)	(25)	
Admin. Appeal	64	-	(64)	-	
Interrogation	8,174	1,328	(6,732)	(114)	
Adverse Comment	3E-17/7 9,580	2,454	(6,914)	(212)	
Subtotal	\$ 18,387	\$ 4,081	\$ (13,955)	\$ (351)	
Total	\$ 41,572	\$ 8,986	\$ (32,609)	Adjustment 1 (725) Adjustment 2 748 Adjustment 3	
		3E-14/2	\$ (32,586)		

10/16
 3E 8/8 ; 3E 3/8 - 4/8 ; 1D-2
 "For PSSC, see 3E"

Document # 3E-1 Page 2/7
 Auditor AN/SE Date 4/26/07
 Reviewer JD Date 4/26/07

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2003-04
 Audit ID # S07 - MCC - 0033

Sheriff Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben. Rate	Salaries w/ Adjusted PHR and Hours times Ben. Rate	Audit Adjustment Finding 1	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2003-04																				
Admin. Activities						<u>3E-1/2/7</u>														
			<u>2A-29³/13</u>																	
Sgt. Staats	\$	54.98	24.00	42.44%	\$ 560.00	\$ 1,319.62	\$ 1,214.16	42.44%	\$ 560.00	\$ 515.29	(0.00)	\$ (44.71)								
Sgt. L. St. Denis		51.15	7.25	23.09%	85.63						(85.63)									
Sgt. R. Schiller		64.91	5.00	34.02%	110.41						(110.41)									
Sgt. D. Matuzek		54.98	48.40	33.32%	886.66						(886.66)									
Sgt. C. Watson		54.98	8.50	30.72%	143.56						(143.56)									
Sgt. K. Burgess		54.98	51.60	28.76%	815.91	2,639.04	2,428.32	28.76%	758.99	698.38	(56.92)	(60.60)								
Subtotal			144.75		\$ 2,602	\$ 3,959	\$ 3,642		\$ 1,319	\$ 1,214	\$ (1,283)	\$ (105)								
Admin. Appeal						<u>3E-1a/1/3</u>														
			<u>2A-29⁶/13</u>																	
Sgt. K. Burgess	\$	54.98	17.00	28.76%	\$ 268.81						(268.81)									
Subtotal			17.00		\$ 269	\$ -	\$ -		\$ -	\$ -	\$ (269)	\$ -								
Interrogation						<u>2A-29⁷/13</u>														
			<u>2A-29⁷/13</u>																	
Sgt. Tait	\$	54.98	0.50	41.77%	\$ 11.48						(11.48)									
Sgt. Stevens		54.98	0.42	36.60%	8.45						(8.45)									
Sgt. Staats		54.98	3.00	42.44%	70.00	54.98	51.00	42.44%	23.33	21.64	(46.67)	(1.69)								
Sgt. Lewis		52.35	0.33	37.41%	6.46						(6.46)									
Deputy Dona		49.66	0.50	38.31%	9.51						(9.51)									
Sgt. Broaumeland		46.36	0.92	38.68%	16.50	7.88	8.40		3.05		(13.45)	(3.05)								
Sgt. Atlas		54.98	0.33	40.85%	7.41						(7.41)									
Sgt. L. St. Denis		51.15	96.25	23.09%	1,136.76	1,023.00	941.20	23.09%	236.21	217.32	(900.55)	(18.89)								
Sgt. R. Schiller		64.91	18.00	34.02%	397.48	243.41	223.95	34.02%	82.81	76.19	(314.67)	(6.62)								
Sgt. D. Matuzek		54.98	95.71	33.32%	1,753.34	865.94	797.00	33.32%	288.53	265.56	(1,464.81)	(22.97)								
Sgt. C. Watson		54.98	92.50	30.72%	1,562.31	604.78	556.00	30.72%	185.79	170.80	(1,376.52)	(14.99)								
Sgt. K. Burgess		54.98	26.65	28.76%	421.40	412.35	379.43	28.76%	118.59	109.12	(302.80)	(9)								
Deputy Sheriff		40.05	19.42	38.68%	300.84						(300.84)									
Subtotal			354.53		\$ 5,702	\$ 3,212	\$ 2,957		\$ 938	\$ 861	\$ (4,764)	\$ (77)								

3E-1/1/7

For PSSC, see 3E

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2003-04
 Audit ID # S07 - MCC - 0033

Sheriff Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2003-04

Adverse Comments

2A-29 10/13

Sgt. Tait	\$ 54.98	0.50	41.77%	\$ 11.48
Sgt. Stevens	54.98	0.17	36.60%	3.42
Sgt. Staats	54.98	1.08	42.44%	25.20
Sgt. Dona	49.66	0.25	38.31%	4.76
Sgt. Broaumeland	46.36	0.75	38.68%	13.45
Sgt. Atlas	54.98	0.17	40.85%	3.82
Sgt. Babcock	53.71	0.17	48.66%	4.44
Sgt. Dutra	54.98	0.25	38.12%	5.24
Sgt. Langley	54.98	0.25	36.47%	5.01
Sgt. Peterson	54.98	0.25	42.43%	5.83
Sgt. L.St. Denis	51.15	62.00	23.09%	732.25
Sgt. R. Schiller	64.91	7.00	34.02%	154.68
Sgt. D. Matuzek	54.98	25.58	33.32%	468.71
Sgt. C. Watson	54.98	55.83	30.72%	942.96
Sgt. K. Burgess	54.98	14.50	28.76%	229.28
Subtotal		168.75		\$ 2,611
Total		685.03		\$ 11,184

3D-1 3/7 3E-1a 1/3

-	-	-	-	-	(11.48)	-
9.35	8.60	36.60%	3.42	3.15	-	(0.27)
13.75	12.65	42.44%	5.83	5.37	(19.37)	(0.46)
12.42	11.42	38.31%	4.76	4.38	-	(0.38)
19.47	20.75	-	7.53	-	(5.92)	(7.53)
9.35	8.60	40.85%	3.82	3.51	-	(0.30)
-	-	-	-	-	(4.44)	-
13.75	12.65	38.12%	5.24	4.82	-	(0.42)
13.75	12.65	36.47%	5.01	4.61	-	(0.40)
9.35	8.60	42.43%	3.97	3.65	(1.87)	(0.32)
920.70	847.08	23.09%	212.59	195.59	(519.66)	(17.00)
129.82	119.44	34.02%	44.16	40.63	(110.51)	(3.53)
321.08	295.45	33.32%	106.98	98.44	(361.72)	(8.54)
549.80	505.90	30.72%	168.90	155.41	(774.06)	(13.49)
137.45	126.48	28.76%	39.53	36.38	(189.75)	(3.15)
\$ 2,160	\$ 1,990		\$ 612	\$ 556	\$ (1,999)	\$ (56)
\$ 9,331	\$ 8,589		\$ 2,869	\$ 2,631	\$ (8,315)	\$ (238)

3E-1 1/7

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Sheriff Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
(a)	(b)	(c)	(d)=(a*b*c)		

Auditors' Analysis										
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only Ben. Rate (b)=(e)*(c)	Salaries w/ Adjusted PHR and Hours times claimed Ben. Rate (i)=(f)*(c)	Audit Adjustment Finding 1 Hours-Related (j)=(b)-(d)	Audit Adjustment Finding 2 PHR Related (k)=(i)-(b)	Benefit Rate Difference (l)=(g)-(c)	Audit Adjustment Finding 3 Ben. Rate Related (m)=(j)*(l)	Final Allowable Benefits after all adjustments (n)=(i)+(m)	Total Audit Adjustments 1-3 (o)=j+k+m
(e)	(f)	(g)	(b)=(e)*(c)	(i)=(f)*(c)	(j)=(b)-(d)	(k)=(i)-(b)	(l)=(g)-(c)	(m)=(j)*(l)	(n)=(i)+(m)	(o)=j+k+m

FY 2004-05

2A-26 3/14

Admin. Activities					
Training	Lt. Burgess	\$ 66.15	24.00	30.60%	\$ 485.81
	Sgt. Matuzek	57.39	30.00	33.00%	568.16
Update Pobar	Lt. Burgess	66.15	8.00	30.60%	161.94
	Sgt. Matuzek	57.39	6.50	33.00%	123.10
	Sgt. Staats	57.40	10.00	38.70%	222.14
Subtotal			78.50		\$ 1,561

3D-1 4/7 *3E-192/3*

1,587.60	1,458.24	44.18%	485.81	446	-	(39.81)	13.58%	198.03	644.03	158.22
1,377.36	1,265.04	49.16%	454.53	417	(113.63)	(37.07)	16.16%	204.53	621.99	53.83
-	-	-	-	-	(161.94)	-	-	-	-	(161.94)
-	-	-	-	-	(123.00)	-	-	-	-	(123.00)
-	-	-	-	-	(222.00)	-	-	-	-	(222.00)
\$ 2,965	\$ 2,723		\$ 940	\$ 863	\$ (621)	\$ (77)		\$ 403	\$ 1,266	\$ (295)

2A-26 7/14

Interrogation					
Lt. Burgess	\$ 66.15	86.17	30.60%	\$ 1,744.24	562.28
Rounding	-	-	-	2.76	-
Sgt. Dona	57.01	0.50	41.90%	11.94	-
Deputy Hollawa	48.93	0.99	36.70%	17.78	8.32
Sgt. Matuzek	57.39	47.07	33.00%	891.44	334.58
Rounding	-	-	-	(1.44)	307.30
Sgt. Mitre	56.85	0.50	39.60%	11.26	-
Sgt. Staats	57.40	124.15	38.70%	2,757.84	506.84
Rounding	-	-	-	(3.84)	465.69
Deputy Sheriff	42.09	47.24	52.00%	1,033.93	-
Sergeant	48.71	0.33	52.00%	8.36	-
Subtotal		306.95		\$ 6,474	\$ 1,412

562.28	516.46	44.18%	172.06	158.04	(1,572.19)	(14.02)	13.58%	70.14	228.17	(1,516.07)
-	-	-	-	-	(2.76)	-	-	-	-	(2.76)
-	-	-	-	-	(11.94)	-	-	-	-	(11.94)
8.32	7.64	57.90%	3.05	3	(14.72)	(0.05)	21.20%	1.62	4.62	(13.16)
334.58	307.30	49.16%	110.41	101.41	(781)	(9.00)	16.16%	49.66	151.07	(740.34)
-	-	-	-	-	1.44	-	-	-	-	1.44
-	-	-	-	-	(11)	-	-	-	-	(11.00)
506.84	465.69	62.89%	196.15	180.22	(2,561.70)	(15.93)	24.19%	112.65	292.87	(2,464.97)
-	-	-	-	-	3.84	-	-	-	-	3.84
-	-	-	-	-	(1,033.93)	-	-	-	-	(1,033.93)
-	-	-	-	-	(8.36)	-	-	-	-	(8.36)
\$ 1,412	\$ 1,297		\$ 482	\$ 443	\$ (5,992)	\$ (39)		\$ 234	\$ 677	\$ (5,797)

3E-1/7

Document # 3E-1 Page 5/7
 Auditor MV/SR Date 4/26/07
 Reviewer pn Date 11/1/07

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Sheriff Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis										
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times claimed Ben.Rate	Salaries w/ Adjusted PHR and Hours times claimed Ben.Rate	Audit Adjustment Finding 1	Audit Adjustment Finding 2	Benefit Rate Difference	Audit Adjustment Finding 3 Ben. Rate Related	Final Allowable Benefits after all adjustments	Total Audit Adjustments 1-3
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(c)	(j)=(h)-(d)	(k)=(i)-(h)	(l)=(g)-(c)	(m)=(l)*(f)	(n)=(i)+(m)	(o)=j+k+m

FY 2004-05

Adverse Comment	(a)	(b)	(c)	(d)=(a*b*c)	(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(c)	(j)=(h)-(d)	(k)=(i)-(h)	(l)=(g)-(c)	(m)=(l)*(f)	(n)=(i)+(m)	(o)=j+k+m
					275.85	253.37	44.18%	84.41	77.53	(1,440.41)	(6.88)	13.58%	34.41	111.94	(1,412.88)
Sgt. Atlas	61.80	0.50	35.00%	10.82	15.45	14.19	53.80%	5.41	4.97	(5.41)	(0.44)	18.80%	2.67	7.63	(3.18)
Lt. Burgess	66.15	75.33	30.60%	1,524.82	275.85	253.37	44.18%	84.41	77.53	(1,440.41)	(6.88)	13.58%	34.41	111.94	(1,412.88)
Lt. Calderone	70.19	1.50	31.30%	32.95	52.64	48.36	45.59%	16.48	15.14	(16.48)	(1.34)	14.29%	6.91	22.05	(10.91)
Sgt. Carrasco	58.67	0.33	52.80%	10.22	-	-	-	-	-	(10.22)	-	-	-	-	(10.22)
Sgt. Dorna	57.01	0.25	41.90%	5.97	14.25	13.09	58.18%	5.97	5.48	(0.00)	(0.49)	16.28%	2.13	7.62	1.64
Deputy Holloway	48.93	0.33	36.70%	5.93	-	-	-	-	-	(5.93)	-	-	-	-	(5.93)
Sgt. Hooper	60.48	0.50	40.40%	12.22	15.12	13.89	67.81%	6.11	5.61	(6.11)	(0.50)	27.41%	3.81	9.42	(2.80)
Sgt. Inas	57.39	2.00	35.10%	40.29	18.94	17.39	54.16%	6.65	6.10	(33.64)	(0.54)	19.06%	3.31	9.42	(30.87)
Lt. Keith	67.75	1.00	33.80%	22.90	33.88	31.12	50.93%	11.45	10.52	(11.45)	(0.93)	17.13%	5.33	15.85	(7.05)
Lt. Lemmon	57.37	0.50	25.90%	7.43	14.34	13.18	34.97%	3.71	3.41	(3.72)	(0.30)	9.07%	1.20	4.61	(2.82)
Sgt. Mathison	57.45	0.66	38.30%	14.52	18.96	17.41	63.40%	7.26	6.67	(7.26)	(0.59)	25.10%	4.37	11.04	(3.48)
Sgt. Matuzek	57.39	80.81	33.00%	1,530.44	81.49	74.85	49.16%	26.89	24.70	(1,503.54)	(2.19)	16.16%	12.10	36.80	(1,493.64)
Sgt. McIntosh	57.11	0.66	36.30%	13.68	18.85	17.31	57.02%	6.84	6.28	(6.84)	(0.56)	20.72%	3.39	9.87	(3.81)
Sgt. Mitre	56.85	0.50	39.60%	11.26	14.21	13.06	65.66%	5.63	5.17	(5.63)	(0.46)	26.06%	3.40	8.58	(2.68)
Sgt. Peterson	59.60	0.25	38.90%	5.80	-	-	-	-	-	(5.80)	-	-	-	-	(5.80)
Lt. Pugh	67.75	1.83	34.40%	42.65	22.36	20.54	52.51%	7.69	7.07	(34.96)	(0.63)	18.11%	3.72	10.79	(31.86)
Sgt. Rodriguez	47.22	0.50	33.30%	7.86	11.81	10.85	49.98%	3.93	3.61	(3.93)	(0.32)	16.68%	1.81	5.42	(2.44)
Sgt. Scott	57.66	0.50	31.50%	9.08	14.42	10.49	45.88%	4.54	3.30	(4.54)	(1.24)	14.38%	1.51	4.81	(4.27)
Sgt. Staats	57.40	28.91	38.70%	642.20	76.34	70.14	62.89%	29.54	27.14	(612.66)	(2.40)	24.19%	16.97	44.11	(598.09)
Sgt. Walzher	61.27	0.66	36.90%	14.92	20.22	18.57	58.38%	7.46	6.85	(7.46)	(0.61)	21.48%	3.99	10.84	(4.08)
Subtotal		197.52		\$ 3,966	\$ 719	\$ 658		\$ 240	\$ 220	\$ (3,726)	\$ (20)		\$ 111	\$ 331	\$ (3,635)
Total		582.97		\$ 12,001	\$ 5,096	\$ 4,678		\$ 1,662	\$ 1,526	\$ (10,339)	\$ (136)		\$ 748	\$ 2,274	\$ (9,727)

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FOR PSSC, see 3E

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 Auditor MVJR Date 4/26/07
 Reviewer vd Date 11/21/07

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Sheriff Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2005-06

2A-2c 3/16

Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
Admin. Activities					
Lt. Burgess		\$ 70.75	4.50	48.50%	\$ 154.41
Sgt. Matuzek		59.93	12.33	53.70%	396.81
Sgt. Peterson		62.18	0.50	57.70%	17.94
Subtotal			17.33		\$ 569

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176.88	162.85	48.50%	85.78	78.98	(68.43)	(6.80)
409.32	376.81	53.70%	219.81	202.55	(177.00)	(17.26)
31.09	28.63	57.70%	17.94	17.00	-	(0.94)
\$ 617	\$ 568		\$ 324	\$ 299	\$ (245)	\$ (25)

2A-2c 7/16

Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
Interrogation					
Lt. Burgess		\$ 70.75	9.50	48.50%	\$ 325.98
Sgt. Imas		59.93	1.00	59.40%	35.60
Sgt. Langley		59.93	16.50	59.90%	592.32
Sgt. Matuzek		59.93	101.42	53.70%	3,263.94
Sgt. Peterson		62.18	0.50	57.70%	17.94
Lt. Pugh		72.90	1.00	57.80%	42.14
Deputy Sheriff/Wit		44.24	142.72	58.90%	3,718.91
Sergeant/Witness &		51.21	5.08	58.90%	153.23
Lieutenant/Witness		60.52	0.67	58.90%	23.88
Subtotal			278.39		\$ 8,174

141.50	130.28	48.50%	68.63	63.19	(257.35)	(5.44)
-	-	-	-	-	(35.60)	-
224.74	206.89	59.90%	134.62	123.93	(457.70)	(10.69)
2,272.55	2,092.05	53.70%	1,220.36	1,124	(2,043.58)	(96.36)
31.09	28.63	57.70%	17.94	16.52	-	(1.42)
-	-	-	-	-	(42.14)	-
-	-	-	-	-	(3,718.91)	-
-	-	-	-	-	(153.23)	-
-	-	-	-	-	(23.88)	-
\$ 2,670	\$ 2,458		\$ 1,442	\$ 1,328	\$ (6,732)	\$ (114)

2A-2c 6/16

Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
Admin. Appeal					
Sgt. Matuzek		\$ 59.93	2.00	53.70%	\$ 64.36
Subtotal			2.00		\$ 64

-	-	-	-	-	(64.36)	-
\$ -	\$ -		\$ -	\$ -	\$ (64)	\$ -

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 Auditor mv/jr Date 4/26/07
 Reviewer w Date 4/26/07

Santa Clara County
 Sheriff Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Sheriff Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1	Audit Adjustment Finding 2
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2005-06

Adverse Comment					
	Lt. Burgess	\$ 70.75	39.75	48.50%	\$ 1,363.97
	Sgt. Langley	59.93	120.25	59.90%	4,316.74
	Sgt. Matuzek	59.93	72.42	53.70%	2,330.65
	Sgt. Peterson	62.18	5.00	57.70%	179.39
Findings	Captain Angus	86.23	1.00	51.90%	44.75
	Lt. Burgess	70.75	19.25	48.50%	660.54
	Commander Bacon	105.58	2.75	48.70%	141.40
	Sgt. Dutra	60.08	1.00	63.10%	37.91
	Lt. Geary	63.57	0.50	59.30%	18.85
	Captain Hirokawa	91.40	1.00	49.70%	45.43
	Sgt. Langley	59.93	4.08	59.90%	146.46
	Captain Laverone	78.36	0.50	57.90%	22.69
	Sgt. Matuzek	59.93	4.33	53.70%	139.35
	Captain Perusina	104.60	0.58	43.60%	26.45
	Captain Rode	80.86	1.00	55.90%	45.20
	Lt. Schiller	73.35	0.58	55.20%	23.48
	Sgt. Spagnola	58.83	1.00	62.40%	36.71
Subtotal			37.57		\$ 9,580
Total			335.29		\$ 18,387

318.38	293.13	48.50%	154.41	142.17	(1,209.56)	(12.24)
549.56	505.91	59.90%	329.19	303.04	(3,987.56)	(26.15)
988.85	910.31	53.70%	531.01	488.84	(1,799.64)	(42.17)
93.27	85.88	57.70%	53.82	49.55	(125.57)	(4.26)
215.58	198.48	51.90%	111.88	103.01	67.13	(8.87)
1,078.94	993.39	48.50%	523.28	481.79	(137.26)	(41.49)
377.98	348.01	48.70%	184.07	169.48	42.68	(14.59)
150.20	138.28	63.10%	94.78	87.25	56.87	(7.52)
31.79	29.27	59.30%	18.85	17.36	-	(1.49)
91.40	84.15	49.70%	45.43	41.82	-	(3.60)
284.67	262.06	59.90%	170.52	156.97	24.05	(13.54)
39.18	36.07	57.90%	22.69	20.88	-	(1.80)
319.43	294.06	53.70%	171.53	157.91	32.18	(13.62)
60.67	55.86	43.60%	26.45	24.35	-	(2.10)
202.15	186.13	55.90%	113.00	104.05	67.80	(8.96)
42.54	39.17	55.20%	23.48	21.62	-	(1.86)
147.08	134.73	62.40%	91.77	84.07	55.06	(7.70)
\$ 4,992	\$ 4,595		\$ 2,666	\$ 2,454	\$ (6,914)	\$ (212)
\$ 8,279	\$ 7,621		\$ 4,432	\$ 4,081	\$ (13,955)	\$ (351)

3E-1/7

For PSSC, see 3E

Purpose To review Benefit Rates claimed by the Sheriff department in FY 2003-04 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Alan Minato, Fiscal Officer, Sheriff Department
 ✓ Santa Clara County's Actual Salaries Recap Report per individual employee, FY 2003-04

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Conclusion: For conclusion see Document # 3E 3/8

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c)/(b)	(e)=(d)-(a)
Sgt. Staats	42.44%	85,811	36,417	42.44%	0.00%
Sgt. Broaumeland	38.68%	83,815.42	32,212.18	38.43%	-0.25%
Sgt. St. Denis	23.09%	79,824.16	18,431.40	23.09%	0.00%
Sgt. Schiller	34.02%	101,306.40	34,467.68	34.02%	0.00%
Sgt. Matuzek	33.32%	85,810.92	28,595.06	33.32%	0.00%
Sgt. Watson	30.72%	85,810.92	26,364.78	30.72%	0.00%
Sgt. Burgess	28.76%	85,810.92	24,675.30	28.76%	0.00%
Sgt. Stevens	36.60%	85,810.92	31,404.88	36.60%	0.00%
Sgt. Dona	38.31%	77,500.80	29,691.74	38.31%	0.00%
Sgt. Atlas	40.85%	85,810.92	35,055.02	40.85%	0.00%
Sgt. Dutra	38.12%	85,810.92	32,711.64	38.12%	0.00%
Sgt. Langley	36.47%	85,810.92	31,296.20	36.47%	0.00%
Sgt. Peterson	42.43%	85,810.92	36,405.46	42.43%	0.00%

2A-2a

3E-12/7-3/7

Purpose To review Benefit Rates claimed by the Sheriff department in FY 2004-05 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Alan Minato, Fiscal Officer, Sheriff Department
 ✓ Santa Clara County's Actual Salaries Recap Report per individual employee, FY 2004-05

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective total compensations (salaries plus benefits). Therefore, the county understated benefit rates in this fiscal period. The auditors recalculated benefit rates by dividing total annual benefits by total annual salaries of each individual employee.

Conclusion: For conclusion see document # 3E 3/5

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c) / (b)	(e)=(d)-(a)
Lt. Burgess	30.60%	102,203.97	45,155.65	44.18%	13.58%
Sgt. Matuzek	33.00%	88,665.96	43,585.21	49.16%	16.16%
Agt. Atlas	35.00%	95,487.65	51,368.54	53.80%	18.80%
Lt. Calderone	31.30%	108,449.72	49,447.08	45.59%	14.29%
Sgt. Dona	41.90%	88,084.40	51,245.60	58.18%	16.28%
Sgt. Hooper	40.40%	93,442.29	63,359.08	67.81%	27.41%
Lt. Keith	33.80%	104,679.17	53,317.98	50.93%	17.13%
Sgt. Imas	35.10%	88,665.96	48,025.30	54.16%	19.06%
Lt. Lemmon	25.90%	88,640.65	30,999.82	34.97%	9.07%
Sgt. Mathison	38.30%	88,755.78	56,273.22	63.40%	25.10%
Sgt. McIntosh	36.30%	88,236.80	50,314.97	57.02%	20.72%
Sgt. Mitre	39.60%	87,840.73	57,678.03	65.66%	26.06%
Lt. Pugh	34.40%	104,679.16	54,967.66	52.51%	18.11%
Sgt. Rodriguez	33.30%	72,962.47	36,467.32	49.98%	16.68%
Sgt. Scott	31.50%	70,544.49	32,364.38	45.88%	14.38%
Sgt. Staats	38.70%	88,710.87	55,792.68	62.89%	24.19%
Sgt. Waldher	36.90%	94,663.40	55,262.12	58.38%	21.48%
Dep. Holloway	36.70%	75,590.87	43,764.08	57.90%	21.20%

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Purpose To review Benefit Rates claimed by the Sheriff department in FY 2005-06 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Alan Minato, Fiscal Officer, Sheriff Department
 ✓ Santa Clara County's Actual Salaries Recap Report per individual employee, FY 2005-06

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Conclusion: For conclusion see document # 3E 3/8

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c) / (b)	(e)=(d)-(a)
Lt. Burgess	48.50%	109,240.00	52,931.00	48.45%	-0.05%
Sgt. Matuzek	53.70%	92,528.00	49,723.00	53.74%	0.04%
Sgt. Peterson	57.70%	96,001.00	55,432.00	57.74%	0.04%
Sgt. Langley	59.90%	92,528.00	55,421.00	59.90%	0.00%
Capt. Angus	51.90%	133,135.00	69,110.00	51.91%	0.01%
Comm. Bacon	48.70%	163,015.00	79,451.00	48.74%	0.04%
Sgt. Dutra	63.10%	92,760.00	58,638.00	63.21%	0.11%
Capt. Hirokawa	49.70%	141,120.00	70,129.00	49.69%	-0.01%
Capt. Laverone	57.90%	120,981.00	70,013.00	57.87%	-0.03%
Capt. Perusina	43.60%	161,505.00	70,427.00	43.61%	0.01%
Capt. Rode	55.90%	124,847.00	69,840.00	55.94%	0.04%
Lt. Schiller	55.20%	113,245.00	62,548.00	55.23%	0.03%
Sgt. Spagnola	62.40%	90,376.00	56,392.00	62.40%	0.00%
Lt. Geary	59.30%	98,153.00	58,176.00	59.27%	-0.03%
Sgt. Imas	59.40%	92,528.00	54,953.00	59.39%	-0.01%
Lt. Pugh	57.80%	112,559.00	65,068.00	57.81%	0.01%

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Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Summary of Benefits Adjustments
 Fiscal Years 2003-04 Through 2005-06
Audit ID # S07-MCC-0033

Purpose: To calculate allowable benefit costs based on adjustments noted to claimed salaries and benefit rates if any.

Source: ANALYSIS OF BENEFITS, CLAIM FORMS, ANALYSIS OF SALARIES, ANALYSIS OF benefit Rates ^{2A-2C} _{3E-2A}

Cost Components	Benefits Claimed	Allowed Benefits	Audit Adjustments	Adjustment 1 Hours-related	Adjustment 2 PHR - related
2003-04					
Admin. Activities	3E-2 2/8 612	\$ 285	\$ (306)	\$ (21)	
Admin. Appeal	-	-	-	-	
Interrogation	5,528	935	(4,512)	(81)	
Adverse Comments	2,847	282	(2,540)	(25)	
Subtotal	\$ 8,987	\$ 1,502	\$ (7,358)	\$ (127)	
2004-05					
Admin. Activities	3E-2 3/8 17,553	\$ 10,706	\$ (5,895)	\$ (952)	
Admin. Appeal	209	-	(209)	-	
Interrogation	3E-2 4/8 2,692	380	(2,278)	(34)	
Adverse Comments	3E-2 5/8 4,067	832	(3,161)	(74)	
Subtotal	\$ 24,521	\$ 11,918	\$ (11,543)	\$ (1,060)	
2005-06					
Admin. Activities	3E-2 6/8 2,117	\$ 542	\$ (1,528)	\$ (47)	
Admin. Appeal	-	-	-	-	
Interrogation	3E-2 6/8-7/8 29,178	5,140	(23,590)	(448)	
Adverse Comments	3E-2 8/8 140	-	(140)	-	
Subtotal	\$ 31,435	\$ 5,682	\$ (25,258)	\$ (495)	
Grandtotal	\$ 64,943	\$ 19,102	(44,159)	Adjustment 1 (1,682)	Adjustment 2 \$ (45,841)

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For PSSC, see 3E

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only Ben.Rate	Salaries w/ Adjusted PHR and Hours Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2003-04

Admin. Activities					
Supervising Probation Officer (9)	\$ 49.08	36.00	34.66%	\$ 612.40	
Subtotal		<u>36.00</u>		<u>\$ 612</u>	
Interrogation					
Jim Tarshis, Group Conselor	\$ 49.84	115.00	31.11%	\$ 1,783.10	
Cathy Shields, Probation Mgr.	63.03	7.00	28.28%	124.77	
Alicia Garcia, Supv. Group Con.	49.84	25.50	31.11%	395.38	
Diana Bishop, Supv. Group Con.	49.84	66.00	26.72%	878.94	
Rita Loncarich, Probation Mgr.	64.88	15.00	27.98%	272.30	
Jim Tarshis, Group Conselor	49.84	126.00	31.11%	1,953.66	
Diana Bishop, Supv. Group Con.	49.84	9.00	26.72%	119.86	
Subtotal		<u>363.50</u>		<u>\$ 5,528</u>	
Adverse Comments					
Cathy Shields, Probation Mgr.	\$ 63.03	20.00	28.28%	\$ 356.50	
Diana Bishop, Supv. Group Con	49.84	100.00	26.72%	1,331.72	
Rita Loncarich, Probation Mgr.	64.88	55.00	27.98%	998.44	
Cathy Shields, Probation Mgr.	63.03	9.00	28.28%	160.42	
Subtotal		<u>184.00</u>		<u>\$ 2,847</u>	
Total		<u>583.50</u>		<u>\$ 8,987</u>	

\$ 883.50	\$ 821.88		34.66%	306.22	284.86	(306.18)	(21.36)		
<u>\$ 884</u>	<u>\$ 822</u>			<u>\$ 306</u>	<u>\$ 285</u>	<u>\$ (306)</u>	<u>\$ (21)</u>		
\$ 797.44	733.76	31.11%	248.08	228.27	(1,535.02)	(19.81)			
-	-	-	-	-	(124.77)	-			
99.68	91.72	31.11%	31.01	28.53	(364.37)	(2.48)			
149.52	137.58	26.72%	39.95	36.76	(838.99)	(3.19)			
129.76	119.38	27.98%	36.31	33.40	(235.99)	(2.90)			
1,993.60	1,834.40	31.11%	620.21	570.68	(1,333.45)	(49.53)			
149.52	137.58	26.72%	39.95	37.00	(79.90)	(2.95)			
<u>\$ 3,320</u>	<u>\$ 3,054</u>		<u>\$ 1,016</u>	<u>\$ 935</u>	<u>\$ (4,512)</u>	<u>\$ (81)</u>			
\$ 378.18	\$ 347.94	28.28%	\$ 106.95	\$ 98.40	\$ (249.55)	\$ (8.55)			
-	-	-	-	-	(1,331.72)	-			
713.68	656.59	27.98%	199.69	183.71	(798.75)	(15.97)			
-	-	28.28%	-	-	(160.42)	-			
<u>\$ 1,092</u>	<u>\$ 1,005</u>		<u>\$ 307</u>	<u>\$ 282</u>	<u>\$ (2,540)</u>	<u>\$ (25)</u>			
<u>\$ 5,296</u>	<u>\$ 4,881</u>		<u>\$ 1,629</u>	<u>\$ 1,502</u>	<u>\$ (7,358)</u>	<u>\$ (127)</u>			

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Santa Clara County
 Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

FY2004-05

Admin. Activity					
	Shirley Cantu, Acting Chief Prob. Officer	\$ 73.34	2.00	26.20%	\$ 38.43
	Nicholas Cademartori, Interim Chief Prob.	100.97	2.00	19.03%	38.43
	Ann Meta, Acting Chief Prob. Officer	95.50	2.00	23.91%	45.67
	Kathy Duque, Deputy Chief Prob. Officer	72.63	52.00	26.29%	992.91
	Phuong Le, Human Resource Manager	52.52	5.00	30.10%	79.04
	Delores Nnam, Admin. Service Manager	70.47	29.00	26.60%	543.61
	Karen Fletcher, Deputy Chief Prob. Office	66.84	457.00	26.03%	7,951.09
	Kathy Viana, Administrative Assistant	30.57	93.00	39.97%	1,136.35
Training					
	Karen Fletcher, Deputy Chief Prob. Office	66.84	72.00	26.03%	1,252.69
	John Dahl, Probation Manager	65.79	24.00	26.20%	413.69
	Bret Fidler, Supv. Group Counselor	51.16	24.00	29.33%	360.13
	Ned Putt, Supv. Probation Officer	56.96	24.00	27.90%	381.40
Update Pobar					
	Karen Fletcher, Deputy Chief Prob. Office	66.84	153.00	26.03%	2,661.96
Training					
	Probation Officer (12)	45.37	48.00	32.56%	709.08
	Supervising Probation Officer (13)	65.14	52.00	28.00%	948.44
Subtotal			<u>1,039.00</u>		<u>\$ 17,553</u>
Admin. Appeal					
	Robert DeJesus, Probation Manager	\$ 62.08	12.50	26.90%	\$ 208.74
Subtotal			<u>12.50</u>		<u>\$ 209</u>

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only Ben. Rate	Salaries w/ Adjusted PHR and Hours times Ben. Rate	Audit Adjustment Finding 1	Audit Adjustment Finding 2
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY2004-05

Admin. Activity						
\$ 146.68	\$ 134.72	26.20%	\$ 38.43	\$ 35.30	\$ -	\$ (3.13)
201.94	185.50	19.03%	38.43	35.30	-	(3.13)
191.00	175.44	23.91%	45.67	41.95	-	(3.72)
3,776.76	3,469.44	26.29%	992.91	912.12	-	(80.79)
262.60	241.20	30.10%	79.04	72.60	-	(6.44)
2,043.63	1,877.17	26.60%	543.61	499.33	-	(44.28)
25,131.84	23,086.40	26.02%	6,541.82	6,007.08	(1,409.27)	(534.74)
2,843.01	2,611.44	39.97%	1,136.35	1,043.79	-	(92.56)
3,208.32	2,947.20	26.03%	835.13	767.16	(417.56)	(68)
789.48	725.16	26.20%	206.84	189.99	(206.84)	(17)
613.92	564.00	29.33%	180.06	165.42	(180.06)	(15)
683.52	627.84	27.90%	190.70	175.17	(190.70)	(15.53)
-	-	-	-	-	(2,661.96)	-
1,088.88	1,000.08	32.56%	354.54	325.63	(354.54)	(28.91)
1,693.64	1,555.84	28.00%	474.22	435.64	(474.22)	(38.58)
<u>\$ 42,675</u>	<u>\$ 39,201</u>		<u>\$ 11,658</u>	<u>\$ 10,706</u>	<u>\$ (5,895)</u>	<u>\$ (952)</u>
Admin. Appeal						
\$ -	\$ -	-	-	-	(208.74)	-
<u>\$ -</u>	<u>\$ -</u>		<u>\$ -</u>	<u>\$ -</u>	<u>\$ (209)</u>	<u>\$ -</u>

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

FY2004-05

Interrogation					
			<u>2A-2B 9/14-10/14</u>		
Robert DeJesus, Probation Manager	\$ 62.08	9.00	26.90%	\$ 150.30	
Annette Van Unen AA	30.32	20.50	40.17%	249.68	
Bret Fidler SGC	51.16	85.00	29.33%	1,275.44	
Bruce Handry SPO	56.96	2.50	27.90%	39.73	
Dave Perez SPO	56.96	4.00	27.90%	63.57	
Gene Ginn DPO	50.18	1.50	29.61%	22.29	
Jill Ornellas SPO	57.11	1.50	27.87%	23.87	
John Dahl PM	65.79	1.50	26.20%	25.86	
Karen Fletcher PM	66.84	3.00	26.03%	52.20	
Linda Nguyen SPO	56.96	1.50	27.90%	23.84	
Lucy Trevino DPO	36.55	1.50	34.98%	19.18	
Mary Ryan DPO	50.32	1.50	29.57%	22.32	
Ned Patt SPO	56.96	35.50	27.90%	564.16	
Richard DeJesus DPO	44.62	1.50	29.01%	19.42	
Subject DPO	30.88	2.00	38.60%	23.84	
Subject SPO	46.98	2.00	30.59%	28.74	
Subject DPO	30.88	1.50	38.60%	17.88	
Subject PCII	40.57	1.50	33.02%	20.09	
Subject PCII	40.57	0.50	33.02%	6.70	
Boliavone Kegarice DPO	50.18	1.50	29.61%	22.29	
Zulema Vasquez DPO	44.62	1.50	31.40%	21.02	
Subtotal		180.50		\$ 2,692	

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate (g)	Salaries w/ Adjusted Hours only times Ben.Rate (h)=(e)*(c)	Salaries w/ Adjusted PHR and Hours times Ben.Rate (i)=(f)*(g)	Audit Adjustment Finding 1 Hours-Related (j)=(h)-(d)	Audit Adjustment Finding 2 PHR Related (k)=(i)-(h)
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

\$ -	\$ -	26.90%	\$ -	\$ -	\$ (150.30)	\$ -
818.56	752.00	29.33%	240.08	220.56	(1,035.36)	(19.52)
28.48	26.16	27.90%	7.95	7.30	(31.78)	(0.65)
-	-	-	-	-	(63.57)	-
25.09	23.05	29.61%	7.43	6.83	(14.86)	(0.60)
28.56	26.23	27.87%	7.96	7.31	(15.92)	(0.65)
32.90	30.22	26.20%	8.62	7.92	(17)	(0.70)
-	-	-	-	-	(52.20)	-
-	-	-	-	-	(23.84)	-
18.28	16.79	34.98%	6.39	5.87	(12.79)	(0.52)
25.00	23.11	29.57%	7.39	6.83	(14.93)	(0.56)
313.28	287.76	27.90%	87.41	80.29	(476.76)	(7.12)
22.31	20.50	29.01%	6.47	5.95	(12.94)	(0.53)
-	-	-	-	-	(23.84)	-
46.98	43.16	30.59%	14.37	13.20	(14.37)	(1.17)
15.44	14.19	38.60%	5.96	5.48	(11.92)	(0.48)
20.29	18.63	33.02%	6.70	6.15	(13.40)	(0.55)
-	-	-	-	-	(6.70)	-
-	-	-	-	-	(22.29)	-
22.31	20.50	31.40%	7.01	6.44	(14.01)	(0.57)
\$ 1,417	\$ 1,302		\$ 414	\$ 380	\$ (2,278)	\$ (34)

3E-2/8

Santa Clara County
 Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY2004-05											
Adverse Comment	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed	Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
	(a)	(b)	(c)	(d)=(a*b*c)	(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)
Robert DeJesus, Probation Manager	62.08	63.00	26.90%	\$ 1,052.07	869.12	798.42	26.85%	233.79	214.38	(818.28)	(19.42)
Rounding				(2.00)				-	-	2.00	-
Bret Fidler SGC	51.16	45.00	29.33%	675.24	306.96	282.00	29.33%	90.03	82.71	(585.20)	(7.32)
Cleveland Prince PM	63.45	5.00	26.60%	84.39	317.25	291.45	26.60%	84.39	77.53	-	(6.86)
Delores Nham ASM	70.47	4.00	26.60%	74.98	140.94	129.46	26.60%	37.49	34.44	(37.49)	(3.05)
Karen Fletcher PM	66.84	23.00	26.03%	400.16	868.92	798.20	26.02%	226.18	207.69	(173.98)	(18.49)
Kathy Duque DCPO	72.63	7.00	26.29%	133.66	508.41	467.04	26.29%	133.66	122.78	-	(10.88)
Michael Simms PM	61.93	2.00	26.88%	33.29	123.86	113.78	26.88%	33.29	30.58	-	(2.71)
Ned Putt SPO	56.96	19.00	27.90%	301.94	-	-	27.90%	-	-	(301.94)	-
Phuong Le HRM	52.52	11.00	30.10%	173.89	52.52	48.24	30.10%	15.81	14.52	(158.09)	(1.29)
Starr Coatney AMA	35.01	88.00	36.98%	1,139.31	140.04	128.64	36.98%	51.79	47.57	(1,087.52)	(4.22)
Subtotal		267.00		\$ 4,067	\$ 3,328	\$ 3,057		\$ 906	\$ 832	\$ (3,161)	\$ (74)
Total		1,499.00		\$ 24,521	\$ 47,420	\$ 43,560		\$ 12,978	\$ 11,918	\$ (11,543)	\$ (1,060)

FOR PSSC, see 3E

3E-2118

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

FY 2005-06

Admin. Activities					
Update Procedures	John Dahl, Probation Manager	\$ 67.58	2.00	24.03%	\$ 32.48
Provide Train.	John Dahl, Probation Manager	67.58	1.00	24.03%	16.24
Maintain cases	John Dahl, Probation Manager	67.58	8.50	24.03%	138.04
	Deputy Probation Officer X5X	46.91	53.00	34.51%	858.00
	Supervising Probation Officer X44	60.05	58.00	30.78%	1,072.04
Subtotal			122.50		\$ 2,117

Interrogation					
Andrew Flores, DPO		\$ 44.44	1.00	34.34%	\$ 15.26
Annette Vanunen, DPO		33.57	158.05	45.45%	2,411.46
Anthony Enweluzor, DPO		42.32	1.00	36.06%	15.26
Brad Kinne, DPO		58.40	1.00	23.13%	13.51
Bret Fidler, DPO		52.45	682.50	29.09%	10,413.38
Bruce Hendry, DPO		58.40	1.00	30.03%	17.54
Burga Santiago, DPO		58.86	6.00	29.80%	105.24
Delores Nnam, DPO		73.04	27.00	24.01%	473.50
Diano Teves, DPO		28.48	4.00	61.58%	70.15
Emi Chu, DPO		40.15	266.00	43.68%	4,664.98
George Burnette, DPO		50.45	1.00	32.19%	16.24
Jahari Lomak, DPO		44.44	1.00	36.54%	16.24
Joel Humble, DPO		39.45	1.00	41.17%	16.24
John Dahl, DPO		67.58	91.00	24.03%	1,477.79
Kathy Duque, DPO		78.32	39.00	20.74%	633.50
Marvin Kusumoto, DPO		36.23	1.00	38.41%	13.92

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben. Rate	Salaries w/ Adjusted PHR and Hours times Ben. Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2005-06

\$ 135.16	124.44	24.03%	\$ 32.48	\$ 29.90	\$ -	\$ (2.58)
67.58	62.22	24.03%	16.24	14.95	-	(1.29)
574.43	528.87	24.03%	138.04	127.09	-	(10.95)
844.38	777.42	34.51%	291.40	268.29	(566.60)	(23.11)
360.30	331.74	30.78%	110.90	102.11	(961.14)	(8.79)
\$ 1,982	\$ 1,825		\$ 589	\$ 542	\$ (1,528)	\$ (47)

\$ -	\$ -		\$ -	\$ -	\$ (15.26)	\$ -
-	-		-	-	(2,411.46)	-
-	-		-	-	(15.26)	-
-	-		-	-	(13.51)	-
4,563.15	4,201.23	29.09%	1,327.42	1,222.14	(9,085.96)	(105.28)
-	-		-	-	(17.54)	-
-	-		-	-	(105.24)	-
1,972.08	1,815.75	24.01%	473.50	435.96	-	(37.53)
113.92	104.92	61.58%	70.15	64.61	-	(5.54)
1,646.15	1,515.77	43.68%	719.04	662.09	(3,945.94)	(56.95)
-	-		-	-	(16.24)	-
-	-		-	-	(16.24)	-
-	-		-	-	(16.24)	-
3,852.06	3,546.54	24.03%	925.65	852.23	(552.14)	(73.42)
2,976.16	2,739.80	20.74%	617.26	568.23	(16.24)	(49.02)
-	-		-	-	(13.92)	-

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Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate (g)	Salaries w/ Adjusted Hours only times Ben.Rate (h)=(e)*(c)	Salaries w/ Adjusted PHR and Hours times Ben.Rate (i)=(f)*(g)	Audit Adjustment Finding 1 Hours-Related (j)=(h)-(d)	Audit Adjustment Finding 2 PHR Related (k)=(i)-(h)
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2005-06	(a)	(b)	(c)	(d)=(a*b*c)
	<i>2A 2c. 9/10 - 13/16</i>			
Mauricio Rodriguez, DPO	29.24	1.00	47.59%	13.92
Michelle Fernandez, DPO	51.45	2.00	24.22%	24.92
Mike Green, DPO	67.81	3.00	20.52%	41.74
Mike Simms, DPO	67.34	6.50	18.51%	81.02
Ned Putt, DPO	58.40	412.00	23.83%	5,733.69
Nick Birchard, DPO	60.13	26.00	23.14%	361.77
Phuong Le, DPO	58.61	22.50	30.00%	395.62
Rita Loncarich, DPO	67.58	3.00	26.00%	52.71
Sal Heredia, DPO	57.24	3.00	30.70%	52.72
Steve Lived, DPO	58.40	1.00	30.10%	17.58
Steven Majores, DPO	37.31	0.50	47.10%	8.79
Vanessa Fajardo, DPO	27.34	1.00	45.60%	12.47
Jon Vickroy, DPO III	73.04	8.00	24.00%	140.24
DPO	46.91	11.00	34.51%	178.08
DPO I	46.91	2.00	34.51%	32.38
DPO II	46.91	2.50	34.51%	40.50
DPO III	46.91	13.00	34.51%	210.45
GCI	36.23	31.50	38.41%	438.40
GCII	39.45	8.50	41.17%	138.10
PC	37.31	1.00	47.10%	18.00
PCI	37.31	1.00	47.10%	17.57
PCII	37.31	2.00	47.10%	35.10
SGC	44.44	41.00	36.54%	666.00
SPO	60.05	5.00	30.78%	92.00
Subtotal	1,889.55			\$ 29,178

	<i>3A-2 7/8</i>					
			<i>3E-2 3/3</i>			
					(13.92)	-
					(24.92)	-
203.43	187.29	20.52%	41.74	38.43	-	(3.31)
134.68	124.00	18.51%	24.93	22.95	(56.09)	(1.98)
1,927.20	1,774.41	23.83%	459.25	422.84	(5,274.44)	(36.41)
1,683.64	1,550.36	23.14%	389.59	358.75	27.83	(30.84)
87.92	80.94	30.00%	26.37	24.28	(369.24)	(2.09)
202.74	186.66	26.00%	52.71	48.53	-	(4.18)
-	-	-	-	-	(52.72)	-
-	-	-	-	-	(17.58)	-
-	-	-	-	-	(8.79)	-
-	-	-	-	-	(12.47)	-
-	-	-	-	-	(140.24)	-
-	-	-	-	-	(178.08)	-
23.46	21.60	34.51%	8.09	7.45	(24.29)	(0.64)
23.46	21.60	34.51%	8.09	7.45	(32.41)	(0.64)
117.28	107.98	34.51%	40.47	37.26	(169.98)	(3.21)
344.19	299.54	38.41%	132.20	115.05	(306.20)	(17.15)
138.08	128.35	41.17%	56.85	52.84	(81.25)	(4.01)
-	-	-	-	-	(18.00)	-
37.31	34.95	47.10%	17.57	16.46	-	(1.11)
-	-	-	-	-	(35.10)	-
488.84	451.44	36.54%	178.62	164.96	(487.38)	(13.67)
60.05	55.29	30.78%	18.48	17.02	(73.52)	(1.47)
\$ 20,596	\$ 18,948		\$ 5,588	\$ 5,140	\$ (23,590)	\$ (448)

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 Reviewer jd Date 11/26/07

Santa Clara County
 Probation Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

Probation Department Data					
Activities	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2005-06

Adverse Comment					
Jon Vickroy, DPO III	\$	73.04	8.00	24.00%	\$ 140.24
Subtotal			8.00		\$ 140
Total			2,020.05		\$ 31,435

\$	-	-	-	-	\$ (140.24)	-			
\$	-	\$ -	-	-	\$ (140)	\$ -			
\$	22,578	\$ 20,773			\$ 6,177	\$ 5,682	\$ (25,258)	\$ (495)	

2A-2c. 15/16

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FOR PSSC, see 3E

Purpose To review Benefit Rates claimed by Probation department in FY 2003-04 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jesse Fuentes, Departmental Fiscal Officer, Probation Department
 ✓ Probation Department's People Soft individual payroll reports per fiscal period
 ✓ Department's calculations on employees productive hourly and benefit rates

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c)/(b)	(e)=(d)-(a)
Sup. Prob. Officers	34.66%	77,454.00	26,846	34.66%	0.00%
Jim Tarshis	31.11%	77,789.00	24,203.00	31.11%	0.00%
Cathy Shields	28.28%	98,364.00	27,821.00	28.28%	0.00%
Alicia Garcia	31.11%	77,789.00	24,203.00	31.11%	0.00%
Diana Bishop	26.72%	77,789.00	20,789.00	26.72%	0.00%
Rita Loncarich	27.98%	101,255.00	28,330.00	27.98%	0.00%

2A-29

3E-2 2/8

Purpose To review Benefit Rates claimed by Probation department in FY 2004-05 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jesse Fuentes, Departmental Fiscal Officer, Probation Department
 Probation Department's People Soft individual payroll reports per fiscal period
 Department's calculations on employees productive hourly and benefit rates

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c) / (b)	(e)=(d)-(a)
Bret Fidler, SGC	29.33%	79,050.00	23,189.00	29.33%	0.00%
Bruce Handry, SPO	27.90%	88,003.00	24,552.00	27.90%	0.00%
Gene Ginn, DPO	29.61%	77,533.00	22,958.00	29.61%	0.00%
Jill Ornellas, SPO	27.87%	88,234.00	24,587.00	27.87%	0.00%
John Dahl, PM	26.20%	101,650.00	26,629.00	26.20%	0.00%
Lucy Trevino, DPO	34.98%	56,473.00	19,753.00	34.98%	0.00%
Mary Ryan, DPO	29.57%	77,742.00	22,990.00	29.57%	0.00%
Ned Putt, SPO	27.90%	88,003.00	24,552.00	27.90%	0.00%
Richard De Jesus, DPO	29.01%	68,940.00	20,001.00	29.01%	0.00%
Zulema Vasquez, DPO	31.40%	68,940.00	21,650.00	31.40%	0.00%
Robert DeJesus, Prob M	26.90%	95,921.00	25,757.00	26.85%	-0.05%
Cleveland Price, PM	26.60%	98,038.00	26,080.00	26.60%	0.00%
Delores Nham, ASM	26.60%	108,880.00	28,961.00	26.60%	0.00%
Karen Fletcher, PM	26.03%	103,270.00	26,876.00	26.02%	-0.01%
Kathy Duque, DCPO	26.29%	112,216.00	29,507.00	26.29%	0.00%
Michael Simms, PM	26.88%	95,682.00	25,721.00	26.88%	0.00%
Phuong Le, HRM	30.10%	81,141.00	24,425.00	30.10%	0.00%
Starr Coatney, AMA	36.98%	54,090.00	20,001.00	36.98%	0.00%
Kathy Viana	39.97%	47,235.00	18,880.00	39.97%	0.00%
Shirley Cantu	26.20%	113,304.00	29,685.00	26.20%	0.00%
Probation Officer (12)	32.56%	70,089.00	22,821.00	32.56%	0.00%
Sup. Prob. Officer (13)	28.00%	100,647.00	28,183.00	28.00%	0.00%
Subject, SPO	30.59%	72,588.00	22,206.00	30.59%	0.00%
Subject, DPO	38.60%	47,713.00	18,419.00	38.60%	0.00%
Subject, PCII	33.02%	62,679.00	20,697.00	33.02%	0.00%

3E-2-3/3-5/8

For PSSC, see 3E

Purpose To review Benefit Rates claimed by Probation department in FY 2005-06 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jesse Fuentes, Departmental Fiscal Officer, Probation Department
 ✓ Probation Department's People Soft individual payroll reports per fiscal period
 ✓ Department's calculations on employees productive hourly and benefit rates

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)='(c) / (b)	(e)=(d)-(a)
Dep. Prob. Officer	34.51%	72,437.00	24,995.00	34.51%	0.00%
Sup. Prob. Officer	30.78%	92,721.00	28,536.00	30.78%	0.00%
Bret Fidler, DPO	29.09%	80,987.00	23,559.00	29.09%	0.00%
Delores Nnam, DPO	24.01%	112,776.00	27,081.00	24.01%	0.00%
Diano Teves, DPO	61.58%	43,980.00	27,081.00	61.58%	0.00%
Emi Chu, DPO	43.68%	61,994.00	27,081.00	43.68%	0.00%
John Dahl, DPO	24.03%	104,349.00	25,074.00	24.03%	0.00%
Kathy Duque, DPO	20.74%	120,919.00	25,074.00	20.74%	0.00%
Mike Green, DPO	20.52%	104,701.00	21,488.00	20.52%	0.00%
Mike Simms, DPO	18.51%	103,976.00	19,246.00	18.51%	0.00%
Ned Putt, DPO	23.83%	90,167.00	21,488.00	23.83%	0.00%
Nick Birchard, DPO	23.14%	92,848.00	21,488.00	23.14%	0.00%
Phuong Le, DPO	30.00%	90,498.00	27,135.00	29.98%	-0.02%
Rita Loncarich, DPO	26.00%	104,349.00	27,135.00	26.00%	0.00%
DPO I	34.51%	72,437.00	24,995.00	34.51%	0.00%
DPO II	34.51%	72,437.00	24,995.00	34.51%	0.00%
DPO III	34.51%	72,437.00	24,995.00	34.51%	0.00%
GCI	38.41%	52,873.60	20,309.00	38.41%	0.00%
GCII	41.17%	61,493.12	25,317.00	41.17%	0.00%
PC I	47.10%	58,604.00	27,602.00	47.10%	0.00%
SGC	36.54%	68,818.00	25,146.00	36.54%	0.00%
SPO	30.78%	92,721.00	28,539.00	30.78%	0.00%

2A-2C

3E-2 4/8 - 3/3

For PSSC, see 3E

Santa Clara County
District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Summary of Benefits Adjustments
 Fiscal Years 2003-04 Through 2005-06
 Audit ID # S07-MCC-0033

Purpose: To calculate allowable benefit costs based on adjustments noted to claimed salaries and benefit rates.

Source: CLAIM FORMS (2A-2C), ANALYSIS OF BENEFITS, ANALYSIS OF SALARIES, (3D) ANALYSIS OF BENEFIT RATES 3E-1G

Cost Components	Benefits Claimed	Allowed Benefits	Audit Adjustments
-----------------	------------------	------------------	-------------------

2003-04			Adjustment 1		Adjustment 2	
			Hours-related	PHR - related	Hours-related	PHR - related
Admin. Activities	3E-32/5 4,382	\$ 4,061 3,689	\$ (372)	\$ (321)		
Admin. Appeal	-	-	-	-		
Interrogation	1 2,997	188	(2,793)	(16)		
Adverse Comments	3E-33/5 266	59	(202)	(5)		
Subtotal	\$ 7,645	\$ 4,208 3,936	\$ 2,143 (3,367)	\$ (342)		

2004-05			Adjustment 1		Adjustment 2		Adjustment 3	
			Hours-related	PHR - related	PHR - related	Ben. Rate		
Admin. Activities	3E-34/5 22	\$ 28	\$ -	\$ (2)	\$ 8			
Admin. Appeal	-	-	-	-				
Interrogation	1 732	539	(347)	(31)	185			
Adverse Comments	-	-	-	-				
Subtotal	\$ 754	\$ 567	\$ (347)	\$ (33)	\$ 193			

2005-06			Adjustment 1		Adjustment 2	
			Hours-related	PHR - related	Hours-related	PHR - related
Admin. Activities	3E-35/5 58	\$ 64	\$ -	\$ 6		
Admin. Appeal	-	-	-	-		
Interrogation	1 1,321	67	(1,255)	1		
Adverse Comments	-	-	-	-		
Subtotal	\$ 1,379	\$ 131	\$ (1,255)	\$ 7		

Total	\$ 9,778	\$ 5,006 4,634	\$ 597 (4,969)	(368)	193	Adjustment 1
						Adjustment 2
						Adjustment 3
			\$ (5,144)	(4,777)		

3E-32/2
 3E 8/8 ; 3E 4/8-7/8 ; 10-2
 16/16

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

District Attorney Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1	Audit Adjustment Finding 2
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2003-04

Admin. Activities

2A-2A 4/13

W. Vidmar, Cr	\$ 67.93	15.00	25.52%	\$ 260.04
B. Fraccoli, Cr	64.91	15.00	34.05%	331.53
M. Avila, Crir	57.54	15.00	35.79%	308.90
G. Cunningham	64.91	15.00	34.95%	340.29
B. Headrick, C	64.91	15.00	27.74%	270.09
J. Perez, Crimi	54.98	24.00	38.02%	501.68
S. Reinhardt, C	57.54	24.00	35.83%	494.80
W. Vidmar, Cr	67.93	24.00	25.52%	416.06
M. Avila, Crir	57.54	24.00	35.79%	494.25
L. Evans, Crir	57.54	24.00	26.97%	372.44
J. McMullen, C	56.26	24.00	36.14%	487.98
Update cases W. Vidmar, Cr	67.93	6.00	25.53%	104.03
Subtotal		225.00		\$ 4,382

3A-3A 2/5

\$ 1,018.95	\$ 937.50	25.52%	\$ 260.04	\$ 239.25	\$ -	\$ (20.79)
973.65	895.80	34.05%	331.53	305.02	-	(26.51)
863.10	794.10	35.79%	308.90	284.21	-	(24.70)
973.65	895.80	34.95%	340.29	313.08	-	(27.21)
973.65	895.80	27.74%	270.09	248.49	-	(21.60)
1,319.52	1,214.16	38.02%	501.68	461.62	-	(40.06)
1,380.96	1,270.56	35.83%	494.80	455.24	-	(39.56)
1,630.32	1,500.00	25.52%	416.06	382.80	-	(33.26)
1,380.96	1,270.56	35.79%	494.25	454.73	-	(39.51)
\$ 1,386.96	1,250.96	26.97%	372.44	372.44	(372.44)	-
1,350.24	1,242.24	36.14%	487.98	448.95	-	(39.03)
407.58	375.00	25.53%	104.03	95.72	-	(8.32)
\$ 13,637	\$ 12,673		\$ 4,382	\$ 4,061	\$ (321)	\$ (321)
\$ 12,273	\$ 11,292		\$ 4,010	\$ 3,689	\$ (321)	\$ (321)

Interrogation

2A-2A 8/13

G. Cunningham	\$ 64.91	5.50	34.95%	\$ 124.77
B. Fraccoli, Cr	64.91	3.50	34.05%	77.36
M. Lane, Crim	64.91	8.00	32.71%	169.86
K. Smith, Crir	64.91	10.50	29.74%	202.69
P. Campbell, C	64.91	1.00	29.18%	18.94
B. Fraccoli, Cr	64.91	30.50	34.05%	674.11
K. Smith, Crir	64.91	19.50	29.74%	376.43
P. Campbell, C	64.91	3.50	29.18%	66.29
G. Cunningham	64.91	38.00	34.95%	862.07
M. Lane, Crim	64.91	20.00	32.71%	424.64
Subtotal		140.00		\$ 2,997

\$ -	\$ -		\$ -	\$ -	\$ (124.77)	\$ -
-	-		-	-	(77.36)	-
-	-		-	-	(169.86)	-
-	-		-	-	(202.69)	-
-	-		-	-	(18.94)	-
389.46	358.32	34.05%	132.61	122.01	(541.50)	(10.60)
64.91	60.00	29.74%	19.30	17.84	(357.13)	(1.46)
32.46	29.86	29.18%	9.47	8.71	(56.82)	(0.76)
-	-		-	-	(862.07)	-
129.82	119.44	32.71%	42.46	39.07	(382.18)	(3.40)
\$ 617	\$ 568		\$ 204	\$ 188	\$ (2,793)	\$ (16)

* see w/p 10/17

3E-3 1/5

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2003-04
 Audit ID # S07-MCC-0033

District Attorney Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis						
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1	Audit Adjustment Finding 2
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)

FY 2003-04

Adverse Comments

W. Vidmar, Cr	\$ 67.93	3.00	25.52%	\$ 52.01		
B. Fraccoli, Cr	64.91	3.00	34.05%	66.31		
P. Campbell, C	64.91	3.00	29.18%	56.82		
G. Cunninghar	64.91	4.00	34.95%	90.74		
Subtotal		13.00		\$ 266		
Total		378.00		\$ 7,645		

30-3 3/5

\$ -	\$ -		\$ -	\$ -	\$ (52.01)	\$ -
-	-		-	-	(66.31)	-
64.91	59.72	29.18%	18.94	17.43	(37.88)	(1.51)
129.82	119.44	34.95%	45.37	41.74	(45.37)	(3.63)
\$ 195	\$ 179		\$ 64	\$ 59	\$ (202)	\$ (5)
\$ 13,085	\$ 12,039		\$ 4,278	\$ 3,936	\$ (3,367)	\$ (342)

3E-3/5

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2004-05
 Audit ID # S07-MCC-0033

District Attorney Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis										
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only Ben.Rate	Salaries w/ Adjusted PHR and Hours Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related	Benefit Rate Difference	Audit Adjustment Finding 3 Ben. Rate Related	Final Allowable Benefits after all adjustments	Total Audit Adjustments 1-3
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(c)	(j)=(h)-(d)	(k)=(i)-(h)	(l)=(g)-(c)	(m)=(l)*(f)	(n)=(i)+(m)	(o)=j+k+m

FY 2004-05

Admin. Activities				
M. Vidmar	\$ 74.06	1.00	29.07%	\$ 21.53
Subtotal		<u>1.00</u>		<u>\$ 22</u>
Interrogation				
M. Lane	\$ 70.19	11.25	32.28%	\$ 254.89
R. Pifferini	58.30	23.75	34.49%	477.56
Subtotal		<u>35.00</u>		<u>\$ 732</u>
Total		<u>36.00</u>		<u>\$ 754</u>

74.06	68.02	40.99%	21.53	19.77	-	(1.76)	11.92%	8.11	27.88	6.35
\$ 74	\$ 68		\$ 22	\$ 20	\$ -	\$ (2)		\$ 8	\$ 28	\$ 6
105	96.72	47.67%	33.89	31.22	(221.00)	(2.67)	15.39%	14.89	46.11	(208.79)
1020.25	937.13	52.66%	351.48	323.22	(126.07)	(28.27)	18.17%	170.28	493	15.94
\$ 1,125	\$ 1,034		\$ 385	\$ 354	\$ (347)	\$ (31)		\$ 185	\$ 539	\$ (193)
\$ 1,199	\$ 1,102		\$ 407	\$ 374	\$ (347)	\$ (33)		\$ 193	\$ 567	\$ (187)

3E-3/5

Santa Clara County
 District Attorney Department
 Legislatively Mandated Peace Officers Procedural Bill Of Rights Program
 Analysis Of Benefits
 Fiscal Year 2005-06
 Audit ID # S07-MCC-0033

District Attorney Department Data					
Activity	Classification	PHR Claimed	Hours Claimed	Benefit Rate Claimed	Amount Claimed
		(a)	(b)	(c)	(d)=(a*b*c)

Auditors' Analysis							
Allowed Salaries W/ Claimed PHR (after Adj 1)	Allowed Salaries W/ Allowed PHR (after Adj 2)	Allowed Benefit Rate	Salaries w/ Adjusted Hours only times Ben.Rate	Salaries w/ Adjusted PHR and Hours times Ben.Rate	Audit Adjustment Finding 1 Hours-Related	Audit Adjustment Finding 2 PHR Related	
(e)	(f)	(g)	(h)=(e)*(c)	(i)=(f)*(g)	(j)=(h)-(d)	(k)=(i)-(h)	

FY 2005-06

Admin. Activities					
		<u>2A-2c 7/16</u>			
Mike Vidmar, Cr	\$	64.13	2.00	45.00%	\$ 57.72
Subtotal			2.00		\$ 58
Interrogation					
		<u>2A-2c 8/16</u>			
Maurice Lane, Li	\$	73.32	24.75	52.40%	\$ 950.89
Pat Alvarez, Crin		64.13	9.25	50.20%	297.79
Mike Vidmar, Cr		64.13	2.50	45.00%	72.15
Subtotal			36.50		\$ 1,321
Total			38.50		\$ 1,379

3D-35/s							
128.26	142.40	45.00%	57.72	64.08	-	6.36	
\$ 128	\$ 142		\$ 58	\$ 64	\$ -	\$ 6	
36.66	34.00	52.40%	19.21	17.82	(931.68)	(1.39)	
64.13	65.14	50.20%	32.19	32.70	(265.59)	0.51	
32.07	35.60	45.00%	14.43	16.02	(57.71)	1.59	
\$ 133	\$ 135		\$ 66	\$ 67	\$ (1,255)	\$ 1	
\$ 261	\$ 277		\$ 124	\$ 131	\$ (1,255)	\$ 7	

3E-3/5

Purpose To review Benefit Rates claimed by the District Attorney department in FY 2003-04 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jean Dobroff, Accountant, District Attorney department
 ✓ Discussion with Jennifer Yu, Senior Accountant, District Attorney department
 ✓ District Attorney Department's People Soft individual payroll reports per fiscal period

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c)/(b)	(e)=(d)-(a)
W. Vidmar, Crim. Inves	^{2A-29} 25.52%	106,018.00	27,040.00	25.51%	-0.01%
B. Fraccoli, Crim. Invest	34.05%	101,306.00	34,502.00	34.06%	0.01%
M. Avila, Crim. Investig	35.79%	89,802.00	32,136.00	35.79%	0.00%
G. Cunningham, Crim. I	34.95%	101,306.00	35,412.00	34.96%	0.01%
B. Headrick, Crim. Inves	27.74%	101,306.00	28,106.00	27.74%	0.00%
J. Perez, Crim. Investig	38.02%	85,811.00	32,630.00	38.03%	0.01%
S. Reinhardt, Crim. Inve	35.83%	89,802.00	32,162.00	35.81%	-0.02%
L. Evans, Crim. Investig	26.97%	89,802.00	24,206.00	26.95%	-0.02%
J. McMullen, Crim. Inves	36.14%	87,807.00	31,746.00	36.15%	0.01%
M. Lane, Crim. Investig	32.71%	101,306.00	33,150.00	32.72%	0.01%
K. Smith, Crim. Investig	29.74%	101,306.00	30,134.00	29.75%	0.01%
P. Campbell, Crim. Inve	29.18%	101,306.00	29,562.00	29.18%	0.00%

Purpose To review Benefit Rates claimed by the District Attorney department in FY 2004-05 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jean Dobroff, Accountant, District Attorney department
 Discussion with Jennifer Yu, Senior Accountant, District Attorney department
 ✓ District Attorney Department's People Soft individual payroll reports per fiscal period

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective total compensations (salaries plus benefits). Therefore, the county understated benefit rates in this fiscal period. The auditors recalculated benefit rates by dividing total annual benefits by total annual salaries of each individual employee.

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c) / (b)	(e)=(d)-(a)
M. Vidmar, Assist. Chie	29.07% ²⁴⁻²⁶	114,417.00 ✓	46,900.00 ✓	40.99%	11.92%
M. Lane, Lieutenant	32.28%	108,450.00	51,701.00	47.67%	15.39%
R. Pifferini, Deputy Chi	34.49%	90,074.00	47,431.00	52.66%	18.17%

Purpose To review Benefit Rates claimed by the District Attorney department in FY 2005-06 to ensure that they are accurately computed.

Source Discussion with Ram Venkatesan, SB-90 Coordinator, Santa Clara County
 Discussion with Jean Dobroff, Accountant, District Attorney department
 Discussion with Jennifer Yu, Senior Accountant, District Attorney department
 ✓ District Attorney Department's People Soft individual payroll reports per fiscal period

Analysis: For this fiscal period, the county calculated benefit rates for individual employees by dividing their annual benefits amounts by their respective annual salaries.

Employee Classification	Ben Rate Claimed	Total Annual Salary	Total Annual Benefits	Allowed Benefit Rate	Audit Adjustments
	(a)	(b)	(c)	(d)=(c) / (b)	(e)=(d)-(a)
M. Vidmar, Crim. Invest	<u>2A-2c</u> 45.00%	119,401.00 ✓	53,710.00 ✓	44.98%	-0.02%
M. Lane, Lieutenant	52.40%	113,201.00	59,313.00	52.40%	0.00%
P. Alvarez, Crim. Investi	50.20%	109,240.00	54,808.00	50.17%	-0.03%

Tab 5

Document # 213-2 Page 1/3
Auditor MV Date 3/27/07
Reviewer J Date 1/15/07



JOHN CHIANG
California State Controller

March 27, 2007

John V. Guthrie, Director of Finance
Santa Clara County
70 West Hedding Street
East Wing, 2nd Floor
San Jose, CA 95110

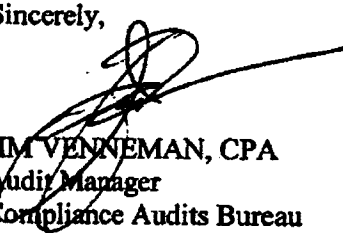
Dear Mr. Guthrie:

This letter confirms that the State Controller's Office has scheduled an audit of Santa Clara County's legislatively mandated Peace Officers Procedural Bill of Rights Program cost claims filed for fiscal year (FY) 2003-04, FY 2004-05, and FY 2005-06. *Government Code* Sections 12410, 17558.5, and 17561 provide the authority for this audit. The entrance conference is scheduled for Monday, April 9, 2007, at 10:30 a.m. Audit fieldwork will begin after the entrance conference.

Please furnish working accommodations for and provide the necessary records (see the Attachment) to the audit staff.

If you have any questions, please call me at (916) 322-9887.

Sincerely,


JIM VENNEMAN, CPA
Audit Manager
Compliance Audits Bureau
Division of Audits

JV/vb

Attachment

6048

For PSSC, See Document # N/A

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

John V. Guthrie

-2-

Document # 26-2 Page 2/3
Auditor MV Date 3/27/07
Reviewer March 27, 2007
↓ 11/16/07

cc: Ram Venkatesan
SB 90 Coordinator
Santa Clara County
Jim L. Spanò, Chief
Compliance Audits Bureau
Division of Audits, State Controller's Office
Ginny Brummels, Manager
Division of Accounting and Reporting
State Controller's Office
Masha Vorobyova, Auditor-in-Charge
Division of Audits, State Controller's Office
Jack Rahmey, Auditor
Division of Audits, State Controller's Office

For PSSC, See Document # N/A

Document # 26-2 Page 3/3
Auditor √MV Date 3/27/07
Reviewer W Date 4/10/07

ATTACHMENT

Santa Clara County
Records Request for Mandated Cost Program
Peace Officers Procedural Bill of Rights Program
FY 2003-04, FY 2004-05, and FY 2005-06

1. Copies of claims filed for the mandated cost program.
2. Organization charts for the Sheriff, District Attorney, and Probation departments effective during the audit period, showing employee names and position titles.
3. Worksheets that support the productive hourly rates used, including support for benefit rates.
4. Access to payroll records showing employee salaries and benefits paid during the audit period.
5. Documentation supporting time studies conducted (if applicable) or documentation to support hours claimed for this mandated program.
6. Case logs or time tracking case summaries.
7. Access to review cases.
8. Documentation supporting number of cases completed per each department for the fiscal years in this audit period.
9. Documentation that supports the indirect cost rate proposal (ICRP) including but not limited to Expenditure reports.
10. Documentation that supports amounts received from other funding sources.
11. Chart of accounts.
12. Documentation supporting claimed services and supplies costs.
13. Copies of invoices and other documents necessary to support costs claimed.

For PSSC, See Document # 11A

Tab 6

ITEM 10

PROPOSED PARAMETERS AND GUIDELINES

Government Code Sections 3300 through 3310

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

Executive Summary

Summary 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 (POBAR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts 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. The protections required by the test claim legislation apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at-will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission adopted its 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 (Exhibit A).

Staff Analysis

On June 20, 2000, the draft staff analysis and claimant's parameters and guidelines, as modified by staff were issued to the parties. (Exhibit H.) Staff made several substantive and technical modifications to the claimant's proposed parameters and guidelines to conform the parameters and guidelines to the Commission's Statement of Decision.

All of the modifications to the claimant's proposed parameters and guidelines are discussed in the staff analysis and outlined in the Claimant's Proposed Parameters and Guidelines, as Modified by Staff, beginning on page 21.

On July 5, 2000, the claimant filed comments on the draft staff analysis disputing one issue; namely, reimbursement of legal defense costs. (Exhibit I.)

The Commission found that Government Code section 3304, subdivision (b), constitutes a reimbursable state mandate by requiring local agencies to provide the opportunity for an administrative appeal for specified disciplinary actions. The claimant is requesting, as part of this activity, the defense of any lawsuit resulting from the agency's disciplinary action.

In this regard, the claimant is requesting reimbursement for attorneys' fees, witness fees, and all associated court costs in defense of its case.

The claimant contends that legal defense costs are reimbursable on the ground that judicial review of POBAR cases has been expanded by the courts to an independent review of the validity of the final administrative decision issuing the disciplinary action.

The claimant also cites Government Code section 3309.5, a statute included in the POBAR legislation, to assert that the superior court has original jurisdiction over any proceeding brought by a peace officer for alleged POBAR violations. Section 3309.5 was designed to allow a peace officer to pursue a remedy immediately in court during the investigation and not require that the officer wait until after an administrative appeal. Thus, Government Code section 3309.5 establishes a legal cause of action for peace officer employees.

The Department of Finance contends that legal defense costs are not reimbursable since there is no reference in the Commission's Statement of Decision that defending the agency's administrative action constitutes a reimbursable state mandated activity. The Department further states that it is not clear that the Commission's approval of the costs associated with an administrative appeal extends to or encompasses judicial review.

For the reasons stated below, staff disagrees with the claimant's request.

Legal Defense Costs Relating to an Agency's Final Disciplinary Action

The claimant contends that legal defense costs are reimbursable on the ground that judicial review of POBAR cases has been expanded by the courts to an independent review of the validity of the final administrative decision issuing the disciplinary action.

Before the test claim legislation was enacted, local agencies were issuing disciplinary actions. All that Government Code section 3304, subdivision (b), did was to require the local agency to provide the procedural protection of an administrative appeal for specified disciplinary actions.

Thus, even before POBAR was enacted, a peace officer could file a court action under Code of Civil Procedure section 1094.5 attacking the validity of the agency's final disciplinary decision. A peace officer can also file a civil suit for damages as a result of an agency's disciplinary action even in the absence of POBAR. Therefore, defending lawsuits attacking the validity of the final disciplinary action is not new.

Accordingly, staff finds that defending a lawsuit attacking the validity of the final administrative decision does not constitute a reimbursable state mandated activity.

Legal Defense Costs Relating to Claims Filed Under Government Code Section 3309.5

The claimant also proposes to include in the parameters and guidelines the activity of defending lawsuits brought under Government Code section 3309.5. The claimant has included this activity in the section of the parameters and guidelines addressing the right to an administrative appeal under Government Code section 3304, subdivision (b).

Government Code section 3309.5 gives the superior court original jurisdiction over proceedings alleging that a local agency has violated a peace officer's POBAR rights, including the right to an administrative appeal, and the rights granted an officer during an interrogation and following the receipt of an adverse comment.

Although section 3309.5 is part of POBAR, the claimants never alleged during the test claim hearing, or in response to the Commission's Statement of Decision, or during the hearing on the Statement of Decision that section 3309.5 constitutes a reimbursable state mandate.

Section 1183, subdivision (e)(3), of the Commission's regulations requires that the test claim filing include a detailed description of the following: activities required under prior law or executive order; what new program or higher level of service is required under the statute or executive order alleged to contain or impact a mandate, and whether there are any costs mandated by the state as defined in Government Code sections 17514 and 17556.

Thus, whether a statute constitutes a new program or higher level of service *and* whether the statute imposes costs mandated by the state are issues to be determined by the Commission at the test claim phase. Only after the Commission determines that a statute constitutes a reimbursable state mandate can the Commission proceed to the parameters and guidelines.

Section 1183.1, subdivision (a), of the Commission's regulations requires that the proposed parameters and guidelines include a summary of the mandate identifying "the activities found to be required under prior statutes or executive orders, and the activities found to be required under the statutes or executive orders that contain the mandate or increased level of service." The proposed parameters and guidelines may also include a description of the most reasonable methods of complying with the mandate.

Thus, in order for an activity to be included in the parameters and guidelines, the activity must either be:

- Required by the statutes found by the Commission during the test claim phase to impose a reimbursable state mandate, or
- A reasonable method of complying with the statutes found by the Commission during the test claim phase to impose a reimbursable state mandate.

In the present case, the claimant's test claim filing does not contain a description of whether section 3309.5 constitutes a new program or higher level of service or imposes costs mandated by the state, as required by the Commission's regulations.

Moreover, the claimant never alleged during the test claim phase, and the Commission did not find, that Government Code section 3309.5 constitutes a new program or higher level of service, and imposes costs mandated by the state under article XIII B, section 6 of the California Constitution and Government Code section 17514. Thus, there has been no determination by the Commission that section 3309.5 constitutes a reimbursable state mandate.

Accordingly, staff has modified the claimant's proposed parameters and guidelines by striking out the words "together with the defense of same in any court proceeding."

If, however, the Commission wants to include this activity in the parameters and guidelines, the Commission would have to make finding pursuant to section 1183.1, subdivision (a)(4), of the Commission's regulations that defending a 3309.5 lawsuit is a reasonable method of complying with the requirement to provide an opportunity for an administrative appeal under Government Code section 3304, subdivision (b).

Staff Recommendation

Staff recommends that the Commission adopt the Claimant's Proposed Parameters and Guidelines, as Modified by Staff, beginning on page 21.

Claimant

City of Sacramento

Chronology

11/30/99 Commission adopts Statement of Decision
12/29/99 Claimant files proposed parameters and guidelines
01/19/00 Department of Finance files comments
02/23/00 Claimant replies to the Department of Finance comments
05/24/00 Pre-hearing Conference held
05/26/00 Staff requests further comments
06/07/00 Claimant files further comments in response to staff request
06/14/00 The State Controller's Office files comments
06/20/00 Draft Staff Analysis and Claimant's Proposed Parameters and Guidelines as Modified by Staff issued
07/05/00 Claimant files comments

Summary 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 (POBAR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts 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. The protections required by the test claim legislation apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at-will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission adopted its 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 (Exhibit A).

STAFF ANALYSIS

On June 20, 2000, the draft staff analysis and claimant's parameters and guidelines as modified by staff were issued to the parties. The draft staff analysis was based on a review of the claimant's proposed parameters and guidelines, the comments submitted by the parties, the test claim legislation, and the Commission's Statement of Decision. (Exhibit H.)

On July 5, 2000, the claimant filed comments on the draft staff analysis addressing one issue; namely the reimbursement of legal defense costs on claims filed by peace officer employees alleging a POBAR violation under Government Code section 3309.5. (Exhibit I.) The staff analysis on this issue is provided below under Section IV. (B), Administrative Appeal.

Staff has also modified the claimant's proposed parameters and guidelines, as reflected by markings and strikethroughs, to conform the parameters and guidelines to the test claim legislation and the Commission's Statement of Decision (See page 21). These modifications are discussed below.

Section IV, "Reimbursable Activities," Subdivision (A), "Administrative Activities"¹ The claimant's proposed parameters and guidelines include the following administrative activities:

1. Developing or updating 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.
3. Maintenance of the systems to conduct the mandated activities.
4. Providing direct supervision over the agency staff performing the mandated activities.

The Department of Finance states that the component "maintenance of the systems to conduct the mandated activities" is too ambiguous. Staff agrees.

Before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions, and *maintaining* files for those cases. Thus, the component "maintenance of the systems to conduct the mandated activities" is too broad. Accordingly, staff has modified this component to provide that claimants are eligible for reimbursement for "updating the status report of the POBAR cases."

Staff has also modified the claimant's proposed parameters and guidelines by striking the proposed activity of "providing direct supervised over the agency staff performing the mandated activities." If a claimant is requesting reimbursement for an employee providing direct supervision regarding the mandated activities, the claimant simply has to comply with Section V, Claim Preparation and Submitter, and submit supporting documentation to the Controller's Office identifying the employee, describing the reimbursable activities performed, and the actual time devoted to the mandated activity. Thus, adding a separate component in Section IV, for employee supervision is duplicative and unnecessary.

Finally, staff has designated the administrative activities as on-going activities. Due to a lack of specificity in the test claim legislation, hundreds of court cases have been, and continue to be issued. The case law has provided new interpretations of the legislation and clarified the responsibilities of local agencies. Thus, staff finds that it is reasonably necessary for local agencies to update their internal policies and procedures, and train their employees on an on-going basis.

Thus, staff's modifications to Section IV, (A), are as follows:

"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.

¹ See page 22, Claimant's Proposed Parameters and Guidelines, As Modified by Staff.

3. Maintenance of the systems to conduct the mandated activities. Updating the status report of the POBAR cases.

4. Providing direct supervision over the agency staff performing the mandated activities."

Section IV. "Reimbursable Activities, Subdivision (B), "Administrative Appeal"²

The Commission's Statement of Decision includes a list of activities the Commission found to be reimbursable under article XIII B, section 6 of the California Constitution. The first activity listed in the Statement of Decision states the following:

"Providing the opportunity for an administrative appeal for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction or written reprimand received by probationary and at-will employees whose liberty interests are not affected (i.e.; the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- Transfer of permanent, probationary and at-will employees for purposes of punishment;
- Denial of promotion for permanent, probationary and at-will employees for reasons other than merit; and
- Other actions against permanent, probationary and at-will employees that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee."

The claimant's proposed parameters and guidelines includes the language provided above, but also adds the following italicized phrase: "Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions, together with the defense of same in any court proceeding." Thus, the claimant is requesting attorneys' fees, witness fees, and all associated court costs in defense of its case.

The Department of Finance contends that legal defense costs are not reimbursable. They state the following:

"While providing the opportunity for and the conduct of an administrative appeal was included in the Commission's Statement of Decision, there is no reference to the defense of same in any court proceeding. It is not clear to us that the Commission's approval of the costs of an administrative appeal in its decision necessarily extends to or encompasses judicial review. Unless the claimant can establish a nexus between the two processes, we believe that it is not appropriate to include the costs of the latter in these parameters and guidelines."

In response, the claimant cites Government Code section 3309.5, a statute included in the test claim legislation, to assert that the test claim legislation gives the superior court original jurisdiction over any proceeding brought by a peace officer for alleged POBAR violations.

The claimant also states that "although at first blush it would seem that only those actions involving a violation by the public entity of the officer's rights under POBAR would be subject to judicial review, that is not what has occurred in practice." The claimant, citing

² See pages 22-23, Claimant's Proposed Parameters and Guidelines, As Modified by Staff.

the case of *Fukuda v. City of Angels*³, contends that the courts have expanded the judicial review of POBAR cases to an independent review of the validity of the final administrative decision issuing the disciplinary action. The claimant therefore asserts that reimbursement should be required for all costs related to defending the agency's final administrative decision in court.

The analysis regarding legal defense costs is provided below.

Legal Defense Costs Relating to the Agency's Final Administrative Decision

The claimant first contends that defending a lawsuit attacking the validity of the final administrative decision issuing a disciplinary action is a reimbursable state mandated activity.

The claimant cites the *Fukuda* case. The *Fukuda* case involves an administrative mandamus proceeding under Code of Civil Procedure section 1094.5 brought by a police officer against his employer following the employer's final decision to discharge the plaintiff. A writ of mandamus proceeding under Code of Civil Procedure section 1094.5 is available to review "any final administrative order or decision made as the result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer." Thus, the plaintiff in *Fukuda* was attacking the validity of the employer's final decision of discharge.

The plaintiff in *Fukuda*, however, did not allege any POBAR violations. In fact, the test claim legislation is not even mentioned in the case. The plaintiff was simply contesting the final disciplinary action taken by the employer. Thus, staff finds that the *Fukuda* case is not relevant here.

Moreover, local agencies were issuing disciplinary actions before the test claim legislation was enacted. All that Government Code section 3304, subdivision (b), did was to require the local agency to provide the procedural protection of an administrative appeal for specified disciplinary actions.

Thus, even before POBAR was enacted, a peace officer could file a court action under Code of Civil Procedure section 1094.5 attacking the validity of the agency's final disciplinary decision.⁴ A peace officer can also file a civil suit for damages as a result of an agency's disciplinary action even in the absence of POBAR. Therefore, defending lawsuits attacking the validity of the final disciplinary action is not new.

Accordingly, staff finds that defending a lawsuit attacking the validity of the final administrative decision does not constitute a reimbursable state mandated activity.

Legal Defense Costs Relating to Claims Filed Under Government Code Section 3309.5

The claimant also proposes to include in the parameters and guidelines the activity of defending lawsuits brought under Government Code section 3309.5. The claimant has included this activity in the section of the parameters and guidelines addressing the right to an administrative appeal under Government Code section 3304, subdivision (b).

Government Code section 3309.5 gives the superior court original jurisdiction over proceedings alleging that a local agency has violated a peace officer's POBAR rights, including the right to an administrative appeal, and the rights granted an officer during an

³ *Fukuda v. City of Angels* (1999) 20 Cal.4th 805. (Exhibit J.)

⁴ Code of Civil Procedure section 1094.5 was originally added by the Legislature in 1945 (Stats. 1945, ch. 358). (Exhibit K.)

interrogation and following the receipt of an adverse comment. Section 3309.5 was specifically designed to allow a peace officer to pursue a remedy immediately in the courts during the investigation and not require that the officer wait until after an administrative appeal.⁵ Thus, Government Code section 3309.5 establishes a legal cause of action for peace officer employees.

Government Code section 3309.5 states the following:

"(a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to them by this chapter.

(b) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this chapter.

(c) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer." (Emphasis added.)

Although section 3309.5 is part of POBAR, the claimants never alleged during the test claim hearing, or in response to the Commission's Statement of Decision, or during the hearing on the Statement of Decision that section 3309.5 imposes reimbursable state mandated activities.⁶

On June 20, 2000, staff issued a draft analysis on the claimant's proposed parameters and guidelines concluding that legal defense costs resulting directly from section 3309.5 cannot be included in the parameters and guidelines because the Commission has not made a finding that section 3309.5 constitutes a reimbursable state mandate under article XIII B, section 6 of the California Constitution and Government Code section 17514.

On July 5, 2000, the claimant filed a response to the draft staff analysis contending that the staff analysis regarding legal defense costs under Government Code section 3309.5 is wrong. The claimant contends that the issue of litigation of POBAR rights has been a "thread" through the entire test claim process. The claimant also states that defense costs under section 3309.5 should be included in the parameters and guidelines since the Statement of Decision defines the scope of the mandate and the parameters and guidelines define the activities. The claimant states the following:

"Attached to the original test claim as filed are all of the statutes upon which the test claim was based. On [page 372 of the test claim], is contained Chapter 405, Statutes of 1979, which added Government Code section 3309.5 to POBAR. Reference to this statute is had on the face sheet of the test claim [page number omitted] as well as on the face page of the narrative of the test claim [page number omitted].

⁵ See, *Mounger v. Gates* (1987) 193 Cal.App.3d 1248, 1256. (Exhibit L)

⁶ Exhibit M, Test claim filings submitted by the claimant; Exhibit N, August 26, 1999 Hearing Transcript (test claim hearing); and Exhibit O, November 30, 1999 Hearing Transcript (SOD hearing).

Secondly, the issue of litigation of POBAR rights has been a thread going through the entire test claim process. Your staff has analyzed at depth numerous cases involving POBAR, particularly in connection with the scope of the mandate, and to what extent POBAR exceeds the requirements of *Skally v. State Personnel Board* [citation omitted]. In fact, the first 312 pages of the test claim is devoted to litigation concerning *Skally* and POBAR.

The issue of litigation concerning POBAR was raised by Ms. Dee Contreras at the hearing on the test claim in this matter. Furthermore, the record on the test claim is replete with references concerning litigation over POBAR rights. (See Comments to Draft Staff Analysis received by the Commission on August 6, 1999, commencing at page 9.)

Thus, even prior to Claimant's submission of Draft Parameters and Guidelines, the issue of litigation over POBAR rights was clearly submitted and in issue."

Staff disagrees with the claimant.

Section 1183, subdivision (e)(3), of the Commission's regulations requires that the test claim filing include a detailed description of the following:

- What activities were required under prior law or executive order, and
- What new program or higher level of service is required under the statute or executive order alleged to contain or impact a mandate, and
- Whether there are any costs mandated by the state as defined in Government Code sections 17514 and 17556.

Thus, whether a statute constitutes a new program or higher level of service and whether the statute imposes costs mandated by the state are issues to be determined by the Commission at the test claim phase. Only after the Commission determines that a statute constitutes a reimbursable state mandate can the Commission proceed to the parameters and guidelines.

Section 1183.1, subdivision (a), of the Commission's regulations requires that the proposed parameters and guidelines include a summary of the mandate identifying "the activities found to be required under prior statutes or executive orders, and the activities found to be required under the statutes or executive orders that contain the mandate or increased level of service." (Emphasis added.) The proposed parameters and guidelines may also include a description of the most reasonable methods of complying with the mandate.

Thus, in order for an activity to be included in the parameters and guidelines, the activity must either be:

- Required by the statutes found by the Commission during the test claim phase to impose a reimbursable state mandate, or
- A reasonable method of complying with the statutes found by the Commission during the test claim phase to impose a reimbursable state mandate.

In the present case, the Commission has not made a finding that Government Code section 3309.5 imposes a reimbursable state mandate.

The claimant's test claim filing includes section 3309.5 on the face sheet as a statute alleged to contain a mandate. The first page of the test claim narrative includes a sentence stating the following: "Chapter 405/79 added section 3309.5, making it unlawful to violate this act, thereby relieving the officer of any requirement to exhaust administrative remedies before seeking 'appropriate injunctive or other extraordinary relief' before superior court if violations are alleged."⁷

However, the test claim filing does not contain a description of whether section 3309.5 constitutes a new program or higher level of service or imposes costs mandated by the state, as required by the Commission's regulations. Instead, the claimant's test claim filing limits the discussion of these issues to Government Code sections 3303 and 3304. These sections address the administrative appeal and interrogation rights under POBAR.

On September 5, 1997, the claimant filed supplemental comments clarifying the test claim. Again, the claimant's comments addressed Government Code sections 3303 and 3304. The claimant also addressed sections 3305, and 3306, which relate to the rights following the receipt of an adverse comment. Section 3309.5 was not mentioned in the claimant's supplemental comments.⁸

The claimant contends that its comments on the test claim draft staff analysis, beginning on page 9, is replete with references concerning litigation over POBAR rights. However, the cases cited in these comments do not address Government Code section 3309.5. Rather, the case law cited by the claimant defines the phrase "transfer for purposes of punishment", a punitive action entitling the employee to an administrative appeal under POBAR.⁹

The claimant also contends that the issue of litigation was raised during the test claim hearing. Staff agrees there was testimony relating to case law involving an employee's pre-existing due process rights. There was also testimony on case law relating to the POBAR rights regarding the administrative appeal, interrogation of an officer, and the receipt of adverse comments. However, there was no testimony addressing Government Code section 3309.5.¹⁰

In short, the claimant never alleged during the test claim phase, and the Commission did not find that Government Code section 3309.5 constitutes a new program or higher level of service, and imposes costs mandated by the state under article XIII B, section 6 of the California Constitution and Government Code section 17514. Thus, there has been no determination by the Commission that section 3309.5 constitutes a reimbursable state mandate.

Accordingly, staff has modified the claimant's proposed parameters and guidelines by striking out the words "together with the defense of same in any court proceeding."

If, however, the Commission wants to include this activity in the parameters and guidelines, the Commission would have to make finding pursuant to section 1183.1, subdivision (a)(4), of the Commission's regulations that defending a 3309.5 lawsuit is a reasonable method of complying with the requirement to provide an opportunity for an administrative appeal under Government Code section 3304, subdivision (b).

⁷ Exhibit M, Bates page 192.

⁸ Exhibit M, Bates page 232.

⁹ Exhibit M, Bates page 244.

¹⁰ Exhibit N.

1998 Amendment to Government Code Section 3304

Staff has also included the Commission's recognition that Government Code section 3304 was amended in 1998 (Stats. 1998, ch. 748) to limit the right to an administrative appeal to the chief of police and those employees who have successfully completed probation. (See Exhibit A, Statement of Decision, page 10.) The amendments became effective on January 1, 1999. Thus, claimants are eligible for reimbursement for providing the opportunity for an administrative appeal to probationary and at-will employees, except the chief of police, only until December 31, 1998.

Thus, staff has modified Section IV. (B) as follows:

"B. On-Going Activities Administrative Appeal

1. Reimbursement period of July 1, 1994 through December 31, 1998 – The administrative appeal activities listed below apply to permanent employees, at-will employees, and probationary employees.

Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions, together with the defense of same in any court proceeding (Gov. Code, § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction or written reprimand received by probationary and at-will employees whose liberty interest are not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- Transfer of permanent, probationary and at-will employees for purposes of punishment;
- Denial of promotion for permanent, probationary and at-will employees for reasons other than merit; and
- Other actions against permanent, probationary and at-will employees that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.

Included in the foregoing, but not limited thereto, are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.

2. Reimbursement period beginning January 1, 1999 – The administrative appeal activities listed below apply to permanent employees and the Chief of Police.

Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- 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 or the Chief of Police that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.

Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body."

Section IV. "Reimbursable Activities, Subdivision (C), "Interrogations" ¹¹

The Commission found that several activities required by the test claim legislation involving the interrogation of a peace officer constituted reimbursable state mandated activities. (See the Commission's Statement of Decision, pages 25 and 26.)

The claimant contends that all of the interrogation activities found by the Commission to be reimbursable apply not only to the peace officer employee under investigation, but also to civilian and peace officer witnesses. For example, the claimant states the following:

"Government Code Section 3303(g) does not distinguish between taping an officer who is a witness versus taping an officer who is the target of an investigation. The public safety officer, whether or not the target of the investigation, can bring his or her own recording device, and their right to record is independent of our right to record. Where it says *may* be recorded, it in essence requires recording, and doesn't differentiate between interrogation of witnesses and interrogation as the targeted employee. However, because of the fact that 'witness' peace officers may subsequently become targets as a result of their heightened standard of conduct, peace officer witnesses must be taped as well. Finally, if you tape all of the peace officers involved in an investigation and do not tape civilian witnesses as well, you do not have a complete record."¹²

Government Code section 3303, which addresses investigations and interrogations, expressly states in the first paragraph that the rights granted with regard to interrogations apply only when a peace officer is under investigation that could lead to punitive action. The first paragraph of section 3303 states in pertinent part the following:

"When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action [defined in the test claim legislation as dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment], the interrogation shall be conducted under the following conditions." (Emphasis added.)

Thus, based on the language of section 3303, staff finds that the rights granted by POBAR, including the right to tape an interrogation, do *not* extend to civilian witnesses.

However, staff agrees with the claimant that POBAR rights under Government Code section 3303 do attach when a peace officer is interrogated as a witness to an incident since

¹¹ See pages 23-25, Claimant's Proposed Parameters and Guidelines, As Modified by Staff.

¹² Exhibit L.

the officer's own actions regarding the incident can result in punitive action. The claimant provides the following example:

For example, an actual case situation occurred wherein there was an allegation that an officer failed to handle a particular call properly, that there was the possibility of excessive force was used and the individual was in the hospital. Given the seriousness of the allegations, we commenced speaking with the witnesses immediately. Everyone involved except the complainant, from the officer who was alleged to have used excessive force, as well as his sergeant, was a peace officer covered by POBR. When the sergeant, who was thought to be a witness, came in for questioning, he was informed that the subject of the questioning was one of his subordinate officers. However, in the course of discussions with the sergeant, it became apparent that he failed to file a required form when a person is hospitalized or injured. In Sacramento City, when someone is injured, the sergeant is required to file a form which is an alert to indicate that the arrestee has been hospitalized. In this situation, as you walk through the incident, we became apprized that the sergeant failed to file the required form."

"....."

"In the normal due process case, the employee would have uttered statements which indicated that he did not file the appropriate form, you could ask him whether or not he had filed the form, and the issue would be over. However, with POBR, you have to give the sergeant, who was previously called as a witness, a copy of the transcript of his prior testimony as he is entitled to it since he was interrogated on the matter previously in the officer's case. Since you never know when a witness may end up being the subject of discipline, not only do you have to more carefully prepare each case, but you may also have to tape record each peace officer's testimony should the eventuality occur that the witness becomes the target of an investigation. This is just an example of why there needs to be more and thorough preparation."

"As any peace officer who is a witness in the course of one individual's investigation could become the subject of their own investigation, it is imperative to do more preparation prior to the initial questioning. We now perform a more complete review to ascertain that witnesses who may become subjects are identified prior to interrogation."¹³

Thus, staff has added the following paragraph to Section IV. (C) of the proposed parameters and guidelines:

¹³ Exhibit 1, pages 2 and 3.

"Claimants are eligible for reimbursement for the performance of the activities listed in this section only when a peace officer 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.)"

Staff has also added the following paragraph, which was included on page 12 of the Commission's Statement of Decision and expressed in Government Code section 3303, subdivision (i):

"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).)"

Section IV. (C) (1) and (2). Compensation and Timing of an Interrogation, Interrogation Notice

The Commission's Statement of Decision includes the following reimbursable activity:

"Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)"

This activity was derived from Government Code section 3303, subdivision (a), which establishes the timing and compensation of a peace officer subject to an interrogation. Section 3303, subdivision (a), requires that the interrogation be conducted at a reasonable hour, preferably at a time when the peace officer is on duty, or during the normal waking hours of the peace officer, unless the seriousness of the investigation requires otherwise. At the test claim phase, the claimant contended that this section resulted in the payment of overtime to the peace officer employee. (See page 12 of the Commission's Statement of Decision.)

The claimant's proposed parameters and guidelines restates the activity as expressed in the Statement of Decision, but also adds "the review of the necessity for the questioning and responses given" as a reimbursable component. The claimant's proposed parameters and guidelines state the following:

"Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)"

"Included in the foregoing, but not limited thereto, is the *review of the necessity for the questioning and responses given*; providing notice to all parties concerned of the time and place of the interview and scheduling thereof; preparation and review of overtime compensation requests; review of proceedings by counsel." (Emphasis added.)

Following the pre-hearing conference in this case, staff requested further comments on the proposed activity "to review the necessity for the questioning and responses given" to determine if the activity was consistent with, and/or reasonably related to, the

Commission's Statement of Decision and the activities mandated by the test claim legislation.

In response to staff's request, the claimant asserts that it is more difficult to prepare for an investigation under POBAR because Government Code section 3303, subdivision (c), requires that the employee receive prior notice identifying the nature and subject of the questioning. The claimant states the following:

"It is more difficult to prepare for an investigation involving a peace officer than it is for those who are not entitled to POBR rights. In the normal due process case involving an employee who is not entitled to POBR rights, you do not have to inform the employee about the nature and subject of the questioning, and you do not have to prepare questions focused upon a particular area, seeking to get the information you can from the employee. In non-POBR matters, you can explore other areas in the questioning as they arise, which allows for a much more free-form questioning process."

"In contrast, however, with employees covered by POBR, you must tell the employee prior to the initial questioning what the purpose of the meeting is, what it is you will be discussing with him or her, and you have to be prepared to be clearly on point as to where you are going and your expectations about the questioning process. You cannot engage in broader questioning for information, because the employee has the right to know the subject about which he or she is being interrogated."¹⁴

The claimant further states the following:

"As any peace officer who is a witness in the course of one individual's investigation could become the subject of their own investigation, it is imperative to do more preparation prior to the initial questioning. We now perform a more complete review to ascertain that witnesses who may become subjects are identified prior to interrogation. . . ."

"Obviously, if you are going to re-interview a peace officer, you have to be prepared to give them a copy of their prior transcript. You also have to go back and review it, to make sure where conflicts with what transpired previously in order to ask intelligent questions. In a non-POBR matter, you can follow up by asking additional questions without regard to the reasons you have the employee in for questioning in the first place. However, with POBR, the whole questioning is focused on what you have identified as the allegation. Thus, the definition of what the allegations are must come early in the process. If someone calls to complain about something, the subsequent investigation may bring to light little about the complaint of the citizen, but may demonstrate an internal operating problem or conflict which you have to address. The additional rights granted by POBR make that more difficult as indicated above."¹⁵

Staff finds that the activity to review the necessity for the questioning and responses given is too broad and goes beyond the scope of Government Code section 3303, subdivision (a), and the Commission's Statement of Decision.

¹⁴ Exhibit F, pages 1 and 2.

¹⁵ *Id.* at page 3.

Government Code section 3303, subdivision (a), addresses only the compensation and timing of the interrogation. It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses, as implied by the claimant's proposed language. Certainly, local agencies were performing these investigative activities before POBAR was enacted.

Nevertheless, Government Code section 3303, subdivision (c), does impose a new requirement on local agencies to provide the peace officer with notice identifying the nature of the investigation prior to the interrogation. The Commission found that the notice requirement constituted a reimbursable state mandated activity under article XIII B, section 6 of the California Constitution. Accordingly, staff finds that the activity of reviewing agency complaints or other documents to prepare the notice of interrogation is a reasonable method of complying with Government Code section 3303, subdivision (c).

Based on the foregoing, staff has modified Section IV. (C) as follows:

~~"1. Conducting an interrogation of a peace officer while the officer is on duty, or compensating~~ 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).)

Included in the foregoing, but not limited thereto, is the review of the necessity for the questioning and responses given; providing notice to all parties concerned of the time and place of the interview and scheduling thereof; preparation and review of overtime compensation requests; review of proceedings by counsel.

2. Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. (Gov. Code, § 3303, subds. (b) and (c).)

Included in the foregoing, but not limited thereto, is the review of agency complaints or other documents to prepare the notice of interrogation; the nature of the interrogation; review by counsel; determination of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or confidential information; and preparation and presentation to officer of notice of agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer."

Section IV. (C) (3), (4), and (5). Tape Recording and Transcription of the Interrogation

Government Code section 3303, subdivision (g), states the following:

"The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation."

The Commission found that Government Code section 3303, subdivision (g), imposed the following reimbursable state mandated activities (see pages 25 and 26 of the Statement of Decision):

- Tape recording the interrogation when the employee records the interrogation. (Gov. Code, § 3303, subd. (g).)
- Providing the employee with access to the tape 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 do 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.
- Producing transcribed copies of any notes made by a stenographer at an interrogation, and 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.

The claimant's proposed parameters and guidelines combine these activities into one paragraph:

"Producing transcribed of any notes made by a stenographer or tape recording at an interrogation, and reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, *whether or not the investigation results in any disciplinary action.* (Gov. Code, § 3303, subd. (g)).

Included in the foregoing, but not limited thereto, is the review of the complaints, notes or tape recordings for issues of confidentiality by law enforcement, human relations or counsel; cost of tape copying, tape and storage; cost of transcription, processing, service and retention of copies." (Emphasis added.)

Staff finds that the claimant's proposed paragraph, which authorizes reimbursement for the cost of transcription and tape recording *whether or not the investigation results in any disciplinary action*, is inconsistent with the Commission's Statement of Decision.

First, the proposed paragraph implies, and the claimant requests, reimbursement for taping *all* interrogations. However, the Commission found that reimbursement is required for tape recording the interrogation *only when* the employee tapes the interrogation.

The Commission also limited the right to reimbursement for the costs of providing the employee with access to the tape or transcription of the notes when: (1) the investigation did not result in disciplinary action; and 2) when the disciplinary action did not involve a pre-existing due process right to such materials.

Thus, staff has modified the claimant's proposed parameters and guidelines to accurately reflect the Commission's Statement of Decision.

The claimant also contends that the cost of transcribing the tape recordings of an interrogation is reasonably necessary to comply with the mandate. The claimant contends that "the tape is meaningless without a transcription."¹⁶ Staff agrees and has included this component in Section IV. (C) (3) of the parameters and guidelines.

Thus, staff has modified Section IV. (C) as follows:

"3. Tape recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g)).

Included in the foregoing is the cost of tape and storage, and the cost of transcription.

4. Providing the peace officer employees with access to the tape 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;

¹⁶ Exhibit F.

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;

Included in the foregoing is the cost of tape copying.

4.5. Producing transcribed copies of any notes made by a stenographer or tape recording 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, whether or not the investigation results in any disciplinary action 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.

Included in the foregoing, but not limited thereto, is the review of the complaints, notes or tape recordings for issues of confidentiality by law enforcement, human relations or counsel; cost of tape copying, tape and storage; cost of transcription, processing, service and retention of copies."

Section IV. "Reimbursable Activities, Subdivision (D), "Adverse Comment"¹⁷

Government Code sections 3305 and 3306 provide peace officers with procedural rights to receive notice, and review and respond to an adverse comment entered in the officer's personnel file.

The Commission found that Government Code sections 3305 and 3306 constitute a partial reimbursable state mandated program for those activities not previously required by the due process clause and/or statutory law. (See pages 26 through 28 of the Statement of Decision.)

The claimant's proposed parameters and guidelines contains the same activities listed in the Commission's Statement of Decision regarding adverse comments, and also includes the following paragraph:

¹⁷ See pages 25-27, Claimant's Proposed Parameters and Guidelines, As Modified by Staff.

"Included in the foregoing, but not limited thereby, are review of circumstances or documentation leading to adverse comment by supervisor, command staff/junior resources staff or counsel, including determination of whether same constitutes an adverse incident; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; *officer's time in response to adverse comment*; review of responses to adverse comment, attaching same to adverse comment and filing." (Emphasis added.)

As indicated in the above paragraph, the claimant is requesting reimbursement for the officer's time in response to the adverse comment. Staff disagrees with this request. Government Code section 3306, which addresses the officer's response to an adverse comment, states the following:

"A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment."

The Commission found that section 3306 requires the local agency to provide an opportunity to respond to the adverse comment within 30 days. (See page 19 of the Statement of Decision.) However, the Commission never found, and the statute does not require, that the officer file a response. Rather, the decision to file a response to the adverse comment is left up to the individual officer.

Therefore, staff finds that compensating local agencies for the officer's time in responding to an adverse comment is not mandated by the state and is, thus, not eligible for reimbursement. Accordingly, staff modified Section IV. (D) of the proposed parameters and guidelines by striking out the words "officer's time in response to adverse comment."

Section VI. "Supporting Data"¹⁴

The State Controller's Office requests that language be included to validate the quantity of work performed for the costs claimed. The Controller's Office requests eligible claimants to identify the following:

- "Number of cases in process at the beginning of the fiscal year _____
- Number of new cases added during the fiscal year _____
- Number of cases completed or closed during the fiscal year _____
- Number of cases in process at the end of the fiscal year _____

Staff has included this language in Section VI. Supporting Data.

Other Non-substantive, Clarifying Modifications

Staff made other non-substantive, clarifying modifications to the remainder of the claimant's proposed parameters and guidelines. Changes were also made to Sections V. and IX. to conform the language to other parameters and guidelines adopted by the Commission.

Staff Recommendation

Staff recommends that the Commission adopt the Claimant's Proposed Parameters and Guidelines, as Modified by Staff, beginning on page 21.

¹⁴ See page 28, Claimant's Proposed Parameters and Guidelines, As Modified by Staff.

Tab 7

ITEM 13
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; Statutes 1978, Chapters 775, 1173,
1174, and 1178; Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367;
Statutes 1982, Chapter 994; Statutes 1983, Chapter 964;
Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675

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

California State Association of Counties, City of Sacramento, County of Los Angeles
County of San Bernardino, Department of Finance, and State Controller's Office, Requestors

05-PGA-18, 05-PGA-19, 05-PGA-20, 05-PGA-21, and 05-PGA-22
(CSM-4499 and 05-RL-4499-01)

EXECUTIVE SUMMARY

Background

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.

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

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.

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.

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 applies to costs incurred and claimed for the 2006-2007 fiscal year.

Requests to Amend Parameters and Guidelines

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 17519.5 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. The parties have proposed changes to the reimbursable activities and have proposed different reasonable reimbursement methodologies, as described in the analysis.

Proposed Changes to Reimbursable Activities

Staff has reviewed the proposed amendments and recommends that the following changes be made to the 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 is 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.

Reasonable Reimbursement Methodology

Upon adoption of the POBOR Statement of Decision on reconsideration, the Commission directed staff to form a working group to develop a reasonable reimbursement methodology to reimburse local governments for state-mandated costs. The California State Association of Counties (CSAC), the County of Los Angeles, and the DOF filed proposals. The following three proposals were reviewed by claimants, affected state agencies and Commission staff and discussed in three pre-hearing conferences.

- The **California State Association of Counties** requests 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** requests 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 is based on studies of claims data submitted to the Controller's Office for the 2001-2002 through 2004-05 fiscal years. The County describes its proposal as a reimbursement formula which reflects 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 is comprised of three components: (1) *Unit Case Costs* are determined by multiplying the number of unit level cases X 12 standard hours X productive hourly rate; (2) *Extended Case Costs* are determined by multiplying number of extended cases X 162 standard hours X productive hourly rate; 3) *Uniform Costs* are determined by multiplying the number of peace officers X standard rate of \$100. The costs from these three components are then totaled for the annual claim amount.
- The **Department of Finance (DOF)** requests 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 SCO 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. A process for determining *mean* reimbursement rates while final reimbursement rates are determined.

Based on the plain meaning of Government Code section 17518.5, the statute defining *reasonable reimbursement methodology*, staff finds that:

- 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.

For the reasons stated in the analysis, staff concludes that the proposed reasonable reimbursement methodologies submitted by the California State Association of Counties, the County of Los Angeles, and the Department of Finance do not meet the following conditions in section 17518.5, and, therefore, must be denied:

- (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.

Staff Recommendation

Staff recommends the Commission:

- adopt the proposed amendments to the parameters and guidelines for the Peace Officer Bill of Rights program, as modified by staff, beginning on page 49; and,
 - authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.
-

STAFF ANALYSIS

Requestors

California State Association of Counties
County of Los Angeles
County of San Bernardino
Department of Finance
State Controller's Office

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
05/05/2005	State Controller's Office files proposed amendments to the parameters and guidelines
07/19/2005	AB 138 (Statutes 2005, chapter 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 ²
05/23/2006	County of Los Angeles files proposed amendments to the parameters and guidelines
05/25/2006	Commission staff holds first prehearing conference
05/25/2006	California State Association of Counties files proposed amendments to the parameters and guidelines ³
06/15/2006	County of Los Angeles files proposed amendments to the parameters and guidelines to replace and supersede proposed amendments filed on May 23, 2006 ⁴

² See Exhibit A.

³ See Exhibit B.

⁴ See Exhibit C.

06/15/2006 County of San Bernardino files proposed amendments to parameters and guidelines⁵

06/29/2006 State Controller's Office files proposed amendment to parameters and guidelines to supersede amendment previously filed on May 5, 2005.⁶

06/29/2006 Department of Finance files proposed amendments to parameters and guidelines⁷

7/27/2006 Commission staff holds second prehearing conference.

08/04/2006 County of Los Angeles files comments.
City of Sacramento files comments.
Department of Finance files comments.
State Controller's Office files comments.⁸

08/17/2006 County of Los Angeles files rebuttal comments.
Department of Finance files rebuttal comments.⁹

08/31/2006 Commission issues draft staff analysis and proposed amendments to parameters and guidelines, as modified by staff.¹⁰

09/08/06 County of Los Angeles requests a pre-hearing conference, an extension of time to file comments, and a postponement of the hearing¹¹

09/11/06 County of Los Angeles' requests are granted.¹²

09/22/06 City of Los Angeles and City of Sacramento file comments on the draft staff analysis.

09/28/06 County of Los Angeles files comments on the draft staff analysis.

10/25/06 Pre-hearing conference held.

10/30/06 County of San Bernardino and Department of Finance file comments on the draft staff analysis.¹³

⁵ See Exhibit D.

⁶ See Exhibit E.

⁷ See Exhibit F.

⁸ See Exhibit G for all comments.

⁹ See Exhibit G.

¹⁰ See Exhibit H.

¹¹ Exhibit I.

¹² Exhibit I.

¹³ See Exhibit J for all comments to the draft staff analysis.

Summary of the Mandate

On November 30, 1999, the Commission approved the test claim and adopted the original Statement of Decision on the POBOR program. 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 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 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 clause¹⁴ 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.

Proposed Amendments to the Parameters and Guidelines

The Commission received five proposed amendments to the parameters and guidelines, filed by the California State Association of Counties, the County of Los Angeles, the County of San Bernardino, the Department of Finance, and the State Controller's Office, as follows:

The *California State Association of Counties* (05-PGA-19) requests 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* (05-PGA-18) requests that the parameters and guidelines be amended to include a reasonable reimbursement methodology that would allow local agencies to

¹⁴ 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.

be reimbursed based on *approximations of local costs mandated by the state*. This proposal is based on studies of claims data submitted to the Controller's Office for the 2001-2002 through 2004-2005 fiscal years. The County of Los Angeles describes its proposal as a reimbursement formula which reflects 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 is comprised of three components: (1) *Unit Case Costs* are determined by multiplying (the number of unit level cases) X (12 standard hours) X (productive hourly rate); (2) *Extended Case Costs* are determined by multiplying (the number of extended cases) X (162 standard hours) X (productive hourly rate); and (3) *Uniform Costs* are determined by multiplying (the number of peace officers) X (standard rate of \$100). The costs from these three components are then totaled for the annual claim amount.

In response to the draft staff analysis, the County of Los Angeles contends that the Commission should approve its time survey forms and instructions with respect to the activities performed by the agency's Unit Level, Internal Affairs, and Administrative Appeals unit, and make them applicable to the time studies used by all claimants.

The *County of San Bernardino* (05-PGA-20) requests that the parameters and guidelines be amended to allow claimants to file reimbursement claims based on actual costs or the CSAC-SB 90 Group reasonable reimbursement methodology proposal of \$528 per peace officer. The County of San Bernardino also proposes amendments to: (1) update the parameters and guidelines based on the reconsideration; (2) clarify the descriptions of "Interrogations" and "Adverse Comment" under Section IV. Reimbursable Activities; and (3) update and clarify Sections V. through X. to conform with recently adopted language.

The *Department of Finance (DOF)* (05-PGA-22) requests 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 the State Controller's 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. A process for determining *mean* reimbursement rates while final reimbursement rates are determined.

The *State Controller's Office (SCO)* (05-PGA-21) requests that the parameters and guidelines amendment previously filed on May 5, 2005, be superseded by their June 29, 2006 filing. The SCO proposes changes to clarify reimbursable activities consistent with the Statement of Decision adopted November 30, 1999, and to add the "time study" language and the Commission's previously adopted standardized language. The proposed amendments do not include changes reflected in the Commission's Statement of Decision adopted April 26, 2006.

Discussion

Staff reviewed the proposed amendments to the parameters and guidelines and the comments received. Non-substantive technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision on reconsideration and statutory language. Substantive changes were considered, and if appropriate, were made as described below.

Section IV. REIMBURSABLE ACTIVITIES

Government Code section 17557, subdivision (d), allows local agencies, school districts, and the state to file a written request with the Commission to amend the parameters and guidelines. Any amendment to the parameters and guidelines must be consistent with, and not contradict, the Statement of Decision. The Statement of Decision is the legal determination on the question of whether a state mandate exists and, if so, what the mandate is.¹⁵ The findings and conclusion in the Statement of Decision are binding on the parties once it is mailed or served unless a writ of mandate pursuant to Government Code section 17559 and Code of Civil Procedure section 1094.5 is issued by a court to set aside the Commission's decision.¹⁶ In addition, the Commission does not have jurisdiction to retry an issue that has become final. It is a well-settled principle of law that an administrative agency does not have jurisdiction to retry a question that has become final. If a prior decision is retried by the agency, that decision is void.¹⁷

Thus, for purposes of this item, the proposed amendments must be consistent with the Commission's Statement of Decision adopted in 1999 and the Statement of Decision on reconsideration adopted on April 26, 2006. The Statement of Decision on reconsideration amends the 1999 decision and applies to costs incurred and claimed for the 2006-2007 fiscal year.

Furthermore, the Commission, when adopting parameters and guidelines, or a proposed amendment to the parameters and guidelines, has the discretion to determine the most reasonable methods of complying with the mandate. The most reasonable methods of complying with the mandate are those methods not specified in statute or executive order that are necessary to carry out the mandated activity. (Cal. Code Regs., tit. 2, § 1183.1, subd. (a)(4).) Any proposed method of complying with a mandated activity must be consistent with an activity approved by the Commission in the Statement of Decision as a reimbursable state-mandated activity.

Thus, for an activity to be reimbursable, it must either be required by the statutes or executive order found by the Commission in the Statement of Decision to impose a reimbursable state mandated activity; or be a reasonable method of complying with the statutes or executive order

¹⁵ Government Code sections 17500 and 17552; *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 332-333; and *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190, 1201.)

¹⁶ California Code of Regulations, title 2, section 1188.2, subdivision (b).

¹⁷ See, *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407, where the court held that the civil service commission had no jurisdiction to retry a question and make a different finding at a later time; *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 697, where the court held that whenever a quasi-judicial agency is vested with the authority to decide a question, such decision, when made, is res judicata, and as conclusive of the issues involved in the decision as though the adjudication had been made by the court; and *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143, where the court held that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once the decision becomes final.

found by the Commission in the Statement of Decision to impose a reimbursable state-mandated activity.¹⁸

Time Studies

The SCO requests that the parameters and guidelines be amended to include language authorizing the use of time studies to support salary and benefit costs for task-repetitive activities. The SCO's proposed language states the following:

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the time study guidelines included in the State Controller's annual claiming instructions. If the claimant performs a time study, the claimant should separately study Unit Level cases and Internal Affairs cases, as their caseloads are significantly different in size, type, complexity, duration, and volume.¹⁹

The DOF generally agrees with the use of time studies.²⁰ The City of Los Angeles agrees with the use of time studies, but argues that the Commission should include specific language for an entity's use of time studies.²¹

When BSA audited this program, BSA recognized that there may be instances when it is impractical to maintain source documents with the level of detail needed to identify actual costs. In such cases, BSA acknowledged that a properly prepared and documented time study may be a reasonable substitute for actual time sheets. BSA concluded, however, that none of the claims of the four local entities reviewed by BSA used an adequate time study.²² Claimants based the amount of time they claimed on interviews and informal estimates developed after the related activities were performed.²³

¹⁸ The County of San Bernardino, in comments to the draft staff analysis, argues that the analysis of this item goes beyond the scope of the Legislature's directive in AB 138 to reconsider the POBOR decision. The Commission's jurisdiction for this item is partly based on AB 138, in that the parameters and guidelines for the POBOR program must conform to the changes adopted by the Commission in the Statement of Decision on reconsideration. The Commission's jurisdiction, however, is also based on several requests to amend the parameters and guidelines, pursuant to Government Code section 17557, with respect to activities previously found to constitute reasonable methods of complying with the mandate. Thus, the Commission has jurisdiction to address all the amendments proposed by the State Controller's Office with respect to the reimbursable activities.

¹⁹ SCO proposal of June 29, 2006, page 2.

²⁰ Exhibit F.

²¹ Exhibit J.

²² Administrative Record for CSM 4499, pp. 1455-1456.

²³ Administrative Record for CSM 4499, p. 1453.

BSA describes the key elements to an adequate time study as follows:

Key elements of an adequate time study include having employees who are conducting the reimbursable activities track the actual time they spend when they are conducting each activity, recording the activities over a reasonable period of time, maintaining documentation that reflects the results, and periodically considering whether the results continue to be representative of current processes.²⁴

Based on the BSA recommendation, staff has included the following language under Section IV. Reimbursable Activities:

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.

In response to the draft staff analysis, the County of Los Angeles contends that the Commission should approve its time survey forms and instructions with respect to the activities performed by the agency's Unit Level, Internal Affairs, and Administrative Appeals unit, and make them applicable to the time studies used by all claimants.²⁵ The County of Los Angeles proposes the following language:

Claimants may use Unit Level, Internal Affairs, and Administrative Appeals time studies to support salary and benefit costs for reimbursable activities of a repetitive nature. Time study usage is subject to the time study guidelines included in the State Controller's claiming instructions. The addendum contains acceptable formats and instructions for recording Unit Level, Internal Affairs, and Administrative Appeals time in performing reimbursable activities.

Staff has not included the language proposed by the State Controller's Office or the County of Los Angeles because the Controller has independent authority to issue time study guidelines and approve time studies when issuing claiming instructions and auditing reimbursement claims. (Gov. Code, §§ 17560 and 17561.) The Commission has no authority to approve the State Controller's time study guidelines at the parameters and guidelines stage.

Section IV. A, Administrative Activities

Section IV. A (2)

Section IV. A (2) currently authorizes reimbursement for the following activity: "Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate."

SCO requests the addition of the following sentence to Section IV. A (2): "The training must relate to mandate-reimbursable activities."

Staff finds that the proposed language is consistent with the Commission's findings when adopting the parameters and guidelines by limiting reimbursement for training "regarding the

²⁴ *Ibid.*

²⁵ Exhibit J.

requirements of the mandate.” Thus, staff recommends that the Commission add the proposed language to Section IV. A (2).

Section IV. A (3)

Section IV. A (3) currently states the following: “Updating the status of the POBOR cases.” SCO requests that Section IV. A (3) be amended as follows (proposed language is underlined):

Updating the status report of mandate-reimbursable POBOR cases. The updating relates to tracking the procedural status of cases. It does not relate to maintaining or updating the cases (e.g. setting up, reviewing, evaluating, or closing the cases).

In response to the SCO proposal, the City of Sacramento and the City of Los Angeles filed comments contending that the proposal is too narrow because of the time constraints imposed by the POBOR legislation.²⁶ The City of Sacramento states the following:

The proposal concerning administrative activities and updating the cases is much too narrowly drawn. There are strict time constraints imposed by POBOR: if the time limits are not met, the case must be dismissed and no discipline can be imposed. Therefore, not only must the case filed be updated, but they must be reviewed in order to make sure that all deadlines have been met. To restrict the language as desired by the Controller would make it next to impossible to assure that the time limits set forth in POBOR are met. In order to make sure that the time lines are met, the case must be reviewed at various points in order to make sure that all investigations are completed, as well as to make sure all interrogations are completed timely. This is reasonably necessary in order to make sure that the time lines are met.

Staff finds that the City’s comments go beyond the scope of the test claim statutes and are not consistent with the Commission’s findings in the Statement of Decision on reconsideration. As indicated in footnote 5, page 6 of the Commission’s Statement of Decision on reconsideration (05-RL-4499-01), the POBOR Act has been subsequently amended by the Legislature. One of those amendments imposed the time limitations described by the City.²⁷ The subsequent amendments were not pled in this test claim and, thus, they were not analyzed to determine whether they impose reimbursable state-mandated activities within the meaning of article XIII B, section 6. The City’s arguments relating to the time limitations imposed by subsequent legislation are outside the scope of the Commission’s decision in POBOR (CSM 4499). Thus, the City’s rationale is not consistent with the Commission’s findings.

Staff further finds that the SCO proposal is consistent with the Commission’s findings when it adopted the parameters and guidelines. The Commission adopted the following finding:

²⁶ Exhibits G and J.

²⁷ Statutes 1997, chapter 148.

The claimant's proposed parameters and guidelines include the following administrative activities:

[¶]

3. Maintenance of the systems to conduct mandated activities.

[¶]

The Department of Finance states that the component "maintenance of the systems to conduct the mandated activities" is too ambiguous. Staff agrees.

Before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions, and maintaining files for those cases. Thus, the component "maintenance of the systems to conduct the mandated activities" is too broad. Accordingly, staff has modified this component to provide that claimants are eligible for reimbursement for "updating the status report of the POBOR cases."²⁸

Staff has clarified the activity and added the following proposed language to Section IV. C (3):

Updating the status report of the mandate-reimbursable POBOR eases activities.
"Updating the status report of mandate-reimbursable POBOR eases activities" means tracking the procedural status of eases 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.

Section IV. B. Administrative Appeal

Government Code section 3304 gives specified officers the right to request an administrative appeal hearing when any punitive action is taken against the officer, or the officer is denied promotion on grounds other than merit. Government Code section 3304 states that "no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency without providing the public safety officer with an opportunity for administrative appeal."

Punitive action is defined in Government Code section 3303 as follows:

"For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary,²⁹ written reprimand, or transfer for purposes of punishment."

The California Supreme Court determined that the phrase "for purposes of punishment" in the foregoing section relates only to a transfer and not to other personnel actions.³⁰ Thus, in transfer

²⁸ Item 10, July 27, 2000 Commission Hearing (Administrative Record ("AR") for CSM 4499, p. 901.)

²⁹ The courts have held that "reduction in salary" includes loss of skill pay (*McManigal v. City of Seal Beach* (1985) 166 Cal.App.3d 975, pay grade (*Baggett v. Gates* (1982) 32 Cal.3d 128, rank (*White v. County of Sacramento* (1982) 31 Cal.3d 676, and probationary rank (*Henneberque v. City of Culver City* (1983) 147 Cal.App.3d 250.

³⁰ *White v. County of Sacramento* (1982) 31 Cal.3d 676.

cases, the peace officer is required to prove that the transfer was intended for purposes of punishment in order to be entitled to an administrative appeal. If the transfer is to "compensate for a deficiency in performance," however, an appeal is not required.³¹

As indicated on page 30 of the Commission's Statement of Decision on reconsideration (05-RL-4499-01), the Legislature amended Government Code section 3304 in 1998 by limiting the right to an administrative appeal to only those peace officers "who [have] 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.) Thus, as of January 1, 1999, providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) is no longer a reimbursable state-mandated activity. Therefore, staff proposes that Section IV. B be amended to clarify that the right to an administrative appeal applies only to permanent peace officers, as specifically defined in Government Code section 3301,³² and to chiefs of police that are removed from office under the circumstances specified in the Statement of Decision.

In response to the draft staff analysis, the City of Sacramento argues that under POBOR, all chiefs of police are entitled to a written notice, the reason for removal, and the opportunity for an administrative appeal, regardless of whether the reason for removal involves a liberty interest.³³ Under the POBOR statutes, the City is correct. However, the Commission found in the Statement of Decision on reconsideration that reimbursement was not required when the charges supporting the dismissal of a chief of police constitute moral turpitude, which harms the employee's reputation and ability to find future employment, since a due process hearing was already required under prior state and federal law. Thus, with respect to the removal of the chief of police, Government Code section 3304 constitutes a reimbursable state-mandated activity only when local officials want to remove 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). This finding is binding on the parties.³⁴

The SCO further requests that the last paragraph in Section IV. B (1) and (2) be amended to clarify that reimbursement for the administrative appeal begins only after the peace officer requests an administrative appeal, and does not include the costs for the investigation or preparation of charges that were incurred before the officer requested the appeal. SCO further

³¹ *Holcomb v. City of Los Angeles* (1989) 210 Cal.App.3d 1560; *Heyenga v. City of San Diego* (1979) 94 Cal.App.3d 756; *Orange County Employees Assn., Inc. v. County of Orange* (1988) 205 Cal.App.3d 1289.

³² Pursuant to Government Code section 3301, POBOR applies to peace officers 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. POBOR does not apply to reserve or recruit officers, coroners, railroad police officers commissioned by the Governor, or non-sworn officers including custodial officers and sheriff security officers or police security officers. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

³³ Exhibit J.

³⁴ *Heap, supra*, 6 Cal.2d 405, 407.

proposes to clarify that litigation costs incurred in any court challenge to the administrative decision are not reimbursable. The SCO proposal is as follows:

Included in the The foregoing includes only are the preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing, exclusive of prior preparation, review, and investigation costs. This includes legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body. The foregoing does not include activities such as writing and reviewing charges that occurred before the officer requested an administrative appeal or defending a lawsuit attacking the validity of the final administrative decision.

In response to the SCO request, the City of Sacramento argues that:

This proposal is much too narrowly drawn. Administrative appeal applies only to those situations where a hearing is not required by *Skelly*. Accordingly, prior preparation, review and investigative costs are necessary. Absent POBOR, these hearings would not take place at all. Thus, investigation and case preparation is imperative. So, too, defense of litigation is also reasonably necessary. If the employer wins at the administrative level and the employee wishes to contest, the only alternative is litigation.³⁵

For the reasons below, staff finds that the SCO proposal is consistent with the test claim legislation and the Commission's decisions. Staff has modified the proposal, however, to clarify the activities that are not reimbursable.

Government Code section 3304 gives the officer the right to request an administrative appeal when any punitive action, as defined by Government Code section 3303, is taken against the officer, or the officer is denied promotion on grounds other than merit.³⁶ The courts have concluded that the "limited purpose" of the administrative appeal is to provide the officer with a chance to establish a formal record of circumstances surrounding the punitive action and to attempt to convince the employing agency to reverse its decision.³⁷ Government Code section 3304 does not require an agency to investigate or impose disciplinary action against peace officer employees. When adopting the parameters and guidelines, the Commission concluded that:

Local agencies were issuing disciplinary actions before the test claim legislation was enacted. All that Government Code section 3304, subdivision (b), did was to require the local agency to provide the procedural protection of an administrative appeal for specified disciplinary actions.³⁸

³⁵ Exhibit G.

³⁶ See summary in *Baggett v. Gates* (1982) 32 Cal.3d 128, 135.

³⁷ *Riveros v. City of Los Angeles* (1996) 41 Cal.App.4 th1342, 1359.

³⁸ Item 10, July 27, 2000 Commission Hearing (AR for CSM 4499, p. 903).

As determined by the Commission in the Statement of Decision on reconsideration: "POBOR deals with labor relations. It does not interfere with the employer's right to manage and control its own police department."³⁹ The Second District Court of Appeal also determined that POBOR is not intended to interfere with a local agency's right to regulate peace officers' qualifications for employment or the causes for which such peace officers may be removed.⁴⁰

Thus, the SCO is correct in concluding that investigation costs to prepare disciplinary charges, or costs to take punitive action against an officer are not reimbursable.

Moreover, the SCO's request to clarify that litigation costs are not reimbursable is consistent with the Commission's findings when it adopted the parameters and guidelines, expressly denying reimbursement for litigation costs.⁴¹

Thus, proposed Section IV. B, Administrative Activities, states the following:

B. Administrative Appeal

1. ~~Reimbursement period of July 1, 1994 through December 31, 1998—~~ The administrative appeal activities listed below apply to permanent peace officer employees, at-will employees, and probationary 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, or school security officers.

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)):
- ~~dismissal, demotion, suspension, salary reduction or written reprimand received by probationary and at-will employees whose liberty interests are not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);~~
 - transfer of permanent, ~~probationary and at-will employees~~ for purposes of punishment;
 - denial of promotion for permanent, ~~probationary and at-will employees~~ for reasons other than merit; and
 - other actions against permanent, ~~probationary and at-will employees~~ that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.

³⁹ Statement of Decision on reconsideration adopted April 26, 2006, page 39, citing to *Sulier v. State Personnel Bd.* (2004) 125 Cal.App.4th 21, 26, and *Baggett, supra*, 32 Cal.3d 128, 125.

⁴⁰ *Binkley v. City of Long Beach* (1993) 16 Cal.App.4th 1795, 1806.

⁴¹ Item 10, July 27, 2000 Commission hearing (AR for CSM 4499, pp. 901-905).

- 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 appeal hearing 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.⁴²

~~Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees; and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.~~

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. ~~Reimbursement period beginning January 1, 1999 – The administrative appeal activities listed below apply to permanent employees and the Chief of Police.~~

~~Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions 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)):~~

- ~~• Dismissal, demotion, suspension, salary reduction or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);~~
- ~~• Transfer of permanent employees for purposes of punishment;~~
- ~~• Denial of promotion for permanent employees for reasons other than merit; and~~

⁴² The City of Sacramento, in comments to the draft staff analysis, argues that “no costs of the administrative appeal panel are included.” The time and labor of the administrative appeal hearing body and its attendant clerical services has always been eligible for reimbursement, and remains eligible for reimbursement under this staff recommendation.

- ~~Other actions against permanent employees or the Chief of Police that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.~~

~~Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.~~

The following activities and costs are reimbursable:

- Preparation and review of the various documents necessary to commence and proceed with the administrative appeal hearing.
- Legal review and assistance with the conduct of the administrative appeal hearing.
- Preparation and service of subpoenas.
- Preparation and service of any rulings or orders of the administrative appeal hearing body.
- The cost of witness fees.
- 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:

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

The City of Sacramento, in comments to the draft staff analysis, also requests reimbursement for witness preparation and locating and finding witnesses. The City of Sacramento has not filed a request to amend the parameters and guidelines pursuant to Government Code section 17557 and the City's comments have not gone out for comment as required by the Commission's regulations. Thus, the Commission does not have jurisdiction to consider these requests.

Section IV. C, Interrogations

Introductory Paragraphs in Section IV. C

Government Code section 3303 prescribes procedural protections that apply when a peace officer is interrogated in the course of an administrative investigation that might subject the officer to the punitive actions listed in the section (dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment). The introductory paragraphs to Section IV. C of the parameters and guidelines state the following:

Claimants are eligible for reimbursement for the performance of the activities listed in this section only when a peace officer 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.)

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 SCO proposes the addition of the following three paragraphs to the introduction to clarify that the costs to investigate and review the allegations, costs to conduct the interrogation, and case finalization costs are not reimbursable:

Claimants are not eligible for reimbursement for activities occurring prior to the assignment of the case to an administrative investigator, e.g., taking the initial complaint; setting up the complaint file; interviewing parties; or reviewing the file and determining whether it warrants an administrative investigation.

Claimants are not eligible for investigative activities, e.g., assigning an investigator, reviewing the allegation, communicating with other departments, visiting the scene of the alleged incident, gathering evidence, identifying and contacting complainants and witnesses, preparing of the interrogation, reviewing and preparing interview questions, conducting the interrogation, or reviewing the responses given by the officers and/or witnesses.

Claimants are also not eligible for case finalization costs, e.g., preparing case summary disposition reports, closing the case file, or attending executive review or committee hearings related to the investigation.

The County of San Bernardino, the City of Sacramento, and the City of Los Angeles contend that investigation costs and the cost to conduct the interrogation are reimbursable.

However, as identified below, the Commission has already rejected the arguments raised by the County and Cities for reimbursement of investigation costs and the cost to conduct the interrogation. Thus, staff finds that the SCO proposal is consistent with the Commission findings when adopting the parameters and guidelines and the Statement of Decision on reconsideration.

Government Code section 3303, subdivision (a), establishes the timing of the interrogation, and requires the employer to compensate the interrogated officer if the interrogation takes place during off-duty time. In other words, the statute defines the process that is due the peace officer who is subject to an interrogation. This statute does not require the employer to investigate and review complaints or to conduct interrogations. The Commission adopted the following findings when adopting the parameters and guidelines:

The Commission's Statement of Decision includes the following reimbursable activity:

Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

This activity was derived from Government Code section 3303, subdivision (a), which establishes the timing and compensation of a peace officer subject to an interrogation. Section 3303, subdivision (a), requires that the interrogation be conducted at a reasonable hour, preferably at a time when the peace officer is on duty, or during the normal waking hours of the peace officer, unless the seriousness of the investigation requires otherwise. At the test claim phase, the claimant contended that this section resulted in the payment of overtime to the peace officer employee. (See page 12 of the Commission's Statement of Decision.)

The claimant's proposed parameters and guidelines restate the activity as expressed in the Statement of Decision, but also add "the review of the necessity for the questioning and responses given" as a reimbursable component. The claimant's proposed parameters and guidelines state the following:

Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

Included in the foregoing, but not limited thereto, is the *review of the necessity for the questioning and responses given*; providing notice to all parties concerned of the time and place of the interview and scheduling thereof; preparation and review of overtime compensation requests; review of proceedings by counsel. (Emphasis added.)

Following the pre-hearing conference in this case, staff requested further comments on the proposed activity "to review the necessity for the questioning and responses given" to determine if the activity was consistent with, and/or reasonably related to, the Commission's Statement of Decision and the activities mandated by the test claim legislation.

In response to staff's request, the claimant asserts that it is more difficult to prepare for an investigation under POBOR because Government Code section 3303, subdivision (c), requires that the employee receive prior notice identifying the nature and subject of the questioning. The claimant states the following:

It is more difficult to prepare for an investigation involving a peace officer than it is for those who are not entitled to POBOR rights. In the normal due process case involving an employee who is not entitled to POBOR rights, you do not have to inform the employee about the nature and subject of the questioning, and you do not have to prepare questions focused upon a particular area, seeking to get the information you can from the employee. In non-POBOR matters, you can explore other areas

[quote continued] in the questioning as they arise, which allows for a much more free-form questioning process.

In contrast, however, with employees covered by POBOR, you must tell the employee prior to the initial questioning what the purpose of the meeting is, what it is you will be discussing with him or her, and you have to be prepared to be clearly on point as to where you are going and your expectations about the questioning process. You cannot engage in broader questioning for information, because the employee has the right to know the subject about which he or she is being interrogated. [Footnote omitted.]

The claimant further states the following:

As any peace officer who is a witness in the course of one individual's investigation could become the subject of their own investigation, it is imperative to do more preparation prior to the initial questioning. We now perform a more complete review to ascertain that witnesses who may become subjects are identified prior to interrogation. . . .

Obviously, if you are going to re-interview a peace officer, you have to be prepared to give them a copy of their prior transcript. You also have to go back and review it, to make sure where conflicts with what transpired previously in order to ask intelligent questions. In a non-POBOR matter, you can follow up by asking additional questions without regard to the reasons you have the employee in for questioning in the first place. However, with POBOR, the whole questioning is focused on what you have identified as the allegation. Thus, the definition of what the allegations are must come early in the process. If someone calls to complain about something, the subsequent investigation may bring to light little about the complaint of the citizen, but may demonstrate an internal operating problem or conflict which you have to address. The additional rights granted by POBOR make that more difficult as indicated above. [Footnote omitted.]

Staff finds that the activity to review the necessity for the questioning and responses given is too broad and goes beyond the scope of Government Code section 3303, subdivision (a), and the Commission's Statement of Decision.

Government Code section 3303, subdivision (a), addresses only the compensation and timing of the interrogation. It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses, as implied by the claimant's proposed language. Certainly, local agencies were performing these investigative activities before POBOR was enacted.⁴³

⁴³ Item 10, July 27, 2000 Commission Hearing (AR for CSM 4499, p. 911-912).

In the Statement of Decision on reconsideration, the Commission concluded that the POBOR activities are not triggered until the local agency or school district decides to interrogate the officer, take punitive action against the officer, or place an adverse comment in the officer's personnel file. These initial decisions are not expressly mandated by state law, but are governed by local policy, ordinance, city charter, or memorandum of understanding.⁴⁴ In *Baggett v. Gates*, the Supreme Court clarified that POBOR *does not*: (1) interfere with the setting of peace officers' compensation; (2) regulate qualifications for employment; (3) regulate the manner, method, times, or terms for which a peace officer shall be elected or appointed; or (4) affect the tenure of office or purpose to regulate or specify the causes for which a peace officer can be removed. These are local decisions. The court found that POBOR only impinges on the local entity's implied power to determine the *manner* in which an employee can be disciplined.⁴⁵

On pages 38 and 39 of the Statement of Decision on reconsideration, the Commission expressly concluded that conducting the interrogation and investigative time are *not* reimbursable:

In comments to the draft staff analysis, the Counties of Orange, Los Angeles, and Alameda, and the City of Sacramento contend that the interrogation of an officer pursuant to the test claim legislation is complicated and requires the employer to fully investigate in order to prepare for the interrogation. The County of Orange further states that "[t]hese investigations can vary in scope and depth from abuses of authority, the use of deadly force, excessive force when injuries may be significant, serious property damage, and criminal behavior." These local agencies are requesting reimbursement for the time to investigate.

The Commission disagrees and finds that investigation services are not reimbursable. First, investigation of criminal behavior is specifically excluded from the requirements of Government Code section 3303. Government Code section 3303, subdivision (i), states that the interrogation requirements do not apply to an investigation concerned solely and directly with alleged criminal activities. Moreover, article XIII B, section 6, subdivision (a)(2), and Government Code section 17556, subdivision (g), state that no reimbursement is required for the enforcement of a crime.

The County of Los Angeles supports the argument that reimbursement for investigative services is required by citing Penal Code section 832.5, which states that each department that employs peace officers shall establish a procedure to investigate complaints. Penal Code section 832.5, however, was not included in this test claim, and the Commission makes no findings on that statute. The County of Los Angeles also cites to the phrase in Government Code section 3303, subdivision (a), which states that "[t]he interrogation shall be conducted ..." to argue that investigation is required. The County takes the phrase out of context. Government Code section 3303, subdivision (a), states the following:

The interrogation shall be conducted at a reasonable hour,
preferably at a time when the public safety officer is on duty, or

⁴⁴ Statement of Decision on reconsideration, page 14.

⁴⁵ *Baggett v. Gates* (1982) 32 Cal.3d 128, 137-140.

[Quote continued.] during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

Government Code section 3303, subdivision (a), establishes the timing of the interrogation, and requires the employer to compensate the interrogated officer if the interrogation takes place during off-duty time. In other words, the statute defines the process that is due the peace officer who is subject to an interrogation. This statute does not require the employer to investigate complaints. When adopting parameters and guidelines for this program, the Commission recognized that Government Code section 3303 does not impose new mandated requirements to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review responses given by officers and/or witnesses to an investigation. [Footnote omitted.]

Thus, investigation services go beyond the scope of the test claim legislation and are *not* reimbursable. As explained by the courts, POBOR deals with labor relations. [Footnote omitted.] It does not interfere with the employer's right to manage and control its own police department. [Footnote omitted.]

The findings made by the Commission in the Statement of Decision on reconsideration are final and are binding on the parties. It is a well-settled principle of law that an administrative agency does not have jurisdiction to retry a question that has become final. If a prior decision is retried by the agency, that decision is void.⁴⁶

Thus, staff finds that SCO's proposed language is consistent with the Commission's findings. Staff recommends, however, that the language proposed by the SCO be made more specific. Staff recommends that the first introductory paragraph be modified to incorporate that language of Government Code section 3301, which specifically identifies the officers entitled to the procedural protections under POBOR when the employing agency wants to interrogate the officer. The proposed paragraph states the following:

⁴⁶ See, *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407, where the court held that the civil service commission had no jurisdiction to retry a question and make a different finding at a later time; *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 697, where the court held that whenever a quasi-judicial agency is vested with the authority to decide a question, such decision, when made, is res judicata, and as conclusive of the issues involved in the decision as though the adjudication had been made by the court; and *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143, where the court held that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once the decision becomes final. The Commission's Statement of Decision on reconsideration became final when it was mailed or served on May 1, 2006. (Cal. Code Regs., tit. 2, § 1188.2, subd. (b).)

~~Claimants are eligible for reimbursement for~~ 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.)

In addition, staff has included the activities that are not reimbursable at the end of Section IV. C as follows:

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.

Section IV. C (1)

Section IV. C (1) currently states the following:

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).)

Included in the foregoing is the preparation and review of overtime compensation requests.

The SCO proposes the following amendments to clarify that the interrogators' time to conduct the interrogation is not 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).) Interrogators' time is not reimbursable.

Included in the foregoing is the preparation and review of overtime compensation requests.

Claimants are not eligible for reimbursement under interrogation when a peace officer being investigated under POBOR is not subjected to an interview or interrogation, but is subject to possible sanctions.

The County of San Bernardino requests, on the other hand, that the parameters and guidelines be amended to authorize reimbursement for conducting the interrogation and the investigating officer's preparation time for the interrogation. The County of San Bernardino proposes the addition of the following italicized language:

Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code section 3303, subd. (a).)

Included in the foregoing is the investigating officer's preparation time for the interrogation. Preparation costs are reimbursable to a maximum of 20 hours with appropriate supporting documentation. Also included is the preparation and review of overtime compensation requests.

Staff finds that SCO's proposed sentence that states, "Interrogators' time is not reimbursable" is consistent with the Commission's findings when adopting the parameters and guidelines. When the claimant submitted its proposed parameters and guidelines, it requested reimbursement for "conducting an interrogation of a peace officer while the officer is on duty."⁴⁷ The Commission disagreed that conducting the interrogation was reimbursable. The Commission found that the test claim legislation does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given. Local agencies were conducting interrogations before the enactment of the test claim legislation.⁴⁸

These findings were also included in the Statement of Decision on reconsideration. On pages 38 and 39 of the Statement of Decision on reconsideration, the Commission expressly concluded that conducting the interrogation and investigative time are *not* reimbursable:

In comments to the draft staff analysis, the Counties of Orange, Los Angeles, and Alameda, and the City of Sacramento contend that the interrogation of an officer pursuant to the test claim legislation is complicated and requires the employer to fully investigate in order to prepare for the interrogation. The County of Orange further states that "[t]hese investigations can vary in scope and depth from abuses of authority, the use of deadly force, excessive force when injuries may be significant, serious property damage, and criminal behavior." These local agencies are requesting reimbursement for the time to investigate.

The Commission disagrees and finds that investigation services are not reimbursable. First, investigation of criminal behavior is specifically excluded from the requirements of Government Code section 3303. Government Code section 3303, subdivision (i), states that the interrogation requirements do not apply to an investigation concerned solely and directly with alleged criminal

⁴⁷ Item 10, July 27, 2000 Commission Hearing (AR for CSM 4499, p. 965.)

⁴⁸ Administrative Record for CSM 4499, page 912.

activities. Moreover, article XIII B, section 6, subdivision (a)(2), and Government Code section 17556, subdivision (g), state that no reimbursement is required for the enforcement of a crime.

The County of Los Angeles supports the argument that reimbursement for investigative services is required by citing Penal Code section 832.5, which states that each department that employs peace officers shall establish a procedure to investigate complaints. Penal Code section 832.5, however, was not included in this test claim, and the Commission makes no findings on that statute. The County of Los Angeles also cites to the phrase in Government Code section 3303, subdivision (a), which states that “[t]he interrogation shall be conducted ...” to argue that investigation is required. The County takes the phrase out of context. Government Code section 3303, subdivision (a), states the following:

The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

Government Code section 3303, subdivision (a), establishes the timing of the interrogation, and requires the employer to compensate the interrogated officer if the interrogation takes place during off-duty time. In other words, the statute defines the process that is due the peace officer who is subject to an interrogation. This statute does not require the employer to investigate complaints. When adopting parameters and guidelines for this program, the Commission recognized that Government Code section 3303 does not impose new mandated requirements to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review responses given by officers and/or witnesses to an investigation. [Footnote omitted.]

Thus, investigation services go beyond the scope of the test claim legislation and are *not* reimbursable. As explained by the courts, POBOR deals with labor relations. [Footnote omitted.] It does not interfere with the employer’s right to manage and control its own police department. [Footnote omitted.]

These findings are binding on the parties.⁴⁹ Thus, staff has added the following proposed language at the end of Section IV. to identify the activities that are not reimbursable.

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.

⁴⁹ *Heap, supra*, 6 Cal.2d 405, 407.

However, staff finds that the SCO's second proposed sentence is vague and ambiguous, and may already be covered by the parameters and guidelines. The second proposed sentence states that: "Claimants are not eligible for reimbursement under interrogation when a peace officer being investigated under POBOR is not subjected to an interview or interrogation, but is subject to possible sanctions." The City of Sacramento argues that this sentence:

...makes no sense whatsoever. It may be possible during the investigation and interrogation of other officers to ascertain that the officer, who is the subject of the investigation, did not commit the misconduct at issue, but was done by another officer. If the interrogation involves a witness officer, to whom the POBOR rights attach, the interrogation should be compensable."

When adopting the parameters and guidelines, the Commission concluded that the rights under Government Code section 3303 attach when a peace officer is interrogated as a witness to an incident, even if the officer is not under investigation since the officer's own actions regarding the incident can result in punitive action following the interrogation.⁵⁰ Thus, the Commission included the following language in the parameters and guidelines:

Claimants are eligible for reimbursement for the performance of the activities listed in this section only when a peace officer 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.) (Emphasis added.)

Although the SCO's proposed language appears to clarify that reimbursement for the activities identified in the parameters and guidelines is not required when the peace officer witness is not subject to an interrogation, the italicized language above already addresses that issue. Thus, staff has not included the second proposed language in the parameters and guidelines.

Accordingly, staff proposes the following amendments to Section IV. (C)(1):

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).)

~~Included in the foregoing is the p~~Preparation and review of overtime compensation requests are reimbursable.

Section IV. C (2)

Section IV. C (2) currently states the following:

2. Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. (Gov. Code, § 3303, subs. (b) and (c).)

⁵⁰ Item 10, July 27, 2000 Commission Hearing (AR for CSM 4499, pp. 908-910.)

Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogation; determination of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or confidential information; preparation of notice or agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.

The SCO requests the following amendments to the second paragraph:

Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogation; identification ~~determination~~ of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or of other confidential information; preparation of notice or agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.

The City of Sacramento contends that the SCO proposal is too limited. The City argues that:

... it is imperative that it not be just the identification of the investigating officers, but determining who will, in fact, do the questioning. Often determining the investigating officer will have an impact on the outcome of the questioning. Accordingly, limiting the notice to just identifying the questioning officers is far too limited.

Staff agrees that the word "determination" is too broad and goes beyond the procedural protection required by Government Code section 3303, subdivisions (b) and (c). Subdivisions (b) and (c) require the employer, prior to interrogation, to inform and provide notice of the nature of the investigation and the "identity" of all officers participating in the interrogation. Government Code section 3303, subdivisions (b) and (c), state the following:

(b) The public safety officer under investigation shall be informed prior to the interrogation 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. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

The verb "determine" means "to establish or ascertain definitely, as after consideration, investigation, or calculation."⁵¹ To "identify" means "to establish the identity of."⁵² Government Code section 3303, subdivision (c), simply requires the agency to provide the officer with notice identifying the interrogating officers. It does not require the agency to investigate or determine who the officer will be. As determined by the Commission,

⁵¹ Webster's II New College Dictionary, page 308.

⁵² *Id.* at page 548.

Government Code section 3303 does not require the local agency to investigate an allegation, prepare for the interrogation, conduct the interrogation, or review the responses given.⁵³

Thus, staff recommends that the Commission change the word "determination" to "identification" in the parameters and guidelines.

Staff also recommends the Commission delete the activities redacting the agency complaint for names of the complainant, parties, or witnesses, and preparing the agency complaint. These activities go beyond the scope of Government Code section 3303, subdivisions (c) and (d), and the Commission's Statement of Decision finding that the activity of providing notice before the interrogation was reimbursable.

Accordingly, staff proposes the following amendments:

2. Providing prior notice to the peace officer before the interrogation, regarding the nature of the interrogation and identification of the investigating officers. (Gov. Code, § 3303, subs. (b) and (c).) 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.

~~Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogation; determination of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or confidential information; preparation of notice or agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.~~

The following activities 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 the notice by counsel.
- e. Providing notice to the peace officer prior to interrogation.

Section IV. C (3), (4), and (5)

Section IV. C (3) states the following:

3. Tape recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

Included in the foregoing is the cost of tape and storage, and the cost of transcription.

⁵³ Statement of Decision on reconsideration, page 39.

The SCO proposes that Section IV. C (3) be amended as follows:

3. ~~Tape r~~Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

Included in the foregoing is the cost of ~~tape media~~ and storage, and the cost of transcription. Excluded is the investigator's time to record the session and transcription costs of non-sworn and peace officer complainant(s).

The SCO also proposes to delete the word "tape" before "recording" in Section IV. C (4) and (5).

The County of San Bernardino and the City of Sacramento agree with the deletion of the word "tape" in Section IV. C (3), (4), and (5), since they recognize that agencies use other media for recording. Staff agrees and recommends that the Commission adopt the SCO proposal to delete the word "tape."

However, the City of Sacramento contends that the costs to record the interrogation and the transcription costs of peace officer complainants are reimbursable. The City argues as follows:

We have no problem with eliminating the word "tape" concerning recording, as we understand that other agencies use various media for the recordation.

However, we want to make clear that the recordation of the interrogation, regardless of the media, is found to be reimbursable.

We do, however, have a problem with excluding the transcription cost of any peace officer complainant(s). When a peace officer complains, that officer is nonetheless afforded POBOR rights, in the event that something he or she says may result in discipline for misfeasance, or more probably, nonfeasance.

Staff finds that the SCO proposed language clarifies that the investigator's time to record the interrogation is not reimbursable. The proposed language is consistent with the record and the Commission's findings in the Statement of Decision (CSM 4499). Page 859 of the record for CSM 4499 is the Commission's Statement of Decision, dated November 30, 1999, on the issue of tape recording the interrogation. Based on testimony of the claimant, the Commission approved reimbursement for tape recording the interrogation when the employee records the interrogation. According to the claimant, a tape recorder is simply placed on a desk by the interrogator during the interrogation.⁵⁴ When the claimant submitted its proposed parameters and guidelines, it requested reimbursement for "conducting an interrogation of a peace officer while the officer is on duty."⁵⁵ The Commission disagreed that conducting the interrogation was reimbursable. The Commission adopted the staff finding and recommendation that the test claim legislation does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given.⁵⁶ Thus, reimbursement for the salary of the individual or individuals conducting the interrogation is not reimbursable. The Commission included this finding in the Statement of Decision on reconsideration.⁵⁷

⁵⁴ Administrative Record for CSM 4499, page 873.

⁵⁵ Administrative Record for CSM 4499, page 965.

⁵⁶ Administrative Record for CSM 4499, page 912.

⁵⁷ Statement of Decision on reconsideration, pages 38 and 39.

Staff further agrees with the SCO that any costs incurred for non-sworn officers are not reimbursable. By the terms set forth in Government Code section 3301, POBOR expressly applies to "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, 830.4, and 830.5 of the Penal Code." The legislation, however, does not apply to reserve or recruit officers,⁵⁸ coroners, or railroad police officers commissioned by the Governor. Non-sworn officers, such as custodial officers and sheriff's or police security officers, are not "peace officers."⁵⁹ The Legislature has made clear, in Penal Code section 831.4, subdivision (b), that "[a] sheriff's or police security officer is not a peace officer nor a public safety officer as defined in Section 3301 of the Government Code [POBOR]."

Thus, staff recommends that the word "tape" be deleted from Sections IV. (C)(3), (4), and (5), and that Section IV. (C)(3) be further amended as follows:

3. ~~Tape~~ Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

~~Included in the foregoing is the~~ The cost of tape media and storage, and the cost of transcription are reimbursable. The investigator's time to record the session and transcription costs of non-sworn and peace officers are not reimbursable.

Section IV. D, Adverse Comment

Government Code sections 3305 and 3306 provide that no peace officer shall have any adverse comment entered in the officer's personnel file without the peace officer having first read and signed the adverse comment. If the peace officer refuses to sign the adverse comment, that fact "shall" be noted on the document and signed or initialed by the peace officer. In addition, the peace officer "shall" have 30 days to file a written response to any adverse comment entered in the personnel file. The response "shall" be attached to the adverse comment.

As indicated on page 42 of the Commission's Statement of Decision on reconsideration, the Commission, based on the Supreme Court's decision in *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 888-889, denied 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, when the adverse comment results in a punitive action protected by the due process clause as follows:

The Commission finds that obtaining the officer's signature on the adverse comment or indicating the officer's refusal to sign the adverse comment, when the adverse comment results in a punitive action protected by the due process clause, are designed to prove that the officer was on notice about the adverse comment. Since providing notice is already guaranteed by the due process clause of the state and federal constitutions under these circumstances, the Commission finds that the obtaining the signature of the officer or noting the officer's refusal to sign the adverse comment is part and parcel of the federal notice mandate and results in "de minimis" costs to local government.

⁵⁸ *Burden v. Snowden* (1992) 2 Cal.4th 556, 569.

⁵⁹ Penal Code sections 831, 831.4.

Therefore, the Commission finds that, under current law, the Commission's conclusion that obtaining the signature of the peace officer on the adverse comment or noting the officer's refusal to sign the adverse comment, when the adverse comment results in a punitive action protected by the due process clause is not a new program or higher level of service and does not impose costs mandated by the state. Thus, the Commission denies reimbursement for these activities.

Staff recommends that the Commission amend the parameters and guidelines to delete these activities.

The SCO also proposes to amend the introductory paragraph to Section IV. D, as follows:

Perform the following limited activities upon receipt of an adverse comment. The following limited reimbursable activities pertain to peace officers recommended for an adverse comment. (Gov. Code, §§ 3305 and 3306).

The SCO further requests that the following language be added to the end of Section IV. D:

The foregoing relates only to peace officers investigated under POBOR who were subjected to an adverse comment by investigation staff. Reimbursement is limited to activities that occurred subsequent to the completion of a case that resulted in an adverse comment recommendation. Reimbursable activities are limited to providing notice of the adverse comment to the peace officer and providing the officer an opportunity to review, sign, and respond to the adverse comment. Such activities include a limited review of the circumstances or documentation leading to an adverse comment recommendation by supervisor, command staff, human resources staff, or counsel to determine whether the recommendation constitutes an adverse comment or a written reprimand; preparation and review for accuracy of adverse comment notice; notification and presentation of adverse comment to officer and notification concerning rights regarding the notice; review of officer's response to the adverse comment, and attachment of response to the adverse comment and its filing.

A complaint is not an adverse comment. The foregoing does not include any activities related to investigating a complaint, which is part of the investigative process. Activities such as, but not limited to, determining whether a complaint is valid and may lead to an adverse comment and/or possible criminal offense, interviewing the complainant, and preparing the complaint investigation report are not reimbursable.

Staff finds that the SCO's proposal to limit reimbursement to those activities occurring after an officer is investigated that results in a "recommended" adverse comment is not consistent with the test claim legislation and the Commission's decision on reconsideration. Pursuant to Government Code section 3305, an officer has the right to notice and to provide a response when "any" adverse comment is placed in the officer's personnel file. When interpreting this statute, the Third District Court of Appeal, in *Sacramento Police Officers Association v. Venegas*, concluded that an adverse comment includes any document that creates an adverse impression that could influence future personnel decisions, including decisions that do not constitute

discipline or punitive action. The court further found that citizen complaints that are not investigated can be an adverse comment. The court stated the following:

The events that will trigger an officer's rights under those statutes [sections 3305 and 3306] are not limited to formal disciplinary actions, such as the issuance of letters of reproof or admonishment or specific findings of misconduct. Rather, an officer's rights are triggered by the entry of any adverse comment in a personnel file or any other file used for a personnel purpose. [Citation omitted.]

Aguilar [v. Johnson (1988)] 202 Cal.App.3d 241, addressed the meaning of an adverse comment for the purposes of sections 3305 and 3306 of the Bill of Rights Act. It noted: "Webster defines comment as 'an observation or remark expressing an opinion or attitude ...' (Webster's Third New Intern. Dict. (1981) p. 456.) 'Adverse' is defined as 'in opposition to one's interest: Detrimental, Unfavorable.' (Id. at p. 31.)" (*Aguilar, supra*, 202 Cal.App.3d at p. 249.) Thus, for example, under the ordinary meaning of the statutory language, a citizen's complaint of brutality is an adverse comment even though it was "uninvestigated" and the chief of police asserted that it would not be considered when personnel decisions are made. (*Id.* at pp. 249-250.)

We find the reasoning in *Aguilar* persuasive, as did the Supreme Court in *County of Riverside, supra*, 27 Cal.4th 793. In its usual and ordinary import, the broad language employed by the Legislature in sections 3305 and 3306 does not limit their reach to comments that have resulted in, or will result in, punitive action against an officer. The Legislature appears to have been concerned with the potential unfairness that may result from an adverse comment that is not accompanied by punitive action and, thus, will escape the procedural protections available during administrative review of a punitive action. As we will explain, even though an adverse comment does not directly result in punitive action, it has the potential of creating an adverse impression that could influence future personnel decisions concerning an officer, including decisions that do not constitute discipline or punitive action. [Citation omitted.]⁶⁰

The Commission noted the *Venegas* case on pages 42 and 43 of the Statement of Decision on reconsideration as follows:

Finally, the courts have been clear that an officer's rights under Government Code sections 3305 and 3306 are not limited to situations where the adverse comment results in a punitive action where the due process clause may apply. Rather, an officer's rights are triggered by the entry of "any" adverse comment in a personnel file, "or any other file used for personnel purposes," that may serve as a basis for affecting the status of the employee's employment.⁶¹ In explaining the point, the Third District Court of Appeal stated: "[E]ven though an adverse comment does not directly result in punitive action, it has the potential for creating an adverse impression that could influence future personnel decisions

⁶⁰ *Sacramento Police Officers Association v. Venegas* (2002) 101 Cal.App.4th 916, 925-926.

⁶¹ *Sacramento Police Officers Assn. v. Venegas* (2002) 101 Cal.App.4th 916, 925.

[quote continued] concerning an officer, including decisions that do not constitute discipline or punitive action.”⁶² Thus, the rights under sections 3305 and 3306 also apply to uninvestigated complaints. Under these circumstances (where the due process clause does not apply), the Commission determined that the Legislature, in statutes enacted before the test claim legislation, established procedures for different local public employees similar to the protections required by Government Code sections 3305 and 3306. Thus, the Commission found no new program or higher level of service to the extent the requirements existed in prior statutory law. The Commission approved the test claim for the activities required by the test claim legislation that were not previously required under statutory law. [Footnote omitted.] Neither *San Diego Unified School Dist.*, nor any other case, conflicts with the Commission’s findings in this regard. Therefore, the Commission finds that the denial of activities following the receipt of an adverse comment that were required under prior statutory law, and the approval of activities following the receipt of an adverse comment that were *not* required under prior statutory law, was legally correct.

Thus, staff recommends that the introductory paragraph identify and clarify the officers that receive the right to notice and to respond to an adverse comment under POBOR as follows:

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):⁶³

Staff further recommends that the end of the adverse comment section clearly identify what is reimbursable and what is not reimbursable as follows:

~~Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.~~

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.

⁶² *Id.* at page 926.

⁶³ 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.)

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.

Sections IV. and V. Reasonable Reimbursement Methodology

Upon adoption of the POBOR Statement of Decision on reconsideration, the Commission directed staff to form a working group to develop a reasonable reimbursement methodology to reimburse local governments for state-mandated costs. The California State Association of Counties (CSAC), the County of Los Angeles, and the DOF filed proposals. If the Commission adopts a reasonable reimbursement methodology, additional language would be added to Sections IV. and V.

In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology as defined in Government Code section 17518.5.⁶⁴

A reasonable reimbursement methodology is defined in Government Code section 17518.5, as follows:

- (b) "Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:
 - (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.
- (c) 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.

⁶⁴ Government Code section 17557, subdivision (b).

(d) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The State Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party.

Issue 1: Is the Commission authorized to develop and propose a reasonable reimbursement methodology, as defined in Government Code section 17518.5?

In comments filed on the draft staff analysis, claimants are critical of the Commission staff's reliance on the statutory definition of reasonable reimbursement methodology. Claimants argue that Commission staff should develop and propose alternatives to the pending proposals.

Government Code section 17518.5 provides that "[a] reasonable reimbursement methodology may be developed by any of the following:

- a. The Department of Finance.
- b. The State Controller.
- c. An affected state agency.
- d. A claimant.
- e. An interested party."

Based on the plain meaning of the statute, the Department of Finance, the State Controller, an affected state agency, a claimant, or an interested party are authorized to develop a reasonable reimbursement methodology. There is no statutory requirement or authority for the Commission to develop and submit alternatives to reasonable reimbursement methodology proposals.

Issue 2: Is the Commission required to develop "reasonable criteria" that it would accept in order to establish a reasonable reimbursement methodology?

In view of staff's findings that the CSAC and County of Los Angeles proposals for a reasonable reimbursement methodology do not comply with the statutory definition, claimants request that Commission staff develop "reasonable criteria that it would accept in order to establish a reasonable reimbursement methodology."⁶⁵

Government Code section 17518.5 defines reasonable reimbursement methodology as a proposed formula for reimbursing local government costs that meets the following two conditions:

- 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.

⁶⁵ See Exhibit J, City of Sacramento's Comments on the Draft Staff Analysis, dated September 22, 2006, page 434.

- 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.

These conditions or "criteria" are defined in statute and may not be changed by the Commission. However, the Commission may determine what types of evidence it may rely upon to establish these two conditions.

Issue 3: Is the CSAC proposal a "reasonable reimbursement methodology," as defined in Government Code section 17518.5?

Background

CSAC requests that the parameters and guidelines be amended to allow claimants to "calculate the annual claim amount by multiplying the number of peace officers employed by a local agency on January 1 of the claim year by \$528 beginning with the 2006-2007 fiscal year. Subsequent year claims shall be adjusted by the implicit price deflator."

The estimate of \$528 per officer is derived from a report from the SCO and statistics supplied by Peace Officers Standards and Training (POST). According to CSAC, the SCO report includes the name of the claimants who filed POBOR reimbursement claims for fiscal year 2001-2002, the amount each claimant filed, the number of POBOR cases in progress at the beginning of the fiscal year and the number of POBOR cases added during the fiscal year. CSAC's analysis considers both cases in progress and cases added during the fiscal year. The total number of sworn officers from POST's year 2000 online statistical report was matched with each claimant. Claimants who were missing either the number of cases or number of sworn officers were eliminated from the analysis. The resulting sample consists of 184 claimants.

For each claimant, CSAC divided the actual amount claimed by the total number of sworn officers to determine the cost per officer. The cost per officer for the 184 claimants was totaled, then divided by 184 to establish the \$528 average cost per officer.

Comments

The CSAC proposal is supported by the County of Los Angeles, County of San Bernardino, and City of Los Angeles, and is opposed by the DOF and SCO. The City of Sacramento has "no problem" with this proposal.

The City of Los Angeles is critical of the draft staff analysis and its dismissal of "all RRM proposals as submitted for failure to comply with law in that they do not prove that the rate reflects the performance of activities in a cost-efficient manner." The City of Los Angeles believes that "a cost-per-officer approach is the best methodology and should be adopted by the Commission at its hearing with direction to Staff and an invitation to interested parties to work together to achieve a dollar amount to satisfy the Commission."⁶⁶

The City of Sacramento filed the following comments on the draft staff analysis:

- There is no requirement that all claims be audited before an RRM can be adopted.

⁶⁶ See Exhibit J, page 419.

- Rather than examining the request of \$528/officer, and proposing an alternative that allowed 55% of the total costs or \$290.40 per officer, the Commission [staff] denied the [CSAC] request in its entirety.
- The transaction costs to both State and local government in tracking and documenting costs of POBOR are substantial ... the costs to the SCO for its audits is substantial.

In its comments on the draft staff analysis, County of San Bernardino agrees with the comments by the City of Sacramento.⁶⁷

DOF believes that the CSAC proposal would result in payments to local governments for activities that were not deemed reimbursable by the Commission. DOF also notes that the proposed reimbursement rate was developed using data contained in unaudited claims. DOF cites reviews conducted by the Bureau of State Audits (BSA) and the SCO, finding that a large portion of the costs claimed as reimbursable by local agencies may be invalid and/or unsupported.

In its comments on the draft staff analysis, DOF states that it would "prefer a reimbursement methodology that utilizes unit costs or other data to eliminate the need for actual cost reporting. If an alternative reimbursement methodology is adopted by the Commission, Finance recommends that it be the only mechanism for reimbursement of POBOR related activities. Providing an actual cost option could increase state costs by allowing local governments to choose the method yielding the highest reimbursement rate and would hinder efforts to streamline the claims process."⁶⁸

SCO's comments are based on the definition of reimbursable activities in the Statements of Decision, final staff analysis to the parameters and guidelines, and parameters and guidelines, and consistent with the position of the BSA in its published 2003 audit report on POBOR. The SCO is concerned that the CSAC proposal is based on "filed claims rather than on reimbursable activities" adopted by the Commission and that as much as 75% of the \$528 rate may be for activities not reimbursable under POBOR.

Analysis

Staff reviewed the CSAC proposal and its underlying documentation and concludes that it is not a reasonable reimbursement methodology because it does not satisfy the conditions specified in Government Code section 17518.5. The statutory definition of reasonable reimbursement methodology requires that the proposed formula for reimbursing local agency and school district costs mandated by the state meets these conditions:

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

⁶⁷ See Exhibit J, page 460.

⁶⁸ See Exhibit J, page 453.

If CSAC's proposed \$528 is applied to 184 eligible claimants and multiplied by 52,914 peace officers employed by these claimants, the total amount to be reimbursed would be approximately \$28 million instead of \$36 million. Adoption of the CSAC proposal would result in the total amount reimbursed being less than the total amount claimed. However, there is no evidence that the total amount that would be reimbursed is equivalent to total estimated claimant costs to implement the mandate in a *cost-efficient manner*. CSAC's proposal is based on actual costs claimed for the 2001-2002 fiscal year. This is the same fiscal year that is the subject of the 2003 BSA report cited by the SCO and DOF.

The BSA report reviewed the costs claimed for the *Peace Officers Procedural Bill of Rights* mandate. In summary, BSA stated that the local entities reviewed:

Claimed costs under the peace officer rights mandate for activities that far exceed the Commission on State Mandates (Commission) intent.

Lacked adequate supporting documentation for most of the costs claimed under the peace officer rights mandate....

The BSA results in brief stated,

... Based on our review of selected claims under each mandate, we question a high proportion of the costs claimed under the peace officer rights mandate ... In particular, we question \$16.2 million of the \$19.1 million in direct costs that four local entities claimed under the peace officer rights mandate for fiscal year 2001-02 because they included activities that far exceed the Commission's intent. Although we noted limited circumstances in which the commission's guidance could have been enhanced, the primary factor contributing to this condition was that local entities and their consultants broadly interpreted the Commission's guidance to claim reimbursement for large portions of their disciplinary processes, which the Commission clearly did not intend. . . .⁶⁹

The 184 eligible claimants in the CSAC sample claimed a total of \$36,168,183 in fiscal year 2001-2002. The BSA questioned \$16.2 million in direct costs claimed by four audited claimants that are included in the CSAC sample. The BSA questioned amount is 45% of the total amount claimed by the CSAC sample that was used to calculate the \$528 rate. The BSA audit finding provides evidence that the total amount that would be reimbursed under the CSAC formula is not equivalent to total estimated claimant costs to implement the mandate in a *cost-efficient manner*. Thus, staff finds that the CSAC proposal does not satisfy the first condition.

As to the second condition, if 184 eligible claimants are reimbursed \$528 per peace officer, more than 75% of the claimants would be reimbursed *more than* the actual amount claimed and receive an over payment of more than \$8 million. Accordingly, staff finds that the amount that would be reimbursed under the CSAC proposal does not fully offset their projected costs to implement the mandate in a *cost-efficient manner* because it would result in overpayment of 75% of the claimants. Thus, staff finds that the CSAC proposal does not satisfy the second condition.

Therefore, staff concludes that the CSAC proposal of \$528 per officer is not a reasonable reimbursement methodology because it does not satisfy the conditions required under Government Code section 17518.5.

⁶⁹ Bureau of State Audits Report, see Administrative Record for CSM-4499, page 1412.

Issue 4: Is the County of Los Angeles proposal a reasonable reimbursement methodology, as defined in Government Code section 17518.5?

Background

The County of Los Angeles (LA County) requests 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 is based on studies of claims data submitted to the SCO for the 2001-2002 through 2004-2005 fiscal years. LA County describes its proposal as a reimbursement formula which reflects 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 is comprised of three components: (1) *Unit Case Costs* are determined by multiplying (the number of unit level cases) X (12 standard hours) X (productive hourly rate); (2) *Extended Case Costs* are determined by multiplying (the number of extended cases) X (162 standard hours) X (productive hourly rate); and (3) *Uniform Costs* are determined by multiplying (the number of peace officers) X (standard rate of \$100). The costs from these three components are then totaled for the annual claim amount. Each formula is reviewed below.

1. Unit Case Costs

Number of Unit Cases	X	Standard Hours 12	X	Productive Hourly Rate	=	Total
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LA County defines a "unit case" as a POBOR case that requires less than 60 hours of reimbursable activities.

LA County conducted a time study from May-October 2004 to measure the amount of time spent on reimbursable POBOR activities⁷⁰ for "unit" level cases initiated during May 2004. According to the narrative, the sample size of 44 cases represented approximately 5% of the average unit level cases filed each year for the past five years. Sheriff's case staff was instructed to record time spent on performing "reimbursable activities," as noted in the POBOR parameters and guidelines. LA County checked the time logs to ensure that activity descriptions were appropriately categorized and evaluated them to ensure that the proper activities were time studied.

From this study, LA County reports that time logs on 18 unit-level POBOR cases resulted in the performance of 12 hours of reimbursable activities. The times reported for a unit level case ranged from a low of two hours (120 minutes) to a high of 57.3 hours (3440 minutes).

Based on this time study, LA County proposes that a standard time of 12 hours be used for reimbursement of "unit level cases."

⁷⁰ Review of the circumstances or documentation which led to initiating the POBOR case; conduct of a POBOR investigation including interrogating the officer and witnesses; preparation and review of the complaint or adverse comment for the officer's review and signature.

2 Extended Case Costs

Number of Extended Cases	X	Standard Hours	X	Productive Hourly Rate	=	Total
		162		\$		

An "extended case" is defined as a POBOR case that requires more than 60 hours of reimbursable activities. For fiscal year 2003-2004, LA County employees performed 26,405 hours of reimbursable activities on 163 cases. These hours were claimed under the Reimbursable Component of "Interrogations." LA County divided the total number of hours by the number of cases worked to calculate the proposed standard time of 162 hours for each extended case. The lowest average number of hours for an extended case was reported to be 64 hours of reimbursable activities.

3 Uniform Costs

Number of Peace Officers	X	Standard Rate	=	Total
		\$100		

LA County also proposes that each claimant be reimbursed \$100 for each peace officer employed by the jurisdiction on January 1st of the claim year.

LA County's Analysis of Summary and Claimant Data

LA County compared summary data based on its proposal with summary SCO data. The SCO data for four years (2001-2002 through 2004-2005) was reformatted to reflect data in ascending order by claimed costs and cases. (See Schedule 9 on page 8 of LA County's filing, dated June 15, 2006.)

A sample of nineteen additional claimants was developed and costs were calculated based on the application of the reimbursement methodology. The costs were computed by multiplying the number of cases reported to the SCO by the standard times proposed. A productive hourly rate of \$70 was used for unit cases and \$60 for extended cases. It was assumed that 90% of the cases reported to the SCO were unit-level cases and 10% were extended-level cases. (See Schedules 6-7 on pages 10-11 of their filing dated June 15, 2006 for detail.) LA County concludes that of the 19 claimants sampled, reimbursement methodology (RRM) costs for nine claimants were less than those claimed and RRM calculated costs for another nine claimants were more than those claimed. For one claimant, the RRM calculated cost was equivalent to claimed cost.

Comments

The City of Sacramento has "no problems" with the LA County proposal.⁷¹ In comments filed on the draft staff analysis, the City of Sacramento notes that the "Commission Staff adopts the criticisms of the State Controller, which did not provide any data to support its criticism...."⁷²

The SCO is critical of the entire proposal. In its letter dated August 4, 2006, the SCO comments that the County proposes to apply a methodology to all cities and counties, based on the results

⁷¹ See Exhibit G, page 333 for City of Sacramento's Comments filed on August 4, 2006.

⁷² See Exhibit J, pages 433-434, for City of Sacramento's Comments filed on September 22, 2006.

of an invalid time study it conducted for unit-level cases and its estimate of time spent for extended (Internal Affairs Bureau) cases.⁷³

The SCO does not believe that LA County's proposed standard time of 12 hours for unit level cases is representative of costs incurred by all cities and counties in California. Furthermore, the time study was not consistent with SCO guidelines or the BSA's standards, as is indicated in the proposal. The time study results were based on only 18 unit-level cases, not the 44 cases selected in the time study plan. Of the 18 cases, only 14 involved POBOR-related activities. Furthermore, SCO believes that only 2.29 hours relate to reimbursable POBOR activities; the remaining hours relate to ineligible activities occurring prior to cases being assigned to a unit-level investigation and ineligible administrative investigative activities.

The SCO comments that in developing the standard time of 162 hours for extended cases and the \$100/peace officer standard rate, LA County did not perform a time study; instead it estimated the investigators' time by applying a ratio of sworn-to-total cases (inclusive on non-sworn employees). The SCO believes that LA County's estimates are not supportable and include ineligible activities.

The DOF concurs with the SCO and also states that the uniform cost of \$100 per peace officer is not based on specific activities or empirical data. DOF asserts that the standard hours and the uniform cost would likely result in payments for non-reimbursable activities.

In rebuttal comments, LA County disagrees with the SCO's belief that for unit cases, only 2.29 hours relate to reimbursable activities. LA County and the SCO disagree as to what activities are reimbursable under the existing parameters and guidelines. In LA County's time study of unit cases, the Sheriff's Department staff logged time spent on "investigations." The SCO maintains that this activity is not reimbursable and this time should not be included in any calculation of reimbursable costs and LA County maintains that it is reimbursable.

Analysis

Staff reviewed LA County's proposal and its underlying documentation and concludes that it is not a reasonable reimbursement methodology because it does not satisfy the conditions specified in Government Code section 17518.5. The statutory definition of reasonable reimbursement methodology requires that the proposed formula for reimbursing local agency and school district costs mandated by the state meets these conditions:

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

LA County's proposal is based on three formulas. The first formula consists of a standard time of 12 hours for unit level cases. The 12 hours/unit-level case is derived from LA County's time study which logged time spent on investigation. The SCO reviewed these time logs and concluded that the 12 hours included time spent on ineligible investigative activities. Moreover, in the analysis above of the SCO's proposed amendments to clarify reimbursable activities, staff

⁷³ See letter from the State Controller's Office, dated August 4, 2006.

concur with the SCO, finding that costs for investigation are not reimbursable. Thus, staff finds that the total amount to be reimbursed statewide under this formula is *not* equivalent to total estimated costs to implement the mandate in a *cost-efficient* manner. Also, staff finds that there is no evidence in the record to determine if the proposed formula would meet the second condition. Therefore, staff concludes that the standard time for unit level cases does not meet the conditions for a reasonable reimbursement methodology.

As to the second formula of a standard time of 162 hours for extended cases, staff also finds that this formula does not satisfy the statutory conditions. First, the standard time of 162 hours per POBOR case is based on LA County's reimbursement claim. LA County claimed costs for review of the circumstances or documentation which led to initiating the POBOR case; conduct of a POBOR investigation including interrogating the officer and witnesses; preparation and review of the complaint or adverse comment for the officer's review and signature. Thus, staff finds that the second formula is also based on non-reimbursable costs. Therefore, staff finds that the total amount to be reimbursed statewide under this formula is not equivalent to total estimated costs to implement the mandate in a *cost-efficient* manner. As to the second condition, there is no evidence in the record to determine if the proposed formula would meet the second condition. Therefore, staff concludes that the standard time for extended level cases does not meet the conditions for a reasonable reimbursement methodology.

As to the third and final formula of a uniform cost allowance of \$100 for each peace officer employed by the jurisdiction on January 1 of the claim year, staff finds that the formula does not satisfy the statutory conditions. Since this uniform rate is not based on any reimbursable activities, there is no way to show that it is equivalent to total estimated costs to implement the mandate in a *cost-efficient* manner, or to fully offset "projected costs to implement the mandate" in a *cost-efficient* manner. Therefore, staff concludes that the third formula does not meet the conditions for a reasonable reimbursement methodology.

Based on this review, staff concludes that LA County's proposal consisting of three formulas is not a reasonable reimbursement methodology because it does not satisfy conditions required under Government Code section 17518.5.

Issue 5: Is the Department of Finance proposal a reasonable reimbursement methodology, as defined in Government Code section 17518.5?

Background

The DOF requests that the parameters and guidelines be amended to include a reasonable reimbursement methodology. Under DOF's proposal, a distinct "base rate" would be calculated for each claimant based on SCO 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. A process for determining *mean* reimbursement rates would exist while final reimbursement rates are determined.

Comments

Comments were filed on this proposal by the City of Sacramento and the County of Los Angeles. The City of Sacramento commented on the impracticability of having the SCO audit all claimants, especially before the substantial differences in interpretation of the parameters and

guidelines are rectified. The County of Los Angeles believes that auditing all POBOR claims could take considerable time and would be a formidable and expensive task.

In rebuttal comments, DOF recognizes that its proposal would place increased workload on the SCO to audit POBOR claims, and believes the amount of time required is overstated by the City of Sacramento. DOF points out that the County of Sacramento noted that there are 58 counties and 478 cities in California; however, the Controller has only received claims from approximately 250 of these entities. Finance's proposal would require future claimants to be reimbursed at the average of the existing entity specific rates until sufficient claims are available to be audited by the Controller." DOF also states that if there is a new workload requirement for the Controller, the need for additional staff would be reviewed as part of the budget process and DOF would take into account the potential costs and savings.

Analysis

Staff reviewed the DOF proposal and concludes that it is not a reasonable reimbursement methodology because it does not satisfy the conditions specified in Government Code section 17518.5. The statutory definition of reasonable reimbursement methodology requires that the *proposed formula* for reimbursing local agency and school district costs mandated by the state meets these conditions:

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

The DOF proposes auditing all eligible claimants in order to propose individual base rates or mean reimbursement rates for a reasonable reimbursement methodology. Without a proposed formula (mean reimbursement rate), staff cannot determine if the statutory conditions for a reasonable reimbursement methodology, as defined in Government Code section 17518.5, can be met.

Therefore, staff concludes that DOF's proposal is not a reasonable reimbursement methodology as defined in Government Code section 17518.5.

Conclusion on Reasonable Reimbursement Methodology Proposals

Based on the evidence in the record, staff recommends denial of the proposed reasonable reimbursement methodologies.

CONCLUSION AND STAFF RECOMMENDATION

Staff recommends the Commission:

- adopt the proposed amendments to the parameters and guidelines for the Peace Officer Bill of Rights program, as modified by staff, beginning on page 49; and,
- authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES AS MODIFIED BY STAFF

Government Code Sections ~~3300 through 3310~~ 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

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. ~~The protections required by the test claim legislation apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at-will" employees), and peace officers on probation who have not reached permanent status.~~

~~On November 30, 1999, the Commission adopted its 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.~~

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 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 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. A local agency or school district may, by January 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. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 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.

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.

~~At the time this test claim was filed, Section 17557 of the Government Code stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. On December 21, 1995, the City of Sacramento filed the test claim for this mandate. Therefore, costs incurred for 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 are eligible for reimbursement on or after July 1, 1994.~~

Reimbursable ~~a~~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 ~~200~~, 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:

For each eligible claimant, all direct and indirect costs of labor, supplies and services, training and travel for the performance of the following activities, are eligible for reimbursement:

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 the mandate-reimbursable POBOR cases-activities. "Updating the status report of mandate-reimbursable POBOR cases-activities" means tracking the procedural status of cases 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. Reimbursement period of July 1, 1994 through December 31, 1998— The administrative appeal activities listed below apply to permanent peace officer employees, at-will employees, and probationary 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)):
 - Dismissal, demotion, suspension, salary reduction or written reprimand received by probationary and at-will employees whose liberty interest are not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
 - Transfer of permanent, probationary and at-will employees for purposes of punishment;
 - Denial of promotion for permanent, probationary and at-will employees for reasons other than merit; and
 - Other actions against permanent, probationary and at-will 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.

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

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.

~~Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas; witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.~~

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. ~~Reimbursement period beginning January 1, 1999 — The administrative appeal activities listed below apply to permanent employees and the Chief of Police.~~

~~Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions 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).):~~

- ~~• Dismissal, demotion, suspension, salary reduction or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);~~
- ~~• 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 or the Chief of Police that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.~~

~~Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas; witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.~~

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

~~Claimants are eligible for reimbursement for t~~ 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:

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).)

~~Included in the foregoing is the p~~ Preparation and review of overtime compensation requests are reimbursable.

2. Providing prior notice to the peace officer before the interrogation regarding the nature of the interrogation and identification of the investigating officers. 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

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.)

present during the interrogation. The notice shall inform the peace officer of the nature of the investigation. (Gov. Code, § 3303, subs. (b) and (c).)

~~Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogation; determination of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or confidential information; preparation of notice or agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.~~

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.
- d. Preparation of the notice.
- e. Review of notice by counsel.
- f. Providing notice to the peace officer prior to interrogation.

3. ~~Tape r~~Recording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

~~Included in the foregoing is the~~ The cost of tape media and storage, and the cost of transcription are reimbursable. The investigator's time to record the session and transcription costs of non-sworn and peace officers are not reimbursable.

4. Providing the peace officer employee with access to the ~~tape 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.

~~Included in the foregoing is the~~ The cost of tape 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.

Included in the foregoing is the review of the complaints, notes or tape 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 officers. (Burden v. Snowden (1992) 2 Cal.4th 556, 569; Government Code section 3301; Penal Code sections 831, 831.4.)

School Districts

- (a) ~~If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then schools are entitled to reimbursement for:~~
- ~~• Obtaining the signature of the peace officer on the adverse comment; or~~
 - ~~• 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.~~
- (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 ~~on the document~~ 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 ~~on the document~~ and obtaining the signature or initials of the peace officer under such circumstances.

Counties

- (a) ~~If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then counties are entitled to reimbursement for:~~
- ~~• Obtaining the signature of the peace officer on the adverse comment; or~~
 - ~~• 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.~~
- (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 ~~on the document~~ 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 results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then cities and special districts are entitled to reimbursement for:~~

- ~~• Obtaining the signature of the peace officer on the adverse comment; or~~
- ~~• 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.~~

- (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 ~~on the document~~ 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 ~~on the document~~ and obtaining the signature or initials of the peace officer under such circumstances.

~~Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.~~

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

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:

1. 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
2. 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 not 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 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 SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting 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.

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

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.

~~Claims for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV of this document.~~

SUPPORTING DOCUMENTATION

~~Claimed costs shall be supported by the following cost element information:~~

~~A. Direct Costs~~

~~Direct Costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.~~

~~Claimed costs shall be supported by the following cost element information:~~

~~1. Salaries and Benefits~~

~~Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, the productive hourly rate, and related employee benefits.~~

~~Reimbursement includes compensation paid for salaries, wages, and employee benefits. Employee benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Employee benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.~~

~~2. Materials and Supplies~~

~~Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.~~

~~3. Contract Services~~

~~Provide the name(s) of the contractor(s) who performed the services, including any fixed contracts for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services. Submit contract consultant and attorney invoices with the claim.~~

~~4. Travel~~

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

5. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

B. Indirect Costs

Indirect costs are defined as costs which 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 central government services distributed to 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 OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

VI. SUPPORTING DATA

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

All claims shall identify the number of cases in process at the beginning of the fiscal year, the number of new cases added during the fiscal year, the number of cases completed or closed during the fiscal year, and the number of cases in process at the end of the fiscal year.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimant experiences as a direct result of the subject 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 OFFICE REQUIRED CERTIFICATION~~

~~An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the State contained herein.~~

Tab 8

ANALYSIS OF ACTUAL HOURS FOR ALL COUNTY EMPLOYEES

COUNTYWIDE PRODUCTIVE HOURS- FISCAL YEAR 2003-2004

Hours Code	Description	Period 01-14 Balance at 6-22-2003	Period 01-26 Balance at 12-21-2003	6-22-2003 through 12-21-2003	Period 02-14 Balance at 6-20-2004	2003-2004 Fiscal Year Total	Avg Hrs Per FTE			
		A	B	C	D	E				
				B - A			C + D			
51	Vacation Accrued and Earned *1	1,250,502	2,580,304	1,329,802	1,265,762	2,595,564	173.43			
52	Personal Leave Earned	2,806	299,387	296,581	4,985	301,565	20.15			
100	Regular Hours	13,741,732	27,114,028	13,372,296	13,291,478	26,663,775	1,781.62			
600	Release Time	3,924	9,423	5,499	5,819	11,318	0.76			
605	Administrative Leave	10,310	20,487	10,177	9,783	19,960	1.33			
606	Paid Leave Pending Investigation	4,897	9,400	4,503	2,213	6,715	0.45			
620	First Day Sick	57,101	114,061	56,960	60,721	117,681	7.86			
625	Safety 4850 Paid Disability Lv	62,501	127,387	64,886	56,256	121,142	8.09			
630	Military Leave With Pay	2,360	4,552	2,192	1,882	4,074	0.27			
635	FLSA Comp Time Used *4	29,625	64,606	34,981	35,549	70,530	4.71			
640	Regular Comp Time Used *4	59,964	108,977	49,013	59,042	108,055	7.22			
653	Annual Leave Used	25,724	49,029	23,305	25,627	48,933	3.27			
655	Sick Leave Used	512,147	1,022,531	510,384	517,502	1,027,886	68.68			
660	Other Paid Time	8,484	16,535	8,051	8,168	16,219	1.08			
665	Jury Duty	2,496	4,579	2,083	1,451	3,534	0.24			
675	Bereavement Leave	4,066	8,085	4,019	5,598	9,618	0.64			
676	Bereavement Leave-PTO/STO	120	385	265	501	767	0.05			
677	Bereavement Leave-Chg Sick Lv	1,243	2,483	1,240	1,650	2,890	0.19			
Total Actual Paid/Earned Hours		15,780,002	31,556,241	15,776,239	15,353,986	31,130,225	2,080			
Full-time Equivalent Positions							14,966			
Paid Hours In Period							2,080			
ANALYSIS										
Average Productive Hours Per Employee							1,781.62			
Less Holidays							-96.00			
Less Daily Break Time *2							-111.35			
Less Training Time *3 ZTT PLUS ZXT							-24.35			
Notes Cema adjustment for 1673 positions at 96 hours included in the STO earned							160,608	10.73		
Net Average Productive Hours Per Employee							1,560.65			
*1	Excludes holiday hours for 1,673 CEMA employees, since holiday hours are included for all employees below.									
*2	Two 15-minute breaks are provided daily per bargaining unit contracts. This has been taken only for the regular hours									
*3	Training time was taken from payroll records for ZTT and ZXT codes									
*4	Includes one-third of comp time hours used since one hour is worked for every 1.5 hours taken.									

(2) →
 (3) →
 (1) →
 ① 1,560.65 +
 ② 111.35 +
 ③ 24.35 +
1,696.35 *

Test Sheet Final ANALYSIS OF ACTUAL HOURS FOR ALL COUNTY EMPLOYEES

For Fiscal Year 2004-2005

Hours Code	Description	Period 02-14 Balance at 6-20-2004		Period 01-26 Balance at 12-21-2004		6-20-2004 through 12-21-2004		Period 02-14 Balance at 6-22-2005		2004-2005 Fiscal Year Total		Avg Hrs Per FTE
		A	B	C	D	E	F	G	H	I		
51	Vacation Accrued and Earned *1	1,265,762	2,562,847	1,297,086	1,226,218							174.65
52	Personal Leave Earned	4,985	284,440	289,455	8,341							20.60
5V	Vacation accrued and earned Ex.Mgt *5	1,686	139,087	137,401	2,556							9.68
100	Regular Hours	13,291,478	25,970,620	12,678,142	12,871,863							1,767.13
600	Release Time	5,819	11,700	5,881	4,825							0.74
605	Administrative Leave	9,783	17,632	7,849	6,118							0.97
606	Paid Leave Pending Investigation	2,213	8,865	6,652	6,039							0.88
620	First Day Sick	60,721	116,615	55,894	59,732							8.00
625	Safety 4850 Paid Disability Lv	56,256	125,628	69,370	54,059							8.54
630	Military Leave With Pay	1,882	5,346	3,464	1,899							0.37
635	FLSA Comp Time Used *3	35,549	72,145	36,596	38,192							5.17
640	Regular Comp Time Used *4	59,042	108,977	49,935	61,274							7.89
653	Annual Leave Used	25,627	50,761	25,134	25,964							3.53
655	Sick Leave Used	517,502	992,462	474,960	499,645							67.40
660	Other Paid Time	8,168	15,490	7,322	37,760							3.12
665	Jury Duty	1,451	3,603	2,152	2,703							0.34
675	Bereavement Leave	5,598	10,845	4,947	7,201							0.84
676	Bereavement Leave-PTO/STO	501	1,080	579	643							0.08
677	Bereavement Leave-Chg Sick Lv	1,650	2,988	1,338	1,893							0.22
Total Actual Paid/Earned Hours		15,355,672	30,510,629	15,155,157	14,918,915					30,074,072		2,079.96
Full-time Equivalent Positions										14,459		
Paid Hours In Period										2,080		

ANALYSIS:

Average Productive Hours Per Employee	1,767.13
Less Holidays	-96.00
Less Daily Break Time *2	-110.45
Less Training Time *3 ZTT PLUS ZXT	-26.60
Notes: CEMA adjustment for 1604 positions at 86 hours per FTE included in the STO earned	10.65
Net Average Productive Hours Per Employee	1,544.74

- *1 Excludes holiday hours for 1,673 CEMA employees, since holiday hours are included for all employees below.
- *2 Two 15-minute daily breaks per bargaining unit contracts has been taken for the regular hours @0.5 hour per 8 hour work
- *3 Training time was taken from payroll records for ztt and zxt codes
- *4 Includes one-third of comp time hours used since one hour is worked for every 1.5 hours taken.
- *5 Accrued vacation for Ex. Management included after discussion with management audit

1,545.00
 1,545.00 +
 110.45 +
 26.60 +
 10.65 +
 1,544.74

Test Sheet Final-ANALYSIS OF ACTUAL HOURS FOR ALL COUNTY EMPLOYEES

For Fiscal Year 2005-2006

Hours Code	Description	Period 02-14		Period 01-26		6-22-2005 through 12-30-2005		Period 02-14 Balance at 6-18-2006		2005-2006 Fiscal Year Total		Avg Hrs Per FTE	
		A	B	C	D	E	F	G	H	I	J	K	L
51	Vacation Accrued and Earned *1	1,228,218	2,556,872	1,328,654	1,281,549	2,610,204	175.87						
52	Personal Leave Earned	8,341	265,541	257,200	3,928	261,128	17.59						
5V	Vacation accrued and earned Ex.Mgt *5	2,556	144,618	142,062	1,386	143,448	9.67						
100	Regular Hours	12,871,853	25,870,492	12,988,639	13,167,400	26,166,040	1,762.97						
600	Release Time	4,825	9,525	4,700	6,059	10,759	0.72						
605	Administrative Leave	6,118	13,752	7,634	7,819	15,254	1.03						
606	Paid Leave Pending Investigation	6,039	13,028	6,989	9,323	16,312	1.10						
620	First Day Sick	59,732	117,484	57,752	59,742	117,494	7.92						
625	Safety 4850 Paid Disability Lv	54,059	126,637	72,578	56,240	128,818	8.68						
630	Military Leave With Pay	1,899	6,091	4,192	4,376	8,568	0.58						
631	This is Military Leave Non productive hours	6,778	11,960	5,182	10,344	15,526	1.05						
635	FLSA Comp Time Used *3	38,192	80,478	42,286	40,998	83,284	5.61						
640	Regular Comp Time Used *4	61,274	113,322	52,048	67,883	119,931	8.08						
653	Annual Leave Used	25,964	50,804	24,640	25,367	50,007	3.37						
655	Sick Leave Used	498,845	985,418	485,773	521,729	1,007,501	67.88						
660	Other Paid Time	37,760	83,787	46,027	40,759	86,786	5.85						
665	Jury Duty	2,703	5,726	3,023	3,210	6,233	0.42						
675	Bereavement Leave	7,201	15,191	7,990	10,493	18,483	1.25						
676	Bereavement Leave-PTO/STO	643	1,069	426	486	912	0.06						
677	Bereavement Leave-Chg Sick Lv	1,893	3,703	1,810	2,149	3,959	0.27						
	Total Actual Paid/Earned Hours		30,475,299	15,549,606	15,321,039	30,870,846	2,079.95						
	Full-time Equivalent Positions					14,842							
	Paid Hours in Period					2,080							

ANALYSIS

Average Productive Hours Per Employee	1,762.97
Less Holidays	-96.00
Less Daily Break Time *2	-110.19
Less Training Time *3 ZTT	-23.03
Net Average Productive Hours Per Employee	1,543.29
*1	1,544.00
*2	110.19
*3	23.03
*4	1,677.22
*5	

Notes:
 CEMA adjustment for 1,473 positions at 96 hours per FTE included in the STO earned
 Excludes holiday hours for 1,473 CEMA employees, since holiday hours are included for all employees below.
 Two 15-minute daily breaks per bargaining unit contracts has been taken for the regular hours @0.5 hour per 8 hour work
 Training time was taken from payroll records for ztt and zxt codes
 Includes one-third of comp time hours used since one hour is worked for every 1.5 hours taken.
 Accrued vacation for Ex. Management included after discussion with management audit

Tab 9

Santa Clara County
Probation Department
 Legislatively Mandated Peace Officers Procedural Bill of Rights Program
Review of Travel and Training Costs
 FY 2004-05
 Audit ID # S07-MCC-0033

Purpose: To review travel and training costs claimed by Probation Department to ensure that they are eligible for reimbursement under POBAR mandate.

Source: Discussions with Jessie Fuentes, Fiscal Officer, Probation's Department
 Training Materials, Class Schedules, and list of attendees, provided by the department
 ✓ Travel Expense Vouchers, filled out by attendees and approved by the department

Analysis: The department claimed costs associated with the following training courses:
 * Internal Affairs Investigation course (03/16/05-03/18/05)
 * CA Association of Probation Services Administrators course re: POBAR and Labor Relations (02/01/05-02/04-05)
 * Law Enforcement Legal Center course re: Discipline and Internal Investigations (04/04/05-04/06/05)

The auditors reviewed the course materials and concluded that claimed costs associated with training classes are partially eligible for reimbursement. The review of training materials disclosed that course contents were only partially related to the performance of POBAR activities.

The department claimed costs associated with training hours under the Administrative Activities component of the claim. The auditors reviewed related salary and benefit costs and noted adjustments to claimed hours for training classes. Claimed hours were adjusted to reflect only eligible portion of the classes that were directly related to the performance of POBAR activities. Ineligible portion of the training (50%) did not relate to this mandate and therefore unrelated hours were excluded from the claim. For more details, please review the Document # <3D-2a 5/18-6/18>

This document is concerned with the review of travel expenses associated with the attendance of training classes described above. The travel / training expenses were also adjusted in direct proportion to adjusted training hours noted in <Document # <3D-2a 5/18-6/18>.

Employee Name	Training Class	Travel Costs Incurred	Travel Costs Allowed	Audit Adjustments
Karen Fletcher	IA Investigation	255 ✓	255	-
	CAPSA course	447 ✓	224	(224)
	Discipline course	804 ✓	402	(402)
		<u>2A-26S/11,506</u>	<u>881</u>	<u>(626)</u>
John Dahl	CAPSA course	2A-26S/14 447 ✓	224	(224)
Bret Fidler	Discipline course	662 ✓	331	(331)
Ned Putt	Discipline course	684 ✓	342	(342)
Total		<u>3,299</u>	<u>1,778</u>	<u>(1,522)</u>

3F2/2 i 11-4 For PSSC, see 3F

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On December 3, 2014, I served the:

State Controller's Office Comments on IRC

Peace Officers Procedural Bill of Rights (POBOR), 10-4499-I-01

Government Code Sections 3300-3310

Statutes 1976, Chapter 465; Statutes 1978, Chapters 775, 1173, 1174, and 1178;

Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994;

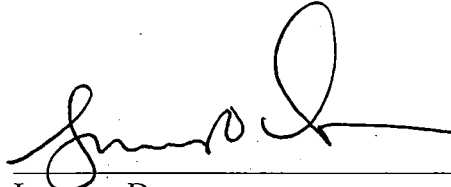
Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675

Fiscal Years: 2003-2004, 2004-2005, and 2005-2006

Santa Clara County, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 3, 2014 at Sacramento, California.



Lorenzo Duran

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/19/14

Claim Number: 10-4499-I-01

Matter: Peace Officers Procedural Bill of Rights (POBOR)

Claimant: County of Santa Clara

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Allan Burdick,

7525 Myrtle Vista Avenue, Sacramento, CA 95831

Phone: (916) 203-3608

allanburdick@gmail.com

Michael Byrne, *Department of Finance*

915 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

michael.byrne@dof.ca.gov

Gwendolyn Carlos, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-0706

gcarlos@sco.ca.gov

Annette Chinn, *Cost Recovery Systems, Inc.*

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901

achinnrcs@aol.com

Marieta Delfin, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-4320

mdelfin@sco.ca.gov

Tom Dyer, *Department of Finance (A-15)*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

tom.dyer@dof.ca.gov

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

susan.geanacou@dof.ca.gov

Dorothy Holzem, *California Special Districts Association*

1112 I Street, Suite 200, Sacramento, CA 95814

Phone: (916) 442-7887

dorothyh@csda.net

Edward Jewik, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-8564

ejewik@auditor.lacounty.gov

Jill Kanemasu, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-9891

jkanemasu@sco.ca.gov

Jean Kinney Hurst, Senior Legislative Representative, Revenue & Taxation, *California State Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814-3941

Phone: (916) 327-7500

jhurst@counties.org

Jay Lal, *State Controller's Office (B-08)*

Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0256

JLal@sco.ca.gov

Kathleen Lynch, *Department of Finance (A-15)*

915 L Street, Suite 1280, 17th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

kathleen.lynch@dof.ca.gov

Andy Nichols, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Stutz Artiano Shinoff & Holtz*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@sashlaw.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kbsixten@aol.com

Elizabeth Pianca, *County of Santa Clara*
Claimant Representative
70 West Hedding Street, 9th Floor, East Wing, San Jose, CA 95110-1770
Phone: (408) 299-5920
elizabeth.pianca@cco.sccgov.org

Jai Prasad, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA
92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

Kathy Rios, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
krios@sco.ca.gov

Lee Scott, *Department of Finance*
15 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
lee.scott@dof.ca.gov

David Scribner, *Max8550*
2200 Sunrise Boulevard, Suite 240, Gold River, CA 95670
Phone: (916) 852-8970
dscribner@max8550.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov